

GUIDANCE ON THE

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IMPLEMENTATION OF ARTICLE 7(4)

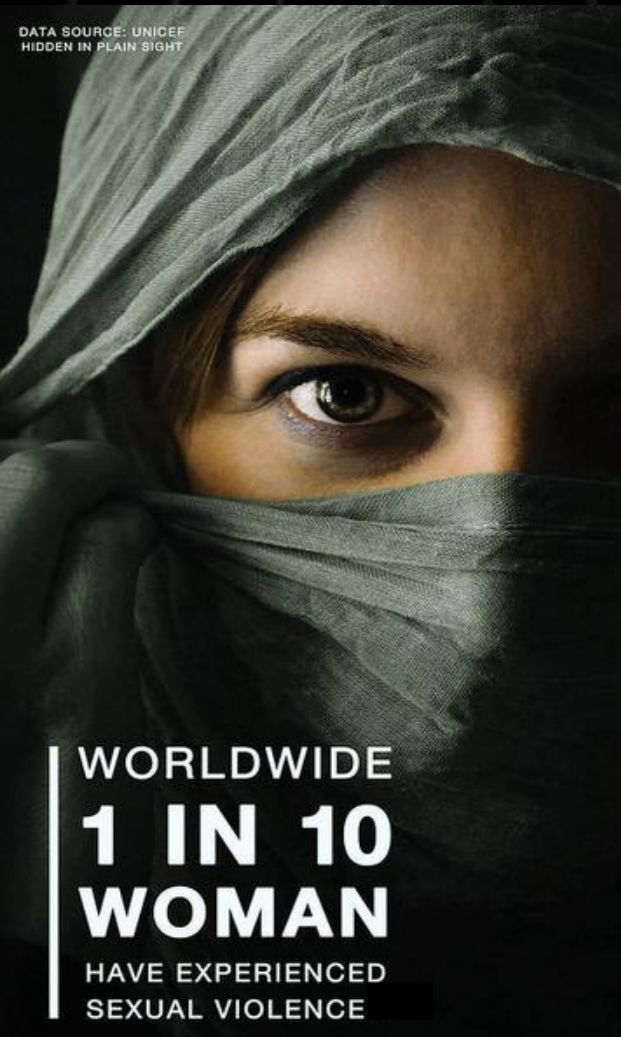
CSP11 ATT Working Groups
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ATT Article 7(4) and Its Relationship to Articles 6 and 7

- GBV recognized as a serious violation of International Human Rights Law (IHRL).
 - when perpetrated by state actors or when the State fails to prevent, investigate, or punish such acts by private actors.
- GBV can also be classified as a war crime, a crime against humanity, or genocide (Violation of International Humanitarian Law).

ATT Article 7(4) and Its Relationship to Articles 6 and 7



- Since GBV and violence against women and girls are considered violation of IHRL and IHL - they are covered under ATT Articles 6 and 7.
- As a stand-alone provision, Article 7(4) highlights the need to assess GBV risks systematically.
 - Special attention is required to ensure these issues are not overlooked in risk assessments.

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

01

STEP 1

Identify what types of GBV and violence against women and girls are prevalent in the recipient state.

02

STEP 2

Determine whether a violation is considered to be serious.

03

STEP 3

Determine whether the importing State is taking effective action to prevent GBV and violence against women

04

STEP 4

Determine whether there is an "overriding risk" that the arms or items to be transferred could be used to commit or facilitate acts of GBV and serious violence against women identified in step 1.

05

STEP 5

Identify whether mitigating measures or other approaches satisfactorily and significantly reduce the relevant Article 7.1 risks identified in Step 4.

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

01

STEP 1

Identify what types of GBV and violence against women and girls are prevalent in the recipient state.

- ▶ • Licensing officials must remain alert to changes in the nature of GBV within countries.
 - GBV includes both sexual violence and acts committed due to sex and/or socially constructed gender roles.
 - Example: The October report from the Independent International Fact-Finding Mission for Sudan detailed sexual violence against both females and males.
- WGETI Reports emphasize the broad scope of GBV.

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

02

STEP 2

Determine whether a violation is considered to be serious.

- ▶ • Assess whether the violation is serious based on its gravity and the extent of harm to victims.
 - The threshold is low, but requires a careful, case-by-case and holistic assessment.
- Some States Parties may consider violations serious if they are widespread and systematic.
 - This approach risks overlooking the serious harm to a smaller number of victims.

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

03

STEP 3

Determine whether the importing State is taking effective action to prevent GBV and violence against women

- ▶ ICRC recommends that exporting states consider whether the recipient State has complied with obligations under international law, and what steps has it taken to prevent, end or punish serious violations of GBV and violence against women.

Potential questions to consider:

- Does the recipient have laws to address these violations?
- Are violations adequately punished?
- Have military, security, and police forces received training on preventing GBV?

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

04

STEP 4

Determine whether there is an “overriding risk” that the arms or items to be transferred could be used to commit or facilitate acts of GBV and serious violence against women identified in step 1.

- ▶ The use of a weapon to “commit or facilitate” a human rights violation can encompass a wide range of acts, including actions taken by non-state actors
 - “facilitate” includes situations where arms may make human rights violations easier, even if the arms/items transferred are not directly involved.
 - Example: the mere presence of a weapon can intimidate vulnerable groups increasing the risk of violations (source: Small Arms Survey)

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05

STEP 5

Identify whether mitigating measures or other approaches satisfactorily and significantly reduce the relevant Article 7.1 risks identified in Step 4.

- ▶ GBV and violence against women and girls often represent long-term, entrenched issues, making short-term mitigation measures challenging.

INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

States Parties are obligated to apply Article 7 in good faith.

States should aim to obtain firsthand insight into the situation and verify it.

- If not possible, states must consult at least three separate sources (e.g., media, UN reports).

Small arms are used in almost half of all violent deaths globally and in approximately 1/3 of all femicides.



Photo credit ©YWCAUSAFP



The Arms Trade Treaty is the first legally-binding instrument to recognise the link between gender-based violence and the international arms trade.

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INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

Applying Article 7(4) requires drawing on a range of reliable sources and conducting thorough analysis.

Key sources may include:

- Diplomatic and official reports from concerned States.
- Documents from UN bodies such as CEDAW and the Human Rights Council.
- Reports from media and NGOs - Amnesty International, Human Rights Watch, Women's Organisations and GBV Specialists.



INCORPORATING GBV INTO CONVENTIONAL ARMS EXPORT RISK ASSESSMENTS

- Prioritizing GBV and violence against women as required by Article 7(4) is essential.
- Licensing officials must:
 - Remain vigilant in identifying GBV issues.
 - Consult diverse sources of information.
 - Assess if the recipient is taking effective action against GBV.
 - Evaluate if the weapons could facilitate GBV violations.





Control Arms resources on Article 7(4) available at:

<https://controlarms.org/research-and-reports/>

GUIDANCE ON THE IMPLEMENTATION OF ATT ARTICLE 7(4)

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[@controlarms](https://www.instagram.com/controlarms)



Hine-Wai.Loose@controlarms.org

controlarms

 WWW.CONTROLARMS.ORG

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