



30 September 2016

Recommendations for the Draft Update of General Recommendation No. 19

The Women's International League for Peace and Freedom (WILPF) welcomes the opportunity to provide comments on the "Draft update of General Recommendation No. 19" (the draft update) of the Committee on the Elimination of Discrimination against Women (the Committee). WILPF appreciates the Committee's work in updating the General Recommendation in order to accelerate the elimination of gender-based violence.

We support the approach toward strengthening prevention, protection, and redress, and broadening accountability on gender based violence. We especially support the holistic approach and structural analysis in the text that addresses violence across the conflict spectrum, and our comments are particularly oriented toward strengthening this approach. In particular, we recommend that gender based violence be recognised as part of a continuum of violence based in violent masculinities, militarism, and a political economy that sustains and fuels war. We propose that specific recommendations be strengthened to further address institutions that promote gender based violence including through valorisation of violence over nonviolence, investment in and transfers of arms, to ensure both state and non-state accountability both understood to be in and outside of conflict.

Our recommendations for inclusion in the draft update focus on the following areas:

1. **Political economy of war:** the impact of the militarisation of society on gender-based violence
2. **Arms transfers:** impact on gender-based violence
3. **States parties' extraterritorial obligations:** state and non-state accountability for gender-based violence

With regard to arms transfers, WILPF recognises that the Committee has addressed the regulation of arms trade in General Recommendation 30 but stresses the importance of including explicit references to such regulation in the revised General Recommendation 19.

We welcome the fact that the Committee has recognised that accessibility and availability of firearms are factors that facilitate or exacerbate violence against women. We believe that it is essential to recognise that such accessibility and availability can facilitate or exacerbate violence against women not only in countries in situations of armed conflict, but also in non-conflict situations, such as in countries that experience high rates of firearm-related deaths, such as femicides, as well as high levels of impunity and insecurity.¹

Observations about the Introduction

Recommendation for Paragraph 1: acknowledge the attention to gender-based violence brought by Security Council and Human Rights Council resolutions

¹ See, for example, "The impact of firearms on women", available at <http://wilpf.org/the-impact-of-firearms-on-women/>.

Since 2000, gender-based violence in armed conflict has received particular attention through a series of Security Council resolutions on women, peace and security that guide work to promote gender equality and strengthen women's participation, protection, and rights in conflict prevention, peace process, and through post-conflict reconstruction contexts.² The Human Rights Council has also adopted resolutions that recognise the link between the arms trade and gender-based violence;³ the latest of these resolutions "notes with alarm that ... arms transfers can have a seriously negative impact on the human rights of women and girls, who may be disproportionately affected by the widespread availability of arms, as it may increase the risk of sexual and gender-based violence, and of violence against children".⁴

Recommendations for *Paragraph 4*: include references to:

- the impact of arms transfers on women's human rights in the list of examples of "new contexts" in which gender-based violence occurs, and to State parties' duty to take measures to prevent arms transfers that may facilitate human rights violations, including gender-based violence;
- the fact that the erosion of legal and policy frameworks to address gender equality violates the State parties' obligations to obligation to respect, protect, and ensure women's equal human rights, progressively, without retrogression, and using maximum available resources; and
- the fact that in States that descend into armed conflict previously existing discriminatory laws and practices against women, including reservations maintained against the Convention, exacerbate gender-based violence.

Arms exports can have serious consequences for the rights and safety of women in importing countries, especially in the case of small arms and light weapons. Furthermore, the use of weapons of indiscriminate effect, such as explosives, may have particular implications for women on how the destruction of infrastructure or the burden of caring for the wounded may affect them, particularly in a context of inequality.

While arms themselves may not always be directly implicated in gender-based violence, they are correlated with an increase in gendered inequality and a generalised culture of violence, against women in particular. Furthermore, the proliferation of arms has a negative impact on women's equality and bargaining power within the household, their mobility, and their political participation. Widespread possession and use of weapons tends to prevent women from fully participating in public and political life, and to hinder their access to and use of resources, business and employment opportunities, which also qualifies as gender-based violence.⁵

As noted earlier, both the Committee and the Human Rights Council have expressed concerns about the specific negative consequences of arms transfers on the rights of women and girls. In order to strengthen the Committee's jurisprudence to date, paragraph 4 should include a reference to the fact that the proliferation of weapons exacerbates the risk of gender-based violence and that, therefore, States parties have a duty to take measures to prevent arms transfers that may facilitate human rights violations, including gender-based violence, and negatively impact on women.

² Security Council Resolutions 1325 (2000); 1820 (2009); 1888 (2009); 1889 (2010); 1960 (2011); 2106 (2013); 2122 (2013); and 2242 (2015).

³ Human Rights Council resolution 24/35 (Impact of arms transfers on human rights in armed conflicts) of September 2013; resolution 26/16 (Human rights and the regulation of civilian acquisition, possession and use of firearms) of June 2014; resolution 29/10 (Human rights and the regulation of civilian acquisition, possession and use of firearms) of July 2015; and resolution 32/12 (Impact of arms transfers on human rights) of July 2016.

⁴ Human Rights Council resolution 32/12, operative paragraph 2.

⁵ See, for example, *Gender-based violence and the Arms Trade Treaty*, by WILPF's Reaching Critical Will.

Observations about the section on “Scope”

Recommendation about paragraph 6: make clear that States parties’ obligations are not limited to “women within their territories”.

The wording of paragraph 6 of the draft update refers to States parties’ “obligations to all women within their territories”. In line with the Committee’s jurisprudence, this wording should be revised to clarify that States parties’ obligations also apply extraterritorially to persons within their effective control, even if not situated within the territory, and that States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.

Recommendation about paragraph 8: strengthen this paragraph by stating that the impact of reservations is worsened in the event that a State becomes destabilised by armed conflict and has a particular negative impact on women and girls who become internally displaced or flee across an international border.

Recommendation about paragraph 10 and 12: reflect the following elements:

- gender-based violence is:
 - not only a critical obstacle to achieving gender equality but also a reflection of gender inequality and is correlated with it;
 - both a human rights violation and an early warning indicator of other forms of violence;
 - cultivated by violent masculinities and the political economies of war;
- the proliferation of small arms and light weapons, both in wartime and in non-conflict situations where there are significant political tensions and systemic gendered discrimination, disproportionately affects women.

As noted earlier, the proliferation of arms is correlated with an increase in gendered inequality and a generalised culture of violence, against women in particular. Violent masculinities, the political economies of war, and the proliferation of small arms and light weapons contribute to the explicit or implicit social acceptance of gender-based violence against women and the widespread impunity for it, including in developed countries, where women continue to face violence even outside of recognised conflict situations.

Militarisation mobilises gendered identities to fight war (military masculinities, whether taken up by men or women) and normalizes the use of violence socialisation in the use of violence carries over from the ‘warfront’ to the home and community. Militarisation also sustains gender inequalities through the privileging of military expenditures and institutions over social expenditures and institutions. These gender inequalities at the individual and structural levels are associated with heightened gender-based violence – as power imbalances are taken advantage of – creating an opportunity for violence and impunity.

For these reasons, it is important to include references to the above-mentioned elements, in paragraph 10, which addresses gender-based violence as a critical obstacle to achieving equality between men and women, and in paragraph 12, which is about the various contexts in which gender-based violence occurs. With regard to paragraph 10, it is also important to note that gender based violence is not just an obstacle to achieving gender equality; it is also a reflection of gender inequality and is correlated with it, as emerging research evidence shows, including by WHO and systematic review published on the Lancet.

Observations about the section on “General obligations of States parties under the Convention relating to gender-based violence against women”

Recommendations for paragraph 13: include:

- a focus on extraterritorial obligations of States parties with regard to women’s human rights; and
- recommendations for:
 - comprehensive gender budgeting across all departments and programmes to assess their individual and overall impact in terms of gender-based violence and gender discrimination, and prioritisation and funding of programming for gender equality and non-violence;
 - support for women human rights defenders and the feminist movement as well as gender equality laws and programmes by States, the UN, international financial institutions, and the international community;
 - robust and effective regulation of the arms trade, in addition to appropriate control over the circulation of existing and often illicit conventional arms, including small arms, to prevent their use to commit or facilitate serious acts of gender-based violence;
 - arms transfer policies and regulatory bodies among the legislative measures to be taken with regard to gender-based violence;
 - signing, ratification and implementation of the Arms Trade Treaty.

The Committee is one of the treaty bodies that have developed the most the issue of extraterritorial obligations of States in relation to human rights. It is, therefore, important that the revised general recommendation 19 include references to the focus on extraterritorial obligations developed by the Committee in other general recommendations and concluding observations.

In particular, we suggest that in dealing with States’ responsibility for non-state actors’ acts or omissions that constitute gender-based violence, the revised general recommendation 19 explicitly include actions by non-state actors, including national corporations, operating extraterritorially as well as measures that the States are required to adopt to prevent and redress human rights violations of women located outside its territory.⁶

Comprehensive gender budgeting is crucial and with regard to it what it is key to assess all public policies, including economic policies, for their impacts on either reducing or increasing gender-based violence. This requires not merely gender budgeting as a tool to design policies to address gender-based violence but also gender auditing to assess the potentially negative impact of policies and device measures to mitigate them.

Building on the Beijing program of action’s strategic objective E.2 (Reduce excessive military expenditures and control the availability of armaments), we recommend that the inclusion of the above-mentioned references to gender budgeting and funding of programming for gender equality and non-violence.

⁶ In its General Recommendations 28 and 30 the Committee has affirmed that the obligations of States parties contained in the Convention also extend to acts of national enterprises operating outside the country and that, therefore, States should ensure that private actors do not commit acts of discrimination against women, regardless of whether the affected persons are in their territory.

General Recommendation 34 also indicates that States are obliged to take “regulatory measures to prevent any actor under their jurisdiction, including private individuals, companies and public entities, from infringing or abusing the rights of rural women outside their territory.

In line with its jurisprudence, the Committee should include explicit references to measures that States are required to take to prevent that the transfer of weapons does not facilitate or exacerbate gender-based violence or violence against women in other countries. In practical terms and as a prevention measure, the Committee should recommend that States parties put in place control mechanisms on arms exports that include specific criteria for analysing whether they facilitate or contribute to gender based violence or violence against women in importing countries.

The Committee has recommended that State parties address the gender related impact of international arms transfers, especially small and illicit arms, and to ratify and implement the Arms Trade Treaty.⁷ This recommendation should be reflected in the revised general recommendation 19.

Article 7 (4) of the Arms Trade Treaty requires exporting State parties before authorising arms export under its jurisdiction to undertake gender-sensitive risk assessments. It requires States parties to assess in an objective and non-discriminatory manner, taking into account all relevant factors, the risk of the conventional arms under consideration being used to, *inter alia*, commit or facilitate acts of gender-based violence or violence against women. It requires States parties not to authorize a transfer where, *inter alia*, there is risk of such violence.

The Committee on Economic, Social and Cultural Rights has recommended, with regard to the issue of arms transfers, that the State party “conduct thorough risk assessments prior to granting licences for arms exports and refuse or suspend such licences when there is a risk that arms could be used to violate human rights, including economic, social and cultural rights.”⁸

General Recommendation 30 affirms that States parties are required to focus on the prevention of conflict and all forms of violence, including by having “a robust and effective regulation of the arms trade, in addition to appropriate control over the circulation of existing and often illicit conventional arms, including small arms, to prevent their use to commit or facilitate serious acts of gender-based violence.”⁹ This requirement should be included in the revised General Recommendation 19.

Recommendations for paragraph 14 a): for reasons stated above, a requirement for the adoption of robust and effective arms policies should be included in the list of legislative level measures to be taken to prohibit all forms of gender-based violence against women.

Observations about the section on “Recommendations - Prevention”

Recommendations for paragraphs 15 c and e): include:

- a recommendation for measures to promote positive portrayals that challenge gender stereotypes relating to the roles of women and men, support non-violent rather than violent masculinities, and valorise non-violence and stigmatise violence; and
- a requirement for States parties to establish regulatory measures to prevent any actor under their jurisdiction, including private individuals, companies and public entities, private military corporations, from facilitating or contributing to gender-based violence against women.

⁷ General recommendation 30, paragraph 33 (e).

⁸ E/C.12/GBR/CO/6, paragraph 12 (c).

⁹ General Recommendation 30, paragraph 29.