



Submission to UN Office of the High Commissioner for Human Rights (OHCHR) for the 2022 report on the impact of arms transfers on human rights

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Introduction

The Women’s International League for Peace and Freedom (WILPF) welcomes the opportunity to contribute to the report on “good practices, lessons learned and challenges faced by states in preventing, mitigating and addressing the diversion of arms and unregulated or illicit arms transfers that have a particular impact on the enjoyment of human rights by children and youth, and the role of national control systems as effective mechanisms in that regard” (hereinafter, the “2022 OHCHR report” or “the 2022 report”) requested by Human Rights Council (HRC) resolution 47/17. The call for submissions has noted that for the purpose of the report “children and youth” refers to persons 29 years old and under.

WILPF has contributed to previous OHCHR reports requested by HRC resolutions on the “Impact of arms transfers on human rights” as well as by resolutions on the “Regulation of civilian acquisition, possession and use of firearms”. We also regularly bring to the attention of human rights mechanisms, including treaty bodies, the human rights impact of arms transfers, arms proliferation, military spending, militarisation, nuclear weapons, and surveillance technology. Our submissions reflect our long history of cross-cutting work in the areas of disarmament, human rights, and Women, Peace and Security (WPS), including our efforts to ensure full compliance with the provisions of Arms Trade Treaty (ATT), among other relevant legal instruments.

In this submission, we highlight some key issues that, in our view, should be addressed in the 2022 OHCHR report and provide some WILPF materials that are relevant to the report.

I. Framing and general points

WILPF continues to welcome the Human Rights Council's growing efforts to link human rights perspectives and concerns with arms control and disarmament efforts. These include the HRC's eight resolutions since 2013 to strengthen the realisation of the links between the protection of human rights and disarmament¹ and the related reports by the High Commissioner for Human Rights;² and the inclusion of recommendations on arms transfers in other HRC's thematic resolutions as well as in country resolutions.³ We also note that the impacts of arms transfers on human rights in conflict situations have been investigated and criticised by investigative mechanisms created by the HRC such as the Commission of Inquiry (CoI) on Syria,⁴ the Group of Eminent Experts (GEE) on Yemen,⁵ the Fact Finding Mission (FFM) on Myanmar.⁶ WILPF also welcomes the UN human rights treaty bodies' increasing

¹ Impact of arms transfers on human rights in armed conflicts, A/HRC/RES/24/35, 8 October 2013; Human rights and the regulation of civilian acquisition, possession and use of firearms, A/HRC/RES/26/1, 16 July 2014; Human rights and the regulation of civilian acquisition, possession and use of firearms, A/HRC/RES/29/10, 22 July 2015; Impact of arms transfers on human rights, A/HRC/RES/32/12, 15 July 2016; Human rights and the regulation of civilian acquisition, possession and use of firearms, A/HRC/RES/38/10, 18 July 2018; Impact of arms transfers on human rights, A/HRC/RES/41/20, 12 July 2019, Human rights and the regulation of civilian acquisition, possession and use of firearms, A/HRC/RES/45/13, 6 October 2020, Impact of arms transfers on human rights, A/HRC/RES/47/17, 13 July 2021.

² Impact of the civilian acquisition, possession and use of firearms by children and youth, Report of the United Nations High Commissioner for Human Rights, A/HRC/49/41, 19 January 2022, Impact of arms transfers on human rights, Report of the United Nations High Commissioner for Human Rights, A/HRC/44/29, 19 June 2020; Impact of civilian acquisition, possession and use of firearms on civil, political, economic, social and cultural rights, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/42/21, 3 July 2019; Impact of arms transfers on the enjoyment of human rights, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/8, 3 May 2017; Human rights and the regulation of civilian acquisition, possession and use of firearms, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/32/21, 15 April 2016.

³ See, for example, Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights, A/HRC/RES/49/18, 1 April 2022; Situation of human rights in Myanmar, A/HRC/RES/49/23, 8 April 2022; Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice, A/HRC/RES/49/4, 31 March 2022; Ensuring respect for international human rights law and international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem, and in Israel, A/HRC/RES/S-30/1, 27 May 2021; Situation of human rights in Yemen, A/HRC/RES/45/15, 6 October 2020.

⁴ See, for example, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic A/HRC/42/51, 15 August 2019, paragraphs 99 (g); Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/34/64, paragraph 106 (b); Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016- 28 February 2017; Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/CPR.3, paragraph 117 (a).

⁵ See, for example, Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, A/HRC/42/17, 3 September 2019, paragraph 92; Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen A/HRC/48/20, 13 September 2021, paragraphs 19, 82, and 89(b); Accountability update, Conference room paper by the Group of Eminent International and Regional Experts on Yemen, A/HRC/48/CRP.4, 18 September 2021, paragraphs 57-58 and 84(f).

⁶ See, for example, The economic interests of the Myanmar military, Independent International Fact-Finding Mission on Myanmar, 12 September 2019, A/HRC/42/CRP.3,

recognition of the impact of the arms trade on human rights; and similarly by States in recommendations made in the Universal Periodic Review (UPR).⁷

This increasing attention contributes to reminding that all States have obligations under international law regarding strict regulation of arms transfers, obligations stemming, *inter alia*, from human rights treaties they are party to as well as from IHL. As the ICRC has noted “It is important to stress that even if a State is not party to the ATT or to any regional arms transfer instrument, it is nonetheless required to take into account respect for IHL in its arms transfer decisions by virtue of common Article 1 of the Geneva Conventions of 1949, which requires States to “respect and ensure respect” for IHL. In the ICRC’s interpretation, applied to arms transfer decisions, the obligation to ensure respect for IHL requires a State to deny arms transfers where there is a substantial or clear risk that the weapons could be used to commit violations of IHL.”⁸ States parties to the ATT have additional binding obligations under the treaty.

In the 2022 report “Enabling atrocities: arms transfers by Member States of the United Nations to the Myanmar military”, the Special Rapporteur on the situation of human rights in Myanmar stated, *inter alia*, that “if a transferring state knows that the state receiving the weapons systematically commits violations of international humanitarian law using certain weapons, the transferring state has to deny further transfers of those weapons, even if those weapons could also be used lawfully”.⁹ As part of its investigation, the UN Fact Finding Mission (FFM) on Myanmar looked into arms and military equipment suppliers. The FFM report “The economic interests of the Myanmar military” details, *inter alia*, concerns about foreign States and companies supplying arms and military equipment. In raising these concerns, the FFM illustrated applicable obligations and responsibilities stemming from international human rights law, IHL, arms trade law, other-export control standards, general rules of state responsibility.¹⁰

WILPF sees it as important that the 2022 OHCHR report:

- **reiterate** what was included in the 2020 report: “The Disarmament Commission’s Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H provide a **broad definition of “illicit arms trafficking”**, which includes international trade in conventional arms outlawed by international law and relevant national laws. A transfer of arms for the purpose of aiding or assisting a State to commit torture would be illicit because it violates international law. Similarly, an arms transfer by a State party to the Arms Trade Treaty that violates a Security Council arms embargo or fails to properly assess the risk that the arms could be used to commit or facilitate serious acts of gender-based violence would also be illicit.”¹¹ In the context of the focus of the 2022 OHCHR report, this would also apply to an arms transfer that

⁷ The WILPF submission to OHCHR for the 2020 report on arms transfers includes an overview of relevant UPR recommendations as well as treaty bodies’ recommendations; see

https://www.wilpf.org/wp-content/uploads/2020/04/WILPF_OHCHR_submission_April2020_Final.pdf.

⁸ “Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria – a Practical Guide” <https://www.icrc.org/en/publication/0916-arms-transfer-decisions-applying-international-humanitarian-law-criteria>

⁹ “Enabling atrocities: arms transfers by States Members of the United Nations to the Myanmar military”, Conference room paper of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/49/CRP.1 (22 February 2022), paragraph 29.

¹⁰ *The economic interests of the Myanmar military*, Independent International Fact-Finding Mission on Myanmar, 12 September 2019, A/HRC/42/CRP.3, paragraphs 27-45 <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/EconomicInterestsMyanmarMilitary.aspx>.

¹¹ Impact of arms transfers on human rights, Report of the United Nations High Commissioner for Human Rights, A/HRC/44/29, 19 June 2020, paragraph 9

fails to properly assess the risk that the arms could be used in acts of violence against women and children.

- **reiterate** the reminder of the risk of **diversion to “unauthorized end user or for unlawful end use”, and it should especially do so in the section on recommendations.** National control mechanisms should ensure a continued, comprehensive and rigorous assessment, based on, *inter alia*, information from human rights bodies, of the risk of diversion to an unauthorized end user or for unlawful end use; this continued assessment should apply to multiyear export licenses. Undertaking this continued assessment means that in addition to denying “authorizations for arms transfers after conducting comprehensive, gender-sensitive risk assessments, if there is a significant risk that the arms will be diverted”, as recommended in the 2020 OHCHR report, states should additionally cancel licences for exports of military material and deny follow-up deliveries when a similar risk has been detected.

II. Some key issues for the OHCHR report

The following are some key issues that WILPF believes should be reflected in the 2022 OHCHR report.

a. Opportunity to draw attention to states’ obligations under the ATT, Article 7. 4 with regard to violence against children

In addition to the link between arms transfers and the recruitment of child soldiers, the Committee on the Rights of the Child (CRC) has expressed deep concern about the availability of arms and their impacts and their impacts on a range of children’s rights, including the rights to life, survival, and development,¹² education,¹³ health.¹⁴ It has also raised deep concerns relating to sexual and gender-based violence, including rape and sexual slavery, against children;¹⁵ and about the disproportionate impact of armed conflict on children with disabilities and their access to health care.¹⁶ It has highlighted negative strategies to cope with

¹² Consideration of reports submitted by states parties under article 44 of the Convention, Concluding observations: El Salvador, 2010. Concluding observations on Sudan, CRC/C/SDN/CO/3-4, 2010, paragraph 74. Concluding observations on the report submitted by Guinea under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, paragraph 24 C. Concluding observations on the combined fifth and sixth periodic reports of El Salvador, CRC/C/SLV/CO/5-6, 2018, paragraph 15. See also Concluding observations on the combined third to fifth periodic reports of the Bolivarian Republic of Venezuela, CRC/C/VEN/CO/3-5; Concluding observations on Honduras, CRC/C/HND/CO/3, 2007, paragraph 36 (d).

¹³ Concluding observations on the combined fifth and sixth periodic reports of El Salvador, CRC/C/SLV/CO/5-6, 2018, paragraph 42 (a). See also: Concluding observations on Sudan, CRC/C/SDN/CO/3-4, 2010, paragraph 64; and Concluding observations on the fifth periodic report of the Syrian Arab Republic, CRC/C/SYR/CO/5, 2019, paragraph 43.

¹⁴ Concluding observations on Sudan, CRC/C/SDN/CO/3-4, 2010, paragraph 50.

¹⁵ For more information, see WILPF submission to the Office of the High Commissioner for Human Rights for the report on civilian acquisition, possession and use of firearms by children and youth mandated by Human Rights Council resolution 45/13, available at: https://www.wilpf.org/wp-content/uploads/2021/11/WILPF_Youth_Firearms_final.pdf; and WILPF submission to the 87th Pre-sessional working group of the Committee on the Rights of the Child (List of issues for Canada), available at: https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/att/WILPF_CRC_June2020.pdf.

¹⁶ Concluding observations on the fifth periodic report of the Syrian Arab Republic, CRC/C/SYR/CO/5, 2019, paragraph 36.

insecurities and deprivation caused by armed violence and conflict, including child marriage and child labour.¹⁷

Article 7(4) of the Arms Trade Treaty requires that:

“4. The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2 (1) or of the items covered under Article 3 or Article 4 being used to commit or facilitate serious acts of gender- based violence or serious acts of violence against women and children.”

There has not been enough attention to the requirement to assess the risk of arms being used to “commit or facilitate serious acts of violence against ... children”. **The 2022 OHCHR report is an opportunity to draw attention to this requirement and highlight ways in which weapons risk being used to commit or facilitate violence against children and measures that should be taken to prevent that, including as part of the national control mechanisms.**

b. Impacts on economic, social and cultural rights

When looking at human rights impacts, it is important to draw attention to the impacts on economic, social and cultural rights, since they are more likely to be overlooked when considering the impacts of arms. As noted in the previous section, the CRC has expressed deep concern about the availability of arms and their impacts on children’s economic, social and cultural rights.

The Committee on Economic, Social and Cultural Rights (CESCR) has asked questions and made recommendations to states parties regarding regulation of arms transfers. It has, for example, recommended that the UK “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”.¹⁸ It has also asked Italy to provide information on the mechanisms or procedures put in place to ensure that human rights risk assessments are carried out prior to granting licences for arms exports and on the assessments carried out and responses to such assessments to date.¹⁹

In its review of Germany in 2018, CESCR recalled its concerns relating the lack of adequate assessment in arms exports of the risks of impacts on economic, social and cultural rights. In welcoming the decision of the (then) new German government to suspend future licences to export arms to Saudi Arabia and the United Arab Emirates, the Committee asked, “What lessons it intended to draw from the mistakes of past governments relating to the authorisation of arms transfers, how the risk assessment for arms exports would be improved and whether it would include the risk that importing governments divert scarce resources for much-needed

¹⁷ Concluding observations on the fifth periodic report of the Syrian Arab Republic, CRC/C/SYR/CO/5, 2019, paragraphs 33 and 52.

¹⁸ Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, E/C.12/GBR/CO/6 (14 July 2016), paragraph 12 (c).

¹⁹ “10. Please provide information on the mechanisms or procedures put in place to ensure that human rights risk assessments are carried out before the unit for authorizations of armament materials (*Unità per le autorizzazioni dei materiali di armamento*) grants licences for arms exports, and on the assessments carried out and responses to such assessments to date. In particular, please provide information on any specific measures taken to ensure that business entities in the arms industry carry out human rights due diligence. Please also provide information on the implementation of the motion approved by the parliament in June 2019 in relation to arms export to Saudi Arabia and to the United Arab Emirates.” Committee on Economic, Social and Cultural Rights, *List of issues prior to submission of the sixth periodic report of Italy*, E/C.12/ITA/QPR/6 (16 April 2020), paragraph 10.

social investments in order to buy weapons.”²⁰ **This is an important element that should be considered as part of the risk assessments**, since the risk of scarce resources being taken away from much-needed social investments in order to acquire weapons is relevant to the rights and wellbeing of children and youth. For example, this would be particularly relevant when the importing country has high rates of poverty.

Moreover, the report should look into the impacts of arms on the children and youth’s enjoyment of the right to a safe, clean, healthy, and sustainable environment. The development, testing, and use of arms has devastating impacts on the environment, in particular in situations of armed violence and conflict. The UN Secretary-General has called the environment the “silent casualty” of armed conflict.²¹ The CRC has recognised the “damage to the environment generated and exacerbated by weapons-related contamination, damage to critical infrastructure, including water treatment facilities and sewage systems, and the breakdown of the environmental services in the context of the armed conflict and its immediate and long-term risks to children’s health, and the long-term environmental consequences.”²²

c. Role of arms producers and retailers

Both the 2020 OHCHR report on arms transfers²³ and the 2022 report on firearms²⁴ refer to the Guiding Principles on Business and Human Rights (UNGPs). The report on firearms recommended, *inter alia*, that states “consider modelling requirements to manufacturers and dealers based on the Guiding Principles on Business and Human Rights (UNGPs), which include the obligation to avoid causing or contributing to adverse human rights impacts, preventing or mitigating human rights abuse, and the obligation to conduct human rights due diligence (principles 11, 13 and 17).”²⁵

The 2015 Global Study on the Implementation of UN Security Council resolution 1325 recommended that UN Member States should “as part of States Parties’ obligations to implement the Arms Trade Treaty’s provision on gender-based violence (Art. 7(4)), require

²⁰ “... my second question relates to the debate in Germany around arms exports. We repeatedly, *inter alia*, in our last concluding observations concerning the UK, stated our concern about arms exports to countries not assessing adequately the risks of impacts on economic, social and cultural rights of exporting arms. Germany, moreover, is a party to the Arms Trade Treaty which it ratified on 2 April 2014 and that treaty, of course, obliges a solid risk assessment before licences to export are provided. Now, this is an important issue in Germany, the fourth largest exporter in the world, exporting to Saudi Arabia and the United Arab Emirates, in particular, two countries in the Yemen conflict. The German [government] coalition, in my understanding, has decided to suspend future licences to export arms to Saudi Arabia and the United Arab Emirates, all parties to the conflict, which is good news. My question is this: what are the lessons that German intends to draw from the mistakes of the past governments that have granted licences to export, and, in particular how is risk assessment going to be improved for arms exports, shall this risk assessment include the risk that receiving government diverts scarce resources for much-needed social investments in order to buy weapons” See question by Professor Olivier De Schutter, at <http://webtv.un.org/search/consideration-of-germany-31st-meeting-64th-session-committee-on-economic-social-and-cultural-rights/5839872155001/?term=%22consideration%20of%20Germany%22&sort=date> , at 57:23.

²¹ Report of the Secretary-General, Protection of civilians in armed conflict, S/2021/423, 3 May 2021, paragraphs 20- 22.

²² Concluding observations on the fifth periodic report of the Syrian Arab Republic, CRC/C/SYR/CO/5, 2019, paragraph 41.

²³ Impact of arms transfers on human rights, Report of the United Nations High Commissioner for Human Rights, A/HRC/44/29, 19 June 2020.

²⁴ Impact of the civilian acquisition, possession and use of firearms by children and youth, Report of the United Nations High Commissioner for Human Rights, A/HRC/49/41, 19 June 2020.

²⁵ Impact of the civilian acquisition, possession and use of firearms by children and youth, Report of the United Nations High Commissioner for Human Rights, A/HRC/49/41, 19 January 2022, paragraph 50.

arms producing corporations to monitor and report on the use of their arms in violence against women.”²⁶

CESCR has requested Italy to provide information on any specific measures taken to ensure that business entities in the arms industry carry out human rights due diligence.²⁷

In 2020, WILPF brought to the attention of the UN Working Group on Business and Human Rights our concerns regarding arms industry in a submission for the Working Group’s project on “Business and, Human Rights and Conflict-affected contexts. The submission includes a section specifically on the human rights responsibilities of arms companies.”²⁸

The 2022 OHCHR report on arms transfers **should remind, *inter alia*, that under the UNGPs, companies operating in the arms industry have responsibilities to conduct robust human rights due diligence connected with the use of company products and services before, during, and after weapons transfers, and to take action to identify and address the potential and actual human rights risks and abuses**, including through mitigation and remediation. Such due diligence needs to be ongoing and dynamic and cover all aspects of the business relationship and weapon lifecycle including its end-use. In addition, under the UNGPs companies must pay attention to any particular human rights impacts on individuals from groups that may be at heightened risk of vulnerability or marginalization, which includes children and youth.²⁹ Human rights due diligence covers the use of arms or other military equipment by third parties, including by security forces of the importing states, and applies to assessing the risk of the arms or other military equipment being diverted to an unauthorized end user or unauthorised end use, or from the lawful to the illicit market.

The report should also remind that companies hold responsibility over the way their arms are used by third parties, which cannot be simply absolved by the State licensing process. These responsibilities exist over and above compliance with national laws and regulations—such as State arms licensing processes—which aim to protect human rights.

d. Gender analysis

In looking at the gendered impacts of arms on children and youth, the 2022 report should **illustrate the specific impacts on women and girls as well as the specific impacts on men and boys, and persons of diverse and marginalised sexual orientations, gender identities and expressions, and sex characteristics.** Importantly, these impacts are further compounded by factors such as ethnicity, religious beliefs, socio-economic status, and other factors.

The WILPF submission to the OHCHR on the “Impact of the diversion of arms and unregulated or illicit arms transfers on the human rights of women and girls” highlighted that the widespread possession and use of weapons can hinder women’s access to and use of resources, business, education and employment opportunities.³⁰ We recalled that the UN Secretary-

²⁶ See Chapter 8 “Preventing Conflict: the origins of the Women, Peace and Security agenda”, available at <https://wps.unwomen.org/pdf/CH08.pdf>, page 214.

²⁷ “Committee on Economic, Social and Cultural Rights, *List of issues prior to submission of the sixth periodic report of Italy*, E/C.12/ITA/QPR/6 (16 April 2020), paragraph 10.

²⁸ See WILPF submission to the UN WG on Business and Human rights for its project on “business, human rights and conflict-affected contexts”, <https://www.wilpf.org/wp-content/uploads/2020/04/WILPF-submission-UNWG-project-on-BHR-and-conflict.pdf>

²⁹ Guiding Principles on Business and Human Rights, see commentaries to Principle 12 and Principle 18, available at: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

³⁰ See: https://www.wilpf.org/wp-content/uploads/2020/04/WILPF_OHCHR_submission_April2020_Final.pdf

General has observed that “In many situations, when men are killed or injured, women must take on new or additional roles as income providers...” Because of patriarchal systems of work that discriminate, abuse and harass women disproportionately, he argues that the situation “often [leads] to impoverishment [and] exploitation...”³¹ According to the Group of Eminent Experts (GEE) on Yemen, “UNFPA reported that most households are now female-led, with 21 per cent of households led by girls under 18, who, given endemic inequality and lack of economic empowerment, are more isolated and vulnerable to poverty.”³²

Armed violence also has a strong impact on the enjoyment of the right to education by girls and boys, as documented for example by the Global Coalition to Protect Education from Attack.³³ The Coalition has reported on the impacts of the proliferation of weapons, and their illicit possession by armed non-state groups on girls’ access to education.³⁴

One hundred and fourteen states currently explicitly recognise the grave impact of armed conflict on education, having signed onto the Safe Schools Declaration. Among its other provisions, the Declaration notes that “attacks on schools and universities have been used to.... further gender discrimination, for example by preventing the education of girls.”³⁵ It also notes that “Where educational facilities are used for military purposes it can increase the risk of the recruitment and use of children by armed actors or may leave children and youth vulnerable to sexual abuse or exploitation. In particular, it may increase the likelihood that education institutions are attacked.”³⁶

It is also important to highlight that the proliferation of conventional weapons correlates with an increase in gendered inequality and a generalised culture of violence. The GEE on Yemen notes “Disruption to education, poverty, mass unemployment, and increased mental health issues including depression have affected men and boys also. Coupled with the reinstatement of discriminatory customs, the exacerbation of toxic masculinity and impunity, and the obstruction of awareness raising and behavioural change programs for men and boys, has increased the risk of men using domestic violence to maintain control within families to compensate for their economic disempowerment and changing gender roles. Together, these factors increase the long-term risk of a future generation of men and boys predisposed to perpetuate gender-based violence and wider discrimination against women and girls.”³⁷

e. Ammunition

Control of ammunition as well as of parts and components should be part of the analysis and recommendations in the 2022 OHCHR report. WILPF highlighted the importance of ammunition control alongside that of arms control in the 2020 submission to

³¹ Securing our Common Future, An Agenda for Disarmament, UN Secretary-General, 2018

³² Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, A/HRC/42/17 (3 September 2019), paragraph 624.

³³ See, for example, Education under Attack 2020, https://protectingeducation.org/wp-content/uploads/eua_2020_full.pdf.

³⁴ See for instance: It is very painful to talk about: Impact of attacks on education on women and girls, Global Coalition to Protect Education from Attack (GCPEA), November 2019, http://protectingeducation.org/sites/default/files/documents/impact_of_attacks_on_education_nov_2019_lowres_webspreads.pdf.

³⁵ Safe Schools Declaration, http://protectingeducation.org/sites/default/files/documents/safe_schools_declaration-final.pdf.

³⁶ *Ibid.*

³⁷ Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, paragraph 631.

OHCHR,³⁸ in which we underscored, *inter alia*, that ammunition is inextricably linked to conventional weapons—without the former, the latter would not function. The 2020 OHCHR report on arms transfers (noted that “States have long recognized the importance of considering not only weapons, but also ammunition, parts and components together, as these categories are interrelated and their diversion and unregulated or illicit transfer threatens peace and security, and human rights. Diverted ammunition can also cause considerable harm as the main charge in improvised explosive devices, including victim-operated improvised explosive devices that function as anti- personnel landmines. Indeed, the Secretary-General has stated that improvised explosive devices are now a leading cause of deaths and injuries in armed conflict, with particularly devastating impacts on civilians.”³⁹

A May 2022 briefing paper from the Small Arms Survey reinforces this point: “While the full scale and scope of diverted ammunition are not known, the Small Arms Survey has documented the diversion of ‘millions of rounds’ from peace operations alone based on a sample of known attacks on deployed forces over a 20-year period (Berman, 2019, pp. 34, 36). Recent large-scale domestic arms and ammunition diversion scandals, including in Europe, indicate that the problem is not limited to conflict zones or deployed forces.”⁴⁰

III. National arms export control mechanisms

In a 2017 submission to OHCHR,⁴¹ WILPF provided a non-exhaustive list of the type and sources of information on which to base assessments for arms transfer decisions. We stated that “in order for human rights criteria to be applied in an effective and fair manner, the assessment process for arms transfer decisions must:

- apply to all transfer authorisations to all countries, without distinction;
- include a case-by-case assessment of each application for an arms transfer decision;
- use objective, verifiable, and detailed information from credible and reliable sources on the nature of the arms/ammunition, the intended recipient, the likely uses, the route, all those involved in the transfer; and the risk of diversion;
- use up to date information on human rights standards and violations; and
- include an assessment of the recipient state’s respect for international human rights law in relation to those rights likely to be impacted, taking into account the following indicators:
 - the formal commitments made by a state to relevant international and regional human rights instruments;
 - the implementation record of the state of its human rights obligations through national policy and practices;
 - state’s legal, judicial, and administrative measures necessary for the respect and promotion of its human rights obligations;

³⁸ https://www.wilpf.org/advocacy_documents/submission-to-the-un-office-of-the-high-commissioner-for-human-rights-on-the-impact-of-the-diversion-of-arms-and-unregulated-or-illicit-arms-transfers-on-the-human-rights-of-women-and-girls/

³⁹ A/HRC/44/29

⁴⁰ *Extracting Evidence: Opportunities and Obstacles in Assessing the Gendered Impacts of Diverted Ammunition*, Emile LeBrun, André Desmarais, Kheira Djouhri, and Nicolas Florquin, page 3, <https://smallarmssurvey.org/sites/default/files/resources/SAS-BP-Extracting-evidence.pdf>.

⁴¹ Available at:

<https://www.ohchr.org/sites/default/files/Documents/Issues/RuleOfLaw/ArmsTransfers/WomensInternationalLeaguePeaceAndFreedom.pdf>.

- the state’s governmental infrastructure and its capacity to implement and ensure respect for human rights obligations and to bring human rights violators to justice and provide remedy and reparation to victims; and
- the degree of the state’s cooperation with international and regional human rights mechanisms.”

In that 2017 submission, we also included a (non-exhaustive) list of key risk assessment questions to consider with respect to gender-based violence that WILPF put forward in 2012. That list can be applied, *mutatis mutandis*, to “preventing, mitigating and addressing the diversion of arms and unregulated or illicit arms transfers that have a particular impact on the enjoyment of human rights by children and youth.” Similarly, the (non-exhaustive) list of sources of information to make an assessment put forward in that WILPF submission is relevant to the 2022 OHCHR report.

A basic guiding principle should be that licensing decisions must not be at odds with the exporting country’s own human rights assessments, statements of concern or other actions in human rights bodies, such as the Human Rights Council or the Universal Periodic Review. Regrettably, however, states’ practice often show lack of coherence in this regard with transfers being authorised in spite of the concerns expressed by the state with regard to the human rights situation in the receiving country.

WILPF also recalls that an importing state is obligated under ATT Article 8 to “take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7.” If an exporter raised concern about levels of gender-based violence or violence against women and children within the country in connection to weapons, the importer should demonstrate in good faith what it is doing to prevent and address those concerns.

As noted earlier, WILPF has brought to the attention of the UN Working Group on Business and Human Rights **the obligations of States under the UNGPs with regards to arms export controls**; our submission to the Working Group includes a section specifically on the obligations of national export controls in light of the UNGPs.⁴²

With regard to the national action plans (NAPs) to implement the UNGPs we note that, as of April 2021, only a handful of them mention the arms industry, including those of the Czech Republic, Belgium and Switzerland. However, major arms exporters such as the USA, Germany, Italy or France do not mention the arms industry at all. The only NAP mentioning concrete actions in this area is the NAP of the Czech Republic, whereas other NAPs solely describe the applicable framework under arms control legislation and fail to explain how they specifically apply the UNGPs, including in terms of human rights due diligence, to the arms sector.

WILPF reports with information on national arms export control mechanisms

WILPF provided information on the national export mechanisms of Germany, Spain and Sweden in our 2017 submission to OHCHR (see WILPF reply to question 2 in that submission). In addition, WILPF provided country-specific information in submissions to human rights mechanisms, such as:

⁴² For more information, see WILPF submission to the UN WG on Business and Human rights for its project on “business, human rights and conflict-affected contexts, see page 6 to 10: <https://www.wilpf.org/wp-content/uploads/2020/04/WILPF-submission-UNWG-project-on-BHR-and-conflict.pdf>

WILPF submission to the Committee on the Rights of the Child's pre-session on Canada

This submission provides raises questions about the impact of Canadian weapons transfers on children's human rights, and draws attention to legal loopholes and transparency concerns concerning Canadian weapons manufacturers operating in other countries, and the United States-Canada trade relationship. It also includes a section on how the CRC has detailed the impact of arms availability on different categories of human rights.⁴³

WILPF submission to CEDAW Committee's pre-session on Italy

Section "III. Impact on human rights of Italy's arms transfers" of this submission includes concerns with regard to arms transfers to countries with poor human rights records, high rates of gender-based violence and/or involvement in armed conflicts, as well as with regard to the transparency around licensing decisions by the authority in charge of this. For example, because of the insufficient information it provides to the Parliament, which is supposed to exercise a supervisory role.⁴⁴

Joint submission to the Human Rights Committee's pre-session on France

The joint submission for the Committee's List of issues prior to reporting (LOIPR), made together with the European Center for Constitutional Human Rights (ECCHR) sheds light on France's international and national obligations regarding the arms trade. It criticises that France's arms transfers to the Coalition in Yemen and its exports of surveillance technology to Egypt and China violate its human rights obligations.⁴⁵

WILPF Sweden's submission to CEDAW Committee's review of Sweden

This submission illustrates the inconsistency between Sweden's own human rights assessments and its arms exports. It includes an overview of the Swedish arms exports regulations, shortcomings and recommendations for improved compliance with domestic law as well as Sweden's obligations under the ATT, the EU Common Position on arms exports and CEDAW.⁴⁶

Joint submission to the CESCR's review of Germany

In this joint submission, ECCHR and WILPF illustrated examples of specific negative impacts on economic, social and cultural rights, drawing attention to Germany's extraterritorial Obligations under the IESCR to prevent such impacts.⁴⁷

Joint submission to CEDAW Committee's pre-session on Germany

⁴³ Available at https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/att/WILPF_CRC_June2020.pdf

⁴⁴ Available at https://www.wilpf.org/advocacy_documents/submission-to-the-cedaw-committee-pre-session-on-italy/

⁴⁵ Available at https://reachingcriticalwill.org/images/documents/Publications/wilpf-ecchr-iccpr_loipr_france_may2021.pdf

⁴⁶ Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fSWE%2f43279&Lang=en. See also WILPF Sweden's statement to the CEDAW Committee's session <https://ikff.se/wp-content/uploads/2021/10/overview-wilpf-sweden-submission-to-cedaw-80session-review-of-sweden-final.pdf>

⁴⁷ Available at: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/DEU/INT_CESCR_CSS_DEU_32288_E.pdf

This joint submission by the ECCHR and WILPF titled “The Persisting Impact of Germany's Arms Transfers on Women’s Rights” includes a section on “German regulation of arms exports and criminal accusations”.⁴⁸

Joint submission to the CEDAW Committee for its review of the UK

This joint submission by Christian Aid, the Quakers in Britain and WILPF UK titled “Impact of the UK’s Arms Transfers and Military Spending on Women’s Rights” includes a section on “Potential impacts of Brexit on the UK’s arms control policy.”⁴⁹

All available for download [at this link](#).

IV. Previous WILPF submissions to OHCHR for reports on arms transfers and on firearms

- 2021 Submission to OHCHR for the report on civilian acquisition, possession and use of firearms by children and youth mandated by Human Rights Council resolution 45/13
- 2020 Submission on Impact of the Diversion of Arms and Unregulated or Illicit Arms Transfers on the Human Rights of Women and Girls
- 2019 Submission from the Women’s International League for Peace and Freedom to OHCHR for the report on civilian acquisition, possession and use of firearms on civil, political, economic, social and cultural rights
- 2019 Submission by WILPF (LIMPAL) Colombia to OHCHR for the report on civilian acquisition, possession and use of firearms on civil, political, economic, social and cultural rights
- 2017 Submission from the Women’s International League for Peace and Freedom to the Office of the High Commissioner for Human Rights on the impact of arms transfers on human rights.

All available for download [at this link](#).

⁴⁸ Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fICS%2fDEU%2f41684&Lang=en

⁴⁹ Available at: https://wilpf.org.uk/wp-content/uploads/2019/02/UK_CEDAW-Jt_WILPF_Christian-Aid_Quakers.pdf