



CREATING AN INTERNATIONAL GENDER AND PEACE AGENDA: TRANSNATIONAL COMPANIES, WEAPONS AND VAW

Extraterritorial Obligations of Spain

Shadow Report to CEDAW 61st Session

By WILPF Spain

WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE & FREEDOM



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This is a joint report by WILPF Spain and the Human Rights programme of WILPF.

As part of WILPF, the Human Rights programme promotes a progressive gender perspective in preventing conflict and creating peace by bridging global and local efforts to implement a holistic and transformative human rights approach.

The Human Rights programme monitors the UN human rights bodies to ensure their integration of disarmament, social justice and the Women, Peace and Security Agenda from a gender perspective in order to duly address the human rights of women on the ground.

The Spanish Section of WILPF was founded in June 2011 by women coming from the Spanish pacifist movement (academics, activists in social movements, journalists).

The goal of the Section is to raise awareness, participate and support the work of women for peace and disarmament around the world. The activities are articulated around three main axes: women and human rights, disarmament, and the United Nations Security Council Resolution 1325 on women, peace and security.

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Introduction

In this globalized world, human rights violations can be cross bordered and they cannot be successfully addressed if the response does not take into account this transnational nature.

For this reason, the States and their governments are today not only responsible for the protection of the human rights of citizens within their territory, but also have obligations to prevent that their actions violate the human rights of people living outside their territories.

Furthermore, according to the Due Diligence doctrine, coined by this Committee in its General Recommendation 19, all governments must ensure that the transnational companies that headquarter in their territory do not use their transnational nature to find legal lacunes and violate human rights with impunity.

Extraterritorial responsibility is increasingly recognized by the Treaty Bodies as well as by the European Court of Human Rights that has pronounced itself on this topic in many occasions, in particular regarding risk of torture in cases of extradition such as *Soering v Uk* (1989)¹.

CEDAW Committee recognizes in its General Recommendation 28, paragraph 36 that “The obligations incumbent upon States [...] also extend to acts of national corporations operating extraterritorially”.

In this report, WILPF would like to call to the Committee’s attention the human rights situation of women living outside Spain related to the exports of weapons, the Women, Peace and Security Agenda and with the activities of transnational companies

¹ *Soering v Reino Unido* 161 Eur. Ct. HR (Ser. A) (1989) is a historic decision by the European Court on Human Rights that establishes that extradition of a young female citizen of German nationality to the USA where she would face charges on homicide and where death penalty would be applied to her, was unlawful according to article 3 of the European Convention on Human rights on torture and inhuman treatment and thus it did not take place.

Impact of arms transfers on Gender Violence

Article 2d

General Recommendations 12, 19 and 30

Arms exports can have serious consequences on the rights and safety of women in countries where the weapons end up, particularly those 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 infrastructure destruction or the burden of caring for the wounded may affect them, particularly in an inequality context². This has been revealed in the Arms Trade Treaty (ATT) and in the General Recommendation 30 from the Committee.

Spain exports to countries where domestic violence is widespread, including countries like Brazil and Guatemala, with high rates of femicide, and Egypt with high rates of sexual harassment. The lack of transparency in the process concerns WILPF as well, because it contradicts the commitments made in the ATT.

Spain is one of the major arms exporters in the world. It ranks seventh among the largest sellers of stockpiles, with sales of military equipment accounting for 3% of the global total during 2010-2014.³ Spanish arms exports have grown exponentially in the last decade as part of a policy of promotion for these types of sales by the Spanish Government. As for small and light weapons, Spain ranks 11th among major exporters.⁴

Several NGOs have called attention to the Spanish arms exports, warning that some of the transactions contravene aspects of local, European and international law, when they allow the sale of stockpiles to countries facing instability situations, conflicts and human rights violations, directly and seriously affecting women.

Overall, it has been emphasized that the lack of information and transparency in the Spanish arms sales prevents knowledge about whether they are used to commit abuse. Still, available data raises concern. More than a third of Spanish arms exports between the 2004-2013 period were made to countries in the Middle East.⁵ In the years before the uprisings, Spain authorized arms sales to Libya, including cluster bombs -delivered months before the Spanish Government's accession to the international ban on cluster munitions (2008) - that the regime used to stifle rebellion.⁶

2 Reaching Critical Will of WILPF, Gabriella Irsten , [Women and explosive weapons](#), 2014.

3 Stockholm International Peace Research Institute (SIPRI), [Trends in International Arms Transfers](#), 2014, SIPRI Fact Sheet, March 2015.

4 According to Small Arms Survey Transparency Barometer, which in 2014 examined 55 countries. Amnesty International Fundipau, Greenpeace, Intermón-Oxfam, [Killing Secrets?](#), April 29, 2015.

5 Centre Delàs d'Estudis per la Pau, [Exportacions Espanyoles d'Armament 2004-2013: El govern promou exportacions il·licites d'armament?](#), Informe num.24, julio de 2014.

6 Amnesty International, [Arms Transfers to the Middle East and North Africa: Lesson for an Effective Arms Trade Treaty](#), AI, 19 de octubre de 2011.

Egypt has also been among the recipients of Spanish weapons. Even though after the 2013 coup some licenses have been suspended considering the tension and human rights situation in the country and the possibility that the material could be used in internal repression, the export of small arms and military materiel to the Egyptian Armed Forces has been permitted. Violence and sexual harassment against women has been used in Egypt as a means of repression against women's participation in the demonstrations of the so-called "Arab Spring" thus attempting against their physical integrity and their right of assembly, their right to meet, and of association and political participation.

Other arms sales authorized by Spain to countries with conflicts or internal tensions such as Afghanistan, Colombia, Israel, Pakistan, Bahrain, Ukraine, UAE and Saudi Arabia have been considered disturbing or illegal. The latter two countries have recently been designated by their participation in the armed conflict in Yemen, where Spanish weapons could have been used in attacks with civilian casualties.⁷

In addition, Spain has authorized arms sales of less than 20mm calibre ammunition and hunting weapons, among other elements - to countries with serious situations of violence, including high rates of femicide, such as Brazil, with an average of 15 murders of women every day⁸-, and Guatemala -the country with the third highest rate of femicide in the world⁹- settings with a high prevalence of various forms of violence against women, as in the case of Egypt -among them sexual harassment, domestic violence, honour crimes and abuses by State agents¹⁰- and with serious violations to the rights of women, such as Saudi Arabia.

In these cases, arms sales contribute to a situation of insecurity and increases the risk that women will experience situations of violence, as the Committee itself revealed in its Concluding Recommendations in the case of the Democratic Republic of Congo¹¹

Recently, the cancellation of arms sales from Sweden to Saudi Arabia -putting an end to a decade of military cooperation- amid human rights violations in the Arab country, particularly against women, has emerged as a benchmark for the type of measures that can be taken when the protection of human rights at the heart of political decision stands.¹²

Arms sales in these and other cases would not only violate, therefore, the provisions contained in the Spanish Law on Arms Trade (53/2007) ¹³ The Arms Trade Treaty (ATT), and the criteria defined by the EU Common Position (2008/944/CFSP) for the control of military

7 Eldiario.es, "[Las ONG piden al Gobierno que investigue si armas españolas se han utilizado para matar civiles en Yemen](#)", 29 de abril de 2015.

8 UN Women, "In Brazil, new law on femicide to offer greater protection, UN Women News, 16 de marzo de 2015, <http://www.unwomen.org/en/news/stories/2015/3/in-brazil-new-law-on-femicide-to-offer-greater-protection>.

9 Small Arms Survey, Femicide: A Global Problem, Research Note 14, febrero de 2012, <http://www.smallarmssurvey.org/about-us/highlights/highlight-rn14.html>

10 Amnesty International, 'Circles of hell': Domestic, public and state violence against women in Egypt, AI, January 21, 2015.

11 Concluding recommendations on the combined sixth and seventh periodic report from the Democratic Republic of Congo*

12 Escola de Cultura de Pau, [Género y Paz](#), número 5, abril de 2015.

13 Boletín Oficial del Estado, [Ley 53/2007 sobre el control del comercio exterior de material de defensa y de doble uso](#), BOE-A-2007-22437, 29 de diciembre de 2007.

exports ¹⁴. They would also undermine the commitments made under CEDAW and in general recommendations 12, 19 and 30.

For these reasons, WILPF suggests the following **recommendations** for Spain:

- Include the risk of gender-based violence in the country of destination as a relevant criterion when assessing arms sales authorization and promote the adoption of policies, including in the field of military cooperation and arms trade, to sanction countries with situations of discrimination and gender-based violence as established by the ATT.
- Promote greater transparency in arms exports, in order to ensure that no stockpile sales that may facilitate the commission of abuses and violations of human rights with significant implications for women in compliance with the Arms Trade Treaty.

14 Diario Oficial de la UE, [Posición Común 2008/944/PESC del Consejo por la que se definen las normas comunes que rigen el control de las exportaciones de tecnología y equipos militares](#), 8 de diciembre de 2008.

Women, Peace and Security

Articles 7 and 8

General Recommendation 30 and SCR 1325, 1889 and 2122

The Government of Spain approved the 2007 National Action Plan (NAP) for the implementation of the United Nations Security Council Resolution 1325 (SCR 1325). With this plan, the government seeks to promote peace building and women participation, as well as the integration of gender perspective in armed conflicts.

However, implementation of the Plan has been very inadequate as has been noted in various reports by the coordinators of NGOs, Research Centres for Peace and women's organizations. They have repeatedly identified the following deficiencies:

Lack of budgetary allocation and implementation schedule

The Action Plan lacks a specific budget allocation and therefore the proposed actions are included in large gender sections that do not guarantee the implementation of actions aimed at women participation in peace building. Also, the deep cuts suffered in the Spanish cooperation for development¹⁵ have impacted this scope.

Nor is there a timetable for implementation that would ensure proper compliance with the goals outlined in the NAP. No indicators have been used to evaluate the results achieved, as established by the United Nations and the European Union in 2010 for the follow up of SCR 1325, which makes it difficult to have a diagnosis of where we are, what are the strengths/weaknesses or compare implementation regarding other countries.

Lack of information and transparency in the activities being carried out

The Government of Spain, in its National Action Plan, commits itself to presenting an annual follow-up report on the degree of fulfilment of the objectives set forth. Nonetheless, these reports have not been presented every year (to date, four reports only have been carried out), and they have been brought into question due to their merely descriptive and self-satisfying character, and for not having incorporated the organisations of civil society into the

¹⁵ Spanish Official Aid has experienced a 70% reduction during the 2009-2012 period; so much that Spain topped the list of Development Assistance Committee (DAC) member countries that cut the most aid, so that it is on the edge of leaving this club due to the irrelevance of the funds earmarked for Development Cooperation (0.15% of GDP), in which a large part goes to compulsory contributions. We find ourselves, therefore, at a time of development cooperation dismantling, with percentages that make it impossible to cope with the international commitments made by the Spanish government. In this context, the application of Gender axis, contained in the Master Plan for Cooperation as one of the eight priorities, can only remain at the rhetoric level.

process.

As a result of this, it does not have quantitative or qualitative information about the achievements made. For example, in the case of peace missions, the degree to which training activities relating to UNSCR 1325 have brought about significant changes in peace missions is unknown, as well as the different amounts of attention paid to the needs of women in DDR processes. Also unknown is the degree of participation of women in decision-making bodies and whether or not the NAP has contributed to facilitating women's access to these spaces.

Although there are specific support projects for women's political participation within the sphere of cooperation in development, it is necessary to make a more strategic commitment to supporting women's organisations that play a certain role in the building of peace and in setting forth reconciliation and post-war rebuilding processes.

There are no evaluations of how the implementation of the NAP has had influence on the field and to what degree it has contributed to reducing cases of VAW or to the participation and protection of women. For example, there is no explanation of the measures that have been applied in order to protect survivors of sexual violence in conflict situations, how the perspective on gender has been applied in Disarmament, Demobilization and Reintegration (DDR) processes, what kind of initiatives have been carried out so that Truth Commissions can incorporate gender perspectives among other elements.

It is also unknown how the participation of women has been promoted in peace processes, what concrete methods have been adopted in order to achieve their presence in these forums. Indeed, what is remarkable is the low profile the Spanish government has had in supporting the participation of women in the negotiations held between FARC and the Colombian government, a participation that finally came about thanks to the Concluding recommendations of this committee.

Colombia has been, and continues to be, one of the priority countries for cooperation with Spain. And after years of support regarding gender in Colombia, with multiple development projects, it has become difficult to know why, at such a crucial moment when peace talks have been developing in Havana, this support for women's organisations has not increased and why explanations have not been made as to how this process will be supported in the short and long terms when the DDR begins.

Focus on militarism

Among the more notable activities is the Spanish/Dutch gender and civilian protection training, nonetheless, this course does not have a significant participation of civilians and there has not been any follow-up regarding how this training has influenced the peace missions in which Spain has participated. Additionally, it would be better to broaden this collaboration to other specific aspects of the NAP, given that the Dutch government has stood out for implementing the NAP and promoting the broad participation of civil society's

organizations in the designing and execution of the same¹⁶.

Secondly, there is a predominant militarism in the application of the NAP, with the Ministry of Defence and Interior assuming a clear role of protagonist, which makes evident the absence of a multidimensional focus. Gender perspective is systematically confused with the recruitment of women in the Armed Forces; and the peace missions are conceived from a reductive focus that ignores conflict prevention, peace-keeping and peace-building.

Women have had a presence in some of the peace missions in which Spain has been a participant. In the ISAF (Afghanistan) there were eight women, five in the UNMIH, two in the UNMIT Mission (East Timor), and four in the UNIFIL (Lebanon). Although the increase of participation of women has been positive, the number is still insufficient. It would be important to have a qualitative evaluation that would reflect the added value and contributions that a greater presence of women in the mission group would have, and whether or not this would improve the living conditions of local women.

Additionally worrying are the cases of sexual harassment arising within the Spanish army reported by Commander Zaida Cantera, a victim of aggressions and sanctions who finally had to leave the army. This fact demonstrates the inability of the military justice system to punish those crimes of harassment and the impunity with which the high command acts. Although the Minister of Defence, Pedro Moronés, announced a protocol for reporting sexual harassment, it would be necessary to guarantee that this would be applied and that it would be effective as well. These situations, although they cannot be used to generalise about the entire army, make it enormously difficult to include gender perspectives in military activities that are carried out on the field, and create a lack of confidence in the ability to protect women in conflict areas.

For these reasons, WILPF suggests the following **recommendations** for Spain:

- Establish an institutional framework adequate for the SCR 1325 National Action Plan, defining the tasks and responsibilities of the governmental actors and the civil society, including indicators of evaluation, a route map and a budget to carry out the activities.

¹⁶ Women, Peace and Security. The current state of affairs. Ministry of Foreign Affairs of the Netherlands, 2015.

Impact of Spanish Transnational companies on the rights of women: Due Diligence

In recent years Spanish companies have focused a great part of their efforts on internationalisation, which has translated into a search for new markets abroad, but also on the delocalisation of a large part of its production.

This internationalisation effort has been accompanied by the Spanish government, which dedicated a large portion of its foreign policy on the promotion of Spanish companies abroad.

One of the public policies of promotion of these companies abroad is known as "Marca España" (Brand Spain), which has as its objective the improvement and promotion of Spain's image abroad. One of the fundamental aspects of this policy is the active participation of Spanish companies. Different companies make up part of the so-called Forum for Renowned Spanish Brands, which consists of an alliance between Spanish companies and the public administration to establish collaborative strategies in matters such as intellectual property, human resources, financing, innovation, marketing and markets.

As part of the Brand Spain policy, it is acknowledged that the "private sector has a lot to contribute to the generation of national and international development through means of wealth creation and dignified employment, as well as parallel activities for improving the surroundings and well-being of host populations".

Violence against Women

Article 2e

General Recommendations, 12 and 19

Transnational Spanish companies have a definite presence in Latin America. These companies make use of their transnational character to take advantage of legal lacunas, the lack of transparency and the difficult access to the justice system on the part of the population, so as to violate the human rights of the inhabitants with impunity.

Many of the projects of transnational companies in Latin America, particularly those related to mining and energy production, have been opposed by the indigenous peoples that seek to protect the environment. These populations tend to carry out numerous public protests against these attacks against nature.

This is also the case in Guatemala, where gender violence includes sexual violence against activist women, which has been extensive. In many cases, this violence's objective is to

intimidate and silence the defenders of human rights against the abuses of Transnational Companies.

In Santa Cruz Barillas, Huehuetenango, the Spanish company Eco Ener Hidralia Energía began a hydraulic energy-production project that was opposed by the population due to its environmental impact¹⁷. As the Guatemalan government had declared the state of siege, the company installed armed security guards in the region. It has been reported that these security forces have sexually attacked the women of Santa Cruz Barillas as part of their strategy to suppress protests¹⁸.

Working conditions of women

Articles 2e and 11

Many human rights organisations have expressed their great concern regarding the responsibility that different Spanish companies, included among them some of the companies that are part of the Forum of Renowned Spanish Brands, have had in serious violations of the human rights of women workers, in clear contradiction of international law in matters relating to workers' rights.

The local companies that supply products to Spanish companies, especially in the textiles and foods sectors, have maintained practices such as 72-hour work-weeks, failure to provide legal contracts to working women, or placing restrictions on their freedom of movement, as is the case with Eastman Exports Global Clothing, which supplies Spanish companies such as Cortefiel, El Corte Inglés and Inditex.¹⁹

These practices are a serious violation of the human rights of women workers and allow for Spanish companies to increase their profits as they take advantage of the situation of the women lacking means of defending themselves, as they see themselves forced into accepting draconian conditions in order to get by. Another example is the lack of guarantees with regards to obtaining a dignified salary for the working women who participate in the supply chain of companies such as Desigual, Mango and Inditex, which does not allow working women to keep themselves and their families afloat.²⁰

17 <http://business-humanrights.org/es/guatemala-represi%C3%B3n-contra-activistas-opuestos-a-la-construcci%C3%B3n-de-una-megapresa-por-parte-de-la-empresa-esp%C3%B1ola-hidralia-energ%C3%ADa>

18 <http://oxfamilibrary.openrepository.com/oxfam/bitstream/10546/347438/13/ib-suffering-of-others-international-finance-corporation-020415-en.pdf>

19 Overeem, P., M. Theuvs y N. Coninck, Captured by Cotton. Exploited Dalit girls produce garments in India for European and US markets, SOMO-Centre for Research on Multinational Corporations, LIW/ ICN- India Committee of the Netherlands y Campaign Against Sumangali Scheme, 2011.

20 Anna McMullen et. Al. Dignified Salaries. Is the salary paid by brands to people making our clothes sufficient to get by on? Clean Clothes Campaign, Setem, March 2014.

For these reasons, WILPF recommends the following **recommendations** for Spain:

- The Government should condition its political and financial support to Spanish companies internationalising their means of production to full guarantees that they will respect the working rights of the women workers that participate in the production and supply chains of Spanish companies. The companies that do not offer guarantees or sufficient transparency should not receive political or financial support.
- The Government should explicitly demand within its Plan on Business and Human Rights that companies commit themselves to the elimination of discrimination in the employment sphere, and respect what has been established by CEDAW regarding gender equality in the work sphere, as is demanded in the UNHCHR's Governing Principles on Companies and Human Rights in reference to the United Nations' tools regarding the rights of women. The Plan Business and Human Rights should be approved as soon as possible.
- Spain should get involved in an active manner in the Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights within the framework of the process established by Resolution 26/9 of the Council on Human Rights²¹.

²¹ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9

The Women's International League for Peace and Freedom (WILPF) is an international non-governmental organisation (NGO) with National Sections covering every continent, an International Secretariat based in Geneva, and a New York office focused on the work of the United Nations (UN).

Since our establishment in 1915, we have brought together women from around the world who are united in working for peace by non-violent means and promoting political, economic and social justice for all.

Our approach is always non-violent, and we use existing international legal and political frameworks to achieve fundamental change in the way states conceptualise and address issues of gender, militarism, peace and security.

Our strength lies in our ability to link the international and local levels. We are very proud to be one of the first organisations to gain consultative status (category B) with the United Nations, and the only women's anti-war organisation so recognised.



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