

The influence of human rights on Small Arms and Light Weapons' Exports:

A special focus on France, Spain and United Kingdom

Academic year 2011-2012

Enciso Romero, Laura

Prof. Dr. Michael Brzoska



Abstract

A large range of human rights are in danger worldwide due to the availability and misuse of small arms and light weapons. Indeed, SALW have been labelled "the tools used to violate human rights". Although states are legitimate to supply and acquire weapons, some exported SALW have been directly linked to human rights violations. This evidences the adverse consequences that SALW's exports may sometimes have on human rights.

That is the reason why the thesis, from a human rights perspective and with a special focus on France, Spain and United Kingdom, aims to ascertain whether human rights do have an influence on SALW's exports in both theory and practice.

Thus, to that end, a set of international, regional and national laws and policies, relevant to the subject, is examined. In addition to that, the existing connection between SALW's exports and human rights as well as the consequences and responsibilities that may derive from it is exposed. Also, certain SALW's exports coming from France, Spain and United Kingdom to certain problematic countries are analyzed. Finally, refusals of export licence applications issued by those countries are assessed as well.

List of Acronyms

ATT Arms Trade Treaty

CIRI Cingranelli and Richard scale

EU European Union

GGE Group of Governmental Experts

ICCPR International Covenant on Civil and Political Rights

ICESCR International Covenant on Economic, Social and Cultural Rights

NGO Non Governmental Organization

PTS Political Terror Scale

SALW Small Arms and Light Weapons

UDHR Universal Declaration of Human Rights

UK United Kingdom

UN United Nations

Table of contents

1.	Introduction	1
	1.1 Delimitation of the subject	1
	1.2 Contextualization	2
	1.3 Analytical framework	4
	1.4 Methodology	5
	1.5 Structure	6
2.	The role of hard and soft law in small arms and light weapons' exports	7
	2.1. Human rights commitments in legally and politically binding internation	nal
	regional and national instruments	8
	2.1.1 The International sphere	8
	2.1.2 The Regional sphere: a focus on the European Union	12
	2.1.3 The National sphere: France, Spain and United Kingdom	.15
	2.2. The legal and political framework of small arms and light weapons' expo	orts.
	related instruments	.17
	2.2.1 The United Nations	17
	2.2.2 The instruments adopted by the European Union	.21
	2.2.3 An analysis of the national laws: France, Spain and United Kingdom	23
	2.2.4 The international scene moving towards an Arms Trade Treaty	.26
	2.3. The state's right of self-defense: the article 51 of the United Nations'	
	Charter	30
	2.4. Restricting SALW's exports through arms embargoes	31
	2.4.1 The strength and limits of UN and EU arms embargoes	.32
	2.4.2 The impact of human rights on arms embargoes´ decisions	.34
	2.5. Conclusion	36
3.	Analyzing SALW's exports: theoretical and practical inputs	37
	3.1. Methodology	.38
	3.2. The trade on SAWL and its effects on human rights	.40
	3.2.1 The connection between SALW's exports and human rights	.40
	3.2.2 SALW's exports and the responsibility of the states under internation	ona
	law	42

	3.2.3 Beyond SALW's exports: The human cost	43
	3.3. Arms exports policies	48
	3.3.1 French arms' export policy	48
	3.3.2 Spanish arms' export policy	50
	3.3.3 British arms´ export policy	52
	3.4. Exporting SALW to undesirable destinations: Human rights at stake .	54
	3.5. Refusing arms' exports due to the application of the EU Code of C	onduct on
	Arms Exports and the Common Position 944/2008/CFSP	59
	3.5.1 The case of France	61
	3.5.2 The case of Spain	61
	3.5.3 The case of United Kingdom	62
	3.6. Conclusion	63
4.	Conclusion	63
Bi	bliography	65
Ap	ppendix I	81
Ap	ppendix II	83