

ARMS AS FOREIGN POLICY: THE CASE OF BRAZIL

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- *How can civil society in Brazil*
- *influence the control of arms exports?*

ABSTRACT

How can civil society organisations influence the control of arms exports by states through the democratisation of foreign policy? In this article the authors explore ways of promoting the establishment of effective and transparent mechanisms in this area that take human rights seriously. Two case studies are analysed: first, Brazil's tentative participation in the process of establishing multilateral rules to control arms transfers; and second, the use of military hardware donations as a tool in bilateral relations between Brazil and Mozambique and its implications for arms control.

KEYWORDS

Foreign Policy | Arms Control | Brazil | Arms Trade Treaty | Civil Society

In 2012 Brazil exported an average of US\$ 1.024 million per day in small arms.¹ In the same period, nearly 116 people were killed per day in the country by firearms.² How can civil society organisations pressure states to establish effective and transparent mechanisms to control arms exports that take human rights seriously?

In this article we accept the premise that working with foreign policy and human rights can be an effective means of implementing and improving arms control. This can be seen both on the global stage – through the establishment of regulations – and on the national level – by strengthening domestic mechanisms that are often based excessively on the idea of national security. To illustrate the challenges at the multilateral and bilateral levels, we will draw on two case studies: first, Brazil's tentative participation in the process of establishing multilateral rules to control conventional weapons; and second, the transparency of bilateral relations between Brazil and Mozambique and the implications for arms control. Finally, we will present strategy and action proposals intended primarily for civil society organisations. These proposals will be based on the strategies already developed by Conectas Human Rights.³

1 • Brazil: major producer and victim of small arms and munitions

Brazil is a peculiar country⁴ that simultaneously has high rates of armed violence and a sizable small arms manufacturing industry – particularly revolvers and pistols. According to data from UNESCO,⁵ Brazil registered more than 42,000 deaths caused by firearms in 2012. The same study reports an increase of 387% in the number of firearm deaths between 1980 and 2012, a figure that rises to 463% if only young people aged between 15 and 29 are considered.

Brazil is also the world's fourth largest exporter of small arms,⁶ the direct result of the existence of a prosperous and influential small arms industry that grew out of the development policies of the 1970s,⁷ during the period of military dictatorship in the country (1964-1985). Moreover, the economic crisis currently facing Brazil has prompted the government to introduce new incentives for the national defence industry, based on the justification of technological development and the supposed high added value of arms exports.⁸ The influence and importance of this industry in Brazil are made clear by initiatives such as the development of armored personnel carriers,⁹ medium-range missile artillery systems (300 kilometers)¹⁰ and, primarily, a large-scale multi-mission aircraft (Embraer KC-390)¹¹ and the purchase, via technology transfer agreements, of supersonic aircraft.¹²

This dual status – as a major player on the global conventional weapons market but with high rates of armed violence – puts Brazil in a privileged position to reflect on the role of foreign policy as a tool to improve respect for human rights in the field of arms control, whether on the national or international level.

This article considers foreign policy as public policy, in line with the academic production of the past 10 years in the field of Foreign Policy Analysis (FPA).¹³ In practical terms viewing

foreign policy as public policy means addressing a multi-stage process – formulation, decision-making, implementation and assessment – that is based on democratic control, social participation, transparency and accountability.¹⁴

From our work in Brazil, where there is a constitutional provision establishing that the country's international relations must be governed by the “prevalence of human rights”,¹⁵ we assume as a principle that civil society has the responsibility to insist on transparency from the government in the formulation and implementation of policies in this sector. In other words, demanding respect for human rights in all foreign policy decisions is not an abstract issue in Brazil; it constitutes a constitutional commitment. The lack of transparency in the control of arms exports by Brazil is another element that makes analysis of the local context important, as we shall see next.

Below, we analyse the challenges of working with foreign policy, human rights and arms control in Brazil based on two concrete situations: the first involving the establishment of multilateral rules to control conventional weapons (and Brazil's tentative participation in this process); and the second referring directly to bilateral relations and their implications on the control of arms between Brazil and Mozambique, within the framework of South-South cooperation.

2 • Arms Trade Treaty: impact of international standards on the improvement of national processes

The Arms Trade Treaty (ATT) is the first global agreement to establish rules for international transfers of conventional weapons, a market worth nearly US\$80 billion¹⁶ that today is poorly regulated. The result of over two decades of mobilisation by governments and more than a hundred civil society organisations, the ATT covers the seven weapons categories identified in the United Nations Register of Conventional Arms (UNROCA) – tanks, armored combat vehicles, large-caliber artillery, combat aircraft, attack helicopters, warships, and missiles and missile launchers – as well as small arms, the main weapons used to commit homicide in the world. The ATT was approved at the United Nations General Assembly on April 2, 2013, by 154 votes in favour,¹⁷ and it was opened for formal signature in June of the same year.

Brazil was tentative in its support for the Arms Trade Treaty during the negotiating process.¹⁸ In a region marked by high rates of armed violence, as a result of the large number of guns in circulation and the inadequate control in urban areas, Brazil was not one of the Latin American countries to take the lead in the preparatory discussions on the Arms Trade Treaty. Instead, during the negotiations leading roles were played in the region by Argentina, Costa Rica and Mexico.¹⁹ Nevertheless, Brazil was quick to sign the ATT in June 2013, just two months after its adoption by the UN, indicating its willingness to collaborate with the responsible regulation of the international arms trade.

In December 2015, more than two years after signing the ATT, Brazil is still not a full member of the agreement on account of the delays in the ratification process. The text of the Arms Trade Treaty is still in the ratification process, a stage that involves analysis by the Executive and Legislative branches. The treaty took seventeen months to be forwarded by the Executive branch to the Brazilian Congress,²⁰ where it continues to make slow progress.

The failure to ratify the ATT has meant that Brazil has only played a supporting role in the construction of the global system to control the transfer of arms: as merely a signatory country, Brazil lost the chance to participate in key decisions on the agreement, in particular the rules of procedure for the new instrument. In the First Conference of States Parties, which took place in Cancun, Mexico, in August 2015, Brazil was unable to participate in the choice of the headquarters for the ATT Secretariat, in setting rules for funding the treaty and in determining the model for national reports on arms transfers.²¹

For now, Brazil's non-ratification of the treaty has left the country outside the group of States with the "ATT seal" of responsible exporters. These countries, by agreeing to be part of the international system created by the treaty, undertake to not transfer arms to states that are suspected of using them to commit genocide, war crimes, crimes against humanity and attacks against civilian targets or protected civilians, among others.²² Implementing the ATT also implies that arms transfers will be assessed individually, considering criteria such as respect for human rights and international humanitarian law by the purchasing country, the possibility of their use in terrorism or organised crime and the likelihood of their diversion, among others.²³

Civil society organisations in Brazil have warned about this situation, emphasising the impact of the poorly regulated international arms trade on armed violence, one of the primary public security concerns in our country.

Another important advantage of incorporating the ATT is its capacity to force an improvement in the transparency of domestic legislation on conventional weapons exports. In Brazil the guidelines for controlling international transfers of conventional weapons are regulated by a policy known as PNEMEM – National Export Policy for Military Equipment, which was established during the military dictatorship. Running counter to democratic principles, PNEMEM is a classified document whose updates since its adoption in 1974 have been made far from public scrutiny.²⁴

This secret policy is incompatible with the democratic period that began after the end of the authoritarian regime in Brazil. This is why the policy must be reformed to incorporate more transparent mechanisms when the country fully joins the ATT system, since the agreement establishes clear rules on transparency, in particular the duty to submit periodic reports to the Secretariat (in accordance with Article 13 of the treaty). More worrying still, this lack of transparency also underpins bilateral arms trade relations, as the case described below illustrates.

3 • Brazil-Mozambique Relations: arms donations as a tool of foreign policy

It has been estimated that nearly a million people were killed in the 16-year civil war in Mozambique (1975-1992) and between 4 and 5 million fled to neighbouring countries. The conflict also destroyed much of the country's economic and social infrastructure. The General Peace Agreement of 1992 put an end to the hostilities and Mozambique staged its first multi-party elections in 1994.

In 2013 the escalation of tensions between the ruling party FRELIMO (Mozambique Liberation Front) and the opposition party RENAMO (Mozambican National Resistance) sparked fears that the African country could slip back into civil war.²⁵

The conflict in Mozambique was the subject of a statement by the Brazilian Ministry of Foreign Relations on October 22, 2013,²⁶ in which it claimed that Brazil was accompanying “with concern the incidents occurred in recent days in the region of Gorongosa, in Sofala Province, between the defense forces of Mozambique and Renamo”. It also mentioned the importance of finding solutions to the differences between the two sides, based on dialogue and negotiation, within a framework of strengthening the rule of law, democratic institutions and stability.

Just three days after releasing the statement, the Executive branch of Brazil's government requested authorisation from Congress to donate three Brazilian-made T-27 TUCANO military aircraft,²⁷ manufactured by Embraer, to the Mozambican Air Force. In the presentation of the motives for the donation, dated May 5, 2013 – i.e., five months before the authorisation request was issued and clearly not taking into account the new climate of military tensions in Mozambique²⁸ – the Ministry of Defence justified it with the fact that the Brazilian Air Force now had more advanced aircraft – notably the AT-29 SUPER TUCANO,²⁹ also manufactured by Embraer. It also cited the cost of maintaining the TUCANOs and the potential investment to get them back into working order. Finally, the presentation of the motives also used an eminently political argument:

“[The] donation, if it goes ahead, will reinforce the strong bilateral relationship between Brazil and Mozambique in the international context, further improving the ties of mutual cooperation, which are so necessary in the current global environment.”

The Brazilian initiative to donate aircraft to Mozambique is part of a policy of donating military equipment as a tool of bilateral cooperation, to strengthen ties with partners from the Global South. Over the past 10 years, besides the initiative being analysed here, Brazil has donated military equipment, mainly aircraft, on at least six occasions:

- Bolivia: 6 T-25 aircraft, in 2005.³⁰
- Paraguay: 6 T-25 aircraft, in 2005.³¹
- Ecuador: 5 C-91A aircraft, in 2006.³²
- Paraguay: 3 T-27 TUCANO aircraft, in 2010.³³
- Ecuador: 1 C-115 Buffalo aircraft, in 2011.³⁴
- Bolivia: 4 H-1H aircraft, in 2012.³⁵

In the presentation of the motives requesting the donation of this military equipment, three arguments are recurring:

- The fact that the Brazilian Air Force currently has more modern and economical aircraft.
- The high costs of maintaining the aircraft, making it more economical to transfer them than to restore them.
- Donation as a means of improving bilateral relations and strengthening ties of cooperation.

The initiative to donate three T-27 TUCANO aircraft to Mozambique is the first not to involve a South American country and is in line with efforts observed over the past decade to build closer bilateral relations. Mozambique is the second largest recipient of Brazilian investments in Africa, just behind Angola.³⁶ Besides the reasons for the donations given above – which are also verifiable in the case of Mozambique – an additional motive is the use of older military equipment to encourage future sales of more modern versions. At a Brazilian Senate commission hearing in 2014,³⁷ the then Minister of Defence, Celso Amorim, responded to a question on the donation to Mozambique by saying:

We have obtained approval, in the Foreign Relations and Defence Commission of the Lower House, which will subsequently have to be confirmed by the full House and then here in the Senate, of an authorisation request to donate three Tucanos – old Tucanos, not Super Tucanos – to Mozambique. This is in our interest, not only because of the cooperation with a country with which we have many relationships, but also because it is what other countries do: donate the Tucano and afterwards, perhaps, sell the Super Tucano. And I am not talking in the abstract, because we have already sold a considerable number of Super Tucanos to African countries. I think that Angola already has six or eight, and smaller countries such as Burkina Faso have purchased three. So I am not talking in the abstract. I am talking about something that can happen.

Civil society organisations from Brazil and Mozambique challenged the plans to donate the aircraft to the Mozambican government during the escalation of the crisis in the country, in a clear contradiction of the concern expressed in the statement by the Ministry of Foreign Relations and the justification contained in the authorisation request submitted to the Brazilian Congress.³⁸ One of the aspects challenged by the organisations was the lack of

any clarification about the use of the aircraft by the Mozambican Armed Forces, unlike the practice adopted by Brazil in previous donations of military hardware.

The advocacy efforts with the members of Congress responsible for analysing the transfer of the aircraft led to the inclusion of an amendment in the authorisation for the donation,³⁹ with the following justification:

May it be observed that the Mozambican Human Rights League and Conectas Human Rights have expressed concern that, given the lack of any indication on the use that may be made of the aircraft donated by Brazil, their possible use for the purposes of warfare could escalate the growing political and military tension that has gripped Mozambique. On this matter, we understand that, whenever possible, the donation of public assets should be subject to previously established purposes.

The amendment suggested by the then Congressman Davi Alcolumbre, the member of the house responsible for analysing the authorisation of the donation, contains the following wording:

*Added to Article 1 of the bill is the following paragraph 2:
“Article 1.....
Paragraph 2. The donated aircraft shall be used exclusively for pilot instruction and training activities.”*

As of December 2015, authorisation for the donation of the aircraft to Mozambique was still pending in the Brazilian Legislative branch.

4 • Notes on strategies for action

In light of the challenges of working with foreign policy, human rights and arms control, and drawing on the experience of Conectas Human Rights, there are a number of strategies that are worth pursuing.

A – The role of checks and balances in a democratic society

The control that Congress exercises over the activities of the Executive branch has produced some interesting results in the work of civil society with foreign policy. In Brazil the Legislative branch serves important functions in the field of foreign policy, including analysis of international treaties before they are implemented domestically, a process that precedes ratification, and authorisation for donations of military hardware to other countries, given that these cases involve the transfer of national public property. This second function was fundamental in the case of the donation of aircraft to Mozambique, as it allowed the deterioration of the political climate in that

country to be taken into consideration in the authorisation of the transfer, given that the authorisation request submitted by the Executive branch was silent on this matter.

Nevertheless, since this is just one of the many functions of members of Congress, and at times, due to their lack of interest or failure to view the topic as a political priority, lawmakers do not always address foreign policy issues quickly enough to keep up with the dynamics of the international agenda. On these occasions the Executive branch needs to serve as a catalyst, driving the Legislative into action, whether through the influence of its congressional liaison offices or by providing lawmakers with technical data and information on the political context. In the process of implementing the Arms Trade Treaty in Brazil, the support of three different ministries (Foreign Relations, Justice and Defence) in presenting the motives for the agreement to the Brazilian Congress and the work of the congressional liaison office of the Ministry of Foreign Relations has helped keep the topic on the legislative agenda.

Finally, the need to explore opportunities for social participation in the Executive and Legislative branches is always worth keeping in mind. Public hearings, working meetings, testimonies of ministers or officials involved in matters of foreign policy are some examples of the opportunities in which the involvement of civil society can play a key role in diversifying voices and providing technical information, and ensuring that the decisions of public officials are as well informed as possible.

One challenge facing civil society when working with the Legislative as a means of controlling foreign policy is to know how to cope with the partisan dynamics at play.

B – The importance of working in networks

The division of labour between a group of civil society organisations that work with foreign policy, human rights and arms control enables action to be taken on different levels – national, regional and international – without overburdening the organisations, which are often involved in several other projects. The multiplicity of voices from the actions of these organisations also helps step up the demand, serving as an additional source of pressure on issues that are not always given the proper attention by the Executive and Legislative branches.

In the case of the implementation of the ATT in Brazil, the actions of organisations with different profiles and expertise – such as Conectas Human Rights, Sou da Paz Institute,⁴⁰ Amnesty International⁴¹ and Dhesarme⁴² – permitted a diversification of strategies, strengthening the call for a swift conclusion of the process towards the ratification of the agreement.

C – The need to listen to local partners

The establishment and maintenance of partnerships with civil society organisations from the Global South is important to ensure a broad geographic approach, which is essential when working with foreign policy and human rights. Ongoing dialogue with organisations and

movements with a presence on the ground not only enhances the legitimacy of challenges to the activities of states that impact human rights, but it also allows knowledge of the situations surrounding the violations to be obtained quickly, enabling the rapid planning of response strategies and the anticipation of more serious adverse effects.

In the case of the donation of Brazilian T-27 TUCANO aircraft to Mozambique, dialogue with local partners was instrumental in allowing measures to be taken with the Executive and Legislative branches in Brazil soon after the process to transfer the military hardware began. This swift action allowed time for following up with decision-makers in the Ministry of Foreign Relations and with members of Congress who were analysing the donation.

5 • Conclusion

Analysis of the challenges of implementing the international arms control system and transparency in the process of bilateral transfer of military hardware allows us to identify opportunities for action by civil society organisations, which can lead to the establishment of instruments to control arms exports that respect human rights. The use of the democratic safeguards of checks and balances, the value of working in networks and partnerships, and the importance of responsive dialogue with organisations with a presence on the ground are some examples of strategies that, from a foreign policy and human rights approach, can contribute effectively to the improvement of the control of arms exports.

NOTES

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on the Brazilian and international markets in 1983 and has been a commercial success for Embraer ever since. It has been produced on a large scale and exported to Argentina, Egypt, Honduras, Libya, Nigeria, United Kingdom and Venezuela. See more: Carlos Federico Domínguez Avila, “O Brasil, a Política Nacional de Exportação de Material de Emprego Militar – PNEMEM – e o Comércio Internacional de Armas: Um Estudo de Caso,” *Tempo* 15, no. 30 (2011): 221-241.

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