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## Briefing Paper

# The regulation of civilian ownership and use of small arms

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# Content

	Page
Introduction .....	3
Human (In)security: civilians and gun violence .....	4
<i>A useful framework: The public health approach</i>	
<i>Rights-based arguments: State responsibility</i>	
The Illicit Trade and National Arms Control.....	6
<i>Widespread theft of civilian firearms: holding gun owners responsible</i>	
<i>Substitution and the need for harmonisation of laws</i>	
Standard Setting .....	8
<i>Programme of Action &amp; other global initiatives</i>	
<i>Regional action</i>	
<i>Post-conflict transition efforts</i>	
Elements of Effective National Arms Control.....	10
<i>Prohibiting certain weapons</i>	
<i>Limiting the number of guns possessed</i>	
<i>Prohibiting certain users</i>	
<i>Licensing legal users</i>	
<i>Firearm registration</i>	
<i>Safe storage</i>	
<i>Restricting the places where guns may be carried or when they may be carried</i>	
<i>Communication, effective implementation and enforcement</i>	
Options for Moving Forward .....	14
<i>Policy recommendations</i>	

## Introduction

The regulation of civilian firearm possession is a sensitive issue for many States, as many have large numbers of their citizens owning or holding weapons for a variety of reasons. Nevertheless, due—usually—to public health or safety concerns, the majority of the world's governments currently restrict private ownership and use of small arms to some extent through national arms control policies.<sup>1</sup> And, in the past decade, at least twelve governments have significantly tightened their laws on civilian gun possession and use.

At the UN 2001 *Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, an early version of the draft Programme of Action explicitly called on States to effectively regulate civilian possession and use of firearms as an important means to curb national and international gun trafficking.<sup>2</sup> This reference was dropped at the US government's insistence.<sup>3</sup> However, 69 out of 103 governments (67%) highlighted civilian possession policies in their national reports for the First Biennial Meeting of States in July 2003.<sup>4</sup>

Several factors contributed to this relatively high level of focus on the issue. First, many governments see a connection between armed violence and the uncontrolled, or loosely controlled, national trade in *and* possession of small arms.<sup>5</sup> Relatedly, there is growing awareness that most of the problems posed by weapons availability and misuse are 'civilian'—that is, most guns are owned by civilians, and most victims of gun violence are civilians. Finally, there remains widespread acknowledgment amongst governments that civilian held firearms are an important contributor to the illicit trade and misuse of weapons through theft, careless storage and deliberate sale.<sup>6</sup>

The Rio meeting and this paper seek to encourage further momentum in the development of global standards for the regulation of civilian possession of small arms by:

- *Outlining the human security issues related to national arms control;*
- *Highlighting increasing calls in regional and global processes for better regulation of weapons at the State level;*
- *Identifying policies and good practices States can incorporate into their individual approaches to controlling the availability and misuse of small arms;* and
- *Presenting options for action by States at the Second Biennial Meeting of States in 2005, the Review Conference of the Programme of Action in 2006 and beyond.*

## Human (In)security: Civilians and Gun Violence

The role of civilian used weapons to perpetrate widespread human insecurity is well documented:

- ▶ The Small Arms Survey estimates that 60% of the global stockpile of 640 million small arms and light weapons are in civilian hands—those of farmers, sporting shooters, criminal gangs, collectors, children and private security guards, amongst others.<sup>7</sup>
- ▶ Civilians are also the principal victims of gun violence, with an estimated 200,000-270,000 people losing their lives to gun homicide or suicide in countries 'at peace' each year.<sup>8</sup>
- ▶ The US public holds one-third of the global gun arsenal: an estimated 234 million guns.<sup>9</sup> The US firearms homicide rate is the highest of any developed country.<sup>10</sup>
- ▶ Latin America and the Caribbean are the worst affected regions, with 60% of all murders occurring with a gun.<sup>11</sup>
- ▶ Worldwide, there are four homicides for every suicide committed with a firearm. In North America and Europe, armed suicide rates surpass those of armed homicides.<sup>12</sup>
- ▶ Armed injury, rape, robbery and kidnapping plague countless civilians around the world annually.<sup>13</sup> Arming can lead to violence which fuels fear, which can produce more arming.<sup>14</sup>
- ▶ The majority of users and abusers of guns globally are men.<sup>15</sup> They are also the primary victims of gun violence, particularly males between the ages of 14 and 35 years.<sup>16</sup>
- ▶ While women account for a substantial proportion of victims (especially through intimate partner violence), they account for a relatively small percentage of the users.<sup>17</sup>
- ▶ Guns often fall into the hands of young people, leading to suicides, interpersonal violence and accidental deaths.<sup>18</sup> Furthermore, the World Health Organisation reports that there has been an "alarming increase" in suicide among young people aged 15 to 25 years worldwide.<sup>19</sup>

**Table 1: Countries with High Levels of Reported Firearm Homicide<sup>20</sup>**

Country	Year	Firearm Homicide		
		Number	Population	Rate per 100,000
Colombia	2000	21,898	44,222,000	49.52
South Africa	1999	13,572	45,062,000	30.14
Venezuela	2000	5,408	25,299,000	21.04
Brazil	1998	25,663	178,470,000	14.38
Ecuador	2000	1,321	1,3003,000	10.16
Mexico	2000	5,529	103,457,000	5.34
United States	2001	10,130	294,043,000	3.45
Belarus	2000	331	9,895,000	3.35

Many nations have striking levels of civilian weapons possession and armed violence. For example, the public in South Africa owns six times as many guns as the police and military.<sup>21</sup> In Brazil, while the number of legally registered firearms (including those privately held by military and police personnel) is estimated at 6,815,445, the total number of weapons in circulation (excluding police and armed forces institutional inventories and stockpiles) is believed to be closer to 15.6 million.<sup>22</sup> These countries also have among the highest small arms homicide rates in the world (see Table 1).

#### **A useful framework: The public health approach**

The governments in these countries, as well as a growing number of others, have recently passed impressive new laws to respond to the gun violence epidemic. Indeed, a key aim of exercising greater control over civilian possession is to reduce the risks associated with small arms misuse and to prevent death and injury. The relationship between gun ownership and gun death is complex, however, and subject to debate. As with any social policy issue, *proving* a causal relationship between widespread weapons availability and gun violence is impossible. Doing so is hampered by a lack of complete and reliable data and an inability to screen out mitigating factors, among other things.<sup>23</sup>

On balance, however, empirical evidence supports the notion that making guns more difficult to obtain legally can help reduce certain types of violence, particularly those which are impulsive.<sup>24,25</sup> In particular, the presence of weapons in the home has been shown to influence rates of suicide, accidents, intimate partner and family murders.<sup>26</sup> Recent studies in Australia, which significantly revised its national arms control policies in 1996, have noted a discernable diminution of armed homicide in the period following the law's introduction. From 1996 to 2001, the gun homicide rate for women dropped 65%, compared to 54% for men.<sup>27</sup>

*"The results of the Government's continuous efforts to analyze, and where necessary change, its firearms policy have been overwhelmingly positive. Death and injury from firearms in Australia remain low by international standards and have decreased substantially over recent years."* H.E. Peter Tesch of Australia at the UN Biennial Meeting of States, 7 July 2003.<sup>28</sup>

Moreover, even if a direct, causal relationship between the presence or quantity of firearms and firearm violence cannot be conclusively proven—or disproven—many government officials recognised the value of a public health approach to gun violence which includes isolating and controlling the vector of injury—in this case, small arms.

### **Rights-based arguments: State responsibility**

A compelling human rights case for careful regulation of civilian weapons has been put forward at the UN Commission for Human Rights by the Special Rapporteur on Human Rights and Small Arms. She noted that, 'Under [existing] international human rights law, the State is responsible for violations committed with small arms by private persons who, because they are operating with the express or implicit permission of authorities, are considered to be State agents.'<sup>29</sup> Under this interpretation, the State is responsible if it fails to investigate and prosecute massacres or take reasonable steps to regulate weapons in order to protect citizens from homicides, suicides, accidents, a pattern of intimate partner or family violence and/or organised crime.

The US National Rifle Association, its international affiliates and affiliated scholars have articulated a countervailing human rights case. They argue that global armed crime rates are trivial, and that States historically have perpetrated the greatest human rights abuses against civilians—namely through the commission of genocide (e.g., in Nazi Germany, Rwanda and elsewhere)—against populations they had previously disarmed through firearms regulation. Thus, their argument goes, a true pro-human rights position would protect the ability of people to arm themselves against the tyranny of the State.<sup>30</sup>

### **The Illicit Trade and National Arms Control**

As highlighted in the next section, the *Programme of Action to Combat the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (PoA) implies the necessity of careful national arms control throughout its text. It is clear that the international community widely accepts that regulation of civilian access to weapons is central to efforts to curb international gun trafficking. There are two principal ways in which this can be demonstrated.

*"Limiting and controlling the acquisition and possession of arms on the part of civilians [is necessary], not only for combating the culture of violence but especially to prevent the extensive and lucrative illicit commerce in arms that were originally 'licit'."* Ambassador Adolfo Aguilar Zinser of Mexico at the UN Biennial Meeting of States, 7 July 2003.<sup>31</sup>

### **Widespread theft of civilian firearms: Holding gun owners responsible**

First, 'illicit' firearms nearly always start out as 'legal' weapons—that is, legally manufactured and legally sold. Worldwide, however, diversion of firearms from their

legal owners to illegal purposes through loss or theft is a significant source of black-market arms. The Small Arms Survey estimates conservatively (due to the absence of data from most countries and from many regions of the world) that at least 1,000,000 firearms are stolen each year, with the majority of these taken in small-scale burglaries from private homes.<sup>32</sup> A study in the United States found that stolen weapons are among the most likely to be used in violent crime.<sup>33</sup>

In South Africa, loss and theft from civilian owners is the single largest source of illegal arms.<sup>34</sup> Each year, 20,000 firearms are stolen from civilian owners, most of which are handguns.<sup>35</sup> In addition, between 1990 and 2002 it is estimated that nearly 17,000 police weapons were lost or stolen, while more than 1700 were stolen from the South African National Defence Force, the majority of which were assault rifles.

Stemming theft, loss and misuse of weapons requires an ability to track legal possession and trade of firearms and the imposition of greater accountability on legal gun owners to store their weapons securely. Development of a culture of individual responsibility among owners would help significantly cut down the flow of arms into the illegal market. Efforts to license gun owners, register weapons and license dealers are all examples of controls on legal firearms aimed at reducing their diversion into the illegal trade.

### **Substitution and the need for harmonisation of laws**

Secondly, jurisdictions that do have strict (or relatively strict) controls over civilian possession of guns find those controls undermined if weapons can be easily (illegally) imported from nearby places with less strict controls. Acknowledging this danger, the UN Commission on Crime Prevention and Criminal Justice passed a resolution in 1997 that noted the important role of national legislation in controlling the flow of guns from less regulated to more regulated areas.<sup>36</sup>

For instance, the permissive and massive legal market for small arms in the United States is a major source of illicit firearms throughout the western hemisphere. In Canada, a country with moderately strict laws, it is estimated that half of all handguns recovered in crime are illegally imported from the United States.<sup>37</sup> Weapons originating in the United States also account for approximately 80% of the firearms recovered in crime in Mexico and most of the illegal firearms recovered in the Caribbean.<sup>38</sup> According to the Organisation of American States, Mexican territory is now a major conduit for gun trafficking from the United States: '*Criminal organisations located along the northern border maintain a flow of weapons to the drug producing regions of South America.*'<sup>39</sup>

Similarly, in southern Africa, Botswana's very restrictive gun policies<sup>40</sup> (and low armed crime rate) have been compromised by neighbouring South Africa's more permissive policies. The country's police commissioner cited cross border arms flows as contributing to a recent rise in armed crime. '*We collect a lot of firearms at the South Africa-Botswana border. It doesn't occur to some visitors to leave their gun behind when they visit our country. They don't understand how you can live without carrying a firearm.*'<sup>41</sup>

Within the United States, too, firearm regulations differ dramatically at the state and municipal levels. A study by the Johns Hopkins School of Public Health showed that guns used in crime in US states with strict regulations tend to be imported from states

with less strict controls.<sup>42</sup> A recent US government study noted that ease of 'substitution'—whereby people barred by law from possessing arms can nevertheless get them through illegal means (e.g., in a neighbouring state)—undermines the utility of arms control laws and creates an appearance that such laws are in fact useless (since armed violence rates do not diminish much or at all due to the ease of substitution).<sup>43</sup> For these reasons, federal laws are preferable to a patchwork of differing state/provincial laws, and harmonisation of policies and practices within a region is desirable.

## **Standard Setting**

In the last decade standards for regulation of civilian possession have improved significantly in several countries, with Australia, Brazil, Cambodia, Sierra Leone, South Africa and the United Kingdom undertaking reforms to limit gun ownership. (Aspects of these reforms are reported in the next section; case studies on several will be presented at the March meeting.) In addition, the Prime Minister of Thailand has put forward a proposal to make the country gun-free in five to six years<sup>44</sup>, and many other governments—including those in Argentina, Belgium<sup>45</sup>, Benin, Botswana, Burkina Faso, El Salvador, Guatemala, Jamaica, Jordan, the Palestinian Authority, the Philippines and Uruguay are currently in the process of tightening their laws and policies.

This work was and is propelled mainly by local (national) realities: gun massacres that provoked widespread public outrage in Australia, Canada and the UK; alarming levels of random and/or organised violence in Brazil and Thailand; and post-conflict transitional processes in Cambodia, Sierra Leone and South Africa. These efforts have also been informed and reinforced by work at the international and regional levels, which increasingly has implied or explicitly called for more careful regulation of civilian firearms stocks.

*"All effective actions aiming to resolve the problem of arms trafficking implies the establishment of rigorous controls on . . . the possession of arms within the national territory."*

Ambassador Jean Lint of Belgium at UN Biennial Meeting of States, 7 July 2003<sup>46</sup>

## **Programme of Action & other global initiatives**

While direct reference to national arms regulation was dropped, the Programme of Action nevertheless calls on all participating States to implement legislative or other measures required to criminalise 'the illegal manufacture, possession [emphasis added], stockpiling and trade' in small arms and light weapons.<sup>47</sup> Regehr provided an interpretation, "(t)he implication is that a gun registration system is required that maintains records to allow national authorities to maintain records of all SALW held within their jurisdiction - those privately held as well as those publicly held".<sup>48</sup> The PoA also calls on States 'to adopt ... all the necessary measures to prevent the ... possession of any unmarked or inadequately marked SALW.'<sup>49</sup> Implementation of this measure also requires the regulation of arms and begins to prescribe the content of that regulation—in this case putting forward a global norm to prohibit the possession of unmarked weapons. Additionally, States are exhorted 'to ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding [emphasis added] and transfer of SALW within their



jurisdiction. These records should be organised and maintained in such a way as to ensure that accurate information can be promptly retrieved and collated by competent national authorities.<sup>50</sup> This commitment would require States to put in place a system of comprehensive and accurate record-keeping of all small arms within its jurisdiction—in practice, a gun registration system.

Other multilateral processes have also encouraged greater national arms control. Most significantly, and noted previously, a large number of states in the UN Commission on Crime Prevention and Criminal Justice in May 1997 sponsored a resolution that emphasised the importance of state responsibility for effective regulation of civilian possession of firearms, including licensing firearm owners, record keeping for firearms (registration), safe storage and appropriate penalties for illegal possession.<sup>51</sup> This effort culminated in a protocol on firearms trafficking (to the UN Convention against Transnational Organised Crime), completed and opened for signature in 2001.

It criminalises illicit trafficking in firearms, provides that legal transfers of guns require agreements between the governments involved, and that guns must be marked at the point of manufacture, import and transfer from government into private hands. States are also required to establish a system of regulating arms brokering.

However, a number of drawbacks prevent the Protocol from being the effective instrument that was envisioned by many states and civil society:

- it does not provide any criteria for authorising arms transfers from government to government, particularly criteria of human rights and humanitarian law;
- it does not feature a universal marking system;
- it does not require a registry of weapons under private possession; and,
- it does not adequately address arms transfers from state to non-state armed groups.

The political will necessary to ratify and implement the Protocol has been slow to emerge. As of February 2005, only 33 states have ratified the Protocol and fifty-two states have signed it.<sup>52</sup>

Despite its shortcomings, the Protocol will be the first legally-binding international agreement on small arms, and requires State commitment to make it a reality.

Additionally, a 1998 resolution of the UN Security Council called on African States 'to enact legislation on the domestic possession and use of arms' in order to stem the destabilizing effects of guns in Africa<sup>53</sup>, and a 1999 report of the UN Disarmament Commission which called on States 'to define the conditions under which firearms can be acquired, used and traded by private persons.' In particular, the Disarmament Commission said, States 'should consider the prohibition of the unrestricted trade and private ownership of small arms specifically designed for military purposes, such as automatic guns (e.g., assault rifles and machine guns).<sup>54</sup>

### **Regional action**

In growing recognition that the cross-border movement of arms is directly related to how well States regulate their internal stockpiles, regional security agreements now also routinely include provisions calling for careful regulation of weapons in the hands of civilians. The most relevant agreements include the Joint Action of the

European Communities Council (1998)<sup>55</sup>, the Bamako Declaration (2000)<sup>56</sup>, the Nadi Framework (2000)<sup>57</sup>, Southern African Development Community Protocol (2001)<sup>58</sup>, the Andean Plan (2003)<sup>59</sup> and the Nairobi Protocol (2004). The breadth of this list indicates that national gun control is gaining ground in many regions of the world.

The SADC Protocol and the Nairobi Protocol share near identical, highly elaborated requirements concerning the regulation of civilian weapons. State parties to the Protocols agree to criminalize the illicit possession and misuse of small arms and light weapons, and to adopt into their national laws a wide range of policies to better manage civilian small arms stocks, including:

- the prohibition of unrestricted civilian possession of small arms;
- the total prohibition of civilian possession and use of all light weapons, automatic rifles, semi-automatic rifles and machine guns;
- the regulation and centralised registration of all civilian-owned small arms in their territories;
- provisions for effective storage and use of civilian held firearms, including competency testing of prospective small arms owners;
- the monitoring and auditing of licenses held and restriction of the number of small arms that may be owned by individuals;
- provisions prohibiting the pawning and pledging of small arms and light weapons; and
- registration to ensure accountability and effective control of all small arms and light weapons owned by private security companies.

In addition, States Parties to these Protocols agree to introduce programmes to encourage the surrender of [illegal] small arms by civilians and to develop local, national and regional public education programmes aimed at encouraging responsible ownership and management of small arms and light weapons.<sup>60</sup>

### **Post-conflict transition efforts**

The US Government has pressed to regulate civilian weapons possession in Iraq and Afghanistan, where it is undertaking military operations, in order to promote public safety and the safety of its troops.<sup>61</sup> More generally, the UN, regional bodies and States have actively promoted the regulation of civilian firearms possession as part of post-conflict transitions (demilitarisation, demobilisation and reintegration, or DDR).

Cambodia and Sierra Leone are two examples of States recovering from lengthy civil wars where a large number of civilians were armed; governments of both have recognised that DDR must be followed and consolidated with strong gun control laws.<sup>62</sup>

### **Elements of Effective National Arms Control**

As a result of all of the aforementioned factors, a number of States have initiated and/or implemented significantly more restrictive gun control policies in the past decade.<sup>63</sup> There is wide variation in the approaches being taken. For example,

Australia banned civilian possession of semi-automatic rifles and shotguns (except for farmers), while the UK government banned handguns. Canada prohibited semi-automatic military-style weapons and required that all gun owners be licensed and all guns be registered, and South Africa established several new criteria for obtaining a license and limited the number of guns that any one person can own. Brazil's new law prohibits citizens from carrying firearms in public, establishing several new criteria for obtaining a weapon permit and calls for a national referendum in October 2005 on whether to ban all civilian gun sales.

A common set of principles can be distilled from these and other cases. National arms control laws in most countries are based on a combination of the following approaches:<sup>64</sup>

- **Prohibiting/restricting certain uses of guns**—e.g., 'place and manner' restrictions, such as prohibiting the carrying or discharge of guns in public places; prohibiting the ownership of guns for self-defence; imposing safe storage requirements; regulating gun clubs.
- **Prohibiting/restricting certain users of guns**—e.g., licensing criteria prohibiting people with a history of violence or substance abuse; setting minimum age limits; requiring references, medical reports, proof of genuine need and/or safety training; removing firearms from perpetrators of family violence; establishing waiting periods before purchase; requiring registration of weapons; requiring sales to go through licensed dealers; regulating weapons dealers and gun clubs.
- **Prohibiting/restricting certain high-risk guns**—e.g., stricter laws or prohibitions on civilian possession of military weapons, 'junk guns', handguns and/or semi-automatic weapons; promoting weapon buybacks and exchange programs; requiring safety devices to be built into guns; requiring registration of certain types of weapons; restricting the size of arsenals; regulating imports, manufacturing and dealers; regulating ammunition.

A comprehensive examination of these approaches cannot be provided in a brief paper; however, the text below slightly expands on some of these methods, incorporating 'real world' examples that States can modify or replicate.

### **Prohibiting certain weapons**

Most countries prohibit civilian possession of the most lethal types of small arms. A 2004 survey of 115 countries found that 79 out of 81 responding States banned civilian possession of *fully automatic military-style assault rifles*.<sup>65</sup> Indeed, a prohibition on high-powered weapons in the hands of civilians appears already to have widespread support. Most recently, in 2004 East African governments signed the Nairobi Protocol, which binds Parties to 'the total prohibition of the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns'.<sup>66</sup> The aforementioned study of 115 countries also noted that a smaller number of States currently prohibit certain kinds of *semi-automatic assault rifles*, while others have banned specific types of firearms (e.g., *handguns*) identified as commonly used in crime. In a twist on this approach, one US state (New Jersey) passed a law in December 2002 mandating that *only personalised handguns* can be purchased in the state three years after these weapons become commercially available.<sup>67</sup> The

technology relies on unique biometric data, such as fingerprints and retinas, to permit firing; therefore, these weapons are considered 'safe', or at least 'childproofed'.

### **Limiting the number of guns possessed**

To prevent the build-up of private arsenals, some States—including France, Colombia, Chile and South Africa—restrict the number of guns an individual may own. Other governments place effective limits on civilian arsenals by requiring prospective owners to prove a separate and 'genuine need' for each weapon.

### **Prohibiting certain users**

Even where gun ownership is legal and widespread, most States bar some people from buying or owning firearms:

*Convicted criminals.* In many countries, being found guilty of a serious crime, such as murder, assault, drug trafficking or acts of terrorism, disqualifies an individual from acquiring guns in the future.

*Perpetrators of family and intimate partner violence.* Due to mounting concern about the role of guns in facilitating intimate partner violence and femicide, several States have instituted screening mechanisms to prevent weapons acquisition by people who have a history of violence, even if they have not been prosecuted or convicted in the criminal justice system.<sup>68</sup> Canadian law requires that notification be sent to spouses and former spouses of any individual requesting a gun license, before the license is granted, in order to see if they have objections.

*Youth.* Many countries prohibit the acquisition and ownership of guns by young people, although the age restrictions and type of guns vary. Responding to the high level of abuse by youth and young adults, Brazil has recently banned access to ownership of weapons before the age of 25.<sup>69</sup>

*Psychologically unfit.* Some countries refuse individuals with a history of serious mental illness access to a firearm license out of particular concern about suicide. In others, such as Austria, a psychological test is required before a handgun license is issued. A proposal pending in Jamaica would have the State hire professional psychologists to evaluate the suitability of persons applying for permit. In particular, the goal of this initiative is to assess whether a potential gun owner is likely to use their weapon irresponsibly against others (e.g., for dispute resolution or in a fit of 'road rage'). This evaluation would be in addition to the normal police background screening.<sup>70</sup>

### **Licensing legal users**

Together with registration, owner licensing is one of the fundamental mechanisms for keeping guns out of the hands of people who are not suitable to possess a deadly weapon. Like a driver's license, a gun license certifies that the holder meets minimum standards in terms of knowledge and law-abiding behaviour. Licensing laws often require prospective gun owners to undergo safety training and a test to prove their fitness for owning a gun. Already, at least thirty-one States are known to have some form of firearm owner licensing laws in place.<sup>71</sup>

### **Firearm registration**

Record keeping and registration are the core mechanisms, along with owner licensing, to prevent the diversion of legally owned weapons to illegal markets. By assigning every gun to its licensed owner, registration holds owners responsible for their weapons, discouraging legal owners from selling, leasing or loaning them to unauthorized users. Registration also supports the efforts of law enforcement to trace guns, investigate crime and support criminal prosecution. At least 28 countries require civilian registration of all guns.<sup>72</sup> The level of information required and the tools used vary considerably.

### **Safe storage**

It is equally important that States ensure that weapons legally owned by civilians be stored safely, out of reach of children and youth, and separated from ammunition (which needs to be locked away separately). Locked storage is required, and preferably storage outside of the home; target shooters, for example, could be required to store their guns at their shooting club. Australian law requires that the police inspect a handgun owner's storage to ensure that it meets safety requirements.

### **Restricting the places where guns may be carried or when they may be used**

Recognising that the presence of guns may be particularly dangerous or unwanted in sensitive areas, such as schools, South Africa has designated 'firearm free zones', where guns may not be carried or stored.<sup>73</sup> In the United States, gun violations occurring within close range of a school carry special penalties.<sup>74</sup> Similarly, many jurisdictions around the world have passed ordinances or taken other measures to bar ceremonial firing of weapons.<sup>75</sup>

### **Communication, effective implementation and enforcement**

Without committed implementation, consistent political support and effective enforcement agencies, national gun laws will not contribute to curbing armed violence. Training and awareness-building for professionals (health, gender-based violence sectors and children's services, as well as police) is critical to ensure that the risks associated with guns are well understood and appropriate interventions undertaken. A key lesson learned from Canada's implementation of its new gun registration system is the importance of continuity of relevant personnel, both within government and non-governmental supporting organizations.

While penalties for gun-law violations and armed crime need to be commensurate with the serious impact of gun violence on society (in many countries, there remains a tremendous disparity in sentencing between gun- and drug-related crime, with the latter engendering much stiffer sentences), enforcement of existing laws is equally critical. Evidence suggests that the certainty of apprehension is a more important deterrent than the severity of the penalty.<sup>76</sup>

Effective communication efforts (e.g., to stigmatise gun misuse) are also a key part of enforcement. In addition, clear and open communication with current and potential gun owners and dealers about new policies and regulations are key for gaining their acceptance and for promoting effective implementation.<sup>77</sup>

## Options for Moving Forward

As outlined in this paper, there is a growing international tide of support for inclusion and strengthening of national arms control measures as part of global efforts to address *the illicit trade in small arms in all its aspects*. This momentum is borne largely of the realisation that, while national firearms regulation is, a sovereign policy decision (like other policies, such as export guidelines), a lack of effective national regulatory systems not only jeopardises the safety of that State's citizens, but also—through trafficking—the citizens of other countries. While many States have populations of gun owners and users, most recognise their responsibility—nationally, regionally and globally—to specify the legal responsibilities of civilians possessing weapons.

Supportive governments can conceptualise their efforts to promote this work over the short-, mid- and long-term. In the short-term, States can place an emphasis on rigorously reviewing their national regulations on arms possession and use, as well as the implementation of existing laws, and report on these aspects at the upcoming 2005 Biennial Meeting of States. Doing so would make a valuable contribution to identifying good practice(s) and the further evolution of the international norm toward strengthened national arms control.

*“Many important challenges, critical to ensuring people’s safety from gun violence, have yet to be addressed. Further attention must be given to the question of the civilian possession of arms, particularly those designed for military use.”* Robert McDougall, Head of Canadian Delegation, UN Biennial Meeting of States, 7 July 2003<sup>78</sup>

In the medium term, supportive States can work to bring their laws and policies into conformity with the recommendations laid out in the 1997 Resolution of the UN Commission of Crime Prevention and Criminal Justice (if they are not already). These include licensing, registration and safe storage requirements, among others—all of which would help reduce misuse and diversion of legal weapons to illegal markets. In addition, States should seriously consider the importance of passing uniform federal, rather than provincial, firearms laws. Doing so would impede arms trafficking from lesser to more regulated provinces.

The need to partner with civil society to develop community-based initiatives aimed at reducing the demand for weapons is also essential. Indeed, the most successful and effective national arms control regimes are those in which civil society has played an important role. Examples of past efforts include developing gun free zones, assisting with weapons collection or offering sports as safe and healthy alternatives to gang violence for youth.<sup>79</sup>

States that are not currently doing so can also consider periodic amnesties to encourage the collection and destruction of unwanted, unneeded and illegal firearms. The public nature of amnesties and weapons destruction events contribute to building confidence in the ability of government to effectively remove and destroy weapons. In addition, governments can exchange technical approaches as well as lessons learnt on information and communication strategies useful for amnesties.

For the longer term, as the international community moves toward the 2006 Review Conference to assess the effectiveness of the Programme of Action and beyond, a growing group of States is well-placed- from both experience and commitment- to press for a global initiative on national arms control standards. Doing so may require a change in the rules governing the process, as it is anticipated that the US government and a small selection of other States will continue to block any explicit efforts in this area. This might prove a model for revisiting other issues that have not enjoyed the priority they deserve – despite collective agreement on their importance – such as universal brokering controls and ending transfers to armed groups, that were also excluded from the final PoA.<sup>80</sup>

### **Policy suggestions**

In conclusion, the following captures some of the suggestions made through this paper and are areas where broad-based agreement among States might be achieved. These include:

*Promote gun owner responsibility, whereby specific individuals permitted to hold a weapon must be responsible for specific weapons (i.e., registration). Development of systems of accountability should also be agreed, with losses reported and investigated quickly. States could agree to hold individuals accountable for weapons loss through serious disciplinary action. International support for safe storage facilities and awareness raising campaigns could help all societies move from a culture of 'rights' for weapons owners to one of 'responsibility' for ensuring that society is not harmed with their weapons.*

*Consider collectively prohibiting civilian possession of military style weapons, including semi-automatic firearms, which can be converted to fully automatic fire and semi-automatic variants of military weapons. This measure has been effectively implemented in countries such as Canada and Cambodia, and it was included as part of the Nairobi Protocol in 2004.*

*Work to collaborate (or continue to collaborate) regionally to reduce the chances of firearms flowing from poorly regulated areas. Increased regional co-operation, which includes the sharing of information and development of joint strategies, can play an important role in strengthening efforts to reduce the supply and use of guns. Improved border controls, shared databases of dealers, traffickers and users are essential. The Nairobi Protocol provides a comprehensive model that other regions or sub-regions might model.*

*Adopt a new definition of national firearms control which integrates the definition of small arms and light weapons. International policymaking on small arms in the context of conflict and disarmament has been historically separate from work on firearms in the context of crime and injury prevention. Integrating these two strands together requires harmonizing the definitions of firearms and small arms. The UN Panel on Small Arms and the definition in an earlier version of the Firearms Protocol are good starting points for a synthesis definition that encompasses the full range of weapons regardless of their intended use (military, police, civilian).*

*Adopt national regulatory regimes consistent with 1997 UN Commission of Crime Prevention and Criminal Justice Resolution including licensing, registration, safe storage, import/export controls and appropriate criminal penalties. The elements of*

effective regulation regimes include: screening and licensing of owners, tracking the sale and possession of firearms through registration, reducing unauthorised access by defining safe storage requirements; establishing import/export controls consistent with the Firearms Protocol as well as establishing appropriate criminal sanctions for illegal possession, misuse and trafficking.

*Ensure that national measures are harmonised with other efforts to include a particular focus on preventing violence against women.* Women face particular risks from gun violence in their homes at the hands of their intimate partners and access to weapons is a major risk factor for femicide. National regimes should include specific clauses which prohibit access to guns if there is a history of violence.

*Ensure that national measures include efforts to reduce the incidence of gun violence against children.* Countries mentioned in this chapter, such as Brazil, have higher child related firearms deaths than many countries at war. National legislation can include a range of measures such as safe storage requirements, age limits for possession and use, increased accountability of gun owners, public education and modification of the weapons itself.

*Support the appointment of disarmament advisors to peace processes and UN missions to examine opportunities to improve national weapons laws.* There is little doubt that the success of peace processes is enhanced by effective DDR. Along with weapons collection, however, it is critically important that appropriate regulatory regimes be implemented to establish norms of non-possession (particularly of military weapons) and reinforce accountability and the rule of law.

## ENDNOTES

1 United Nations Commission on Crime Prevention and Criminal Justice (1998), *United Nations International Study on Firearm Regulation*, UN Publication E.89.IV.2

2 United Nations (2001), Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, version L4 Rev.1 called on States:

*‘To put in place adequate laws, regulations and administrative procedures to exercise effective control over the legal manufacture, stockpiling, transfer and possession of small arms and light weapons within their areas of jurisdiction. To ensure that those engaged in illegal manufacture, stockpiling, transfer and possession, can and will be prosecuted under appropriate penal codes. ...To seriously consider the prohibition of unrestricted trade and private ownership of small arms and light weapons specifically designed for military purposes.’*

3 Prepared remarks of John R. Bolton (USA), 9 July 2001, available at [www.un.int/usa/01\\_104.htm](http://www.un.int/usa/01_104.htm)

4 UN Institute for Disarmament Research and the Small Arms Survey (2004), *Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of the Reports Submitted by States in 2003*. UN Publication, Geneva. UNIDIR/2004/25.

5 See, for example, prepared statement of Peter Tesch (Australia), 7 July 2003, available at [disarmament2.un.org/cab/salw-2003/statements/States/Australia.pdf](http://disarmament2.un.org/cab/salw-2003/statements/States/Australia.pdf)

6 See, in particular, the prepared statements of Jean Lint (Belgium), 7 July 2003, available at [disarmament2.un.org/cab/salw-2003/statements/States/Belgium.pdf](http://disarmament2.un.org/cab/salw-2003/statements/States/Belgium.pdf) and of Adolfo Aguilar Zinser (Mexico), 7 July 2003, available at [disarmament2.un.org/cab/salw-2003/statements/States/Mexico.pdf](http://disarmament2.un.org/cab/salw-2003/statements/States/Mexico.pdf)

7 Small Arms Survey 2002—Counting the Human Cost, Oxford: Oxford University Press, p. 79

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9 Small Arms Survey 2001 - Profiling the Problem, Oxford University Press, p. 66; Small Arms Survey 2003 - Development Denied, Oxford University Press, Oxford, p. 61. According to the National Rifle Association, ‘The number of privately owned guns in the US is at



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an all-time high. The Bureau of Alcohol, Tobacco, Firearms and Explosives estimates that there were about 215 million guns in 1999, when the number of new guns was averaging about 4.5 million annually.’ NRA web site at [www.nra.org/Issues/FactSheets/Read.aspx?ID=126](http://www.nra.org/Issues/FactSheets/Read.aspx?ID=126)

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11 Small Arms Survey (2004), p. 175

12 *ibid*

13 Louise, Christopher (1996), *The Social Impacts of Light Weapons Availability and Proliferation*, Discussion Paper, Geneva: United Nations Research Institute for Social Development, p. 2

14 See, for example, a recent editorial in the Jamaica Observer noted that, ‘it is becoming all too clear that the gun is a symbol of empowerment for many people—and not just those who carry them illegally—and bit by bit, the technology has greatly enhanced the capacity for violence in Jamaica.’ *Yes to Testing of Gun Owners*, editorial, Jamaica Observer, 22 November 2004

15 See for example, Emily F. Rothman et al (2004), *Batterers’ Use of Guns to Threaten Intimate Partners*, American Women’s Medical Association, Volume 60, Issue 1; Farr, Vanessa and Kiflemariam Gebre-Wold, eds. (2002), *Gender Perspectives on Small Arms and Light Weapons: Regional and International Concerns*, BICC Brief 24, Bonn: Bonn International Center for Conversion; see also the IANSA Women’s Network at [www.iansa.org/women](http://www.iansa.org/women)

16 World Health Organization (2002), *World Report on Violence and Health*, Geneva, p. 274-5

17 Forthcoming, Amnesty International (2005), *The Impact of Guns on Women’s Lives*, London

18 In the United States, juveniles (ages 9-17) held nearly 10% of all crime guns that were investigated in 1999; youth (age 18-24) held another 34%. Together, these age groups accounted for 57% of all gun homicides in the United States in 1998. US Bureau of Alcohol, Tobacco and Firearms (2000), *Crime Gun Trace Reports* (1999), Washington, p. 3

19 See [www.who.int/mental\\_health/prevention/suicide/suicideprevent/en/](http://www.who.int/mental_health/prevention/suicide/suicideprevent/en/)

20 Belarus and Colombia: UNODC (United Nations Office on Drugs and Crime) *Surveys on Crime Trends and the Operations of the Criminal Justice System* (2003), [www.unodc.org/unodc/en/crime\\_cicp\\_surveys.html](http://www.unodc.org/unodc/en/crime_cicp_surveys.html); Ecuador and Venezuela: WHO Mortality Database (2003) [www3.who.int/whosis/mort/text/download.cfm?path=whosis,whsa,mort\\_download&language=english](http://www3.who.int/whosis/mort/text/download.cfm?path=whosis,whsa,mort_download&language=english); Mexico: Mexican Secretary of Health, [www.cddhcu.gob.mx/cesop/boletines/no1/index.htm](http://www.cddhcu.gob.mx/cesop/boletines/no1/index.htm); South Africa: Robert Chetty (Ed.). 2000. *Firearm use and distribution in South Africa*. Pretoria: The National Crime Prevention Centre Firearm Programme; United States: US Department of Justice: Sourcebook of Criminal Justice Statistics. Population figures from the UN Population Division. Brazil: Mortality Information System of the Ministry of Health (2003). The Small Arms Survey was helpful in collecting this information.

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25 As with most rules, exceptions might exist. For example, Yemen has a high rate of firearm ownership but moderate rate of reported gun deaths. It is possible, however, that this anomaly is due to incomplete information. See the Small Arms Survey (2003)

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27 Mouzos, Jenny and Catherine Rushforth (2003), *Firearm Related Deaths in Australia, 1991-2001*, Canberra: Australian Institute of Criminology; see also Duncan, Jamie (2004), *Law Reforms Cut Gun Deaths*, The Australian, 27 October 2004

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39 Organisation of American States (2002), *Evaluation of Progress in Drug Control 2001-2002*, Mexico, p. 8

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58 Available at [www.smallarmssurvey.org/source\\_documents/Regional%20fora/Africa/SADC%20Protocol%20august%202001.pdf](http://www.smallarmssurvey.org/source_documents/Regional%20fora/Africa/SADC%20Protocol%20august%202001.pdf)

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- 63 The Centre for Humanitarian Dialogue aims to catalogue the various initiatives States are taking in a forthcoming publication to be launched at the July 2005 Second Biennial Meeting of States. Please forward any relevant information for inclusion to [cate@hdcentre.org](mailto:cate@hdcentre.org)
- 64 Based on Zimring, FE (1991), *Firearms, violence and public policy*, Scientific American, November, pp. 24-30.
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- 79 See the International Action Network on Small Arms to support and catalogue the work of over 400 NGOs working to end gun violence at [www.iansa.org](http://www.iansa.org)
- 80 See *Armed groups, weapons availability and misuse: An overview of the issues and options for action*, a briefing paper prepared by Dr. David Capie of the Armed Groups Project, University of British Columbia for the May 2004 Centre for Humanitarian Dialogue Bamako meeting on the issue. Available at <http://www.hdcentre.org/?aid=58> in English and French