

small arms survey 2004

rights at risk



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FOREWORD

During my five years as United Nations High Commissioner for Human Rights, I spent much of my time meeting people who were terrorized by armed violence. In places such as the Balkans, Cambodia, Colombia, the Democratic Republic of Congo, and Sierra Leone, the proliferation of small arms threatens lives and puts fundamental human rights at risk.

The death and injury of millions of innocent civilians are not the only human rights consequences of small arms proliferation. In conflict-torn countries, governments dedicating limited resources to weapons of war are much less able to meet long-term commitments to education, health care, and housing—all of which constitute basic economic, social, and cultural rights.

The responsibility for controlling small arms proliferation and misuse lies with all exporting and importing countries. Yet many states are reluctant even to release their arms trade data, let alone confront the consequences of their transfers. This lack of transparency impedes a fuller understanding of the small arms trade.

An innovation in this year's *Small Arms Survey* is a new barometer designed to gauge national levels of arms trade transparency. This will prove a welcome tool for policy-makers and advocates who seek to monitor and confront non-compliant governments. As the Small Arms Trade Transparency Barometer indicates, most states have a long way to go in opening their small arms policies to public scrutiny.

Despite a growing awareness among some governments that small arms proliferation inhibits development and humanitarian efforts, the impact on human rights is often underestimated or overlooked. In fact, the UN *Programme of Action* makes no reference to this vital issue.

In tackling these problems, the Control Arms campaign—led by Amnesty International, Oxfam, and IANSA—depends on data and analysis provided by the Small Arms Survey project. Other stakeholders, both governmental and non-governmental, also look to the *Survey* for reliable and in-depth research on small arms production, stockpiling, transfers, impacts, and measures.

The annual *Small Arms Survey* remains an essential source of impartial and public information on the state of global small arms proliferation and misuse—including its human rights implications.

Mary Robinson

Former President of Ireland

Honorary President, Oxfam International

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April 2004

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ABOUT THE SMALL ARMS SURVEY

The Small Arms Survey is an independent research project located at the Graduate Institute of International Studies in Geneva, Switzerland. Established in 1999 with the generous financial support of the Swiss Federal Department of Foreign Affairs, it currently receives additional funding from Australia, Belgium, Canada, Denmark, Finland, France, the Netherlands, New Zealand, Norway, Sweden, and the United Kingdom.

The objectives of the Small Arms Survey are: to be the principal source of public information on all aspects of small arms; to serve as a resource centre for governments, policy-makers, researchers, and activists; to monitor national and international initiatives (governmental and non-governmental) on small arms; and to act as a clearing house for the sharing of information and the dissemination of best practices. The Survey also sponsors field research and information-gathering efforts, especially in affected states and regions. The project has an international staff with expertise in security studies, political science, law, economics, development studies, and sociology. It collaborates with a worldwide network of researchers, partner institutions, non-governmental organizations, and governments.

Notes to readers

Abbreviations: Topic-specific lists of abbreviations are placed at the end of each chapter.

Chapter cross-referencing: Chapter cross-references appear capitalized in brackets throughout the text. For example, in Chapter 3: 'In contrast to most other small arms and light weapons, the production of MANPADS is currently limited to a small number of manufacturers (PRODUCERS).'

Exchange rates: All monetary values are expressed in current US dollars (USD). When other currencies are additionally cited, unless otherwise indicated, they are converted to USD using the 365-day average exchange rate for the period 1 September 2002 to 31 August 2003.

Small Arms Survey: The plain text—Small Arms Survey—is used to indicate the overall project and its activities, while the italicized version—*Small Arms Survey*—refers to the publication itself. The *Survey*, appearing italicized, refers generally to past and future editions of the yearbook.

Web site: For more detailed information and current developments on small arms issues, readers are invited to visit our Web site at: <http://www.smallarmssurvey.org>

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This edition also marks the departure of Peter Batchelor, one of the founders of the Small Arms Survey project. On behalf of the staff—Peter, thank you for your hard work and dedication over the past four years. You will be missed.

Keith Krause
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A soldier stands behind bullet-riddled glass in Israel in June 2002.
(© AP Photo/Gadi Kabalo)

Introduction

The widespread proliferation and misuse of small arms threatens the realization of basic human rights and security in various ways. In the hands of repressive forces, small arms can serve to intimidate, threaten, and coerce whole communities, limit free movement, and prevent access to basic entitlements and services. Small arms are also routinely used to facilitate or commit human rights abuses, such as extrajudicial executions and torture.

In this edition of the *Small Arms Survey*, subtitled 'Rights at Risk', we examine the complicated relationship between small arms and human rights violations. Our interest in this theme parallels the engagement of major human rights actors with the issue, including Amnesty International, Human Rights Watch, and the United Nations Commission on Human Rights. In particular, in 2003 the UN appointed a Special Rapporteur to study the prevention of human rights violations committed with small arms and light weapons, while several NGOs launched the Control Arms campaign with a strong human rights orientation.

In identifying the linkages between the proliferation and misuse of small arms and the violation of human rights, we encounter a thorny conceptual problem. Guns are inert objects, which do not as such violate human rights. In this sense, there is some truth in the oft-repeated slogan of the US National Rifle Association that 'guns don't kill people, people kill people'. Guns do not by themselves breach anyone's rights, but people with guns can—and do—violate human rights on a regular basis, in a variety of ways and contexts. One must construct a complex causal (and sometimes legal) chain of reasoning to show how individuals who produce, hold, export, or use guns can be held responsible for the misuse of these weapons. Certainly this principle has been advanced in tort law. In the United States, various groups have attempted unsuccessfully to hold weapons manufacturers and dealers legally accountable for the misuse of weapons they have produced or sold, especially those used most prominently in crime (such as the so-called 'Saturday night specials').

Through this year's focus on the theme of small arms and human rights, we seek to untangle the many ways in which small arms and light weapons contribute to human rights violations—whether by facilitating such violations or, as some advocates of gun ownership would have it, by helping prevent them. In this edition of the *Small Arms Survey*, three different chapters address three distinct dimensions of the small arms–human rights nexus:

- the legal duty of all states to uphold the human rights of their citizens in situations involving the use of potentially lethal force by state agents;
- the legal responsibility of states to exercise necessary caution when transferring arms to others, especially where these may facilitate human rights abuses; and
- the growing conviction that states have a legal duty to protect their citizens from widespread crime and insecurity on their territory.

Many states are failing to adhere to international policy standards governing the use of force and firearms.

Chapter 7 (Policing) takes up the first of these themes, which coincides with the classic legal understanding of human rights: the responsibility of states to uphold the human rights of their citizens. This chapter presents the international standards governing the use of force and firearms by law enforcement officials and looks at how these are reflected in national legislation and jurisprudence. While the chapter does not attempt a systematic evaluation of national implementation, its selection of practice from around the world reveals that a great many states are failing to adhere to relevant policing standards. This shortfall is less a result of limited resources than of insufficient political commitment—above all, a state's commitment to respecting the human rights of its citizens.

The second dimension is addressed in our annual chapter on small arms transfers (Chapter 4). As we noted last year in our chapter on norms, states have a legal duty to exercise necessary caution in transferring arms that could be used to violate human rights or commit other violations of international law. To what extent do states exercise sufficient oversight in practice? Given that small arms are more likely to be involved in human rights abuses than major conventional weapons (such as military aircraft or submarines), one would expect states to follow more restrictive policies in transferring small arms to countries where human rights violations are common. In reality, as the chapter documents, state practice in this area remains quite imperfect. While some countries with problematic human rights records do encounter difficulties in importing arms in the authorized market, these states are usually able to procure small arms from international sources without too much trouble.

The third approach zeroes in on an issue that has been indirectly linked to human rights, namely the role of firearms in violence and crime (Chapter 6). States, so the argument goes, have a duty to protect the fundamental rights and freedoms of their citizens where these are threatened by widespread firearm crime and insecurity. While the use of firearms by private citizens to threaten, injure, or kill other citizens is invariably treated as a crime, rather than a violation of human rights, it is increasingly recognized that states have a duty under human rights law to take reasonable measures to prevent and punish such violence. Moreover, the fact that states around the world treat individual firearm misuse as a serious crime is in accordance with our understanding that such conduct breaches the rules and norms underpinning law-governed societies.

Ongoing international efforts

International efforts to combat small arms proliferation and misuse continued in 2003. The First UN Biennial Meeting of States (BMS) was held in New York in July 2003 to examine states' implementation of the *Programme of Action*, negotiated at the 2001 UN Small Arms Conference. The First BMS showcased the wide range of activities many governments, international organizations, and NGOs have already undertaken, and helped foster a sense of gathering momentum on the small arms issue. Since then, the development of a international instrument on the marking and tracing of small arms has moved forward, as has a parallel process examining issues surrounding brokering.

At the same time, however, progress by some countries in meeting their commitments under the *Programme of Action* has lagged. A report by the Biting the Bullet Project and the International Action Network on Small Arms (IANSA) concludes that a large number of countries have not implemented many of the most basic measures outlined in the *Programme*. The obstacles to implementation include a lack of awareness, engagement, and institutional will. Increasing the involvement of inactive governments stands out as a particular challenge for NGOs in the months leading up to the next BMS in mid-2005.

Chapter highlights

The *Small Arms Survey 2004* presents updated information on global small arms production, stockpiles, transfers, and international measures. Besides the policing and crime chapters introduced above, this edition also features chapters on man-portable air defence systems (MANPADS) and arms brokering as well as case studies on the Pacific and Kyrgyzstan.

Chapter 1 (Products and Producers): At least 1,249 companies in more than 90 countries are involved in some aspect of small arms and light weapons production—more firms but fewer countries than previously reported. The global small arms and light weapons market is relatively stable, although producers from countries including Australia, Brazil, Israel, Singapore, and South Africa are challenging established European and North American producers.

In a declining international small arms market, powerful forces are pushing for both change and continuity. The most notable change is the trend towards consolidation among major small arms producers. New designs of small arms and light weapons are also emerging, as armed forces in Europe and elsewhere begin major rearmament programmes. Continuity is demonstrated, above all, by the continuing reliance on weapons that have proven their worth over the decades, such as high-powered rifles, medium and heavy machine guns, and rocket-propelled grenade launchers (RPGs)—notwithstanding the appearance of new weapon designs.

Chapter 2 (Stockpiles): This year's chapter focuses on the management of small arms and light weapons. The collapse of Saddam Hussein's regime led to the single most significant small arms stockpile transfer the world has known. We estimate that Iraqi civilians may have gained control of 7 million–8 million small arms. Unless the international community takes aggressive steps to improve control of small arms stockpiles worldwide, many countries will remain vulnerable to similar disasters. The gradual leakage of weapons as a result of negligence and theft is an equally serious problem. At least one million firearms are stolen or lost annually around the world.

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The most ambitious recent measure for the registration of civilian weapons came into force in Canada in 2003. Brazil also approved a major initiative to combat firearms proliferation and radically alter its national gun culture. Comparable initiatives are emerging elsewhere, for example in Thailand.

Chapter 3 (MANPADS): Man-portable air defence systems (MANPADS) are small, light missile-launching weapons designed to be fired by an individual against aircraft. It appears that about 15 producers manufacture MANPADS in at least as many countries. Production is no longer limited to established companies in the high-tech arms industry, as producing countries now include Egypt, North Korea, Pakistan, and Vietnam. Developing country demand for affordable anti-aircraft systems will be likely to ensure that many more orders are placed for MANPADS in the near future. Although some estimates put the number of MANPADS as high as 500,000, fewer than 100,000 complete units (missile and launcher) have probably been produced. This figure includes an unknown quantity of MANPADS in the hands of non-state groups, including terrorist organizations.

International efforts to control the proliferation of MANPADS have so far been limited, but there is growing momentum for strengthened controls. This may be one of the few cases in which the politicization of a small arms/light weapons issue serves to rein in proliferation—provided the international community continues to engage with this problem.

Chapter 4 (Transfers): The reluctance of many states to provide trade information constitutes a major impediment to the accurate measurement of small arms transfers. This year, we introduce a new tool to evaluate state transparency in this area: the Small Arms Trade Transparency Barometer. Based on national export reports and customs data, the Barometer finds that the most transparent states among the larger small arms exporters are the United States, Germany, and France, but even these countries fall well short of full transparency, however. The average score for

larger exporters is 8.5 out of 20, which suggests that much needs to be done to improve transparency. Mexico, China, Israel, South Africa, and Bulgaria are at the bottom of the list.

International customs data indicate that the export value of small arms, parts, and ammunition was about USD 2.4 billion for 2001. The 2000 total, which did not include small arms parts, was estimated at USD 2.1 billion. The total authorized trade (documented and undocumented) is estimated at about USD 4 billion. The largest exporters by value are the United States, Italy, Belgium, Germany, the Russian Federation, Brazil, and China. Countries that are known to be medium producers of small arms, but about whose exports we know very little, include Iran, Pakistan, and Singapore.

Chapter 5 (Brokers): Brokers carry out a wide range of activities that are instrumental in diverting weapons from legal to illicit markets. A number of regulatory gaps allow brokers to act almost entirely without oversight in much of the world. Controls on legal and illicit brokering are strongly linked; unless states regulate the first, they will be unable to prevent the second.

In 2003, states focused on brokering to a greater degree than ever before. These initiatives took as their starting point the need to regulate brokering at the national level. Only 25 countries now explicitly regulate brokering. National measures, however, vary greatly, creating loopholes and allowing for the possibility of circumvention. Even in countries where necessary legislation is in place, the effective implementation of brokering controls is often difficult. Although essential, national regulation is not sufficient. The transnational nature of brokering activities makes international cooperation indispensable in this area.

Chapter 6 (Crime): This chapter tries to untangle the complex relationship between firearm availability and use and non-conflict-related violence. It stresses the prevalence of firearms in the perpetration of societal violence, given their widespread use in assaults, threats, robberies, sexual offences, and suicides, as well as in nearly 40 per cent of all homicides. A systematic analysis of available data allows us to confirm that at least 200,000 and possibly up to 270,000 persons are killed by firearms in non-conflict-related situations each year (including homicides, suicides, and unintentional shootings).

At least 200,000 persons are killed by firearms in non-conflict-related situations each year.

Whether gun accessibility affects overall levels of violence is more difficult to determine. The lethality of guns increases the risk of injury and death, but responsible firearm ownership can also contribute to deterring crime. The impact of gun violence, however, is not limited to fatal and non-fatal firearm injuries. Many types of small arms-related crime—whether committed by individuals or the state—can threaten a community's physical, economic, social, political, and cultural security. Furthermore, gun violence can challenge a state's monopoly on the maintenance of law and order as communities seek alternative means of increasing their sense of security. These methods may include a reliance on private security companies, informal vigilante groups, and private gun ownership. While quantifying these impacts can be difficult, recent research suggests that the social costs of gun violence are substantially higher than those incurred through other forms of violence.

Chapter 7 (Policing): Policing is an essential test of a state's willingness to uphold the human rights of its citizens and respect the rule of law generally. Against the backdrop of relevant international standards, this chapter examines several critical issues associated with the use of force and firearms by police. These include training, equipment, and oversight systems. The chapter also examines instances where security and policing systems break down as a result of political manipulation, institutionalized corruption, and criminality.

The chapter's selection of national practice from various parts of the world, while not sufficient for a systematic assessment of national implementation worldwide, does demonstrate that a large number of countries are not adhering to international policing standards. Resources are obviously necessary for good policing, but the chapter stresses that political commitment is the key factor in determining whether national policing is firmly rooted in respect for human rights.

Chapter 8 (Monitoring): Reporting, monitoring, and verification appear essential to the success of ongoing efforts to tackle the small arms problem. This chapter looks at the contribution these processes make to the implementation of the UN *Programme of Action* and UN arms embargoes, as well as the important corresponding roles played by governments, international organizations, and NGOs.

In its review of the UN Conference process, the chapter concludes that the July 2003 Biennial Meeting of States was largely successful in generating significant information and analysis on national implementation of the *Programme*. Nevertheless, existing information about initiatives does not provide a complete picture of implementation, nor of implementation challenges and solutions. A section on UN arms embargoes describes recent attempts to strengthen verification efforts—especially through the use of investigative panels. Important as these are, however, such improvements remain vulnerable to weakening political will.

Chapter 9 (Pacific): Recent armed conflict, firearms proliferation, and weapons collection initiatives in the Pacific offer clear positive and negative lessons. The region is not afflicted with large-scale gun trafficking, yet the Pacific experience demonstrates how deeply even a small number of weapons can damage communities in such places as Fiji or the Solomon Islands. Safe storage is a particular concern as many of the guns that have fuelled armed violence in the Pacific leaked from legal owners.

Gun laws in the region are inconsistent, and although gun smuggling is currently rare, the Pacific will remain vulnerable to such activity as long as legislative loopholes remain unplugged. Although crude home-made guns are produced during times of scarcity and conflict, the chapter concludes that their relative importance is not great. Most of the recent efforts to mop up surplus or destabilizing weapons have brought positive results, and in the recently conflict-torn Solomon Islands and Bougainville, disarmament is now firmly linked to political reform, increased social stability, and economic development.

Chapter 10 (Kyrgyzstan): Despite Central Asia's reputation as an undifferentiated arc of instability, our study of Kyrgyzstan indicates that small arms possession, use, and proliferation is not a significant problem in the country. The study found no link between trafficking in small arms and trafficking in drugs and people. Small arms-related violence and casualties also appear limited.

The Kyrgyz government holds an estimated 50,000 weapons, with strict legislation regulating civilian possession. Of an estimated 15,000 registered hunting guns, 80 per cent are held in the area surrounding the capital Bishkek. Atypically, Kyrgyz state stockpiles outnumber civilian small arms, and more hunting guns are registered in urban areas than in the countryside. Illegal weapons possession is difficult to quantify, but several indicators suggest it is low. Although Kyrgyzstan does not produce small arms, ammunition production from Soviet days continues in Bishkek.

CONCLUSION

Our understanding of the human rights implications of small arms proliferation and misuse remains poor. But there are growing signs that the international community is taking the connection seriously. This year's focus on human rights derives from our mission to deepen the understanding of small arms proliferation as a multi-dimensional issue with complex linkages to a wide range of development, humanitarian, public health, and criminal justice concerns. By shedding light on these linkages, we hope to provide governments, analysts, and advocates with the tools needed to develop policies and programmes that address small arms proliferation and misuse in all their aspects.