

**ARMED GROUPS, WEAPONS AVAILABILITY AND MISUSE:
AN OVERVIEW OF THE ISSUES AND OPTIONS FOR ACTION¹**

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Armed non-state actors are not new to world politics, but today they command greater attention than ever before. In large part this is because of a growing awareness that the nature of violent conflict has changed. While during the Cold War the international community focused on inter-state war, today it increasingly recognizes that most conflicts are fought *within* states, either between governments and non-state actors, or in the case of inter-communal violence, between multiple non-state actors with little or no state involvement. For example, the *Human Security Report* records that in 2002 there was only one inter-state conflict (between India-Pakistan) while there were 31 civil wars involving at least one rebel group, and 35 internal conflicts that involved only non-state actors.² Today these rebel groups, militias, warlords, and insurgents seriously threaten not just the national security of states, but also the human security of millions of people.

Unlike conventional inter-state wars, civil wars and inter-communal conflicts are fought largely, some times exclusively, with small arms and light weapons. These not only suit the nature of irregular warfare, but also reflect the fact that participants often lack the resources to buy heavy weapons or the skills and training to operate advanced weapons systems. Controlling the proliferation and misuse of small arms by all actors in civil wars is therefore a key challenge on the human security agenda.³ This paper provides an overview of the linkages between small arms and light weapons and armed groups and identifies some of the key challenges non-state actors present for small arms control.⁴

The paper begins with a short discussion of the term 'armed groups'. It goes on to discuss why it is important to focus specifically on armed groups in the context of the small arms and light weapons agenda. It outlines the various means used by armed groups to obtain weapons and ammunition and summarizes the major human security impacts of small arms during and after conflicts. The paper examines efforts to curb the supply of arms to non-state actors and concludes by

¹ This paper was written by Dr. David Capie, Armed Groups Project, University of British Columbia, Vancouver. I am grateful for helpful suggestions and comments on an earlier draft from David Petrasek, Andrew Mack, Cate Buchanan, Pablo Policzer, Erin Baines and Mireille Widmer.

² *Human Security Report 2004: War in the 21st Century* (Oxford University Press, New York, forthcoming 2004)

³ Claude Bruderlein, "The role of non-state actors in building human security: the case of armed groups in intra-state wars," paper presented to the Human Security Network, Geneva, 20 March 2000

⁴ By focusing exclusively on armed groups, this paper is not intended to imply that non-state actors have a monopoly on the misuse of small arms or are exclusively responsible for the violation of humanitarian and human rights norms. On the contrary, while armed groups are responsible for many egregious acts, over the past century, states have been responsible for by far the largest number of abuses and unlawful killings of civilians.

offering some suggestions for possible new policy initiatives. It stresses the need to go beyond a supply-side approach to small arms and to deal directly with armed groups in order to reduce violations of humanitarian law and human rights norms.

WHAT IS AN 'ARMED GROUP'?

The terminology used to describe armed non-state actors is controversial and intensely political. To their supporters, armed groups can be 'revolutionaries,' 'liberation movements' or 'freedom fighters.' To their enemies, the same groups are labeled 'terrorists,' 'rebels,' 'insurgents,' or merely criminals.

The sheer variety of armed non-state actors operating in contemporary conflicts means they defy a hard and fast definition. These groups vary enormously in terms of their size, behaviour, structure, motives, goals and resources. Some resemble traditional armies, with a formal, hierarchical command structure, while others operate with only loose controls between commanders and front line troops. Groups also have diverse motives. Some aspire to take over and control the state they are fighting, while others seek to create a new political community. Some fight to enrich themselves and their friends, while others pursue less tangible religious or spiritual objectives. Some groups exist in the open, associating with a political wing or party that advocates their cause, while others remain secretive and reclusive.

The term 'armed groups' is used here as a neutral label that seeks to avoid the partisanship and ambiguity that comes with the use of terms like 'terrorist' or 'freedom fighter.' The International Council on Human Rights Policy put forward a useful definition of armed groups in its seminal report *Ends and Means*. It describes them as "groups that are armed and use force to achieve their objectives and are not under state control."⁵ Similar value-neutral terms used to describe these entities, include 'armed opposition groups', 'non-state actors' and 'non-governmental entities'. These terms are used interchangeably in this paper. The focus, however, is on armed groups that articulate a political or economic agenda rather than private goals. While the paper recognizes the difficulty in drawing clear lines between 'political' and 'private' violence, it excludes from its analysis criminal organizations like the mafia, drug cartels, mercenaries and private security actors.⁶

WHY FOCUS ON ARMED GROUPS?

There are three reasons why armed non-state actors warrant particular attention in the context of the small arms agenda. First, armed groups are important

⁵ *Ends and Means: Human Rights Approaches to Armed Groups* (International Council on Human Rights Policy, Geneva, 1999). A discussion of the definition and various categories of armed groups can be found on pages 5-7.

⁶ Stathis N. Kalyvas, "The Ontology of 'Political Violence': Action and Identity in Civil Wars," *Perspectives on Politics*, vol. 1, no. 3 (September 2003) 475-494

participants in the trade in small arms and ammunition. Because they usually operate outside the legal framework in their own countries, it is difficult, though not impossible, for them to acquire weapons through licit channels. They create and sustain a demand for illegal arms and provide markets for 'sanctions busting' arms dealers. Armed groups are also frequently involved in the unlawful redistribution of weapons, including to other armed groups and criminal organizations.

Second, in situations of internal conflict, armed opposition groups are important military and political actors. They often command large areas of territory and population and in some cases operate as de facto governments. How they use (or misuse) their weapons has direct effects on the security and wellbeing of tens of millions of people under their control. Even once fighting comes to an end, armed groups remain crucial actors in peace processes, disarmament and demobilization programs, weapons collection and destruction initiatives.

Third, the international community now expects more from these groups. In the past, acts of violence by non-state actors were seen as a domestic problem of the state concerned, to be dealt with through legal, political, or military means. However, in the last decade and a half human rights organizations have changed their definition of human rights violations to include abuses committed by non-state actors. The UN Secretary-General has called on "all parties" to armed conflicts to respect humanitarian law and protect civilians⁷, and the Human Security Network has itself noted: "States are no longer the only actors responsible for ensuring the protection of civilian populations."⁸

This shift in expectations has important implications for proponents of a human security approach. Over the past decade the international community has embraced a diverse range of new human security norms, including bans on anti-personnel mines and the use of child soldiers, and greater controls over small arms. However, the instruments designed to advance these norms are still predominantly aimed at states. The Child Soldiers Protocol, for example, which prohibits the use of children as combatants, has been signed by 109 countries and ratified by 35. One of its key provisions prohibits non-state armed groups from recruiting or using persons under 18 in hostilities. However, the principal mechanism for enforcing this provision is for States Parties to criminalize it. This begs the question of how armed groups can be held accountable, when the existence of such groups in the first place reflects a state's incapacity to effectively control and enforce laws in its territory. Similar questions exist about efforts to prevent the misuse of small arms and light weapons. If we expect to curb abuses carried out with these weapons by non-state actors, then we need to develop instruments that directly address armed groups and hold them accountable for their actions.

⁷ See for example, *Report of the Secretary General to the Security Council on the Protection of Civilians in Armed Conflict*, S/2002/1300, 26 November 2002

⁸ Human Security Network, "Report on the status of the Human Security Network's main action areas," available online at http://www.humansecuritynetwork.org/docs/santiago_annex2-e.php

ARMED GROUPS AND THE WEAPONS TRADE

There is little reliable evidence about the overall level of participation of armed groups in the global small arms trade. It seems likely, however, that they possess just a small fraction of the world's small arms stockpile. The Small Arms Survey has estimated that of a total of more than 29 million small arms in sub-Saharan Africa, "insurgents" possess around 600,000, or 2%.⁹ Another respected analyst claims that armed groups possess about 1 million small arms globally, or just 0.2% of known stocks.¹⁰ However, given the difficulties defining what constitutes an armed group and in obtaining reliable information about group membership, such estimates should be regarded as highly speculative.

Although armed groups possess only a small proportion of the world's small arms, their holdings and transfers should be of particular concern to the international community. These are the weapons most commonly used in armed conflicts and that are associated with many deaths, injuries and violations of human rights. Armed groups also inflict far greater harm in combat than their comparatively small holdings of arms might suggest. Because they typically use their weapons in ambushes, surprise attacks and against 'soft targets,' their "arsenals tend to be far more deadly and destructive" than those of their government adversaries.¹¹

There are three primary sources through which armed groups acquire weapons: importation, domestic procurement and indigenous production. In terms of imports, the patronage of foreign governments is the leading source of arms and funding for most non-state actors.¹² States covertly or openly supply groups with weapons in order to advance their own political ambitions or economic interests. During the Cold War weapons transfers were principally made for ideological reasons as the superpowers backed non-state proxy armies fighting from Angola to Afghanistan. Ideological incentives for supporting non-state actors declined with the end of the Cold War, but covert arms transfers from sponsoring states continue today. The US *Iraq Liberation Act of 1998*, for example, provided for the transfer of weapons to opposition groups fighting the regime of Saddam Hussein.¹³

⁹ The term is defined as including armed combatants fighting in "insurgencies, rebel groups and non-state armed forces." *Small Arms Survey 2003* (Oxford University Press, Oxford, 2003) 80

¹⁰ Aaron Karp, "Global stockpiles," Small Arms Survey background paper (2001) cited in Muggah and Berman, "Humanitarianism Under Threat," 3. This compares to estimated government military stocks (2001) of approximately 266 million weapons. *Small Arms Survey 2001*, 77

¹¹ *Small Arms Survey 2001: Profiling the Problem*, (Oxford University Press, Oxford, 2001) 77

¹² *Small Arms Survey 2002: Counting the Human Cost* (Oxford University Press, Oxford, 2002) 129

¹³ *Iraq Liberation Act of 1998*, Public Law 105-338. The Act was passed the House of Representatives by 360-38 on 5 October 1998, unanimously approved by the US Senate on October 7 and signed into law by President Clinton on 31 October. See also the covert transfers by the Indian government's intelligence service, the Research and Analysis Wing (RAW) to Burmese armed groups. These are described in David

The legality of these 'gray market' transfers is disputed, but there are also numerous cases where governments supply non-state actors in clear violation of international law. The United Nations has documented several recent examples where governments have ignored UN arms embargoes imposed on armed groups. A United Nations panel of experts investigating arms shipments to Sierra Leone in 2000 found conclusive evidence that the government of Liberia "had been actively supporting the Revolutionary United Front [in Sierra Leone] at all levels, in providing training, weapons and related materiel."¹⁴ The panel also found evidence of supply lines to the RUF from Eastern Europe, with weapons passing through Burkina Faso, Niger and Cote D'Ivoire. More recently, Human Rights Watch has reported that the governments of Guinea and Cote D'Ivoire provided the LURD and MODEL groups in Liberia with arms and ammunition.¹⁵

Brokers, arms dealers and 'fixers' who can arrange the purchase, financing and transportation of arms on the black market play a critical role in arranging the transfer of arms to non-state actors.¹⁶ These brokers benefit from the lack of transparency that surrounds most arms deals, frequently facilitating the diversion of sales from licit channels to unlawful recipients. While successive reports have documented the key role played by brokers, there has as yet been no successful national prosecution for the violation of a UN arms embargo.¹⁷

The second major source of arms is domestic procurement. Weapons and ammunition are often captured as war booty from opposing forces on the battlefield, stolen from poorly guarded police or military installations, or simply purchased from corrupt members of the security forces.¹⁸ Because armed groups usually operate in states where the rule of law has broken down or collapsed, it is difficult to curb these transfers. The scale of this 'leakage' should not be underestimated. More than half a million weapons were taken from state armouries in Albania in March 1997 alone, with many ending up in the hands of the KLA across the border in Kosovo.¹⁹ Similarly, during recent inter-communal violence in the Solomon Islands, almost all of the military weapons used in the conflict were taken during a raid on a single police station.²⁰ For armed groups

Capie, *Small Arms Production and Transfers in Southeast Asia* (Australian National University, 2002) 23-24

¹⁴ *Report of the United Nations Panel of Experts on Sierra Leone*, para 183, p36 (December 2000)

¹⁵ Human Rights Watch "Liberia: Guinea Flouts Arms Embargo: U.N. Security Council Member Facilitates Atrocities," 5 November 2003

¹⁶ Brian Wood and Johan Peleman, *The Arms Fixers: Controlling the Brokering and Shipping Agents* (PRIO, NISAT and Basic, Oslo, 1999)

¹⁷ Alex Vines, "Monitoring UN sanctions in Africa: the role of panels of experts," *Verification Yearbook* (VERTIC, London, 2003) 260

¹⁸ For examples, see the *Report of the United Nations Panel of Experts on Sierra Leone* (December 2000) 35

¹⁹ Anna Khakee and Nicolas Florquin, *Kosovo and the Gun: A Baseline Assessment of Small Arms and Light Weapons in Kosovo*, (Small Arms Survey and UNDP, Geneva, 2003)

²⁰ David Capie, *Under the Gun: The Small Arms Challenge in the Pacific* (Victoria University Press, Wellington, 2003)

that are weak, poorly funded, or that lack international connections, local supplies are usually their most important source of weapons.

Finally, some groups also manufacture their own military weapons and ammunition. The sophistication of these operations varies enormously. Many armed groups can service their own arms or produce simple homemade firearms, but some have also been able to manufacture high quality weapons. Groups in Kashmir, Afghanistan and parts of the Middle East have used weapons produced in the Darra region of Pakistan's Northwest Territory. In the Philippines, the Moro Islamic Liberation Front (MILF) maintained a factory in central Mindanao that was said to employ several hundred workers, producing side arms, rifles and an indigenous RPG.²¹ Generally, however, local production seems to be a less important source of arms for non-state actors. Producing arms (especially ammunition) is time consuming and difficult in situations of conflict and homemade weapons are often unreliable. Where they have a choice, most non-state actors involved in an active conflict show a clear preference for modern, manufactured arms.

HUMAN SECURITY IMPACTS

The 2001 United Nations Conference on the *Illicit Trade in Small Arms and Light Weapons in All its Aspects* recognized that the excessive accumulation and uncontrolled spread of small arms have a "wide range of humanitarian and socio-economic consequences and pose a serious threat to ... security, stability and sustainable development at the individual, national, regional and international levels."²² Unfortunately, while there is a growing body of evidence establishing clear links between the availability and misuse of small arms and a wide range of negative social indicators surrounding internal conflicts, we do not yet have disaggregated data that would let us attribute responsibility for those impacts to either state or non-state actors.

In terms of direct humanitarian impacts, easy access to light weapons has been associated with the increased incidence of violent conflict involving non-state actors. While small arms by themselves do not cause conflict, the availability of high-power military arms exacerbates conflicts by prolonging violence and increasing its lethality. As the World Health Organization's *Global Report on Violence and Health* notes, "the level of weapons technology does not affect the risk of a conflict, but it does determine the scale of any conflict and the amount of destruction that will take place."²³

²¹ Anthony Davis, "Philippine security threatened by small-arms proliferation," *Jane's Intelligence Review*, August 2003, 32-37

²² United Nations, *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 9-20 July 2001, A/CONF/92/15, I, para 2.

²³ World Health Organization, *Global Report on Violence and Health* (Geneva, World Health Organization, 2002) 222

The principal effect of small arms misuse by non-state actors is deaths and injuries. Accurate estimates of the number of people killed and wounded in contemporary conflicts are difficult to come by and often hotly contested. Small arms researchers have estimated that 52% of fatalities in modern wars (including civilians and combatants) are caused by small arms. Extrapolating from WHO figures, they estimate that some 310,000 people are killed by small arms use and misuse in wars each year.²⁴ More recent evidence, however, suggests the total number of deaths in conflict has been significantly overestimated. According to data collected for the *Human Security Report*, fighting in all wars in 2002 (including civil wars and inter-communal conflicts between rival non-state groups) produced just 25,000 deaths.²⁵ By far the majority of these died in intra-state conflicts (including those spilling over national borders). Between 1990 and 2002 approximately 93% of all battle-related deaths occurred in intra-state conflicts, with between 30 and 60% of these believed to be civilians.²⁶

The victims of internal conflicts are not just combatants and civilians. Armed groups also increasingly target peacekeepers and humanitarian workers. Between 1992 and 2001, more than 204 UN personnel were killed during peace operations, with small arms featuring in 75% of the incidents.²⁷ Even prior to recent attacks in Iraq, UN civilian staff experienced a firearm-related homicide rate of 17 – 25 per 100,000 – a rate “analogous to those experienced by civilians in the top ten most dangerous countries in the world.”²⁸

Armed groups also use small arms to commit egregious violations of human rights and humanitarian law. The nature of contemporary conflict blurs the distinction between civilians and combatants as armed groups use populations for resources, recruitment and as a base from which attack their rivals. Small arms are used to terrorize and to commit crimes such as rape, torture, enslavement and plunder.²⁹ Structural features of armed groups contribute to this problem.

²⁴ C J L Murray et al, “Armed conflict as a public health problem, *British Medical Journal* (February 2002) 346-349, cited in Robert Muggah and Martin Griffith, “Reconsidering the tools of war: small arms and humanitarian action,” *Humanitarian Practice Network Paper* No. 39 (July 2002) 9

²⁵ *Human Security Report* (Oxford University Press, New York, forthcoming 2004). This figure is for ‘battle-deaths’, and includes both combatants and civilians killed as a consequence of armed violence between states, between states and armed groups, and in inter-communal violence between multiple non-state actors. It does not include additional deaths indirectly caused by armed conflict, for example, as a result of disease and famine brought about by war.

²⁶ Bethany Lacina and Nils Petter Gleditsch, “The Human Cost of War? A New Data Set of Battle Deaths,” unpublished paper, 25 February 2004. Estimates vary significantly for the numbers of civilians killed in conflicts. This is partly because news reporting often does not disaggregate between civilian and combatant deaths and also because in many conflicts the lines are blurred on the ground. See, *Human Security Report 2004*.

²⁷ “Small arms and Human security: a snapshot of the humanitarian impacts,” Briefing paper prepared by the Centre for Humanitarian Dialogue for the 28th International Conference of the Red Cross and Red Crescent Movement (November 2003)

²⁸ Robert Muggah and Eric Berman, “Humanitarianism Under Threat: The Humanitarian Impacts of Small Arms and Light Weapons,” *Small Arms Survey Special Report* (July 2001), ix

²⁹ UN Wire, “Rape so Common in DRC it is Considered Combat Injury” 27 October 2003; Médecins Sans Frontières, *I Have No Joy, No Peace of Mind: Medical, Psychosocial and Socio-Economic Consequences of Sexual Violence in the Eastern DRC* (Paris, April 2004)

Non-state groups are often loosely organized with only weak links between commanders and soldiers. Fighters often lack proper discipline and training and most groups are ignorant of their obligations under international law. Some consciously flout international norms, shooting prisoners, committing torture, rape and mutilation, but even those groups that acknowledge international law often do not enforce its provisions, usually because they lack the capacity to do so.

Another consequence of armed conflict is mass displacement. Armed groups often deliberately uproot civilians for political or economic reasons, and government military operations frequently lead to the displacement of civilians in an attempt to cut off support for their opponents. The United Nations High Commissioner for Refugees (UNHCR) has concluded that "armed conflict is now the driving force behind most refugee flows"³⁰ with more than six million refugees reported to be living in 67 countries in 2003.³¹ A far greater number of people are displaced within their own borders. There are an estimated 25 million IDPs worldwide. In 2003 more than three million people were newly displaced, "the majority by civil wars and inter-communal violence in Africa."³² An international survey of IDP trends makes clear where much of the blame lies: "Armed rebel groups, privately financed militias or armies commanded by war lords ... accounted for more than half the world's new displacement during 2003."³³ Refugee and IDP camps increasingly offer little sanctuary. Armed groups frequently use them to forcibly recruit new members and for various forms of material and sexual exploitation.

Children are frequently among those targeted for recruitment. Irregular armed forces are often less selective about members, and because small arms are light and comparatively simple to operate, they facilitate the use of children as fighters. According to Human Rights Watch, "child soldier use is endemic among non-state armed groups."³⁴ While the total number of child soldiers in government forces is estimated to be around 300,000, there is no reliable equivalent figure for armed groups. Anecdotal evidence suggests the total is in the tens of thousands, at least. More than 15,000 children were reported to be fighting for various groups during the Liberian civil war, in some cases making up the majority of fighters in military units.³⁵ Reports from Colombia reveal that the number of children used by various armed groups has increased to around 11,000 in recent years, with some as young as 12 being trained to use explosives

³⁰ *State of the World's Refugees: Fifty Years of Humanitarian Action* (Oxford University Press, Geneva, 2001) 283

³¹ This figure does not include an additional 3 million Palestinian refugees.

³² Norwegian Council on Refugees, "Global Displacement: A Global Overview of Trends and Developments in 2003," available online at: http://www.idpproject.org/press/2004/Global_Overview.pdf

³³ Ibid

³⁴ Human Rights Watch, *World Report 2004: Human Rights and Armed Conflict*, (Human Rights Watch, New York, 2004) 220

³⁵ Human Rights Watch, *How to Fight, How to Kill: Child Soldiers in Liberia* (Human Rights Watch, New York, 2004)

and weapons.³⁶ Assessment of ex-combatants in the Congo estimated that on average 15% of militia members were aged between twelve and seventeen.³⁷ NGOs have found it difficult to get non-state actors to demobilize child soldiers given the limited range of pressure points available to the international community. Indeed, despite the efforts of groups like the Coalition to Ban Child Soldiers, forced recruitment of children by armed groups is increasing in some regions of conflict.³⁸

DISARMAMENT AND DEMOBILIZATION

To the extent that disarmament, demobilization and weapons collection programs are facilitated by cohesive and well-organized command structures, armed groups often present significant complications. First and most basically, it can be hard to identify the members of groups. Fighters are usually irregular and often do not wear uniforms or military insignia. There are rarely accurate or complete statistics about the size of a group's membership, its order of battle, or total weapons stocks. Armed groups are frequently in flux and there can be rapid changes in their numbers depending on the nature of the conflict and related political and economic conditions. A group's ranks can quickly expand if the right political or monetary incentives are on offer. These factors make it difficult to distinguish between combatants with a sustained involvement in fighting and mere private individuals who own weapons – an essential part of any DD&R program.

Opaque command and control structures also complicate peace processes and demobilization efforts. The relationship between fighters and the leaders of armed groups is often based on personal, family or ethnic ties, rather than any formal command structure. Armed groups are also prone to factionalism and frequently splinter when peace processes do not satisfy all members of a given group. Overlapping spheres of authority within groups also cause problems.

Finally, armed groups also have distinct patterns of internal weapons distribution. Unlike state militaries, non-state actors are often forced to decentralize their weapons stocks. The fluid and often chaotic nature of internal conflict makes the stockpiling of arms in armouries impossible, so comparatively large caches of arms may be held by individuals for easy distribution. Often this distribution takes place in a disorganized and haphazard fashion. A report on armed groups in the Congo notes that in some cases “massive quantities of weapons were distributed to militias without any mechanism to register ownership, or ascertain

³⁶ This figure includes children used by paramilitary groups. *Child Soldier Use 2003: A Briefing for the 4th UN Security Council Open Debate on Children and Armed Conflict*, Coalition to Stop Child Soldiers available online at www.child-soldiers.org

³⁷ Human Rights Watch, *World Report 2004: Human Rights and Armed Conflict*, (Human Rights Watch, New York, 2004) 220; Spyros Demetriou, Robert Muggah and Ian Biddle, *Small Arms Availability, Trade and Impacts in the Republic of Congo*, (Small Arms Survey, Geneva, 2002), 21

³⁸ For example coerced recruitment by the Lord's Resistance Army in northern Uganda has increased dramatically since 2002. See Human Rights Watch, *Abducted and Abused: Renewed Conflict in Northern Uganda* (New York, July 2003)

that they were properly dispersed."³⁹ Such patterns complicate disarmament processes, as widespread distribution not only makes identifying and accounting for weapons difficult, it also creates logistical challenges for collection.

ADDRESSING THE PROBLEM

There have been some efforts to address the issue of weapons transfers to armed groups, although they have met with mixed success. In October 1998, the Canadian government circulated a discussion paper calling for a global *Convention Against the International Transfer of Military Small Arms and Light Weapons to Non-State Actors*. The proposed Convention skirted the issue of defining non-state actors by including an annex that would list state actors and their authorized agents to whom lawful transfers could be made. Reaction to the initiative was mixed. Some governments expressed support, but it was opposed by others, as well as by a number of non-governmental organizations, who argued the proposal ignored the inherent right to self-defence for people fighting repressive regimes. Nobel Laureate Oscar Arias, a leading figure behind efforts to regulate the licit arms trade, wrote to the Canadian government expressing his concerns.⁴⁰ The proposal also elicited strong opposition from the United States. US officials told the UN Group of Governmental Experts on Small Arms that US policy was that the possibility of transferring arms to non-state actors opposing repressive regimes needed to be kept as an instrument of foreign policy.

Efforts were more successful at the regional level. In December 1998, the European Union adopted a *Joint Action on Small Arms and Light Weapons*.⁴¹ Under the initiative only states are considered legitimate end-users for transfers of military small arms. Article 3(b) includes "a commitment by exporting countries to supply small arms only to governments (either directly or through duly licensed entities authorised to procure weapons on their behalf)."⁴² In July 2002, the Joint Action was amended to include ammunition.⁴³ While the initiative has been welcomed as a contribution to small arms control efforts, it has been criticized by some for only dealing with weapons built to military specifications. It does not cover pistols, shotguns and many types of rifles used in internal conflicts.

³⁹ Although this was not the case with all groups involved in the conflict in the Congo, for example, the Ninja militia. See Demetriou *et al*, 25

⁴⁰ Department of Foreign Affairs and International Trade, "Canadian Policy on Small Arms, Light Weapons and Firearms: Status Report," Information Memorandum for the Minister of Foreign Affairs, File # IDA-2176, 20 November 1998

⁴¹ A Joint Action is a legally binding measure implemented through the national laws and regulations of individual EU members.

⁴² Council of the European Union, *Joint Action on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons* (1999/34/CFSP)

⁴³ Council of the European Union, *Joint Action on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP*, (2002/589/CFSP)

Finally, while non-state actors are not mentioned specifically in the UN Program of Action (PoA) (except as “terrorists” and “criminals”), much of the existing UN small arms agenda, by targeting the illicit trade in small arms, is designed to prevent weapons falling into the hands of armed groups.

POSSIBLE POLICY OPTIONS

What more can be done to address the problems caused by armed groups and small arms? New policy initiatives can be divided into two baskets: those that address the supply side, and those that seek to prevent the misuse of weapons once they are in the hands of non-state actors. To date, the international community has given far more attention to the former. Many states have been unwilling to support initiatives that deal directly with armed groups, fearing they will grant them legitimacy or publicity, or be seen to reward ‘terrorism’.

On the supply side, many of the initiatives in the UN Program of Action have relevance for preventing weapons flows to armed groups. Securing existing stockpiles of arms and ammunition, improving import and export controls, strengthening the capacity of law enforcement, and carrying out post-conflict weapons collection all raise the costs for non-state actors seeking to acquire arms. Given the importance of domestic supplies for many groups, questions of stockpile management and security force discipline take on particular importance. However, while the UN PoA contains much that is useful in preventing weapons proliferation, more could be done on the supply-side.

First, there remains an urgent need to deal with the unscrupulous brokers and arms dealers who play a vital facilitating role in the supply of arms to non-state actors. According to the Norwegian Initiative on Small Arms Transfers (NISAT), only 15 countries currently adequately regulate the activities of arms brokers. Brokers are adept at avoiding scrutiny by taking their deals offshore, basing themselves in states that have weak law enforcement or poor regulation. A comprehensive approach to brokering is required if it is to be monitored and controlled. One way is for states to enact legislation that regulates their citizens even when they conduct their business outside their home jurisdiction. An alternative is to devise an international regime to regulate brokers and arms dealers.⁴⁴ There is also a need to improve the present, deeply-flawed system of end-user certification which facilitates the diversion of shipments to unlawful recipients. As well as improving regulations and oversight, governments need to aggressively enforce the law. States must end the impunity with which many sanctions busters operate and ensure that brokers who violate national laws and international embargoes are prosecuted and punished.

⁴⁴ Kathi Austin, “Illicit Arms Brokers: Aiding and Abetting Atrocities,” *Brown Journal of World Affairs* (2002); see also the *Dutch – Norwegian Initiative on Further Steps to Enhance International Co-operation in Preventing, Combating and Eradicating Illicit Brokering in Small Arms and Light Weapons*, a report of the conference held in Oslo, 23-24 April 2003

Second, there needs to be better policing of UN sanctions regimes. Most multilateral arms embargoes currently in place are imposed against non-state armed groups. Unfortunately, the damning reports of UN panels of experts on Rwanda, Sierra Leone and Angola reveal just how easy it has been to circumvent these measures. These reports made a number of important recommendations for strengthening sanctions regimes, including profiling brokers and transportation companies involved in illicit trafficking, improving the inspection of military cargo at airports near regions of conflict, and improving law enforcement and customs cooperation. Within the UN itself more resources should be provided to the organs charged with monitoring sanctions regimes. Consideration should be given to the creation of a more permanent sanctions monitoring effort led by independent technical experts.⁴⁵

Finally, the question of restricting arms transfers to non-state actors should be revisited. A total ban on transfers is both morally problematic and lacks the support of key international actors like the United States.⁴⁶ However, efforts should be made to establish criteria for permissible transfers from states to non-state actors. It may be possible create a norm forbidding the transfer of weapons to groups that are known to commit egregious human rights violations.

PREVENTING MISUSE

Given the ubiquity of small arms and light weapons and the multiple channels through which they can be acquired, the effectiveness of supply side initiatives will always be limited. While important, they will never be able to completely eliminate the flow of arms to non-state actors, particularly if powerful states reserve the right to make transfers to non-state groups. It is therefore critical that we also address misuse by armed groups once they have the weapons. How can we devise ways to ensure that small arms are used in ways that are consistent with international humanitarian law and human rights norms?

Several initiatives relating to the misuse of small arms by armed groups deserve support. First, awareness of international humanitarian law among armed groups is generally extremely limited. More needs to be done to inform these groups of their obligations and responsibilities. Agencies such as the ICRC engage armed groups before and during conflicts to disseminate information about their responsibilities under IHL. ICRC's own research suggests that these efforts have made a difference, particularly in preventing the development of a cycle of violence in some conflicts.⁴⁷ Governments need to support this work, and provide

⁴⁵ Vines, "Monitoring UN sanctions in Africa: the role of panels of experts," 260

⁴⁶ The US has described a total ban as "conceptually flawed." See C. Edward Peartree, "U.S. Views: Ban on Transfers of Small Arms and Light Weapons to Non-State Groups" Remarks at Follow-up Meeting on the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects, Tokyo, January 24, 2002

⁴⁷ Daniel Muñoz-Rojas, "Violations of International Humanitarian Law: Their Psycho-sociological Causes and Prevention" paper presented to the conference "Curbing human rights violations by non-state armed groups," University of British Columbia, Vancouver, 14-15 November 2003. Available online at http://www.armedgroups.org/Panels/munoz_rojas.htm

financial and technical support to the UN, ICRC and humanitarian agencies seeking to promote human rights norms and IHL among armed groups.

Many armed groups, however, simply choose to ignore international norms. The international community needs to send a clear message to groups that target civilians and commit atrocities that their actions will not be tolerated. Where the leaders of armed groups are responsible for the commission of war crimes they need to be held accountable for their actions. In some conflicts the prosecution of war criminals may not be possible without jeopardizing fragile peace processes. However, wherever possible, the worst violators of IHL and human rights norms should face justice.

Third, states need to provide greater levels of support for the many humanitarian actors that deal with armed groups on a daily basis to protect civilians, demobilize child soldiers and seek peaceful resolutions to conflicts. Even though the UN Secretary-General has repeatedly called for measures to address “all parties” in armed conflicts, states remain reluctant to place the general question of non-state actors on the UN’s agenda. The ‘war on terror’ has made engaging these groups even more difficult. If the international community is sincere in its promise to protect civilians in situations of conflict, then it needs to take every opportunity to ensure that agencies who deal with armed groups have the financial and political support they need to be successful.

Finally and more ambitiously, it may be time to consider giving some armed groups the opportunity to express their willingness to be bound by international law and humanitarian norms. Currently, there is no international body or institution through which non-state actors can formally acknowledge international norms, including those regarding small arms and light weapons. Certainly, many groups would be unable to fulfill their obligations, either due to lack of capacity or unwillingness to respect international norms in their operations. However, the same observation also applies in large part to many state actors.⁴⁸ While the task would not be simple, the small arms community could build on the experience of groups seeking to ban landmine use, or promote principles regarding the treatment of IDPs among non-state actors.⁴⁹

CONCLUSION

Non-state armed groups are crucial actors in contemporary conflicts. They have the ability to affect the security and wellbeing of tens of millions of people in war zones across almost every continent. This paper has provided a brief overview of armed groups’ participation in the arms trade and some of the consequences of

⁴⁸ Bruderlein, “The role of non-state actors in building human security”

⁴⁹ See for example, *Seeking Rebel Accountability: Report on the Geneva Call Mission to the Moro Islamic Liberation Front (MILF) in Central Mindanao, Philippines* (Manila and Geneva, 2002); on the application of the Guiding Principles of Internal Displacement for armed groups, see the interview with Francis Deng, Representative of the UN Secretary-General on Internally Displaced Persons, IRIN News, available online at <http://www.irinnews.org/webspecials/idp/intFrancisDeng.asp>

the misuse of small arms in internal conflicts. Reducing the proliferation of light weapons and preventing abuses by these groups remains an important human security challenge. To date, however, the international community's small arms agenda has been focused almost exclusively on supply side initiatives. While these measures are important, they need to be complemented with imaginative strategies that address questions of demand and reduce the misuse of weapons by non-state actors.

The paper has also highlighted the fact that we still know too little about the holdings, transfers and use of small arms by non-state armed groups. In key areas, our data is incomplete, ambiguous or simply non-existent. Effective policies to address the threat to human security posed by armed groups need to be built on a foundation of solid evidence. Governments should encourage and support research that will provide us with a clearer picture of the challenge posed by armed groups, and a better understanding of the tools the international community has at its disposal to influence their behaviour.