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Transitioning to Peace Guns in Civilian Hands

INTRODUCTION

The Small Arms Survey estimates that 60 per cent of the global stockpile of 640 million guns are in civilian hands in varying states of legality.¹ These weapons are held by a diverse array of people—including farmers, militias, sporting shooters, collectors, private security guards, criminal gangs and private citizens of all ages. The rest are held by state forces—police, military, customs and border agents—with one per cent of the global stockpile in the hands of non-state armed groups.

In wartime a neat dichotomy between civilians and combatants is often presumed, where only the latter would bear weapons. As a consequence, disarmament, demobilisation and reintegration (DDR) programmes targeting

former combatants are a relatively standard component of early peace-building efforts in the wake of armed conflicts. Efforts aimed at reducing and controlling guns in civilian hands are generally implemented in a more haphazard and *ad hoc* fashion. Such measures include community-based weapons collection, the development of a regulatory framework of norms and institutions to control weapons that remain in circulation, and programmes aiming to transform armed violence by changing attitudes related to weapons possession and misuse.

In the last five to seven years, a range of nations emerging from war and protracted armed conflict have strengthened (or are in the process of doing so) national firearms legislation including Cambodia, South Africa, Liberia, Afghanistan, Haiti, Sierra Leone, El Salvador and Guatemala. A mixture of policy approaches and lessons learned are emerging for reflection and refinement. On the occasion of the review of the 2001 UN Programme of Action, it is timely to consider the relevance of strengthening national firearms legislation to both the implementation of the Programme of Action and wider peace-building processes.

This policy brief attempts to survey the wide range of groups and individuals likely to possess weapons in the aftermath of armed conflict, besides armed forces and organised armed groups. It examines the challenges posed by these weapons in peace-building and violence prevention efforts, and puts forth a number of standards and good practices that could be adopted in this regard.

At the RevCon, States should recognise that . . .

1. Comprehensive disarmament requires that other arms control and reduction measures are implemented besides DDR programmes. These include community-based weapons collection, the development of a regulatory framework of norms and institutions, as well as awareness-raising programmes.
2. Controlling weapons in the hands of civilians, including through updating national firearms legislation, is a peace-building priority.
3. Given the surge in gun violence often observable after the signing of peace agreements, national measures to regulate small arms and light weapons are also an essential crime prevention and violence reduction strategy.
4. Reducing small arms availability and misuse is a necessary prerequisite for sustainable development. These issues should be addressed in parallel and supported by official development assistance.
5. Legislative reforms should be implemented in parallel with security sector reform and measures supporting the rule of law.

WHO HOLDS THE GUNS?

As the nature of armed conflict has changed over the past two decades, so has the definition of ‘combatants’. Gone are the clearly defined opposing lines of uniformed armed forces fighting on battle grounds distinct from the mass of innocent civilians. Instead, contemporary armed conflicts feature a range of armed individuals and groups: civil defence



Port-au-Prince, Haiti, December 2004. Louis Mickelson, 14, waits to go into surgery so doctors can remove bullets lodged in his back and leg after armed men attacked his school. © Reuters/Daniel Morel

forces, militias, paramilitaries, criminal groups, armed gangs, child soldiers and mercenaries, to name a few. Numerous individuals who may not have taken an active part in the war still possess small arms for reasons such as self-protection, hunting, or status. These weapons can continue to pose problems long after the official conflict has been declared over.

In South Africa, for example, following a dramatic increase in state-sponsored violence in 1990, the African National Congress (ANC) called for the formation of self-defence units in the townships.² Similar armed patrols were set up by the Pan African Congress and the Inkatha Freedom Party. However many self-defence units started pursuing their own interests and the parties lost control over them. When the ANC called for their disbanding, in 1993, it provided neither compensation nor alternatives, and very few units obliged. Their calls to be incorporated into the police along other armed groups were not heard.

In Guatemala, civilians were forcibly organised by the army into civil patrols since 1981.³ Between 500,000 and 1 million individuals belonged to the patrols at various points until 1995. The population was concentrated in settlements large enough to support a civil patrol on guard around the clock. Civil patrols were in turn organised hierarchically at the village, district and province levels, with top commanders

appointed by the army. Most patrols were also armed by the army, and gradually the patrols took over law enforcement duties. Although a peace agreement was signed in 1996 and patrols were legally abolished, they continued to operate in various areas of the country and have allegedly been responsible for new abuses.⁴

In Haiti, an estimated 210,000 small arms are in circulation, in the hands of various armed groups, self-defence groups, criminal gangs, private security, state forces, and numerous civilians.⁵ Armed groups and criminal gangs are hardly distinguishable, and enter into complex relationships with the population—families have siblings identifying with different, sometimes competing armed groups. Most groups follow political goals only insofar as their allegiance can be bought by political parties bent on coercively widening their support base. Each group is headed by a permanent core consisting of a leader and approximately six to eight assistants. The rest of the troops will offer their services to various groups for a fee—armed groups will feature several dozen such mercenary foot soldiers.⁶

In the Democratic Republic of the Congo, it was reported in July 2005 that large quantities of small arms, including personal firearms, assault rifles, smaller quantities of RPGs and mortars, together with ammunition, were being distributed to the civilian population in North Kivu (eastern DRC), starting in October 2004. They contributed to a significant rise in violent ethnic tensions in the province, particularly in rural areas. A local police official also reported that the weapons distributions had considerably fuelled insecurity, including a rise in armed robberies and ambushes on the roads, and a generally more aggressive stance towards the police.⁷

IN THE PROGRAMME OF ACTION

The Programme of Action calls on States to implement legislative or other measures required to criminalise ‘the illegal manufacture, possession, stockpiling and trade’ in small arms (Section II, para. 3). It also calls on States to adopt ‘all the necessary measures to prevent the . . . possession of any unmarked or inadequately marked small arms and light weapons’ (Section II, para. 8). States are exhorted ‘to

ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons within their jurisdiction.’ Finally States are asked to ‘identify, where applicable, groups and individuals engaged in illicit manufacture, trade, stock-piling, possession. . . and to take action under appropriate national law. . .’ (Section II, para. 6).⁸

The Programme of Action additionally calls on States to ‘develop and implement, where possible, effective disarmament, demobilisation and reintegration programmes, including the effective collection, control, storage and destruction of small arms and light weapons’ (Section II, para. 21). It does not, however, refer to wider arms control and reduction efforts.

“Domestic legislation on civilian possession is a key component to ensuring the implementation of Section II, par. 3 of the UN PoA.”

—South Africa statement to the January 2006 PrepCom⁹

The importance of strengthening national measures was further recognised during the 2005 UN General Assembly First Committee, when the Netherlands advanced a resolution calling upon States to ‘more effectively address the humanitarian and development impact of . . . small arms . . . in particular in conflict or post-conflict situations, including by . . . systematically including national measures to regulate small arms and light weapons in longer term post-conflict peacebuilding strategies and programmes.’¹⁰ Some 177 States ultimately supported this resolution.

BEFORE YOU ASK . . .

1. Regulating guns in the hands of civilians is not in the Programme of Action and surely has no place for discussion at the RevCon?

The Programme of Action does refer in several paragraphs to the illegal possession and holding of small arms and light weapons, calling on States to keep comprehensive and accurate records of weapons holding within their jurisdiction. Notably some 70% of States have reported on efforts to strengthen national firearms legislation since 2001¹¹: the majority of States regard national firearms legislation as instrumental to implementing the Programme of Action.

2. Then why is this an important focus?

Failure to control and reduce guns in civilian hands in post-war contexts leads to higher levels of crime; greater likelihood of a relapse into armed violence; prolongs cycles of poverty and jeopardises sustainable development.¹² Controlling and reducing guns in civilian hands is a key peace-building priority. Agencies such as UNDP recognise this and systematically include efforts to strengthen, update and harmonise national gun laws in countries where they work.¹³

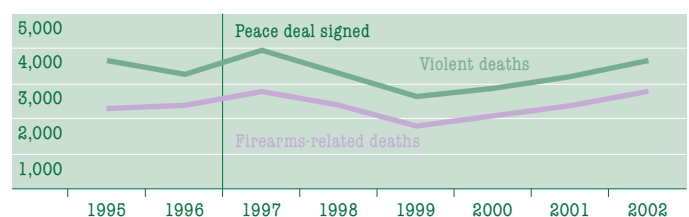
3. How can you discuss national firearms legislation and arms reduction programmes in a global forum? They depend on culture and context, and therefore do not lend themselves to global policy making.

Legislation and programmes have to respond to local realities. However there are emerging standards and good practices that can and should be exchanged in the global process related to ending the illicit trade in small arms. Furthermore the diversity of local contexts and cultures does not mean that common basic principles cannot be identified.

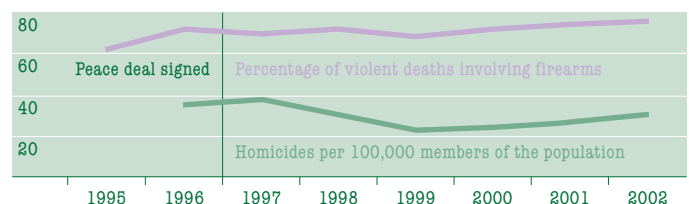
THE REALITY

- 60% of the global stockpile of 640 million guns are in civilian hands—compared to 40% for State forces and just 1% for non-state armed groups.¹⁴
- Civilians are 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

Number of violent and firearms-related deaths in Guatemala



Firearm death rate and homicide rate in Guatemala



Source: Small Arms Survey 2005, p. 270

year—up to five times more, depending on estimates, than die directly in situations of war.¹⁵

- The majority of users and abusers of guns globally are men.¹⁶ They are also the primary victims and survivors of gun violence, particularly males between the ages of 14 and 44 years.¹⁷
- In the long-term fatal injuries and excess deaths can remain surprisingly high, sometimes at levels higher than before the war.¹⁸ A review of injuries in Cambodia conducted by the International Committee of the Red Cross between January 1991 and February 1995 found that weapon injury rates rose in the post-war period, particularly after the withdrawal of the UN peace-keeping force.¹⁹

KEY ISSUES AND RATIONALE FOR ACTION

Several factors appear to influence surges in armed violence and crime after peace deals. These include the cantonment and significant reduction of armed forces and armed groups who provided *de facto* security; weak or ineffective law enforcement agencies; the lack of economic growth and local production, contrasting with high expectations following the peace agreement; the reorientation of paramilitary or covert organisations into criminal organisations; and the ready availability of weapons, which makes criminality easier and more lethal.

“Once peace is signed, one would expect that hostilities are over. This in most situations is not the case because the tools for killing may not be easy to control until there is a strong will to enforce legislation. . . As possession of guns is common place by almost everybody in the entire south Sudan, all tribes have shifted to using guns in village conflicts, instead of sticks.”

—Dr. Dario Kuron Lado, May 2006, surgeon at the Juba Teaching Hospital, Sudan²⁰

There is often an assumption that ex-combatants are responsible for most of the gun violence occurring in the aftermath of armed conflict. This is not necessarily the case.

“Once a peace agreement is signed, it is essential that weapons be removed from circulation. . . . Thus the outcome document of the Review Conference could contain the following commitments: . . .

- Ensure that a long-term goal of post-conflict disarmament is to establish a norm within society that possession of small arms is a privilege carrying a range of obligations.
- Ensure that post-conflict recovery programmes include implementation of effective national firearm regulations, . . . The minimum standards of such legislation could be based on the 1997 Resolution of the UN Commission of Crime Prevention and Criminal Justice.”

—Netherlands statement to the January 2006 PrepCom

In the opinion of one observer in El Salvador, violence is prevalent among elements of the youth who grew up during the armed conflict, and have been influenced by the dominant display of militarism in everyday life.²¹ This highlights the need for programmes targeting young people, particularly young men, who are at risk of engaging in violent or criminal behaviour.

Women in such settings often experience heightened levels of intimate partner violence due to cultures of violence instilled during war periods.²² Such violence is commonly overlooked and is an indicator of the normalisation of violence. Weapons also play other socio-cultural roles, such as symbols of superiority and prestige, of the passage to manhood, of violent masculinities and ‘machismo’, which often existed prior to war and require transformation.²³

The widespread availability of weapons means that DDR programmes, by targeting only former combatants and those associated with fighting forces, cannot be expected to achieve comprehensive disarmament and weapons control. The Stockholm Initiative on Disarmament, Demobilisation and Reintegration (SIDDR) also concluded that a “DDR process will thus not address the problems of an

abundance of small arms in post-conflict countries as such, since a large share of those weapons are found among the civilian population.”²⁴ Additional measures and programmes are therefore necessary, including community-based weapons collection and destruction programmes, the establishment of norms and institutions able to ensure security and control weapons remaining in circulation, the transformation of attitudes related to weapons possession and use, and the strengthening of legislative frameworks and enforcement capacity. Thorough research and data collection will be necessary to ensure that programmes and reforms tackle all groups holding weapons, and all facets of armed violence.

This is also a conclusion of the UN Integrated DDR Standards (IDDRS), a joint effort of 15 UN agencies, departments, funds and programmes to develop an integrated policy on DDR within the UN system. Although the standards are focused on combatants from armed forces and armed groups, they do recognise the importance of other weapons management measures. As stated in a report from the UN Secretary-General on this initiative:

the IDDRS “advocate linking the process to wider arms control and reduction measures that address weapons illegally held by civilians, often through weapons amnesty or “weapons for development” programmes. Such arms control and reduction measures should also be closely linked to rule of law and security sector reform programmes.”²⁵

Given that firearms legislation is often outdated in countries emerging from armed conflict, legislative reforms and strategy for implementation must be viewed as an essential peace-building component. While the immediate purpose of the legislation is to set a framework for future

weapons possession, the reform process can also trigger a public debate on the place of guns in society, and help change attitudes around weapons holding and use. It is therefore important that the reform process be transparent and open to all stakeholders, particularly civil society and various sections of government who may not necessarily have worked together collaboratively previously.

Effective weapons control and reduction measures are also contingent upon law enforcement agencies being willing and able to implement them. Where the authority of the state has been severely eroded by war, and its human, physical and financial resources have been depleted, efforts at strengthening and reforming the justice and security sectors are as important as they are challenging.

Finally, mapping and planning activities should already be undertaken by the security and development communities when peace is on the horizon, an opportunity often missed in practice. Once a peace agreement is being negotiated, weapons control needs to be addressed explicitly, so that future activities are solidly grounded in the political process, planned together, and synchronised rather than implemented in sequence.

SOLUTIONS IN ACTION

Relevant measures in peace agreements:

The CPA in Sudan

There is no peace agreement to date with comprehensive weapons control provisions, beyond references to DDR. However the Comprehensive Peace Agreement (CPA), signed in December 2005 between the Sudanese government and the SPLM/SPLA,²⁶ illustrates how agreements can be used to frame long-term security arrangements and violence prevention measures. The CPA includes detailed provisions providing space for a range of security sector activities. It calls for example for the development of a code of conduct for the members of all armed forces which should, among other, make a clear distinction between military and policing mandate during cease-fire period.²⁷

Thorough research:

El Salvador ‘Firearms and Violence Study’

Sound research is essential for effective planning of arms control and violence reduction programmes and reforms. In El Salvador, the 2001 ‘Firearms and Violence’ Study was a joint undertaking of the Central American University, the Foundation for the Study of Applied Law, together with

Basic principles for national firearms legislation

1. Prohibiting/restricting certain uses of guns

For example, legitimate reasons to hold a gun, safe storage requirements, restrictions on carrying guns in public

2. Prohibiting/restricting certain users of guns

For example, criminal record, perpetrators of family violence, minimum age, mental fitness

3. Prohibiting/restricting certain guns

For example, military assault rifles, handguns, ammunition controls



Guatemala, April 2006. Johnny Boy is a Guatemalan reggaeton singer. Committed to a society that would be rid of firearms, he organises free concerts under the banner “Vive Sin Armas” (Live Without Guns). Photo by Heidi Schumann

the national statistics department and the civilian police. Quantitative and qualitative information was collected from public institutions (security, health, justice) through a national survey on attitudes, opinions and norms around violence; police data on crime; in-depth interviews with key informants; focus groups with representatives of police, arms dealers and gun owners; and surveillance of data from two general hospitals in San Salvador. The findings helped shape legislative and institutional reforms, as well as several outreach and communication activities to targeted groups in the population (eg. youth, young men, gun owners and manufacturers). The report also attracted widespread media interest, triggering a public debate.²⁸

A consultation process:

South African gun law reforms

As part of a process of social transformation, legislative reform requires broad involvement of citizens and various government and civil society stakeholders. In South Africa, the draft law was subject to scrutiny by many interest groups, including weapons dealers and owners, health professionals, women's rights groups, anti-violence groups, human rights advocates and community-based organisations, as well as different sections of government. Six weeks were allocated to make written submissions on the Bill, which was then debated in Parliament over a six-week period. This generated intense public interest and enabled a final

piece of legislation reflecting the interests and concerns of various stakeholders. This process appears to have influenced public opinion in favour of stricter regulations, and altered behaviour of civilian gun owners in reducing the demand for firearms.²⁹

Communicating reform:

Disseminating the new law in Cambodia

Good laws are only as good as their implementation. Law enforcement agencies should therefore be familiarised with new laws, and trained in their application. In Cambodia, where new gun laws were adopted by the National Assembly in April 2005, significant effort was invested in ensuring that law enforcement officers in particular would be made aware of its provisions. Some 20,000 copies of the law were printed for wide distribution, particularly to police posts and government offices in all 1,621 communes in the country. A further 100,000 pocket-sized copies of the law were prepared for distribution to law enforcement officers and district courts. The Ministry of Defence also organised seven training courses. Experience suggests that such widespread distribution and ‘advertising’ of the law has assisted in making it more effective.³⁰

POLICY RECOMMENDATIONS

1. National institutions should be at the forefront of arms-related activities. In the wake of armed conflict, capacity will often be weak and resources depleted, and the support of donors, international and non-governmental organisations will be crucial to a successful transition. For the sustainability of efforts, the focus must be on building the capacity of national institutions and civil society.
2. Various arms control and reduction measures should be planned together and synchronised, rather than implemented in sequence. Although implementation must be flexible, mapping and planning can start when peace is on the horizon. If weapons control is rooted within the agreement itself, it may stand a better chance of success.
3. Institutional and legislative reforms should go hand in hand. While national firearms legislation will set the

standards for weapons possession and use, institutional reforms, particularly of the justice and security sectors, will ensure that those norms are adequately enforced.

4. The UN Peace-Building Commission should provide guidance on good practices for comprehensive arms control and reduction activities in post-war situations.
5. Communication and public debate of reforms is essential for changing attitudes. New norms around weapons possession and use are linked to a necessary process of social transformation. This process should be transparent, and involve all stakeholders, particularly civil society given the role such organisations play in raising public awareness.

SUGGESTIONS FOR ACTION AND FURTHER RESEARCH

1. Encouraging action-oriented research—Further research is required on:

- The relationship between dysfunctional justice and security sectors and the demand for small arms amongst civilian populations;
- The question of incentives for weapons collection (collective vs. individual, financial vs. in-kind vs. opportunity);
- Basic principles and operational guidance for developing national firearms legislation in low-income or post-war settings;
- Sequencing of disarmament and weapons control activities.

2. Holistic disarmament foci in the UN Peace-Building Commission—There are strong grounds for encouraging a focus on disarmament and weapons control issues in the portfolio of the Commission. The Secretary-General has made a number of recommendations that will likely be taken into consideration by focusing on DDR.³¹ However that should not be where a weapons control focus ends as there is much that can *and* should be done to reduce armed violence and control guns in the hands of civilians, police, private security and the military. With weapons availability increasingly recognised as a proximate cause of violent conflict, there are several areas where the Commission could provide timely advice to various actors.

3. Training—Operational agencies should consider comprehensive training and deployment of staff with a holistic

understanding of a range of developmental, peace-building and security challenges. Such capacity building would in many cases enable better mapping and planning of various weapons-related activities. □

ENDNOTES

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- 10 *Addressing the negative humanitarian and development impact of the illicit manufacture, transfer and circulation of small arms and light weapons and their excessive accumulation*. Available at: www.un.org/Depts/dhl/resguide/r60.htm A/RES/60/68; See also HD Centre (2005), *Small arms control: A focus on the 2005 Session of the UN First Committee*. Available at: www.hdcentre.org/UN+First+Committee+%28Disarmament%29+2005
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- 25 UN General Assembly (2006), *Report of the Secretary-General on Disarmament, demobilization and reintegration*, A/60/705, 2 March, para. 43
- 26 Sudan People's Liberation Movement/Army
- 27 See www.usip.org/library/pa/sudan/cpa01092005/cpa_toc.html for the text of the agreement. The HD Centre has a project called 'Negotiating Disarmament', which aims to fill a knowledge gap by producing a guide for negotiators and parties involved in peace processes. It will outline options for tackling various aspects of disarmament and weapons control in peace processes and peace agreements. See www.hdcentre.org for more information.
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KEY RESOURCES

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ABOUT THE CENTRE FOR HUMANITARIAN DIALOGUE

The Centre for Humanitarian Dialogue (HD Centre) is an independent foundation whose purpose is to prevent human suffering in war. Our humanitarian approach starts from the premise that preventing and resolving armed conflict is the surest means of doing so, and to this end we promote and facilitate dialogue between belligerents. Through our work, we seek to contribute to efforts to improve the global response to armed conflict. Our operational engagements are complemented by policy and analytical work focused on civilian protection, mediation techniques, transitional issues, and arms and security matters. The Human Security and Small Arms Programme began in 2001. It includes a range of projects that aim to draw attention to the human cost of small arms availability and misuse, and to identify policy options for action by governments and other actors.

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