

Arms Availability

and the
Situation of Civilians
in Armed Conflict



A study by the
International Committee of the Red Cross



International Committee of the Red Cross

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1. INTRODUCTION

The resort to arms is as ancient as many of the grievances over which some conflicts are fought. Consequently, the rights of self-defence and self-determination are well established in international law.

What is new is that a vast number of actors have increasingly easy access to highly lethal weaponry from assault rifles to rocket launchers, facilitated by the opening of borders, arms surpluses from the Cold War and the rapid expansion of free trade. What has changed is that such weapons are increasingly falling into the hands of all types of fighters, including children, unconstrained by the rules of international humanitarian law [1] which have hitherto attempted to control the most destructive passions engendered by conflict. What is unacceptable is that weapons today are all too often being turned against those whom humanitarian law is designed to protect. In many of the conflicts of the 1990s military weaponry has all too frequently been aimed at civilians – with devastating effects.

A single shot from a standard rifle fired into a crowded market is normally a criminal incident. Unloading dozens of bullets a minute from an automatic weapon into that same market can unleash a bloodbath. An artillery shell landing in such a situation can arouse passions which render violations of the laws of war virtually inevitable. In recent years this type of incident has become all too familiar to delegates of the International Committee of the Red Cross (ICRC) and their partners from National Red Cross and Red Crescent Societies in war-torn lands.

As international arms transfers, particularly of small arms, have become easier the promotion of respect for international humanitarian law has become vastly more difficult. The proliferation of weapons in the hands of new and often undisciplined actors has outpaced efforts to ensure compliance with basic rules of warfare. The result is appalling levels of wanton violence and a stream of horrific images which threaten to immunize the public and decision-makers to ongoing violations of humanitarian law. In the absence of vigorous action to restrain the availability of military-style arms and ammunition, those responsible for training combatants in the laws of armed conflict have little hope of reaching all those capable of waging

war. The price to be paid is high, in terms of human suffering, social and economic disruption and the burdens of intervention when the international community decides to act.

Having recognized these trends, the Intergovernmental Group of Experts for the Protection of War Victims (January 1995) and the 26th International Conference of the Red Cross and Red Crescent (December 1995), including 135 States party to the Geneva Conventions of 1949, called upon the ICRC *to examine, on the basis of first-hand information available to it, the extent to which the availability of weapons is contributing to the proliferation and aggravation of violations of IHL [international humanitarian law] in armed conflicts and the deterioration of the situation of civilians*. It is hoped that the present study on the ICRC's own experience in situations of armed conflict will contribute to, and provide further impetus for, initiatives to regulate arms availability, such as those described in Section IV, which are being pursued by a growing number of governments, non-governmental organizations, regional organizations and United Nations bodies.

Section II of the study describes the changing patterns of armed conflict and arms transfers since the end of the Cold War. It reflects a growing body of research conducted in recent years by academics and non-governmental organizations. It should be noted that the information given in this section helps to put the ICRC's own experience into a broader context but is largely based on external sources which are indicated. Section III analyses the ICRC's field experience and presents the institution's perception of how the availability of weapons has affected the civilian populations it is charged with assisting and protecting. A number of relevant national and international initiatives are examined in Section IV. The challenge which unregulated arms transfers may pose to international humanitarian law is discussed in Section V, which also suggests criteria for arms transfers that could help ensure respect for the rules of armed conflict. Section VI summarizes the views and recommendations of the ICRC.

The ICRC has attempted, particularly in Sections III and V, to fulfill the mandate entrusted to it by the 26th International Conference by presenting its experience and analysis of the implications of unregulated arms availability for civilian populations and in terms of violations of international humanitarian law in conflict situations. The ICRC's experience has been distilled through a variety of methods. The document presents two recent case studies analysing information drawn from the ICRC's large medical database on patients treated in ICRC hospitals and by its medical teams. These provide unique insights into the nature of arms-related casualties in two contexts in which the ICRC has worked. To our knowledge, these are among the few systematic studies which have been published on the nature of arms-related casualties among the local population in war-torn societies. In addition, a survey was carried out among senior ICRC delegates with a collective experience of 41 assignments in conflict and post-conflict settings on four continents since 1989. The objective was to gather the perceptions of ICRC staff on the degree of weapons availability within various segments of given populations, the nature of arms-related incidents involving civilians and the direct impact of arms availability on ICRC field operations.

The present document should be read as the testimony of a humanitarian organization, based on its own experience and mandate, with both the strengths and the limitations this implies. ICRC delegates, although deeply involved in addressing the human suffering caused by armed conflict, are not arms specialists and are not concerned with the military capabilities of parties to a conflict. Indeed, the gathering of military information by ICRC field delegates could put their lives in danger, threaten the neutral status of the institution and undermine its ability to protect and assist victims of war.

It is hoped that this ICRC study will nonetheless contribute to a better understanding of the human cost of unregulated arms flows and the threat which these pose to the fabric of international humanitarian law and to international assistance in conflict situations. The ICRC encourages the reader to reflect on the contents of this paper and on the views and expertise provided by arms specialists in the research community, the United Nations and in regional and national contexts. The ICRC is convinced that by combining the experience and insights gained from these diverse sources the international community can and indeed must find ways to limit the terrible price paid by civilians as a result of the widespread availability and abuse of military- style weapons.

2. CURRENT PATTERNS OF CONFLICT AND ARMS AVAILABILITY

With the end of the Cold War and the collapse of the former Soviet Union, the pattern of both conflict and international arms transfers [2] has changed significantly. These changes have contributed to creating high levels of civilian casualties and an extremely difficult environment for the delivery of humanitarian assistance. Although the present study focuses primarily on the role of arms availability, an understanding of the relationship between the availability of weapons **and** the nature of armed conflict in the 1990s is

essential to a proper analysis of the problem at hand. Although arms may **increase** the lethality of conflicts and **facilitate** aggression against civilian populations many other factors contribute to the heavy toll paid by civilians in recent conflicts.

A. A proliferation of actors and a diversity of motives

In the 1990s, the nature of armed conflict has changed dramatically. The withdrawal of superpower support has compelled armed groups and governments to become increasingly self-reliant to ensure their own survival – whether by selling weapons abroad or by associating political and military efforts with commercial pursuits. For insurgent groups in particular this ‘privatization’ of armed struggle has meant trading, often illegally, in resources under their control. As such groups already operate outside the law, illegal trade can give them a comparative advantage over other dealers – whether the product sold is diamonds, ivory, narcotics, wood products or weapons. The transactions are easier when there is little or no State control in areas of rebel influence and where transborder cooperation with friendly populations or governments in neighbouring countries is possible.

When trade in local resources is not an option, insurgents often turn for support, through violence or threats of violence, to the local population and international humanitarian agencies, which are sometimes forced to turn over goods and materials intended for aid operations. In such situations the possession of arms can become a *sine qua non* for subsistence, whether one is part of an insurgent force or a local peasant. The ‘privatization’ of security has also led to a decentralization of command and control over armed forces. Since resources are not provided by an external patron [3] or perhaps even by the leaders of insurgent movements, the chain of command essential for maintaining discipline in armed forces also tends to break down. Power, authority and well-being derive not from a central source but from the arms cache, drug route or mineral deposit one controls, on the degree of fear that can be instilled in the local population or on the amount of material that can be siphoned off from international agencies. In this context it is easy to imagine a proliferation of armed groups the identities of which are difficult to discern. While these actors may also harbour political ambitions, their activities are frequently a strange and chaotic mix between armed struggle, illegal commerce and intimidation.

Another aspect of recent conflicts has been fighting along tribal, religious and ethnic lines. As State structures have eroded in many countries groups involved in combat of this nature have felt the need to protect themselves against real or perceived threats from other groups, central authorities or both. This type of conflict is mostly fought in and against local communities rather than against military targets. When the parties pursue policies such as ‘ethnic cleansing’ the goal is no longer to put enemy troops hors de combat [4] but to drive civilians from their homes by terror, forced displacement, killings or a combination of all these. The intense hatred bred by such conflicts can bitterly divide societies, neighbours and even families long after the armed conflict itself has ended. The typical victims of such conflicts are precisely the civilians who are entitled to comprehensive protection under international humanitarian law.

In situations where the concept of respect for civilians and the vulnerable is not understood or is intentionally ignored, the principle of giving humanitarian workers access to those in need of assistance is often blatantly disregarded. In the words of one senior ICRC official: “There is no comparison (...) between the dangers to which ICRC delegates are exposed today and those they used to encounter in more traditional contexts. Because they are undesirable witnesses, because their activities slow down or even thwart the objectives of combatants, because they are ‘rich’ in countries that are poor, for all these reasons delegates are considered perfectly legitimate targets by those who prey on humanitarian organizations.” [5]

B. Civilian casualties

Concern about the widespread **availability** of arms is driven by the **misuse** of weapons. Most of those who wish to understand the issues related to weapons availability and misuse have understandably focused on the occurrence of weapon injuries among the civilian population.

Over recent years a number of sources have cited figures that purport to document the proportion of civilians injured by weapons in various conflicts. Many of these sources put the proportion at 80 to 90% of all people injured. It is important to note that these estimates are almost always provided with no indication of how they have been arrived at. Most commonly, a reference is given which merely refers to an earlier report quoting the same figure. Thus, in recent years, a large number of documents by non-governmental organizations, international organizations, and even articles in the peer-reviewed medical literature have cited figures which are increasingly being used as ‘evidence’ by those concerned with weapons availability and misuse, but which are difficult, if not impossible, to substantiate.

The figure of 80 to 90% may conceivably be correct in some circumstances. Logic alone would suggest that conflicts which are predominantly based on religious, ethnic, or cultural divisions do generate high levels of civilian casualties. However, these same conflict situations tend to be those without a sustained

international presence, and estimating the number of individuals killed or wounded, let alone determining their combat status, is either not done, or relegated to educated guesswork.

Thus, despite concern about civilian weapon injury, there are relatively few sources that provide original data which directly addresses the issue. One such source is the ICRC surgical database, begun in 1991 to record information relating to the ICRC's surgical activities. An analysis of the first 17,086 people admitted for weapon injuries reported that 35% were female, males under 16, or males aged 50 and over [6]. Clearly, this figure is a conservative indicator of the proportion of people injured by weapons who were probably non-combatants [7] and who received care under the auspices of the ICRC. A study in Croatia used death certificates and employment records to examine the civilian proportion of conflict-related fatalities and found that civilians could at most have accounted for 64% of the 4,339 fatalities studied [8].

Irrespective of which proportion of civilian casualties is felt to be most valid, there are a number of points that should be borne in mind. Firstly, all of the figures cited above suggest that civilian death and injury in recent armed conflicts is high given the protection to which civilians are entitled under international humanitarian law. Secondly, there is evidence that the proportion has been increasing over the course of the twentieth century [9]. Finally, concern over the 'true' proportion of civilian casualties may be overly simplistic and somewhat misleading. To address the civilian population's needs in terms of protection during armed conflict, it is also necessary to examine the circumstances surrounding weapon injuries inflicted upon civilians, as is done in Section III. Consideration of the context of death or injury reveals differing injury mechanisms in specific situations, with very different implications for humanitarian intervention [10].

C. Awash in weapons



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The Cold War competition between two strategic alliances, in which arms were made available primarily for global political and strategic purposes, has largely disappeared. Major weapons transfers by the principal exporting States are now often motivated primarily by economic and employment benefits. Military, strategic and political factors have become secondary considerations in many instances and are sometimes completely ignored. The human costs of arms transfers have, until recently, been considered of little importance.

A major impetus driving arms sales to developing States has been the rapidly shrinking military budgets of northern industrialized countries. The lack of coherent policies for conversion of military production capacities to serve the civilian economy has meant that military industries with high production capabilities generated by the Cold War are competing intensively to develop new markets, particularly in the developing world.

Even the former Czechoslovakia, which made a political decision in the early 1990s to cease arms exports, subsequently chose to re-enter the business for economic and other reasons. In addition, large quantities of surplus weapons have been transferred from the northern hemisphere to developing countries in the form of direct aid, subsidized sales or intra-alliance transfers. Ironically, these surplus arms are the by-product not only of reduced military budgets and forces in the industrialized countries but also of successful arms control agreements that have required members of NATO and the former Warsaw Pact to eliminate hundreds of thousands of weapons from their inventories.

This flow of surplus arms is not likely to end soon – unless preventive action is taken without delay. In the coming five to ten years a new wave of surplus weapons and ammunition into developing countries can be expected to result from the need for funds in some States of the former Soviet Union and the modernization of arsenals in countries slated to join NATO or those aspiring to do so.

Large-scale arms transfers can be a source of tension in peacetime and generate high levels of casualties once hostilities begin. Massive arms exports to Iraq throughout the 1980s are seen by many observers as having emboldened Iraq's incursion into Kuwait and as justifying the allied response in the second Gulf War (1990-1991). Arms transfers into Rwanda as tensions increased in 1994 and early 1995 are widely considered to have encouraged and facilitated the 1995 genocide in that country [11]. The effects of Cold War era arms transfers have been felt in numerous intrastate conflicts around the world.

On the national level, one of the dominant features of the post-Cold War period has been the breakdown in dozens of countries of the structures responsible for controlling arms availability. From the former Soviet republics to regions of conflict in the developing world, recent years have seen a melting away both of government structures capable of containing violence and of social norms which support tolerance and social cohesion. In a vicious cycle, arms availability creates a demand for yet more weapons as insecure groups and individuals arm themselves for protection and are at the same time seen as a threat by others. Each

additional incident or atrocity confirms these perceptions.

D. Major weapons systems

In the late 1990s the trade in major conventional weapons, though drastically reduced, still accounts for tens of billions of dollars annually. At the same time the proliferation of small arms and light weapons appears to have increased, as indicated below. This is taking place in an environment where even the loose discipline previously imposed by the US and Soviet Union on their allies and client States has largely disappeared. In today's world of internal conflicts and civil strife accountability is much more difficult to impose and is often non-existent. The availability of weapons is increasingly governed by the laws of supply and demand with little or no regard to the behaviour of recipients. In the current 'buyers market' suppliers, whether States or companies, are notably reluctant to condition sales on the behaviour or purposes of belligerents.

For many years now, the global trade in major conventional weapons (such as tanks, fighter aircraft, naval ships and armoured personnel carriers) has been documented by organizations such as the Stockholm International Peace Research Institute (SIPRI), the US Arms Control and Disarmament Agency, and more recently, the UN Register of Conventional Arms. The sale or transfer of these weapons in the 1970s and 1980s, both among NATO and Warsaw Pact members and from these alliances to developing countries, was relatively easy to track in terms of both trade flows and dollar amounts. Over time, the international community became increasingly concerned that the proliferation of major weapon systems was fuelling regional arms races that could break out into open warfare (e.g., the Iran-Iraq war of the 1980s).

The end of the Cold War was followed by a dramatic fall in global exports of major weapons systems, from a high of \$40.5 billion in 1984 to \$20 billion in 1994 (with a recent increase to \$25 billion in 1997) [12, 13]. In the developing world, economic constraints and the loss of favourable terms of credit from the superpowers to finance arms sales have resulted in similar reductions in arms imports, from \$31 billion in 1987 to \$12 billion in 1994 (with an increase to \$18 billion in 1997) [14, 15]. A significant development since the 1980s has been the emergence among developing countries of a number of new exporters of major weapons systems.

E. Small arms and light weapons

While major weapons systems such as tanks and aircraft undoubtedly continue to account for many combatant and civilian deaths in ethnic and sectarian conflicts, the distinguishing features of small arms and light weapons have made them particularly well-suited to the intrastate conflicts of the 1990s, as explained below.

- **Simplicity and durability:** Unlike major weapons systems which require regular upkeep and maintenance due to their complicated electronics, avionics and propulsion subsystems, small arms and light weapons have few moving parts, are extremely durable and require little upkeep or logistical support. With minimal maintenance some items such as assault rifles can remain operational for 20 to 40 years or more. These weapons are widely used in conflicts involving uneducated combatants and children, because they are easy to handle effectively with a minimum of training.
- **Portability and concealability:** Small arms and light weapons can be carried by individuals or light vehicles; they are easily transported or smuggled into areas of conflict; and they can be concealed in shipments of legitimate cargo.
- **Military/police and civilian uses:** unlike major conventional weapons, which are generally procured only by national military forces, small arms and light weapons often have legitimate uses for both military and police forces. They may also be held, legally or otherwise, by individuals fearful for their own personal security.
- **Low cost and wide availability:** Because these weapons are mass manufactured for military, police and civilian use, there is an abundance of suppliers around the world. In addition, the existence of many tens of millions of such weapons, often recycled from conflict to conflict, has in many countries caused prices to drop well below the cost of manufacture. For example, a 1996 report indicated that in Mozambique and Angola an assault rifle could be purchased for less than \$15 or for a bag of maize. In Uganda the price was reported to be the same as that of a chicken. [16]
- **Lethality:** The increasing sophistication of rapid-fire assault rifles, pistols and submachine guns, and their widespread circulation among sub-State groups and civilians, can provide such groups with firepower which matches or exceeds that of national police or even military forces. Indeed, with weapons capable of firing up to 700 rounds a minute, a single individual or small armed group can pose a tremendous threat to society. The development of new technologies for rocket-propelled

grenades, mortars and light antitank weapons has increased the firepower that warring factions can bring to bear in a civil conflict.

In most conflicts of the 1990s death and injury have resulted less from the major conventional weapons associated with war (tanks, aircraft, warships) than from small arms and light weapons. The global proliferation of assault rifles, machine guns, mortars, rocket-propelled grenades, and so forth (i.e., weapons that can be carried by individuals, small groups or light vehicles) has facilitated the resort to armed violence in preference to political solutions. A study of 101 conflicts fought between 1989 and 1996 revealed that small arms and light weapons were generally the weapons of preference or even the only weapon used [17]. Another study estimated that 3.2 million deaths occurred in internal armed conflicts during the period 1990-1995 alone [18].

1. Small arms and light weapons availability

In comparison with major conventional weapons systems, the global trade in small arms and light weapons has been much more difficult to estimate [19], much less to control. Very few national governments publish statistics on the sale or transfer of small arms and light weapons, even less so private companies (although in many countries private sales must be authorized by governments). Moreover, much of the trade is carried on through black market and other illicit channels. Often, 'brokers' work outside the control of any State, arranging transfers between two countries while working from the territory of a third country.

An important distinction to bear in mind is that between the **proliferation of major weapons systems** and the **diffusion of small arms and light weapons**. As noted by Michael Klare, where "proliferation suggests an increase in the number of weapons possessed by certain governments, or in the number of states possessing a particular weapon system, diffusion suggests the dispersion of arms within societies, extending not only to governments and state-owned entities but also to private armies and militias, insurgent groups, criminal organizations, and other non-state actors [20]." Accordingly, analyses of the problem of small arms and light weapons must take into account not only the geographical proliferation of these weapons but also how they are becoming available to ever-expanding segments of societies.

2. Production trends

Through World War II and into the 1950s, the major industrialized countries of the West and the Soviet bloc were the main producers of small arms and light weapons. In the 1960s and 1970s an increasing number of these weapons were also produced under license by US and Soviet Cold War allies and a few countries in the developing world. To take just one example, it is estimated that between 55 and 72 million rapid-fire assault rifles were produced, often under license, in 54 countries in the post-World War II period (1945-1990) [21]. Many of these are still in circulation today, moving with relative ease from one conflict area to another.

From the 1980s the pattern of small arms production began to change. The number of manufacturers of small arms is estimated to have increased by 25% between 1985 and 1995, i.e., to some 300 companies in over 70 countries [22]. A number of countries in the developing world, including many regional powers, have either established national armouries or begun making small arms and light weapons under license from the major arms manufacturers. In addition to this rise in the number of producers, millions of small arms and light weapons have been sold or given away as the world's major military powers reduced their forces and/or found themselves with excess production capacity following the end of the Cold War.

3. International transfers

The vast majority of weapons used in recent conflicts have crossed international boundaries – some many times over [23]. The examples presented here illustrate both the variety of channels for small arms procurement and the difficulties of limiting the availability of such weapons.



Weapons convoy, Asia, 1989.
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The international transfer of a weapon may begin as a legal transaction between States as part of bilateral sales or military assistance programmes. Although reliable estimates of the percentage of legally transferred weapons which remain in the hands of their original recipients are hard to come by, it is clear that a large proportion of all illicit transfers begin with weapons which were originally transferred legally. There are a range of means whereby legally transferred arms can become illegally held arms, including intentional diversion by a government or a private company, the theft or capture of arms stocks by insurgent forces, and exchanges between criminal organizations and insurgents. In addition, many countries are either unwilling or unable to effectively monitor the flow of goods

across their borders. In some cases governments or their officials have turned a 'blind eye', for political or economic reasons, to transfers to recipients other than those which are officially declared to national authorities before the export licenses are obtained.

Many small arms and light weapons transfers involve 'black market' sales, the supply of weapons in defiance of embargoes, blockades and other legal sanctions. Globally there are well-established linkages between the narcotics trade and illicit weapons trafficking. These networks have developed sophisticated methods for the procurement, transportation and sale of small arms and light weapons to willing buyers [24].

The international community has so far proven disturbingly unable or unwilling to enforce United Nations embargoes that seek to prevent arms flows into areas of conflict. These are often situations in which fundamental rules of international humanitarian law have been consistently violated. It is widely acknowledged that during and after the break-up of Yugoslavia, a number of countries defied the UN embargo and shipped weapons to forces in Bosnia.

In a particularly well-documented case the 1996 report on Rwanda by a UN Commission of Inquiry provided details of an illegal arms transfer from the Seychelles (apparently unknown to the government) to Rwandan government forces, facilitated by a false end-user certificate from Zaire, one month after the imposition of a UN embargo in June 1994 and during the genocide in that country [25]. The shipments consisted of 2,500 AK-47 assault rifles, ammunition, hand grenades and mortar shells worth an estimated \$300,000. The report, which also examined information on possible embargo violations by a number of other countries, concluded that "the Commission could not fail to note the absence of an effective, proactive mechanism to monitor or implement the arms embargo the Security Council had imposed on Rwanda".

Two years later, in late 1998, the same UN Commission concluded that forces responsible for the Rwandan genocide had "continued to receive arms and ammunition" through a variety of armed groups in the region and a regional government – something it described as "a profoundly shocking state of affairs". The Commission concluded that the "free flow of small arms into and within Africa is a major long-term cause of insecurity and instability in the central African sub-region" and called for a regional solution to the problem of illicit arms trafficking [26].

Theft of weapons from military and police warehouses is a major problem in countries afflicted by civil war or internal violence. As civil strife spread across Albania in the spring of 1997, an estimated 750,000 or more weapons, representing up to 80% of the national arsenal, were looted by insurgents and civilians from military depots [27]. These weapons were hidden away by a variety of actors in Albania; many were reportedly smuggled across the border into the Serbian province of Kosovo and, to a lesser extent, into the former Yugoslav Republic of Macedonia [28]. In 1998 the United Nations began an "arms for development" programme in one region of Albania, aimed at collecting and destroying small arms in exchange for community-based development assistance. By February 1999 as many as 5,000 weapons and 1.5 million rounds of ammunition had reportedly been handed in. [29]

Owing to the paucity of data on small arms and light weapons and because traditional data focuses on organized military units, conventional indices on arms flows have centred almost exclusively on major weapons systems. Likewise, virtually all efforts to control arms and to promote transparency in international transfers have, until very recently, failed to address the issue of small arms and light weapons responsible for most of the casualties in the conflicts of the 1980s and 1990s. Indeed, these arms, as indicated in the next section, have continued to generate high levels of casualties even after the end of hostilities.

3. EMPIRICAL DATA RELATING ARMS AVAILABILITY TO HUMANITARIAN CONCERNS

A. Inherent limitations in studying the effects of arms availability

The ICRC has extensive experience in assisting victims of armed conflict. One aspect of assistance that has remained central to this work over the past 135 years is the care it provides for those injured by weapons. On the basis of such experience gained in a wide variety of settings, it is therefore in a position to comment with some authority on weapon use and its effects.

There are, however, a number of inherent limitations when it comes to examining the question of an association between arms availability and a deterioration in the situation of civilians in armed conflict. Perhaps the most significant limitation is that, even if it were possible to show that such an association existed, it would be very difficult, if not impossible, to prove the nature of that association.

Indeed, assuming that complete and accurate data could be obtained on both weapon injuries and arms availability (the latter of which the ICRC does not collect) in a given setting, the most that might be concluded is that the two are related. One would have to assess the likelihood of every possible explanation for the relationship in order to determine its exact nature [30].

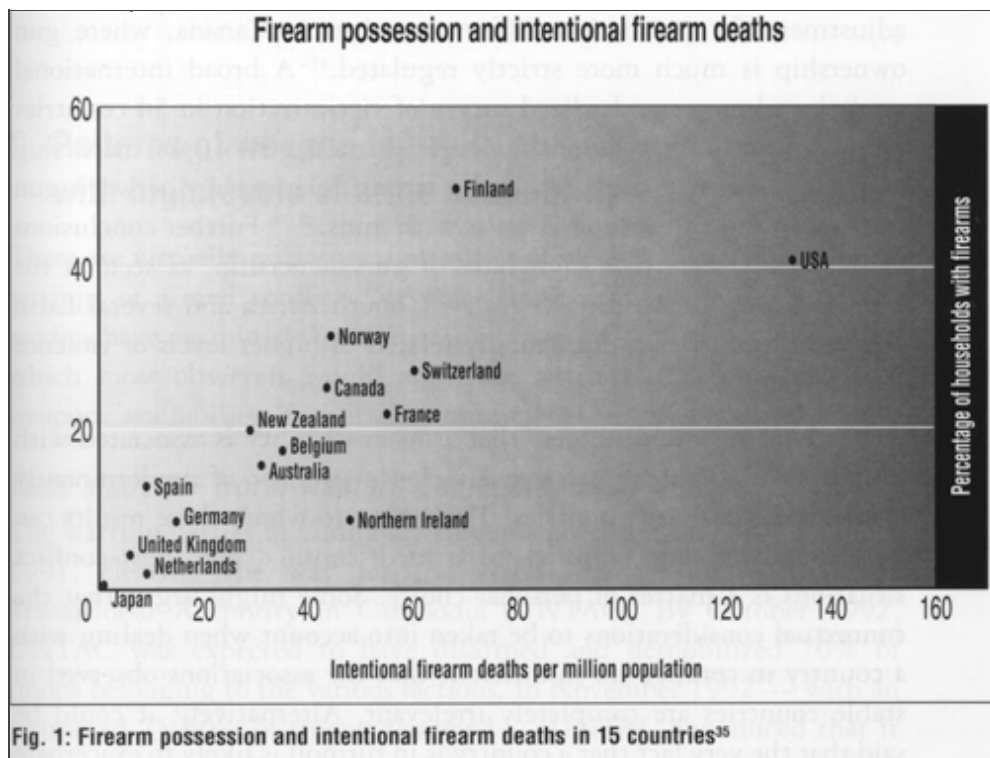
Thus, the present document cannot prove that widespread availability of arms **causes** violations of international humanitarian law or a deterioration in the situation of civilians in armed conflicts. The most that can be reasonably expected from a study of the issue is an answer to the following question: are violations of international humanitarian law or civilian injuries more likely to occur as a function of the availability of weapons in a society?

This question highlights another important limitation. The availability of weapons in a society is, in almost every situation of armed conflict, virtually impossible to measure accurately. Furthermore, measurements of increases or decreases over time, particularly of small arms and light weapons, border on the impossible.

B. Parallels between arms availability in conflictual and in stable societies

In societies which are not engaged in conflict it is far easier to obtain data providing measures of weapons availability and weapons effects. Because there has been concern for some time that high levels of weapons availability are associated with a number of negative social phenomena, the issue has already been the subject of considerable study. Figure 1 presents data relating firearm possession and firearm homicides or suicides in 15 industrialized countries. Self-inflicted firearm injuries are frequently committed on impulse – often preceded by use of alcohol or drugs – or as a result of interpersonal conflict [31, 32].

It has also been argued that increased access to firearms makes such impulsive acts more likely to be lethal [33]. Furthermore, international comparative studies have not found a negative correlation between firearm ownership and suicides committed by other means, suggesting that other means are not used to substitute for reduced access to firearms in countries with lower rates of firearm ownership [34].



Generally speaking, studies which have examined the issue of gun ownership and various measures of violent crime have found that the two are highly correlated. A study which examined the relationship between gun ownership rates and firearm deaths in Canada, the United States, England/Wales and Australia found that 92% of the variance in death rates could be attributed to access to firearms in areas with high levels of firearms access [36]. Another study reported that the handgun-related homicide rate in the United States was 15 times higher, after adjustment for population differences, than in Canada, where gun ownership is much more strictly regulated [37]. A broad international study based on a standardized survey of victimization in 54 countries found a significant relationship between measures of gun ownership and

rates of armed robberies and a strong relationship between gun ownership and threats and assaults with guns [38, 39]. Further conclusions of this study were that high rates of gun ownership, as seen in the United States, the former Yugoslavia, South Africa and several Latin American countries, were strongly related to higher levels of violence generally.

The studies reviewed suggest that arms availability is associated with a number of indicators of social violence in a set of predominantly stable, industrialized countries. The extent to which these results can be generalized and applied to armed conflict and post-conflict situations is a matter of personal choice. Some might argue that the contextual considerations to be taken into account when dealing with a country in conflict are so different that the associations observed in stable countries are completely irrelevant. Alternatively, it could be said that the very fact that a country is in turmoil is likely to exacerbate the tendency for weapons availability to be associated with violence, since people are living in more precarious economic conditions and are experiencing a generalized degradation of cultural norms against violence.

Whatever interpretation one attributes to these findings it would seem appropriate to take note of this body of work and to consider the associations observed between arms availability and the effects of weapons in stable societies when considering and interpreting the results of the ICRC's experience in situations of armed conflict.

C. Patterns of weapon injury in areas with high levels of arms availability

There are virtually no accurate measures of weapon ownership in most settings of armed conflict. Nevertheless, a number of recent ICRC studies have examined the occurrence of weapon injuries in situations which most observers would agree are settings with high levels of weapons availability. Two of these studies [40, 41] are presented here.

Case study 1 – North-western Cambodia, 1994–1995

The warring parties in Cambodia signed a peace agreement in October 1991, clearing the way for the arrival of the United Nations Transitional Authority in Cambodia (UNTAC). By October 1992, UNTAC was expected to have disarmed and demobilized 70% of troops belonging to the various factions. In November 1992 — with an estimated 25-50% of troops disarmed — UNTAC announced that it could not meet its disarmament objectives because some of the factions were not complying with the terms of the agreement [42].

Five months after UNTAC's departure, a study was conducted at Mongkol Borei Hospital in north-western Cambodia in order to find out who was being injured by weapons and under what circumstances. Mongkol Borei Hospital was the principal surgical facility in the region and had been receiving support from the ICRC since 1990.

Methodology

Between March 1994 and February 1995 all people with weapon injuries admitted to Mongkol Borei Hospital were interviewed. The information obtained included whether the person was a combatant, the type of weapon with which the injury was inflicted, and a description of the circumstances surrounding the injury. Patients with weapon injuries were then classified into four categories drawn up according to two main criteria: the first was whether or not the injuries had been sustained in inter-factional combat (this gave rise to the categories of 'combat-related' and 'non-combat' injuries), and the second was whether the injured were civilians or combatants (i.e., 'civilian' or 'military' injuries). Individuals with combat-related injuries were defined as those injured as a direct result of inter-factional fighting or by landmines. Injuries sustained in all other contexts were defined as non-combat injuries.

The study also compared occurrence of weapon injury during the study period with that observed before UNTAC's arrival and during UNTAC's presence. To do this, annual incidence rates of weapon injury were calculated on the basis of population figures for the province and data concerning monthly admissions to the hospital from 1991 to 1995.

Results

During the study period 863 people sustained weapon injuries and were admitted to Mongkol Borei Hospital. Figure 2 places the study period in historical context and gives weapon injury admissions to the hospital during the period January 1991 through February 1995.

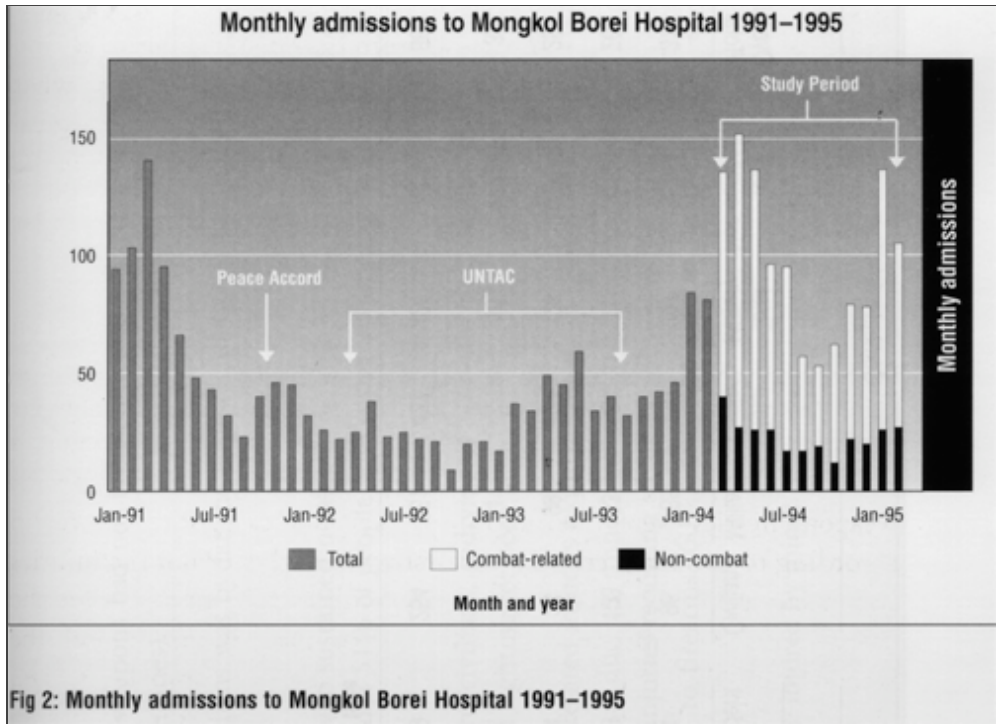


Fig 2: Monthly admissions to Mongkol Borei Hospital 1991-1995

Weapon injury rates tend to vary seasonally, and although reduced during the UNTAC period, they increased to levels comparable to those preceding the peace accord following UNTAC's departure. In fact, the seasonally adjusted mean annual incidence of weapon injuries was slightly higher during the study period than during the period preceding UNTAC's arrival (163 weapon injuries per 100,000 versus 147 per 100,000 prior to the arrival of UNTAC – the rate during UNTAC's presence being 71 per 100,000).

Table 1 presents the weapon injuries observed over the study period in terms of the context in which the injury was inflicted, the weapon with which the injury was inflicted, and the combatant status of the injured person. Since Table 1 offers a variety of ways in which to examine the data, Table 2 gives a summary of particularly important points.

Weapon Type	Non-combat				Combat-related					Overall Total
	Civilian		Military		Civilian	Military	Total Civilian	Total Military	Total Non-combat (%)	
	Interpersonal Violence	Accident	Interpersonal Violence	Accident						
Mine	3	11	1	21	96	185	110	207	36 (11)	317
Fragment	17	41	0	18	123	63	181	81	76 (29)	262
Firearm	80	10	15	14	34	99	124	128	119 (47)	252
Other	18	3	0	6	1	4	22	10	27 (84)	32
Total	118	65	16	59	254	351	437	426	258 (30)	863

Table 1: Weapon injuries by context, combatant status and weapon type

Table 2: Particularly important points drawn from Table 1

1. Nearly one in three people injured by weapons had not been injured as a direct result of combat (i.e., had sustained non-combat injuries).
2. Intentional firearm injuries affecting civilians was by far the largest category of non-combat injury.
3. Civilians accounted for 71% of people who sustained non-combat injuries, 42% of people who sustained combat-related injuries, and 51% of people who sustained injuries of either type.

4. 59% of people injured by weapons were civilians, individuals who did not sustain their injuries as a direct result of inter-factional fighting, or both.
5. 78% of civilians who sustained combat-related injuries requiring an act of volition (i.e., all combat-related injuries excluding those due to mines) were injured by fragmenting munitions. By contrast, combat-related injuries requiring an act of volition among military personnel were split between those due to firearms (60%) and those due to fragmenting munitions (38%).
6. 37% of all people injured by weapons were injured by mines.

Discussion

Point 1 in Table 2 demonstrates that weapon injuries inflicted outside the context of inter-factional combat ('non-combat injuries') represented a sizable proportion of the workload of a hospital that was providing surgical care to those injured by weapons in an area experiencing a low intensity intrastate conflict. **Point 2 indicates that the largest category of non-combat injury (intentional firearm injuries inflicted on civilians) consisted of acts either constituting clear violations of international humanitarian law or causing a deterioration in the situation of the civilians involved.**

Points 3 through 5 highlight the issue discussed in Section II concerning global estimates of the proportion of civilian casualties and the need for more accurate data and contextual information. The measures required to protect civilians will be very different depending on whether one considers combat-related or non-combat situations. In combat-related contexts, the principal problem revealed by the study was injuries caused by the indiscriminate use of fragmenting munitions. To reduce this type of casualty, it is necessary inter alia to give combatants better training in both the use of these weapons and the rights of civilians to protection under international humanitarian law. On the other hand, civilians who sustained their injuries in non-combat contexts were most likely to have been intentionally injured with firearms. Here the response must address not only the availability of firearms but also the range of issues that lead segments of society to use such weapons against civilians.

Conclusion

Given the political and historical context of this case study, the above findings provide an opportunity to reflect on the implications of the limited success of UNTAC's disarmament operations. What is more pertinent to the question at hand is that these findings reveal a great deal about patterns of weapon use in north-western Cambodia over a 12-month period. Some aspects of the weapon use observed unquestionably point to either violations of international humanitarian law or a deterioration in the situation of civilians.

Case study 2 – Weapon injuries during and after periods of conflict [43]

The objective of the second case study was to assess the relative frequency of weapon injuries during and after periods of conflict, in the absence of disarmament. The study setting was the Kandahar region of Afghanistan, which had been the scene of protracted conflict between rival combatant groups. By March 1995 the Kandahar region had come under the uncontested control of a single faction, which subsequently went on to assert control over much of the rest of Afghanistan. This military transition was accompanied by the return of an increasing number of refugees, with a number of humanitarian organizations beginning support programmes, and a shift in the zones of active conflict to areas hundreds of kilometres away from the Kandahar region. There was no attempt made to disarm the population.

The ICRC has provided surgical care to people from Kandahar injured by weapons since 1983. Its assistance continued after the military transition in March 1995, making it possible to contrast rates of weapon injury before and after the transition.

Methodology

The case study consisted of a retrospective analysis of the ICRC surgical database, begun in 1991 to record information on patients admitted to hospitals which the ICRC either runs or supports. A comparison was made between the rates of weapon injury in the region for the 50-month period from January 1991 to March 1995 and the 18-month period from September 1995 to March 1997. These two periods were labelled 'conflict' and 'post-conflict', respectively. All people injured by weapons during either the conflict or the post-conflict period and admitted to hospital within 24 hours were included in the study. Population estimates for the region were used to account for population growth over the study period.

Results

1. A total of 2,332 patients seen by the ICRC were wounded by weapons during the period under review.
2. After controlling for population growth, the study showed that the annual incidence of weapon injuries had decreased by 33% between the conflict and the post-conflict period.
3. Reductions in the rates of weapon injury by fragmenting munitions, firearms and mines were 22%, 40% and 34%, respectively.
4. Mortality rates for weapon injuries increased during the post-conflict period from 2.5% to 6.1%. The increase was such that despite the decline in weapon injuries more people died per month from weapon injuries during the post-conflict period.

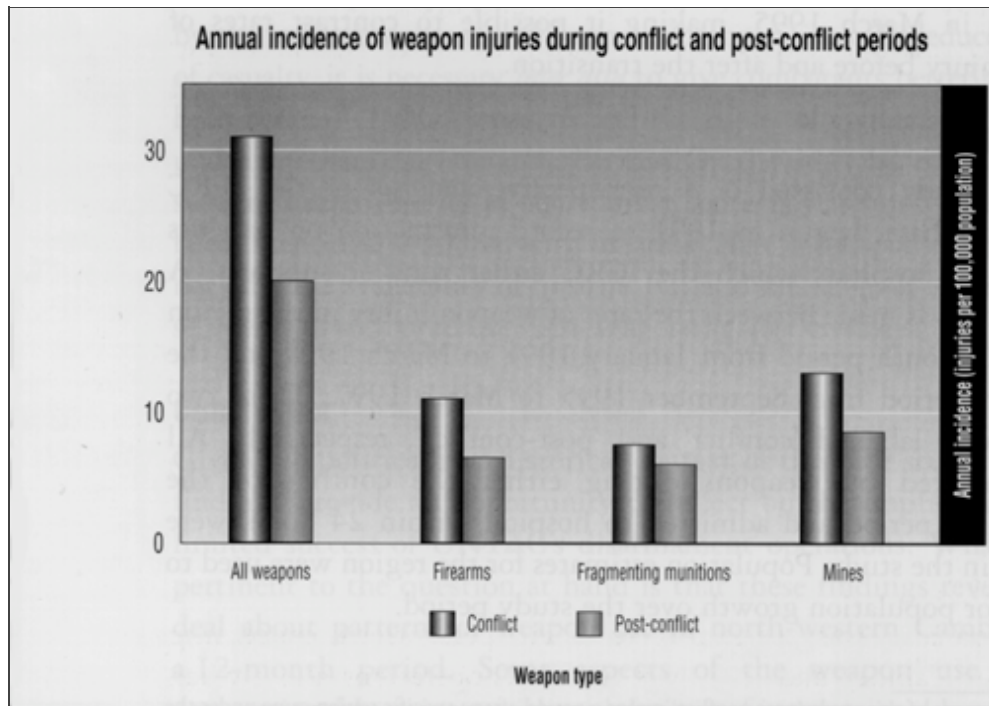


Fig 3: Incidence of weapon injury by weapon type during the conflict and post-conflict periods

Discussion

Weapon injury observed during a period where one faction exerted uncontested control over the region was only somewhat lower than that observed during a period of armed conflict. Most of the injuries were not related to landmines but to the use of weapons requiring an act of volition on the part of the user (e.g., firearms, mortars, etc.). The increased mortality can likely be explained, at least in part, by the shorter delays in reaching hospital during the post-conflict period, meaning that severely injured persons who previously would have died outside hospital instead died in hospital.

Conclusion

This case study reveals how misleading the term 'post-conflict' can be. Although the politico-military rationale for using weapons would have ostensibly disappeared in this setting, rates of weapon injury underwent only a modest decrease. Unlike the previous study, nothing is known here about the individual circumstances of each injury; nor are there any details about the status of the injured, since the ICRC does not normally ask the people it assists to declare themselves as combatants or non-combatants. Such information therefore does not appear in the surgical database.

D. Experience of ICRC field personnel

In early 1998, a survey was undertaken to examine the perceptions and experiences of a number of senior ICRC field personnel regarding the issues of weapons availability and the situation of civilians in armed

conflict.

Methodology

A questionnaire was developed to elicit perceptions concerning weapons availability and its effects on ICRC operations and civilian populations. The questionnaire was modified following pilot testing and subsequently administered on an individual basis by a trained interviewer. Respondents were selected on the grounds of their extensive ICRC field experience and their availability at ICRC headquarters over a two-month period in early 1998. The questionnaire consisted predominantly of closed questions with either single or multiple responses and four- or five-point (Likert) scales. Respondents were each asked to provide their perceptions for the country of their most recent assignment and to specify what length of time they had spent there.

Results

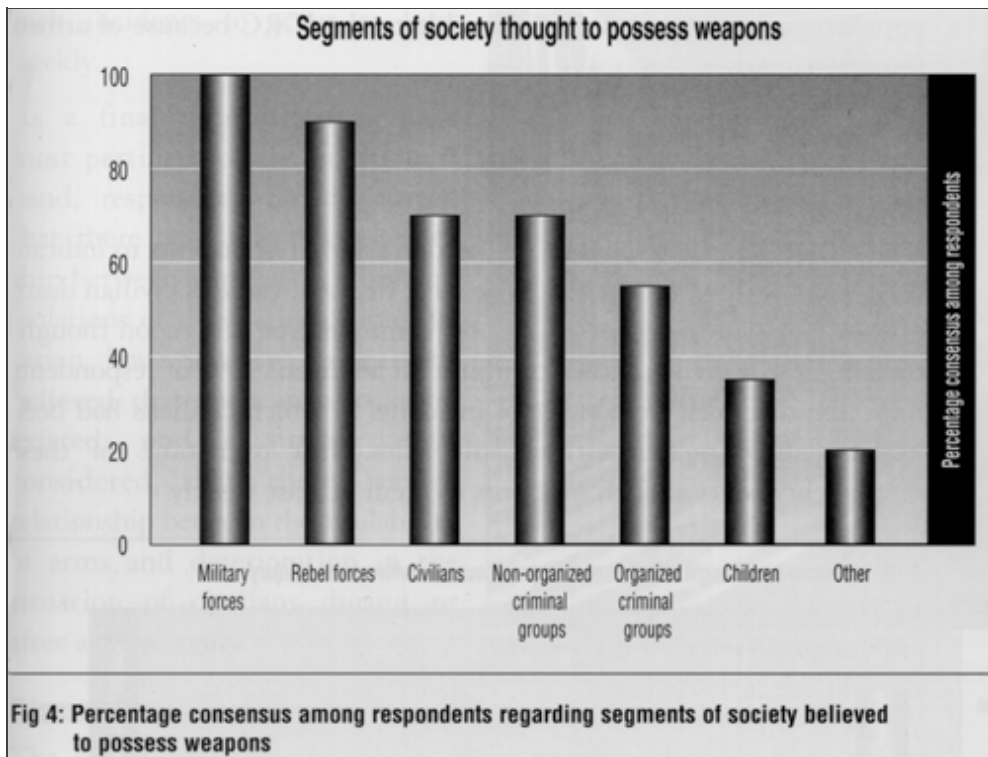
Respondent and mission profiles

Thirty-four people completed the questionnaire. Five respondents filled in additional questionnaires to report on their experiences during other assignments, bringing the total number of missions for which data was reported to 41. Respondents had an average of eight years' ICRC field experience, and four years' headquarters experience.

The missions on which the survey information is based lasted an average of 13 months and took place between late 1989 and early 1998. The geographic regions in which they were carried out reflect the ICRC's operational presence world-wide – 16 of the missions took place in Africa, 10 in Asia, five in Eurasia, five in Western Europe, three in the Middle East, and two in Latin America. Thirty-two of the assignments were in situations described by the respondents as "armed conflict", whereas nine took place in situations described as "post-conflict". In these nine post-conflict situations, the degree of social violence was described as "high" by five respondents, "moderate" by three, and one respondent had witnessed "little or no" social violence.

Arms availability

Figure 4 provides the percentage of respondents who believed that various segments of society possessed weapons. With the exception of the categories of 'children' and 'other', over 50% of respondents believed that other relevant segments of the population possessed weapons. The weapon types reported to be held by population groups other than military or rebel forces tended to be assault rifles, handguns and, to a lesser extent, hand grenades. Slightly over half of all respondents thought that ammunition was imported, while approximately one third believed that ammunition was both imported and produced in the country. Two thirds of respondents indicated occurrences of 'celebration shooting' [44] during their missions.



Effects on ICRC operations

Respondents indicated that ICRC operations were interrupted fairly frequently by armed security threats (i.e., beyond interruptions due to fighting among combatants). Almost 60% of respondents put the frequency of such interruptions at once or more per month. There was also general consensus (approximately 70% of respondents) regarding the occurrence of armed security threats involving either expatriate or local ICRC staff. The most common type of security incident affecting either expatriate or local ICRC personnel was firing of weapons at or near ICRC staff, followed by use of weapons to threaten ICRC personnel and use of weapons to commit a robbery. Approximately one third of respondents believed that “roughly half” or more of the population lived in areas not accessible to the ICRC because of armed security threats.

Effects on the civilian population

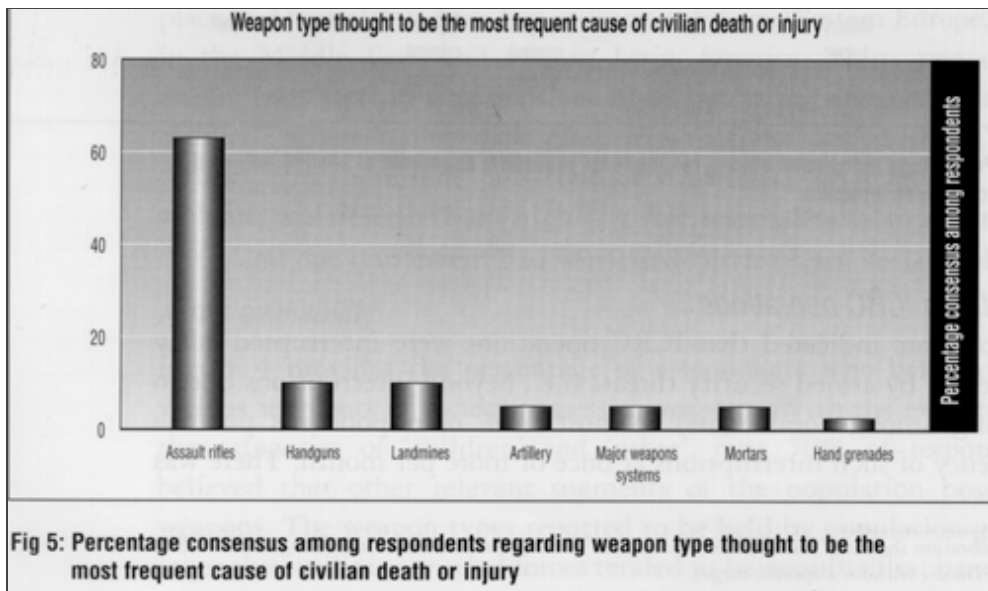


Weapons in daily life, the Americas, 1986
©ICRC/Philippe Merchez Ref. NI-N-000626-28A

Figure 5 graphs the response to a question asking respondents to indicate the type of weapon they felt was the most frequent cause of civilian death or injury. Assault rifles were the most common type of weapon thought to bring about civilian death or injury. In addition, 90% of respondents indicated that they were aware of incidents in which civilians had been intentionally targeted with assault rifles. Just over 60% of these respondents believed such incidents to occur at least weekly.

There was also general consensus among respondents that arms were used against civilians for criminal or coercive purposes, with 85% of respondents indicating that they were aware of this. Of these respondents, just over 65% believed such incidents to occur at least weekly.

As a final observation perhaps most pertinent to the question at hand, respondents broadly agreed that there was indeed a relationship between arms availability and violations of international humanitarian law. Seventy six percent believed that such an association existed, and a further 85% considered that there was a relationship between the availability of arms and deterioration in the situation of civilians during or after armed conflict.



Discussion

The above findings are subject to a number of limitations. Most importantly, the perceptions reflected in this survey are those of individuals who are not weapons experts. In addition, the number of people surveyed and missions covered was relatively small. Nevertheless, it should be noted that the staff members who participated in the survey had extensive ICRC experience in various contexts of armed conflict. Furthermore,

considerable efforts were made to devise a questionnaire which was both unbiased and unambiguous and which allowed respondents to indicate that they did not know the response to a given question.

Conclusion

There was broad consensus among respondents on a number of important issues. Accordingly, the following general conclusions can be drawn from this survey:

- 1.** Weaponry has spread to an appreciable extent within the societies examined. Assault rifles were the most common type of weapon found across the various segments of society, and the weapon believed by most respondents to be the principal cause of civilian death and injury.
- 2.** ICRC operations are frequently suspended or delayed because of armed security threats, and use of weapons in incidents affecting either local or expatriate ICRC personnel was reported to be relatively common.
- 3.** A large majority of respondents believed that there was a relationship between weapons availability and both violations of international humanitarian law and deterioration in the situation of civilians during or after armed conflict.

E. Access to victims

It is vital to have access to people who need humanitarian assistance in times of armed conflict. International humanitarian law establishes the right to such access. The study discussed in the preceding section went into some detail in illustrating the difficulties facing the ICRC in this regard. Other aspects of the problem also warrant comment. In the years up to 1993 an increasing number of ICRC field staff were either killed or wounded by weapons. There are a number of factors that might account for this, including increased proximity to front lines, perceived politicization of humanitarian aid and the changing nature of conflict. The extent to which weapons availability is also a factor may be open to question, but the responses given in the previous section suggest a role that is probably significant. A final consideration is the increased cost of mounting humanitarian operations in settings plagued by security threats. These have not yet been quantified but would be reflected in the increased costs of such everyday occurrences as the cancelling of long-planned relief convoys and the delivery of relief supplies by air owing to insecure road access.

F. Synthesis and conclusions of case study and survey results

The studies presented here have considered different aspects of the issue of arms availability. Of the three ICRC studies, the first examined the occurrence of weapon injuries unrelated to military combat, the second analysed changes in rates of weapon injury over time periods where the politico-military rationale for weapon use had disappeared, and the third examined perceptions of experienced ICRC personnel with regard to arms availability and its effects.

None of these studies taken individually can prove a causal association between arms availability and violations of international humanitarian law or deterioration in the situation of civilians. However, all three studies had the opportunity of providing evidence that would refute such an association. The fact that none of them did so is important. It is also significant that a mixture of study designs – prospective, retrospective and structured interview data collected in a variety of settings – provided mutually reinforcing results.

Are violations of international humanitarian law or civilian injuries more likely to occur as a function of the availability of weapons in a society? The above results, taken as a whole, suggest that arms availability can indeed facilitate violations of international humanitarian law and lead to a deterioration of the situation of civilians in armed conflicts.

4 EFFORTS TO RESTRAIN AND CONTROL ARMS AVAILABILITY

A. Global

1. United Nations

The issue of the global arms trade was first put on the United Nations agenda in 1962, although it then remained virtually taboo for the following 25 years. The first UN General Assembly resolution (A/RES/43/75) on arms transfers, adopted in 1988, called on the UN Secretary-General to study measures for promoting transparency in the transfer of major conventional weapons systems. As a result of this study a voluntary UN Register of Conventional Arms (transfers, production and holdings) was established from the beginning of 1992. However, the UN Register covers only the transfer of certain major conventional weapons systems and is aimed at identifying excessive and destabilizing arms build-ups. Although only 92 governments submitted data in 1997, it is estimated that nearly all transfers of listed systems were reported by the exporting or importing country or both.

Following the second Gulf War, President Bush called on the five permanent members of the UN Security Council to "observe a general code of responsible arms transfers". By the end of that year the Five began a series of meetings to consider coordination of arms transfer policies vis-à-vis the Middle East. Disagreements emerged, mainly between China and the other four members, on the need for a global versus regional approach and on retrospective reporting versus advance consultation on transfers. However, a set of guidelines were adopted which, inter alia, included agreement to avoid transfers likely to (a) prolong or aggravate an existing armed conflict or (b) increase tension or instability in a region. These talks were suspended by China following a US decision in 1992 to sell advanced fighter aircraft to Taiwan and have not been resumed.

In a January 1995 message to the UN Security Council, the then Secretary-General Boutros Boutros-Ghali declared: "Progress since 1992 in the area of weapons of mass destruction and major weapons systems must be followed by parallel progress in conventional arms, particularly with respect to light weapons (...) It will take a long time to find effective solutions. I believe strongly that the search should begin now, and I intend to play my full role in this effort" [45]. The Secretary-General coined the term 'micro-disarmament' to highlight the need for action in this field.

Following Boutros Boutros-Ghali's call, the United Nations produced two major studies, each with its own set of recommendations for action. The Commission on Crime Prevention and Criminal Justice of the Economic and Social Council (ECOSOC) published a 1997 survey on the regulation of firearms, ammunition and explosives and made recommendations for combating illicit trade in these items. This was followed in April 1998 by a Commission resolution calling for the negotiation of a legally binding "international instrument to combat illicit manufacturing and trafficking in firearms, their parts and components and ammunition" [46], on which negotiations began in early 1999.

A second 1997 study by a Panel of Governmental Experts on Small Arms provided a comprehensive review of the causes and effects of excessive accumulations of military-style arms and light weapons and described their modes of transfer to regions of tension and instability. In his introduction to that study UN Secretary-General Kofi Annan stated: "While not by themselves causing the conflicts in which they are used, the proliferation of small arms and light weapons affects the intensity and duration of violence and encourages militancy rather than a peaceful resolution of unsettled differences. Perhaps most grievously, we see a vicious circle in which insecurity leads to a higher demand for weapons, which itself breeds still greater insecurity." [47]

The Panel also provided a detailed set of recommendations for reducing and preventing destabilizing accumulations of arms; the recommendations were endorsed by the 1997 session of the UN General Assembly. The Assembly also mandated a second Panel of Experts, expanded to include representatives of all permanent members of the Security Council, to review implementation of its recommendations, to study the feasibility of additional measures, including controls on ammunition, and to examine the utility of holding an international conference on small arms and light weapons proliferation. This Panel is due to report its findings in late 1999.

The UN has begun to monitor the effectiveness of various international embargoes on the transfer of weaponry into areas of conflict. As noted in Section II, a UN International Commission of Inquiry (Rwanda) examined, in 1996, 1997 and 1998, allegations of violations of the Security Council's 1994 embargoes on arms transfers to Rwanda and to former Rwandan government forces in the African Great Lakes region. The Commission noted the absence of "treaties or international controls governing the proliferation of small arms, as there are for some other weapons" and called on supplier States not to transfer such arms to non-State entities or private businessmen [48].

More recently the UN Security Council in an agreed Presidential statement [49] of 12 February 1999 noted the "deleterious impact of the proliferation of arms, in particular small arms, on the security of civilians" and reiterated the importance of arms producing and exporting States "restricting arms transfers which could provoke or prolong armed conflicts or aggravate existing tensions or armed conflicts in Africa". The statement lamented the "widening gap between the rules of international humanitarian law and their application" and called on the UN Secretary-General to make recommendations by September 1999 on

contributions which the Security Council could make towards improving the protection of civilians in armed conflict and more effective implementation of existing humanitarian law. It also welcomed the ongoing contribution of the ICRC in these fields.

2. Group of eight industrialized States (G-8)

Since 1994 the G-8 has addressed the issue of illicit arms transfers. The statement of the May 1998 Birmingham summit of the Group lent support to the ECOSOC initiative for a legally binding international instrument to combat illicit firearms trafficking. However, the question of links between licit and illicit transfers of arms has not been dealt with to date.

3. Group of like-minded States

Under the auspices of Norway and Canada a group of 21 like-minded States met in Oslo in July 1998 to discuss the problem of small arms and light weapons proliferation and to consider the types of concerted action which could be taken by concerned governments. The group drew up a document entitled *An International Agenda on Small Arms and Light Weapons: Elements of a Common Understanding* [50], which highlights the need to prevent illicit transfers and tighten controls on legal transfers. Specific means of doing so include the collection and destruction of surplus weapons, enhanced border controls, coordination of law enforcement efforts, the marking of weapons to assist in tracing efforts and codes of conduct. The need to ensure respect for international humanitarian law is noted as an important preventive measure. The draft of this Common Understanding was sent to the capitals of participating governments for approval and released by Canada and Norway in August 1998.

4. Brussels Call to Action

An international Conference on Sustainable Disarmament for Sustainable Development, hosted by the Belgian Minister for Development Cooperation in October 1998, marked perhaps the largest gathering to date of concerned governments, non-governmental organizations, peacekeepers and international agencies. The Conference, bringing together some 400 delegates, placed the issue of small arms and light weapons squarely within the context of development and post-conflict reconstruction. The resulting Brussels Call for Action presents a comprehensive agenda for action and research emphasizing the need for a 'security first' approach to development, effective demobilization of former combatants, the destruction of surplus arms and regional and international cooperation to strengthen the ability of police and customs services to prevent illicit arms transfers.

5. Nobel laureates

Since 1996, Oscar Arias and a group of Nobel Peace Prize laureates have been pursuing an international campaign for a global code of conduct that would regulate global arms transfers [51]. The code would require the screening of arms transfers based on a set of criteria similar to those adopted by the European Union (see below) but expanded significantly:

- compliance with international human rights and humanitarian law standards;
- conduct of democratic elections;
- adherence to international arms embargoes and military sanctions;
- commitment to promoting regional peace and stability;
- participation in the UN Register of Conventional Arms.

B. Regional

Many analysts believe that regional mechanisms for controlling the small arms trade may be more effective than broad global measures, which tend to be of a general and voluntary nature. Cross-border flows of weapons lend themselves to focused bilateral or multilateral efforts to tighten export controls and illegal shipments. As indicated below encouraging initiatives are under way in a number of regions.

1. European Union

Following the second Gulf War, the Council of Ministers of the European Union adopted a non-binding, eight-point set of guidelines on conventional arms transfers. Criteria to be considered before a transfer is made include: [52]

- respect for human rights in the country of final destination;
- the situation in the country of final destination and specifically the existence of tensions or an internal armed conflict;
- the behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law;
- the existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.

In 1997 the EU established a programme to prevent and combat illicit arms transfers. This was supplemented by the adoption in June 1998 of a comprehensive Code of Conduct governing licit transfers, in which member States commit themselves to the refusal of export licenses depending on the proposed recipient's record in the fields of human rights, regional stability, sustainable development and compliance with international law – including, at the suggestion of the ICRC, international humanitarian law. The EU Code of Conduct was subsequently adopted as part of a legally binding “joint action” by member States in December 1998. The joint action also includes a commitment to provide practical assistance to developing countries in their efforts to stem the flow of arms across their borders and internally.

An innovation in EU policy was the creation of a mechanism whereby a State which refuses a license will notify its partners of this decision and any State considering the same request is to consult with the State which denied the license before proceeding with the transaction. Although the EU export criteria may be interpreted in various ways and the Code does not provide for the degree of parliamentary and public transparency on exports which proponents had wished, it is considered to be an important improvement in EU standards.

2. Organization of American States (OAS)

Under Mexican and Colombian leadership discussions began in 1996 on an OAS Convention to address the growing problem of illegal weapons trafficking and its links with narcotics trafficking and international crime syndicates. The US lent its support and by mid-1997 the elaboration of a new OAS Convention had begun. In a remarkably short time the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials was completed and signed by 29 States in November 1997. The Convention contains commitments to institute relevant national legislative measures, to mark firearms at the time of manufacture and import, to establish effective import and export licensing systems, to exchange information on known weapons traffickers and routes, to cooperate in training and intelligence gathering and to provide mutual assistance in specific investigations and prosecutions. Concerns have arisen, however, as to whether the resources needed to implement the Convention will be forthcoming; in many countries a lengthy process of adjusting internal legislation will be needed before the country can ratify.

3. United Nations regional efforts

In 1994 and 1995, UN advisory missions were sent to Mali and the Sahara-Sahel (Burkina Faso, Chad, Côte d'Ivoire, Mauritania, Niger and Senegal) to investigate national and regional implications of small arms and light weapons proliferation. The missions were especially interested in what types of incentive programmes might work in Africa to withdraw firearms from circulation among the civilian population, and what level of personal security in these societies would be required before such plans could be implemented. Also, the missions considered what types of codes of conduct might be effective with supplier States [53]. The UN has also established a trust fund for central Africa to curb small arms and light weapons proliferation, coordinated by an 11-member Standing Advisory Committee on Security Questions in Central Africa.

4. West African initiative

Following the UN's advisory mission described above, the government of Mali promoted an initiative for a moratorium on the production and import of small arms among West African States. This was intended to reinforce Mali's own efforts to collect and destroy surplus arms and to reintegrate former combatants following a peace agreement which the government signed with northern rebel groups in 1992. An important psychological step in this process was the burning of 3,000 decommissioned weapons in a Flame for Peace in March 1996. In 1998 an international meeting in Oslo, Norway, on the proposed moratorium brought together senior re-presentatives of most West African States, European Union countries and members of the Wassenaar Arrangement (through which 33 States have sought to coordinate arms export controls) [54]. States of the European Union and the Wassenaar Arrangement pledged to respect a future moratorium in West Africa, and a number of participating countries undertook to provide resources for its implementation. A summit meeting of the Economic Community of West African States declared such a

moratorium for a period of three years at a meeting in Abuja, Nigeria, on 31 October 1998. The meeting also called for the promotion of similar moratoria in other regions of Africa by the OAS and the UN.

5. Southern Africa Regional Action Plan

In May 1998 States of the Southern Africa Development Community (SADC) and the European Union, with technical support from several South African and European research institutes and non-governmental organizations, adopted the Southern Africa Regional Action Plan, which sets out a detailed agenda for action aimed at 1) combating illicit arms transfers, 2) encouraging the collection of arms in domestic circulation and the destruction of surplus arms, 3) strengthening the regulation of legal arms transfers and 4) increasing transparency on arms in the region and the coordination of police and customs services to combat illicit transfers.

Initially the Action Plan was not accompanied by the commitment of resources for its implementation. It has received the support of relevant governments and European Union bodies, however, and is expected to be further supported by resources made available through the EU's December 1998 "joint action" on small arms. An encouraging conceptual step towards the provision of EU funds for efforts to control the flow of small arms was the EU's endorsement in 1998 of an "integrated approach to security and development", which should open the way for the use of development funding for efforts by police and customs services to better monitor and intervene on arms-related matters – an issue which was previously the subject of considerable controversy within development circles.

C. National

Many countries have long had export controls for major conventional weapons, nuclear and other sensitive materials, and certain dual use (civilian and military) technologies. In the 1970s the Carter Administration enacted the Arms Export Control Act to regulate US military exports, while Canada introduced an even stricter Export Controls Policy in 1986. In both countries and many others, government agencies and private company sales must meet certain criteria (including certification that arms transfers would not adversely affect human rights in the recipient State) in order to obtain appropriate export licenses. Often, however, national security issues have taken precedence over humanitarian considerations in decisions on the transfer of weapons.

More recently, in 1995, attempts were made to harmonize various national policies in the framework of the Wassenaar Agreement, the successor to the COCOM [55] regime of the Cold War period [56]. Both heavy and light weapons are included in the terms of the Agreement. The engagements made in this context are politically important but not legally binding.

Despite wide variations from country to country in how weapons are sold and transferred, there are growing pressures to base such controls more firmly on human rights criteria. In the United Kingdom, the Scott Inquiry which examined British weapons exports to Iraq recommended major changes to British arms export policies that date back to the 1930s [57]. The Canadian government is also re-examining its policies, particularly with respect to applying "a stricter interpretation of human rights criteria, including increasing our requirements for end-user certificates and other end-user assurances, to further minimise the risk that Canadian military equipment might be used against civilians" [58].

In June 1997 the United States House of Representatives, following years of internal discussions, adopted legislation containing a Code of Conduct for arms transfers based on human rights and other criteria. The Code would require the President to provide an annual list of countries eligible for US arms exports. Should the President find it necessary to provide weapons to States not on the list a waiver from Congress would be required. This legislation must also be adopted by the US Senate and signed by the President before it enters into force [59].

Some developing countries are also implementing stricter national guidelines for the sale and transfer of arms. A notable example is South Africa, which in July 1995 adopted new policies that impose conditions on the transfer of weapons to dozens of countries experiencing civil strife or human rights abuses [60]. Guidelines for arms transfers adopted in 1996 require South African arms exports to be screened according to human rights and security criteria and approved by a cabinet-level committee whose chairperson must be a Minister with no direct interests concerning arms transfers [61]. In a further significant step South Africa also announced in February 1999 that it would henceforth destroy surplus weapons to avoid their entry into circulation internally or internationally. In so doing the government expressed "grave concern about the proliferation of small arms which is having a devastating effect on the socio-economic development and reconstruction of civil societies in Southern Africa" [62]. China has also recently published an English language version of its arms export regulations which came into force in January 1998 [63].

D. Summary

Because so much of the light weapons trade begins as legal transfers but ends up as illicit trafficking, the role of national governments in tightening and enforcing export regulations will be of crucial importance. In particular, there needs to be more effective coordination of both national policies and the efforts of different law enforcement agencies. Currently, huge variations exist between countries regarding what types of arms may be sold, domestically and abroad, and which types of weapons require export licenses.

While policy-makers are beginning to recognize the implications of the massive flows of small arms throughout the world and the initiatives taken offer a degree of encouragement, relatively few practical measures have been adopted to effectively control international transfers of small arms and light weapons. In contrast to the controls in place for nuclear and chemical weapons and major weapons systems, which took decades to develop, efforts to control small arms and light weapons remain tentative and modest.

It is also important to note that most efforts have highlighted the human rights and developmental impact of the transfer of military-style arms, although the availability of such weapons has enormous implications for international humanitarian law. **Indeed, the stated purpose of most transfers is to enable recipients to engage in armed conflict. Even if serious violations of international humanitarian law also represent violations of human rights, it is regrettable that among the existing body of export codes and national legislation known to the ICRC only the European Union Code of Conduct mentions respect for international humanitarian law as a basis for decisions on arms transfers.**

Controlling small arms and light weapons will not be an easy process. The trade in light weapons is a complex phenomenon, involving many types of actors, and existing knowledge of the dynamics involved is far from comprehensive. It is also evident that traditional arms control approaches are not well suited for the control of small arms and light weapons. Thus much creative effort – involving the participation of many types of experts, including representatives of governments, industry, police and customs services, humanitarian aid organizations and human rights groups – will be needed to develop new approaches and strategies.

One new approach would be to consider controls not only on the transfer of arms but also on **munitions and ammunition**. As mentioned above, the shelf-life of many of the tens of millions of small arms and light weapons now in circulation may be measured in decades if the weapons are properly maintained. Such arms are currently spread throughout the world. By contrast, it appears that factories for the production of munitions and ammunition can be far more easily identified. The reliable shelf-life for these items is said to be shorter than for the weapon itself. Non-State entities may be reluctant to accept the risk to life and weapons systems which 'home-made' production of munitions and ammunition would entail. As a result, efforts to limit their availability could, in the short term, yield significant results.

5 PROPOSED RESTRAINTS BASED ON RESPECT FOR INTERNATIONAL HUMANITARIAN LAW



Promoting international humanitarian law, Latin America.

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The UN Charter expressly recognizes the right of States to self-defence, and therefore by implication the acquisition of weapons for military and police forces necessary to protect national sovereignty and territorial integrity. However, as international humanitarian law is the body of law most relevant to the use of weapons in armed conflicts there is an urgent need to consider how appropriate limitations on arms availability might strengthen this law, particularly in situations where violations of the humanitarian rules are likely to occur. This should entail both stricter controls on international arms transfers and improved measures at the regional and national levels to control the spread of weapons within societies.

A. Legal and humanitarian basis

Fundamental rules of international humanitarian law provide for the protection of non-combatants and prohibit of the indiscriminate use of any weapon. In light of the realities described in previous chapters, the case for restraints on arms availability, based on humanitarian law and core humanitarian principles, can be summarized as follows:

- The unregulated availability of weapons can increase tensions, facilitate their

indiscriminate use and lead to a rise in civilian casualty levels.

- Fundamental humanitarian principles require that the issue of weapons proliferation be addressed, as it can needlessly increase the number of victims in war situations and their suffering.
- Although international law allows States to acquire armaments required for their security, States also have a solemn moral and legal responsibility, under Article 1 common to the Geneva Conventions of 1949, to “respect and ensure respect” for international humanitarian law. In particular, the knowing provision of arms into situations where serious violations of international humanitarian law occur or are likely to occur should be considered a matter of grave concern.
- While the primary responsibility for compliance with international humanitarian law falls upon the user of a weapon, arms producing and exporting States and companies bear some responsibility to the international community for the use made of their weapons. The obligations of producers and exporters should be further clarified with a view to reinforcing existing international humanitarian norms.
- States should, as a matter of the utmost urgency, elaborate rules, based on humanitarian law and similar criteria, governing the transfer and spread of arms and ammunition.

B. Possible criteria based on respect for international humanitarian law

As indicated in the previous section, one approach to regulating the availability of arms has been the establishment of national and international “codes of conduct” for weapons transfers. Codes of conduct set out norms for State behaviour around which, over time, broad political support can be developed and national rules for arms exports drafted. However, it is notable that among the codes adopted by governments only that of the European Union mentions respect for international humanitarian law; to our knowledge, no national export regulations refer to this body of law. Although detailed indicators of respect for human rights and development have been incorporated into some codes, even the European Union code of conduct does not lay down specific criteria for gauging likely compliance with international humanitarian law. As mentioned previously, the direct relevance of humanitarian law to the purposes for which military-style arms and ammunition are transferred suggests that respect for this body of law should be a central preoccupation of arms exporting countries.

As a step towards limiting the availability of arms and ammunition among users likely to commit violations of international humanitarian law, codes of conduct for arms transfers, containing clear references to and indicators of respect for international humanitarian law, should be developed. Such references and indicators should also be added to existing standards which do not include them. These measures would be a means of reinforcing Article 1 common to the Geneva Conventions and of improving implementation of the whole fabric of international humanitarian law. They would be complementary to criteria taken from other fields.

The points below illustrate the types of **indicators** of likely respect for humanitarian law which could be incorporated in future national and international codes of conduct governing the transfer of arms and ammunition:

- 1.** whether the recipient has made a formal engagement to apply the rules of international humanitarian law;
- 2.** whether the recipient has trained its armed forces in the application of international humanitarian law;
- 3.** whether the recipient has taken the measures necessary for the repression of serious violations of international humanitarian law;
- 4.** whether a recipient which is, or has been, engaged in an armed conflict has failed to punish those responsible for serious violations of international humanitarian law and to cause such breaches to cease;
- 5.** whether stable authority structures capable of ensuring respect for international humanitarian law exist in the area under control of the recipient;
- 6.** whether the recipient maintains strict and effective control over the internal distribution of arms and ammunition and their further transfer across international borders;
- 7.** whether the recipient is the actual ‘end user’ of arms and ammunition, will accept verification of this and will undertake not to transfer these to third parties without the authorization of the supplier State.

In addition, consideration should be given to legal and other mechanisms to prevent entirely the transfer of

arms and ammunition the **use** of which has been prohibited under international humanitarian law. Particular restraint should be exercised in all transfers of weapons and ammunition the use of which is specifically **regulated** under international law (e.g., anti-vehicle landmines, incendiary weapons).

C. Other international measures

In addition to the above measures, specifically relating to respect for humanitarian law, measures of a more general nature aimed at strengthening transparency and accountability in arms transfers should be considered. In particular:

1. Extension of the scope of the existing UN Register of Conventional Arms Transfers to cover small arms and light weapons, beginning with specific weapons such as assault rifles and rocket-propelled grenades, which have been used to inflict high levels of civilian death and injury.
2. Establishment or reinforcement of surveillance and enforcement mechanisms to ensure respect for United Nations and regional arms embargoes.
3. Establishment of an international system for the marking of small arms, light weapons and related munitions and ammunition. Marking with data on the date, country and company of manufacture could make it easier to monitor arms flows and lead to greater accountability and responsibility among arms suppliers.

D. National measures

As regards national controls on the availability of arms the following measures should be considered:

1. Reinforcement of the ability of States to identify and put an end to illegal cross-border transfers of arms and ammunition.
2. Establishment of mechanisms for ensuring that military-style arms and ammunition are available only to authorities with the right to use such materials and that such weapons in the possession of others are collected and destroyed.
3. Provisions in post-conflict settlements to ensure that States, with the assistance of the international community, will maintain or acquire direct control over arms and ammunition and destroy surplus weapons at the earliest possible time.
4. Vigorous efforts to ensure that weapons and ammunition rendered surplus by the modernization of arsenals are kept under strict surveillance and destroyed rather than exported. As compared with many other long-term measures proposed for addressing the problem of small arms and light weapons, such steps can have an immediate and beneficial impact. On the other hand, failure to address the issue of surplus arms as a matter of urgency could undermine most other current efforts.

A wide range of additional proposals for action at the national, regional and international levels were compiled by an international Expert Group convened by the ICRC and the Norwegian Red Cross in Oslo in May 1998.⁶⁴ The Group – composed of military, governmental, NGO and academic experts – commented on a previous draft of the current study, considered case studies from several regions and developed a summary report annexed to this study. The Expert Group's list of specific measures which could contribute to greater transparency and more effective control of arms availability illustrates the wide range of steps which can be considered at different levels and by different actors. The measures described could not only reinforce respect for international humanitarian law but also lead to improvements in the field of human rights, personal security and development. The Group highlighted, in particular, the importance of regional measures to control arms availability – without which both national and international efforts can be easily undermined.

E. Reducing violations of international humanitarian law

In addition to limiting access to arms for those likely to violate international humanitarian law a number of complementary steps could contribute to the reduction of civilian casualties in conflict and post-conflict contexts. These include:

1. Vastly expanded efforts to instil humanitarian principles in the general population and young people in particular.

In many societies, whether in conflict or at peace, acts such as killing, torture and rape of civilians and the execution of prisoners are accepted as a matter of course in conflict situations, although they violate basic

humanitarian principles and the law of armed conflict. Such acts are often presented as normal and acceptable in film, television and news portrayals of armed conflict, and thus contribute to creating a "culture of violence". Passive acceptance of this type of behaviour means that violators of international humanitarian law do not incur the legitimate revulsion of the societies on which they depend for support and of international public opinion.

Increased efforts are needed to ensure that all segments of society are aware of the limits – grounded in their own cultures as well as in international law – on the use of weapons even in times of armed conflict. An emphasis on influencing the attitudes of young people is particularly important in light of the widespread use of young combatants in internal armed conflicts.



Handing out information on international law, southern Asia.

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2. Increased training of armed forces in international humanitarian law.

In peacetime a great deal more must be done to ensure that potential combatants not only understand the fundamental rules applicable in war, but are also aware that compliance with these rules is expected by their commanders and that violations will be punished. This requires political and military authorities to take political and resource decisions. It will also require, where possible, enhanced efforts at dialogue with non-State groups on the part of all those who have access to them – whether financial supporters, leaders within their own societies or external actors.

3. Ensuring personal security by means other than weapons.

The vicious cycle of insecurity which fuels a demand for arms, which in turn creates a demand for yet more weapons, needs to be broken. The trend towards the privatization of security and the failure of States to assume their responsibility to provide secure living conditions for all citizens is an issue that needs to be urgently addressed. Clearly this will require resources not only for police and criminal justice systems but also for economic and social development. It also implies renewed

determination among political and social leaders to resolve conflicts without resorting to force and the support of the international community for efforts to that end.

6 CONCLUSION



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In the course of its work in aid of war victims throughout the world the ICRC has witnessed the increasingly devastating effects of the proliferation of weapons, particularly small arms and light weapons, for civilian populations. The combination of inadequate controls on the transfer of arms and the frequent use of weapons in violation of the basic rules of international humanitarian law threatens to undermine international legal norms designed to protect civilians from suffering and abuse in combat situations. While the availability of weapons alone is not the cause of violations of humanitarian law or deterioration in the situation of civilians, the experience presented here indicates that the proliferation of arms can be a major factor in facilitating such violations and aggravating the plight of civilians during and after armed conflict.

Civilians have paid an appalling price for the widespread availability of weapons and ammunition in recent conflicts:

- 32 • Civilian casualties outnumber those of combatants in many internal conflicts; they have increased throughout this century in parallel with the development of new military technologies which have increased the lethality of small arms and light weapons.
- Disease, starvation and abuse increase when humanitarian agencies, including the ICRC, are the object of attack and are forced to suspend operations or leave a country.
- Human suffering continues, often for years after hostilities are over, as the widespread availability of arms engenders a culture of violence, undermines the rule of law and threatens efforts at reconciliation among former warring parties.

Weapons available to a wide variety of actors in conflict and post-conflict situations now include highly destructive and lethal instruments previously available primarily to organized armed forces.

The ICRC is deeply concerned that efforts to instil respect for the norms of international humanitarian law are being undermined by the proliferation of weapons, and small arms in particular.

Given the situation described above the ICRC makes the following observations and suggestions, based on its field experience and its mandate as guardian of international humanitarian law:

- The unregulated transfer of weapons and ammunition can increase tensions, heighten civilian casualties and prolong the duration of conflicts.
- The current pattern of transfers of small arms, light weapons and related ammunition, because it is largely outside of international control, should be a matter of urgent humanitarian concern.
- While the primary responsibility for compliance with international humanitarian law falls upon users of weapons, States and enterprises engaged in production and export bear a degree of political, moral and, in some cases, legal responsibility to the international community for the use made of their weapons and ammunition.
- States should review their policies concerning the production, availability and transfer of arms and ammunition in light of their responsibility to "respect and ensure respect" for international humanitarian law. Arms and ammunition should never be seen as simply another form of commercial goods.
- Given the serious threat which the unregulated spread and undisciplined use of weapons presents to international humanitarian law, to international peace and security and to the social fabric of societies, States should urgently consider the establishment of rules, based on humanitarian law, human rights and other criteria, governing the transfer of arms and ammunition.
- Vastly increased efforts should be made at the national and international levels to spread knowledge of the humanitarian principles and international humanitarian law.

The international community has in recent decades enacted important prohibitions and limitations on the transfer of chemical, biological and nuclear weapons, missile systems and components of these technologies. Certain geographical regions have established controls on the transfer of major conventional weapons systems. However, until recently little attention has been given to the transfer of small arms and light weapons, which have inflicted most of the death and injury in recent conflicts. The ICRC encourages governments, regional organizations and non-governmental organizations involved in the development of arms transfer limitations to recognize that international humanitarian law is often the body of law most relevant to the stated purpose for which military-style arms and ammunition are transferred. Criteria based on humanitarian law considerations should become an important component of any new limitations developed in the coming years.

The ICRC considers that in requiring respect for international humanitarian law from those who would arm themselves States will make a major contribution to the protection of civilians from the type of unspeakable suffering which has been inflicted in conflicts throughout this century. In so doing they will significantly strengthen the basis for both lasting peace and the rule of law in the increasingly global society in which we live.

APPENDIX

Meeting of experts on arms availability, violations of international humanitarian law and the deteriorating situation of civilians in armed conflict

Oslo, 18–20 May 1998

SUMMARY REPORT

The widespread availability of arms – particularly small arms and light weapons – has:

- 1. facilitated violations of human rights, resulting in increased tensions and conflicts within society;**

2. facilitated massive violations of international humanitarian law (the law of war) in recent armed conflicts; and

3. hindered post-conflict reconciliation and reconstruction.

Bringing the flow of small arms and light weapons, and their ammunition, under national, regional and international control should be among the highest priorities of governments as well as intergovernmental and non-governmental organizations. As a minimum first step, governments should immediately halt arms transfers to parties committing or preparing grave violations of human rights or international humanitarian law. National legislation on arms transfers should fully reflect each State's commitments under international law.

In the absence of vigorous efforts to address the problem of arms availability, the suffering of civilians both during and after armed conflicts may be expected to increase in the years ahead as new sources of weapons become available owing to reductions in the size of armed forces, privatization of arms industries, the 'upgrading' of existing arsenals when accompanied by the transfer of surplus weapons to other regions, and other factors. Under such conditions, providing development aid or relief to people in need and promoting respect for international humanitarian law will grow ever more difficult, dangerous and costly.

The above statement was a central conclusion of a group of 26 experts on various aspects of the problem of arms availability that met in Oslo from 18 to 20 May 1998 under the auspices of the International Committee of the Red Cross (ICRC) and the Norwegian Red Cross. The participants – from 14 countries in Africa, the Americas, Asia and Europe – included government officials involved in licensing, limiting and policing arms transfers, military and academic experts, representatives of the United Nations and specialists from a number of international humanitarian organizations.

The expert group met to provide specialist support and advice for a study entitled *Arms Availability and the Situation of Civilians in Armed Conflict*, which the ICRC was mandated to carry out by the States party to the Geneva Conventions at the 26th International Conference of the Red Cross and Red Crescent, held in 1995.

The participants were encouraged by the many efforts currently being made to place stricter limits on the availability of small arms, light weapons and ammunition. These include:

- a moratorium on the production, import and export of light arms by members of the Economic Community of West African States, as proposed by the Republic of Mali;
- the Convention to combat illicit trafficking in arms and explosives, adopted by the Organization of American States in 1997;
- the European Union's programme to prevent and combat illicit arms transfers;
- specific proposals made in the framework of the United Nations for the control of small arms and light weapons on the basis of humanitarian, security and crime-control considerations;
- national legislation in a number of arms-producing and -exporting countries to regulate their arms transfers; and
- a growing number of dynamic non-governmental and local community initiatives addressing arms availability, small arms transfers and gun control.

The participants considered such efforts to be key initial steps in addressing the humanitarian problems caused by unrestrained arms availability. However, as a matter of urgency these ad hoc responses to the proliferation of weapons in conflict areas must become part of a coherent international strategy for the control of both licit and illicit transfers of small arms, light weapons and ammunition. Such a strategy will not only alleviate the plight of civilians caught up in armed conflict but would bring major benefits in terms of economic development, ensuring national and regional stability and respect for human rights.

The participants stressed that *regional action* – if supported by civil society, implemented by the governments concerned and bolstered by governments from outside the region – *will form the cornerstone of effective strategies* to develop norms for the transfer of arms and ammunition and to put an end to illicit transfers. Without a coordinated regional approach, the efforts of any one country to control the presence of arms on its territory can easily be undermined. At the same time, however, regional efforts to limit arms availability are needed and deserve the support of the entire international community. Participants proposed a wide range of measures to be taken at the national, regional and international levels.

1. National measures

(a) Legislation should be enacted to require scrutiny of all arms exports on the basis of the proposed recipient's record of respect for international humanitarian law, human rights and other internationally accepted norms.

(b) The States should adopt legislation to ensure the responsible use, storage, distribution and disposal of arms in their possession, with appropriate penalties for violations and the involvement of civil society in the monitoring process.

(c) National databases listing licensed weapons, ammunition-production facilities and commercial arms traders should be established and maintained.

(d) Agents engaged in brokering international arms transactions should be licensed and transfers arranged by such agents subject to government approval. Consideration should perhaps be given to entirely prohibiting arms transfers effected by agents and requiring that all sales be made government to government.

(e) States should observe international arms embargoes and introduce legislation making the violation of such embargoes a punishable offence for their own nationals even when the breach takes place outside the national territory.

(f) Improved controls are needed on cross-border movements of arms and ammunition. These should include 'transit countries', i.e., countries that are neither the producers nor the recipients of the arms involved.

(g) Within the framework of development and peace-building processes, support should be provided for field surveys (based on a common international survey instrument – possibly a questionnaire – designed to optimize the reliability of the data gathered) by local and national organizations on the human costs of arms availability.

(h) Improved inter-ministerial cooperation and information-sharing is needed within both supplier and recipient governments.

(i) A tax could be imposed on arms production in order to provide resources to deal with the negative effects of weapons use on people's health and eventually to repurchase and to destroy surplus arms.

(j) The system of 'end-user' certificates needs to be significantly strengthened. These should be applied to agents as well as to exporting and importing governments. Specific penalties for violation of end-user certification by recipients and the eventual destruction of surplus arms should both be built into end-user agreements. Means should be sought to monitor the further transfer of small arms and light weapons.

(k) Greater resources and training are needed for police and customs services.

(l) Model legislation should be drawn up to facilitate the implementation of proposals (a) to (e).

2. Regional measures

(a) Regional and sub-regional initiatives should be encouraged to ensure greater respect for international humanitarian law and human rights by States facing similar problems due to large-scale arms availability.

(b) Moratoria on the production, import and export of weapons, such as that currently being studied in West Africa, should be considered in other regions.

(c) Regional mechanisms to support the implementation and verification of both moratoria and other arms-limitations measures should be developed.

(d) Significantly enhanced regional cooperation is needed among police and customs agencies for the effective implementation of both national and regional measures.

(e) States in regions where international arms embargoes have been declared should respect those embargoes and support them with the necessary implementation mechanisms.

3. International measures

- (a) States and intergovernmental organizations should draw up global codes of conduct on arms transfers as a means of promoting respect for human rights and international humanitarian law. Such codes should then be translated into law at the national level.
- (b) Improved early-warning mechanisms should be devised by intergovernmental organizations as a means of alerting States in cases where the use of weapons in violation of international humanitarian law, human rights law and other internationally accepted norms is likely.
- (c) The immediate destruction of surplus arms and ammunition, to prevent them from spreading further, should be an integral part of peace agreements and demobilization processes.
- (d) A simple guide should be drawn up by non-governmental organizations to facilitate the identification of small arms and light weapons by local and international observers.
- (e) Organizations with experience in conducting field surveys on the effects of arms availability should develop a common survey instrument.
- (f) The organizations mentioned in proposal (e) should formulate and propose a set of arms-related questions for use by all national and international agencies that routinely conduct surveys on social-economic problems.
- (g) When imposed, international arms embargoes should be accompanied by effective implementation and enforcement mechanisms.
- (h) International assistance should be made available to States for the disposal of surplus arms and ammunition and to enhance the ability of their law-enforcement agencies to curb the illicit transfer and use of arms.
- (i) A global transparency regime, including a reliable system for marking arms and ammunition at the time of manufacture, should be established to make it less difficult to follow movements of small arms and light weapons and to promote confidence and stability.

All participants stressed that what is at stake in the debate on arms availability is the rule of law – both national and international. Respect for legal and societal norms such as those enshrined in international humanitarian law, human rights law and other areas requires limits to be placed on the availability of devices that could be used to undermine the law and inflict horrendous suffering on the very people whom the law is intended to serve and protect. The growth of a culture of violence – encouraged by the easy availability of small arms – is a major obstacle to developing peaceful, prosperous and just societies, particularly in countries recovering from violent conflict. The availability of arms cannot simply be governed by the laws of supply and demand. The control of arms availability based on humanitarian law, development, human rights and other criteria should be among the international community's highest priorities.

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement.

Notes

1. International humanitarian law is a set of rules which, for humanitarian reasons, seeks to limit the effects of armed conflict. In particular, it protects those who are not, or are no longer, taking part in fighting and restricts the means and methods of warfare. International humanitarian law is also called the 'law of war' and the 'law of armed conflict'. Its principal instruments include the Geneva Conventions of 1949 and their Additional Protocols of 1977.
2. The term 'arms transfers', as defined in UN resolutions, refers to all arms or weapon systems transferred outside the control of the producing State. The term is broader than 'arms trade' in that it includes not only commercial sales but also changes of weapon ownership under aid programmes, exchanges of arms under military alliances and other non-monetary arrangements.
3. Nonetheless, in some cases armed militias have been financed by private companies to defend the companies' own interests.

4. i.e., out of action.
5. Jean-Daniel Tauxe, ICRC Director of Operations, Presentation to the ICRC Group of International Advisors, Geneva, September 1998.
6. D.R. Meddings. "Are Most Casualties Non-Combatants?", *British Medical Journal*, Vol. 317, 31 October 1998, pp. 1249-1250.
7. The ICRC does not normally ask the status of those seeking medical assistance.
8. M. Kuzman, B. Tomic, R. Stevanovic et al., "Fatalities in the War in Croatia, 1991 and 1992: Underlying and External Causes of Death", *JAMA*, 1993; 270:626-628.
9. R.M. Garfield and A.I Neugut, "Epidemiologic Analysis of Warfare: An Historical Review", *JAMA*, 1991, 266:688-692.
10. D.R. Meddings and S.M. O'Connor, "Weapons in Cambodia: Who is Injured and How?", *British Medical Journal*, in press.
11. Some commentators cite the fact that thousands of persons were killed in Rwanda by machetes to suggest the futility of limitations on the availability of even more lethal light weapons. However, these arguments overlook the fact that the killings were often facilitated by the rounding up and detention of civilians at gunpoint. Without these more sophisticated weapons large numbers of civilians might have been able to flee.
12. *SIPRI Yearbook 1998*, Stockholm International Peace Research Institute, Stockholm, 1998, pp. 291 & 294. Figures are in constant 1990 US dollars. It should be noted that these figures represent standardized trend indicators developed by SIPRI and do not necessarily reflect the actual costs paid.
13. Despite the changes in the overall volume of arms transfers the major weapons exporting countries have remained largely the same; between 1993 and 1997, these were (in order of volume) the USA, Russia, the United Kingdom, France, Germany, China, the Netherlands, Italy, Canada and Spain. Source: *ibid.*, p. 294.
14. *Ibid.*, p. 318, and *SIPRI Yearbook 1993*, p. 476 (figures also in constant 1990 US dollars).
15. The top twelve **importing** countries in the developing world have remained largely the same; between 1993 and 1997 these were (in order of volume) Saudi Arabia, Turkey, Egypt, South Korea, China, India, Kuwait, the United Arab Emirates, Thailand, Malaysia, Pakistan and Iran. Source: *op.cit.* (note 12), p. 300.
16. *Small Arms Management and Peacekeeping in Southern Africa*, United Nations Institute for Disarmament Research, Geneva (UNIDIR/96/21), 1996, p. 9.
17. P. Wallenstein and M. Sollenberg, "Armed Conflicts, Conflict Termination and Peace Agreements, 1989-1996", *Journal of Peace Research*, Vol. 34, No. 3.
18. R. Legard Sivard, *World Military and Social Expenditures 1996*, World Priorities, Washington DC, 1996.
19. One estimate of small arms and light weapons transfers puts it at between \$5 billion and \$7 billion a year, though some figures run as high as \$10 billion annually. However it is difficult to ascertain the reliability of such figures. See K. Krause, "Constraining Conventional Arms Proliferation: A Model for Canada," in Andrew Latham, ed., *Multilateral Approaches to Non-Proliferation*, York University, Toronto, 1996, p. 57.
20. M. Klare, "Light Weapons Diffusion and Global Violence in the Post-Cold War Era," in Jasjit Singh, ed., *Light Weapons and International Security*, Indian Pugwash Society and British American Security Information Council, New Delhi, 1995, p. 3.
21. V. Hart Ezell, *Report on International Small Arms Production and Proliferation*, Institute for Research on Small Arms in International Security, Alexandria VA, March 1995, p. 9.
22. S. Rana, *Small Arms and Intra-State Conflicts*, United Nations, New York, 1995, p. 4, and *Report of the Panel of Governmental Experts on Small Arms* (United Nations Doc. A/52/298).
23. During the Soviet presence in Afghanistan, over three million AK-47 assault rifles were reportedly supplied covertly through Pakistan to Afghanistan; thousands of these weapons have since turned up in

fighting in Kashmir and elsewhere in South Asia, and as far away as South-East Asia and the Middle East. Source: C. Smith, "Light Weapons and Ethnic Conflict in South Asia," in J. Boutwell, M. Klare and L. Reed, eds., *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, American Academy of Arts and Sciences, Cambridge MA, 1995.

24. R.T. Naylor, "The Structure and Operation of the Modern Arms Black Market," in Boutwell et al., *ibid.*

25. *Report of the International Commission of Inquiry (Rwanda)*, United Nations Doc. S/1996/195, 14 March 1996, p. 15.

26. *Final Report of the International Commission of Inquiry (Rwanda)*, United Nations Doc. S/1998/1096, 18 November 1998, p. 18.

27. C. Smith and D. Sogamosa, *Illegal Weapons in Albania: An Emerging European Security Problem?*, North-South Defence and Security Programme, London, July 1998, p. 7.

28. *Ibid.*, and "Albania is Suddenly Awash with Guns", *Boston Globe*, 19 March 1997.

29. Statement by a UN arms control official, Geneva, 19 February 1999.

30. To expand on this, consider an improbable, but very strong, study design. In a country experiencing intrastate conflict, there is data available providing an accurate measure of both weapons availability among the population and some violation of international humanitarian law (e.g., intentional wounding of a civilian by a combatant). The data is available with uniform accuracy over a five-year period. During this period a marked proliferation of light weapons coincides with a significant increase in the intentional wounding of civilians by combatants.

It may reasonably be concluded that there exists an association between the availability of weapons and this particular violation of international humanitarian law. The degree of confidence with which one could say that the nature of this association is that increasing availability of light weapons caused, or facilitated, this violation will depend on the ability to exclude alternate explanations for the observed association. An important explanation to exclude would be that the increasing frequency of intentional wounding of civilians induced individuals to acquire light weapons for purposes of self-defence.

31. L.G. Peterson, M. Peterson, G.J. O'Shanick and A. Swann, "Self-Inflicted Gunshot Wounds: Lethality of Method Versus Intent", *American Journal of Psychiatry*, February 1985, 142(2), pp. 228-31.

32. B.L. Kost-Grant, "Self-Inflicted Gunshot Wounds among Alaska Natives", *Public Health Reports*, January-February 1983, 98(1), pp. 72-78.

33. S. Maurice, X. Pommereau, S. Pueyo, C. Toulouse, B. Tilly, F. Dabis, B. Garros and R. Salamon, "Epidemiological Surveillance of Suicides and Attempted Suicides in Aquitaine, South-west France, Using an Original Computer Network of Sentinel General Practitioners", *Journal of Epidemiology and Community Health*, September 1989, 43(3), pp. 290-292.

34. M. Killias, "International Correlations between Gun Ownership and Rates of Homicide and Suicide", *Canadian Medical Association Journal*, May 1993, 148 (10), pp. 1721-1725.

35. W. Cukier, "Firearms Regulation: Canada in the International Context", *Chronic Diseases in Canada*, April 1998, 19(1), pp. 25-34.

36. T. Miller and M. Cohen, "Costs of Gunshot and Cut/Stab Wounds in the United States, with some Canadian Comparisons", *Accident Analysis and Prevention*, 1997, Vol. 29, No. 3, pp. 329-341.

37. Cukier, *op. cit.*, pp. 26-27.

38. J.J.M. van Dijk, "Criminal Victimization and Victim Empowerment in an International Perspective", Ninth International Symposium on Victimology, Amsterdam, August 1997.

39. P. Mayhew and J.J.M. van Dijk, "Criminal Victimization in 11 Industrialized Countries", Wetenschappelijk Onderzoek en Documentatiecentrum, Netherlands, 1997.

40. D.R. Meddings and S.M. O'Connor, "Weapons in Cambodia: Who is Injured and How?", *British Medical Journal*, in press.

41. D.R. Meddings, "Weapons Injuries During and After Periods of Conflict: Retrospective Analysis", *British*

Medical Journal, November 1997, Vol. 315, pp. 1417-1420.

42. J. Wang, *Managing Arms in Peace Processes: Cambodia*, United Nations Institute for Disarmament Research, Geneva, 1996, pp. 57-63.

43. For the purpose of this study 'post-conflict' means a period after a specific region came under the uncontested control of a single faction and inter-factional fighting had ceased. The term does not imply an absence of tensions and does not characterize the country as a whole.

44. 'Celebration shooting' refers to the discharge of firearms (usually automatic firing assault rifles) into the air without a specific target.

45. UN Secretary-General, "Supplement to An Agenda for Peace", UN Doc. A/50/60, 3 January 1995.

46. UN Economic and Social Council, Doc. E/CN.15/1998/I.6/Rev.1, 28 April 1998, para. 4.

47. *Report of the Panel of Governmental Experts on Small Arms*, United Nations Doc. A/52/298.

48. *Final Report of the International Commission of Inquiry (Rwanda)*, United Nations Doc. S/1998/1096, 18 November 1998, p. 18, and *Report of the International Commission of Inquiry (Rwanda)*, United Nations Doc. S/1996/195, pp. 18-19.

49. UN Security Council Doc. S/PRST/1999/6.

50. Norway Information, Ministry of Foreign Affairs, Oslo, 1998.

51. The Nobel laureates initiative is coordinated by the Arias Foundation, San José, Costa Rica.

52. See especially, O. Greene, "Tackling Light Weapons Proliferation: Issues and Priorities for the EU", *SaferWorld Report*, April 1997.

53. See *Report of the Secretary-General*, The Advisory Board on Disarmament Matters, United Nations Doc. A/50/391, 30 August 1995, p. 4.

54. The proceedings may be found in: S. Lodgaard and C. Rrnfeldt, *A Moratorium on Light Weapons in West Africa*, Norwegian Institute of International Affairs, Oslo, 1998.

55. Coordinating Committee on Multilateral Export Controls. This regime, aimed at controlling arms and related exports to communist States came to an end on 31 March 1994.

56. O. Greene, *Launching the Wassenaar Agreement: Challenges for the New Arms Export Control Regime*, SaferWorld publication, March 1996.

57. E. Clegg, *The Scott Report: Implications for UK Export Policy*, SaferWorld Briefing, SaferWorld, London, March 1996.

58. Foreign Minister Lloyd Axworthy, June 1996; see "Light Weapons and National Legislation", BASIC Project on Light Weapons website (<http://www.igc.apc.org/basic>).

59. D. Pace, "House Changes Weapon Sales Policy", *Associated Press*, 11 June 1997. The revised measure would prohibit US weapons transfers to countries that are non-democratic or abuse human rights, but would allow the President to authorize transfers "for national security reasons".

60. See T. Robinson and J. Boutwell, "South Africa's Arms Industry: A New Era of Democratic Accountability?", *Armed Forces & Society*, Summer 1996, pp. 613-614.

61. *Defence in a Democracy: White Paper on National Defence for the Republic of South Africa*, May 1996.

62. Press release, Department of Foreign Affairs, Cape Town, 25 February 1999.

63. *The Regulations of the People's Republic of China on the Administration of Arms Export*, Decree of the State Council and the Central Military Commission, No. 234, 22 October 1997.