Small Arms and Human Rights: The Need for Global Action

A Human Rights Watch Briefing Paper for the U.N. Biennial Meeting on Small Arms

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The U.N. Biennial Meeting

More than 100 governments will gather in New York from July 7 to 11, 2003, to assess progress in stemming the global proliferation of small arms.[1] They will report on progress in implementing commitments made at a major conference on small arms held two years ago, in July 2001. These commitments are outlined in a United Nations (U.N.) Program of Action.[2]

The efforts made to date are welcome, but more action is needed to address the scourge of small arms and its devastating human impact. The uncontrolled proliferation and widespread misuse of small arms represents a global human rights and humanitarian crisis. Yet the human rights dimension of the small arms issue has received scant attention, including in the Program of Action. In August 2002, the Sub-Commission on the Protection and Promotion of Human Rights, a U.N. body, recognized that "the protection of human rights must be central to the development of further principles and norms regarding the transfer and misuse of small arms" and expressed concern that "human rights are not being given adequate consideration in other contexts."[3] To help fill this gap, in April 2003 it appointed an expert on human rights and small arms for a three-year term to study how to prevent abuses committed with small arms.[4] Many observers hope that her study, which will address both the transfer and misuse of small arms, will help put human rights at the center of international debate and action on small arms.

To that same end, this briefing paper highlights the negative human rights consequences of small arms abuse. It demonstrates that many governments are involved in the misuse and proliferation of small arms or fail to take action against private actors who engage in such practices. Examples from Human Rights Watch research into incidents that have taken place since the first U.N. conference in July 2001 help to illustrate the nature and scope of the small arms problem, as well as the continued urgent need to tackle it. The briefing paper ends with suggestions for future action. We call for government action to break the small arms-abuses link:

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[1] Small arms are weapons that can be carried and used by one person, and light weapons are for use by two people working as a crew. These include handguns, assault rifles, machine guns, grenade launchers, anti-tank or anti-aircraft guns and light mortars. The term "small arms" is used here to cover both categories, as well as explosives and ammunition.

[2] The full name of the document is the U.N. Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA). The formal title of the upcoming meeting is the U.N. First Biennial Meeting of States to Consider the Implementation of the PoA at the National, Regional and Global Levels.

[3] The Sub-Commission on the Promotion and Protection of Human Rights, "The prevention of human rights violations caused by the availability and misuse of small arms and light weapons," Sub-Commission on Human Rights resolution 2002/25, August 14, 2002.

[4] In April 2003, the UN Commission on Human Rights endorsed the decision of the Sub-Commission on the Promotion and Protection of Human Rights to appoint Barbara Frey as Special Rapporteur to prepare a study on the prevention of human rights violations caused by the availability and misuse of small arms.

- Governments must prevent and punish small arms misuse, both by government agents and private actors.
- Governments must cease authorized arms transfers to abusers and tighten controls to prevent and punish illicit arms trafficking.

Key recommendations, from among a full list that appears below, include government action to:

- Fulfill existing government responsibilities to comply with international humanitarian and human rights law, and ensure that police and armed forces strictly uphold international standards.
- Ensure adequate laws are in place to punish the misuse of small arms by private actors, and that these are effectively implemented and enforced.
- Stop authorizing "legal" arms transfers to abusive recipients and adopt binding instruments on arms transfers that contain strong human rights and humanitarian criteria, such as the proposed international Arms Trade Treaty.
- Close legal loopholes and strengthen lax controls that allow gray market trade in weapons to thrive and hold arms traffickers accountable.

The U.N. Program of Action

The focus of the Program of Action is the illicit trafficking in small arms. It outlines national, regional, and global measures intended to combat the illegal trade in small arms. It largely leaves aside questions about authorized transfers, but does contain some modest national commitments to tighten controls on such transfers. For example, under the Program of Action, governments agree to prevent the diversion of weapons into illicit markets by authenticating documents, regulating arms transit, and controlling arms brokers.

One provision touches on government responsibilities under international law with respect to authorized arms transfers. In Section II, at paragraph 11, governments commit to make sure that their national arms export controls are "consistent with existing obligations of states under relevant international law." Unfortunately, there is no further elaboration, nor is any process outlined to clarify these obligations and affirm that "relevant international law" includes international human rights and humanitarian law.

The Program of Action, which was adopted as a consensus document, does not address small arms misuse. It does not mention human rights and only refers to international humanitarian law in the preamble. These omissions belie the importance of the human cost of small arms.

Small Arms Misuse

Small arms facilitate countless human rights abuses and violations of international humanitarian law around the globe. International human rights and humanitarian law establish the responsibility of governments (and also rebel groups) to uphold basic standards in their own behavior. In addition, governments are responsible for protecting the rights of those living under

their authority or control, and as such have a legal duty to take steps to prevent abuses by private actors and hold them accountable for violations.

In violation of such obligations, government agents—such as military forces, police, and government-sponsored militia—all too often use small arms to carry out atrocities and are rarely held accountable. In many other cases, governments fail to exercise control over private actors, allowing armed individuals and groups to commit small arms-aided abuses with impunity.[5]

Small arms-aided abuses by either governments or private actors occur in many different settings. Following are examples of abuses in wartime, post-conflict settings, and in countries not at war.

Small Arms Misuse during Armed Conflict

International humanitarian law imposes constraints on all warring parties. It prohibits, for example, the deliberate targeting of civilians or other noncombatants, indiscriminate attacks, and attacks likely to disproportionately harm civilians. In addition, governments are required to uphold core human rights principles at all times, including the prohibition on torture. The same applies to rebel groups. The obligations of governments and rebel groups under international human rights and humanitarian law also extend to those acting on their behalf, such as paramilitaries or mercenaries.

Small arms are both readily available and widely misused in many areas of violent conflict. They are the weapon of choice in many conflicts and often have been used to illegally target civilians. Moreover, small arms are often supplied to untrained, undisciplined, and unaccountable actors, who are apt to misuse them against civilians.

A few recent examples illustrate the extent of the problem and the role of both government forces and rebel groups (as well as their proxies) in misusing small arms in armed conflicts that are often marked by abuses on all sides:

- Small arms facilitated grave abuses by government forces during the internal armed conflict that erupted in mid-2001 between Macedonian government forces and ethnic Albanian rebels, who themselves also committed abuses. Government police forces conducting an all-day offensive in the village of Ljuboten carried out summary killings of civilians, widespread arson and looting, and indiscriminate attacks against civilians. Police forces using machine guns shot dead six Albanian civilians, several of them execution-style or as they tried to flee. Police also police fired indiscriminately into the homes of civilians, at times throwing hand grenades and even firing rocket-propelled grenades into homes. One such rocket-propelled grenade was fired directly into a room filled with four men, their wives, and eight children. There is no credible evidence that there was a rebel presence during the attack, nor that any of the villagers put up an armed resistance against the Macedonian police forces. In separate

[5] The following analysis of legal responsibility for small arms abuses draws in part on the work of Barbara Frey, the newly-named U.N. expert on small arms and human rights. A framework she developed is contained in her working paper, "The question of the trade, carrying and use of small arms and light weapons in the context of human rights and humanitarian norms," working paper submitted by in accordance with Sub-Commission decisions 2001/120 ECOSOC - Other Human Rights Issues, (United Nations: 2002), available at: www.unhchr.ch.

incidents, the rebels used small arms to perpetrate serious human rights abuses. For example, as part of a pattern of illegal detentions and kidnappings, they abducted five ethnic Macedonian road workers in August 2001. Two rebels armed with machine guns stood guard as the abducted men were brutally tortured, sexually abused, and mutilated. Before releasing the men, a rebel put his cocked pistol into the mouth of one of the victims and threatened to kill him if he ever told of the abuse.

- In a conflict marked by abuses on both sides, Maoist rebels in Nepal using scorched earth tactics and armed with small arms have targeted civilians and law enforcement authorities. The looting of small arms from government stocks has permitted them to escalate the level of violence. By February 2002 they had reportedly killed over five hundred policemen, many of whom were either wounded or had surrendered. By March 2003, they were estimated to have killed over 800 civilians. The rebels also have used child soldiers in their "People's War" against the government. Government forces in Nepal also committed serious abuses involving the misuse of small arms, with such abuses escalating after the late 2001 declaration of a state of emergency. Military forces were deployed and by a year later, government security forces had reportedly killed over 4000 "suspected Maoists." Many of those killed were civilians targeted for their alleged sympathy for the Maoists. All suspected Maoists, rebels and civilians alike, were at risk of detention, abduction, torture and even summary execution at the hands of government forces.
- Both Israeli government forces and armed Palestinian groups have used small arms to carry out violations of international human rights and humanitarian law in the Occupied West Bank and Gaza Strip. As the occupying power in the West Bank and Gaza, Israel has the obligation under the Geneva Conventions to protect Palestinian civilians; Palestinian armed groups are also bound by international humanitarian law. For example, Israeli security forces, often relying on small arms, have resorted to excessive and indiscriminate use of lethal force, such as when they have fired on rock-throwing demonstrators, employed deadly force against Palestinian civilians to enforce curfews, or returned fire indiscriminately in response to Palestinian fire. In addition, Israeli soldiers have recklessly exposed civilians to danger by coercing them, sometimes at gunpoint, to perform life-endangering acts that assisted Israeli military operations. Armed Palestinian groups, for their part, have used small arms to mount a deadly series of attacks against civilians in Israel and the Occupied Territories. For example, Palestinian gunmen have used automatic weapons to shoot indiscriminately at settlements. They also have used firearms and roadside bombings against Israeli settlers traveling in the Occupied Territories. The explosives used in Palestinian suicide bombings are also considered small arms.
- The recruitment and use of foreign fighters by both rebel and government forces in West Africa contributes to the spiral of armed violence. For example, both the Ivoirian government and rebel forces used hundreds of Liberian mercenaries armed with assault rifles and other small arms. Some of these fighters were implicated in serious human rights abuses in previous wars in Liberia and Sierra Leone. Victims from western Côte d'Ivoire interviewed by Human Rights Watch in February and March 2003 consistently stated that foreign forces were responsible for systematic looting of civilian property, accompanied by assault and, in some cases, executions of civilians and the rape of women and girls.
- Colombian rebels have a horrendous record of abuses, most facilitated by the use of small arms. In recent years, they have carried out killings, subjected captured combatants to inhumane treatment, used weapons indiscriminately (notably gas cylinder bombs), engaged

in a pattern of hostage-taking, carried out attacks on medical workers and health facilities, made extensive use of children as combatants, and forcibly displaced civilians. With respect to kidnapping alone, according to one estimate the rebels were responsible for at least 422 kidnappings from January to April 2003. Most victims of guerrilla abuses are civilians. Civilians also have suffered greatly at the hand of Colombian government forces and paramilitaries. Paramilitary groups operating with the tolerance and often support of units within Colombia's military were linked to massacres, selective killings, and death threats. Throughout Colombia, paramilitaries have continued to move uniformed and heavily armed troops unhindered past military installations. At the end of 2002 paramilitaries claimed to have over eleven thousand armed and trained members, most equipped with small arms.

- Small arms, which are easy to carry and operate, facilitate the use of children as fighters. Burma is believed to have the largest number of child soldiers in the world, with as many as 70,000 boys serving in the national army. Soldiers wielding small arms coerce or forcibly recruit boys as young as eleven. These children often never see their families again. During training, they learn to use assault rifles and machine guns. Many are forced to fight against armed ethnic opposition groups and carry out human rights abuses, including rounding up villagers for forced labor and even massacring civilians. Armed opposition groups in Burma also recruit children, though in far smaller numbers.

Small Arms Misuse in Post-War Settings: Failure to Provide Security

Guns rarely go silent after wars end. To the contrary, the widespread availability of small arms in many post-conflict countries has greatly added to the death toll. Particularly where security is weak, former combatants have not been disarmed, and abusive actors have not been held accountable for past behavior, a situation of lawlessness can emerge where civilians are at grave risk.

Recent examples highlight this dangerous trend:

- Most of post-war Afghanistan is in the hands of warlords and gunmen—fighters in Afghanistan's past wars whom the U.S. armed, assisted, and enabled in the fight against Soviet occupation and in the civil war with the Taliban, and who continued to be relied upon for local security. These warlords use their military power, largely derived from vast quantities of small arms, to terrorize local populations under their authority, robbing houses at night, stealing valuables, killing people, raping young women and children, seizing land from farmers, extorting money, and kidnapping young men and holding them until their families can pay a ransom. The continuing instability has threatened human rights, hampered reconstruction efforts, prevented the return and reintegration of refugees, and presented obstacles to the recovery of Afghan civil society.
- In post-war Iraq, the prevalence of unsecured and easily accessible weapons and ammunition, including vast quantities of small arms, have put civilians at grave risk. For example, doctors at a hospital in Kirkuk said that for several days after the city fell, they were treating around seventy patients a day, most of them civilians who had sustained bullet wounds, shrapnel wounds, and injuries caused by landmines and other explosives. Many victims have been children who have played with ammunition and explosives stored by Iraqi authorities in homes, schools, and other sites in residential areas. Continued lawlessness and armed crime have also contributed greatly to the human toll. In May 2003, six weeks after the conflict

ended, hospitals in and near Basra reported up to five gunshot homicides daily, and another five or seven gunshot injuries. Carjackings and organized looting have continued to plague neighborhoods. Women and girls were reluctant to return to jobs and schools while criminals, some of them armed, roam the streets.

Small Arms Misuse in Countries not at War

Even in countries nominally at peace, the misuse of small arms accounts for many serious human rights abuses. At times, the perpetrators of small arms-aided abuses are government agents who contravene international standards. In other cases, private armed groups or individuals operate with free rein.

Abuses by Government Agents

Government agents exercising law enforcement functions—which in addition to police forces can include military and paramilitary units, militia, and peacekeepers—are subject to international standards. In particular, the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials establish that law enforcement personnel must use the minimum force necessary and may use lethal force only where there is an imminent threat to life. Often, appropriate training and accountability measures are not in place to prevent and punish the inappropriate or excessive use of force. Small arms also confer power, even without being fired. The coercive potential of these weapons, when exploited by abusive government agents, can enable human rights abuses such as torture, rape, intimidation, and looting. In addition, governments can be implicated indirectly in small arms-aided abuses, such as when officials incite armed violence by ethnic militias or enlist armed thugs to carry out attacks for political ends.

Again, there are many examples, of which the following provide only a selection:

- The period before Cambodia's February 2002 local elections was marred by political killings and intimidation by armed men, such as in Tbong Khmum district in Kompong Cham province. There, the November 2001 deliberate killing of two opposition party members, who were shot at point-blank range by men wearing military uniforms, was followed by a campaign of armed intimidation by assailants armed with AK-47 assault rifles. The prime suspects are law enforcement and military officers who are closely associated with local authorities. In a situation where some candidates feared that victory would bring violent retribution, it is clear that democratic processes are unable to function.
- On March 17, 2002, police in Kyrgyzstan employed excessive force in response to a political protest, when they opened fire on the crowd. A government commission found that five civilians died from gunshot wounds inflicted by the police, and that out of twenty-nine civilians injured, sixteen suffered bullet wounds. The number of injured has since been assessed to be higher than originally reported.

Abuses where the Government Fails to Exercise Adequate Control

The duty of governments to ensure respect for human rights includes a responsibility to adopt measures to prevent abuses by private actors and to prosecute those responsible for violations. With respect to small arms abuses, this means governments must put in place adequate laws and act to implement and enforce those laws. In addition, they are required to

provide basic security and to act against private actors who threaten rights, for example, the right to life and security of person. When governments fail to do so, whether out of complicity or negligence, this can lead to a breakdown in the rule of law which itself contributes to the emergence of private armed individuals and groups and an upward spiral of armed violence, even chaos.

For example:

- Private armed groups have emerged in Guatemala. Over the past year, Guatemalan human rights defenders have been subject to repeated and serious armed attacks and threats. On April 29, 2002, a member of the Rigoberta Menchu Foundation, Guillermo Ovalle de Leon, was shot to death in a restaurant next to the foundation's office in Guatemala City. In June 2003 an agent of the Human Rights Ombudsman's office was gunned down in Guatemala City. While the circumstances of his death were unclear, it occurred amidst a wave of threats against members of that office. There is a widespread consensus that such actions are being carried out by clandestine groups with possible links to security forces and organized crime.
- In March 2003, the prime minister of Serbia was gunned down by sniper fire. Until a crackdown began following that assassination, organized criminal networks using various small arms had been allowed to thrive in Serbia for years. These networks stand accused of many armed crimes, including kidnappings and murders, and of involvement in the trafficking of human beings, drugs, and weapons. Dozens of people, including police, have been the victims of armed attacks linked to organized crime. The well-armed criminals relied on corruption and intimidation to escaped justice for their crimes.

Small Arms Transfers

The global proliferation of small arms raises serious human rights concerns. Through both irresponsible authorized arms transfers and the flourishing gray market trade in weapons, small arms are readily supplied to gross human rights abusers in countries around the world, including in areas of violent conflict. Such unrestrained small arms flows give known abusers the tools to commit more atrocities. By suggesting to these actors that their abusive behavior is not of international concern, the continued influx of weapons also encourages a culture of impunity that leads to further abuses.

Arms-supplying governments bear a measure of responsibility for the abuses carried out with the weapons they furnish. This is true when governments approve arms deals where they have reason to believe the weapons will be misused. Governments also must share in the responsibility for abuses when they fail to exercise adequate control over private traffickers who make weapons available to anyone who can pay. This analysis applies to international arms transfers, as well as to the provision of arms to abusive or unaccountable forces within one's borders.

In this light, the U.N. Program of Action acknowledgement that national arms export controls must be "consistent with existing obligations of states under relevant international law" takes on special importance. There is a need for governments to explicitly define those obligations as encompassing international human rights and humanitarian law and to take steps to fully implement those requirements as they relate to authorized transfers. This approach is at

the core of a proposed international Arms Trade Treaty, a binding instrument containing strong human rights and humanitarian criteria. The Arms Trade Treaty, moreover, would apply to all arms transfers, including transshipment and re-exports, not only direct exports.

A recent international development illustrates the concept of responsibility for atrocities committed by abusive forces whom one has armed:

- In June 2003, the Sierra Leone Special Court, a court established by agreement between the United Nations and Sierra Leone, unsealed a March 2003 indictment against Liberian president Charles Taylor. The indictment charges President Taylor with "individual criminal responsibility" for crimes against humanity, war crimes, and other serious violations of international humanitarian law committed in Sierra Leone since November 30, 1996.[6] In particular, President Taylor is indicted in connection with abuses perpetrated by Sierra Leone rebels including acts that terrorized the civilian population, unlawful killings, widespread sexual violence, extensive physical violence, the use of child soldiers, abductions and forced labor, looting and burning, and attacks on peacekeepers and humanitarian workers.[7] His responsibility under the charges is derived in part from his alleged role in providing "financial support, military training, personnel, *arms*, *ammunition* and other support and encouragement" to the notoriously brutal Revolutionary United Front rebels in Sierra Leone.[8]

Irresponsible Authorized Arms Transfers

In keeping with their duty to respect and ensure respect for international human rights and humanitarian law, an ever-growing number of governments have promised not to approve arms transfers where there is reason to believe these will contribute to human rights abuses and violations of international law. Minimum standards have been agreed by many arms exporting countries, including in regional and multilateral fora (see annex). Such commitments represent an important step forward in acknowledging government responsibility for the human rights consequences of arms transfers. A key weakness, however, is that they are not binding and are thus often disregarded in practice. In addition, there is little transparency in the small arms trade, which makes it difficult for citizens to have confidence that their governments are adhering to their commitments not to supply weapons to abusers.

Examples of troubling authorized small arms transfers since July 2001 include the following:

- Many arms exporters, including the United States, have developed new arms trade ties and expanded others in the name of the international war on terror declared after the September 11, 2001, attacks. In numerous cases, arms have been made available despite concerns about the potential for their misuse. For example, in September 2001, U.S. President George Bush estimated his administration would give about $100 million in military assistance to the Philippines in fiscal years 2001-2002. Approved transfers to the Philippines since late 2001 have included 350 M-203 grenade launchers, 30,000 M16 rifles, and120,000 magazines, the

[6] Special Court for Sierra Leone, Indictment against Charles Ghankay Taylor, dated March 7, 2003, copy on file with Human Rights Watch.

[7] Ibid., counts 1-17 at paragraphs 32-59.

[8] Ibid., paragraph 20.

rifles and magazines provided free from surplus stocks. The U.S. State Department's annual human rights report for the period attributed serious abuses to the Philippine military and police forces, including extrajudicial killings, forced disappearances, torture, and arbitrary arrest and detention.

- In a pattern repeated in many countries that are preparing to enter NATO, Romania announced in 2002 that it intended to sell off quantities of surplus weapons, including ammunition and infantry weapons, because they were too expensive to maintain, and that the proceeds of these sales would be used to pay for the country's NATO-inspired military modernization. In 2001 63 percent of Romania's overall arms exports were comprised of shipments of small arms, light weapons, and ammunition. A Romanian government official has stated publicly that Uganda had received Romanian arms in 2001. Beyond its civil war, use of child soldiers, and overall poor domestic human rights record, Uganda was at the time engaged in a regional conflict in the DRC, where Ugandan forces have been responsible for gross and widespread violations of international humanitarian law. Ugandan forces are also accused of arming and training its proxies and supporting local militia forces that have continued the slaughter in eastern DRC.

Illicit Arms Transfers

Contrary to popular conception, illicit arms transfers rarely involve purely black market transactions by shadowy traffickers operating outside the control of government authorities. Instead, the illicit small arms trade relies heavily on so-called gray market transactions. In gray market deals, government approval for an arms transaction is granted on the basis of false or misleading information. The approved weapons shipments are subsequently diverted or re-exported to unauthorized destinations, sometimes in violation of an embargo. Thus the illicit trade in small arms can be traced to governments who approve arms deals with few questions asked and who fail to implement and enforce adequate controls on private traffickers. In some cases, governments knowingly take part in illicit arms trafficking, as when officials provide false cover for arms shipments they know are destined elsewhere.

These selected examples since 2001 illustrate the role of governments in making illicit small arms trafficking possible:

- A U.N. investigation has revealed that in 2002 more than 200 tons of weapons, most of them from Yugoslav army stocks, were sold by a private Belgrade-based dealer to Liberia, in violation of a mandatory U.N. embargo. The weapons included several thousand automatic rifles, millions of rounds of ammunition, and some 4,500 hand grenades, among other small arms. Their sale was arranged using documents falsely claiming the weapons were to go to Nigeria. The Liberian president, who later admitted to violating the embargo, provided the U.N. with a list of imported weapons that almost exactly corresponded to the purported Nigerian end-user certificate. The Serbian authorities did not authenticate this document before approving the export, and the illicit cargo was delivered on six different flights between June and August 2002. The U.N. has indicated that a Moldovan airline and the Belgium affiliate of a second air cargo company transported these weapons. As is typical in such cases, legal loopholes may allow the arms brokers and transport agents to escape prosecution. For example, the Belgian air cargo company apparently is not subject to prosecution for its reported role in the illicit arms deliveries. A new law on arms brokering,

passed by the Belgian parliament in July 2002 and including a provision for control over brokering activities in Belgium even if the weapons themselves do not enter Belgian territory, was not yet in force at the time. At least as of May 2003 it still was awaiting entry into force.

- The United States, which is one of few countries to have national controls on arms brokers and to extend those to the activities of U.S.-linked brokers operating overseas, has yet to prosecute anyone under its 1996 statute.
- Inaction by governments allows many known arms traffickers to operate with impunity, even when attempts are made to act against them. Notably, a well-known arms trafficker continues to live freely in Moscow despite an international arrest warrant issued against him in February 2002. U.N. reports have accused Russian citizen Victor Bout of playing a key role in illicit weapons deliveries to Angola, Sierra Leone, and Liberia, and of involvement in military transport and the illegal plunder of natural resources in the DRC.

Weapons Circulation

In the same way that governments are responsible for controlling international arms transfers to prevent them from getting into the wrong hands, they also must act responsibly with respect to the internal circulation of weapons. Governments who provide weapons to proxy forces, such as militias, without adequate training, discipline, and accountability measures, or who fail to impose controls on the circulation of weapons within their borders share in the responsibility for how those weapons are misused. This includes a responsibility to prevent and punish the arming by private individuals of groups used to abuse human rights, such as when politicians arm supporters to carry out politically motivated attacks.

There are many examples of irresponsible weapons circulation, with major human rights consequences, including the following:

- In West Africa, the continuing use of civilian militias sponsored by regional governments has contributed to the spread of armed violence. In Liberia, both the government and rebel groups have forcibly recruited civilians, including children, into ill-trained, armed militias. This alarming trend has been extended to Côte d'Ivoire, where the activities of rural civilian self-defense committees have been encouraged by the government. In both cases, the use of such militias has resulted in serious abuses of human rights, such as killings, beatings, and other violence against civilians.
- In Nigeria, in the months leading up to elections in April and May 2003, politicians and candidates on all sides used armed thugs to commit brutalities against opponents, killing and injuring scores of people. Several officials at the state level have also organized their own personal armed groups or "private armies." The easy availability of small arms in Nigeria facilitates the equipping of "private armies," vigilantes and other armed groups, making the resort to violence more likely – and more deadly. The availability of otherwise unemployed youths and adults to form armed groups is part of a vicious cycle of poverty and violence. The same phenomenon can be seen in the inter-communal clashes that have claimed thousands of lives in Nigeria since 1999, in which groups of youths from different ethnic groups have fought each other, using the large number of small arms at their disposal.

The Way Forward

The U.N. has been at the lead in promoting awareness of the global small arms problem. Through the first-ever U.N. conference on small arms in 2001 and the planned follow up to that event, it has spurred action at the national, regional, and global level to begin to confront the problem. To date, however, governments have generally conceived the problem narrowly as one of national security rather than human security. They largely have focused attention on the action of private arms traffickers, deflecting their own responsibility. A human rights approach to small arms, by contrast, puts people at the center of the analysis and highlights that it is up to governments to take action to respond to the small arms problem.

The upcoming biennial meeting offers an opportunity to make an honest assessment of successes and shortcomings in the global response to the human rights and humanitarian challenge of small arms. With a further biennial meeting set for 2005 and a full-fledged review conference scheduled for 2006, this is an opportune moment for governments to inject new energy into international action on small arms, commit to adopting a human rights-centered approach, and to set out an agenda for action that will protect people from small arms abuses in the future.

Governments must take strong measures to halt and prevent the misuse of weapons, beginning with a focus on their own behavior:

- Fulfill existing government responsibilities to comply with international humanitarian and human rights law, including by exercising due control over private actors.
- Ensure that police and armed forces strictly uphold international standards.
  - Apply strict norms of discipline and accountability to all security structures.
  - Ensure civilian oversight, include vetting procedures, provide appropriate training that includes training in human rights and international humanitarian law, and provide for effective accountability measures to hold violators responsible. Improve record-keeping and control over the use of firearms by security forces.
  - Where needed, undertake security sector reform programs.
- Bar the formation of civilian militias and do not permit local communities to take on or share in armed law enforcement functions without strict oversight, proper training, full adherence to legal standards that are consistent with human rights norms, and strong accountability measures.
- Stop all recruitment, training, and use of children under the age of eighteen for military service and ensure their disarmament, demobilization, and social rehabilitation.
- Ensure adequate laws are in place to punish the misuse of small arms by private actors, and that these are effectively implemented and enforced.

In addition, governments must cut off arms flows to abusers, both internationally and within their own borders:

- Stop authorizing “legal” arms transfers to abusive recipients.

    - Adopt strict arms export criteria on the observance of human rights and compliance with international humanitarian law. Incorporate those into national arms trade laws so as to make them binding.
    - Develop and strengthen regional codes of conduct, which should be made binding.
    - Negotiate a binding international instrument on arms transfers that contains strong human rights and humanitarian criteria, such as the proposed international Arms Trade Treaty.
    - Comply fully with the provisions of all applicable instruments defining minimum export criteria, such as European Union Code of Conduct on Arms Exports, as well as the measures of restraint agreed in other fora, such as the Wassenaar Arrangement.
    - Halt the flow of arms to governments and groups that recruit and use child soldiers.
- Close legal loopholes and strengthen lax controls that allow gray market trade in weapons to thrive and hold arms traffickers accountable.
    - Implement and enforce arms embargoes.
    - Impose controls on arms brokers, licensing their activities using strict human rights criteria.
    - Prosecute and punish arms traffickers and corrupt government officials involved in illicit arms deals.
    - Move forward to negotiate binding international treaties on arms brokering and marking and tracing.
    - Develop an international regime for the standardization, authentication, and verification, and continued monitoring of end-user commitments.
- Increase transparency regarding the arms trade
    - Prepare and make public a detailed annual report on arms transfers.
    - Provide advance notification to national legislatures of pending arms deals.
    - Ensure that military finances are transparent and part of the formal budget in order to prevent opaque and off-budget arms transfer practices that can undermine good governance, foster corruption, and permit unaccountable governments to squander their countries' resources.
- Secure arms stockpiles and dispose responsibly of surplus and seized weapons to prevent them from being stolen or sold off to unaccountable forces.
- Monitor how weapons supplied to foreign forces are used, and make such end-use monitoring a standard condition of arms transfers.
- Combat corruption and conflicts of interest among authorities responsible for controlling arms transfers.