

Small arms and light weapons: the tools used to violate human rights

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The availability, transfer and misuse of small arms have dramatic adverse consequences on human rights. Hundreds of thousands of men, women and children are killed or injured each year by small arms and light weapons. The estimated number of firearms in circulation in the world is 640 million.¹ It is likely that the actual global stockpile of small arms is even greater. While small arms proliferation is not a new phenomenon, in the era of globalization there is growing concern that more guns are getting into more hands with fewer restraints. In today's world, small arms—including military-style weapons—are available to almost anyone who has the will to obtain them. These weapons, which are cheap, easy to transport and easy to operate, are used to violate human rights in every corner of the globe. A single weapon, misused, can change the fate of an individual, a family or even an entire community. A flood of small arms can shift the entire balance of power in a community, leading to a lack of personal security that destroys the rule of law.

While human rights can be violated with or without weapons, the lethal nature of small arms means that the weapons themselves must be singled out for examination under international law. Given technological developments in the field, small arms are growing more lethal and easier to operate even for unsophisticated and untrained users. This means that the scale and the pace of human rights violations can be adversely affected by the involvement of a firearm. Small arms have a transformative or multiplier effect on coercion and violence—the introduction of small arms into ethnic, political or religious conflicts, for example, has resulted in atrocities on a massive scale.

This article offers a summary of the human rights and humanitarian law implications of the small arms issue. It includes a brief overview of the human rights consequences of small arms availability, transfer and misuse. The article then analyses the responsibilities of states and private actors under international human rights and humanitarian law regarding the availability, transfer and misuse of small arms.²

Adverse consequences to human rights

The most direct impact of small arms on human rights is the sheer number of deaths and injuries incurred by their misuse. There are an estimated 500,000 persons killed annually and millions more injured, often disabled physically and emotionally for the rest of their lives.³ The right to life is guaranteed under international law, both in the Universal Declaration of Human Rights,⁴ Article III, and the International Covenant on Civil and Political Rights (ICCPR),⁵ Article VI. The right to life is also guaranteed

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in international humanitarian law. Wilful killing in international conflicts is prohibited by the Geneva Conventions as a grave breach.⁶ Common Article III of the Geneva Conventions addresses the rights of non-combatants, prohibiting murder of all kinds, including the carrying out of executions without previous judgment by a regular court. States, then, are responsible for protecting the right to life, even in times of public emergency, including armed conflict.

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Besides their misuse in deaths and injuries, small arms facilitate an entire range of human rights violations, including rape, enforced disappearance, torture, forced displacement, and forced recruitment of child soldiers.⁷ Landmine casualties continue to be reported in every region of the world.⁸ Even in genocidal conflicts, where people have been hacked to death with machetes or other non-ballistic instruments, the victims are often initially rounded up with firearms.

Small arms and the culture of violence that results, in part, from easy access to these weapons, also affect other human rights profoundly. The increase in state expenditures on arms that is often required due to deteriorating security conditions can result in decreased support for development and for economic, social and cultural rights. Communities that suffer from an atmosphere of armed criminal or political violence may suffer a wide range of violations to their international rights to education, healthcare, development and their right to participate in government—to name a few.⁹

The death and injury of productive individuals through small arms related violence places a double burden on communities, which suffer the loss of the person's direct contributions to his or her family, workplace and neighbourhood, and also lose the social stability that is needed to encourage social and economic development. The toll of arms-related violence is present in crime-ridden parts of urban areas as well as villages that are dominated by warlords. A study¹⁰ published in January 2003 by Oxfam regarding the impact of small arms on Medellín, Colombia, found the following: 61% of all deaths in the city are caused by homicide, making homicide the main cause of mortality. Ninety percent of homicides are perpetrated with firearms. The group with the highest casualty rate is men between the ages of 15 and 44. In addition to this deprivation of the right to life, many other rights are affected by the prevalence of gun violence. People living in Medellín have suffered from:

- forced displacement due to armed violence;
- partial closures of schools through armed confrontations;
- high incidence of rape of girls between 11 and 17; and
- restrictions on the ability to walk freely as a pedestrian, to use public transport, and to participate in group activities.

The Medellín example illustrates that it is not merely the body count from armed violence that tells the tale; armed violence weakens the very fabric of society so that no human rights can be guaranteed.

Normative framework regarding small arms

International human rights law and humanitarian law define the normative responsibilities of states with regard to the availability, transfer and misuse of small arms. International human rights law focuses primarily on the obligations of states to respect and protect the fundamental rights of individuals. Human rights law is codified in dozens of international and regional instruments including, of course, the Universal Declaration of Human Rights, the two human rights Covenants,¹¹ many thematic treaties,

international judicial decisions and interpretations, and customary international law as evidenced by the practice of states. International humanitarian law defines the rights and duties of belligerents in armed conflicts and provides safeguards for persons not participating in the conflict.

While the primary purpose of international law is to prescribe the conduct of states, international law is evolving to account for the indisputable role of individuals and other non-state actors in promoting and protecting human rights. The establishment of the International Criminal Court is the most obvious example of the trend to develop international standards to complement national standards regarding the criminal actions of individuals. This trend is critical in any analysis of small arms, because small arms are the tools that enable individuals and organized groups to inflict tremendous violence upon people and communities. In addition to examining state obligations, therefore, it is important to consider what legal obligations address abuses perpetrated by armed individuals and groups.

The human rights analysis regarding small arms is complicated by the many types of use—legal and illegal—of these arms. The act of discharging a weapon has varying legal significance based on the identities of the shooter and the victim, and the circumstances under which the shot was fired. The human rights and humanitarian norms that guide state action with regard to small arms differ in the following situations: misuse of small arms by state agents; misuse of small arms by private persons when the state fails to exercise due diligence; misuse of small arms by state agents in armed conflict; misuse of small arms by non-state actors in armed conflict; and small arms transfer with knowledge that arms are likely to be used to commit serious violations of international human rights and humanitarian law.

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Table 1 illustrates the sources of international human rights and humanitarian law relevant to the above five situations.

Human rights violations by state agents

The responsibilities of states regarding the misuse of small arms in peacetime are defined by international human rights law. States that are parties to binding multilateral human rights treaties are obligated to protect the rights defined in those treaties. The ICCPR, in Article IV, mandates state protection of several core rights even during states of emergency, including the right to non-discrimination, life, freedom from disappearance, freedom from torture, freedom from slavery, and freedom of thought, conscience and religion. Under the ICCPR, states may not use small arms to carry out violations of any of these non-derogable rights.

Despite these clear international standards, police, security forces or other state agents such as paramilitary groups, private security companies and armed body guards frequently commit serious human rights violations, often with small arms. Human rights groups have documented serious misuse of small arms by police and military officials, for instance, through use of excessive force against demonstrators or detainees and by committing extrajudicial executions of political opponents, street children and other groups deemed as 'undesirable'.¹² Governments provide arms to groups to foment racial, political or ethnic violence in support of their political ends.¹³

Small arms, of course, do have lawful uses, including use by law enforcement for peace and self-defence. However, along with the power to carry arms comes the obligation of states to ensure their agents are well-trained and that their use of small arms is in compliance with national and international standards.

Flowing from the right to life, international rules have been developed to govern the use of state-sponsored force including the use of weapons. In 1979 the United Nations General Assembly adopted

Table 1. Examples of international human rights and humanitarian law relevant to small arms availability and misuse

| Situation | Examples of violations | Selected applicable laws |
|---|--|--|
| Misuse of small arms by state agents | Genocide Intentional killings Excessive force Torture Systematic rape Disappearance Arbitrary arrest Displacement, deprivation of economic rights | Universal Declaration of Human Rights (UDHR) Art. III (life), V (torture), IX (arbitrary arrest), and others; International Covenant on Civil Political Rights (ICCPR) Art. IV (non-derogable rights), VI (life), VII (torture), IX (arrest) and others; UN Code of Conduct for Law Enforcement Officials |
| Misuse of small arms by individuals or groups when the state fails to exercise due diligence | Killings motivated by ethnic, religious or social intolerance Terrorist acts Systematic criminal homicide Systematic domestic violence Systematic post-conflict violence Criminal trafficking in persons | UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials UDHR, Art. III (life), IV (slavery), V (torture), VII (non-discrimination), and others; ICCPR, Art. II (non-discrimination), VI (life), VII (torture), VIII (slavery), and others; 'Due diligence' standard, from the jurisprudence in the Human Rights Committee, Inter-American Court of Human Rights, European Court of Human Rights |
| Misuse of small arms by state agents in armed conflict | Genocide Grave breaches, including executing or torturing non-combatants and prisoners of war Attacking peacekeepers or humanitarian workers Committing atrocities against civilian populations Excessive or indiscriminate force Use of weapons causing superfluous injury or unnecessary suffering Use of child soldiers | Genocide Convention Geneva Conventions of 1949 and Additional Protocol I, grave breaches Geneva Conventions, common Article III Additional Protocol II to the Geneva Conventions, relating to the protection of victims of non-international armed conflict Rome Statute of the International Criminal Court Convention on the Rights of the Child, Art. 38 Optional Protocol on the involvement of children in armed conflict |
| Misuse by armed individuals and groups in armed conflict | Genocide, war crimes, crimes against humanity Attacking peacekeepers or humanitarian workers Use of child soldiers Hostage-taking Terrorism | Genocide Convention Rome Statute of the International Criminal Court Geneva Conventions, common Article III Additional Protocol II to the Geneva Conventions, relating to the protection of victims of non-international armed conflict Optional Protocol on the involvement of children in armed conflict, Art. IV |
| Arms transfers with knowledge that arms are likely to be used to commit serious violations of international human rights and humanitarian law | Violating arms embargoes Transfer to insurgent or criminal groups known to violate human rights Transfer to states known to violate human rights or humanitarian norms on a systematic basis | UN Charter, chapter VII Geneva Conventions, common Article I UN Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and Protection of their Independence and Sovereignty International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts |

the Code of Conduct for Law Enforcement Officials, document A/34/46, a comprehensive code of ethics for police and other law enforcement personnel. The code is augmented by a very helpful commentary. Central to the code is the principle that the role of law enforcement officials is to serve and protect the rights of the community. Article III is the key tenet regarding the use of force, which states, 'Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.' The commentary to Article III explains that every effort should be made to avoid the use of firearms and that their use should only be allowed when a suspected offender offers armed resistance or jeopardizes the lives of others *and* less extreme measures are not sufficient.

The rules on firearm use were further defined in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, document A/CONF.144/28/Rev.1, which was adopted in 1990 by the Eighth UN Conference on Prevention of Crime and Treatment of Offenders. The Basic Principles reiterate the norm that had been set forth in the Code of Conduct, that law enforcement officials must not use force except when strictly necessary and to the minimum extent required under the circumstances. Basic Principles 9, 10 and 11 explain in detail the circumstances under which firearms should be carried and used by law enforcement. Basic Principle 9 states that 'intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.' Principle 10 provides that a clear and timely warning must be given unless it would be dangerous or pointless to do so. And Principle 11 sets forth requirements for internal guidelines necessary to oversee the appropriate use of firearms by law enforcement officials. Basic Principle 19 states that law enforcement officials must be trained and tested on the standards regarding the use of force and that officers who carry firearms should complete special training in their use.

In all suspected cases of extra-legal, arbitrary and summary executions, including those committed with small arms, states are required to conduct a thorough, prompt and impartial investigation in accordance with the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, document E/1989/89 (1989) (Extra-Legal Execution Principles). According to those Principles, the investigation shall determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide (Principle 9).

Abuses committed by armed individuals and groups

In addition to preventing violations committed by state agents, human rights law obligates states to use due diligence to prevent harm and to provide remedies for abuses caused by armed individuals and groups. There are more guns in the hands of private persons around the world than there are in the hands of state security forces.¹⁴ Private individuals account for about 55% of the total known global stockpile of firearms, a minimum of 305 million guns.¹⁵ While the link between accessibility of guns and levels of violence is not absolute, research shows that, in general, high rates of gun ownership are related to increases in the incidence of arms-related violence.¹⁶ Such violence includes both intentional and unintentional deaths and injuries. Guns end up in the hands of private persons by various means, including direct commercial sales, private transfers, theft, government sale or transfer, and failure to disarm in post-conflict situations. Tragic incidents of violence by armed individuals in various countries, particularly school killings, have drawn public attention to the problem. Unfortunately, these incidents represent only a small fraction of the deaths and injuries inflicted by individuals with easy access to guns.

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In the first situation, armed individuals and groups, acting with the express or implicit permission of authorities, are themselves considered to be state agents. Under this theory, the state would be responsible, for example, for failing to prevent, investigate or prosecute vigilante groups or private militias that operate with the tacit or explicit approval of state agents to carry out ethnic or religious massacres, or 'social cleansing' of street children.

Under the second theory, states would also be held accountable for patterns of abuses committed by armed individuals or groups if a state failed to act with due diligence to prevent the abuses. Examples of failure to act with due diligence include the state's refusal to establish reasonable regulations regarding the private possession of small arms that are likely to be used in homicides, suicides and accidents; its failure to protect individuals from a pattern of domestic violence caused with small arms; and its failure to protect individuals from organized crimes include kidnapping and killing for ransom.

Under the due diligence analysis, states must take reasonable steps to prevent, investigate, punish and compensate with regard to human rights violations committed by armed individuals or groups. Due diligence 'results from more than mere negligence on the part of state officials... it consists of the reasonable measures of prevention that a well-administered government could be expected to exercise under similar circumstances.'¹⁷ Thus, under a due diligence standard, it is the omission on the part of the state, not the injurious act by the private actor, for which the state may be responsible.

Article III of the Universal Declaration of Human Rights and Article VI of the Civil and Political Covenant have been interpreted to require states to prevent acts of violence, including extra-legal, summary or arbitrary executions by private persons. States must design and implement adequate laws and regulations to protect the right to life. The Extra-Legal Execution Principles, Principle II, requires states 'to ensure strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorized by law to use force and firearms.' Under Principle IV, states must guarantee effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, 'including those who receive death threats.' The Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions is charged with enforcing state responsibility for the harm caused by private actors, including taking actions regarding 'deaths due to acts of omission on the part of the authorities, including mob killings. The Special Rapporteur may take action if the state fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction.'¹⁸

The due diligence requirement has been interpreted by regional courts in the Americas and Europe. In the 1988 case, *Velásquez Rodríguez*, the Inter-American Court of Human Rights imposed liability on Honduras for its lack of due diligence in preventing unexplained 'disappearances' whether by the state or private actors.¹⁹ The European Court of Justice has also delineated the due diligence obligations of states under the European Convention on Human Rights.²⁰ In *Akkok v. Turkey*,²¹ for instance, the European Court of Justice held that the state violated Article 2.1 of the European Convention on Human Rights²² when it failed to take reasonable measures to avert a real and immediate risk to life. The victim, Mr. Akkok, was a Kurdish teacher who was shot and killed by unknown assailants. Mr. Akkok had received death threats before he was killed and had reported those threats to the Turkish authorities. The Court interpreted Article 2.1 as involving a primary state duty to secure the right to life

by putting in place effective criminal law provisions to deter crimes. The Court found that the right to life under the European Convention imposed a positive obligation on authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual.

Under the due diligence standard for determining state liability, therefore, a state may have an affirmative duty under the human rights instruments to ensure that small arms are not used by armed individuals and groups to commit human rights violations. Obviously the measures that a state might take to meet this obligation will be constrained by democratic principles and practical considerations of resources, however, sufficient measures, akin in scope to those required for the effective investigation of an individual's death, are not an unreasonable burden and are arguably required under international law.

Humanitarian law violations by state agents and by armed groups

International humanitarian law defines the rights and duties of belligerents and provides safeguards for non-combatants. The cardinal principles of international humanitarian law, which are relevant to small arms, include:

- the protection of civilian populations and civilian objects, requiring that a distinction be made between combatants and non-combatants (weapons that cannot distinguish between combatants and non-combatants are illegal); and
- the prohibition of superfluous injury and unnecessary suffering to combatants.²³

In addition to those two principles, international humanitarian law prohibits grave breaches to the Geneva Conventions including wilful killing, torture and inhumane treatment, unlawful deportation or transfer of protected persons, and extensive destruction or appropriation of property not justified by military necessity. These norms have been reaffirmed in the Rome Statute of the International Criminal Court,²⁴ and individuals—whether state agents or not—who use small arms to commit genocide, war crimes or crimes against humanity may be subject to prosecution under the provisions of the Rome Statute in national or international courts.

In the course of international and internal armed conflicts, states, through their security forces and other armed agents, have been documented to carry out grave violations of humanitarian law with small arms. Those violations include executions of non-combatants and prisoners of war, atrocities against civilian populations, forcible relocations of civilian populations, use of children in direct conflict, use of weapons that cause superfluous injury or unnecessary suffering, and use of excessive and indiscriminate force such as summary executions of captured combatants.

Most armed conflict now occurs within, rather than across, the borders of states. The nature of internal armed conflict today is characterized by the involvement of a wide range of actors including rebel and paramilitary groups, and criminal organizations—all of whom use small arms as their weapons of choice. Armed groups are documented to commit grave violations with small arms and light weapons including genocide, mass killings, systematic rape, kidnapping, disappearances, use of children as soldiers, hostage-taking, forced transfer of populations and terrorist acts.

The accountability and obligations of armed opposition groups with regard to violations of international human rights and humanitarian law is a legal area that is still in an early phase of development. At a minimum, belligerent groups can be bound by the provisions of the Geneva Conventions and Additional Protocol II, relating to the protection of victims of non-international armed conflict.²⁵

Prohibitions on transfer of small arms used to commit violations

The international community has expressed its concern regarding the 'excessive accumulation and uncontrolled spread' of small arms and light weapons which 'have a wide range of humanitarian and socio-economic consequences and pose a serious threat to peace, reconciliation, safety, security, stability and sustainable development.'²⁶ Despite these expressed concerns, however, many states are actively involved in the transfer of small arms to human rights violators. The Security Council has imposed arms embargoes under Chapter VII of the Charter of the United Nations approximately fifteen times since 1965. Under these embargoes, states are prohibited from transferring weapons to the embargoed state and they must also take the necessary measures to implement, apply and enforce the embargo internally to make it operative against private actors within their jurisdictions. As a measure of the seriousness with which the Security Council considers its embargoes, it has called upon states to adopt legislation making the violation of arms embargoes a criminal offence. Despite these efforts, violations against these embargoes are well documented and the Security Council has recently begun to try to improve methods of supervision in an ad hoc manner.²⁷

The ongoing work of the Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York in July 2001, is concerned with the security, humanitarian and economic consequences associated with the illicit trade in small arms as well as their excessive and destabilizing accumulation. The Programme of Action addressed the issue of transfer in general terms in Section II, paragraph 11, in which states agree to undertake measures to assess applications for export authorizations according to strict national regulations that 'are consistent with the existing responsibilities of states under relevant international law.' Under this provision, states should take into account as part of their export decisions, obligations under international human rights and humanitarian law.

Humanitarian law speaks directly to these export considerations. Common Article I of the Geneva Conventions, for instance, obligates states parties 'to respect and ensure respect' of humanitarian norms guaranteed by the Conventions. This commitment, to respect and ensure respect, has been highlighted by the International Committee of the Red Cross and other scholarly commentators to bar states from knowingly providing small arms to situations where serious violations of international humanitarian law occur or are likely to occur.

The International Conference of the Red Cross and Red Crescent adopted as part of its Agenda for Humanitarian Action in December 2003 Goal 2.3, which commits the conference 'to reduce the human suffering resulting from the uncontrolled availability and misuse of weapons.' To achieve this goal, the Conference agreed that 'states should make respect for international humanitarian law one of the fundamental criteria on which arms transfer decisions are assessed.'

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When establishing export control measures, states are bound under human rights and humanitarian law not to participate in internationally wrongful acts, including the serious human rights violations of the recipient state. State responsibility for assistance in the commission of an internationally wrongful act was recognized by the International Law Commission (ILC) in 2001. The ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts, Article 16, states that: 'A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) That State does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that State.'²⁸ Under the ILC's Draft Articles, serious violations of human rights, especially those constituting a consistent pattern of gross and reliably attested human rights violations are internationally wrongful acts that should prohibit arms exports to that state.

Conclusion

Small arms are the tools used to violate human rights. Existing legal obligations provide some important guidelines regarding state responsibility for protecting people from the adverse consequences of these lethal weapons. States must go further in acknowledging the linkage between control of small arms and protection of human rights, and in adopting concrete measures to prevent misuse by state agents, misuse by armed individuals and groups and transfer to human rights violators.

Notes

1. Small Arms Survey, 2002, *Small Arms Survey 2002: Counting the Human Cost*, Oxford University Press, p. 63. The figure does not include the estimated 230–245 million stockpiled landmines (United Nations High Commissioner for Refugees, 2000, *The State of the World's Refugees*, Oxford, Oxford University Press; International Campaign to Ban Landmines, 2002, *Landmine Monitor Report 2002: Toward a Mine-Free World*, Human Rights Watch). An alternative estimate of total global firearms is 594 million (G. Fetter, 2000, *Ordnance and Munitions Forecast: September*, Newtown, Forecast International). These figures vary depending upon the definition of small arms used in the estimate.
2. For a fuller examination of these issues, see B. Frey, *The Question of the Trade, Carrying and Use of Small Arms and Light Weapons in the Context of Human Rights and Humanitarian Norms*, United Nations, Economic and Social Council document E/CN.4/Sub.2/2002/39 of 30 May 2002, and Barbara Frey, *Preliminary Report on the Prevention of Human Rights Violations Committed with Small Arms and Light Weapons*, United Nations, Economic and Social Council document E/CN.4/Sub.2/2003/29 of 25 June 2003.
3. Small Arms Survey, 2001, *Small Arms Survey 2001: Profiling the Problem*, Oxford University Press, p. 59. The figure of 500,000 deaths from small arms includes approximately 300,000 killed in armed conflict and 200,000 killed in peacetime each year. A recent World Health Organization (WHO) study of fifty-two high- and middle-income countries concluded that more than 115,000 people died in those countries from firearm injuries in a one-year period in the mid-1990s, including 79,000 homicides, 29,000 suicides and 7,000 accidents or undetermined. WHO, 2001, *Small Arms and Global Health*, Geneva, WHO.
4. United Nations General Assembly resolution 217A (III), United Nations document A/810 at 71 (1948).
5. *International Covenant on Civil and Political Rights*, United Nations General Assembly resolution 2200 (XXI), United Nations document A/6316 (1966), entered into force 23 March 1976.
6. Grave breaches have been defined as the most egregious violations against protected persons in wartime, as set forth in the four Geneva Conventions of 1949 and Additional Protocol I, relating to the Protection of Victims of International Armed Conflicts. According to the ICRC, the assignment of certain grave violations as grave breaches is an articulation of those violations of the Conventions and the Protocol which, 'were they to remain unpunished, would signify the degradation of human values and the regression of the entire concept of humanity.' ICRC, *Basic Rules of the Geneva Conventions and their Additional Protocols*, < www.icrc.org/Web/Eng/siteeng0.nsf/html/57JMJR?OpenDocument > (accessed 6 February 2004).
7. See, for example, Amnesty International, 2001, *Human Rights Abuses with Small Arms: Illustrative cases from Amnesty International Reports 2000–01*, London. This report summarized case reports from over ninety countries in which law enforcement officials used small arms to violate international human rights law.
8. There are still an estimated 15,000–20,000 new landmine casualties each year. International Campaign to Ban Landmines, 2003, *Landmine Monitor Report 2003*, < www.icbl.org/lm/2003/findings.html > (accessed 6 February 2004).
9. See, generally, R. Muggah and E. Berman, 2001, *Humanitarianism Under Threat: The Humanitarian Impacts of Small Arms and Light Weapons*, Geneva, Small Arms Survey.
10. Oxfam, 2003, *The Impact of Small Arms on Health, Human Rights and Development in Medellín*, Boston, Oxfam, January.
11. The two Covenants are the *International Covenant on Civil and Political Rights*, *op. cit.*, and the *International Covenant on Economic, Social and Cultural Rights*, General Assembly resolution 2200 (XXI), United Nations document A/6316 (1966), entered into force 3 January 1976.
12. See, for example, 24 February 2003 statement of Ms. Asma Jahangir, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, expressing deep concern at excessive use of government force

- resulting in more than 100 deaths in one month by Thai security forces engaged in a crackdown on the drug trade (United Nations press release of 24 February 2003, at <www.unhchr.ch/news>). She also reported that on 11 May 2003 a group of Rangers, a unit under the direct control of the Pakistani military, shot and killed an individual in a crowd demonstrating against the Rangers' excessive use of force on previous occasions (United Nations press release of 15 May 2003, at <www.unhchr.ch/news>).
13. The United Nations High Commissioner for Human Rights expressed grave concern in February 2003 over 'death squad' activities being carried out by the Government of Côte d'Ivoire aimed at inciting xenophobia and war (United Nations press release of 7 February 2003, at <www.unhchr.ch/news>); see also Human Rights Watch, 2002, *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*, New York, Human Rights Watch, May.
 14. Small Arms Survey, 2001, *op. cit.*, pp. 88–89.
 15. *Idem*. There are an estimated 234 million civilian firearms in the United States alone. Small Arms Survey, 2003, *op. cit.*, p. 61.
 16. See generally, Small Arms Survey, 2001, *op. cit.*, pp. 202–203.
 17. D.L. Shelton, 1990, Private Violence, Public Wrongs, and the Responsibility of States, *Fordham International Law Journal*, vol. 13, no. 1, pp. 21–22.
 18. Report of the Special Rapporteur, Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2002/36, E/CN.4/2003/3 at para. 8(h).
 19. *Velásquez Rodríguez Case*, Judgement of 29 July 1988, para. 172, Inter-American Court of Human Rights, at <www.corteidh.or.cr/juris_ing/index.html>.
 20. *Case of X and Y v. the Netherlands*, ¶23, Application no. 8978/80, Strasbourg, 27 February 1985, <hudoc.echr.coe.int>; *Case of Plattform "Ärzte für das Leben"*, ¶32, Application no. 10126/82, Strasbourg, 25 May 1988, at <hudoc.echr.coe.int>.
 21. Application nos. 22947/93 and 22948/93, para. 97, Strasbourg, 10 October 2000.
 22. Article 2.1 of the European Convention on Human Rights provides: 'Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.'
 23. International Court of Justice, 1996, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996.
 24. United Nations document A/CONE183/9 (1998), entered into force 1 July 2002.
 25. Entered into force 7 December 1978.
 26. United Nations, 2001, *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, United Nations document A/CONE.192/15, Section I, para. 2.
 27. See, for example, United Nations, Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA* (Fowler Report), Security Council document S/2000/203 of 10 March 2000, annex.
 28. International Law Commission, State responsibility—Titles and texts of the draft articles on Responsibility of States for internationally wrongful acts adopted by the Drafting Committee on second reading document, document A/CN.4/L.602/Rev.1 of 26 July 2001.