

Justice for All: A Better Path to Global Firearms Control

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INTRODUCTION

The United Nations is currently negotiating a legally binding Arms Trade Treaty (ATT), which is supposed to protect human rights. We suggest that the ATT will fail to ameliorate human rights abuses, because it will merely create redundant paper controls on some instrumentalities of violence, rather than on controlling the perpetrators of violence.

In Part I, we show that an important reason why many people own firearms is justifiable desire to protect their families and communities from government-sponsored genocide and other abuses. Governments have been the primary perpetrators of violence and human rights violations. Accordingly human rights advocates should focus on government reform, rather than on a treaty that obfuscates the problem of poor governance.

In Part II, we argue that the proposed Arms Trade Treaty may create more arms embargoes, but that it can do nothing to make the new embargoes more effective than the many failed embargoes of the past. The record shows that the disarmament community's focus on instrumentalities of violence has proven unproductive in controlling arms acquisition by governments, non-state-actors, and other civilians. Moreover, as long as civilians are determined to possess arms in order to defend their own lives, the black market will almost inevitably supply those arms. Unless there are major cultural changes which alter the demand, the same pattern of arms supply will continue.

Part III urges readers to be cautious about accepting the many factoids that have been invented for the purpose of promoting the ATT. The most significant new factoid is the claim of 740,000 global deaths per year due to armed violence; this claim appears to be based on numerous implausible assumptions, and the creators of that claim have refused to disclose their calculations to the public.

In Part IV, we suggest that the most effective long-term path towards disarmament is reducing the need of civilians to possess defensive arms. One important way to do so would be to bring the rule of law to the billions of people who currently lack it.

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I. GOVERNMENT-PERPETRATED HUMAN RIGHTS ABUSE

Genocide scholars have documented that governments are the leading cause of violent death. For example, Rudy Rummel of the University of Hawaii, has demonstrated that in the twentieth century, governments killed approximately 262 million civilians.¹

The book *Lethal Laws*,² plus its supplement on Rwanda³, documents eight genocides perpetrated in the 20th century. The authors were very careful to find the disarmament laws implemented by either the genocidal regime, or a previous regime. Just recently, in Ethiopia, a genocide/ethnic cleansing was perpetrated against the Anuak, after first disarming the tribe.⁴

Unfortunately, the United Nations represents governments, not people, and approximately half of the governments at the United Nations are dictatorships. Therefore, it is not surprising that U.N. gun prohibition campaigns have generally ignored the fact that the deadliest possessors of firearms are governments.

Due to the timeline of history, the twenty-first century is not ready to match the twentieth century's number of deaths by government. On the other hand, the first decade of the twentieth century was much less deadly than what followed, so it would be premature to conclude that the twenty-first century will not match or exceed the twentieth century's terrible record.

Certainly there are still many human rights violations perpetrated by governments.⁵ It is easy to find instances of armed governments killing large numbers of unarmed dissidents. In Ethiopia, during the May 2005 elections, "security" forces opened fire into a group of dissidents, killing 200.⁶ In Cameroon, in February 2008, as many as 100 demonstrators were killed by government forces.⁷ In Nigeria, in November 2008, government agents killed at least 130 people.⁸ In Madagascar, on February 7, 2009, government troops shot into a crowd of dissidents, killing about 30 people.⁹

¹ See Rummel's web site, and especially his section on "20th Century Democide", available at <http://www.hawaii.edu/powerkills/20TH.HTM>.

² See JAY SIMKIN, AARON ZELMAN & ALAN M. RICE, *LETHAL LAWS* 305 (1994).

³ See JAY SIMKIN, AARON ZELMAN & ALAN M. RICE, *Rwanda's Genocide 1994*, Supplement to *LETHAL LAWS* (1997), JPFO.

⁴ See David B. Kopel, Paul Gallant & Joanne D. Eisen, "The Other War in Ethiopia," *TECH CENTRAL STATION*, Dec. 29, 2006, available at http://www.ideasinactiontv.com/tcs_daily/2006/12/the-other-war-in-ethiopia.html.

⁵ See, e.g., "Human Rights Abuses with Small Arms: Illustrative Cases from Amnesty International Reports 2000-2001," Amnesty Int'l (July 2001), available at <http://www.amnesty.org/en/library/info/POL34/007/2001/en> (visited May 8, 2010).

⁶ Helen Epstein, *Cruel Ethiopia*, N.Y. REV. BOOKS, Apr.24, 2010, available at <http://harowo.com/2010/04/24/cruel-ethiopia-by-helen-epstein-the-new-york-review-of-books-april-24-2010/> (visited May 13, 2010).

⁷ *Dissident Violently Repressed in Cameroon*, Amnesty International News, January 29, 2009, available at <http://www.amnesty.org/en/news-and-updates/report/dissent-violently-repressed-cameroon-20090129> (visited May 30, 2010) (Amnesty International's Deputy Director for Africa, Tawanda Hondora, stated: "Political opposition is not tolerated in Cameroon...Any dissent is suppressed through either violence or abuse of the legal system to silence critics.").

⁸ *Nigeria: Bringing perpetrators of mass violence to book – or not*, IRINNEWS.ORG, Apr. 13, 2010, available at <http://www.irinnews.org/PrintReport.aspx?ReportId=88794> (visited May 13, 2010) ("the governor - accused of ordering extrajudicial shootings - was exonerated.").

⁹ *Madagascar violence kills 30 people, reports say*, BOSTON GLOBE, Feb. 8, 2009, available at http://www.boston.com/news/world/africa/articles/2009/02/08/madagascar_violence_kills_30_people_reports_say?mode=PF (visited May 16, 2010).

In Guinea, on September 28, 2009, government forces systematically shot at least 150 unarmed opposition demonstrators.¹⁰ As one scholar noted, “There’s been a constant predatory relationship between each post-independence government in Guinea and its people.”¹¹ The Guinean government, a signatory of the Rome Statute,¹² and therefore under the jurisdiction of the International Criminal Court, has been nominally cooperating of the ICC’s investigation of the deaths.¹³ However, according to Human Rights Watch: “Unfortunately, continued economic and diplomatic support from Libya, Senegal, and China, which signed a large natural resources agreement just weeks after the September violence, threatened to undermine the otherwise united international response in favor of respect for rule of law and accountability.”¹⁴

The U.S. Declaration of Independence affirms the universal truth that the only legitimate governments are those based on the consent of the governed. Many illegitimate governments need to use violence to control their citizens. The present paradigm of government is one in which corrupt and tyrannical regimes cling to power using all necessary actions. As a result, people in many nations are, in the words of the Universal Declaration of Human Rights, “compelled to have recourse, as a last resort, to rebellion against tyranny and oppression.”¹⁵

For example, in April 2010, the Bakiyev government in Kyrgyzstan collapsed. With 85 dead in clashes between government and opposition groups, International Crisis Group noted: “Bakiyev leaves behind a bankrupt state hollowed out by corruption and crime. Economic failure and collapsing infrastructure have generated deep public resentment.”¹⁶

As the ICG explained:

By blocking all social safety valves – the media, public dissent, political discourse and the right to legal redress – the Bakiyev regime created a semblance of calm. But it was unable to control the underground currents of anger at the regime’s rapacity. The closure of all other channels of change made a violent response just about the only option for an angry population.¹⁷

The new government did not take steps to assure citizens that it was committed to the needs of the people.¹⁸ To the contrary, the government made its perpetuation in power

¹⁰ See BLOODY MONDAY: THE SEPTEMBER 28 MASSACRE AND RAPES BY SECURITY FORCES IN GUINEA, Human Rights Watch (2009), available at http://www.hrw.org/sites/default/files/reports/guinea1209webwcover_0.pdf (visited May 13, 2010).

¹¹ See *Guinea: 'Another Strategy' Required to Deal with the Deteriorating Situation – Challenor*, ALLAFRICA.COM, available at <http://allafrica.com/stories/printable/200910131062.html> (visited May 13, 2010) (Dr. Herschelle Challenor, former dean of the Graduate School of International Affairs at Clark University).

¹² See *Ratification of the Rome Statute*, Coalition for the International Criminal Court, available at <http://www.iccnw.org/?mod=romeratification> (visited June 29, 2010).

¹³ See *Guinea: ICC Delegation Travels to Country to Follow Up On Probe Into Killings*, UN NEWS SERVICE, May 29, 2010, available at <http://allafrica.com/stories/printable/201005190982.html> (visited June 29, 2010).

¹⁴ WORLD REPORT 2010: EVENTS OF 2009, Human Rights Watch, 2009, at 127.

¹⁵ At Preamble, available at <http://www.un.org/en/documents/udhr/>.

¹⁶ *Kyrgyzstan: A Hollow Regime Collapses*, Asia Briefing No. 2, International Crisis Group, Apr. 27, 2010, available at <http://www.crisisgroup.org/en/regions/asia/central-asia/kyrgyzstan/B102-kyrgyzstan-a-hollow-regime-collapses.aspx> (visited May 14, 2010).

¹⁷ *Kyrgyzstan: A Hollow Regime Collapses*.

¹⁸ *Kyrgyzstan: A Hollow Regime Collapses* (“So far the provisional government’s performance has not been promising.”).

the top priority, calling on the people of Kyrgyzstan to surrender their arms.¹⁹ It was ludicrous for the new regime to expect compliance with such a demand, before the government had offered convincing proof that the people would never again need their arms for protection from the government.

It becomes easy to understand why pro-control groups have been generally unsuccessful in achieving their agenda, especially in the 1990s, and in the first decade of the 21st century. As long as civilians feel abused and at risk for human rights violations, voluntary or coercive disarmament is unlikely to succeed.

II. THE ROAD TO FAILURE

When one examines the concept of the ATT, one notices that its success—i.e. reduction in human rights abuses accruing to the diminished flow of illicit weapons—depends on two implausible assumptions. The first assumption is that rogue regimes which are already committing human rights abuses will abide by the treaty, accept the limitations on arms importation and manufacture, and voluntarily reduce ill treatment of their citizenry. What the ATT proponents tend to elide is that the record suggests that many of these repressive governments would sign and ratify the ATT without the slightest intent of compliance.²⁰

The other assumption is that the criminal element involved in black marketeering will suddenly decide to abandon huge profits and abide by the rule of law. ATT advocates promise that stronger controls and harsher sanctions will halt the flow of weapons, but they cannot explain exactly how this might occur.

Advocates of the ATT promise that, if enacted, human rights violations will be reduced because rights violators will be deprived of their weapons. To the contrary, an Arms Trade Treaty will not mitigate the illicit flow of arms, or the possession of arms by violators. The proposed ATT would merely act as a distraction and prevent the investigation of alternative, workable methods for preventing rights violations.

ATT proponents expect that embargoes could be imposed without the consent of the UN Security Council, because the veto power held by the five permanent members would be circumvented: “Decisions to impose, or more importantly not to impose arms embargoes, are also largely guided by political considerations. Often the commercial, political or other strategic interests of any one member of the UN Security Council means a decision to impose an arms embargo on a particular regime or armed group is not tabled or agreed.”²¹

ATT proponents expect additional embargoes to be imposed as preventative measures. But what the arms control community tends to elide is that UN embargoes have not successfully stemmed the flow of arms to rights violators. Control Arms forthrightly acknowledges that “every one of the 13 United Nations arms embargoes imposed in the last decade has been systematically violated. . . .”²² We posit that it is both foolish and dangerous to continue to expect that failed policies remain the answer to the world’s abysmal human rights record.

¹⁹ *Kyrgyz police urge people to turn in weapons*, INTERFAX: CENTRAL ASIA GENERAL NEWSWIRE, Apr. 28, 2010, available at <http://www.interfax.com>.

²⁰ A fuller treatment of the issues in this Part can be found in David B. Kopel, Paul Gallant & Joanne D. Eisen, *The Arms Trade Treaty: Zimbabwe, the Democratic Republic of the Congo, and the Prospects for Arms Embargoes on Human Rights Violators*, 114 PENN STATE LAW REVIEW 908 (2010).

²¹ See, UN ARMS EMBARGOES: AN OVERVIEW OF THE LAST TEN YEARS, at 3 (Mar. 16, 2006), at 3, available at http://www.oxfam.org.uk/what_we_do/issues/conflict_disasters/downloads/bn_armsembargoes.pdf.

²² See CONTROL ARMS, at 1.

If additional embargoes are imposed, or if the scope of the ATT is global, or even if the agreement is legally binding, the demand side of the black market in arms will still neither have been addressed, nor changed. ATT proponents do not explain how their treaty can overcome illicit marketing. Moisés Naím, editor-in-chief of *Foreign Policy* magazine, observed: “History and common sense say that, in the long run, market forces tend to prevail over those of governments Today, conditions for trafficking are the best they have ever been.”²³ The ability to control the supply side of any black market appears to be a dream of fools.

R. T. Naylor, economist, criminologist and historian at Montreal’s McGill University, has spent much of his career studying black markets. He was concise and adamant in stating: “[N]ever in history has there been a black market defeated from the supply side.”²⁴

Let us imagine for the moment that the illicit market in arms could be controlled. It is true that only a few states can produce their own nuclear weapons. However, Small Arms Survey²⁵ found that, as of 2002, there were 98 conventional arms-producing countries in the world,²⁶ so about half of all countries are not dependent on the arms trade.²⁷

But firearm manufacture is not rocket science. In America, if firearms were confiscated, Americans could work from home using basic tools, and easily fabricate workable guns. For example, in Charles Chandler’s article “Gun-Making as a Cottage Industry,” Chandler observed that Americans “have a reputation as ardent hobbyists and do-it-yourselfers, building everything from ship models to home improvements.” The one area they have not been very active in is that of firearm construction. Chandler explained that this is only because “well-designed and well-made firearms are generally available as items of commerce.”²⁸ And on the rear cover of the book *Zips, Pipes, and Pens: Arsenal of Improvised Weapons*,²⁹ the following is noted:

Would people agree to and comply with prohibition?...if you take away the firearms of...people, they will make others. The method, means, and technology to do so are simple, convenient, and in place....Ironically, the very weapons they ban are often manufactured underground....Both ancient and modern times are replete with... examples of this.

Even in lesser developed countries, homemade weapons could easily be manufactured in village huts. In Uganda, the Karamojong “broke into the schools and stole metal furniture to get steel tubing for gun barrels,” and used them to make “crude firearms.”³⁰ In the Solomon Islands, according to Glenys Kinnock, one of two British

²³ MOISÉS NAÍM, ILLICIT: HOW SMUGGLERS, TRAFFICKERS, AND COPYCATS ARE HIJACKING THE GLOBAL ECONOMY 222-23 (2005).

²⁴ See R.T. NAYLOR, WAGES OF CRIME: BLACK MARKETS, ILLEGAL FINANCE, AND THE UNDERWORLD ECONOMY 11 (2002).

²⁵ The Small Arms Survey is a research center at the Graduate Institute of International Studies, in Geneva, and is funded by private and government grants. The SAS produces much research in support of international gun control. Their web site can be found at <http://www.smallarmssurvey.org/>

²⁶ GRADUATE INST. OF INT’L STUDIES, SMALL ARMS SURVEY 2002: COUNTING THE HUMAN COST 9 (2002).

²⁷ For detailed calculations, see Kopel, et al., 114 PENN STATE L. REV. at 899.

²⁸ See Charles H. Chandler, *Gun-making as a Cottage Industry*, 3 J. ON FIREARMS & PUB. POL’Y 155 (1990).

²⁹ J. DAVID TRUBY, ZIPS, PIPES, AND PENS: ARSENAL OF IMPROVISED WEAPONS, Paladin Press, 1993.

³⁰ See Michael D. Quam, *Creating Peace in an Armed Society: Karamoja, Uganda, 1996*, AFRICAN STUDIES QUARTERLY (undated), available at <http://web.africa.ufl.edu/asq/v1/1/3.htm> (visited June 27, 2010).

Members of Parliament sent to the region in 2000, in the hope of mediating the conflict there at the time: “There were armed men roaming around with home-made weapons....”³¹

It is unrealistic to imagine that any international arms control regime could prevent the manufacture of firearms in any country³²—even if all nations complied with an embargo.

There is no realistic prospect that an ATT will benefit humanity. For persons whose primary concern is the well-being of their fellow man, it is long past the time to stop wasting resources on supply-side control, and get to work on finding genuinely effective ways to reduce human rights abuses.

III. INACCURATE DATA USED TO JUSTIFY THE ARMS TRADE TREATY

Very early in the 21st century, a factoid increasingly appeared: “Small arms are responsible for over half a million deaths per year, including 300,000 in armed conflicts and 200,000 more from homicides and suicides.” The figure was ubiquitous in the public statements of international anti-gun activists, and was intended to frighten people into accepting ever more restrictive firearm regulations. We disputed this factoid, and showed the many ways this figure had been artificially inflated.³³

In 2008, a replacement factoid appeared. A document, entitled *The Global Burden of Armed Violence*³⁴ (GBAV), which was released in September 2008, claimed to enumerate weapons-related violent death. GBAV introduced a new statistic: 740,000 people, worldwide, fall victim to armed violence each year. This figure was immediately seized upon by the global disarmament lobby to prove the urgent need for an ATT.

When we examined the GBAV report, we found that the estimates presented were unreasonable. Our forthcoming article in the *NYU Journal of Law & Liberty*, examines GBAV’s claim.³⁵ Here, we would to present a brief summary of our findings. The 740,000 figure is unsupported.

A. Direct and Indirect Conflict Deaths

In our paper, we show how the category of direct conflict deaths estimated by GBAV from existing global databases as 52,000 per year, could just as easily have been estimated from those databases as 15,000 per year.

We then examined the category of indirect conflict deaths, estimated by GBAV at 200,000 annually. These 200,000 deaths were conflated by GBAV into their total of 740,000 deaths from armed violence. GBAV derived this estimate by multiplying their estimate of 52,000 direct conflict deaths by a factor of 4. If the low estimate of 15,000

³¹ See Richard Shears, “Our escape from terror islands, by Glenys Kinnock,” DAILY MAIL (London), June 8, 2000.

³² To the contrary, embargoes that stimulate domestic production can contribute, in the long run, to international arms proliferation: “[T]he great irony that a country that built up its arms capacity to counter an international embargo, as South Africa did, celebrated its freedom from pariah status by using that capacity to plunge into export sales.” See R. T. NAYLOR, WAGES OF CRIME: BLACK MARKETS, ILLEGAL FINANCE, AND THE UNDERWORLD ECONOMY 130 (2002).

³³ David B. Kopel, Paul Gallant & Joanne D. Eisen, *Global Deaths from Firearms: Searching for Plausible Estimates*, 8 TEXAS REV. L. & POL. 114 (2003).

³⁴ GLOBAL BURDEN OF ARMED VIOLENCE, The Geneva Declaration (2008), available at <http://www.genevadeclaration.org/fileadmin/docs/Global-Burden-of-Armed-Violence-full-report.pdf>.

³⁵ David B. Kopel, Paul Gallant & Joanne D. Eisen, *How Many Global Deaths from Arms? Reasons to Question the 740,000 Factoid being used to Promote the Arms Trade Treaty*, NYU J.L. & LIBERTY (2011, forthcoming), available at http://works.bepress.com/cgi/viewcontent.cgi?article=1034&context=david_kopel.

deaths had been used, instead, the estimate for indirect-conflict deaths would have numbered 60,000 per year. Whether 60,000 or 200,000, these deaths should not have been conflated into the total of 740,000 deaths from armed violence.

These indirect deaths are, by definition, non-violent, and are usually caused by contaminated water, insufficient food, and lack of medical care. The GBAV authors do not fully discuss the role of government and their agents in causing these deaths. In fact, the GBAV authors do not even discuss the role of government in attacking aid workers, causing them to withdraw and abort their efforts; they instead lay the blame for endangered humanitarian workers directly on “arms availability and misuse.”³⁶

Civilian deaths in Sri Lanka are an example of indirect conflict deaths. In Sri Lanka, just across the Palk Strait from India, reports surfaced in July 2009 of a “concentration camp.” The Manik Farm internment camp³⁷ was built to contain many of the 300,000 reported Tamil refugees, in which about 1,400 people per week were dying for lack of basic humanitarian services.³⁸ Rhys Blakely reported: “News of the death rate came as the International Committee of the Red Cross revealed that it had been asked to scale down its operations by the Sri Lankan authorities, which insist that they have the situation under control.”³⁹ The *Online Times* reported that most of these deaths were caused by “water-borne diseases, particularly diarrhoea,” and food and water were noted as inadequate.

These are exactly the kind of deaths that are categorized as “indirect conflict” deaths, and are conflated into the total, to be used to smear peaceable civilian gun-owners, while at the same time, covering up the crimes of government perpetrators.

B. Non-Conflict Armed Violence (Plain Old Criminal Homicide)

As a sub-set of the 740,000 annual global deaths due to armed violence, GBAV stated that, in 2004, the year for which they claim that data is most complete,⁴⁰ there were 490,000 homicides worldwide.⁴¹ When we asked for the raw data, they refused to reveal primary data sources, despite the fact that making data and methodology available to

³⁶ GLOBAL BURDEN OF ARMED VIOLENCE, at 138.

³⁷ Rhys Blakely, *Tamil death toll 'is 1,400 a week' at Manik Farm camp in Sri Lanka*, TIMES ONLINE, July 10, 2009, available at <http://www.timesonline.co.uk/tol/news/world/asia/article6676792.ece> (visited May 16, 2010). These deaths would be classified as indirect conflict deaths.

³⁸ This continues even as we write, although the death toll has greatly diminished. See Subash Somachandran and Kamal Rasenthiran, *Sri Lanka: Thousands of Tamils still in detention camps*, WORLD SOCIALIST WEB SITE, Feb. 19, 2010, available at <http://www.wsws.org/articles/2010/feb2010/slem-f19.shtml> (visited May 16, 2010):

Tens of thousands of Tamil civilians, who fled the fighting in the final days of the military's offensive against the Liberation Tigers of Tamil Eelam (LTTE), remain in squalid detention camps in northern Sri Lanka. The official total is 106,000, with around 80,000 people still in the Manik Farm camps near the town of Vavuniya. After the LTTE's defeat last May, the army rounded up 280,000 men, women and children and put them in detention centres surrounded by barbed wire and armed soldiers. No one was permitted to leave.

³⁹ Rhys Blakely, *Tamil death toll 'is 1,400 a week' at Manik Farm camp in Sri Lanka*, TIMES ONLINE, July 10, 2009, available at <http://www.timesonline.co.uk/tol/news/world/asia/article6676792.ece> (visited May 16, 2010).

⁴⁰ See *Methodological Annexe to the Global Burden of Armed Violence, Geneva, March 2009, at 13, available at* <http://www.genevadeclaration.org/fileadmin/docs/Global-Burden-of-Armed-Violence-Methdological-Annexe.pdf> (visited Jan. 3, 2010).

⁴¹ GLOBAL BURDEN OF ARMED VIOLENCE, at 67.

other researchers is commonly accepted scientific procedure. We were surprised by the lack of basic scientific protocol that all honest researchers expect:

The basic institutional assumption of the traditional scientific paper is that the method of investigation should be fully and accurately described within the paper itself in sufficient detail to enable a competent colleague to replicate the experiment....⁴²

Still, although we were not privy to details of the methodology nor to the raw data, it's possible to show discrepancies that could easily lead to the exaggeration of the totals GBAV claimed. One possible cause of what appeared to be an inflated estimate for the available country-level homicide data is the variability between sources for data used in calculations: estimates can therefore vary greatly. For example, as GBAV states: "The differences between health and police statistics are especially marked in developing countries, with some analysts noting that health statistics may be up to 45 per cent higher than police-recorded figures."⁴³

The "Ninth UN Survey on Crime Trends and Operations of Criminal Justice Systems (UN, 2006),"⁴⁴ provides country-level homicide rates for 2004, for 68 countries.⁴⁵ These 68 countries comprise only 16.76 percent of the world population.⁴⁶ Government data are missing for about two-thirds of the world's countries⁴⁷ and 83% of the world's population. So we expect, although we cannot know with certainty without data and methodology, that high public health derived figures were used to estimate the remaining 83% of the total global homicides.

Another potential cause of the unexpectedly high homicide total lies in the statistical methodology employed by GBAV using the UN-provided country-level homicide data.

⁴² Scientific Writing and New Patterns of Scientific Communication, Half day workshop, Maternushaus, Cologne, June 24, 2009, at Background, available at http://www.ncess.ac.uk/conference-09/workshopsandtutorials/scientific_communication/ (visited Feb. 22, 2010).

⁴³ GLOBAL BURDEN OF ARMED VIOLENCE, at 67.

⁴⁴ See <http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html>. This is one of a series of surveys given to countries by the UN, and returned to the UN. One of the requests for information is the country-level total of homicides and firearm-related homicides.

⁴⁵ See The Ninth Survey (2003-2004), available at <http://www.unodc.org/unodc/en/data-and-analysis/Ninth> (visited Feb. 13, 2010).

⁴⁶ See World Population Prospects: The 2008 Revision Population Database, available at <http://esa.un.org/unpp/index.asp> (visited Feb. 1, 2010). Estimated World Population = 6,432,894,000; population of countries which provided homicide statistics for 2004 = 1,078,326,000; $1,078,326,000 / 6,432,894,000 = 16.76\%$.

⁴⁷ UNODC reported data for 199 countries. As of 2008, there were 195 independent states. See Matt Rosenberg, *The Number of Countries in the World*, Mar. 18, 2008, ABOUT.COM, available at <http://geography.about.com/cs/countries/a/numbercountries.htm> (last visited Oct. 5, 2009) ("A very frequent geographical question is 'How many countries are in the world?' Different numbers pop up when one inquires or reads about the number of countries in the world. Each source you use often yields a different answer. Ultimately, the best answer is that there are 195 countries in the world."). The U.S. Department of State counts 194. See U.S. Dep't of State, *Independent States in the World*, July 29, 2009, available at <http://www.state.gov/s/inr/rls/4250.htm> (last visited Oct. 5, 2009). However, for reasons of *realpolitik*, the State Department pretends that Taiwan is not a *de facto* state, *id.*, despite the fact that it possesses all the standard attributes of statehood, including a defined territory, a government that exercises effective control over that territory, and the demonstrated capacity to enter into relations with other states. If we count realistically, rather than on the basis of State Department fictions, 195 appears to be the correct total.

GBAV used a population-weighted average, instead of using median values. But this choice of methodology introduces huge discrepancies.⁴⁸

For example, in South America,⁴⁹ the population-weighted average is an annual homicide rate of 25.9 per 100,000; but the median rate is only 13.⁵⁰ This means that total South American homicides could be as low as 47,658 or as high as 94,952. In other words, one method results in a 99% higher homicide rate.

Jeanine Baker, an Australian researcher, explained the problems that exist using GBAV's approach:

I don't agree with aggregating across sub-regions in any way shape or form. It masks the real picture.... By aggregating through weighting (and using an incomplete data set as per their caveat) the final result is influenced by the regions with highest populations (and this is usually where crime and violence is higher).⁵¹

We were also interested in the percentage of homicides perpetrated using firearms. GBAV claimed that 60% of the total homicides are firearm-related.⁵² And, by multiplying that 60% by 490,000, they then claimed that 245,000 firearm-related homicides were committed in 2004.⁵³ However, that appears to be an error, since 60% of 490,000 equals 294,000. We called this discrepancy to their attention, but they appeared not to be very concerned about accuracy. At the BMS4 conference,⁵⁴ the GBAV document was distributed without correction, and the original document and its Annexes appeared online in their original forms.

In any case, we needed to replicate the claimed 60% estimate. We obtained UN data from 43 countries which supplied both total homicide data, and data specific to firearms⁵⁵ -- the same data that GBAV said it used. Our calculations revealed a figure of firearm-

⁴⁸ See *Methodological Annexes*, at 15. As Dr. Jeanine Baker told us, "The Median is the 'middle value' in your list. The median minimizes the influence of extreme values in a skewed distribution..." [A] Population-weighted average [is used] where different population groups are contributing to an overall average we need to ensure each population group contributes in an equitable way. E-Mails from Jeanine Baker to Joanne D. Eisen and Paul Gallant (Feb. 13, 2010) (on file with authors).

⁴⁹ Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, Venezuela (Bolivarian Republic of).

⁵⁰ See *Methodological Annexes*, Table 4, at 15.

⁵¹ E-Mail from Jeanine Baker to Joanne D. Eisen and Paul Gallant (Dec. 5, 2009, 5:27:54 EST) (on file with authors).

⁵² GBAV, at 2, 5.

⁵³ GLOBAL BURDEN OF ARMED VIOLENCE, Box 4.2, at 75.

⁵⁴ Fourth Biennial Meeting of States, on the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in all its Aspects, New York City, June 2010.

⁵⁵ See Ninth United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems (CTS) (2003-2004), available at <http://www.unodc.org/unodc/en/data-and-analysis/Ninth-United-Nations-Survey-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html> (visited Feb. 13, 2010). A description of these CTS surveys, and their results, are available at <http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html> (visited Feb. 13, 2010). Total intentional homicide data is provided at 13-14, Table 2.2; Total intentional homicides committed with a firearm data is provided at 17-18, Table 2.4. Algeria, Australia, Azerbaijan, Belarus, Bermuda, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, Ecuador, England & Wales, Estonia, Georgia, Germany, Hong Kong Special Administration, Hungary, Iceland, Ireland, Latvia, Lithuania, Malta, Monaco, Mongolia, Occupied Palestinian Territories, Poland, Portugal, Qatar, Republic of Moldova, Romania, Singapore, Slovakia, Slovenia, Sri Lanka, Swaziland, Sweden, Switzerland, Turkey, Turkmenistan, Uganda, Ukraine, and Uruguay. List of countries given in *supra* note, Table 2.4.

related homicides of just fewer than 22%.⁵⁶ If the data that was available for these 25% of the world's nations could yield a percentage of 22%, one must question the estimates GBAV created based on unreported data from the remaining 75% of the world's nations. One might infer that a substantial amount of data-torturing was used to produce a firearm-related percentage of 60%. In any case, GBAV's refusal to release its calculations leaves no way to understand how our 22% was morphed into their 60% figure.

IV. HUMAN RIGHTS FOR ALL: THE DIRECT ROUTE TO DISARMAMENT

Current strategies of weapons control are not leading to disarmament as expected, because of the pervasive lack of safety and security. Many researchers in the disarmament community are aware that the primary reason why people refuse to disarm is the need to retain weapons for purposes of self-defense. Those researchers also know that seeking aid from government is not an option for the poor. As Haugen and Boutros observed: "The average poor person in the developing world has probably never met a police officer who is not, at best, corrupt or, at worst, gratuitously brutal. In fact, the most pervasive criminal presence for the global poor is frequently their own police forces."⁵⁷

Small Arms Survey, a prestigious pro-control organization, after a survey conducted in Burundi, noted: "there must first be an improvement in security so that people are convinced that they can hand in their weapons without mortgaging their future protection.... an improvement in the security situation remains a fundamental preoccupation for Burundians and that it is considered by many to be an essential precondition for disarmament."⁵⁸

Saferworld, also well known as a pro-control organization, conducted a survey in Bulgaria in 2004, and learned that 86.6% of those who would choose to own a firearm would do so to protect themselves and their family.⁵⁹ They learned from their interviews that: "Voluntary collections are no substitute for anti-crime measures....Levels of weapons possession will not drop until the state and its security providers function better."⁶⁰

In Albania, another study by Saferworld was conducted in 2005.⁶¹ Saferworld admitted: "As expected, in the focus group interviews, protecting self, family (in particular among females) and property were most frequently mentioned as reasons for possessing firearms." One of their survey respondents complained: "When there is no state authority, no security, you have to provide yourself with self defence. You always hear in the news, the criminal escaped, or the police caught the criminal, but then he was set free by the court."⁶²

Lawrence Doczy, then-Programme Manager for the SSSR Project of the United Nations Development Programme (UNDP) in Albania summed it up succinctly: "You can

⁵⁶ For details, see Kopel et al, *How Many Global Deaths from Arms?*

⁵⁷ Gary Haugen and Victor Boutros, *And Justice for All: Enforcing Human Rights for the World's Poor*, 89 FOREIGN AFFAIRS (May/June 2010), at 52.

⁵⁸ Stéphanie Pézard & Savannah de Teasières, AN ASSESSMENT OF ARMED VIOLENCE IN BURUNDI, Geneva Declaration Secretariat, c/o Small Arms Survey, Geneva Declaration 2009, at 114, available at <http://www.genevadeclaration.org/fileadmin/docs/Geneva-Declaration-Armed-Violence-Burundi-EN.pdf>.

⁵⁹ S.E. EUR. CLEARINGHOUSE FOR THE CONTROL OF SMALL ARMS AND LIGHT WEAPONS, TAMING THE ARSENAL – SMALL ARMS AND LIGHT WEAPONS IN BULGARIA 61, Fig. 2.6 (2005), available at http://www.seesac.org/uploads/salwsurveys/Bulgarian_Eng_Web.pdf.

⁶⁰ *Id.*, §3.12 at 70.

⁶¹ Center for Peace and Disarmament Education and Saferworld TURNING THE PAGE: SMALL ARMS AND LIGHT WEAPONS IN ALBANIA 60 (2005), available at http://www.smallarmssurvey.org/files/portal/issueareas/inventories/inventories_pdf/2005_Holtom_et_al.pdf.

⁶² *Id.*

imagine yourself as a villager, isolated in the mountains, out of sight of the nearest house If you're in trouble, threatened, and the police can't come to help you because they don't have a vehicle, then you can't really be blamed for wanting to hang on to a weapon for your own protection."⁶³

Disarmament experts should be fully aware by now that unless and until justice sector and security sector reforms have taken place, no disarmament will occur. After such reforms have taken place, many people may simply not wish the burden of weapons possession. It is foolish to ignore human nature—certain steps need to be taken before peaceful disarmament can occur.

Many resources have been spent on weapons control attempts. They would have been better spent on efforts to guarantee the human rights enumerated by the UN's Declaration of Human Rights.

A. Reform from the Top Down

Perhaps a more direct route to disarmament requires alternative reforms. Four billion human beings have no expectation of access to the human rights protections which the rest of the world's population takes for granted.⁶⁴ The practice of these rights is barely visible throughout most of the world. The authors of *Making the Law Work for Everyone* noted: "The legal empowerment agenda speaks to all these four billion. Their poverty in income terms may vary but their right to equal protection and opportunity under the rule of law does not."⁶⁵

As former U.N. Secretary-General Kofi Annan aptly said, "Although basic human rights principles enjoy universal agreement, the gap between rhetoric and reality is wide indeed. Put simply, the challenge is to close that gap. The daily litany of human suffering and inhumanity is all too familiar, with human rights denied and violated in many and varied ways."⁶⁶

The path to reaching that ideal will be rocky because of the culture of corruption, kleptocracy, and impunity which is so strongly entrenched in many governments. Even so, the UN states that "Legal empowerment draws upon powerful notions of freedom, fairness, and solidarity, and can, therefore, shape a compelling vision."⁶⁷

"Ultimately," says Secretary-General Ban Ki-moon, "legal protection as the means to achieve freedom from fear and freedom from want is the most sustainable form of protection."⁶⁸ Ban's report explains that the UN is strengthening the rule of law at the national and international levels. He warns: "Constitutional guarantees and laws mean

⁶³ See Paul Henley, *Albania's Gun Culture Proves Hard to Shift*, BBC NEWS, Jan. 15, 2003.

⁶⁴ See MAKING THE LAW WORK FOR EVERYONE, Report of the Commission on Legal Empowerment of the Poor, Vol. 1, Commission on Legal Empowerment of the Poor and United Nations Development Programme (2008), at 19, available at http://www.undp.org/legalempowerment/report/Making_the_Law_Work_for_Everyone.pdf (visited May 17, 2010); Universal Declaration of Human Rights,

⁶⁵ *Id.*

⁶⁶ General Assembly Report A/59/2005/Add.3, *In larger freedom: towards development, security and human rights for all*, letter dated May 26, 2005, from the Secretary-General to the President of the General Assembly, available at <http://www2.ohchr.org/english/docs/A.59.2005.Add.3.pdf> (visited May 21, 2010).

⁶⁷ See MAKING THE LAW WORK FOR EVERYONE, at 46.

⁶⁸ *Annual report on strengthening and coordinating United Nations rule of law activities*, Report of the Secretary-General, General Assembly report A/64/298, at ¶1, Aug. 17, 2009, available at [http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7WU4RX-full_report.pdf/\\$File/full_report.pdf](http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7WU4RX-full_report.pdf/$File/full_report.pdf) (visited May 21, 2010). At this time, the U.N. Secretary-General was Ban Ki-moon.

little without implementation. United Nations assistance thus helps to strengthen institutions, both formal and informal, to be well structured and financed, trained and equipped to make, promulgate, enforce, uphold and adjudicate the law — criminal, public or private — in a manner that ensures protection, security and safety, and access to justice for all.”⁶⁹

When citizens are freed from the fear of violence and the traps of continuous poverty and abuse, the perceived need for the protection conferred by weapons close at hand is reduced. Some will still want to own firearms, but many will be content to give up their guns once they are no longer necessary for family security. The demand side of the weapons equation automatically diminishes.

The UN is becoming ever more adamant that the rule of law at all levels is important to global peace and development:

There is a growing consensus in the UN System and beyond that the rule of law is a precondition for sustainable peace and development at both international and national level....⁷⁰ A society where the rule of law is absent will inevitably be prone to conflict and will lack the enabling environment that is a prerequisite for sustainable development and poverty eradication....⁷¹

The UNDP’s Annual 2009 report bears this out, in direct contradiction of the arms control community’s insistence that disarmament must precede development. “Indeed, development cannot happen unless governments – at all levels – are responsive, transparent and accountable to their citizens, especially the poorest and most marginalized.”⁷²

B. The Grass Roots Approach

Another approach to the problem of the lack of access to human rights is suggested by the group International Justice Mission (IJM),⁷³ which works directly with victims. IJM also seeks accountability for the perpetrator of the abuse of human rights, and structural transformation of the judicial and police systems. This complements the UN’s approach of change at the state level. The various human rights abuses in which IJM intervenes include: sexual violence, slavery, illegal detention, police brutality, illegal property seizure, and sex trafficking.⁷⁴ Sixty-four percent of the group’s financial aid is derived from individual donors.⁷⁵

Gary Haugen⁷⁶ and Victor Boutros cite the problems: “The great legal reforms of the modern human rights movement often deliver only empty parchment promises to the

⁶⁹ *Annual report on strengthening and coordinating United Nations rule of law activities*, at ¶32.

⁷⁰ STRENGTHENING THE RULE OF LAW IN CONFLICT- AND POST- CONFLICT SITUATIONS: A GLOBAL UNDP PROGRAMME FOR JUSTICE AND SECURITY 2008-2011, UNDP, at 1, Executive Summary. Available at http://www.undp.org/cpr/documents/jssr/rule_of_law_final.pdf (visited May 21, 20120).

⁷¹ STRENGTHENING THE RULE OF LAW, at 2.

⁷² United Nations Development Programme, LIVING UP TO COMMITMENTS, at 14, available at http://www.undp.org/publications/annualreport2009/pdf/EN_FINAL.pdf (visited May 21, 2010).

⁷³ See IJM website <http://www.ijm.org/> “International Justice Mission is a human rights agency that secures justice for victims of slavery, sexual exploitation and other forms of violent oppression.”

⁷⁴ See IJM Casework Types, International Justice Mission, <http://www.ijm.org/>

⁷⁵ See IJM Financials at <http://www.ijm.org/whoweare/financials>, for a breakdown of its donors.

⁷⁶ Gary Haugen is President and CEO of International Justice Mission.

poor.”⁷⁷ He further explains: the police and the judiciaries of the developing world often serve a narrow set of elite interests....elites have little or no incentive to build legal institutions that serve the poor.... For them, a functioning public justice system might, in fact, be a problem.”⁷⁸

Haugen and Boutros contradict the views of the disarmament community, which continually insists that disarmament is a prerequisite for development, and promotes the ATT as being necessary for development.⁷⁹ They agree with the growing UN acknowledgement that good governance is a prerequisite for development, noting:

The absence of functioning public justice systems for the poor also jeopardizes half a century of development work, because there is no effective mechanism to prevent those in power from taking away or blocking access to the goods and services the development community is providing. Resources earmarked for aid efforts often never reach their intended beneficiaries. A World Bank study found that as much as 85 percent of aid flows are diverted away from their intended targets.⁸⁰

But, they state from experience that “It is simply not true that all public authorities in the developing world are hopelessly corrupt, apathetic, and brutish.... Such partners exist; they just need political support, training, and resources.”⁸¹

Examples were easy to find. In South Africa, on May 8, 2010, Catholic Bishops and Priests of Southern Africa spoke out against the slavery of human trafficking.⁸² On May 17, the Governor of Edo State, Comrade Adams Oshiomhole, spoke out against the murders of journalists, and called for “partnership with Nigerian journalists for good governance.”⁸³ In Ghana, authorities made it possible for peasants to gain easy title to their land so that it could not be stolen from them.⁸⁴

Working in 12 countries, IJM reports that, in 2008, it helped restore stolen rights to 1,828 victims, it helped convict 96 perpetrators of human rights crimes, and in 274 presentations, it helped teach thousands of attendees how to protect themselves from violent oppression.⁸⁵

C. Faltering First Steps

⁷⁷ Gary Haugen and Victor Boutros, *And Justice for All: Enforcing Human Rights for the World's Poor*, 89 FOREIGN AFFAIRS (May/June 2010), at 53.

⁷⁸ Gary Haugen and Victor Boutros, *And Justice for All: Enforcing Human Rights for the World's Poor*, 89 FOREIGN AFFAIRS (May/June 2010), at 55.

⁷⁹ See “The Geneva Declaration on Armed Violence and Development,” Geneva Declaration, available at <http://www.genevadeclaration.org/fileadmin/docs/Geneva-Declaration-Armed-Violence-Development-091020-EN.pdf> (visited June 23, 2010).

⁸⁰ Gary Haugen and Victor Boutros, *And Justice for All: Enforcing Human Rights for the World's Poor*, 89 FOREIGN AFFAIRS (May/June 2010), at 55.

⁸¹ Gary Haugen and Victor Boutros, *And Justice for All: Enforcing Human Rights for the World's Poor*, 89 FOREIGN AFFAIRS (May/June 2010), at 61.

⁸² *South Africa: Church to Celebrate Mass to Fight Human Trafficking*, Catholic Information Service for Africa (Nairobi) May 7, 2010, available at <http://allafrica.com/stories/printable/201005070779.html> (visited May 29, 2010).

⁸³ *Nigeria: Oshiomhole Decries Journalists' Killings*, THE VANGUARD, May 18, 2010, available at <http://allafrica.com/stories/printable/201005190714.html> (visited May 29, 2010).

⁸⁴ See Gifty Mensah and Tiffany Focht, *Ghana: New Land Title Registration Takes Off*, Public Agenda (Accra), July 12, 2010.

⁸⁵ See 2008 INTERNATIONAL JUSTICE MISSION ANNUAL REPORT, at 10, available at http://www.ijm.org/resources/financials/2008_AR.pdf (visited May 17, 2010).

Faltering first steps are being taken on a national and international level. The International Criminal Court (ICC) issued its first warrant against a sitting head of state, in March 2009. Omar al-Bashir, President of the Sudan, was charged with war crimes and crimes against humanity.⁸⁶ Although human rights groups hailed the warrant,⁸⁷ the African Union⁸⁸ and the Arab League⁸⁹ both rejected the warrant. However, Botswana, a signatory to the Rome Statute which created the ICC (as is Sudan), accepted the ICC decision.⁹⁰ Botswana's Foreign Minister, Phandu Skelemani, wrote: "as a State Party to the Rome Statute on the International Criminal Court (ICC) it has treaty obligations to fully co-operate with the ICC in the arrest and transfer of the President of Sudan to the ICC."⁹¹ And President of South Africa, Jacob Zuma, stated that he also would abide by international law. If Bashir entered South African territory, he would be placed under arrest.⁹²

The ICC is also monitoring elections and intends to prosecute those who rig the results—especially if the stolen election is accompanied by violence. Luis Moreno-Ocampo, the first Prosecutor of the ICC stated: "What happened in Kenya and Zimbabwe should not happen again. People should understand that elections have to be respected....Politicians should know that if you commit those crimes, you get a ticket to The Hague and not a ticket to Cabinet."⁹³ And indeed, Mr. Ocampo is serious about his promise.⁹⁴

Argentina has taken steps to punish a former secret service agent accused of perpetrating kidnapping and torture.⁹⁵ In Nigeria, projects to empower women, providing them legal services and protecting their human rights, are functioning at the grassroots with funding from OXFAM.⁹⁶ And in Uganda, a 36-year-old man was arrested for kidnapping and impregnating a 12-year-old—a crime that is, in Uganda,⁹⁷ usually committed with impunity.⁹⁸

CONCLUSION

⁸⁶ *Warrant issued for Sudan's leader*, BBC NEWS, Mar. 4, 2009; see also *Selling Justice Short* for a succinct discussion of the ICC, *Selling Justice Short*, Human Rights Watch, July 7, 2009, available at <http://www.hrw.org/en/reports/2009/07/07/selling-justice-short> (visited June 26, 2010).

⁸⁷ *Africa: ICC - Strengthen International Justice at Kampala Conference*, Human Rights Watch, May 26, 2010, available at <http://allafrica.com/stories/printable/201005271212.html> (visited May 29, 2010).

⁸⁸ *AU Ignores Bashir ICC Arrest Warrants, Human Rights Groups Outraged*, VOA NEWS.COM, July 6, 2009, available at <http://www1.voanews.com/english/news/a-13-2009-07-06-voa1-68819002.html> (visited June 5, 2010).

⁸⁹ *Arab leaders back 'wanted' Bashir*, BBC NEWS, Mar. 20, 2009.

⁹⁰ *Botswana differs with AU over Bashir*, GULF TIMES (Qatar), July 5, 2009, available at http://www.gulf-times.com/site/topics/printArticle.asp?cu_no=2&item_no=301356&version=1&template_id=37&parent_id=17 (visited June 5, 2010).

⁹¹ *Botswana differs with AU over Bashir*, GULF TIMES (Qatar), July 5, 2009, available at http://www.gulf-times.com/site/topics/printArticle.asp?cu_no=2&item_no=301356&version=1&template_id=37&parent_id=17 (visited June 5, 2010).

⁹² Wyndham Hartley, *SA arrest threat for Sudan's al-Bashir*, BUSINESS DAY, May 28, 2010.

⁹³ See Emmanuel Gyezaho, *Uganda: Election Thieves Face Jail in the Hague*, THE MONITOR (Uganda), May 28, 2010 (visited June 11, 2010).

⁹⁴ See Bernard Namunane, *Kenya: Six to Be Tried at the Hague*, THE NATION (Kenya), May 10, 2010, available at <http://allafrica.com/stories/printable/201005101922.html> (visited June 26, 2010).

⁹⁵ *Argentina Charges Operation Condor suspect*, BBC NEWS, May 10, 2010.

⁹⁶ See Godwin Haruna, *Nigeria: Advancing the Rights of Women*, THIS DAY (Lagos), May 12, 2010, available at <http://allafrica.com/stories/printable/201005130323.html> (visited June 26, 2010).

⁹⁷ And indeed, in much of the rest of the world.

⁹⁸ See Medina Tebujakira, *Uganda: Man Held Over Kidnap, Defilement*, NEW VISION, May 19, 2010, available at <http://allafrica.com/stories/201005200200.html> (visited June 26, 2010).

The firearm prohibition lobbies should acknowledge that a global ATT is just another repetition of previously failed programs, albeit legally binding, and without Security Council limitations. In 2005, Robert Muggah, Jurgen Brauer, David Atwood, and Sarah Meek (all of them pro-control advocates) wrote:

Although both supply and demand are acknowledged as integral to arms control and disarmament, in practice attention is devoted predominantly to regulating supplies, not demand....But recent experience on the ground suggests that lasting violence reduction, even prevention, depends on demand-side interventions. Ultimately, reducing the human costs of arms requires understanding and addressing factors that drive their individual and collective acquisition, not just their provision.⁹⁹

But those other little pesky factors—not the least of which is poor governance—are difficult to change. While frustration may be driving the pressure for a global treaty intended to control the supply side of weapons, we should be wary, as these authors suggest that “indeed, the exclusive focus on the supply side may lead to inappropriate policies.”¹⁰⁰

We posit that focus on the demand side of weapons, will lead to pacific societies in which insecurity and fear are not the driving forces for weapons acquisition. Haugen’s IJM group explained the beneficial societal exchange that strengthening the rule of law would lead to: “When would-be perpetrators are afraid of the legal consequences of their abuse, the vulnerable do not need to fear them.”¹⁰¹

A “Justice-for-All” treaty would be a far more beneficial option—and a far wiser expenditure of resources—than an ATT.

Yet the disarmament community clings to the expectation that the treaty—legal in concept and global in scope—holds the key to changing humanity’s behavioral patterns. For example, they state: “The inclusion of human rights criteria is a fundamental principle on which an ATT must be based. It is clear that for the majority of States, a key norm to be included within an ATT is safeguarding human rights, *which a regulated arms trade will help to ensure....*”¹⁰²

Likewise, Amnesty International, a key observer and archivist of so many government-perpetrated human rights abuses, sets ATT guidelines for the prevention of further abuses. It noted: “In order to create a more responsible trade in conventional arms and ammunition, decisions on transfer authorizations based on international human rights obligations should be viewed primarily as a means to prevent serious human rights violations or abuses.”¹⁰³

⁹⁹ See Robert Muggah, Jurgen Brauer, David Atwood, and Sarah Meek, *Means and Motivations: Rethinking Small Arms Demand*, in SMALL ARMS AND LIGHT WEAPONS: A CALL FOR RESEARCH, The HFG Review (Spring 2005), at 31, available at http://www.hfg.org/hfg_review/5/hfgsmallarms.pdf (visited June 21, 2010).

¹⁰⁰ See *Means and Motivations*, at 37.

¹⁰¹ See 2008 INTERNATIONAL JUSTICE MISSION ANNUAL REPORT, at 8, available at http://www.ijm.org/resources/financials/2008_AR.pdf (visited May 17, 2010).

¹⁰² See Hilde Wallacher & Clare da Silva, Int’l Peace Research Institute., PROGRESSING TOWARDS AN ARMS TRADE TREATY 25 (2008) (emphasis added).

¹⁰³ “How to Apply Human rights Standards to Arms Transfer Decisions,” Amnesty International (Oct. 2008), at 7, available at <http://www.amnesty.org/en/library/asset/ACT30/008/2008/en/52b4bc77-cba9-419b-92e2-a38c8f59a913/act300082008eng.pdf> (visited May 8, 2010).

We might expect greater and more immediate reductions in human rights violations by, for example, reforming criminal justice systems, than by continuing to chase the ever-elusive goal of arms control.

Still, the fact that the appetite of the demand side of the weapons market controls the supply side is not hidden. Writing in the *Ploughshares Monitor*, Arghavan Gerami stated: “The debate must move from ‘state’ security and a crime/arms control agenda to considerations of human cost... in order to examine security *as it is actually experienced by individuals*, and understand the incentives and disincentives behind the demand for weapons.”¹⁰⁴ It is unrealistic to expect an ATT, by itself, to impart feelings of comfort to individuals and states.

As R.T. Naylor so succinctly explained: “Attacking the actual trafficking seems doomed to failure....something else is desperately needed—namely, measures to reduce demand.”¹⁰⁵

¹⁰⁴ Arghavan Gerami, *Enhancing the small arms demand reduction agenda: emerging policy/action recommendations from the 2001 International Workshop on Demand Reduction*, 22 THE PLOUGHSHARES MONITOR (No. 2, June 2001)(unpaginated), available at <http://www.ploughshares.ca/libraries/monitor/monj01d.html> (visited May 31, 2010)(emphasis added).

¹⁰⁵ R. T. Naylor, *The Structure and Operation of the Modern Arms Black Market*, 44, 55, in LETHAL COMMERCE: THE GLOBAL TRADE IN SMALL ARMS AND LIGHT WEAPONS (Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed, eds., The Committee on International Security Studies, American Academy of Arts and Sciences, Cambridge, MA, Publ., 1995).