

SUBALTERN KILLERS

**THE INTERNATIONAL COMMUNITY AND THE CHALLENGE
OF CONTROLLING SMALL ARMS AND LIGHT WEAPONS**

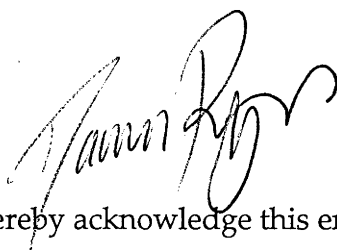
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Subaltern Killers

Damien Rogers

A handwritten signature in black ink, appearing to read "Damien Rogers". The signature is written in a cursive, flowing style with a large initial 'D' and 'R'.

I hereby acknowledge this entire thesis,
excepting those sources duly cited in footnotes,
as my own work.

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ABSTRACT

This thesis examines the international community's response to the challenge of controlling small arms and light weapons since the early 1990s, paying specific regard to the maturing relationships among particular actors of world affairs and the nascent interconnectivity among their strategies for, and approaches toward, controlling these weapons. Because small arms and light weapons feature as vital ingredients in contemporary conflict, the various attempts to control these weapons represent a crucial element in the collective pursuit of international security. It is an element, moreover, which ought necessarily to concern not only those policymakers currently involved in confronting issues dominating the new security agenda, but also all of those analysts of world affairs (including scholars of international relations) seeking to better understand the serious matters of war and peace, and of conflict and cooperation, however broadly each is defined.

Although the myriad of grisly and macabre impacts which are generated, at least in part, by the widespread availability and ongoing use of these weapons are not, in and of themselves, of a magnitude sufficient to radically reorder contemporary world affairs, awareness of the nature and extent of these impacts compels some international actors into taking decisive action. As arms-control protagonists, these actors help comprise an international community. By demonstrating the major ways in which researchers, intergovernmental organisations, the Security Council of the United Nations, and civil society organisations each respond to the immediate and ongoing consequences associated with small arms and light weapons, the thesis also identifies ways in which the captains of small arms industry, arms brokers, and chief users of these weapons are able to mitigate, resist, or elude the intended effects of those responses. Circumventing those responses and, at times, exploiting them to their own ends, these international actors unmask themselves as arms-control antagonists.

Eschewing simplistic explanations blaming the existence of insufficient political will and the inadequate provision of resources, the thesis contends that controlling small arms and light weapons poses an intractable and insurmountable challenge to the international community primarily because the current strategies to control these weapons are based upon, and also seek to strengthen, an internationalist governance architecture which is underpinned by assumptions that remain contested by some international actors and, incidentally, by many analysts of world affairs.

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ACRONYMS AND ABBREVIATIONS

African Common Position	African Common Position on the Illicit Proliferation, Circulation, and Trafficking of Small Arms and Light Weapons (Organisation of African Union)
AMACAS	American Academy of Arts and Sciences
<i>Andean Plan</i>	<i>Andean Plan to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in all its Aspects</i>
ASEAN	Association of Southeast Asian Nations
ATT	Arms Trade Treaty (Control Arms)
AU	African Union
BICC	Bonn International Center for Conversion
BMS	Biennial Meeting of States to Consider the Implementation of the <i>United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects</i>
<i>Brahimi Report</i>	<i>Report of the Panel of Experts on United Nations Peace Operations</i>
CASA	Coordinating Action on Small Arms (United Nations)
CFE	<i>Conventional Forces in Europe Treaty</i>
DDR	Disarmament, Demobilisation, and Reintegration
DPKO	Department of Peacekeeping Operations (United Nations)
DRC	Democratic Republic of the Congo
ECOSOC	Economic and Social Council (United Nations)
ECOWAS	Economic Community of West African States
<i>ECOWAS Moratorium</i>	<i>Declaration of a Moratorium on Importation, Exportation, and Manufacture of Light Weapons in West Africa</i>
EU	European Union

<i>EU Code of Conduct</i>	<i>European Union's Code of Conduct for Arms Exports</i>
<i>EU Programme</i>	<i>European Union's Programme for Preventing and Combating Illicit Trafficking in Conventional Arms</i>
FAB	Burundi Armed Forces
FARC	Revolutionary Armed Forces of Colombia
FAS	Federation of American Scientists
<i>Fowler Report</i>	<i>Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA</i>
G8	Group of Eight Industrialised States
<i>Honiara Initiative</i>	<i>Honiara Initiative: Agreement in Principle on Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials</i>
IANSA	International Action Network on Small Arms
ICRC	International Committee of the Red Cross
Interpol	International Criminal Police Organisation
ISS	Institute for Security Studies (South Africa)
<i>Laureates' Code</i>	<i>Nobel Prize Laureates' International Code of Conduct on Arms Transfers</i>
MERCOSUR	Southern Cone Common Market
MINURCA	United Nations Mission in the Central African Republic
MISAC	Monitoring the Implementation of Small Arms Control (International Alert)
MONUA	United Nations Observer Mission in Angola
MONUC	United Nations Organizations Mission in the Democratic Republic of the Congo
MPLA	Popular Movement for the Liberation of Angola
<i>Nadi Framework</i>	<i>Legal Framework for a Common Approach to Weapons Control Measures</i>

<i>Nairobi Protocol</i>	<i>Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa</i>
NATO	North Atlantic Treaty Organisation
NGO	Nongovernmental Organisation
NISAT	Norwegian Initiative on Small Arms Transfers
NORINCO	China North Industries Corporation
<i>NPT</i>	<i>Nuclear Non-Proliferation Treaty</i>
NRA	National Rifle Association (United States)
OAS	Organization of American States
<i>OAS Convention</i>	<i>Inter-American Convention Against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials</i>
OAU	Organization of African Unity
OECD	Organisation for Economic Co-Operation and Development
ONUB	United Nations Operation in Burundi
ONUMOZ	United Nations Mission to Mozambique
ONUSAL	United Nations Observer Group in El Salvador
OSCE	Organization for Security and Cooperation in Europe
<i>Ottawa Treaty</i>	<i>Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction</i>
PACDAC	Public Advisory Committee on Disarmament and Arms Control (New Zealand)
PADET	Peace and Disarmament Education Trust (New Zealand)
PIF	Pacific Island Forum
PNG	Papua New Guinea
PRC	Peoples' Republic of China

RENAMO	Mozambican National Resistance
RISA	Research Initiative on Small Arms
RUF	Revolutionary United Front (Sierra Leone)
SADC	Southern African Development Community
<i>SADC Firearms Protocol</i>	<i>Protocol on the Control of Firearms, Ammunition, and other Related Materials in the Southern African Development Community Region</i>
SAMs	Sanction Assistance Missions
SIPRI	Stockholm International Peace Research Institute
UK	United Kingdom and Northern Ireland
UN	United Nations
UNAMIR	United Nations Assistance Mission For Rwanda
UNAVEM II	United Nations Angola Verification Mission II
UNAVEM III	United Nations Angola Verification Mission III
UNCATOC	<i>United Nations Convention Against Transnational Organized Crime</i>
UNCOI	United Nations Operation in Côte d'Ivoire
UNDIR	United Nations Institute for Disarmament Research
UNDP	United Nations Development Programme
<i>UN Firearms Protocol</i>	<i>United Nations Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition</i>
UNICEF	United Nations Children's Fund
UNITA	National Union for the Total Independence of Angola
UNMIL	United Nations Mission in Liberia
UNMOT	United Nations Mission of Observers in Tajikistan
UNPoA	<i>United Nations Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects</i>
UNROCA	United Nations Register of Conventional Arms

US	United States
<i>Wassenaar Arrangement</i>	<i>Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies</i>
WCO	World Customs Organisation
WFSA	World Forum on the Future of Sport Shooting Activities
WHO	World Health Organization (United Nations)
WTO	World Trade Organization

and till then who knew The force of those dire Arms?

John Milton, *Paradise Lost*

INTRODUCTION

The grave impacts resulting from the widespread availability and ongoing use of small arms and light weapons are sufficient, in and of themselves, to render these weapons a necessary topic of inquiry for any policymaker confronted by, or any analyst seeking a better comprehension of, contemporary conflict. First and foremost, small arms and light weapons feature as vital ingredients in today's wars. Regardless of whether these weapons find use in the hands of amateur or professional soldiers, as tools of violence they have devastating and enduring effects within conflict zones and can destabilise post-conflict settings. Since the early 1990s, armed criminality has emerged as a crucial characteristic of conflict, helping to internationalise some internal conflicts,¹ and has problematised the distinction between areas under the rule of law and those deemed conflict zones. The violent legacies of weapons availability also problematise the distinction between conflict zones and post-conflict settings.² The evolution of United Nations (UN) peacekeeping operations, from monitoring the peace between states to helping manage the transition to peace within states,³ and the increasing resort to these interventions, reflects a growing recognition of the prevalence, intensity, and magnitude of the armed violence occurring not only across, but also within and beyond international borders.

¹ Roderic Alley, *Internal Conflict and the International Community: Wars Without End?* (Aldershot: Ashgate, 2004), 1.

² Robert Muggah, "No Magic Bullet: A Critical Perspective on Disarmament, Demobilization, and Reintegration (DDR) and Weapons Reduction in Post-conflict Contexts," *The Round Table* 94, no.379 (April 2005): 240-242. Refer also to Robert Muggah, "Emerging from the Shadow of War: A Critical Perspective on DDR and Weapons Reduction in the Post-Conflict Period," *Contemporary Security Policy* 27, no.1 (April 2006): 190; and to Béatrice Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs* (Paris: Centre D'etudes et de Recherches Internationales, Secrétariat Général de la Défense Nationale, Programme for Strategic and International Security Studies, 2004), 14.

³ Virginia Page Fortna, "Does Peacekeeping Keep Peace? International Intervention and the Duration of Peace After Civil War," *International Studies Quarterly* 48 (2004): 269.

Affluent societies too, even in times of peace, do not evade the immediate and often lethal consequences of these weapons, which are routinely used to perpetrate violent crime. According to Rebecca Peters, “[o]ne of the lessons learned since 2001 is that although guns kill more people than other weapons of war, most gun deaths occur in countries or contexts unrelated to war.”⁴ Besides direct mortalities, the violence associated with these weapons inspires civilians, fearful for their safety and desiring to protect their property, to engage in weapons procurement and helps create millions of internally displaced persons and refugees. In the wake of the Cold War especially, these weapons have become vehicles not only for localised, but also for internationalising and globalising, violence. In brief, small arms and light weapons facilitate violent crime, provide the means to create and exacerbate instability, function as insecurity multipliers, intensify and prolong conflict, and hinder post-conflict reconstruction efforts.

The major ways in which the international community responds to the widespread availability and ongoing use of these weapons is a more specific, but equally necessary topic of inquiry for those analysts claiming an interest in the concepts informing, and for those policymakers having professional duties to best conduct the practices of, international security. This particular topic, which is the central concern of this thesis, is worthy of detailed, systemic, and critical study because it illuminates the conduct of contemporary world affairs, revealing some of the ways in which its dynamics continue to evolve and register. More specifically, understanding the ways in which the international community responds to this challenge might benefit those policymakers confronting, and analysts considering, other international security initiatives, whether these are, for example, treaties covering the non-proliferation of nuclear weapons, of chemical and biological weapons, or of anti-personnel landmines. The topic also signals the ways in which so-called domestic affairs can significantly influence the conduct of world affairs, especially when security considerations overlap with complex economic and social

⁴ Rebecca Peters, “Small Arms and Light Weapons: Making the UN Programme of Action Work,” *Disarmament Diplomacy*, no. 82 (Spring 2006): 2.

dimensions. Furthermore, it reveals the ways in which some international actors can willingly impede and deliberately undermine the international community's cooperation to control these weapons. Indeed, this particular topic deserves urgent attention given that, as Roderic Alley laments, "the international community has failed to produce the problem-solving mechanisms needed to deal with unrestrained [small arms and light weapons] transfers busily exploiting globalisation's opportunities."⁵

Used in the thesis' title, the term 'subaltern' alludes to a broadening of the focus of many official security experts following the Cold War's end. Broadening their focus from controlling weapons of mass destruction which, designed to kill on a massive scale in a single blow, possess the potential to annihilate the human species, policymakers are now increasingly aware of the importance of controlling those weapons that have actually been used in recent wars. As the most prevalent tools of violence used in contemporary conflict, small arms and light weapons claim many more casualties than the combined death toll resulting from the atomic bombs dropped on Nagasaki and Hiroshima in August 1945. These subaltern killers are currently the primary means of death for somewhere between 300,000 and 500,000 people each year.⁶ However, these weapons were, until only recently, prioritised by many policymakers as a threat ranking 'beneath the high' nuclear bombs. Even though the terror attacks against the United States (US) on 11 September 2001 reinvigorated debates over enhancing control regimes for weapons of mass destruction, distracting diplomatic attention away from the continuous devastation caused by small arms and light weapons, it has not relegated the task of exerting control over these subalterns to its previous lowly status on the Cold War's security agenda, if it even meaningfully featured there at all.⁷ As John Darby and Roger Mac

⁵ Alley, 8.

⁶ Small Arms Survey, *Small Arms Survey 2001: Profiling the Problem* (Oxford: Oxford University Press, 2001), 197.

⁷ Denise Garcia, *Analyzing the Issue of Curbing the Unrestricted Availability and Proliferation of Small Arms and Light Weapons: Some Implications for the Study of International Relations and for Education in Defense and Security*, Belfer Center for Science and International Affairs

Ginty correctly note, “September 11 and the subsequent ‘war on terror’ are likely to be exceptions to the complex political emergencies that will dominate the first decades of the twenty-first century.”⁸

In spite of the recent diplomatic posturing over the proliferation of weapons of mass destruction,⁹ the new regimes installed following the US-led invasions of Afghanistan in late 2001 and of Iraq in early 2003 have both been confronted by insurgencies. In particular, these insurgencies have so far been fought, in the case of the Karzai government, mostly to the South of Kabul and, in the case of Iraq’s Interim, Transitional, and Full-Term governments, mostly in the urban centres including, but not limited to, Baghdad, Fallujah, Najaf, and Basra.¹⁰ Small arms and light weapons, the prevalent tools of violence here, are sourced primarily from the armed forces which were defeated by US-led invading militaries, but whose weapons were neither captured nor destroyed. Adding to these illicit stockpiles, the Coalition Government of Iraq “dismissed almost 400,000 soldiers, and initially refused to allow them to keep their pensions, when at the same time, most of them kept their weapons.”¹¹ That the widespread availability and ongoing use of small arms and light weapons is proving an obstacle to achieving security in Afghanistan and in Iraq—not to mention proving an impediment to fostering an enduring peace in these two countries, a task likely to prove far more difficult to obtain and sustain

Discussion Paper 2003-12 (Cambridge, Massachusetts: Harvard University, Kennedy School of Government, 2003), 1.

⁸ John Darby and Roger Mac Ginty, “Introduction: What Peace? What Process?” chap. in *Contemporary Peacemaking: Conflict, Violence and Peace Processes* (New York: Palgrave Macmillan, 2003), 5.

⁹ The acquisition of a nuclear weapons capability by both India and Pakistan in 1998, closely followed by North Korea’s withdrawal from the *Nuclear Non-Proliferation Treaty (NPT)* in 2003, the suspected existence of concealed stockpiles of chemical and biological weapons in Iraq (based upon US intelligence reports written in the early 2000s which were either inaccurate, obscure, or misread) and, in 2006, Iran’s declared nuclear ambitions, have each been the subject of the UN Security Council’s deliberation with respect to whether or not any of these constitute a threat to the international peace. Refer to United Nations Security Council Resolutions 1172 (1998), 1695 (2006), 687 (1991), and 1696 (2006), respectively. Concerns regarding weapons of mass destruction also include their possession and use by non-state actors.

¹⁰ For a chilling account of this ongoing conflict, refer to Robert Fisk, *The Great War for Civilisation: The Conquest of The Middle East* (London: Fourth Estate, 2005).

¹¹ Pouligny, 16.

than an imposed cessation of armed hostilities—signals the residual legacy of Cold War strategic theorising, still preferred by key policymakers ahead of a full consideration of the actual obstacles to security registering on the ground. Yet these subaltern killers are probably as much a reality now for millions of people living in the post-Cold War era, as they were for those living under the shadow of the Cold War.

The term ‘subaltern’ has a secondary allusion here because it also signals a broad shift in the foci of practitioners of disciplinary international relations. Shifting away from focusing primarily upon diplomacy among states, the so-called high politics with its attendant emphasis on those that do the affecting, a growing number of practitioners now also focus on those who were more frequently neglected by the discipline, but who are nevertheless affected by the conduct of contemporary world affairs. Since its formal inception in 1919 at the Department of International Politics at the University of Wales, Aberystwyth, followed in 1924 by the establishment of a similar department at the University of Southern California,¹² the discipline of international relations has broadened its focus from beyond a state-based system in which statemakers acknowledge no superior authority over matters considered of vital interest, to include as themes the unsustainable utilisation of the world’s resources and associated planetary degradation, the gender inequalities confronting more than half of humanity, and the increasingly polarised distribution of wealth among humankind. (However, the importance of each of these themes as essential to the discipline remains both disputed and contested.) As John T. Picarelli puts it, “[t]he constructivist turn, the positivist debate, and the increasing consideration of gender, race, and class as analytical constructs have broadened the ontological building blocks of international relations theory while expanding the epistemological breadth of their foci.”¹³ Although remaining vitally important, the

¹² Stephen Toulmin, *Return to Reason* (Cambridge, Massachusetts: Harvard University Press, 2001), 143. As Toulmin notes, “[t]hese departments were not called into existence out of the blue; they were set up in response to a historical occasion, which is worth defining.”

¹³ John T. Picarelli, “The Turbulent Nexus of Transnational Organized Crime and Terrorism: A Theory of Malevolent International Relations,” *Global Crime* 7, no.1 (February, 2006): 5.

causes, conduct, and consequences of inter-state conflict are no longer the discipline's key themes in the way that they might have been in the immediate aftermath of the First World War. It is not that statemakers, as important actors in the affairs of this world, have been relegated to the dustbins of history, but rather, that other actors, and the entities to which they belong, have increasingly gained currency as topics among a sufficient number of those claiming membership to the discipline of international relations, as well as among many of those analysts of world affairs who do not.

The burgeoning research and teaching agenda of disciplinary international relations was enabled, in part, through the recognition by some of its practitioners that non-state actors can, and often do, play decisive roles in the conduct of world affairs. This recognition continues. According to Elke Krahmman, for instance:

Two key developments have been central to international security in the post-Cold War era: the emergence of new threats such as ethnic wars, terrorism, transnational crime, HIV/AIDS, and small arms, and the proliferation of non-state actors such as nongovernmental organizations (NGOs), transnational corporations, private security companies, and international regimes, in the provision of human, national, and international security.¹⁴

Consequently, practitioners develop new analytic frames of reference through which to make sense of, and then write meaningfully about, these actors and the activities in which they engage. This does not imply that non-state actors are new to world affairs¹⁵ or, conversely, that they have always and necessarily played decisive roles in world affairs, but rather, recognises that in some circumstances they do play a significant part in the drama of world affairs and now increasingly receive analytic attention. According to R.B.J. Walker, for instance, critical social movements "have

¹⁴ Elke Krahmman, "New Threats and New Actors in Security Governance: Developments, Problems, and Solutions," chap. in *New Threats and New Actors in International Security* (New York: Palgrave Macmillan, 2005), 199.

¹⁵ Béatrice Pouligny, *NGOs as transnational forces? Beyond the myth, evolving interactions which question the political* (Paris: Centre d'Etudes et de Recherches Internationales, CERI—Sciences Po., 2000), 5.

to be evaluated not in terms of some timeless notion of what power is but in terms of their capacity to alter our understanding of what power can be."¹⁶

In this sense, the term subaltern deliberately invokes the work of historical revisionists, such as Howard Zinn, Dipesh Chakrabarty, and Partha Chatterjee, the latter two as members of the Subaltern Studies Group emerging from South Asia during the 1980s. As Gayatri Spivak explains, this group sought to revise "the insurgent or the 'subaltern'" as the pivotal agent of change in colonial Indian history, rather than the imperial master or the indigenous elite engendered by the colonial administration.¹⁷ In this light, the term recognises that, in the hands of various non-state actors, these tools of violence have a powerful transformative effect when used in conflict zones which, in turn, can encourage foreign interventions that have further transformative effects over governmental, economic, and social institutions.

This recognition of non-state actors as active participants in world affairs, and the writing into existence of their importance by practitioners of disciplinary international relations, reveals an inadequacy inherent in the term 'international relations.' Strictly speaking, the term does not accurately convey the subject it regards: as nomenclature, 'international relations' privileges 'inter' over 'intra' national relations, thereby obscuring what Khatchik Derghoukassian refers to as the "intermestic," which I take to mean the kind of relations which are conceivable following the dissolution of demarcations separating the domestic/civil from the external/international.¹⁸ By denoting a social dimension of world affairs whereby nations, which Benedict Anderson defines as "an imagined political community,"¹⁹ are preferred over states, the term also fails to reflect the importance of the economic

¹⁶ R.B.J. Walker, *One World, Many Worlds: Struggles for Just World Peace* (Boulder, Colorado: Lynne Rienner Publisher, 1988), 146.

¹⁷ Gayatri Chakravorty Spivak, "Subaltern Studies: Deconstructing Historiography," chap. in *Other Worlds: Essays in Cultural Politics* (New York and London: Routledge, 1988), 197.

¹⁸ Khatchik Derghoukassian, "U.S. Hegemony and the Global Rifle Association: Small Arms and Light Weapons on the International Security Agenda," Paper Delivered at the International Studies Association 2004 Annual Convention, March 17-20, 2004, Montreal, Quebec, Canada, 5. <http://www.64.112.226.77/meta/p73700_index.html?type=info> (accessed 31 March 2007).

¹⁹ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991), 6.

dimension to world affairs, and does not fully acknowledge the cultural and sacral contexts in which these world affairs occur. Moreover, it tends to draw focus away from questions regarding the inter-governmental, the inter-ethnic, the inter-cultural, and the inter-sacral. The term does little to compensate for those who find themselves living (for want of a more appropriate term) at the margins of world affairs.

In some respects the term 'relations' proves inadequate too. Unsatisfactory as it may first seem, this discipline, with its centrifugal tendencies and evolving research agenda, loosely coheres around a broad concept of politics. In this thesis, politics refers "to all those things we do, individually and in concert, to get and use power over others for non-trivial purposes. Politics is always about trying to get our own way to some substantive end. It is always a verb."²⁰ Thus, engaging in politics can involve inaction and omission, if refraining from activity and acknowledgement helps obtain power over others. While this definition of politics might appear unlimited in its potential application, the necessary inclusion of the common noun 'nontrivial matters' restricts the scope available to the discipline by discriminating against subjects in a way that ultimately prioritises those who exercise power in its decisive sense over future access to, and further use of, power. However, those who have been denied power, or even the opportunity of empowerment, insert themselves among the concerns of disciplinary international relations in ways that are often immediate, urgent, and readily discernible, but which are also often based on longstanding grievances, articulated in ways that are difficult to anticipate, and that generate enduring effects. International relations are, in this sense, a subset of world politics, which are themselves a subset of world affairs.

In spite of these concerns, the discipline of international relations remains an entirely appropriate academic discipline in which to undertake a study of the challenge to control small arms and light weapons: a challenge which has, as the editors of the *Small Arms Survey 2001 Yearbook* observe, "been variously defined as an arms control and disarmament issue, a human rights and humanitarian law issue,

²⁰ Ralph Pettman, *World Politics: Rationalism and Beyond* (New York, Palgrave, 2001), 6.

a public health or economic development issue, a problem of post-conflict disarmament, or as an issue of terrorism and criminality.”²¹ Featuring here as a significant part of the discipline’s broadening agenda, the conduct of non-state actors involved in either confronting or sustaining the challenge of controlling small arms and light weapons (specifically researchers, civil society organisations, weapons manufacturers, arms brokers, private security firms, combatants, organised crime groups, and gun-owning civilians) signals that, although governments are undoubtedly important, the international community comprises more than a society of states. It also demonstrates that a society of states does not have a monopoly in determining the shape of significant events and important trends that are often described as international.

Because of these concerns, however, this thesis distinguishes the few practitioners of disciplinary international relations focusing on this topic from the many analysts of contemporary world affairs expressing concern over of the availability and use of these weapons: while some analysts of world affairs consider themselves practitioners of disciplinary international relations, many do not. The separation of the discipline, as a way of making sense of world affairs as they happen ‘out there,’ dissolves too: while not central actors of world affairs, practitioners of disciplinary international relations, like analysts of world affairs, nevertheless participate in world affairs. Contests over notions of the political occur not only among those actors engaging in contemporary world affairs, but also among those practitioners engaging in disciplinary international relations and among those who analyse world affairs. Having said that, however, as a deficient nomenclature, the term ‘international relations’ serves to highlight the complexity of the very themes the discipline seeks to explore, relate, and explain.

This thesis focuses upon the recent past—more precisely, since the early 1990s—as the period of time during which the international community first became actively engaged in confronting the problems created, at least in part, by the

²¹ Small Arms Survey, 2. Refer also to Lucien Mufor Atanga, *Tackling Small Arms in Central Africa*, Paper no.29 (Born: Born International Center for Conversion, 2003), 31.

widespread availability and ongoing use of small arms and light weapons. In particular, researchers, intergovernmental organisations, including specifically the UN Security Council, and civil society organisations continue to respond to this challenge in various, ongoing, and, at times, interconnected and overlapping ways. The chronological scope of the thesis closes with the second Biennial Meeting of States to Consider the Implementation of the *United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects* (BMS), which was held at the UN Headquarters in New York between 11 and 15 July 2005. With the *United Nations Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition* (UN Firearms Protocol) having also entered into force the previous week, much of the international community's attention focused upon the second BMS as an important lead-up event to another, potentially more significant, conference held in July 2006, also in New York. The purpose of that conference was to provide an opportunity for policymakers to review their progress towards implementing the *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects* (UNPoA), and to reappraise its viability as an arms control method.

"A bad outcome" was the phrase chosen by the New Zealand Minister for Disarmament and Arms Control, Phil Goff, to describe the UN Small Arms Review Conference. Goff laments that:

The meeting was not well organised. The general debate that should have lasted 2 days took 6. There was no provision for separate drafting committees to get on with work on the outcome document while that went on. When negotiations finally got under way, major differences that had been signalled earlier became more entrenched.

At the end of the 2-week conference, including some protracted negotiating sessions that lasted up to 18 hours, many paragraphs in the document remained in dispute. When time ran out as the UN interpreters downed tools on the evening of Friday 7 July, the formal outcome was a 2-line report informing the General Assembly that the conference was unable to reach agreement on an outcome document.²²

²² Phil Goff, "Speech to Wellington Branch of the UN Association on Disarmament," <<http://www.beehive.govt.nz/ViewDocument.aspx?DocumentID=26666>> (accessed 31 March 2007).

It is an assessment likely shared by many of those involved in the conference proceedings, as well as by those observing it. Rebecca Peters, Director of the International Action Network on Small Arms (IANSA), provides a civil society perspective when she writes: "By allowing this meeting to fail, governments have squandered the opportunity to take action that would have saved lives around the world. It is unacceptable for two weeks of talking to produce no outcome, particularly when 1000 people are still dying at gunpoint every day."²³ This frustration is reminiscent of the disappointment expressed by the President of the UN Small Arms Conference, Camilo Reyes Rodriguez, who reported to the UN General Assembly in July 2001 that much work remains to be done before "the conscience of humanity is at long last satisfied that all that can be done has in fact been done to alleviate this global tragedy."²⁴ It appears, then, that not too much has changed over the past five years and, in some respects, the Review Conference's failure to progress beyond the *UNPoA*'s original terms reveals the fragile basis upon which the international community builds some of its responses to other major issues on the new security agenda.

While the historical circumstances accounting for the rise and spread of small arms and light weapons around the world are fundamental to those analysts concerned with better understanding the causes, conduct, and resolution of contemporary conflict, the ongoing impacts generated by these tools of violence remain deeply and forcefully felt by millions of people, making the challenge of controlling these weapons an urgent one for policymakers. Yet this thesis is not intended as a policy document offering a set of recommendations to policymakers in order to either solve or manage an international security problem: nor does this

²³ International Action Network on Small Arms, "Media Release: UN world conference on small arms collapses without agreement," <<http://www.controlarms.org/events/unreview.htm>> (accessed 31 March 2007).

²⁴ United Nations General Assembly, "Statement by the President of the Conference after the adoption of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects," in *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, UN Doc. A/Conf.192/15 (New York: United Nations, 2001).

thesis purport to be a treatise on the technical development of small arms and light weapons, a chronicle of the global trade in small arms and light weapons, nor for that matter a history of any other major aspect of the small arms and light weapons topic. Instead, representing the culmination of three years' worth of reading, talking, listening, thinking, and writing about this topic, this thesis is self-consciously and unapologetically academic, without pretence to influencing contemporary world affairs in any decisive way. As Hedley Bull observed in the late 1970s, "[t]he search for conclusions that can be presented as 'solutions' or 'practical advice' is a corrupting element in the contemporary study of world politics, which properly understood is an intellectual activity, not a practical one."²⁵

Following in the wake of the UN Small Arms Review Conference, the presentation of this thesis is timely. The value of its timeliness, however, lies not so much in the expectation that those policymakers directly involved in reviewing intergovernmental measures of control will take notice of this thesis, but more that this thesis represents a critical scholarly reflection on an increasingly important issue in contemporary world affairs. In this important respect, the thesis differs from much of the existing literature on this topic. Refraining from adding to the burgeoning literature seeking to provide a series of recommendations for policymakers, however, does not necessarily preclude active policymakers from inducing policy modifications from this thesis.

Because this thesis relies, for the most part, upon existing data sets relating to the proliferation, transfer, possession, collection, and deactivation of these weapons, it contains little primary information that can be considered new. However, the thesis makes its contribution to the scholarly literature of international relations through the novel way in which it treats its topic. Its value lies in illuminating and then problematising the international community's favoured solution (for want of more appropriate term) to the multifaceted and dynamic problems caused by the widespread availability and ongoing use of small arms and light weapons.

²⁵ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 3rd Ed. (New York: Palgrave, 2002), 308.

International Community

Although the international community is commonly referred to as though it is exclusively a society of states,²⁶ this thesis takes a broader view. It considers the roles played by statemakers, especially those involved in intergovernmental organisations, alongside the various roles played by researchers and activists belonging to civil society organisations. As arms control protagonists whose responses to the widespread availability and ongoing use of small arms and light weapons reveal a nascent interconnectivity, each of these actors helps comprise an international community. The emergence of an international community, in this case cohering around the composition and, at times, the imposition of controls over these weapons, has a very recent precedent in world affairs. At the successful conclusion of the 1997 anti-personnel landmine convention, largely a result of the civil society campaign coordinated by Jody Williams, former Secretary-General Kofi Annan rejoiced: "only a living, thriving 'international community' could come together, across borders and beyond regions to eliminate this universal plague."²⁷ As the relationships among these actors mature, the bonds of community strengthen, though as this thesis contends, this does not necessarily translate into more effective responses to this challenge.

In addition to these arms control protagonists, a broad range of actors have mobilised around the UN Small Arms Conference. As Edward Laurance and Rachel Stohl observe, the UN Department for Disarmament Affairs has acted as a 'clearing house' for governments submitting reports in accordance with their commitments under the *UNPoA* and has assisted with weapons collection and destruction programmes. The Office for the Coordination of Humanitarian Affairs and the Inter-Agency Standing Committee, the UN Department for Political Affairs, the UN

²⁶ Hedley Bull, for example, places the emergence of an international society, that is, a society of states which has its origins in Europe's fifteenth century expansionism, in the middle of the nineteenth century. See Hedley Bull and A. Watson, eds., *The Expansion of International Society* (Oxford: Clarendon Press, 1984), 117.

²⁷ Kofi Annan, "Statement by the United Nations Secretary-General, Kofi Annan, to the signing ceremony of the Anti-personnel Mines Convention, Ottawa, 3 December 1997," quoted in Stefan Brem and Ken Rutherford, "Walking Together or Divided Agenda: Comparing Landmines and Small-Arms Campaigns," *Security Dialogue* 32, no.2 (2001): 172.

Regional Centre for Peace and Disarmament in Africa, and the UN Regional Centre for Peace and Development in Latin America and the Caribbean, are just some of the UN Secretariat's bureaucratic agencies that have become engaged with this problem since the adoption of the *UNPoA*.²⁸

Some of the UN's specialised agencies have been active too. Most notably, the UN Development Programme (UNDP) "has many large-scale activities on small arms, with a greater budget and more personnel than any other UN agency or department."²⁹ In January 2005, for instance, the UNDP Small Arms and Demobilisation Unit sent a consultant to Burundi in order to assess the extent of weapons held by civilians and to help local authorities design a community development programme.³⁰ The World Health Organization (WHO), the UN Institute for Disarmament Research (UNDIR), the UN Commission for Human Rights, the UN Children's Fund (UNICEF), the UN Development Fund for Women, the Centre for International Crime Prevention, and the Office for Drug Control and Crime Prevention, have each worked in various ways, and according to their various strengths, in order to promote action to control small arms and light weapons in accordance with the principles and purposes of the *UNPoA*. These actors, while not directly involved in composing international agreements, have important roles enabling the better implementation of those controls.

Other actors neither compose agreements, nor help implement their provisions, but instead, deal with the lethal consequences of these weapons, helping to mitigate some of their deleterious effects. The International Committee of the Red Cross (ICRC) and Medecins San Frontiers are two examples of the more prominent non-

²⁸ Edward Laurance and Rachel Stohl, *Making Global Public Policy: The Case of Small Arms and Light Weapons*, Occasional Paper no.7 (Geneva: Small Arms Survey, 2002), 15.

²⁹ Ibid.

³⁰ United Nations Security Council, *Third report of the Secretary-General on the United Nations Operation in Burundi*, UN Doc. S/2005/149 (New York: United Nations, 2005), paragraph 29. The report continues: "The Small Arms Reduction Programme Secretariat of the UNDP Bureau for Crisis Prevention and Recovery has been developing a Great Lakes regional approach, with renewed focus on Burundi. In cooperation with [the United Nations Operations in Burundi (ONUB)] and the Small Arms Reduction Programme, the Small Arms and Demobilisation Unit is planning to set up programmes in Burundi by September 2005."

state actors involved in ameliorating the conditions confronting victims of armed conflict. Although undoubtedly part of the wider international community, these actors helping implement control measures or ameliorating the suffering of gun victims do not feature in this thesis among the international community's major protagonists of arms control. Thus, the international community is not perceived here as all of humanity, a meta-society encompassing the world's entire population, nor as an aggregate of all the international actors engaging in world affairs. At the same time, the thesis recognises that the term 'international community' is often used uncritically by analysts and is invoked disingenuously by policymakers claiming their policies somehow represent its will or in some way advance its interests.

As members of the international community who are, or aspire to be, effective in attempts to establish and maintain control over these weapons, governments are fundamental here. This is partly because, as Denise Garcia correctly notes, "[t]he wealth of initiatives promoted by governments suggest that states were the main actors in the advancement of the small arms issue in the international agenda. They acted more as agenda-setters than the nongovernmental actors."³¹ However, such leadership is evident only where common interests among those governments are prioritised ahead of specific national interests. To be sure, as Bruno Simma and Andreas L. Paulus put it, "if there is an international community, it needs to have certain interests common to all its members and a certain set of common values, principles and procedures."³² Some non-state actors claim a sense of solidarity as arms-control protagonists within this international community, even though such solidarity is sometimes based more upon their consultative role than upon a shared representation in non-trivial decision-making processes.

This international community emerges from, and is deeply embedded in, an internationalist governance architecture comprising primarily, but not exclusively,

³¹ Garcia, 11.

³² Bruno Simma and Andreas L. Paulus, "The 'International Community': Facing the Challenge of Globalization," *European Journal of International Law* 9, no.2 (1998): 267.

of the UN System, the Bretton Woods institutions, and the World Trade Organization (WTO). This particular set of grand politico-strategic frameworks is then used by members of the international community as a vehicle to convey, and as a means to secure, world order. And here, I use the term world order in the same way that Robert W. Cox uses it:

In preference to “inter-state system” as it is relevant to all historical periods (and not only those in which states have been the component entities) and in preference to “world system” as it is more indicative of a structure having only a certain duration in time and avoiding the equilibrium connotations of “system.” “World” designates the probable interactions (some past “worlds” being limited to the Mediterranean, to Europe, to China, etc.). “Order” is used in the sense of the way things usually happen (*not* the absence of turbulence); thus disorder is included in the concept of order. An inter-state system is one historical form of world order.³³

Debate surrounds the precise emergence of the interstate system, however. The Treaty of Westphalia, signed on 24 October 1648 between the Holy Roman Emperor and the King of France, and their respective allies, is often cited as a document founding a state-based system in which participants mutually recognise sovereignty, though the Treaty did not invent the notion of a state and referred only to Europe.

As the current manifestation of world order, the internationalist governance architecture has its roots dating back at least to the Treaty of Versailles in 1919 and the establishment of the League of Nations, the latter an important experiment based upon governments cooperating in order to prevent a recurrence of inter-state conflict of global proportions. US President Woodrow Wilson’s “peace proposals [for the League of Nations] focused primarily on the problem of interstate conflict, but he also believed that these principles were essential to domestic or civil peace as well, because people denied justice and freedom would be prone to disaffection and unrest.”³⁴ Wilson’s ideas—variously described as the Liberal Peace Thesis,

³³ Robert W. Cox, “Social Forces, States and World Orders: Beyond International Relations Theory,” in *Culture, Ideology, and World Order*, ed. R.B.J. Walker (Boulder and London: Westview Press, 1984), 291.

³⁴ Roland Paris, *At War’s End: Building Peace After Civil Conflict* (Cambridge: Cambridge University Press, 2004), 40-41.

Democratic Peace Theory, or, as this thesis prefers more broadly, as internationalism³⁵—reveal a commitment to a particular notion of the political which prioritises statemakers as the primary actors of world affairs, positing that cooperation among governments is the most preferable way in which to achieve mutual benefits, especially in matters deemed essential to international security. This set of ideas therefore expresses a strongly-held belief in the promise of collective security. As Inis L. Claude, Jr describes it, collective security:

...has generally been regarded as a halfway house between the terminal points of international anarchy and world government. Given the assumption that the former has become intolerable and the latter remains, at least for the foreseeable future, unattainable, collective security is conceived as an alternative, far enough from anarchy to be useful and far enough from world government to be feasible. Advocates of collective security have differed as to whether it should be envisaged as a temporary expedient, contributing to the ultimate possibility of world government, or a permanent solution to the problem of order, eliminating the ultimate necessity of world government.³⁶

Although the League of Nations did not endure beyond Nazi Germany's and Imperial Japan's aggressive foreign policies of the late 1930s and the outbreak of the Second World War, the principles of collective security inform the UN.³⁷ The

³⁵ There are, of course, important nuances among these terms. Whereas the Liberal Peace Thesis suggests that conflict is less likely to occur where economies are closely interdependent, the Democratic Peace Theory suggest leaders will be less likely to conduct foreign wars if they fear the displeasure of those who voted them in. Internationalism, on the other hand, suggests that statemakers will cooperate together in order to secure a collective advantage.

³⁶ Inis L. Claude, Jr. "Collective Security As An Approach To Peace," in *Classic Readings and Contemporary Debates in International Relations*, eds. Phil Williams, Donald M. Goldstein, and Jay M. Shafritz, 3rd Ed. (Belmont: Thomson Wadsworth, 2006), 290. More specifically: "Collective security assumes the existence of a world in which every state is so limited by the distribution of power, the reduction of military power levels by a disarmament program, and the lack of economic self-sufficiency, that any state which may develop aggressive inclinations can be held in check by methods which probably need not include the large-scale use of force. It assumes the possibility of securing the acceptance by states of theoretically formidable responsibilities for enforcing the peace, only because it assumes the improbability that it will be necessary to invoke the performance of the most drastic enforcement duties." *Ibid*, 301.

³⁷ As Ramesh Thakur, strongly echoing Claude, eloquently puts it: "Established to provide predictability and order in a world in constant flux, the United Nations—a bridge between power and principles, between state-based realism and universal idealism—is at once the symbol of humanity's collective aspirations for a better life in a safer world for all, a forum

prospects of success for collective security in the aftermath of the Second World War were enhanced by the international community promoting the rule of international law and strengthening the role of intergovernmental organisations, particularly the UN, as well as those international organisations dealing with issues of finance, trade, and economic management.

The rule of international law is a key element of the internationalist governance architecture, facilitating cooperation among governments as the basis of maintaining world order. As Bull explains:

Order in the great society of all mankind has been attained, during the present phase of the modern states system, through general acceptance of the principle that men and territory are divided into states, each with its own proper sphere of authority, but linked together by a common set of rules. International law, by stating and elaborating this principle and by excluding alternative principles—such as the Hobbesian notion that international politics is an arena in which there are no rules restricting states in their relations with one another, or the notion that mankind is properly organised as a universal state based on cosmopolitan rights, or as a universal empire founded on the supremacy of a particular nation or race—establishes this particular realm of ideas as the determining one for human thought and action in the present phase, and so precludes the opening of questions without end and the eruption of conflicts without limit.³⁸

As an instrument of international law, the Charter of the United Nations has immense importance for contemporary world affairs, though without the continuous recognition provided by the international community it could easily have become moribund. This Charter not only embodies respect for the rule of international law and, thereby, has an effect of entrenching the internationalist governance architecture, but also provides the mundane mechanism by which collective security can be practised. The UN Charter also grants rights and

for negotiating the terms of converting the collective aspiration into common program of action, and the principal international instruments for the realisation of the aspirations and the implementation of the plans." See Ramesh Thakur, "UN reforms and the use of force: The Secretary-General's report," A Public Lecture given on 11 April 2005 hosted by the Centre for Arab and Islamic Studies and the Asia-Pacific College of Diplomacy, Australian National University, 7. <<http://www.apcd.anu.edu.au/events/2005/thakur.htm>> (accessed 14 June 2005).

³⁸ Bull, 134-5.

responsibilities to those who sign it, relying upon its members to cooperate in order to avoid, mitigate, or help resolve conflicts, many of which are fought with small arms and light weapons.

Even though Article 51 of the UN Charter, which recognises the rights of governments to act unilaterally if they are attacked, acknowledges that a belief in collective security does not always hold as a sole guarantor of international security, its inclusion in the Charter enabled this particular governance architecture to take hold in the inter-state system following the Second World War, even if it has been subsequently held hostage to superpower rivalry during the Cold War.³⁹ This belief in the promise of collective security also persists in spite of the failure by UN founders to agree over the means of implementing Article 43, a disagreement precluding the establishment of a UN standing force. This disagreement, according to John Hillen, created a situation where “the entire policy structure set up by the UN Charter for the conduct of military operations has never fully been realised.”⁴⁰ The inability of UN founders to agree over Article 43 resulted in the Security Council’s adoption of its ad-hoc and highly improvised approach to pursuing its responsibilities during both the Cold War and its immediate aftermath. Although it has always been an imperfect solution in practice, collective security has serious bite in world affairs.

Since the Second World War, but more particularly since the end of the Cold War, the UN has played an important role in managing conflict. However, as Roland Paris points out, “peace-building missions are not merely exercises in

³⁹ Article 51 of the United Nations Charter states the following: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take any time such action as it deems necessary in order to maintain or restore international peace and security.” A copy of the Charter is available at <<http://www.un.org/aboutun/charter>> (accessed 31 March 2007). All subsequent references to the Charter in this thesis are to this version.

⁴⁰ John Hillen, *Blue Helmets: The Strategy of UN Military Operations* (Washington, D.C.: Brassey’s, 2000), 12.

conflict management, but instances of a much larger phenomenon: the globalisation of a particular model of domestic governance—liberal market democracy—from the core to the periphery of the international system.”⁴¹ For Michael Pugh, more cynically, “modern versions of peacekeeping can be considered as forms of riot control directed against the unruly parts of the world to uphold the liberal peace.”⁴² In this sense, the grand vision of those architects responsible for the UN and Bretton Woods institutions will endure as long as the internationalist governance architecture can repair itself where it suffers from armed conflict. Yet these interventions are more than exercises repairing the institutions of government into (semi)functioning democracies, reforming the war-shattered economies into liberal marketplaces, and reconfiguring traumatized communities into societies consisting of vectors of individuals. Paris elaborates:

Without exception peacebuilding missions in the post-Cold War period have attempted to ‘transplant’ the values and institutions of the liberal democratic core into the domestic affairs of peripheral host states....[and] may be viewed as a modern rendering of the *mission civilisatrice*—the colonial-era belief that the European imperial powers had a duty to ‘civilise’ their overseas possessions.⁴³

There is a strong sense in which those policymakers responsible for these foreign interventions seek to remake the world on their own universalising terms without engaging meaningfully with the plurality of customary practices and traditional hierarchies of the host societies. In effect, where the rule of international law has an entrenching effect for the internationalist governance architecture, interventions undertaken as conflict management can have a transformative effect, extending the reach of this architecture.

Whereas a belief in collective security asserts that, by cooperating, governments can mitigate the threat of serious interstate conflict, collective action does not necessarily manage state-based threats, though certain statemakers may be complicit

⁴¹ Roland Paris, “International peacebuilding as the *mission civilisatrice*,” *Review of International Studies* 28 (2002): 638.

⁴² Michael Pugh, “Peacekeeping and Critical Theory,” *International Peacekeeping* 11, no.1 (Spring 2004): 41.

⁴³ Paris, “International peacebuilding as the *mission civilisatrice*,” 638.

with the emergence and persistence of these threats. Since the Cold War's end, collective action has been used by the international community to respond to a plethora of so-called transnational issues gaining salience in an era of intensifying globalisation. Typically, these issues are unlikely to be eliminated by governments taking unilateral action. Ranking among the more prominent of these issues are: narcotics trafficking; human trafficking; money laundering; illegal fishing; deforestation; global warming; HIV/AIDS; endemic poverty; organised crime; and terrorism. Yet the international community's inability to respond effectively to these separate, but at times interconnected, transnational issues is especially disturbing given that "no country can afford to deal with today's threats alone, and no threat can be dealt with effectively unless other threats are addressed at the same time."⁴⁴

Like those aforementioned transnational threats, the widespread availability and ongoing use of small arms and light weapons is also perceived as a threat common to most, if not all, governments, representing a threat best managed and mitigated by intergovernmental cooperation. Indeed, where the international community becomes involved in civil conflicts as conflict managers, the devastating role small arms and light weapons play on the durability of the state cannot be denied. Significantly, even though the threats posed by these weapons motivate and sustain members of the international community to take action, these weapons were important to the emergence of the interstate system. As Torbjørn L. Knutsen notes:

Guns made battles more destructive and warfare more costly. And the rising costs of warfare in early sixteenth-century Europe had immediate political consequences. They made political power increasingly dependent upon national wealth, and pressured kings and princes to invent new ways of raising revenues. This, in turn, stimulated the growth of the modern states and the state system.⁴⁵

Indeed, it is partly because these weapons are sought as security enablers by state and non-state actors alike that the international community's efforts to exert control over these weapons are seriously attenuated.

⁴⁴ Thakur, 7.

⁴⁵ Torbjørn L. Knutsen, *A History of International Relations Theory*, 2nd Ed. (Manchester and New York: Manchester University Press, 1997), 58.

Despite its universalising tendencies, however, this internationalist notion of the political is far from attaining an absolute supremacy in contemporary world affairs. A range of challenges to its primacy emerge from those statemakers who are not fully convinced of the virtue, or indeed the necessity, of cooperation. Enjoying benefits such as permanent membership to the Security Council and its ancillary veto rights, powerful governments resist the structural restraints over their policymaking that are implicit in membership to intergovernmental organisations. Some governments' zero-sum calculations of national interests outweigh the potential benefits of cooperation, as evidenced in the case of those governments involved in articulating resolutions calling for sanction regimes, but which nevertheless act as sanction busters. While sometimes authorised by the UN Security Council, so-called coalitions of the willing assume operational command of major peacekeeping operations, eroding the Security Council's ability to effectively manage these collective actions. Moreover, not all regional intergovernmental organisations authorise interventions or create instruments of international law as their primary response to the widespread availability and ongoing use of these weapons: the Association of Southeast Asian Nations (ASEAN), the African Union (AU), the League of Arab States, and the Caribbean Community have each, for example, responded in terms of its trafficking aspect.⁴⁶ Perhaps more significantly, there is, as Ramesh Thakur suggests:

...[a] strategic disconnect between the distribution of military, political, and economic power in the real world, and the distribution of decision-making authority in the artificially constructed world of intergovernmental organisations. The most acute manifestation of this is the growing disparity between the soft as well as hard power of the USA and that of all others.⁴⁷

Even though governments rely upon the existing internationalist governance architecture to legitimise their authority and, in turn, reinforce the key institutions

⁴⁶ Peters, 4.

⁴⁷ Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006), 4.

comprising its governance architecture, their activities (and inactivity) can represent a challenge emerging from within the grand politico-strategic frameworks ordering contemporary world affairs.

At the same time, other challenges emerge from beyond the grand politico-strategic frameworks. A variety of (non-state) economic and social actors simply do not believe the state is the primary entity in world affairs. Transnational corporations, super-empowered individuals, ethnic minorities, and armed groups are some such non-state actors disregarding civil authority. Those who live at the margins of world affairs, that is, the poor, women, and many indigenous communities also feature among those who do not endorse the internationalist notion of the political. As this thesis demonstrates, some of the most aggressive challenges to this notion of the political emerge from those non-state actors who produce, transfer, possess, and use small arms and light weapons without official consent or authorisation.

While all world affairs cannot be characterised as internationalist, the major responses confronting the challenge of controlling small arms and light weapons are informed by, and help convey, an internationalist orthodoxy. Accordingly, the thesis situates these major responses within the ongoing negotiation between the international community and the internationalist governance architecture. But because the deadly and lasting impacts associated with the widespread availability and ongoing use of small arms and light weapons, alarming as their magnitude is, do not represent a serious threat to the core of this governance architecture, the prevailing world order remains largely undisturbed by these weapons. Conversely, members of the international community seize upon the challenge to control these weapons as an opportunity not only to strengthen its key institutions as the status quo, but also to further reinscribe internationalism as orthodoxy. In light of these complexities, it is a notion of the political that tries to determine who gets to decide who has access to these weapons: that is, internationalism predetermines an answer to the *political* question over who has access to and, therefore, the ability to use these tools of violence.

The ensuing thesis posits two key findings: first, in spite of receiving more than a decade of the international community's attention and being subject to a number of decisive measures, small arms and light weapons continue to evade effective control. Consequently, where the problems relating to these weapons have not already manifested in an immediate and urgent lethality, the threat posed by them has not diminished. Second, in spite of the increasing prominence afforded to the activities of non-state actors by those analysts of world affairs (who may or may not be deliberately broadening the agenda of disciplinary international relations), there is no discernible shift towards new global governance methods in contemporary world affairs with respect to controlling small arms and light weapons. While intergovernmental organisations, which are major protagonists of contemporary arms control, rely upon governments as the primary means for exerting control, certain statemakers also figure as significant antagonists to these control efforts, though these governments are not alone as intransigent actors.

By way of an explanation for these findings, the thesis contends that these weapons elude the international community's control not merely because the varying impacts generated by small arms and light weapons have not yet reached a magnitude sufficient to radically reform the ordering of contemporary world affairs in the way that, say, a potential nuclear showdown between the US and the Soviet Union did in the forty or so years following the Second World War. These weapons prove elusive primarily because the current control strategies rely upon an internationalist governance architecture underpinned by assumptions that are contested by some international actors and, incidentally, by many analysts of world affairs. The thesis also contends that the challenge to control small arms and light weapons is not so much an international security problem in search of a permanent solution, as it is an opportunity for members of the international community to further strengthen, and extend the reach of, the internationalist governance architecture underpinning their roles in world affairs. Imposing effective control over these weapons therefore poses an intractable and insurmountable challenge to the international community as it is currently configured. Accordingly, this thesis

eschews those simplistic explanations blaming the existence of insufficient political will and the provision of inadequate resources as prime reasons for the international community's failure to exert adequate control over these weapons, which continue to be widely available throughout the world, experiencing frequent and ongoing use with devastating consequences of disturbing magnitude. The thesis offers an insightful critique of a crucial problem in contemporary world affairs, revealing the problem-solvers themselves are deeply implicated in the actual problem they address.

Thesis Structure

This thesis is divided into three parts. Although it is primarily concerned with the nature, form, and efficacy of the international community's major attempts to exert control over small arms and light weapons, Part One (consisting of a single chapter) introduces the challenge of controlling these tools of violence by articulating a range of impacts generated by their widespread availability and ongoing use. It simultaneously discerns key dimensions of these consequences. Although awareness of these impacts helps motivate those responses by the international community examined in Part II of this thesis, there are difficulties inherent in acquiring and analysing this knowledge which, in turn, compromise any understanding of the topic-at-hand. Concerned as much with assigning meaning to, or making sense out of, the complex problems which small arms and light weapons pose to the conduct of contemporary world affairs, as it is with revealing the fragmented and provisional nature of any understanding of this topic, Part I functions as a prologue to ensuing chapters. Unfortunately for the millions of victims of these weapons, these grisly and macabre consequences so far appear sustainable for those who, wielding power within contemporary world affairs, occupy the best positions from which to confront this challenge.

Consisting of four chapters, Part II explores the major ways in which members of the international community respond to the widespread availability and ongoing use of small arms and light weapons. Although not the only international actors

seeking to craft controls over these weapons, researchers, intergovernmental organisations, including specifically the UN Security Council, and civil society organisations have attained prominence over all others and each, therefore, receives their own chapter in Part II of this thesis. Despite each of these actors preferring particular types of major responses to the challenge of controlling small arms and light weapons, there is a high degree of interconnectivity among these responses, creating what Keith Krause describes as a “tangled web of multilateral diplomacy.”⁴⁸ Importantly, although each major response is unique, it also provides the basis for, cooperates with, or builds upon, other actors’ responses. The UN Security Council, for example, authorises Disarmament, Demobilisation, and Reintegration (DDR) programmes within peacekeeping operations while, in many cases, civil society organisations implement and manage these programmes, the United Nations Mission in Liberia (UNMIL) being a good example.⁴⁹

To complicate matters however, not all of these actors wish to establish controls with equal vigour and the distinctions among these protagonists of arms control are inherently unstable. Researchers can become activists—Professor Edward Laurance of the Monterey Institute of International Studies, for example, was central to the establishment of IANSA—while researchers and activists can, at least hypothetically, become statemakers, just as statemakers can become researchers or activists, as did Oscar Arias Sánchez, the former President of Costa Rica who now heads the Arias Foundation. Perhaps most commonly, activists such as Laura Lumpe publish research.

Locating a call for international action to control these weapons in research emerging from the mid 1990s, Chapter Two does not merely present a review providing a catalogue and synopsis of this literature, nor does it convey a historical narrative accounting for this literature’s emergence and subsequent development. It

⁴⁸ Keith Krause, “Multilateral Diplomacy, Norm Building, and UN Conferences: The Case of Small Arms and Light Weapons,” *Global Governance* 8, no.2 (April-June 2002): 249.

⁴⁹ Ryan Nichols, “Disarming Liberia: Progress and Pitfalls,” in *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, ed. Nicholas Florquin and Eric G. Berman (Geneva: Small Arms Survey, 2005), 120.

begins by paying close attention to five major works published by civil society organisations, since those works first articulate this challenge. It concludes by considering the yearbooks published by the Small Arms Survey in Geneva, Switzerland, widely recognised by most informed analysts and policymakers as pre-eminent among so-called independent research centres. Throughout the chapter, this literature is distinguished according to its disseminating institution.⁵⁰ It then analyses this literature in terms of its treatment of proliferation, transfer, possession, and use. The chapter demonstrates that researchers identify these major aspects of the small arms and light weapons topic and then explore them in more depth against a plethora of local, state, regional, and even global contexts. The chapter also identifies a broad shift of the intent informing this pool of research, from signalling the emergence of a new topic for analysts of world affairs and providing a profile of this topic as a problem for policymakers, towards attempting to better understand, help shape, and assess the implementation of new intergovernmental measures of control. This shift roughly coincides with the turn of the millennium. The thesis, assuming a critical and self-reflective relationship to this literature calling for action to control small arms and light weapons, nevertheless contributes to it.

Chapter Three examines the major initiatives seeking to control small arms and light weapons undertaken by intergovernmental organisations, specifically treaties and soft law measures developed within the UN, as well as within other regional and sub-regional intergovernmental organisations, such as the Organization of American States (OAS) and the Southern African Development Community (SADC). Focusing first upon the circumstances in which these agreements were negotiated, this chapter discusses each control measure in terms of its current status, technical scope, participants, and, therefore, geographic coverage. By examining the texts of these measures, Chapter Three assesses the degree to which these strategic frameworks, when considered collectively as a mosaic of responsibilities, are

⁵⁰ In so doing, Chapter Two avoids treating systemically other possible sources of information, such as media reports and individual journal articles, because these are not deemed major, and avoids treating classified government assessments because these are normally not made available to the public.

sufficient to control these weapons. Although domestic circumstances in one country can either facilitate or impede negotiations in multilateral settings, the instruments of international law examined here represent the most significant response by governments working collaboratively as members of the international community. These multilateral attempts to control small arms and light weapons form part of a system of mega-conferences held by the UN and, according to former UN Secretary-General Boutros Boutros-Ghali:

[These] are something new and different. They are linked. They are cumulative. They foster global consensus on interlocking global issues. They generate specific commitments. And they provide a comprehensive framework for international action in fields that are drastically affected by the negative side of globalization.⁵¹

Enabling intergovernmental measures of control is not the only major response of the UN to the challenge of controlling small arms and light weapons. Building on the aforementioned discussion of international law, Chapter Four concerns arms embargoes contained in UN sanction regimes, and the DDR programmes of UN peacekeeping operations managed under the auspices of the UN Department of Peacekeeping Operations (DPKO), both of which are authorised by the Security Council. In particular, the chapter examines the processes by which these arms embargoes and DDR programmes arise, exploring their strategic capability and operational efficacy as arms control methods which, in the first case, seek to prevent the transfer of weapons from reaching specific actors and, in the second case, attempt to remove these weapons from the immediate reach of belligerents. The chronological focus here is restricted to those activities authorised by the UN Security Council since the early 1990s. DPKO does not hold an exclusive right to undertake DDR programmes, as Nicole Ball and Dylan Hendrickson have recently shown in their assessment of thirty-six DDR programmes occurring between 1992

⁵¹ Boutros Boutros-Ghali, "Global leadership after the Cold War," *Foreign Affairs* 75, no.2 (March-April 1996): 88-89, as cited in Laurance and Stohl, 2; see also Edward J. Laurance, "Shaping Global Public Policy on Small Arms: After the UN Conference," *Brown Journal of World Affairs* 9, no.1 (2002): 194.

and 2005, more than half of which “did not take place under the auspices of a UN-mandated peace agreement.”⁵²

Drawing upon the *Report of the Secretary-General on The Role of United Nations Peacekeeping in Disarmament, Demobilization and Reintegration* (2000), this chapter defines DDR accordingly:

Disarmament is the collection of small arms and light weapons within a conflict zone. It frequently entails the assembly and cantonment of combatants; it should also comprise the development of arms management programmes, including the safe storage and their final disposition, which may entail their destruction. De-mining may also be part of this process;

Demobilization refers to the process by which parties to a conflict begin to disband their military structures and combatants begin the transformation into civilian life. It generally entails registration of former combatants; some kind of assistance to enable them to meet their immediate basic needs; discharge; and transportation to their home communities. It may be followed by recruitment into a new, unified military force;

Reintegration refers to the process which allows ex-combatants and their families to adapt, economically and socially, to productive civilian life. It generally entails the provision of a package of cash or in-kind compensation, training and job- and income-generating projects.⁵³

This chapter does not, however, assess the level of success attributed to arms embargoes and DDR programmes as components of some wider objective. Nor does it consider the strategy of specific mandates, that is, the matching of appropriate and adequate military means to achieve particular political ends. It does not evaluate the effectiveness of these collective actions in achieving their mandated goals pursuant

⁵² Nicole Ball and Dylan Hendrickson, *Review of International Financing Arrangements For Disarmament, Demobilisation and Reintegration*, Phase 1 Report to Working Group 2 of the Stockholm Initiative on Disarmament, Demobilization, and Reintegration, 2. <<http://www.sweden.gov.se/sb/d/4809>> (accessed 31 March 2007).

⁵³ United Nations Security Council, *Report of the Secretary-General on The Role of United Nations Peacekeeping in Disarmament, Demobilization and Reintegration*, UN Doc. S/2000/101 (New York: United Nations, 2000), paragraphs 6(a), (b), and (c). Paragraph 6(c) continues: “These measures frequently depend for their effectiveness upon other, broader undertakings, such as assistance to returning refugees and internally displaced persons; economic development at the community and national level; infrastructure rehabilitation; truth and reconciliation efforts; and institutional reform. Enhancement of local capacity is often crucial for the long-term success of reintegration.”

with Chapters VI and VII of the UN Charter because, as Gwinyayi Albert Dzinesa observes, “the success of peace operations hinge on country-specific political, military, and economic contexts.”⁵⁴ The same could, and indeed should, be said of the sanction regimes imposed by the UN Security Council.⁵⁵

Chapter Five, the last of Part II, explores the ways in which civil society organisations both advocate for intergovernmental measures of control and monitor the activities of governments in relation to their responsibilities. The breadth of IANSA’s membership demonstrates the enormous support among civil society for a campaign to improve controls over small arms and light weapons. The range of their activities, including focus-group meetings held at the grass-roots level among post-conflict societies, is testimony to the intensity of this ongoing commitment. While particular focus is given here to IANSA’s engagement with the *UNPoA*—principally because it represents IANSA’s most substantial investment in multilateral arms control negotiations to date—its engagement with a range of other instruments of international law receives consideration within this chapter. Given that IANSA’s membership is broad and its range of undertakings is sweeping, this chapter does not pretend to offer a comprehensive treatment of its campaign, though comparisons with other civil society organisations involved in multilateral arms control negotiations are drawn very briefly in order to both illuminate and contrast IANSA’s conduct.

Compared to the numerous profiles and assessments relating to the problems posed by small arms and light weapons use, the international community’s response to the widespread availability and ongoing use of these weapons is relatively understudied as a topic. To the best of my knowledge, only one scholar examines the role of those researchers exploring the topic of small arms and light weapons as

⁵⁴ Gwinyayi Albert Dzinesa, “A Comparative Perspective of UN Peacekeeping in Angola and Namibia,” *International Peacekeeping* 11, no.4 (Winter 2004): 655.

⁵⁵ For studies evaluating the success of sanction regimes, see David Cortright and George A. Lopez with Richard W. Conroy, Jaleh Dashti-Gibson and Julia Waglar, *The Sanction Decade: Assessing UN Strategies in the 1990s* (Boulder, Colorado: Lynne Rienner, 2000), particularly chap. 2; see also David Cortright and George A. Lopez, *Sanctions and the Search for Security: Challenges to UN Action* (Boulder, Colorado: Lynne Rienner, 2002).

actors of contemporary world affairs; Denise Garcia's work meditates upon these researchers as norm entrepreneurs.⁵⁶ I am unaware of any study assessing the collective capability of those strategic frameworks agreed to by many governments within intergovernmental organisations, though some studies pay attention to specific measures, while others consider a range of measures but only as an assortment of autonomous instruments. Although Owen Greene identifies, for instance, those international agreements existing at the turn of the millennium, he refers only to controls over illicit trafficking and does not assess these in terms of their collective capacity to exert control.⁵⁷ Where studies such as those undertaken by International Alert treat multiple instruments, the focus is upon governments' progress towards fulfilling their obligations, as opposed to an assessment of the frameworks' strategic capability. Similarly, while much literature takes, as its topic, sanction regimes or peacekeeping operations authorised by the UN Security Council, the control exerted over small arms and light weapons by this collective action has rarely been critically examined, though important papers are emerging, as evident, for instance, in the recent work of Robert Muggah.⁵⁸ Moreover, I am aware of only one scholar who deals specifically and significantly with the role of civil society in responding to the challenge of controlling small arms and light weapons; Holger Anders' work only deals substantially with the United Kingdom (UK)-based Saferworld and its relationship with the European Union (EU).⁵⁹ Part II of this thesis addresses each of these broad themes and it is by demonstrating the nascent

⁵⁶ Garcia, *Analyzing the Issue of Curbing the Unrestricted Availability and Proliferation of Small Arms and Light Weapons*; Denise Garcia, "Norm Building in the Evolution of the Control of Small Arms in the International Agenda," *Security and Defence Study Review* 2 (2005 Fall): 225-255; *Making New International Norms: The Small Arms Case*. Belfer Center for Science and International Affairs Discussion Paper 2004-12 (Cambridge, Massachusetts: Harvard University, Kennedy School of Government, 2004); and *Small Arms and Security: New Emerging International Norms* (New York: Routledge, 2006).

⁵⁷ Refer to Owen Greene, "Examining international responses to illicit trafficking," *Crime, Law & Social Change* 33 (2002).

⁵⁸ Refer to fn.2.

⁵⁹ Holger Anders, "The Role of Non-State Actors in the European Small Arms Regime," Working Paper No.6 <<http://www.brad.ac.uk/acad/peace/tmp/publications/papers/psp6.pdf>> (accessed 31 March 2007); and also "NGOs and the Shaping of the European Controls on Small Arms Exports," in *New Threats and New Actors in International Security*, ed. Elke Krahnmann (New York: Palgrave Macmillan, 2005), 177-197.

interconnectivity among the major strategies for, and approaches toward, controlling these weapons that the thesis reveals its originality.

Part II's focus on the international community's major responses to this challenge is put into relief by Part III, shifting its focus towards those international actors who are able to mitigate, resist, and elude the intended effects of those intergovernmental measures of control and UN Security Council resolutions. While Peter Batchelor and Keith Krause observe that "documents themselves, no matter how well crafted, do not themselves destroy surplus weapons, secure stockpiles, punish illicit traffickers, or increase the security of vulnerable groups,"⁶⁰ the implementation of those measures and resolutions has also been as fragmentary as it has been sporadic. Moreover, despite some significant overlaps, gaps among the responses examined in Part II preclude sufficient geographic coverage of potential 'flashpoints' and actual conflict 'hotspots,' let alone global coverage. Certain international actors deliberately sustain the challenge of controlling small arms and light weapons by exploiting the operational weaknesses enshrined in these particular responses and the limitations inherent in the institutions from which these responses emerge. Even though it is not possible to provide an accurate and uncontested assessment of the quantities of weapons produced, traded, used, collected, and deactivated in the world over the past two decades, identifying the particular ways in which certain international actors evade existing major controls exposes some of the more pressing shortcomings of the international community's response to the challenge of controlling small arms and light weapons.

Chapter Six is concerned with the continued widespread availability of these weapons during an era when the processes of globalisation intensify. Sustaining the challenge of controlling small arms and light weapons by contributing to the availability of these weapons, firms and brokers help erode much of the potential impact of the international community's decisive responses. The chapter identifies particular ways in which the captains of small arms industry and arms brokers are

⁶⁰ Small Arms Survey, *Small Arms Survey 2002: Counting the Human Cost* (Oxford: Oxford University Press, 2002), 4.

able to mitigate, resist, or elude an emerging set of interrelated frameworks comprising of treaties, soft law measures, and UN arms embargoes. These frameworks are designed specifically in order to help govern the proliferation and transfer of these weapons, including production from organised manufacture and informal craft, as well as the legal trade among governments, while combating black-market trafficking. From the various figures relating to weapons production and trade which are available, it seems that a killing is being made in more ways than one.

The chapter does not, however, speculate upon the specific reasons motivating individual producers and brokers to supply these weapons. Similarly, the following chapter does not consider the specific reasons motivating chief users of these weapons to retain their arms—a very significant area of further exploration which would, of course, require a much larger and far more complex set of research questions than those which inform this thesis—because, as an ICRC publication remarks, the “resort to arms is as ancient as many of the grievances over which some conflict are fought.”⁶¹ They are, presumably, also as varied.

Concerned with the ongoing use of these weapons, Chapter Seven identifies particular ways in which these weapons’ chief users react against the emerging controls over the possession of these weapons which find expression either as instruments of international law or as DDR programmes administered by UN peacekeeping operations. Because the previous chapter explores the various ways in which international arms transfers occur in spite of the emerging controls over them, this chapter gives focus to the local procurement of these weapons by non-state armed groups for immediate, ongoing, and future use, as well as those weapons held as government arsenals, civilian stockpiles, and informal caches. Although users of small arms and light weapons are, perhaps, heterogeneous, a number of key user-types are discernible for analytical purposes: militaries, constabularies, private

⁶¹ International Committee of the Red Cross, *Arms Availability and the Situation of Civilians in Armed Conflict: a study presented by the ICRC* (Geneva: International Committee of the Red Cross, 1995), 1.

security firms, civilians, organised crime groups, and non-state armed groups—though these classifications are not exhaustive in themselves. In practice, however, these distinctions become blurred as, for example, combatants become criminals when the rule of law is established or restored. These chief users are, therefore, described here as ‘brothers in arms’ despite the sometimes competing interests each pursues.

Like Part II, elements of Part III of this thesis are innovative. Much literature, profiling the various roles that firms and brokers play in making small arms and light weapons widely available, has been conducted and circulated by various researchers.⁶² Similarly, the pool of published research elaborating a plethora of grisly, and often macabre, consequences following the ongoing use of these weapons is already extensive and continues to grow.⁶³ Yet significantly less literature

⁶² In particular, see: Small Arms Survey, “Small Arms, Big Business: Products and Producers,” *Small Arms Survey 2001: Profiling the Problem* (Geneva: Small Arms Survey, 2001), 7-57; Small Arms Survey, “Fuelling the Flames: Brokers and Transport Agents in the Illicit Trade,” *Small Arms Survey 2001: Profiling the Problem* (Geneva: Small Arms Survey, 2001), 95-139; Small Arms Survey, “A Sick or Dying Industry? Products and Producers,” *Small Arms Survey 2002: Counting the Human Cost* (Geneva: Small Arms Survey, 2002), 9-61; Small Arms Survey, “Workshops and Factories: Products and Producers,” *Small Arms Survey 2003: Development Denied* (Geneva: Small Arms Survey, 2003), 9-55; Small Arms Survey, “Continuity and Change: Products and Producers,” *Small Arms Survey 2004: Rights at Risk* (Geneva: Small Arms Survey, 2004), 7-41; Small Arms Survey, “Targeting the Middlemen: Controlling Brokering Activities,” *Small Arms Survey 2004: Rights at Risk* (Geneva: Small Arms Survey, 2004), 141-171; Small Arms Survey, “Unpacking Production: The Small Arms Industry,” *Small Arms Survey 2005: Weapons at War* (Geneva: Small Arms Survey, 2005), 39-69; Small Arms Survey, “Sourcing the Tools of War: Small Arms Supplies to Conflict Zones,” *Small Arms Survey 2005: Weapons at War* (Geneva: Small Arms Survey, 2005), 159-177.

⁶³ In particular, see: Small Arms Survey, “After the Smoke Clears: Assessing the Effects of Small Arms Availability,” *Small Arms Survey 2001: Profiling the Problem* (Geneva: Small Arms Survey, 2001), 197-249; Small Arms Survey, “Caught in the Crossfire: The Humanitarian Impacts of Small Arms,” *Small Arms Survey 2002: Counting the Human Cost* (Geneva: Small Arms Survey, 2002), 155-201; Small Arms Survey, “Obstructing Development: The Effects of Small Arms on Human Development,” *Small Arms Survey 2003: Development Denied* (Geneva: Small Arms Survey, 2003) 125-165; Small Arms Survey, “A Common Tool: Firearms, Violence, and Crime,” *Small Arms Survey 2004: Rights at Risk* (Geneva: Small Arms Survey, 2004), 173-211; Small Arms Survey, “Violent Exchanges: The Use of Small Arms in Conflict,” *Small Arms Survey 2005: Weapons at War* (Geneva: Small Arms Survey, 2005), 179-203; Small Arms Survey, “Behind the Numbers: Small Arms and Conflict Deaths,” *Small Arms Survey 2005: Weapons at War* (Geneva: Small Arms Survey, 2005), 229-265; Cate Buchanan and Mireille Widmer, *Putting Guns in their Place: A Resource Pack for Two Years of Action by Humanitarian Agencies* (Geneva: Centre for Humanitarian Dialogue, 2004); Cate Buchanan, *Putting People First: Human Security Perspectives on Small Arms Availability and Misuse* (Geneva:

concerns the adverse effect that these international actors have on the international community's major responses. This is a topic which, in and of itself, ought to be an area of concern for analysts and policymakers alike because, while few firms are closely involved in the multilateral negotiation of various measures of control, the ongoing commercial practices of firms and brokers, and the ways in which chief users of these weapons retain their arms for immediate use, seriously erode the intended effects of those control measures. Part III also demonstrates that the distinction by which intergovernmental organisations, civil society organisations, and researchers are denoted as protagonists, and producers, brokers, and users of small arms and light weapons are denoted as their antagonists, is both naïve and too simplistic.

This thesis concludes with a very brief chapter, resembling an epilogue, which contends that the challenge of controlling small arms and light weapons will prove intractable and insurmountable to the international community, at least as it is currently configured. While the international community's major responses to this challenge cohere around a particular notion of the political best understood as internationalism, this belief in internationalism is neither universal, nor absolute. In other words, there is no common consensus concerning the primacy of governments in contemporary world affairs, where governments cooperate in order to obtain collective advantage. Rather, the ongoing contest over the notion of the political not only sustains this challenge, but also informs the dynamics of international security, which itself stimulates contemporary world affairs. Because explanations blaming inadequate political will and insufficient resources construe this challenge in problem-solving terms without due regard to the deep complicity of the problem-solvers themselves, thereby serving the purposes of those seeking to strengthen the status quo, they are eschewed here as suspect.

Centre for Humanitarian Dialogue, 2003); Cate Buchanan and Robert Muggah, *No Relief: Surveying the Effects of Gun Violence on Humanitarian and Development Personnel* (Geneva: Centre for Humanitarian Dialogue and the Small Arms Survey, 2005); Thomas Jackson, Nicholas Marsh, Taylor Owen, and Anne Turin, *Who Takes the Bullet? The Impact of Armed Violence* (Oslo: Norwegian Church Aid and the International Peace Research Institute, 2005).

Before this thesis considers the major responses of the international community—namely, the burgeoning literature of the research community, the various measures of control negotiated multilaterally within intergovernmental organisations, the growing number of arms embargoes and DDR programmes authorised by the UN Security Council, and the sustained campaigning of civil society organisations—its prologue introduces the challenge of controlling small arms and light weapons by conveying the magnitude of violence these weapons bring to contemporary world affairs and by identifying the key dimensions of this violence. And this violence is of a magnitude that ought to disturb those analysts and policymakers concerned with contemporary conflict and international security.

PART I

PROLOGUE

1. *ENTER,* SUBALTERN KILLERS

This chapter describes a myriad of impacts associated with the widespread availability and ongoing use of small arms and light weapons. These impacts, which are manifest for reasons that are highly varied, dynamic, and historically contingent, visit devastation upon many communities in locales spread unevenly around the world. The legacies of armed violence will continue to haunt millions of victims for many years to come. Instead of presenting a series of case studies which focus exclusively upon a particular locale, country, or broader geographic region, this chapter draws its examples from across a broad range of settings, illustrating that the deleterious effects of these weapons register locally *and* regionally, affect affluent *and* developing societies, and have immediate presence *and* lasting affect. These effects demonstrate that small arms and light weapons can, moreover, promote security for some *and* enhance insecurity for others. While this chapter merely conveys one particular version of the countless impacts caused by these weapons, it is germane to analysts and policymakers alike because it discerns the key dimensions of this armed violence: the politico-strategic, politico-economic, and politico-social dimensions of these impacts attract differing degrees of attention from members of the international community as they respond to the challenge of controlling small arms and light weapons.

The chapter also argues that empirical analysis claiming to measure and compare the multifarious consequences following the availability and use of these weapons will, however, be just as provisional and fragmentary as empirical analysis exploring any of this challenge's major aspects, that is, the proliferation, transfer, possession, collection, and deactivation of this weaponry. Yet the epistemic anxiety surrounding this topic does not necessarily preclude high-level policy choices, as even a cursory awareness of these impacts helps motivate and sustain those responses of the international community explored in Part II of this thesis.

Some important members of the international community remain untroubled by their knowledge of these impacts' magnitude. (In fact, certain international actors are, as Part III of this thesis demonstrates, directly responsible for the widespread availability and ongoing use of these weapons.) The reasons for this have more to do with the decisive efforts emboldening world order and less to do with attempts at ameliorating the turbulence of world disorder, though both are obviously not unrelated. According to Aaron Karp:

The small arms issue arose from a broad desire to do something to ease the carnage of global crime, ethnic strife, and secessionist warfare. It also emerged as part of a broader, mostly European project to change the rules of international security and international politics after the end of the Cold War, one that guided European foreign policy throughout the 1990s. Although this project was rarely articulated explicitly, its goals were clear enough. It sought to rid the world of old-fashion excesses of national interests and power politics, to open the policy process to the broadest and strongest possible consensus, and to elevate the sovereignty of the individual above the traditional sovereignty of the nation-state. In practical terms, this project stressed the role of universally accepted principles as the only legitimate basis for official action....The small arms process developed in this milieu but never fully become part of it.¹

The grand project to reconfigure contemporary world order in the aftermath of the Cold War remains incomplete. In spite of all the violence, havoc, misery, and insecurity these tools of violence enable, their cumulative effects merely disturb the periphery of the existing internationalist governance architecture, without ever really threatening its core. These cumulative effects, moreover, not only remain insufficient to reorder contemporary world affairs, but also represent an ongoing opportunity for the international community to strengthen an internationalist orthodoxy asserted as a prime world-ordering principle through its major responses to the challenge of controlling these weapons.

¹ Aaron Karp, "Laudable Failure," *SAIS Review* XXII, no.1 (Winter-Spring 2002): 182.

Epistemic Anxiety

An authoritative definition of small arms and light weapons has so far eluded the international community. A single definition of small arms and light weapons has not yet become authoritative among researchers, governments, intergovernmental organisations, and civil society organisations because, while largely consistent among treaty law, there are important differences in definitions used in soft law measures, sanctions regimes, and peacekeeping operations, as well as important nuances among the work of various researchers and members of civil society organisations using this term. Pro-gun lobbyists, furthermore, seek to distinguish military-style weapons from civilian sporting and hunting guns. Governments are often keen to distinguish legal weapons from illicit, that is, government-authorized weapons from those held without such authorisation. Some definitions draw upon the intended utility of these weapons, with certain types of weapons designated, for example, as military tools that can be carried by an infantryman, a pack animal, or a light vehicle.² These weapons are distinguished from major military weapons, such as tanks and aircraft, because the latter “typically require an elaborate logistical and maintenance capability that can only be provided by professional military organizations with sufficient technical experience.”³ Moreover, according to Péricles Gasparani Alves, further distinction occurs among illicit small arms and light weapons as:

some experts are concerned with the use of small arms in street crime as it relates to the safety of the public: theirs is the so-called *nationalist* approach which mostly excludes a discussion on light weapons and the security of States. Other experts look at firearms from the point of State security: these are the *internationalists* who consider illicit trafficking to be a threat caused by the access of guerrilla and insurgency groups to small

² Aaron Karp, “Small Arms—The New Major Weapons,” in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 23-4.

³ Michael T. Klare, “The Global Trade in Light Weapons and the International System in the Post-Cold War Era,” in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 33.

arms and light weapons. The internationalists rarely address the consequences of illicit trafficking for the safety of a population, only considering them when they threaten the existence of States, or if they involve large-scale killing such as genocide.⁴

More often, however, definitions assert a technical classification based upon the weapons actually used during civil war and internal conflict.⁵ In any case, the definition ascribed to items subject to control not only has significance for analysts considering them, but also has important military, economic, and social implications for the policymakers agreeing to them.

Although contested, the following definition, cited by the UN Panel of Governmental Experts on Small Arms, has increasingly gathered authority among officials, activists, and researchers, and is, therefore, used to underpin this thesis:

Small arms: revolvers and self-loading pistols; rifles and carbines; submachine guns; assault rifles; and light machine guns.

Light weapons: heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; mortars of calibres of less than 100mm.

Ammunition and explosives: cartridges (rounds) for small arms; shells and missiles for light weapons; mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems; anti-personnel and anti-tank hand grenades; landmines; explosives.⁶

Ammunition is considered important here because it is, of course, a vital ingredient for ongoing use.⁷ Taking a broad and inclusive view, this thesis also considers archaic, crude, and homemade weapons of similar propulsion capability, but excludes newly developed non-lethal weapons because, instead of killing, these weapons are “explicitly designed and primarily employed so as to incapacitate personnel or material while minimising fatalities, permanent injury to personnel,

⁴ Péricles Gasparni Alves, *Illicit Trafficking in Firearms: Prevention and Combat in Rio de Janeiro, Brazil: A National, Regional, and Global Issue* (Geneva: United Nations Institute for Disarmament Research, 2000), 1.

⁵ Karp, “Small Arms—The New Major Weapons,” 24.

⁶ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, UN Doc. A/52/298 (New York: United Nations, 1997), paragraph 26.

⁷ For a recent study on the importance of ammunition, refer to Stéphanie Pézard and Holger Anders, *Targeting Ammunition: A Primer* (Geneva: Small Arms Survey, 2006).

and undesired damage to property and the environment.”⁸ The qualified success of the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (Ottawa Treaty)* has discouraged, by and large, the inclusion of anti-personnel landmines in discussions of small arms and light weapons despite representing a sub-category in the abovementioned definition.⁹ accordingly, this thesis also excludes treatment of landmines as either small arms or light weapons.

Notwithstanding the uncertainty surrounding the precise items subject to control, policymakers confronting the challenge of controlling small arms and light weapons must necessarily address the following major aspects, each of which are identified by those researchers whose work is examined in the following chapter: proliferation in terms of both organised manufacture and casual craft; transfers in terms of legal trade, grey transfers, and trafficking; possession in terms of existing stockpiles, civilian ownership, and informal caches; collection in terms of civic-based surrender campaigns and disarmament initiatives; and the deactivation of this weaponry. For this challenge to be overcome, all of these aspects must be addressed in a comprehensive, coordinated, and holistic manner. Enhanced collection processes will have limited effect if the production of weapons remains unrestrained, for example. Similarly, strict controls over stockpiles will have limited effect if the trafficking of these weapons continues unabated.

Any meaningful comprehension of the nature and extent of the challenge of controlling small arms and light weapons is, however, premised upon inconsistent, incomplete, and at times unreliable information. There are a number of significant impediments that frustrate attempts to obtain accurate, reliable, and timely sources

⁸ Small Arms Survey, *Small Arms Survey 2003: Development Denied* (Oxford, Oxford University Press, 2003), 25.

⁹ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 31.

of primary data regarding each of those major aspects of the small arms and light weapons challenge.¹⁰

Some governments are, for instance, reluctant to release detailed information relating to the quantities of weapons legitimately produced within their jurisdiction. Weapons produced either by manufacturers without licence or through informal craft elude capture by reporting processes covering industrial sectors. Where the criminalisation of weapons production without licence involves artisan practice, as in Ghana, guilds and associated networks become even more secretive.¹¹ Armed groups possessing productive capacity, including insurgents, organised criminals, and terrorists,¹² are even less likely to publicise the extent of the arsenals which they make. Knowledge of the proliferation of these weapons is, therefore, fragmented and provisional. The absence of both official and unofficial information relating to local guilds, companies, countries, and the value and volume of global production, greatly inhibits any meaningful analysis of this aspect.¹³ This does not appear, however, to curtail many highly varied 'best estimates' of local, national, regional, or global proliferation.

Similarly, obtaining accurate, reliable, and comparable information relating to weapons transfers is made difficult by the absence of an international standard relating to the collection and compilation of official trade-related information. Although some international agreements with provisions for collecting and compiling transfer-related information exist, they lack universal membership. The *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies* (Wassenaar Arrangement), for example, involves only 33

¹⁰ Maria Haug, Martin Langvandslien, Lora Lumpe, and Nicholas Marsh, *Shining a Light on Small Arms Exports: The Record of State Transparency*, Occasional Paper no. 4 (Geneva: Small Arms Survey and the Norwegian Initiative on Small Arms Transfers, 2002), 2.

¹¹ Emmanuel Kwesi Aning, "The Anatomy of Ghana's Secret Arms Industry," in *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, eds., Nicholas Florquin and Eric G. Berman (Geneva: Small Arms Survey, 2005), 85.

¹² David Capie, "Armed Groups, Weapons Availability and Misuse: An Overview of the Issues and Options for Action," Background Paper for a Meeting Organized by the Centre for Humanitarian Dialogue, in advance of the Sixth Meeting of the Human Security Network, 25 May 2004, 6 <<http://www.armedgroups.org/images/stories/pdfs/capiebamakopaper061004.pdf>> (accessed 26 August 2005).

¹³ Small Arms Survey, *Small Arms Survey 2001*, 8.

governments, though this does include all major arms exporters except the Peoples' Republic of China (PRC). Moreover, although this agreement prompts participating governments to exchange trade-related information among officials, this information is not publicly available because some governments claim a privilege to withhold information in order to preserve their commercial-in-confidence relationships with captains of industry. Hence, most transfers occurring between governments as trade, aid, or gifts, and between a government and a non-state actor as clandestine transfers, routinely evade notice and elude scrutiny unless otherwise detected and publicised. Where trade-related information is made available to the public, its release can cast an unfavourable light upon those western democracies which have some provision for transparency. This bias of transparency renders the US arms trade an expedient subject of analysis and, by extension, target of criticism, especially when compared to, for example, the Chinese arms trade about which little is publicly known. To complicate assessments, "[v]irtually every illicit small arms that is used in conflict or criminal activity began its life as a legally produced and traded weapon, at some point slipping into the illicit circuit."¹⁴

As is common among analyses relating to trafficking and so-called black market activities, it is extremely difficult to ascertain precise flows of these weapons with any degree of accuracy and certainty, as professional brokers and their recipients deliberately conceal their commercial affairs. Klare and Anderson, for example, appreciate that their "ability to reach an understanding of the black-market trade requires [them] to rely on people's mistakes; since [they] do not know the ratio of successful to unsuccessful transactions, it is impossible to know the full extent of illegal gun-running."¹⁵ Loosely signalling the extent of trafficking, their approach cannot be regarded as authoritative because it does not transcend the limitations inherent in information that has been collected without the reporting and verification processes usually associated with regulated commercial trade. The unregulated recycling of these weapons from conflict to conflict also hinders

¹⁴ Krause, 249.

¹⁵ Michael T. Klare and David Andersen, *A Scourge of Guns: The Diffusion of Small Arms and Light Weapons in Latin America* (Washington, D.C.: Federation of American Scientists, 1996), 58.

accurate assessments of flows. While few governments maintain accurate and up-to-date information on the legitimate trade of small arms and light weapons occurring within or across their borders, the difficulty encountered when seeking accurate, reliable, and timely information on the trafficking of these weapons is more intense. Consequently, analysts like Klare and Anderson rely heavily upon guesswork, sometimes based on elaborate extrapolation of known quantities, in order to ascertain the correlation between those weapons detected during monitoring activity and/or seized during enforcement operations, and the wider circulation of those weapons available through black markets. These kinds of estimates, while exhibiting great accuracy, at the same time lack verifiability, veracity, and, therefore, a measure of reliability. For those dealing directly with the consequences of weapons use, however, distinctions between legal and illicit transfers are meaningless. Michael Crowley and Greg Puley, for instance, explain the following:

From the perspective of the triage doctor or the human rights monitor, there is no difference between a chest wound inflicted on a civilian by a bullet acquired through the so-called *licit* trade, and that caused by a bullet acquired through the so-called *illicit* trade. To those who mend tissues and remove bone fragments, a chest wound is a chest wound, and the distinction based on the administrative or legal status of the weapon used to cause it, is irrelevant to their fundamental concern for human rights, and to their dedication to an ethic of prevention.¹⁶

While initiatives towards global, regional, and national registers of small arms and light weapons have been proposed, governments have so far been reluctant to release publicly any specific details relating to their military and constabulary arsenals, presumably out of fear that such publicity might undermine either national security or the government's ability to enforce the rule of law within its area of jurisdiction; or perhaps because it might do both. In some countries, citizens have shown reluctance to register their weapons and, in many countries, there is little in

¹⁶ Michael Crowley and Greg Puley, "The Framework Convention on International Arms Transfers: Basis for an International Campaign?" Paper presented at the conference "Small Arms and the Humanitarian Community: Developing a Strategy for Action," held in Nairobi, 18-20 November 2001, convened by the Humanitarian Coalition on Small Arms, <<http://www.arias.or.cr/fundarias/cpr/armslaw/nairobi-speech.html>> (accessed 20 June 2004).

the way of licensing civilian possession of these weapons. Informal caches concealed from authorities in conflict theatres or post-conflict settings also evade accountability.

More crucially for this thesis, the absence of baseline information necessarily frustrates attempts to measure and evaluate the overall effectiveness of controls over small arms and light weapons. In circumstances where reporting of weapons collection occurs, the absence of baseline information relating to the availability of weapons in the immediate vicinity obscures, in a fundamental way, any sense of progress. It does so regardless of how impressive the reported rate of confiscation and aggregate number of weapons seized might first appear to be. Once baseline estimates have been established and disarmament programmes are underway, it remains very difficult to determine the quantity of weapons crossing porous borders and then used in other conflicts, though such recycling undoubtedly occurs. In some cases, such as exemplified by the buy-back scheme implemented in Northern Afghanistan, disarmament processes are not only easily undermined, but also contribute to deteriorating security conditions because they provide financial opportunities enabling combatants and criminals to re-arm, improving the quality, if not quantity, of their weaponry. This situation was not helped when the government "released scant information regarding the procedures and methodology utilized in the collection process, a lack of transparency that has generated scepticism."¹⁷ When inward weapons flows persist and are unrestrained, figures relating to disarmament are rendered less meaningful, if not meaningless. It is, therefore, difficult to know with any degree of certainty the extent to which DDR programmes included in UN peacekeeping operations are successful in collecting small arms and light weapons within their specific area of operations. Information gathered from those weapons collected by peacekeepers and their constabulary

¹⁷ Mark Sedra, *Challenging the Warlord Culture: Security Sector Reform in Post-Taliban Afghanistan*, Paper no.25 (Bonn: Bonn International Center for Conversion, 2002), 38.

components is useful however, but only as an indicator of the weapons which are available and used in that immediate vicinity.¹⁸

Attempts to measure the effectiveness of an arms embargo at preventing weapons from reaching a specific actor might also be frustrated by the absence of baseline information, though quantifying the amount of weapon-transfers deterred is unfeasible in a practical sense. Attempts to measure the effectiveness of those instruments of international law designed to combat the illicit trafficking of these weapons are not immune from these concerns either. In this light, law-enforcement action proves somewhat less useful as a means by which the extent of illegal activities can be estimated, than it is a useful way of better knowing about these unauthorised dealings. However, in spite of the absence of baseline information regarding the total quantity of weapons available for immediate use obscuring the relative importance of those weapons collected and/or deactivated, members of the international community continue resorting to DDR programmes, arms embargoes, and intergovernmental measures of control as the primary methods of exerting control over these weapons. To be sure, the epistemic anxiety surrounding the challenge of controlling small arms and light weapons has not curtailed high-level policy choices.

Given the paucity of available data, and the lack of veracity concerning the data that is available, it is not yet possible—indeed, it might never be possible—to conduct a meaningful empirical analysis which accurately assesses the collective impact of the various attempts by the international community to exert control over small arms and light weapons. Furthermore, even if such data were available (which would, by necessity, include information relating not only to the quantities of weapons collected and deactivated, but also to the precise amounts of these weapons produced, transferred, and possessed both legally and illicitly), and even if that data could be compared over time—across, for instance, the duration of the Cold War up until the present day—fluctuations and shifts signalled by this data series could,

¹⁸ Anna Khakee and Nicolas Florquin, *Kosovo and the Gun: A Baseline Assessment of Small Arms and Light Weapons in Kosovo*, Special Report no.3 (Geneva: United Nations Development Programme and Small Arms Survey, 2003), 17.

perhaps, be attributed to factors that are not understood as direct or indirect outcomes of these controls attempts. For example, the intensification of globalisation and its effect on economic boom-and-bust cycles could plausibly account for a downturn in production rates, rather than attributing such a decline to controls negotiated at multilateral conferences. Plausible too is the suggestion that the tightening of international financial regulations through institutions, such as the Organisation for Economic Co-Operation and Development (OECD), in order to combat organised criminals, terrorists, and others who launder money, has a serendipitous effect on combating the nefarious activities of arms brokers. The empirical adventures required to support these alternative explanations lie well beyond the scope and competency of this thesis, however.

Yet the lack of data relating to the precise quantities of small arms and light weapons currently produced, transferred, possessed, collected, and deactivated, precludes neither exploring the major ways in which the international community seeks to control these weapons, nor identifying the particular ways in which these controls are deliberately weakened and sometimes undermined by certain members of the international community claiming to confront this challenge. Nor, for that matter, does this lack of available data preclude examining the ways in which the intended effects of those controls are easily mitigated, resisted, and eluded by those international actors sustaining this challenge. In fact, the lack of available, accurate, and reliable quantitative data makes these tasks all the more necessary and, as mentioned in the introduction, these tasks are undertaken in Parts II and III of this thesis, respectively.

Here, then, much of the information on the topic of small arms and light weapons collected by researchers, activists belonging to civil society organisations, and on behalf of governments and intergovernmental organisations, is often inconsistent, incomplete, and unreliable. Much of this information is also incompatible and cannot, therefore, be used as the basis for comparative analysis. Even the Small Arms Survey concedes that "the total number and global distribution of small arms remains one of the greatest enigmas in the field of international peace

and security.”¹⁹ All this is not to say, however, that members of the international community cannot develop an understanding of the challenge through a consideration of its major aspects, but rather, that any meaningful comprehension ought to acknowledge the limitations of this sort of information and recognise the uncertainty—indeed, the epistemic anxiety—it provokes for those seeking to exert control over these weapons. This epistemic anxiety should concern not just government officials and representatives of intergovernmental organisations, but all those members of the international community helping to compose controls over these weapons.²⁰ Without greater transparency of government-authorized activities, however, analysts will be precluded from better comprehending the topic they describe, and policymakers will be inhibited from effectively confronting the challenge posed by the widespread availability and ongoing use of these weapons. The latter is especially so since controlling these weapons requires an holistic approach simultaneously addressing each of its major aspects against the increasing geographic spread of these weapons, distributed not only in locations of intense use described as ‘hotspots,’ but also in those areas through which these weapons transit. Even though the contrast between Parts II and III of this thesis suggests that the international community’s major responses to these major aspects are anything but comprehensive and somewhat less than well-coordinated, the strategies for, and approaches toward, controlling these weapons do, however, reveal a nascent interconnectivity as the relationships among certain members of the international community mature.

¹⁹ Small Arms Survey, *Small Arms Survey 2001*, 60.

²⁰ Much of the empirical evidence informing this thesis is, for example, hearsay, since it is expressed in others’ accounts and has not been collected first-hand.

Carnival of Horror

The underreporting of crime involving small arms and light weapons to authorities,²¹ and the poor recording processes of those authorities, hinders assessments of the impacts generated by these weapons. Similarly, many incidents of human rights violations involving these weapons probably go unreported because the victims are dead and witnesses fearful of recriminatory violence. Mortality rates provided by combatants are especially susceptible to inflation and deflation as figures are used as a means of political manoeuvring.²² Information relating to the use of firearms to incite violence is rarely collected by governments and, as Phillip Alpers and Conor Tywford recently discovered in the Pacific, “sometimes the only way to ascertain the relative level of firearms-related violence in a community is to prevail upon the institutional memory of the interviewee.”²³ The indirect use of these weapons has serious consequences too, even if they are, as Muggah contends, “deeply entrenched and often difficult to discern.”²⁴ For example, while the most common tools of violence used during the Rwandan genocide were machetes and other farming implements, small arms and light weapons were ubiquitous companions to the human carnage.

Interstices among official data, and the anecdotal nature of data collected first-hand by researchers and contained in media reports, undermine attempts to comprehensively map these impacts. The results of any attempt at such a mapping process will likely be incomplete, fragmented and, ultimately, futile, except as an indicator of weapons availability. Since the location and extent of the world’s small arms and light weapons stockpiles remain unknown, it has so far proven unfeasible to establish precise linkages between the extent of their widespread availability and

²¹ William Godnick, with Robert Muggah and Camilla Waszink, *Stray Bullets: The Impact of Small Arms Misuse in Central America*, Occasional Paper no.5 (Geneva: Small Arms Survey, 2002), vii.

²² Small Arms Survey, *Small Arms Survey 2005: Weapons at War* (Oxford: Oxford University Press), 229.

²³ Phillip Alpers and Conor Tywford, *Small Arms in the Pacific*, Occasional Paper no.8 (Geneva: Small Arms Survey, 2003), 31.

²⁴ Muggah, “No Magic Bullet,” 241.

the prevalence and intensity of their ongoing use, though most analysts and policymakers agree that such a link exists.

Measuring these various impacts also proves complicated. At the heart of this complexity lies a question of appropriate methodology. Quantitative statistics concerning morbidity rates, injury, and displacement are common, pervading the growing body of literature focusing on small arms and light weapons. The Small Arms Survey estimates, for example, that these weapons are implicated in about 500,000 deaths each year, that is, more than 1,300 deaths per day.²⁵ The UN estimates that, by 1996, 35 million people were confronted by internal conflict, most of which occur in the world's poorest countries.²⁶ The epistemological approach to collecting these kinds of qualitative statistics is primarily distal, by which I mean "stepping back to look at world affairs in objectifying terms."²⁷ However, this approach and, more significantly, the quantitative statistics it often produces, tend to mask the heterogeneous ways in which these deaths occur and the uneven geographic distribution of these deaths in locales throughout the world. Such an approach also often distorts so-called lived experiences because statistics cannot aptly portray the misery, horror, and squalor inflicted upon those who become the victims of those wielding these tools of violence.

On the other hand, a qualitative approach, sensitive to the personal experiences of small arms victims, relies upon a proximal epistemology, by which I mean engaging in world affairs, not as neutral observers, but as participants of the subject under regard in the way that anthropologists do.²⁸ According to Béatrice Pouligny:

an ethno-psychiatric approach is necessary in order to avoid frameworks and tools which may be totally alien to local forms and logics of social ties, their transformations, and above all, the cultural strategies of dealing with death, mourning, and suffering. As has been argued by some psychiatrists, it makes little sense to speak of *trauma*, in the psychiatric or diagnostic sense, outside precise historical cultural and social contexts. When violence and fear have become a way of life, when war has become

²⁵ Small Arms Survey, *Small Arms Survey 2001*, 1.

²⁶ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 15.

²⁷ Pettman, 155.

²⁸ *Ibid*, 13.

an *ordinary* condition and no longer exceptional, everyday life has been changed. Such a devastating fragmentation of social ties and individual conscience may contribute to the paralysis of social rehabilitation as well as of peace building intervention, even after war is supposed to be over. In other words, it may obstruct the reconstruction of a possible everyday life in communities that have lived through a long siege of violence and poverty. It explains why it is normally not possible to think about reintegration of former combatants outside of the community frameworks.²⁹

Like the distal approach, a proximal epistemology has limits too. Again Pouligny is instructive here not only when she warns of the difficulties presented “by contradictory memories and accounts that differ or are unspeakable or even impossible to reconstruct....When a field worker does not know what he is ‘witnessing,’ he or she might tend to (re)present an undifferentiated round of suffering, a *carnival of horror*, that will exclude any consideration of its political or social dimensions,” but also because she signals that field workers “may also be tempted to ‘rework’ the account in order to overlay her own ‘authentic’ version of the facts, or may quite simply construct her own narrative. There is also a risk that this version or narrative might ‘simplify’ situations that are highly complex.”³⁰

These approaches are not necessarily mutually exclusive, however. Martin Gilbert, writing specifically of the Holocaust, touches upon a point relevant here: “neither their suffering, nor their courage can be adequately conveyed in words. So little is known of the fate and reaction of individuals. *Statistics can dull the mind, and examples numb it.* Nevertheless, the historian must try, through the records and stories that have survived, to give an insight into the many different ways in which individuals met their death.”³¹ More generally, Pettman commends to practitioners of disciplinary international relations the employing of both ways of knowing as a

²⁹ Pouligny, *The Politics and Anti-Politics of Contemporary ‘Disarmament, Demobilization & Reintegration’ Programs*, 10.

³⁰ *Ibid*, 22 (my emphasis added).

³¹ Martin Gilbert, *The Holocaust: The Jewish Tragedy* (London: Collins, 1986), 419 (my emphasis added).

“double epistemological helix,”³² an approach useful in conveying some of the magnitudes of consequences resulting from the widespread availability and ongoing use of these weapons. Having said that, however, a fully representative account proves elusive, especially since experiences of small arms use are seldom identical.

The selection of ontological referents is a further contentious issue confronting those attempting to measure the impacts generated by the widespread availability and ongoing use of small arms and light weapons. Notwithstanding the particular referent(s) preferred for analysis, comparison among the impacts associated with small arms and light weapons, including their prevalence and intensity, tends to confound rather than clarify. Again, an extreme example of violence, the Holocaust in particular and genocide in general, is instructive here, as Yehuda Bauer posits:

No graduation of human suffering is possible. A soldier who lost a leg and a lung at Verdun suffered. How can one measure his suffering against the horrors that Japanese civilians endured at Hiroshima? How can one measure the suffering of a Rom woman at Auschwitz, who saw her husband and children die in front of her eyes, against the suffering of a Jewish woman at the same camp who underwent the same experience? Extreme forms of human suffering are not comparable, and one should never say that one form of mass murder is “less terrible,” or even “better,” than another.³³

Although comparing the prevalence and intensity among the varying impacts associated with these weapons is highly problematic, especially in situations where death by violent crime routinely goes unreported, or the scale of genocide goes under-recorded, the direct and indirect impacts attributed to these weapons deserve and receive some elaboration here, as do their key dimensions. Indeed, even an imperfect knowledge of the multifarious consequences helps motivate and inform the major responses of the international community, though Derghoukassian possibly overstates the case by suggesting “empirical evidence linking [small arms

³² Ralph Pettman, *Reason, Culture, Religion: The Metaphysics of World Politics* (New York: Palgrave Macmillan, 2004), 10; see also Pettman, *World Politics*, 4.

³³ Yehuda Bauer, *Rethinking the Holocaust* (New Haven and London: Yale University Press, 2001), 13.

and light weapons] proliferation and the loss of life has been crucial to bring international attention on the security threat of this lesser category of weapons.”³⁴

Discerning Political Dimensions from the Barrel of a Gun

The widespread availability and ongoing use of small arms and light weapons produces effects that have an important politico-strategic dimension. Where existing institutions of government suffer political bankruptcy, small arms and light weapons enable the emergence of new informal governance arrangements. The violent transition to independence for the Republic of Georgia provides an instructive example of the increased militarisation of politics where government authority is absent. According to Spyros Demetriou, “[t]he sudden availability of weapons in late 1991 drastically altered the dynamics of political interaction and competition, leading to the militarization of politics, the narrowing of negotiating space, and the recourse to force to settle disputes.”³⁵ Following the indiscriminate distribution of small arms and light weapons to citizens by Russian military personnel responsible for their safe storage, civilians were able to use these weapons as a means of expressing power and were, therefore, better equipped to achieve their political ends. This so-called politics from the barrel of a gun contributed to a political climate in which more than 300,000 people were displaced and tens of thousands of people killed, providing conditions suitable for the further criminalisation of Georgian domestic affairs.³⁶

Small arms and light weapons enable those contesting control over the institutions of government, which is particularly evident when such weapons are in the hands of armed non-state groups and terrorist organisations. All governments are vulnerable to the direct impact of these weapons, with heads of state the target of assassination attempts, though governmental representatives cannot claim a monopoly as victims. Rather, these weapons are more frequently used to wage

³⁴ Derghoukassian, 7.

³⁵ Spyros Demetriou, *Politics from the Barrel of a Gun: Small Arms Proliferation and Conflict in the Republic of Georgia (1989-2001)*, Occasional Paper no.6 (Geneva: Small Arms Survey, 2002), 50.

³⁶ Ibid, 29.

protracted guerrilla war against governmental military forces, such as that undertaken by the Tamil Tigers in Sri Lanka. Conflict in the Solomon Islands, beginning in 1998, is a further example of a resort to arms as a way of articulating grievance directed at the government, as well as towards rival factions. By the middle of 1999, 50 people had been killed by local militia armed with small arms and light weapons, intensifying resentment and prolonging conflict resulting in the killing of a further 50 people by the end of 2000. These hostilities concluded with the Townsville Peace Agreement of August 2000, though incidents of armed violence persist.³⁷

Sometimes governments fall after its elected representatives are taken as hostages by men brandishing small arms and light weapons. This, of course, occurred in 2000 when, led by businessman George Speight, seven armed men forcefully entered the Fijian Parliament, taking hostage Prime Minister Mahendra Chaudry, alongside most of his Cabinet. The associated trauma has both immediacy and longevity, for individuals directly involved as well as for Fijian society at large. Five people died from gunshot wounds inflicted during the hostage-taking. During the 56 days that the hostage situation lasted, rule of law was ignored in many locales, where violence and rioting prevailed.³⁸ Consequences following this unseating of a democratic government are serious and lasting, and this *coup d'état* has, as Brij Lal notes:

dislocated the process of political reconciliation, severely strained race relations, and shattered the foundations of the nation's economy just when Fiji was gradually emerging from the debris of 1987. The images of looting and burning, thuggery, and violence on the streets of Suva, the worst in the history of Fiji, will forever remain deeply embedded in the collective consciousness of its people, and the recovery from the wreckage and ruin will be long and hard.³⁹

Here, lack of effective law enforcement combined with forced internal displacement engendered widespread violence, including looting, destruction of property, and

³⁷ Alpers and Twyford, 39.

³⁸ Ibid, 34.

³⁹ Brij Lal, "The Sun Set at Noon Today", quoted in Phillip Alpers and Conor Tywford, *Small Arms in the Pacific*, Occasional Paper no.8 (Geneva: Small Arms Survey, 2003), 33.

arson, followed by longer-term affects upon emigratory flows, widespread unemployment and redundancy, inert key industries discouraging economic recovery, increases in sexual violence against women, and trauma experienced by many children that will, no doubt, continue to haunt them for many years to come.⁴⁰ In fact, Commodore Frank Bainimarama has tried to justify Fiji's most recent coup as a response to the former government's unsatisfactory handling of the previous coup plotters.⁴¹

Even authorised small arms and light weapons are prone to misuse. Some weapons have been stockpiled by, or on behalf of, candidates campaigning for public office, and are used to intimidate voters and ballot monitors alike, thereby undermining the democratic electoral process. Such intimidation occurred in Papua New Guinea (PNG) during 1997,⁴² signalling the further politicisation of the constabulary and military. Incumbent officials seeking re-election do not hold monopoly over ballot-box intimidation, as supporters of opposition candidates take up arms with similar intentions to influence democratic processes. According to Bill Standish, by August 2002, 30 people died in violence associated with PNG's electoral process, many directly from firearms use.⁴³ Overenthusiastic responses from the constabulary to increases of violent crime also demonstrate the misuse of authorised force, which in PNG includes human rights violations, arbitrary raids on homes, rape, property theft and damage.⁴⁴ The ill-fated millennium bank heist in 1999 at Port Moresby ended when police disabled a moving helicopter containing five armed robbers before gunning down these men as each emerged from the wreckage.⁴⁵ This excessive use of force is not isolated: claims persist that suspected

⁴⁰ Alpers and Twyford, 35-7.

⁴¹ BBC News, "Profile: Fiji's Military Leader" <<http://www.news.bbc.co.uk/go/pr/fr/--/2/hi/asia-pacific/769527.stm>> (accessed 23 March 2007).

⁴² David Capie, *Under the Gun: The Small Arms Challenge in the Pacific* (Wellington: Victoria University Press in association with the Peace and Disarmament Education Trust, New Zealand Department of Internal Affairs, 2003), 94.

⁴³ Alpers and Twyford, 54.

⁴⁴ Ray Anere, Ron Crocombe, Rex Horoi, Elise Huffer, Morgan Tuimaleali'ifano, Howard Van Trease, and Nikenike Vurobaravu, *Security in Melanesia: Fiji, Papua New Guinea, Solomon Islands & Vanuatu* (Suva: Pacific Islands Forum Secretariat, 2001), 28.

⁴⁵ Capie, *Under the Gun*, 91 & 93.

criminals, some of them unarmed, have been summarily executed by the constabulary.⁴⁶ The UN estimates that the PNG Defence Force murdered (or as euphemistically used in one UN report, 'extra-judicially executed') at least 64 people between 1991 and 1995.⁴⁷ As authorities encounter increasing difficulty when enforcing domestic law relating to weapons misuse, the inclination to deploy military forces, rather than the constabulary, gathers momentum, though in many cases officials have been hesitant to do so.⁴⁸ As Chris Smith observes of Central Asia:

The availability of weapons of increasing firepower has facilitated a warlike situation as militants become increasingly able to mount operations more akin to insurgency than to militancy or terrorism. Consequently, the response of the security forces—which are themselves poorly trained and even more poorly disciplined—has been excessive. As both sides have become progressively brutalised, so the incidence of rape, torture, and murder has increased.⁴⁹

Here, misuse is not merely tolerated or condoned by governments, but is encouraged at the same time as legal obligations to comply with international humanitarian law are violated and concepts of human rights find little currency. These weapons, providing the means by which inter-communal rivalries are fuelled and exploited, articulate and create grievances, escalate disputes with civil authorities into full-scale conflict, and are used to wage and prolong civil war against the government.

The rise of intra-state conflict following the Cold War's end was accompanied by an increase of peacekeeping operations managed by intergovernmental organisations. During UN operations in Albania, Angola, Bosnia, Cambodia, Rwanda, Somalia, and more recently East Timor, to name just a few, the widespread availability of small arms directly threatened the security of peacekeepers. Following the unravelling of the Lomé Peace Agreement in 2000, UN Peacekeepers

⁴⁶ Ibid, 93.

⁴⁷ Alpers and Tywford, 47.

⁴⁸ Alves, 36.

⁴⁹ Chris Smith, "Light Weapons and Ethnic Conflict in South Asia," in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 76-77.

were abducted and murdered in Sierra Leone by members of the Revolutionary United Front (RUF).⁵⁰ The number of UN peacekeepers killed during operations conducted in the 1990s represents half the total reported number of casualties since the UN's inception.⁵¹ Even where these weapons are consigned for deactivation, they continue to kill: two explosives experts died during a demobilisation demonstration in El Salvador, with the blast injuring four other soldiers, as well as a journalist and cameraman also in attendance.⁵² Inexperienced peacekeepers operating in Afghanistan as part of the International Security Assistance Force have also received criticism for not shouldering weapons during patrols in post-conflict settings, thereby enhancing insecurity: even where intent to use force might be absent, the perception of armed capability diminishes faith in security.

Closely related to that politico-strategic dimension of the various impacts generated by the widespread availability and ongoing use of small arms and light weapons is a significant politico-economic dimension. Conflicts sustained by these weapons help debilitate the infrastructure enabling and regulating domestic economies, displace and scatter labour forces, and prevent easy access to natural resources where these are not wrecked. According to the UNDP, "[t]he threat and use of small arms touches both formal and informal commercial transactions, including trading patterns, and household and national agricultural production. In many situations, small arms availability can be a direct cause of declining food security."⁵³ The report goes on to note the high medical costs associated with treating firearms-related injuries, the rise of armed banditry, and high transport costs, each of which contribute to declining economic activity.

Beyond conflict zones, small arms and light weapons also gain currency as commodities, sometimes forming the basis of a lucrative trade whereby corrupt

⁵⁰ Eric G. Berman, *Re-Armament in Sierra Leone: One Year After the Lomé Peace Agreement*, Occasional Paper no.1 (Geneva: Small Arms Survey, 2000), 12.

⁵¹ Capie, Under the Gun, 16.

⁵² Godnick with Muggah and Waszink, 17.

⁵³ Robert Muggah and Peter Batchelor, *"Development Held Hostage": Assessing the Effects of Small Arms on Human Development. A Preliminary Study of the Socio-Economic Impacts and Development Linkages of Small Arms Proliferation, Availability and Use* (New York: United Nations Development Programme, 2002), 30.

members of the constabulary or armed forces steal weapons from armouries, transferring these to criminal groups, as occurred in PNG during the 1990s.⁵⁴ Experienced in exploiting weak or corrupt authorities, organised crime groups transfer these weapons, as they do with other commodities such as narcotics, diamonds, and timber, generating revenue contributing to their profitability. At the same time, officials forgo opportunities to collect tax revenues, further impeding governmental capabilities to administer human development projects.⁵⁵

Where governments desire to quell unrest, restore order, or at least assert a competitive claim for the legitimate use of force over a contested area of jurisdiction, mercenariness is sometimes invoked. Executive Outcome, a South African private security firm, was hired in 1995 by the government of Sierra Leone, making immediate military gains against the RUF, led by Foday Sankoh. However, following an agreement between the hostile parties, which included a provision requiring the government to terminate its contract with the private security firm, officers of Executive Outcome left the country and armed hostilities quickly resumed.⁵⁶ Although the mercenaries from Sandline International, hired in 1997 by the PNG government, were never active in an operational sense, they played a minor role in prompting a peace process leading toward the Lincoln Agreement.⁵⁷ Here, introducing corporate armed actors into conflict zones intends to reinforce the contracting government's politico-strategic capability, though as Muggah and Batchelor point out, the "costs of private security for businesses, including government agencies, in countries such as South Africa, Brazil, Nigeria and the US have reached alarming proportions. In many of these countries, the value of the private security industry often exceeds national expenditure on policing."⁵⁸

The possession of, or easy access to, small arms and light weapons by combatants hinders conflict resolution, squandering economic development

⁵⁴ Capie, *Under the Gun*, 101.

⁵⁵ Muggah and Batchelor, 33.

⁵⁶ Berman, 11.

⁵⁷ Alpers and Twyford, 45. In fact, Sandline's activities played a major role in precipitating the constitutional crisis in PNG, after which the peace process led to the Bougainville settlement.

⁵⁸ Muggah and Batchelor, 26.

opportunities offered by external actors. Involvement in contemporary conflicts, in which small arms and light weapons are used, consumes a significant quantity of the UN's resources. According to the UN *Report of the Panel of Governmental Experts on Small Arms*, "[i]n one way or another, virtually every part of the United Nations system is dealing with the direct and indirect consequences of recent armed conflicts fought mostly with small arms and light weapons."⁵⁹ The Inter-American Development Bank estimates that the government of El Salvador spent 25 percent of its annual Gross Domestic Product responding to armed violence,⁶⁰ signalling that governments too foot the bill. Donor states such as New Zealand redirect funds initially intended for development aid into humanitarian assistance and specific disarmament processes, seeking to help resolve conflicts erupting in places such as the Solomon Islands.⁶¹

Perhaps the most readily identified effects produced by these weapons' widespread availability and ongoing use, are those with a politico-social dimension. Civilians, especially women and children, rather than combat personnel, now incur the highest proportion of casualties inflicted by these weapons during conflict as both government-run militaries and undisciplined irregular forces tend to ignore the distinction between combatants and civilians; or worse, such forces may deliberately target civilians. As Mary Kaldor points out, "[b]ehaviour that was proscribed according to the classical rules of warfare and codified in the laws of war in the late nineteenth century and early twentieth century, such as atrocities against non-combatants, sieges, destruction of historic monuments...now constitutes an essential new mode of warfare."⁶²

Individuals belonging to affluent societies also suffer from the illegal use of legally-held small arms and light weapons. In recent years, schools and shopping malls in the US have hosted isolated incidences of gun-related violence: the high-

⁵⁹ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 20.

⁶⁰ Godnick with Muggah and Waszink, 13.

⁶¹ Alpers and Twyford, 42.

⁶² Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Stanford: Stanford University Press, 1999), 8.

profile shootings carried out by Eric Harris and Dylan Klebold at Columbine High School, Colorado, for example, not only register as personal trauma for the relatives of victims, but also as violent images engraved upon the collective psyche of Americans viewing media coverage of, or popular documentaries focusing on, this incident, or the many others similar to it. This is not only an American social problem, however. In 1996 at Dunblane, Scotland, 16 primary school students and their teacher were shot dead by Thomas Hamilton.⁶³ Martin Bryant, a lone gunman embarking upon a shooting spree at Port Arthur, Tasmania, killed 35 people and injured a further 19 in 1996. Harris and Klebold, Hamilton, and Bryant represent only three of the many high-profile shootings using small arms and light weapons reported in the media over the past decade.⁶⁴ These weapons also play a prominent role in suicides with approximately 75 percent of Australia's firearms-related mortalities in 1999 determined as suicides.⁶⁵ In Costa Rica, firearms are used in about 20 percent of all reported suicides.⁶⁶ Unintentional injuries and accidental death also result from the illegal use of these weapons. According to Wendy Cukier and Victor W. Sidel, "[w]hile conflicts and wars are fuelled by the arms trade, the shocking reality is that more people are killed with guns each year in countries not at war."⁶⁷

The armed violence occurring in cities such as Rio de Janeiro and São Paulo are so intense as to blur the distinction between areas under the rule of law and those locations deemed as conflict zones, especially given that "non-fatal outcomes of firearm-related violence represents a largely unknown—and likely very large—

⁶³ Sami Faltas, Glenn McDonald, Camilla Waszink, *Removing Small Arms from Society: A Review of Weapons Collection and Destruction Programmes*, Occasional Paper no.2 (Geneva: Small Arms Survey, 2001), 3.

⁶⁴ For an online database containing media reports, see *Gun Policy News*, administrated by Phillip Alpers <alpers@gunpolicy.org>.

⁶⁵ Alpers and Twyford, 54.

⁶⁶ Godnick with Muggah and Waszink, 9.

⁶⁷ Wendy Cukier and Victor W. Sidel, *The Global Gun Epidemic: From Saturday Night Specials to AK 47s* (Westport, Connecticut and London: Praeger Security International, 2006), 3. For a more nuanced appreciation of the victims of firearms use from a public health perspective, refer in particular to chap. 2, entitled "The Firearms Epidemic."

dimension of the problem.”⁶⁸ Brazil, of course, does not hold a monopoly over urban violence; a recent WHO report begins by explaining that “[v]iolence is a universal scourge that tears at the fabric of communities and threatens the life, health and happiness of us all. Each year, more than 1.6 million people worldwide lose their lives to violence. For everyone who dies as a result of violence, many more are injured and suffer from a range a physical, sexual, reproductive and mental health problems.”⁶⁹

Criminal intent can generate the use of unauthorised weapons. Although law enforcement agencies often directly link weapons trafficking to organised narcotics trafficking, the criminal use of unauthorised weapons is much broader and includes poaching, cattle-rustling, armed robberies, banditry, kidnapping for ransom, hostage-taking, hijacking, homicide, and bank heists. Media reports from countries such as PNG and the US routinely report shootouts between gangs and constabulary, and also among gangs.⁷⁰ Isolated, not to mention widespread or endemic, violent crime represents a serious threat to the safety of ordinary citizens and the constabulary, undermines the rule of law, and weakens the authority and legitimacy of some governments.⁷¹ In Rio de Janeiro, for instance, there are reports suggesting these weapons can be hired, and that area exist, particularly in the *favelas* and *morrows*, where law-enforcement teams cannot enter at night out of fear for their own safety.⁷² In Central America, social violence and armed crime have increased following the ending of the Cold War and the cessation of its proxy conflicts, with organised crime and civilian militias inheriting surplus weapons. Although homicide rates appear stable in the region, the use of small arms and light weapons in perpetrating homicides has increased.⁷³ In Kosovo, organised criminals

⁶⁸ Maria Fernanda Tourinho Peres, *Firearm-related violence in Brazil: Country Report* (São Paulo: Centre for the Study of Violence, University of São Paulo, 2004), 17.

⁶⁹ World Health Organization, *World Report on Violence and Health: Summary* (Geneva: World Health Organization, 2002), 1.

⁷⁰ Alpers and Twyford, 52.

⁷¹ Alves, 2.

⁷² *Ibid*, 15.

⁷³ Godnick with Muggah and Waszink, vii.

intimidating politicians and administrators alike use unauthorised weapons to blend criminal activity with political violence.⁷⁴

In some cases where the rule of law is disregarded in favour of traditional or customary protocol, small arms and light weapons are used in order to violently articulate grievances caused by intra-communal rivalry and inter-tribal dispute. The Eastern Highland Province of PNG, for example, hosted two tribal clashes involving small arms and light weapons resulting in 25 people being murdered in 1999, and clashes occurring in the Southern Highlands resulted in a further 120 people murdered.⁷⁵ The availability of these modern weapons, including hand-grenades and rocket launchers, as opposed to traditional weapons of bows and arrows or spears and shields in locales where tribal or ethnic tensions persist not only increases mortality rates, but also enables lethal retributive justice as an informal extrajudicial dispute resolution to prevail as an accepted norm of behaviour.⁷⁶ In Afghanistan, local warlords use small arms and light weapons to maintain control over areas outside Kabul, showing that the rule of law in urban settings functions contiguously with might-is-right logic dominating rural hinterlands. According to Mark Sedra, in northern Afghanistan the "lawlessness, which pervades the region, has seriously hindered the efforts of the UN and the international aid community to deliver humanitarian assistance, arousing fears of an impending humanitarian disaster."⁷⁷

Lack of public confidence in the maintenance of the rule of law follows knowledge of such circumstances, prompting civilians to stockpile weaponry. In the highlands of PNG, tens of thousands of homemade weapons abound,⁷⁸ while in urban settings, such as in Port Moresby, some women are forced to sleep in so-called rape cages, or in bedrooms protected by steel bars and barbed wire.⁷⁹ Weapons, held in order to facilitate the resolution of community disputes, for reasons of self-defence where perceptions of inadequate and ineffective police protection abound,

⁷⁴ Khakee and Florquin, 7.

⁷⁵ Capie, *Under the Gun*, 92.

⁷⁶ Ibid.

⁷⁷ Sedra, 14.

⁷⁸ Capie, *Under the Gun*, 93.

⁷⁹ Alpers and Tywford, 52.

or as a means of overthrowing abusive regimes, simultaneously enhance and undermine perceptions of security. In corollary with increased perceptions of personal insecurity and diminished respect for law-enforcement capabilities, weapons are sought by citizens for self-defence, and private security firms are hired by fearful citizens, as occurred in Central America during the aftermath of the Cold War. Yet many weapons carried by private security officers, themselves often inadequately trained, are carried illegally, signalling that the emergence of these firms not only indicates increased perceptions of insecurity, but also contributes to the intensification of that insecurity.⁸⁰ Affluent individuals arming themselves for protection in poverty-stricken areas sometimes undertake social cleansing using small arms and light weapons. In some instances, these purges of *desechables* (disposable ones) occur as sport for affluent, wanton boys.⁸¹

In East Timor, Indonesian-backed militia were supplied with a lethal combination of weapons and stimulants, producing crazed, drug-induced killers, which complicated the reintegration of these combatants back into their societies.⁸² This reintegration process is necessary in order to prevent increased resort to violent crime in post-conflict societies. Without adequate means of reintegrating into their previous societies, ex-combatants often turn to criminal use of unauthorised weapons for reasons of financial security, prestige, or lack of viable alternatives.

If they are not killed outright, then victims of small arms and light weapons in conflict zones are often denied immediate access to a range of social services, including healthcare and education, as related infrastructure is damaged, rendered inoperable, or prevented by staff shortages created, in many instances, by fear of gun violence: hospitals and schools without staff function only as shelter. In Bougainville, the destruction of both hospitals and the blockade of medical supplies

⁸⁰ Godnick with Muggah and Waszink, 15.

⁸¹ Daniel García-Peña Jaramillo, "Light Weapons and Internal Conflict in Colombia," in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 101; see also Klare and Andersen, 7.

⁸² Robert Muggah and Eric Berman, *Humanitarianism Under Threat: The Humanitarian Impacts of Small Arms and Light Weapons*, Special Report no.1 (Geneva: Small Arms Survey with Support from the Centre for Humanitarian Dialogue, 2001), 35.

did little to assist combating and treating outbreaks of whooping cough among children, malnutrition, and malaria, as well as a resurgence of both leprosy and tuberculosis.⁸³ Post-conflict societies seldom evade tight fiscal budgetary restraints over social services due to retarded economic recovery following periods of intense instability, as reflected in Fiji's 2001 government budget.⁸⁴ Furthermore, during recent conflict in Bougainville, staff belonging to NGOs were targeted for theft, intimidation, and armed violence, which encouraged aid agencies to withdraw from the area.⁸⁵ A similar exodus of foreign aid agencies operating in the Solomon Islands occurred following the crisis unfolding there in 2000.

Although the causes of contemporary conflict are many, varied, and contestable, not to mention historically contingent, small arms and light weapons are rarely the main cause of conflict, crime, or terror. And, as Godnick, Muggah, and Waszink point out, "[p]ost-conflict' does not necessarily mean 'post-violence.'"⁸⁶ In fact, the distinction between conflict zones and post-conflict settings might be significant to the donor community, but rings hollow for victims of these weapons. Pouligny elaborates:

Human security—defined as the real and perceived safety of people—often remains precarious and even deteriorates in the troubled period after wars are officially declared over. If the barometer of a 'post-conflict' situation is greater security and guarantees of 'protection' for the civilian population, then it is a rare apple indeed. Post-conflict environments often bear little resemblance on the ground to what is implied in their definition. Rather, epidemiological evidence from studies carried out by the ICRC, the IRC, the Small Arms Survey, and others indicate that death and injury rates often stay high (as in Afghanistan, El Salvador, or Iraq). This is particularly the case when the issue of widely circulated small arms, light weapons, and unexploded ordinance is not effectively addressed as an integral part of peace processes or as a component of cross-border 'interventions.' Armed violence is part of the new political landscape, and civilians often make rational decisions to possess weapons because security is not ensured.⁸⁷

⁸³ Alpers and Tywford, 48-9.

⁸⁴ Ibid, 36.

⁸⁵ Ibid, 49.

⁸⁶ Godnick with Muggah and Waszink, 33.

⁸⁷ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization & Reintegration' Programs*, 14.

Violence using small arms and light weapons has engendered conditions of forced migration, as occurred in East Timor during 1999 where “[m]ore than half of the East Timorese population were forcibly displaced from their homes in the days and weeks following the elections.”⁸⁸ In addition to internal displacement, forced migration takes place across international borders, as the aftermath of the Rwandan genocide illustrates. According to the UN Refugee Agency, “[m]ore than 200,000 people crossed into Tanzania in one 24-hour period. Hurtling in the opposite direction, one million Rwandans crashed into the tiny lakeside town of Goma in what was then Zaire and today has been renamed the Democratic Republic of the Congo.”⁸⁹ Refugee camps seldom afford sanctuary to those having fled intense violence, however. Again, in the aftermath of the Rwandan genocide, *Interahamawe* militiamen continued to harass refugees by taking control of the camps and “[g]overnment authorities who were responsible for security either refused or were unable to control the gunmen who used the sites as rear bases, recruited young people to their cause, and intimidated and sometimes murdered civilians who showed an interest in returning to Rwanda under its new government.”⁹⁰

Finally, the spectre of child soldiering looms large on the landscape of recent and contemporary conflict as inherent characteristics of these weapons invite use by children. Governmental forces active in conflict have recruited children under the age of 16 but as young as seven, often relying upon dubious methods including forceful abductions, often administered through beatings, followed by coercion to force children to remain and fight for the cause. Schools and refugee camps are specifically targeted for recruitment. Those joining voluntarily do so for reasons of fear, survival, and revenge, with some having witnessed the murder of relatives and members of their community, while others acknowledge the lack of any viable alternative. Once in combat service, child soldiers are used for a variety of tactical military purposes, such as deploying or detonating explosives, for gathering

⁸⁸ Muggah and Berman, 28.

⁸⁹ UN High Commissioner for Refugees, “Crossing the Rubicon,” *Refugees* 2, no.139 (2005): 18

⁹⁰ *Ibid.*

intelligence, as informants, and for logistical support as porters of weapons and supplies. Child soldiers also commit sexual torture, rape, and inflict beatings upon civilians. However, this use of terror is also used introspectively as female child soldiers are often harassed and exploited sexually by their male colleagues, forced to take contraceptives or undertake abortions if they fall pregnant, and, in Colombia, frequently become a 'girlfriend' to an older, male soldier. In Côte d'Ivoire, permission to loot was given to child soldiers in lieu of promised salaries.⁹¹ Where child soldiers exist in large numbers in military forces, there is often little in the way of a demobilisation strategy or, if such a strategy exists, little in the way of effective concrete processes. In circumstances where demobilisation strategies are effective, females are often disadvantaged. In Angola, for example, the reintegration phase of the DDR programme dealt only with combatants belonging to the National Union for the Total Independence of Angola (UNITA), neglecting women and girls abducted and taken as 'wives.'⁹²

The abuse of children operating in combat scenarios is not restricted to their involvement in governmental military forces: state-sponsored militias, often acting under informal command structures and directed by government officials or military leadership, similarly recruit and employ children as irregular troops. Moreover, forces opposing governmental military forces not only deploy children as part of their fighting ranks, in some cases representing up to 40 percent of the group's combat capability,⁹³ but also forcefully recruit children, inflating their fighting numbers as a means of enhancing the group's political bargaining power during peace and post-conflict settlement negotiations, as occurred in Burundi during 2003.⁹⁴ Children, identified and pursued as targets vulnerable to exploitation as sources of intelligence are, at times, (though somewhat less plausibly) considered as agents of influence within their families, and by extension, communities.

⁹¹ Coalition to Stop the Use of Child Soldiers, *Child Soldier Use 2003: A Briefing for the 4th UN Security Council Open Debate on Children and Armed Conflict*, <<http://www.hrw.org/reports/2004/childsoldiers0104>> (accessed 31 March 2007), 17.

⁹² *Ibid.*, 6.

⁹³ *Ibid.*, 14.

⁹⁴ *Ibid.*, 8.

The prevalence of child soldiering in contemporary conflict frequently results in the deaths of children as combatants, severe physical and psychological injuries sustained during combat service, and the social dislocation caused by movements required by war and, less frequently, by their capture and detention by hostile forces (as at least three children held by the US military at Guantanamo Bay, Cuba demonstrates).⁹⁵ Not simply collateral bystanders or combatants, children are viewed as targets during war. Lamenting the consequences following conflicts since 1995, Grac'a Machel writes:

more and more of the world is being sucked into a desolate moral vacuum. This is a space devoid of the most basic human values; a space in which children are slaughtered, raped, and maimed; a space in which children are exploited as soldiers; a space in which children are starved and exposed to extreme brutality. Such unregulated terror and violence speak of deliberate victimisation. There are few further depths to which humanity can sink.⁹⁶

The lack of educated youth will likely only further hinder the longer-term development of post-conflict societies. There is a sense in which the fate of the child soldier functions as a synecdoche for victims of small arms and light weapons use more generally.

Conclusion

Since experiences of small arms and light weapons use are rarely identical, this chapter deliberately refrains from examining a set of highly selective examples drawn from particular conflict zones or post-conflict settings: yet it does not claim that its examples offer a comprehensive, exhaustive, or fully representative account of the consequences of these weapons where they find use. Where selections inevitably occur—and the various examples cited above are only a few of the very many possible examples—they were determined in order to illuminate a broad range of impacts currently registering across the globe, without bias deliberately favouring any particular culture, region, country, economy, or society. This is not to

⁹⁵ Ibid, 4.

⁹⁶ United Nations General Assembly, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children*, UN Doc. A/51/306 (New York: United Nations, 1996), paragraph 3.

imply, however, that there are no common features or shared experiences among victims of small arms and light weapons use, but to suggest only that no single case study can fully demonstrate the differing magnitudes and dynamic contours of these impacts and their violent consequences. Because the chapter describes various impacts generated, at least in part, by the widespread availability and ongoing use of these weapons in terms of their key dimensions, it deliberately constructs a 'carnival of horror' (to use Pouligny's phrase).

This 'carnival of horror,' dispersed unevenly among locales throughout the world, illustrates that the widespread availability and ongoing use of small arms and light weapons generate direct and indirect impacts of disturbing magnitude. These impacts continue to register upon a diverse range of victims: official and nonofficial combatants, including child soldiers; civilians, including those referred to as internally displaced persons and as refugees; and employees of development agencies that operate in post-conflict settings. Where human rights violators successfully target entire communities, these genocides, by definition, threaten the existence of specific communities and the societies these communities represent. Conflicts sustained by, and violent crimes perpetrated with, these weapons devastate local markets and national economies, as well as threatening the viability of governments. A wider range of impacts manifest, moreover. Where such conflict and crime is unrestrained, significant impediments confront regional development and regional security. The seriousness of these politico-strategic, politico-economic, and politico-social ramifications speak forcefully for themselves, not only highlighting the powerful transformative effects which these weapons can have over the institutions of government, the economy, and society, but also revealing why the challenge to control small arms and light weapons attracts the attention of various members of the international community, despite their competing interests and sometimes diverging values.

"In every case," according to Krause, "small arms and light weapons are implicated in complex causal pathways with these various problems, although little work has yet been done to trace systematically these pathways to assess the relative

weight of small arms (compared to other factors) or to evaluate the effectiveness of particular policy measures.”⁹⁷ While not the primary cause of internal conflict, the availability of these weapons may help trigger, intensify, and prolong the conflicts in which they figure.⁹⁸ Despite the under-assessed link between the widespread availability and ongoing use of these weapons and the impacts most commonly associated with them, awareness of these impacts prompts major responses from the international community: hence, epistemic anxiety relating to the major aspects of this challenge, and to these weapons’ impacts, does not necessarily preclude action.

However, whereas these subaltern killers have immense resonance on the ground, the noisy effects of these weapons are not so easily amplified in the conference halls of diplomats, as Part II of this thesis demonstrates. Although the international community discerns these impacts as a serious issue deserving sustained attention, the nature and extent of these varying consequences do not directly threaten the vital interests of those who wield power in contemporary world affairs. In fact, it is precisely because small arms and light weapons do not hinder policymakers in the way that, say, the balance of power involving nuclear weapons did during the Cold War, that the consequences following the availability and use of these weapons remain insufficient, in and of themselves, to reconfigure the ordering of world affairs. In other words, terrible as those multifarious consequences are, these subaltern killers do not trouble the core of the internationalist governance architecture maintaining contemporary world order. Conversely, it is regularly in the interest of certain actors to sustain the widespread availability and ongoing use of these weapons, while the responses seeking to exert control over small arms and light weapons emerging from the international community since the early 1990s help consolidate the current configuration of world affairs.

Each of the following four chapters of Part II explores a major response by the international community while, at the same time, considering the maturing relationships among those members of the international community, and the nascent

⁹⁷ Krause, 251.

⁹⁸ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 38.

interconnectivity among their strategies for, and approaches toward, controlling these weapons. There is, however, little recognition in these responses that the various consequences outlined in this chapter are, in many cases, by-products of the kind of world affairs that are being sustained by a coherent but contested body of ideas which promotes a particular notion of the political and, by extension, favours certain types of policy choices, activities, and practices that inform the international community's major responses to this challenge. Well aware of the disturbing magnitude of problems caused by these weapons, policymakers do not know well themselves, or care to know well themselves, the full force of these dire arms.

PART II

DRAMATIS PERSONAE, and the composition of control

2. RESEARCHERS AND THE CALL FOR ACTION

Researchers, specifically those whose work connects to various arms-control negotiations occurring within intergovernmental organisations, can sustain a marginal role as members of an international community confronting the challenge of controlling small arms and light weapons. Since about the mid-1990s, researchers have published literature as a means of attracting attention towards an increasingly urgent problem that was previously absent from the international security agenda, often with a view to inciting decisive action at the governmental level. From about the turn of the millennium, researchers have, moreover, published literature as a means of shaping the negotiation and implementation of control measures developed by intergovernmental organisations. More recently, research has been one of the major means by which civil society organisations prosecute their arms control campaign (and this use of research as a tool for monitoring governmental behaviour is dealt with in Chapter Five of this thesis). Representing researchers' primary response to the widespread availability and ongoing use of small arms and light weapons, this literature has, more importantly, also proven useful to those analysts of world affairs seeking to better comprehend this topic and to those policymakers seeking to better control these weapons.

This chapter analyses this literature's treatment of four of the topic's major aspects, that is, the proliferation, transfer, possession, and use of these weapons. It demonstrates that, once identified by this literature, these major aspects are explored further against various local, state, regional, and global contexts. Some of this literature goes as far as to illustrate the dynamic nature of these aspects, identifying specific production rates and volumes of weapons flows.

Because civil society organisations, the policy divisions of governments and intergovernmental organisations, and so-called independent research centres are

the main institutions hosting researchers and/or disseminating their work, they serve this chapter as appropriate demarcations distinguishing the literature. These demarcations are compatible with the three main models of think tanks proposed by R. Kent Weaver—advocacy tanks, contract researchers, and universities without students—though these categories are destabilised by researchers, especially academics based in universities, who treat host institutions merely as publishing outlets without committing themselves fully to the political programmes of any particular institution. Notwithstanding the porosity of these categories and the sometimes competing policy prescriptions expressed in their literature, where a call for action has been articulated by these researchers, it has, by and large, been a call for governments to cooperate within an internationalist governance architecture which provides for instruments of international law and, to a lesser degree, opportunities for collective action.

Civil Society Organisations

Resulting from a workshop hosted in February 1994 by the American Academy of Arts and Sciences (AMACAS), the first major publication focusing specifically on the topic of small arms and light weapons was *Lethal Commerce: The Global Trade in Small Arms and Light Weapons* (1995), edited by Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed.¹ Although a few articles dealing with this topic appeared in serials during 1993 and 1994, *Lethal Commerce* includes chapters written by some of those articles' authors.² Building upon those earlier articles, *Lethal Commerce* presents small arms and light weapons as an important, emerging topic for the consideration of arms trade analysts and policymakers alike. It does so by focusing upon the prevalence of, and intense consequences following, the ongoing

¹ For further information relating to AMACAS, please refer to its website located at <<http://www.amacad.org>>.

² As Denise Garcia has shown, Aaron Karp published work in *Arms Control Today* and the *The Washington Quarterly*, Tara Kartha in *Strategic Analysis*, Chris Smith in *Defense Studies*, and Michael T. Klare in *Harvard International Review*. Refer to Garcia, *Analyzing the Issue of Curbing the Unrestricted Availability and Proliferation of Small Arms and Light Weapons*, 14-15.

use of these weapons. As its editors remark in their preface, the “project’s aim has been to survey the state of current knowledge on the growing international proliferation of small arms and light weapons, assess the impact of such weapons on ethnic and national conflicts around the world, and explore possible avenues for controlling this lethal trade.”³

Dissatisfied with an arms control literature dominated by concerns over major conventional weapons and weapons of mass destruction, Karp argues that, while so far neglected as a topic, small arms and light weapons deserve analytic attention as vital ingredients in contemporary conflict. In particular, Karp observes that:

Major weapons such as tanks and aircraft that determined the balance of power between states and symbolised international alliances are scarce on modern battlefields. The weapons of mass destruction that still dominate strategic thinking and international diplomacy remain even further in the background of actual combat. Instead it is the flow of small arms and light weapons that is most relevant to the incidence of internal conflicts and the outcome of recent wars. Though minor in physical terms, these weapons are major in effect.⁴

Also noting that the apparent neglect of small arms and light weapons in the broader arms control literature reflects a disproportionate preoccupation with major conventional weapons, Klare comments that “while recent changes in the international system may be responsible for a *decline* in the trade in major weapons systems, they appear to be stimulating an *increase* in the trade in small arms and other light weapons.”⁵ For Klare, the former continues to dominate the minds of arms control analysts, whereas the latter has emerged largely unnoticed, inferring that most researchers have been slow to notice and respond to important shifts in contemporary world affairs. These authors assert that a new security agenda, reflecting these important shifts within contemporary world affairs, ought to be accompanied by a refreshed security literature. Put simply, this collection of

³ Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed, “Preface,” in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons* (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 5.

⁴ Karp, “Small Arms—The New Major Weapons,” 17.

⁵ Klare, “The Global Trade in Light Weapons and the International System in the Post-Cold War Era,” 33.

essays represents the first significant attempt by researchers to present these weapons as a very serious topic that had hitherto been neglected within the more general arms control literature.

Published after the first International Pugwash Workshop on the Proliferation of Small Arms and Light Weapons, held near New Delhi, India in late 1995, *Light Weapons and International Security* also seeks to signal the importance of this emerging topic and to contribute to this refreshed security literature. Its opening chapter goes further, suggesting "the need for a new paradigm that better describes the nature and impact of the conventional arms trade in the post-Cold War era."⁶ This new paradigm, suggested by Klare, comprises of two parts: 'diffusion,' preferred ahead of proliferation "because it better describes the spread of arms throughout the world and at all levels of society"; and 'global violence,' preferred ahead of 'arms race' because it emphasises "the growing worldwide incidence of armed violence within and between groups, tribes, and communities."⁷ In essence, the proposed paradigm coheres around the nexus of the widespread availability of small arms and light weapons and their ongoing use, though its focus is confined to the role played by these weapons in contemporary conflict and the related effects on international security.

As the twentieth century drew to a close, few works accompanied *Lethal Commerce* and *Light Weapons and International Security* as major publications focusing specifically on small arms and light weapons. *A Scourge of Guns: The Diffusion of Small Arms and Light Weapons in Latin America* by Michael T. Klare and David Anderson was published in 1996, followed in 1998 by Lora Lumpe's and Jeff Donarski's *The Arms Trade Revealed: a guide for investigators and activists*.⁸ Both are publications of the Federation of American Scientists (FAS), a non-profit organisation established in 1945 by the atomic scientists involved in the Manhattan

⁶ Michael T. Klare, "Light Weapons Diffusion and Global Violence in the Post-Cold War era," in *Light Weapons and International Security*, ed. Jasit Singh (Delhi: Indian Pugwash Society and British/American Security Information Council, 1995), 3.

⁷ Ibid.

⁸ Although this volume deals with conventional arms in the broad sense, small arms and light weapons receive frequent, significant, and particular treatment.

Project.⁹ Like *Lethal Commerce*, these two studies raise awareness of the small arms and light weapons topic, the former taking a regional approach, the latter scrutinising the activities of a single government—albeit the world’s largest arms producer and source from where, in 1996, more than 160 of the world’s 190 governments received either some kind of weapons or military training.¹⁰

Focusing upon the region of Latin America, *A Scourge of Guns* begins with an endorsement by Nobel Prize winner Oscar Arias Sánchez, emphasising the gravity of this book’s central concerns. Attempting to promote the issues surrounding small arms and light weapons onto the evolving security agenda of the international community in general, and of the OAS in particular, the book appeals to a comparison with narcotics trafficking as a newly established security issue which has already been the subject of decisive collective action, specifically active border protection and law-enforcement investigations. The main similarity, according to the Nobel Laureate, is that “both the arms trade and drug trafficking constitute a sinister *quid pro quo* in a market of death and suffering for millions of human beings,”¹¹ though central differences, including the official trade of small arms and light weapons, and the lawful use of these weapons as tools of external security and internal policing, do not evade the attention of Klare and Andersen.

By informing their readership of the official processes underpinning the US legal arms trade within “a “pragmatic ‘how to’ handbook,”¹² Lumpe and Donarski encourage US citizens to bring pressure to bear on their policymakers. According to *The Arms Trade Revealed*, even after the First Persian Gulf War had demonstrated that unrestrained and unregulated arms trade allows accumulations of weapons that present very real threats to regional stability and seriously undermine the

⁹ Its purpose is to lobby US lawmakers on the responsible use of science and its related technology on behalf of the US public. For further information relating to FAS, please refer to its website located at <<http://www.fas.org>>.

¹⁰ Lora Lumpe and Jeff Donaski, *The Arms Trade Revealed: a guide for investigators and activists* (Washington D.C.: Federation of American Scientists, 1998), 6.

¹¹ Oscar Arias Sánchez, “Foreword,” in *A Scourge of Guns: The Diffusion of Small Arms and Light Weapons in Latin America*, Michael T. Klare and David Andersen (Washington D.C.: Federation of American Scientists, 1996), i.

¹² Lumpe and Dornaski, 3.

prospects of peace, some US policymakers assume the international community can:

manage crises that erupt as a result of excess arms production and exporting (including diplomatic tensions among themselves, wars among importers, massive refugee flows and financial insolvency) better than they can manage the alternative. The alternative would involve challenging major arms corporations and labor unions by reining in domestic arms production; reducing reliance on arms trading as the principal diplomatic currency; and decreasing reliance on arms exports for perceived strategic gains.¹³

A grassroots advocacy utilising bureaucratic windows of transparency, which demonstrates that communities within the US are concerned, organised, and active over this issue, is the approach favoured in this book. Although drawing upon the success of grassroots movements used during the campaign against the manufacture and use of anti-personnel landmines, which resulted in the *Ottawa Treaty*, the authors do not mention key differences between landmines and other types of weapons. Attention is given instead to the applicable acts of legislation and amendments, the location of useful documents containing details of transfers published by US government departments, and the addresses of websites monitoring and reporting on this trade. *The Arms Trade Revealed* not only functions as a practical guide facilitating further research into the topic of small arms and light weapons, but also encourages an activism prompting policymakers to act differently, presumably in accordance with a code of conduct devised by Lumpe.¹⁴ Put bluntly, the book calls to action those who will, in turn, call others to action.

Here, then, some researchers have signalled the urgency with which the widespread availability and ongoing use of small arms and light weapons ought to be treated by the international community. Their literature describes this issue as a serious topic to be considered by analysts of world affairs and by policymakers with responsibilities for international security. The four major works published

¹³ Ibid, 1.

¹⁴ For details pertaining to this code of conduct, please refer to <http://www.fas.org/asmp/campaigns/code/uscodeon.html> (accessed 31 March 2007).

under the auspices of civil society organisations portray this topic as having at least four major aspects; that is, proliferation, transfer, possession, and use. Identifying these major aspects of this topic, this literature situates these aspects in various local, state, regional, and global contexts. In some cases, the research illustrates the dynamic nature of this topic by providing details of production trends and weapons flows.

Lethal Commerce was the first of these publications to introduce 'proliferation' as a major aspect of the small arms and light weapons topic. In particular, Ksenia Gonchar and Peter Lock identify a manufacturing over-capacity within the former Soviet Union, resulting in firms either developing new weapons technologies and marketing them abroad or closing down production, as did the Degtyarev plant in Kovro. Other firms continue producing weapons for sale, but do so without official approval.¹⁵ Also identifying the small arms production capability within certain countries (including brief histories of firms manufacturing these weapons), *A Scourge of Guns* illustrates its dynamic nature: the production of specific weapon types, either those licensed from abroad or those of indigenous design, are identified, and precise figures indicating production rates are given.¹⁶ However, *A Scourge of Guns* confines its assessment of proliferation to the domestic arms manufacture within the region of Latin America, without considering the production capabilities contributing directly to the massive flows into the region.

Identifying 'transfer' as another major aspect of the small arms and light weapons topic in *Lethal Commerce*, Klare discerns four main channels of supply for these weapons: government-to-government transactions, authorised commercial sales, government covert operations, and clandestine black-market sales.¹⁷ (Klare elaborates these channels in his chapter in *Light Weapons and International*

¹⁵ Ksenia Gonchar and Peter Lock, "Small Arms and Light Weapons: Russia and the Former Soviet Union," in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 117.

¹⁶ See, in particular, chap. 2 entitled "Domestic Arms Production," 15-25.

¹⁷ Klare, "The Global Trade in Light Weapons and the International System in the Post-Cold War era," 34.

Security.¹⁸) Distinguishing the black market from the corruption of regulated channels, which often rely upon bid-rigging, bribing officials, and fraudulent end-user certificates, R.T. Naylor explains in more detail its structure, which operates through an elaborate, though necessarily concealed, network. According to Naylor, although some trafficking operations are vulnerable, most of these networks are well-established and competent in moving a diverse range of illicit goods and are no longer sensitive to government enforcement action.¹⁹ Although Naylor gives some examples of this trafficking, there is no significant illustration of its dynamic, as specific weapon flows are neither considered nor assessed.

Identified as a major aspect of this topic, the analysis of 'transfer' is enlarged. *The Arms Trade Revealed* identifies, with greater precision than its two predecessors, the different ways in which weapons transfers occur as legal trade from the US, including an overview of the relevant frameworks through which US policymaking, lawmaking, and trade oversight occur. US legal weapons trade, according to Lumpe and Donarski, occurs as foreign military sales handled by the Pentagon, direct commercial sales involving US weapon-producing firms, the leasing of surplus US military stockpiles, gifts to other governments under aid programmes, and the presidential provision of weapons abroad in situations deemed an emergency,²⁰ though small arms and light weapons are also transferred under the aegis of anti-narcotics trafficking measures. Due to the different characteristics of these transfer methods, the US government's published figures on its weapons transfers are often unreliable, significantly under-representing their volume, value, and quality.

A Scourge of Guns also identifies 'transfer' as a major aspect of the small arms and light weapons topic with more refined attention than *Lethal Commerce*. Small

¹⁸ See, in particular, Klare, "Light Weapons Diffusion and Global Violence in the Post-Cold War Era."

¹⁹ R.T. Naylor, "The Structure and Operation of the Modern Arms Black Market," in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 49.

²⁰ Lumpe and Donarski, 8.

arms transfers are distinguished, for example, as entering the region through legal government trade, covert transfers, in which there is some official involvement, though the transaction is not known or consented to by all affected parties (most likely without the knowledge of the destination government), or through clandestine trafficking, each of these previously identified by Klare as generic channels of supply. However, Klare and Anderson go further in the following passage to discuss the diffusion of these weapons within the region:

Indeed, it is not sufficient to speak of the arms *trade* (in the traditional sense of arms transfers from one nation to another) when referring to the flow of weapons in Latin America, as the phenomenon is much more complex. It is more useful to speak of the *diffusion* of arms, suggesting the dispersion and recirculation of arms through multiple channels to all levels of society.²¹

Flows of small arms and light weapons into the region occurring through these channels of supply, the circulation of these weapons within the region, the recycling of weapons for different purposes, and the leakage from government-held stockpiles, are each understood as important elements of the 'transfer' aspect of the small arms and light weapons topic.

Klare and Anderson also illustrate the dynamic nature of these 'transfer' activities into Latin America: military aid in the form of subsidised sales or grants from the US between 1950 and 1993 are quantified in US dollar values; transfers of specific weapons to particular governments between 1960 and 1979 are identified; and the quantity of specific weapons delivered to Latin America between 1980 and 1993 are given. Soviet military assistance to governments within this region, details of which are scarcer than its US counterpart because the Soviets "did not enact a Freedom of Information Act or publish statistics of the sort available from US government agencies,"²² is estimated at about US\$15 billion. Commercial sales into the region are estimated at US\$100 million per annum between 1991 and 1993, and US firms are differentiated from other major exporters based in countries such

²¹ Klare and Anderson, 4.

²² Ibid, 35.

as Germany, France, and Britain, with country of import and US dollar value provided for sales occurring between 1950 and 1993. Covert transfers and black market trafficking are both dealt with by way of examples of discovered, intercepted, or seized transfers in order to offer a glimpse of this dynamic nature which, for most researchers not directly involved in the particular transfer, remains invisible, or at best highly obscured: hence, a summary of trafficking-related convictions of US citizens between 1980 and 1995, and an account of those transfers organised covertly by Major General Richard Secord and Lieutenant Oliver North to anti-Sandinista rebels in Nicaragua, commonly referred to as the Iran-Contra Affair, are provided.²³

By considering official stockpiles, civilian possession, and unauthorised caches of these weapons, *Lethal Commerce* identifies 'possession' as another major aspect of this topic. Daniel Gracia-Peña Jaramillo goes some way towards illustrating its dynamic nature, though "[r]eliable figures on this haemorrhaging of government weapons are impossible to come by, as both army and guerrilla estimates are either inflated or downplayed for political purposes"²⁴ and "a constant change in regulations and poorly kept records meant that no one really knows how many [civilian] guns were actually registered."²⁵ While precise details are given on the types of weaponry held by military and constabulary forces, by criminal syndicates and insurgents groups, and by civilians, the geographic focus here is restricted to Colombia.

Lethal Commerce identifies the 'use' of these weapons as another major aspect of this topic. Chris Smith cites examples where these weapons are used to prolong and intensify ethnic or civil conflict, especially where these conflicts spread to adjacent areas, undermining the rule of law and eroding order. He also cites examples where these weapons are used by military and constabulary forces in brutalising ways as a means of responding to increasing militancy among

²³ Ibid, 76-81.

²⁴ Jaramillo, 107.

²⁵ Ibid, 108.

insurgents in areas, for example, of Jammu, Kashmir, and the Punjab. Annual statistics of civilian mortality in the Punjab area are compared against quantities of AK-47 assault rifles seized by authorities as evidence of explicit causation, enabling Smith to speculate that the “growing proliferation of and access to small arms is increasing both the communal polarization and the incidence of violence.”²⁶ In Colombia, moreover, the use of these weapons, vital to the enduring conflict among authorities, guerrilla groups, and drug cartels, coincides with intra-social violence, as social cleansing takes place as a purge of *desechables*. Mortality is quantified here by statistics comparing combat casualties to political murders.²⁷ This treatment of weapons ‘use’ within *Lethal Commerce* is, however, narrow, focusing as it does upon conflict zones, without illustrating its dynamic nature.

Primarily concerned with examining weapons ‘use’ in contemporary conflict, *Light Weapons and International Security* is equally narrow in its treatment of this major aspect. However, exploring the linkage between trafficking narcotics and light weapons, Tara Kartha concludes that what “was perhaps once perhaps the domain of the sly black marketeer and superpower strategy, the business of moving weapons seems to have taken a life of its own. As it merges with the drug mafia, the sheer volume and profits involved are enough to classify it as an industry—well organised and obeying its own rules.”²⁸ Jacklyn Cock usefully contextualises ongoing weapons use against a social setting, highlighting that the “demand for light weapons is socially constructed; the supply is socially organised.”²⁹ Giving regional focus to the nexus of the widespread availability of these weapons and the prevalence and deadly intensity of their use, Klare and Anderson similarly broaden the relevance of use, as a major aspect, beyond the

²⁶ Smith, 76.

²⁷ Jaramillo, 101.

²⁸ Tara Kartha, “Southern Asia: The Narcotics and Weapons Linkage,” in *Light Weapons and International Security*, ed. Jasit Singh (Delhi: Indian Pugwash Society and British American Security Information Council, 1995), 81-2.

²⁹ Jacklyn Cock, “A Sociological Account of Light Weapons Proliferation in Southern Africa,” in *Light Weapons and International Security*, ed. Jasit Singh (Delhi: Indian Pugwash Society and British American Security Information Council, 1995), 95.

locales representing 'trouble spots' or the countries regarded as experiencing emerging or full-blown ethnic, civil, or internal conflict. Problems associated with small arms and light weapons can, and frequently do, spill over international borders, contributing to increases in criminal behaviour, widespread lawlessness, and the weakening of regional stability. Such problems are not confined merely to distant locales and remote conflict zones where international media representatives and policymakers demonstrate little in the way of discernible genuine concern.

Here, then, identifying the proliferation, transfer, possession, and use of small arms and light weapons as major aspects of this topic, situating these aspects in various contexts, and occasionally illustrating their dynamic nature, enables researchers to connect their work to governmental policy dealing with international security. However, the quality of the research published by civil society organisations is frustrated by the lack of reliable data, leaving its authors to rely upon anecdotal information found in newspapers and other broadcast media, and upon evidence received from obliging government departments or collected first-hand. Given this is, of course, an inevitable consequence of the epistemic anxiety explored in the previous chapter, the lack of available, relevant, and reliable information is unsurprising since these authors are publishing 'pioneering' literature on a topic often cloaked in official secrecy, obscured by commercial-in-confidence protection, or deliberately concealed as clandestine activities undertaken by black-market brokers. As such, literature published by researchers hosted by civil society organisations ought not to be judged in terms of its provision of highly limited existing information, but rather, this limited provision should be viewed only as an inevitable weakness in an admirable task establishing legitimacy for an important new topic for analysts of world affairs.

Conceding that the elaboration of this topic within their book signals "the enormous gaps in our current understanding of the nature and scope of the

topic,"³⁰ the editors of *Lethal Commerce* imply that identifying such gaps is an important first step towards facilitating a longer-term process in which subsequent research will eventually collapse the intellectual interstices. The hope here is that such a collapse will, in turn, ideally realise a complete and knowable profile of this topic from which decisive responses can be formulated and implemented. In fact, the editors of, and contributors to, this volume deliberately describe a problem in search of a solution; the topic of small arms and light weapons is *problematized*. By writing about this topic as a problem to be managed or solved by policymakers, researchers not only inform subsequent research into this topic, but can also shape the ways in which analysts of world affairs attempt to make sense out of this issue. In so doing, researchers aspire to influence the ways in which policymakers attempt to control these weapons. The final section of *Lethal Commerce*, for example, explores the prospects of establishing multilateral controls over small arms and light weapons, differentiating these prospects from past or existing controls over major conventional weapons, while identifying weaknesses inherent in diplomatic arms embargoes directed at particular governments.

Much of the research published before the turn of the millennium includes recommendations for possible future international action, with some, for example, quick to point to the expansion of the United Nations Register of Conventional Arms (UNROCA) as a remedy.³¹ Other recommendations include: introducing domestic arms censuses and regional arms trade registers; strengthening and harmonising governmental import and export controls; increasing the governmental efforts to suppress arms trafficking; reducing official stockpiles and the arsenals belonging to non-state armed groups; and establishing a 'weapons buyback' fund administered by the UN or other intergovernmental organisations.³² For Jo L. Husbands, "a focus on the stages and processes of conflict provides a way

³⁰ Boutwell, Klare, and Reed, 5.

³¹ Susannah L. Dyer and Natalie J. Goldring, "Analysing Policy Proposals to Limit Light Weapons Transfers," in *Light Weapons and International Security*, ed. Jasit Singh (Delhi: Indian Pugwash Society and British American Security Information Council, 1995), 128.

³² Klare and Andersen, 95-99.

to array a wide variety of potential policy tools. Such an approach illuminates the problem of light arms proliferation and could simplify the task of identifying, assessing, and ultimately implementing different arms control strategies.”³³ (However, this particular approach, which is selective rather than ad-hoc, would rely, in any case, upon a broader framework through which to exert control.)

Published in 1999, Jeffrey Boutwell’s and Michael T. Klare’s *Light Weapons and Civil Conflict: Controlling the Tools of Violence* specifically reviewed existing and emerging multilateral attempts to control transfers of small arms and light weapons, though some chapters of this volume also deal with prospective controls. As its editors remark, this book:

surveys the wide range of policy options open to the international community. From local initiatives in countries such as South Africa to regional agreements in West Africa to international polices being proposed by the United Nations, the authors take a critical look at the feasibility of various types of instruments for controlling the trade in small arms and light weapons.³⁴

Opening with a useful summary of the major literature dealing with this topic, its core chapters review and evaluate unilateral, bilateral, and multilateral control measures emerging from various regions, including Europe, North and South America, Africa, and Central Asia. In particular, the *Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other related materials (OAS Convention)*,³⁵ the *Declaration of a Moratorium on the Importation, Exportation, and Manufacture of Light Weapons in West*

³³ Jo L. Husbands, “Controlling Transfers of Light Arms: Linkages to Conflict Processes and Conflict Resolution Strategies,” in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, eds. Jeffrey Boutwell, Michael T. Klare, and Laura W. Reed (Cambridge, Massachusetts: Committee on International Security Studies, American Academy of Arts and Sciences, 1995), 133.

³⁴ Jeffrey Boutwell and Michael T. Klare, “Introduction,” chap. in *Light Weapons and Civil Conflict: Controlling the Tools of Violence* (New York: Rowman and Littlefield Publishers, 1999), 3.

³⁵ Refer to James P. McShane “Light Weapons and International Law Enforcement,” in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: Rowman and Littlefield Publishers, 1999), 173-182.

Africa (ECOWAS Moratorium),³⁶ the *European Union's Programme for Preventing and Combating Illicit Trafficking in Conventional Arms (EU Programme)* and the *European Union's Code of Conduct for Arms Exports (EU Code of Conduct)*,³⁷ as well as various UN efforts, such as Security Council arms embargoes, Disarmament Commission guidelines for international arms trade, and the Economic and Social Council (ECOSOC) Commission on Crime Prevention and Criminal Justice, are each identified and treated by researchers in *Light Weapons and Civil Conflict*. The domestic restraints on US exports receive special attention here "not because U.S. laws are typical but because U.S. weapons production and weapons exports constitute such a major part of the world weapons market."³⁸ In short, this collection of essays recognises that the existing controls under review are weak, limited, and easily undermined, if not simply ignored for the frequently-claimed reasons of inadequate resources and insufficient political will.

Since the turn of the millennium, the focus of research published by civil society organisations has broadened from identifying an urgent problem for policymakers managing the international security agenda, to also examining established multilateral controls over these weapons. This research seeks not only to reflect the nature and scope of the problem, but also to help prompt, shape, and construct responses to it.³⁹ In their concluding essay, for instance, Boutwell and Klare convey a strong sense of leading the way towards a better practical solution, offering a range of policy options for consideration, particularly evident in the following passage:

³⁶ Refer to Joseph P. Smaldone, "Mali and the West African Light Weapons Moratorium," in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: Rowman and Littlefield Publishers, 1999), 129-145.

³⁷ Refer to Paul Eavis and William Benson, "The European Union and the Light Weapons Trade," in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: Rowman and Littlefield Publishers, 1999), 89-100.

³⁸ Natalie J. Goldring, "Domestic Laws and International Controls," in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: Rowman and Littlefield Publishers, 1999), 102.

³⁹ Research seeking to help monitor the implementation of intergovernmental measures of control is explored in more depth by Chapter Five of this thesis as a significant part of civil society's arms control campaign.

Ultimately, what is needed is the establishment of a multilayered regime covering the international transfer of small arms and light weapons, similar to the existing regimes covering nuclear, chemical, and biological weapons. Such a regime should consist of a matrix of national, regional, and international control measures—acting like a series of dams or filters—to screen out illicit sales and narrow the allowable scope for legal transfers.⁴⁰

From this, it appears the book's contributors consider their comprehension of this topic to be significantly developed and advanced from the initial markings of its contours and partial illumination of its dynamic nature.

Like *Lethal Commerce, Light Weapons and Civil Conflict* resulted from a workshop held by AMACAS. Although both AMACAS and FAS are civil society organisations, AMACAS tends more toward scholarly work, though its conferences included participants from government departments and policy advocacy groups, while FAS is primarily a policy advocating think tank, institutions which, according to Weaver, typically "combine a strong policy, partisan or ideological bent with aggressive salesmanship and an effort to influence current policy debates."⁴¹ However, to complicate matters, "the boundary between objective policy evaluation and policy advocacy has become blurred."⁴² This is especially the case where advocacy groups cite a wide range of research to justify their policy recommendations. Yet, for the most part, where a call for action has been articulated by researchers hosted by civil society organisations, it prefers instruments of international law and, to a lesser extent, opportunities for collective action whereby governments cooperate within the broader internationalist governance architecture.

⁴⁰ Jeffrey Boutwell and Michael T. Klare, "Light Weapons and Civil Conflict: Policy Options for the International Community," chap. in *Light Weapons and Civil Conflict: Controlling the Tools of Violence* (New York: Rowman and Littlefield Publishers, 1999), 221.

⁴¹ R. Kent Weaver, "The Changing World of Think Tanks," *PS: Political Science and Politics* 22, no.3 (September 1989): 567.

⁴² *Ibid*, 564.

Intergovernmental Organisations

The research published by civil society organisations before the turn of the millennium was accompanied by research undertaken by some intergovernmental organisations. In particular, two UN reports, both of which were requested by resolutions of the UN General Assembly, stand out from a multitude of writings: first, the *Report of the Panel of Governmental Experts on Small Arms* (1997) and, second, the *Report of the Group of Governmental Experts on Small Arms* (1999). Intergovernmental organisations, however, did not necessarily respond to the call for action articulated by those civil society organisations hosting researchers publishing work on this topic. To be sure, this research conducted and disseminated under the auspices of the UN was requested by UN General Assembly Resolution 50/70 B in 1995.

By the same reasoning, the *UNPoA*, as one of the key instruments of international law negotiated under the auspices of the UN, can be understood as a consequence of the former Secretary-General, Boutros Boutros-Ghali, identifying the problems associated with these weapons in his "Agenda for Peace." Addressing the UN Security Council on 25 January 1995, Boutros-Ghali made the following, and now much quoted, statement:

These issues [disarmament, arms control and non-proliferation of weapons of mass destruction] are of paramount importance both to the security of humankind and to the release of economic, scientific and technological resources for peace and human progress. In the present paper, however, *devoted as it is to the Organization's recent experience in handling specific conflicts*, I wish to concentrate on what might be called "micro-disarmament." By this I mean practical disarmament in the context of *the conflicts the United Nations is actually dealing with and of the weapons, most of them light weapons, that are actually killing people in hundreds of thousands.*⁴³

In so doing, the then-Secretary-General acknowledged the increasing importance of small arms and light weapons to questions of international security, conceiving

⁴³ United Nations General Assembly, *Supplement To "An Agenda for Peace": Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, UN Doc. A/50/60 (New York: United Nations, 1995), paragraph 60 (my emphasis added).

these weapons as a threat alongside, if not ahead of, the long-standing concerns over weapons of mass destruction. (Care is taken, however, not to relegate those weapons as mere relics of a Cold War legacy.) Although not the first individual to draw attention to this topic, Boutros-Ghali was the first high-profile figure in contemporary world affairs to do so.⁴⁴ The status of the forum in which the Secretary-General delivered his report not only formally introduced the challenge of controlling small arms and light weapons onto the international community's security agenda, but also ensured its ongoing priority as an item on that agenda. The "Agenda for Peace" helped prompt the 1997 panel of experts report, preceded the emergence of a body of international law, and contextualised this issue within the UN Security Council's peacekeeping operations.

While the former Secretary-General assumes a high degree of professional responsibility on behalf of the international community, he was responding to a call for action from President Alpha Oumar Konaré of the Republic of Mali, an African state experiencing conflict prolonged by the availability of small arms and light weapons. Boutros-Ghali revealed as much when he stated the following:

A pilot advisory mission I dispatched to Mali in August 1994 at the request of that country's Government has confirmed the exceptional difficulty of controlling the illicit flow of small arms, a problem that can be effectively tackled only on a regional basis. It will take a long time to find effective solutions. I believe strongly that the search should begin now...and I intend to play my full part in this effort.⁴⁵

In other words, rather than the call for action analysed earlier in this chapter, Mali's diplomatic overtures to the UN in 1994 resonated among intergovernmental organisations, helping prompt some of those decisive responses to control small arms and light weapons examined in the following chapter. Furthermore, according to Graciela Uribe de Lozano, the UN General Assembly recognised the

⁴⁴ Laurance and Stohl, 4.

⁴⁵ United Nations General Assembly, *Supplement To "An Agenda for Peace,"* paragraphs 63 & 65.

topic of small arms and light weapons as deserving the international community's attention in its discussions dating as far back as its forty-third session in 1988.⁴⁶

The 1997 "Foreword by the Secretary-General" foreshadows a pair of assumptions recurring throughout both reports: non-state actors bear a high degree of culpability for the problems caused by small arms and light weapons, and the preferred solutions to these problems are state-based. Kofi Annan emphasises that, when in "the hands of irregular troops operating with scant respect for international and humanitarian law, these weapons have taken a heavy toll of human lives" and that some "of the most protracted armed conflicts in the world at present are those in which a recurring cycle of violence, an erosion of political legitimacy and a loss of economic viability deprive a State of its authority to cope with either the causes or the consequences of an excessive accumulation, proliferation and use of small arms."⁴⁷ The report's recognition of government culpability is mentioned only once, and is expressed rather timidly in the following passage:

States have the right to export and import small arms and light weapons. The misuse of that right and the relatively recent awareness of the problems caused by the accumulation of small arms and light weapons have resulted in insufficient recognition being accorded to the need to better control the transfer of such weapons.⁴⁸

Such assumptions are deeply embedded in the internationalist institution from which they disseminate.

The 1997 report recognises proliferation, transfer, possession, and use as major aspects of the challenge of controlling small arms and light weapons, though it concedes that the "full extent of the destabilizing consequences of excessive accumulation, proliferation, transfer and use of small arms and light weapons is

⁴⁶ Graciela Uribe de Lozano, "The United Nations and the Control of Light Weapons," in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: American Academy of Arts and Sciences, 1999), 164.

⁴⁷ United Nations General Assembly, "Foreword by the Secretary-General," in *Report of the Panel of Governmental Experts on Small Arms*, UN Doc. A/55/298 (New York: United Nations, 1997), 2.

⁴⁸ United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 45.

only beginning to be assessed.”⁴⁹ Accordingly, the report explores the consequences associated with the widespread availability of these weapons in regional contexts: Africa, Central America, South Asia, and Europe each receive attention as the “effects and consequences [are] unique to specific regions, subregions, and States.”⁵⁰ At the same time, the report helped restrict the scope of this challenge by noting that the issue of anti-personal landmines was being dealt with in another forum. In so doing, and by noting the progress of the UN Commission on Crime Prevention and Public Health and Safety towards the *UN Firearms Protocol*, the General Assembly’s call for multilateral controls over small arms and light weapons avoided duplicating work undertaken elsewhere.⁵¹

The 1997 report also makes 24 recommendations in order “to reduce the excessive and destabilizing accumulation and transfer of small arms and light weapons in specific regions of the world where such accumulations and transfers have already taken place [...and] to prevent such accumulations and transfers from occurring in future.”⁵² Included among these recommendations for the consideration of UN members is the use of domestic legalisation, regulation, and administrative procedures in order to determine conditions of civilian possession, help exercise effective control over this legal possession, and prevent trafficking. According to the report, the UN should help strengthen the capability of governments to confront this issue by supporting disarmament, demobilisation, and disposal programmes in post-conflict scenarios, by including weapons control elements in peace settlements which UN peacekeeping operations help implement, and by encouraging intergovernmental cooperation, specifically information exchange, at subregional and regional levels. The UN should also initiate studies dealing specifically with the marking and tracing of weapons, reducing legal

⁴⁹ Ibid, paragraph 21.

⁵⁰ Ibid, paragraph 62.

⁵¹ Gracia, *Analyzing the Issue of Curbing the Unrestricted Availability and Proliferation of Small Arms and Light Weapons*, 16.

⁵² United Nations General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, paragraph 78. The 24 recommendations are contained in paragraphs 79 and 80 of the report.

proliferation and transfer, and the closely related issue of ammunition. Most importantly, the report recommends that the UN “should consider the possibility of convening an international conference on the illicit arms trade in all its aspects, based on the issues identified in the present report.”⁵³ It refers to the *OAS Convention* as a possible model for a UN instrument of international law.

The 1999 report’s purpose was to follow-up progress on each of the Panel of Experts’ 24 recommendations, to propose further recommendations (whereby the Group of Experts note the relevance of Security Council arms embargoes), and to further prepare for the UN Small Arms Conference. The Group of Experts found that:

most of the recommendations in the 1997 report were in the process of being implemented. A few recommendations had been almost completely implemented, while for a few others implementation had not yet begun. The degree of progress with respect to most of the recommendations was encouraging as a whole, but differed according to the nature of each recommendation and to whom it was addressed.⁵⁴

The legacy of these two reports, especially as the latter builds upon the diplomatic momentum generated by the former, is evident in the *UNPoA*, as the following chapter reveals. Here, then, the UN’s contribution to the pool of research concerning the topic of small arms and light weapons occurred as a way of preparing, organising, and directly informing the decisive collective action of its members. This research recommends a series of particular measures to exert control over small arms and light weapons which will, in turn, help secure the existing internationalist governance architecture through instruments of international law and, to a lesser degree, collective action. Significantly, when the UN began preparing to take action, some researchers broadened their focus to include these preparations, suggesting that research disseminated by civil society organisations was the tail trying, unsuccessfully, to wag the intergovernmental dog.

⁵³ Ibid, paragraph 80(k).

⁵⁴ United Nations General Assembly, *Report of the Group of Governmental Experts on Small Arms*, UN Doc. A/54/258 (New York: United Nations, 1999), paragraph 58.

Governments

As mentioned, the research published by civil society organisations sought to establish a new topic for analysts of world affairs and to place issues associated with these weapons on to the international security agenda. It encouraged other members of the international community to negotiate and adopt controls over these weapons, while aspiring to help shape those controls. At the same time, intergovernmental organisations conducted their own research projects, but did so as a means of prompting, informing, and coordinating collective responses. In the shadow of this research, some governments further explored this topic against certain geographic regions with particular relevance to their own foreign policy. The US Defence Intelligence Agency, for example, commissioned the RAND National Defence Research Institute to undertake a study entitled *Arms Trafficking and Colombia*. Released in 2003, the report concludes that the Revolutionary Armed Forces of Colombia (FARC) “has the resources and ability to strategically manage its weapons supplies and could pose a threat to the United States should it choose to do so.” It continues, more broadly, that:

small-arms transfers have had a negative impact on regional stability in Latin America. Ready access to weapons has helped to both entrench and empower guerrilla and paramilitary forces in Colombia. Not only has this situation threatened the security of the fourth-largest economy in Latin America, it has also triggered highly deleterious cross-border flows of refugees, drugs, and violence that have already had a negative impact on Panama, Venezuela, Brazil, Peru, and Ecuador.⁵⁵

Of course not all governments are equally active in this regard, as few disseminate research on this issue. And the research that is disseminated by governments is by no means the only response of those governments, nor is it their most decisive. Yet such research is important because it intends (or perhaps more aptly pretends) to shape aspects of that government’s own foreign, defence, and trade policy, including any subsequent engagement with decisive control measures negotiated within intergovernmental organisations. Of those few

⁵⁵ Kim Cragin and Bruce Hoffman, *Arms Trafficking and Colombia* (Santa Monica: RAND National Defense Research Institute, 2003), xxi.

instances where governments disseminate research, the research is most often commissioned to researchers external to the government and its bureaucracy. As Weaver points out, “[t]he research product of contract researchers more often consists of reports for specific government agencies than books or monographs for an academic audience....The research agenda for contract researchers is set primarily by what the agency is willing to pay for.”⁵⁶

David Capie’s *Small Arms Production and Transfers in Southeast Asia* (2002) and *Under the Gun: The Small Arms Challenge in the Pacific* (2003) were commissioned in close consultation with the New Zealand government. (Even though in both books Capie explicitly acknowledges the Public Advisory Committee on Disarmament and Arms Control (PACDAC) for commissioning his research, the Peace and Disarmament Education Trust (PADET), a trust entity operating under its own deed, provided the funding and set the terms of reference.⁵⁷) The New Zealand government can, therefore, claim part adherence to its international commitments by citing Section III, paragraph 18 of the *UNPoA*, which urges governments “to develop and support action-orientated research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems associated with the illicit trade in small arms and light weapons in all its aspects.”

The aims of both studies are very similar, notwithstanding their different geographic focus. The 2002 study specifically:

seeks to make a contribution to the growing literature on the subject by offering the first comprehensive study of small arms production and transfers, both licit and illicit, in Southeast Asia...[and] contains some policy suggestions that decision makers in ASEAN and regional

⁵⁶ Weaver, 566.

⁵⁷ According to these terms of reference, “PADET wishes to engage a qualified researcher to write a report on the domestic production and transfers, legitimate and illicit, of small arms in the Southeast Asian region”, and “PADET wishes to contract research into the legal and illegal transfers of small arms in South Pacific countries.” For this research, Capie received over NZ\$106,000 from PADET to meet contractual obligations, research-related expenses, and publishing assistance. This information was obtained through a request for Official Information, the correspondence of which is held by me. Copies of this information are available upon request.

institutions such as the ASEAN Regional Forum might wish to consider to meet the small arms challenge.⁵⁸

The 2003 study “offers an introduction to the problems presented by small arms and light weapons in the Pacific Islands. It seeks to fill an analytical and policy gap.”⁵⁹ This consistency in approach is not, in and of itself, necessarily a liability in terms of describing this topic in a meaningful way for analysts, or in terms of describing this problem in a useful way for policymakers. But because this commissioned research tends to merely reiterate the major aspects of the challenge to control small arms and light weapons, its analytic contribution to the pool of research on this topic is, at best, marginal.

Whereas *Under the Gun* does not consider ‘proliferation’ as a major aspect of this topic because no Pacific Island government possesses a manufacturing capability (though informal crafting of homemade weapons is acknowledged in a footnote), *Small Arms Production and Transfers in Southeast Asia* considers the production capability within Southeast Asia. In spite of omitting a definition of ‘proliferation,’ even though its introduction clearly defines ‘transfer,’ the 2002 study provides a brief historical account of the origins of Southeast Asia’s manufacturing capability, and of the rationale informing this manufacturing. It refers specifically to the desire by some governments to obtain a greater sense of autonomy in pursuing their national security, though important economic incentives are not absent from such calculations either.⁶⁰ However, Capie’s concept of proliferation is much narrower than that used by Gonchar and Lock in their assessment of the former Soviet Union, as Capie deals only with manufactured arms licensed, authorised, or tolerated by authorities, without concerning himself to any great extent with black-market manufacture and informal production.

⁵⁸ David Capie, *Small Arms Production and Transfers in Southeast Asia* (Canberra: Australian National University, Strategic and Defence Studies Centre, 2002), 2.

⁵⁹ Capie, *Under the Gun*, 17.

⁶⁰ Capie, *Small Arms Production and Transfers in Southeast Asia*, 8.

Capie provides details of the production capability of Indonesia,⁶¹ Myanmar,⁶² the Philippines,⁶³ Singapore,⁶⁴ and Thailand,⁶⁵ as the only active manufacturers of these weapons among members belonging to ASEAN. More specifically, the types of weapons manufactured are identified and some estimates of quantities produced are provided. Rather than examining cumulative production trends, Capie employs a snapshot approach on a government-by-government basis and, therefore, falls short of illustrating a dynamic unfolding over time. Hence, although Capie's research contributes to the growing pool of research on this topic, and does so with a regional focus on Southeast Asia, its treatment of proliferation is not as advanced as Klare and Andersen's earlier study with its regional focus on Latin America.

In *Small Arms Production and Transfers in Southeast Asia*, Capie defines 'transfer' to include any transaction resulting in the change of ownership or control, including "not only direct sales of small arms, but also exchanges, barter arrangements, gifts, thefts, loss, loans and transactions conducted for foreign aid or credit."⁶⁶ Although this definition develops nuance from the structural distinctions articulated in Klare's earlier work, Capie then goes on to simplify these, perhaps for analytical convenience, into a "three-part typology...(1) clearly lawful transfers; (2) 'black market' or illicit transfers; and (3) 'grey market' transfers."⁶⁷ With respect to transfers, then, Capie's 2002 work merely identifies the legal weapons flowing into the Southeast Asia from, for example, the PRC and the US. These flows are distinguished from illicit weapons flowing into and within Southeast Asia, as well as from those weapons legally held, produced, and traded among governments.⁶⁸

⁶¹ Ibid, 78-87.

⁶² Ibid, 88-97.

⁶³ Ibid, 34-46.

⁶⁴ Ibid, 50-56.

⁶⁵ Ibid, 67-77.

⁶⁶ Ibid, 3.

⁶⁷ Ibid, 4.

⁶⁸ Ibid, 10.

Capie's treatment of transfers focuses upon ten members of ASEAN, in which suppliers, specific weapon types, and quantities are identified. Cambodia, for example, is noted for becoming the largest supplier of small arms and light weapons in Southeast Asia, after receiving most of these weapons during its civil war.⁶⁹ Capie concedes, however, "it is impossible to quantify just how many weapons were transferred to the various military factions."⁷⁰ As with his treatment of proliferation, transfers are dealt with by way of a snapshot approach. Similar treatment is given to 'transfers' in *Under the Gun*, as numerous examples illuminate the existence and relevance of his 'three-part typology,' rather than demonstrate its dynamic nature. Moreover, the chapter entitled 'Licit Trade' commences with "a description of the inventories of the principal armed forces and armed police units in the Pacific,"⁷¹ but does go on to identify supplying governments (of which the US, Israel, and South Korea are considered most important), weapons types, volumes, and in some cases values in US dollars.⁷²

Transfers occurring as leakage from government stockpiles in the Pacific receive Capie's attention. In particular, he notes poor security surrounding military armouries and constabulary arsenals due to inadequate reporting processes and the corruptibility of personnel either with access to these weapons or responsibility for their safe storage. According to Capie, the impacts relating to weapons caches abandoned during the Second World War are over-emphasised by media reports, though abandoned ammunition, most of which probably remains buried and undisturbed, finds use in homemade weapons.⁷³

In a very brief chapter, *Under the Gun* links weapons availability to their actual use in PNG, particularly their role in fostering incidents of violent crime, engendering wider cultures of lawlessness and impunity, encouraging human rights abuses and violations, and undermining democratic electoral practices. This

⁶⁹ Ibid, 28.

⁷⁰ Ibid.

⁷¹ Capie, *Under the Gun*, 63.

⁷² Ibid, 69.

⁷³ Ibid, 110.

brief exploration of 'use' echoes the earlier approach adopted in *Lethal Commerce*, but does so with new geographic focus.

Here, then, in terms of the concepts used to make sense of the small arms and light weapons topic, Capie's work adds little, if anything, of intellectual value as it displays no innovative advances or radical departures from the earlier research published by, for instance, Klare and Andersen. Reiterating the established major aspects of the topic, *Small Arms Production and Transfers in Southeast Asia* and *Under the Gun* signal an intellectual reliance upon derived convention, rather than original invention. Both works engage a relatively new regional focus, however, dealing first with Southeast Asia and second with the Pacific. In this instance, the relationship between the research disseminated by civil society organisations and research commissioned by governments is not merely a common approach obtained in isolation, but one of endogenous development. Although this research commissioned by a government contributes to the literature dealing with small arms and light weapons after the turn of the millennium, it fails to *re-cognise* the problem it sought to describe, analyse, and help solve; that is, these two works fail to treat critically, and therefore re-conceptualise, this topic.

Just as Capie's work offers very little in terms of an analytic contribution to this pool of research, its policy utility is not self-evident and is, probably, non-existent. Following the lead of *Light Weapons and Civil Conflict*, existing legislative controls within the Pacific region are identified in *Under the Gun*, with a particular focus upon the various definitions of key terms, such as 'firearms' and 'possession,' though more emphasis is given to the inadequate resources provided for administering and enforcing this legislation.⁷⁴ Cataloguing existing domestic legislation belonging to Pacific governments highlights the limited regional coordination over this problem, exposing "loopholes and inconsistencies" in licensing procedures, weapons-marking, storage, and penalties for non-compliance, each mentioned as specific issues needing improvement.⁷⁵ As a

⁷⁴ Ibid, 60.

⁷⁵ Ibid, 116-122.

region, Southeast Asia is noteworthy for the absence of such coordinated controls or even a shift towards harmonising approaches to strengthening domestic legislation within ASEAN.

Both of Capie's studies, each concluding with a chapter providing policy recommendations, intend to help solve the problem of small arms and light weapons, as if answering the call to collapse the intellectual interstices proclaimed by the editors of *Lethal Commerce*. However, much of Capie's policy recommendations dealing specifically with Southeast Asia and the Pacific were already articulated in general terms by the UN reports of 1997 and 1999, with many of the 1997 report's recommendations having already been converted into international commitments under the *UNPoA*, negotiated in 2001. I quote briefly here just five examples in order to convey the degree of similarity between Capie's 2002 and 2003 recommendations, and between both works and the UN's 1997 report. (The extent of this comparison is not exhaustive, however.)

First, Capie writes that there "is no state in ASEAN that does not need to take at least some national action to address weaknesses in its regulation of arms production, possession, brokering or transfers,"⁷⁶ and "the legal framework for the control of firearms and ammunition in the [Pacific] region needs attention in several areas."⁷⁷ Compare his advice to that contained in paragraph 80(c) of the UN report: "All states should ensure that they have in place adequate laws, regulations and administrative procedures to exercise effective control over the legal possession of small arms and light weapons and over their transfer."

Second, according to Capie, "[w]here there is political will [among ASEAN members] but a clear lack of resources to enforce laws, aid donors and institutions can play a role,"⁷⁸ and "[w]hile law reform is an important and worthwhile objective, major questions remain about the ability of some Pacific states to enforce

⁷⁶ Capie, *Small Arms Production and Transfers in Southeast Asia*, 103.

⁷⁷ Capie, *Under the Gun*, 117.

⁷⁸ Capie, *Small Arms Production and Transfers in Southeast Asia*, 108.

the laws that are already on their books.”⁷⁹ Again, compare these recommendations against paragraphs 79(a) and (b) of the UN report:

The United Nations should adopt a proportional and integrated approach to security and development, including the identification of appropriate assistance for the internal security forces initiated with respect to Mali and other West African states, and extend it to other regions of the world where conflicts come to an end and where serious problems of the proliferation of small arms and light weapons have to be dealt with urgently. The donor community should support this new approach in regard to such regions of the world;

The United Nations should support, with the assistance of the donor community, all appropriate post-conflict initiatives related to disarmament and demobilization, such as the disposal and destruction of weapons, including weapons turn-in programmes sponsored locally by governmental and non-governmental organizations.

Third, Capie writes that “[w]hile national level measures are important, tackling the illicit trade in small arms [in Southeast Asia] will also need to be supplemented with greater levels of regional cooperation,”⁸⁰ referring specifically to information-sharing at the desk level, and a “bigger question is whether larger regional governments, in particular New Zealand and Australia, should rethink the focus of their defence assistance policies in the Pacific.”⁸¹ Compare these recommendations against paragraphs 79(e) and (f) and paragraph 80(h) of the UN report, which read, respectively: “States and regional organizations, where applicable, should strengthen international and regional cooperation among police, intelligence, customs and border control officials in combating the illicit circulation of and trafficking in small arms and light weapons and in suppressing criminal activities related to the use of these weapons,” “[t]he establishment of mechanisms and regional networks for information sharing for the above-mentioned purposes should be encouraged,” and “[a]ll States and relevant regional and international organizations should intensify their cooperative efforts

⁷⁹ Capie, *Under the Gun*, 117.

⁸⁰ Capie, *Small Arms Production and Transfers in Southeast Asia*, 109.

⁸¹ Capie, *Under the Gun*, 120.

against all aspects of illicit trafficking mentioned in the present report that are related to the proliferation and accumulation of small arms and light weapons.”

Fourth, Capie notes the significance of existing international agreements, such as the *UnPoA*⁸² and the *Legal Framework for a Common Approach to Weapons Control Measures (Nadi Framework)*.⁸³ So too does the UN report in paragraph 80(j): “Other regional organizations should take note, and make use, as appropriate, of the work of the Organisation of American States in preparing a draft inter-American convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives and other related materials.”

Fifth, Capie suggests the potential usefulness of more research: “While there can be no simple way,” he suggests, “to control weapons that are crafted out of old water pipes and bits of wood, understanding the nature of the problem in greater detail and in comparative perspective would be a useful first step....This is a subject that might usefully be taken up by research groups like Small Arms Survey and supported by regional governments.”⁸⁴ Paragraph 80(I) of the UN report also recommends: “[T]he United Nations should initiate studies on the following: (i) The feasibility of establishing a reliable system for marking all such weapons from the time of their manufacture; (ii) The feasibility of restricting the manufacture and trade of such weapons to the manufactures and dealers authorized by States, and of establishing a database of such authorized manufactures and dealers.” Paragraph 80(m) goes on to state: “The United Nations should initiate a study on all aspects of the problem of ammunition and explosives.”

By formally acknowledging both of these reports in his work, Capie reveals his work is not merely consistent with the UN reports which were published in the preceding decade, but that his recommendations are probably, at least in part, derived from them despite his lack of an appropriate acknowledgement. That the international community had, by the time of his works’ publication, not only

⁸² Capie, *Small Arms Production and Transfers in Southeast Asia*, 110.

⁸³ Capie, *Under the Gun*, 117.

⁸⁴ *Ibid.*, 121.

begun to favour the problem-solving recommendations of the UN reports, but was also designing and implementing practical measures derived from these reports and in accordance with an instrument of international law, further illustrates the lack of independent thought in this commissioned research.

Capie's research, in and of itself, does not appear to have encouraged New Zealand's government to sign the *UN Firearms Protocol*, despite New Zealand officials being involved in its negotiation and New Zealand having ratified the protocol's parent convention, the *United Nations Convention Against Transnational Organized Crime (UNCATOC)*. (New Zealand's accession to this protocol is, however, currently before its parliament.) Nor has the government changed its position regarding the *UNPoA*, with which New Zealand only "substantially complies,"⁸⁵ because its domestic laws do not require civilians to register their firearms unless these firearms are pistols, military-style semi-automatic firearms, or other restricted weapons.⁸⁶ That Capie's research is more shaped by existing policy than it shapes future policy is unsurprising given this research was contracted on behalf of the government. For this reason, nothing in this chapter should be taken as a criticism of Capie's abilities as a researcher, but rather, as evidence illuminating the significant limitations of research contracted by governments. New Zealand's foreign policy is, nevertheless, in tune with an underlying consensus that government-based action, under the leadership of intergovernmental organisations, represents the preferred means of confronting the challenge of controlling small arms and light weapons.

⁸⁵ New Zealand Ministry of Foreign Affairs and Trade, "Small Arms, Light Weapons: Background Information," <<http://www.mfat.govt.nz/foriegn/dis/smallarms/salwbackground.html>> (accessed 21 September 2006).

⁸⁶ New Zealand Ministry of Foreign Affairs and Trade, "Disarmament," <www.mfat.govt.nz/FOREIGN-RELATIONS/1-Global-Issues/Disarmament> (accessed 5 July 2007).

Independent Research Centres

The burgeoning of small arms and light weapons literature during the first five years of the twenty-first century was congruent with both the proliferation of so-called independent research centres and the better harnessing of the World Wide Web through which these researchers disseminate much of their literature. For example, the Institute for Security Studies (ISS), based in Pretoria, South Africa; the Bonn International Center for Conversion (BICC); and the Stockholm International Peace Research Institute (SIPRI) each maintains websites containing research on a range of contemporary security issues, including the topic of small arms and light weapons.⁸⁷ These are, effectively, what Weaver calls “universities without students.” For Weaver, these think tanks:

tend to be characterized by heavy reliance on academics as researchers, by funding primarily from the private sector (with varying mixtures of foundation, corporate and individual funding), and by book-length studies as the primary research product. Although these organizations often address specific legislative proposals, their horizons have traditionally been long-term, focused on changing the climate of elite opinion.⁸⁸

However, writing in 1989 and focusing on US domestic politics, Weaver’s definition needs updating here, as some newly-emerging independent research centres source funding from members of the international community, including various governments. More than a technical fiscal difference, this can strongly influence the type and scope of research activities undertaken.

Established in 1999, the Small Arms Survey, based in Geneva, Switzerland, and attached to the Graduate Institute for International Studies of the University of Geneva, is widely regarded as the pre-eminent research centre currently publishing literature on the topic of small arms and light weapons. Although other research centres, such as ISS, BICC, and SIPRI, continue publishing high quality research on this topic, the Small Arms Survey is the only institute dealing

⁸⁷ For further information about these research centres, refer to the following websites, respectively: <<http://www.iss.co.za>>; <<http://www.bicc.de>>; and <<http://www.sipri.org>>.

⁸⁸ Weaver, 564.

exclusively with questions regarding these weapons. The Survey states its key objectives as follows:

to be the principal source of public information on all aspects of small arms; to serve as a resource centre for governments; policy makers, researchers, and activists; to monitor national and international initiatives (governmental and non-governmental) on small arms; and to act as a clearing house for the sharing of information and the dissemination of best practises. The Survey also sponsors field research and information-gathering efforts, especially in affected states and regions.⁸⁹

Since its inception, it has released 19 Occasional Papers and 6 Special Reports, each of which are available on its official website, as are a range of relevant official documents.⁹⁰ And since 2004, three book-length studies have been published.⁹¹ The website also contains hyperlinks to other relevant research institutions. Not yet available online, however, are the many background reports which inform important chapters of the Small Arms Survey yearbooks.

Each year since 2001, the Small Arms Survey has disseminated a yearbook as its flagship publication. An evolving research agenda, enabling each publication to explore a particular theme, underpins these yearbooks, though major aspects of this topic—proliferation, transfer, possession, and use—consistently receive chapters in each annual edition. The inaugural *Small Arms Survey* (2001) identifies, for example, world production trends over time, provides estimates of both the volume and value of global small arms and light weapons production occurring in 2000, and explores changes to the internal composition of this industrial sector. It notes a decline in overall production capability, an increase in the number of firms involved in producing these weapons, and a shift away from governmental control towards privatisation. Ammunition is acknowledged as representing an

⁸⁹ Small Arms Survey, *Small Arms Survey 2001*, ii.

⁹⁰ Figures given here are as at March 2007. For more up-to-date figures on publications, and further information on the Small Arms Survey, please refer to its website at <<http://www.smallarmssurvey.org>>.

⁹¹ Pézard and Anders; Florquin and Berman; Robert Muggah, ed., *No Refuge: The Crises of Refugee Militarization in Africa* (Geneva: Small Arms Survey and Bonn International Center for Conversion by Zed Books, 2006).

increasingly important element of overall production output as “the value of global ammunition production was almost double the value of global small arms production.”⁹² The other major aspects receive comparable treatment. Chapters in ensuing yearbooks build upon these profiles, revising them where new information comes to hand.

Put simply, the research published as yearbooks by the Small Arms Survey represents the single most comprehensive source of information and analysis on this topic, even though its sophisticated and wide-ranging treatment is geographically uneven and, like all major research on this topic, it is unable to overcome its epistemic anxiety.

Intergovernmental measures of control also receive regular attention in these yearbooks. The 2001 edition, providing a general survey introducing “recent multilateral action,” distinguishes these measures as either global or regional and subregional. Although useful as a catalogue of responses, that chapter does not engage in comparative analysis, nor does it express an appreciation that these measures emerge as a suite of controls despite acknowledging that “progress at one level [is] spurring progress at another.”⁹³ As such, twelve major measures are regarded, in turn, as autonomous instruments. The 2002 yearbook devotes one chapter to describing the UN Small Arms Conference and the *UNPoA*, though the contributions of other initiatives to the *UNPoA* also receive attention,⁹⁴ while another chapter examines prospective ways of strengthening elements of existing measures. The subsequent yearbooks—*Development Denied* (2003) and *Rights at Risk* (2004)—discuss emerging norms of governmental behaviour in international law and international politics, and the importance of monitoring international agreements, respectively. The yearbooks’ ongoing treatment of these measures of control, complemented by its occasional case studies dealing with the operation of

⁹² Small Arms Survey, *Small Arms Survey 2001*, 14.

⁹³ *Ibid.*, 251.

⁹⁴ Small Arms Survey, *Small Arms Survey 2002*, 209-210.

specific measures in particular locales, sheds light on this major response by the international community.

Yet, the Small Arms Survey is itself an important part of the international community's response to the challenge of controlling small arms and light weapons, as well as a by-product of the negotiation between the international community (as arms control protagonists) and the existing international governance architecture, receiving funding support from some governments and intergovernmental organisations.⁹⁵ The project managers of the Survey recently proposed broadening its mission statement to include itself as "a support mechanism for international, regional, and national initiatives," which they describe as "a logical extension of the original core mission."⁹⁶ This broadening of function will further embed this so-called independent research centre in the governance architecture underpinning contemporary world order, curtailing its ability to engage critically with this challenge. Moreover, the decision to release the yearbooks during significant international meetings suggests the project's managers are less concerned with changing policy positions than they are with providing a resource for those members of the international community responding decisively to this challenge as arms control protagonists. Like contracted research, these yearbooks are less a call for international action, as they are instruments to help shape intergovernmental policy guiding decisive action.

⁹⁵ According to the *Small Arms Survey 2005*, its editors "are extremely grateful to the Swiss Government for its generous financial and overall support of the Small Arms Survey project....Financial support for the project was also provided by the Governments of Australia, Canada, Denmark, Finland, France, the Netherlands, New Zealand, Norway, Sweden, and the United Kingdom. The project has also received financial support for the various research projects from the Geneva International Academic Network (GIAN), the Organisation Internationale de la Francophonie, the United Nations Development Programme (UNDP), and the South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC). The project further benefits from the assistance and support of a number of governmental and international agencies, including the International Committee of the Red Cross, the UN Department for Disarmament Affairs, the UN Institute for Disarmament Research, and the World Health Organization." Refer to *Small Arms Survey, Small Arms Survey 2005*, vii.

⁹⁶ Small Arms Survey, "The Small Arms Survey: Towards the Next Five Years," Unpublished memo prepared for the International Programme Council Meeting, 13 July 2005, New York, 2.

The Small Arms Survey shares much in common with Weaver's university without students. As Weaver explains in the following passage:

The label "universities without students" naturally raises a question: if these places are doing the same thing as university faculties, why should they exist at all? The answer is that research from the two types of organizations is usually somewhat different, for several reasons. First, university-based researchers face a different set of incentives; interests in substantive policy issues and in the policy process is rarely rewarded as much in the university as are theoretical contributions to the researcher's discipline. At think tanks, these priorities are reversed. A second reason university-based research may differ from that at think tanks is that university-based researchers are less likely to have contact with policy activists and other policy researchers than those at think tanks. For both of these reasons, the "studentless universities" are more likely than universities to produce research that is attuned to current policy debates. This research is also likely to take a different form—more likely books and monographs than articles in refereed academic journals. And it is more likely to include conclusions about how current policy should be modified, even if those conditions are grudgingly tacked on by the researcher in the last chapter.⁹⁷

Compared to researchers hosted by civil society organisations, the policy divisions of governments and intergovernmental organisations, and independent research centres, academics based in universities have, until recently, published little scholarly work concerning the topic of small arms and light weapons. Since 2002, however, three prominent academic journals—*Brown Journal of World Affairs*, *SAIS Review*, and *Contemporary Security Policy*—have published special editions dealing with this topic.⁹⁸ Numerous papers dealing specifically with this topic have been delivered at conferences of the International Studies Association,⁹⁹ signalling the

⁹⁷ Weaver, 566.

⁹⁸ Please refer to *Brown Journal of World Affairs* 9, no.1 (2002), *SAIS Review* XXIII, no.1 (Winter-Spring, 2003), and *Contemporary Security Policy* 27, no.1 (April 2006). These peer-reviewed scholarly journals differ from serials, such as *The Bulletin of Atomic Scientists* and *Arms Control Today*, which are published by nongovernmental organisations with specific policy advocacy goals.

⁹⁹ See, for example, the Archived Papers of the ISA Conference in 2007, which include: Bob Clifford "Gunning for the Globe: Movement and Countermovement in the Small Arms Control Process"; Miranda Alison, "Gender and Small Arms: Where to from here?"; Anne-Kathrin Glatz, "Norm Diffusion: Top-Down or Bottom-Up? Small Arms Norms in South Africa, El Salvador, and in the International Level"; Marie Olson Lounsbery, Suzette

increasing currency that this emerging topic enjoys among academics. Following Lora Lumpe's *Running Guns: The Global Black Market in Small Arms* (2000), Denise Garcia's *Small Arms and Security: New Emerging International Norms* (2006) and *The Global Gun Epidemic: From Saturday Night Specials to AK47s* (2006) written by Wendy Cukier and Victor W. Sidel are two recent book-length academic studies dealing specifically with this topic, while other book-length academic studies devote chapters to the topic, such as Alley's *Internal Conflict and the International Community: Wars without End?* (2004) and Elke Krahnemann's *New Threats and New Actors in International Security* (2005).

The direct impact of academic research is, however, less apparent in comparison to the research disseminated by civil society organisations, governments and intergovernmental organisations, or independent research centres. Where academics, such as Owen Greene of Bradford University, contribute research to civil society organisations, they do so, for the most part, not primarily to educate their students, but in order to pursue specific policy objectives.¹⁰⁰ For Garcia, "[a]wareness-raising regarding the problems caused by small arms and light weapons proliferation on the international agenda happened in two parallel processes during the 1990s: one was a 'knowledge-generation process' and the other was an 'acknowledgement of the problem' process that took place within the United Nations General Assembly."¹⁰¹ However, the processes overlap as academics, such as Edward Laurance, act as consultants to the various

Grillot, and Frederic Pearson, "Controlling the Flow of Small Arms and Light Weapons: The Role of Official and NGO Sanctions"; Indra de Soysa and Christin Ormhaug, "Death Wish? Globalization and the Demand for Small Arms"; Katchik Derghoukassian, "Security Governance in Europe and Latin America: Controlling the Flow of Small Arms and Light Weapons"; and Kai Michael Kenki, "Small Arms Control: A Prerequisite for Peacebuilding?"

¹⁰⁰ Along with Mike Bourne, Owen Greene of the Department of Peace Studies at the University of Bradford is a member of the Biting the Bullet team, which is responsible for writing the *Implementing the Programme of Action 2003: Action by States and Civil Society* (London: International Action Network on Small Arms, 2003); *International Action on Small Arms 2005: Examining Implementation of the UN Programme of Action* (London: International Action Network on Small Arms, 2005); and, *Reviewing Action on Small Arms 2006: Assessing the First Five Years of the UN Programme of Action* (London: International Action Network on Small Arms, 2006).

¹⁰¹ Garcia, *Making New International Norms*, 6.

UN panels, as well as contributing research to civil society organisations, independent research centres, and scholarly journals.¹⁰² The 1997 and 1999 UN reports also consulted a wide range of researchers, including some academics.

Finally, a recent initiative attempts to bring the diverse array of researchers dealing with this topic closer together, at least in cyberspace. The Research Initiative on Small Arms (RISA) has an overarching goal “to enlarge the global epistemic community that provides the evidence-based knowledge needed to achieve the policy goals of the global effort to prevent and reduce the negative effects from small arms and light weapons.”¹⁰³ Since its emergence in mid 2004, RISA has published a special edition of the *HFG Review*, entitled *Small Arms: A Call for Research*, that includes five chapters which, collectively, pose a further set of research questions.¹⁰⁴ The influence of this very recent harnessing of the global epistemic community remains to be seen however, but merits a brief mention here, especially as the call for action by researchers has now given way to a call for more research guided by a renewed research agenda.

Despite this flurry of scholarly attention, most researchers neglect the literature on small arms and light weapons as a topic of enquiry in its own right, which is surprising given that researchers were among the first to identify and respond, by calling for action, to the problem of the widespread availability and ongoing use of small arms and light weapons. It is also surprising because researchers continue to seek to inform policies developed by governments and within intergovernmental organisations that, if implemented, will both guide and restrain decisive action. In

¹⁰² Mitsuro Donowaki, Chairman of the Panel of Governmental Experts on Small Arms, expressed the panel’s appreciation of Laurance’s contribution to their work as consultant. Laurance, who helped establish IANSA, has also authored research published by AMACAS—in both *Lethal Commerce* and *Light Weapons and Civil Conflict*—by the Small Arms Survey—as an Occasional Paper with Rachel Stohl in 2002 and as a principle author of a chapter in the 2002 yearbook, while every yearbook to date acknowledges his contribution—and in 2002 in the *Brown Journal of World Affairs*.

¹⁰³ For the announcement of this new project, dated 3 October 2004, presumably by Edward Laurance, please refer to <<http://www.smallarmssurvey.org/files/sas/about/RISA.pdf>> (accessed 9 September 2006).

¹⁰⁴ *Small Arms and Light Weapons: A Call For Research* (New York: The Harry Frank Guggenheim Foundation, 2005).

fact, as this chapter demonstrates, the literature written by researchers constitutes a major response to the widespread availability and ongoing use of small arms and light weapons.

Conclusion

Hosted by civil society organisations, the policy divisions of governments and intergovernmental organisations, and independent research centres, researchers were among the first to identify this topic as a serious issue for contemporary world affairs, deserving sustained treatment as a topic for analysts of world affairs and as an urgent problem for policymakers addressing the security agenda. Indeed, the literature produced by researchers constitutes a major response to the widespread availability and ongoing use of these weapons, sustaining a marginal role for researchers as members of the international community confronting the challenge of controlling small arms and light weapons.

The topic of small arms and light weapons was first conceived as a problem for policymakers within four major works published by civil society organisations but was, in turn, developed by other researchers. The identification of major aspects of this topic—in particular, the proliferation, transfer, possession, and use of these tools of violence—the placing of these aspects in various contexts, and the illustration of these aspects' dynamic nature, each demonstrates cognitive continuity among researchers. Yet their cartography is, and must always be, incomplete. This is self-consciously signalled by these researchers' ubiquitous concern over the quality and extent of their sources of information; that is, their epistemic anxiety. This is not to negate the important differences among this pool of research, but rather, to emphasise the common treatment of the major aspects of the small arms and light weapons topic among these works as both consistent and uncritical, even in research conducted by the Small Arms Survey, widely regarded as currently publishing literature *par excellence* on this topic.

Largely, if not exclusively, driven by policy-advocating civil society organisations—in particular, AMACAS and FAS—the literature describing the

topic of small arms and light weapons published between 1995 and 2000 called for international action. And this call has been, by and large, a call for governments to cooperate within existing grand politico-strategic frameworks—or what this thesis describes as the internationalist governance architecture. Calling for action to be taken under UN leadership and, consequently, preferring instruments of international law and collective action, researchers underscore, strengthen, and reinscribe an internationalist orthodoxy as the predominant world-ordering principle. There is, however, little available evidence suggesting this call to action resonated with, was even seriously regarded by, or provided any motivation to, other members of the international community. More likely, the decisive action examined in Chapters Three and Four were triggered as responses to other events and trends, including the armed violence occurring in places like Mali and its African neighbours.

Following the turn of the millennium, research published as an attempt to shape the international community's decisive action, even where particular governments commissioned this research, has had a negligible influence on shaping policy. Compared to other members of the international community considered in Part II of this thesis, researchers' responses to the challenge of controlling small arms and light weapons are less powerful, despite the extensive amount of research published on this topic. This is unsurprising given researchers are primarily discursive agents, rather than decisive actors. This does not mean that their response is unimportant; it does mean, however, that while research might be policy orientated it does not necessary drive or influence policy formulation in immediate ways. It also suggests researchers are in serious conversation, but mostly among themselves. While researchers might correctly argue that, "reliable information and research go hand in hand with effective policy-making,"¹⁰⁵ policymakers need not necessarily share this belief, nor act in ways consistent with it.

¹⁰⁵ Small Arms Survey, *Small Arms Survey 2003*, 4.

3. INTERGOVERNMENTAL ORGANISATIONS AND MEASURES OF CONTROL

The international community's most significant response to the widespread availability and ongoing use of small arms and light weapons manifests as various attempts to impose regulatory controls over the manufacture and transfer of these weapons. As an intergovernmental organisation with global reach, the UN in particular strongly encourages the implementation of these attempts and their auxiliary processes, though regional and subregional intergovernmental organisations, including the OAS, EU, and the Economic Community of West African States (ECOWAS), have taken important initiatives too.

This chapter introduces the major instruments of international law that have been negotiated multilaterally within intergovernmental organisations as a means of providing frameworks for regulatory regimes controlling small arms and light weapons. In a few cases it also notes briefly the historical circumstances from which these measures of control emerge, indicating reasons for obstacles and trade-offs occurring during their negotiation. These measures are distinguished here as either treaties or soft law measures. Each is then analysed in terms of its current status, technical scope, participants and, therefore, geographic coverage. No single instrument is favoured as a panacea, however. By scrutinising the texts of these measures, this chapter assesses the degree to which these strategic frameworks, when considered collectively as a mosaic of responsibilities comprising of obligations and commitments, are capable of controlling small arms and light weapons. This kind of collective assessment is necessary given the challenge these measures seek to confront is, as the work of the research community illustrates, multifaceted—and by that I mean it comprises of major aspects which each need to be addressed in order for the challenge to be overcome—and geographically vast, with its major centres of

production, weapons flows, hotspots of intense use, and myriad of deleterious varying impacts each spread unevenly throughout the world.

Treaties

Before the turn of the millennium, there was very little in the way of an established international legal basis from which to draw guidance for establishing controls over small arms and light weapons.¹ Indeed, referring to international controls in general, Andre Stemmet notes, "it has to be conceded that international law is a weak regime."² Nevertheless, treaty law serves as a basis for some measures of control developed by intergovernmental organisations and, according to Glenn McDonald and Silvia Cattaneo, "treaties are the clearest expression of states' consent to be legally bound."³ Since the late 1990s, four treaties seeking to foster regulatory controls over small arms and light weapons have emerged: first, the *OAS Convention* entered into force on 1 July 1998; second, the *Protocol on the Control of Firearms, Ammunition, and other Related Materials in the Southern African Development Community Region (SADC Firearms Protocol)* entered into force on 8 November 2004; third, the *UN Firearms Protocol* entered into force on 3 July 2005; and fourth, the *Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Nairobi Protocol)* entered into force on 5 May 2006.⁴

¹ Erwin Dahinden, "Foreword," in *Small Arms and Light Weapons: Legal Aspects of National and International Regulations*, eds. Erwin Dahinden, Julie Dahlitz, and Nadia Fischer, Volume IV, Arms Control and Disarmament Law (Geneva: United Nations, 2002), xix.

² Andre Stemmet, "Learning from field experience," in *Small Arms and Light Weapons: Legal Aspects of National and International Regulations*, eds. Erwin Dahinden, Julie Dahlitz, and Nadia Fischer, Volume IV, Arms Control and Disarmament Law (Geneva: United Nations, 2002), 27.

³ Small Arms Survey, *Small Arms Survey 2003*, 216.

⁴ For a full text of the *OAS Convention*, refer to <<http://www.oas.org/juridico/english/treaties/a-63.html>> (accessed 29 April 2004); for a full text of the *UN Firearms Protocol*, refer to <http://www.unodc.org/unodc/en/--ime_cicp_resolutions.html> (accessed 7 November 2005); for a full text of the *SADC Firearms Protocol*, refer to <http://www.sadc.int/index.php?action=a1001&pageid=protocols_firearms> (accessed 14 December 2004); for a full text of the *Nairobi Protocol*, refer to <<http://www.saferfrica.org/DocumentsCentre/NAIROBI-Protocol.asp>> (accessed 3 May 2004).

For Greene, these kinds of treaties break new ground because “[i]nternational norms, rules and institutions are being developed in a range of issue areas where there is little history of substantial international co-ordination.”⁵

The OAS, first considering small arms trafficking in 1990 as an issue relating to narcotics trafficking and other organised criminal activities occurring in South America, held at least three Group of Experts meetings between October 1993 and May 1996. These meetings led to the development of common import, in-transit, and export authorisations among its members, codified in the *Model Regulations for the Movement of Firearms, their Parts and Components, and Ammunition*. As James P. McShane recalls, during these meetings and their intervening periods “[a] consensus developed that to both comprehend and effectively combat illicit firearms trafficking, there had to be a greater understanding of how the *legal* trade occurred. There was also a growing sense that loose controls over the legal trade were the real problem when it came to illicit trafficking.”⁶ The *OAS Convention*, drafted by a few governments describing themselves as the Rio Group,⁷ was adopted on 13 November 1997 and, following its ratification by the Bahamas and Mexico, entered into force on 1 July 1998.

As a regional organisation comprising of 35 member-states, the OAS spans two continents and has an almost hemispheric scope, though only 26 of its members have ratified the *OAS Convention*: Canada and the US are two members featuring among the ranks of those yet to ratify.⁸ Even though the US played a significant role in articulating the convention’s text, signing the convention in

⁵ Greene, 152.

⁶ McShane, 174.

⁷ At that time, the Rio Group comprised the following members: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Paraguay, Peru, Uruguay, and Venezuela.

⁸ As at 1 April 2007, the following states have ratified the *OAS Convention*: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, Trinidad and Tobago, Uruguay, and Venezuela. <http://www.oas.org/DIL/treaties_and_agreements.htm> (accessed 1 April 2007).

November 1997,⁹ by mid 2006 it had yet to ratify the treaty despite its compatibility with relevant US policies and domestic regulations. In fact, this non-ratification of the *OAS Convention* has recently been contextualised among other treaties, including the *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, the *Rome Statute of the International Criminal Court*, and the *Verification Protocol to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, which the US has also failed to ratify.¹⁰ Although the effects of the US' failure to ratify the *OAS Convention* are, in part, mitigated because the US continues to act in ways consistent with the *OAS Convention*, the efficacy of the instrument is inhibited because the US, as the OAS' most powerful member, has only observer status at the Consultative Committee meetings and cannot exercise a vote. As Matthew Schroeder points out, "[e]xhortations by American diplomats to comply with the Convention ring hollow when their own country has not ratified it."¹¹

Developed as a component of *UNCATOC*, the *UN Firearms Protocol* refers specifically to its parent convention and could only enter into force after *UNCATOC* itself had entered into force, that is, after 29 September 2003. This protocol, a draft of which was requested by the UN Commission for Crime Prevention and Criminal Justice in 1998, has its origins in a study on firearms regulation conducted in 1995 by the Vienna-based Centre for International Crime Prevention.¹² On 31 May 2001, the UN General Assembly adopted the protocol, opening it for signature. The opening for signature of this protocol was, however, somewhat retarded in comparison to its two complementary protocols—supplementing *UNCATOC* are the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and the *Protocol Against the Smuggling of Migrants by Land, Air and Sea*—both of which were

⁹ Matthew Schroeder, *Small Arms, Terrorism and the OAS Firearms Convention*, Occasional Paper no.1 (Washington D.C.; Federation of American Scientists, 2004), 32.

¹⁰ *Ibid*, 34.

¹¹ *Ibid*, 33.

¹² Brem and Rutherford, 176.

agreed and signed in 2000. (However, relative to many other non-'arms control' treaties, its negotiation could be considered expedient.¹³) The protracted negotiation of the *UN Firearms Protocol* was due, in part, to disagreement over defining key terms, the applicability of weapons-marking requirements, and the status of non-commercial transfers of these weapons. In particular, the involvement of the US National Rifle Association (NRA), opposing domestic regulation of civilian ownership, complicated negotiations: however, since the NRA involved itself so closely in the negotiation phase, its future opposition to this protocol could be subject to charges of hypocrisy.¹⁴ (Such charges could also be targeted at any NRA opposition to the *OAS Convention*.) During its negotiation, the draft text of the protocol was weakened in its technical scope, excluding controls over arms brokers, government-to-government transfers, and weapons-marking standards.¹⁵

This treaty entered into force on 3 July 2005 after 45 of its 60 signatories had ratified it.¹⁶ Unlike the 'hemispheric' *OAS Convention*, the *UN Firearms Protocol* is global in its potential geographic coverage. Although it represents an important development towards controlling small arms and light weapons through regulation, the primary purpose of the *UN Firearms Protocol* is to provide governments with a means of combating organised criminals by seeking to restrict the scale and conduct of their illegal activities. On this basis, it seeks to combat and reduce the illicit manufacture of, and trafficking in, these weapons across international borders; however, Article IV specifically limits its application

¹³ Small Arms Survey, *Small Arms Survey 2002*, 237.

¹⁴ *Ibid*, 238.

¹⁵ *Ibid*, 237-240.

¹⁶ As at 1 April 2007, the following states have ratified the *UN Firearms Protocol*: Algeria, Argentina, Azerbaijan, Belarus, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cape Verde, Central African Republic, Costa Rica, Croatia, Cuba, Cyprus, El Salvador, Estonia, Grenada, Guatemala, Italy, Jamaica, Kenya, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Lithuania, Mali, Malawi, Mauritius, Mexico, Moldova, Montenegro, Mozambique, Netherlands, Nigeria, Norway, Oman, Panama, Peru, Poland, Rwanda, Romania, Saint Kitts and Nevis, Sao Tome and Principe, Senegal, Slovakia, Slovenia, South Africa, Spain, Tanzania, Turkey, Turkmenistan, Uganda, and Zambia. <http://www.unodc.org/unodc/en/crime_cicp_signatures_firearms.html> (accessed 1 April 2007).

to “where those offences are transnational in nature and involve an organized criminal group.”¹⁷

Developed contemporaneously with the *UN Firearms Protocol*, the *SADC Firearms Protocol* did not rely upon the diplomatic momentum generated from within the UN, but rather, was often ahead of discussion facilitated by the UN in terms of its technical focus, even if it was not as far advanced in its negotiation phase.¹⁸ Established in 1980 and, for the following twelve years, operating without the guidance of a formal framework or foundational charter, SADC enlarged its membership and in 1992 formalised the organisation under a Memorandum of Agreement concerning development integration, the promotion of security, and the defence of peace within its subregion.¹⁹ The subregion was, of course, struggling to overcome the legacies of conflict in Namibia and Mozambique during the late 1980s, as well as the increasing lawlessness resulting from widespread and ongoing small arms and light weapons misuse in post-apartheid South Africa. The origin of the *SADC Firearms Protocol* can be traced to a SADC Council of Ministers meeting held in 1999 at Maputo, Mozambique, which called for a regional policy on small arms and light weapons that would include a non-legally binding declaration, adopted in 2001, the protocol, and a plan of implementation.²⁰ The treaty was signed by 13 Southern African governments on 14 August 2001. Entering into force on 8 November 2004, the *SADC Firearms Protocol* has been ratified by nine of SADC’s 14 members, leaving Angola as the only member not to have signed this treaty.²¹

¹⁷ United Nations General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime*, Article 4(1).

¹⁸ Noel Stott, *Implementing the Southern Africa Firearms Protocol: Identifying challenges and priorities*, Institute for Security Studies Paper no.83 (Pretoria: Institute for Security Studies, 2003), 3.

¹⁹ Hussein Solomon, “Controlling Light Weapons in Southern Africa,” in *Light Weapons and Civil Conflict: Controlling the Tools of Violence*, eds. Jeffrey Boutwell and Michael T. Klare (New York: American Academy of Arts and Sciences, 1999), 151.

²⁰ Stemmet, 23.

²¹ As at 1 April 2007, the following states have ratified the *SADC Firearms Protocol*: Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania,

The most recently negotiated treaty providing a framework for regulatory regimes controlling small arms and light weapons is the *Nairobi Protocol* which, like the *SADC Firearms Protocol*, is subregional in scope. Building upon a declaration by the foreign ministers of ten governments located within the Great Lakes Region and the Horn of Africa on 15 March 2000,²² the Second Ministerial Review Conference of the Nairobi Declaration on the Problem of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa opened the *Nairobi Protocol* for signature on 21 April 2004. This protocol, designed by a panel of governmental experts, was immediately signed by eleven governments of the subregion.²³ Somalia, a key source of unregulated weapons since its government ceased to function in 1991, followed suit by signing the protocol in June 2005.²⁴ This subregion is, of course, notable for its recent conflicts, and the international dimensions of these conflicts are illustrated by the UN sanction regimes targeting Eritrea, Ethiopia, and Rwanda and by the UN peacekeeping operations hosted by Burundi, Democratic Republic of the Congo, Ethiopia, Eritrea, Rwanda, Sudan, and Uganda. The protocol entered into force on 5 May 2006 after it was ratified by eight signatories,²⁵ its ratification no doubt expedited by the international attention given to the subregion's prolonged and intense conflicts and by the external support received from the UK Department for International Development, Saferworld, SaferAfrica, and the Security Research and Information Centre.

and Zambia. <<http://www.sadc.int/english/documents/legal/protocols/status.php>> (accessed 1 April 2007).

²² UN Office for the Coordination of Humanitarian Affairs, "Great Lakes: Light arms, a scourge for peaceful development," 4. <www.irinnews.org/print.asp?ReportID=39356> (accessed 13 September 2006).

²³ The signatories were Burundi, Democratic Republic of the Congo, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Seychelles, Sudan, Uganda, and Tanzania.

²⁴ Regional Centre on Small Arms, *Progress: Implementing the Nairobi Declaration to Tackle Small Arms in the Great Lakes region and the Horn of Africa* 6 (Nairobi: Regional Centre in Small Arms, 2006): 4.

²⁵ As at 8 March 2007, Burundi, Djibouti, Democratic Republic of the Congo, Eritrea, Ethiopia, Kenya, Rwanda and Uganda had ratified this agreement. The Seychelles, Sudan, and Tanzania had signed but not yet ratified it. For more up-to-date information, please refer to <<http://www.iansa.org/regions/cafrica/nairobi-protocol.htm>> (accessed 8 March 2007).

Despite each treaty emerging from within different intergovernmental organisations and framing its justification for responding to the challenge of controlling small arms and light weapons in terms reflecting its own unique historical circumstances, all four treaties have in common a belief in collective security and embody an ongoing commitment to the existing internationalist governance architecture, though this commitment is neither absolute nor uncontested. Given that most governments belong to more than one intergovernmental organisation, causing the geographic coverage of these treaties to converge, and given that these treaties interrelate at a technical level, creating a mosaic of obligations, these instruments of international law ought to be considered collectively as a suite of strategic frameworks, rather than separately as autonomous instruments. As mentioned, this kind of assessment is also pertinent since the problem these measures seek to confront is multifaceted and geographically vast.

The stated objectives of these treaties reflect their common purpose, revealing a shared but implicit assumption that governments, by cooperating, have a better chance of managing and/or mitigating the threats posed by these weapons, including the threat posed to their monopoly over the legitimate use of force within their respective jurisdictions. The *OAS Convention*, as the first of these treaties to undergo negotiation, states its objective as:

to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, and other related materials; to promote and facilitate cooperation and exchange of information and experience among State Parties to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, and other related materials.²⁶

Following the *OAS Convention*, the *UN Firearms Protocol* states its almost identical objective with more concision: “to promote, facilitate and strengthen cooperation among State Parties in order to prevent, combat and eradicate the illicit

²⁶ Organization of American States, *Inter-American Convention Against The Illicit Manufacturing Of And Trafficking In Firearms, Ammunition, Explosives, And Other Related Materials* Article II.

manufacturing of and trafficking in firearms, their parts and components and ammunition.”²⁷ The stated objectives of the *SADC Firearms Protocol* extend beyond preventing, combating, and eradicating illicit manufacturing and trafficking of small arms and light weapons by addressing also “their excessive and destabilising accumulation...possession and use in the Region.”²⁸ This does not, *prima facie*, preclude government-authorised manufacture and trade. The stated objectives of the *Nairobi Protocol* are as wide-ranging as the *SADC Firearms Protocol*, but also “encourage accountability, law enforcement and efficient control and management of small arms and light weapons held by State Parties and civilians.”²⁹ This evolution, whereby the objectives of each subsequent treaty cumulatively builds upon that of its predecessor(s), signals interrelatedness, a general broadening of technical scope, and an increasing acknowledgement of the role played by governments in sustaining this challenge, specifically as ongoing users of these weapons.

The definitions articulated by each of these four treaties also reflect their commonality. Firearms, small arms, and light weapons are defined by these treaties as, more or less, any barrelled weapon which will, or is designed to, or may readily be converted to, expel a bullet or projectile by the action of an explosive. Antique firearms manufactured before the twentieth century or their replicas are, without qualification, excepted from these definitions. For the most part, these definitions—as well as the definitions of parts and components, and of ammunition—are interchangeable among these treaties, except for where both the *OAS Convention* and the *Nairobi Protocol* extend their definitions to cover “any other weapon or destructive device such as an explosive bomb, incendiary bomb, or gas bomb, grenade, rocket launcher, missile, missile system or mine.”³⁰ Furthermore, these treaties define illicit manufacturing and trafficking along

²⁷ *UN Firearms Protocol*, Article 2.

²⁸ Southern African Development Community, *Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC) Region*, Article 3(a).

²⁹ *The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa*, Article 2(e).

³⁰ *OAS Convention*, Article I(3)(b) and the *Nairobi Protocol*, Article 1.

much the same lines, as the following definitions could be used in any of these treaties:

the manufacturing or assembly of firearms, their parts and components or ammunition from parts and components illicitly trafficked, or without a licence or authorization from a competent authority of the State Party where the manufacture or assembly takes place; or without marking the firearms at the time of manufacture.

And as:

the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any one of the State Parties concerned does not authorise it.³¹

Each of these four treaties creates obligations for parties to use, as the primary method of control, the licensing, permitting, or authorising of weapons transfers as either imports or exports; the marking of weapons at the time of their manufacture or import into their territory; and the efficient keeping of records pertaining to known weapons inventories, including their location. Concomitantly, these treaties create obligations for parties to criminalise certain activities relating to small arms and light weapons that do not have official approval or consent. Since regulating this sector necessarily relies upon the enactment of criminal offences for breaches of these regulations, governments are obliged to develop the capability to maintain effective control over the people and goods transiting their international borders, as well as to administer and enforce these laws upon those who act contrary to its provisions within their respective areas of jurisdiction.

In order to strengthen the domestic regimes regulating the manufacture and transfer of small arms and light weapons, these treaties seek to facilitate cooperation among governments by improving information flows, enabling the more timely and accurate identification of legal operators, thereby increasing the likelihood of detecting, apprehending, and prosecuting illegal operators. For this

³¹ Please refer to the *OAS Convention*, Article I; the *UN Firearms Protocol*, Article 3(d) and (e); the *SADC Firearms Protocol*, Article 1; and the *Nairobi Protocol*, Article 1.

reason, the *OAS Convention*, the *SADC Firearms Protocol*, and the *Nairobi Protocol* each call for engagement with the International Criminal Police Organisation (Interpol), while the latter two also call for engagement with the World Customs Organisation (WCO).³² Cooperation among law enforcement agencies, especially through combined enforcement operations, is promoted by all four treaties, as is the exchange of training, technologies, and other forms of assistance among these agencies.³³ In so doing, these treaty obligations, and the control regimes they foster, create a plausible deterrent to would-be offenders, though whether or not this deterrence is sufficient remains highly contestable given the probable extent of contemporary trafficking.

Building upon the provisions for exchanging information among governments, these treaties also strengthen formal links with non-state actors. Article XX 1(d) of the *OAS Convention*, for example, calls for relevant academic studies to be undertaken, while Article 13(3) of the *UN Firearms Protocol* invokes the support of the small arms industry. Article 5(2) of the *SADC Firearms Protocol* and Article 3(b) of the *Nairobi Protocol* both call for arms embargoes, authorised as part of the UN Security Council's sanction regimes, to be better implemented and more vigilantly observed. The *SADC Firearms Protocol*, the *Nairobi Protocol*, and the *UN Firearms Protocol* each call for cooperation with other intergovernmental organisations,³⁴ while the latter was specifically open for signature to regional economic integration organisations where at least one member is party to the protocol. The *OAS Convention* spurred participants of the Southern Cone Common Market (MERCOSUR) to establish a registry of buyers and sellers of small arms and light weapons, as well as a database of transit points used to transfer these weapons across borders.³⁵

³² Refer to the preamble of the *OAS Convention*, Article 15(c) of the *SADC Firearms Protocol*, and Article 15(iv) of the *Nairobi Protocol*.

³³ Refer to Articles XIII-XVIII of the *OAS Convention*; Articles 14, 15, & 16 of the *SADC Firearms Protocol*; Articles 14, 15, & 16 of the *Nairobi Protocol*; and Articles 12, 13, & 14 of the *UN Firearms Protocol*.

³⁴ Refer to Article 3(c) of the *SADC Firearms Protocol*; Article 2(d) of the *Nairobi Protocol*; and Article 12(1) of the *UN Firearms Protocol*.

³⁵ Schroeder, 26; see also Greene, 178.

Noticeably absent from these treaties, however, are explicit calls for strengthening formal links with civil society organisations, though both the *SADC Firearms Protocol* and the *Nairobi Protocol* contain reference to enhancing public involvement in, and support for, arms control regimes.³⁶

The preambles of both the *UN Firearms* and *Nairobi Protocols* refer explicitly to Article 51 of the UN Charter which, as the introduction mentions, recognises the rights of governments to act unilaterally if they are attacked. This explicit link is significant because it seeks to legitimise the manufacturing, transfer, possession, and use of small arms and light weapons for the purposes of securing governments from external threats. Underpinning these two treaties, then, is a process by which small arms and light weapons are securitised by governments reaffirming them as legitimate tools of providing security. By securitisation, I do not mean here the more commonly referred to process whereby threats are constructed and enter the realm of so-called high security issues through speech acts, even where the “speech-act of securitization is not reducible to a purely verbal act or a linguistic rhetoric [because] it is a broader performative act which draws upon a variety of contextual, institutional, and symbolic resources for its effectiveness.”³⁷ Rather, I mean here the slightly more complex paradox whereby small arms and light weapons are recognised by governments not only as threats to security, but also as necessary security-enabling tools.

Small arms and light weapons are recognised, then, as threats to governmental security that also undermine the rule of law, and as security-enabling tools of governments that also help maintain the rule of law: the process of securitisation, therefore, mutually supports the process of criminalisation. Given the complementary processes of securitisation and criminalisation, it is not surprising that the threat posed by small arms and light weapons, which had been traditionally dealt with by SADC as a foreign policy issue relating to other

³⁶ Refer to Article 13 of the *SADC Firearms Protocol* and to Article 13 of the *Nairobi Protocol*.

³⁷ Michael C. Williams, “Words, Images, Enemies: Securitization and International Politics,” *International Studies Quarterly* 47 (2003): 526.

arms control measures, more recently gained currency as a crime prevention issue for SADC members.³⁸

Although activities undertaken by governments in a manner consistent with Article 51 of the UN Charter can be distinguished from those of individuals engaging in criminal enterprise, the distinction between securitisation and criminalisation is blurred by governments relying upon the versatility of small arms and light weapons as a means of providing defence from external military threats *and* of maintaining the rule of law within their areas of jurisdiction. It is a particularly cruel irony that the official misuse of small arms and light weapons, a significant factor motivating the call for international action explored in the previous chapter, is partly perpetuated and entrenched by the current efforts to exert control over these weapons. It enables, for example, human rights violations to occur through official misuse: according to Amnesty International, “[s]ustained by the easy availability of small arms, war crimes, crimes against humanity, and other human rights violations have been committed in eastern [Democratic Republic of the Congo (DRC)].”³⁹ In spite of peace agreements, “large-scale unlawful killings of civilians by armed forces continue to be committed on a regular basis.”⁴⁰ DRC is by no means an exception in this regard, however. In fact, the US’ prosecution of the so-called war on terror has resulted in its “exports of these weapons hav[ing] now increased to some states that are known to be violators of human rights [and in turn]... many states have begun to export and misuse these weapons in the name of combating terrorism.”⁴¹

In spite of all their commonality, significant technical differences exist among these treaties, particularly where treaties seek to establish controls over varying aspects of the small arms and light weapons problem. The *OAS Convention* is the only treaty that does not oblige its parties to destroy those weapons seized as evidence of illegal manufacturing or trafficking and confiscated through

³⁸ Stott, 1.

³⁹ Amnesty International, *Democratic Republic of Congo: arming the east* (London: Amnesty International, International Secretariat, 2005), 12.

⁴⁰ *Ibid*, 15.

⁴¹ Laurance, “Shaping Global Public Policy on Small Arms,” 199.

successful prosecution.⁴² Only the *SADC Firearms Protocol* and *Nairobi Protocol* oblige parties to establish and maintain inventories of government-held arsenals and to destroy those weapons deemed surplus to requirement.⁴³ At the same time, only these two treaties prohibit unrestricted civilian access to light weapons while providing for voluntary weapon-surrendering initiatives and public awareness campaigns.⁴⁴ Three of these treaties are unique in terms of technical provisions: only the *UN Firearms Protocol* obliges parties to prevent deactivated weapons from reactivation;⁴⁵ only the *OAS Convention* provides for extradition among its parties;⁴⁶ and only the *Nairobi Protocol* addresses corruption within governments.⁴⁷

Thus, even though these treaties interrelate, technical differences render this treaty framework an incoherent response to the multifaceted challenge of controlling small arms and light weapons. As Part III of this thesis demonstrates, the intended effects of this incoherent response are easily mitigated, resisted, and eluded by those international actors who produce, transfer, and use these weapons. These arms control antagonists circumvent these instruments of international law not only because they are technically incoherent, but also because these treaties, even when assessed collectively, have pronounced limitations as strategic frameworks.

Once a treaty is in force, governments that are signatories to it should refrain from acting in any way that either undermines the intent of that treaty or is inconsistent with its articles, while those articles bind governments that have ratified the treaty: however, that treaty applies only to those governments that have signed and ratified it, and confers neither rights nor duties on any

⁴² Refer to Article 11 of the *SADC Firearms Protocol*; Article 9 of the *Nairobi Protocol*; and to Article 6 of the *UN Firearms Protocol*.

⁴³ Refer to Articles 8 & 10 of the *SADC Firearms Protocol*; and to Articles 6 & 8 of the *Nairobi Protocol*.

⁴⁴ Refer to Article 5(3)(b) and Articles 12 & 13 of the *SADC Firearms Protocol*; and to Article 3(c)(ii) and Articles 12 & 13 of the *Nairobi Protocol*.

⁴⁵ Refer to Article 9(a) of the *UN Firearms Protocol*.

⁴⁶ Refer to Article XIX of the *OAS Convention*.

⁴⁷ Refer to Article 17 of the *Nairobi Protocol*.

government until it enters into force.⁴⁸ Where governments are obliged to abide by treaty provisions, specific activities undertaken by these governments face constraints: in spite of these constraints, however, these governments do not surrender the power to act in ways contravening their obligations. Instead, governments violating their treaty obligations do so aware that those actions may carry consequences, some of which are perceived and calculated in advance.

Although there is no single, universally accepted, central authority regulating all affairs among governments, officials can enter into binding arrangements regarding their government's conduct. While governmental consent is required for such an obligation to exist, the authority to observe and cast judgement upon any government's actions relating to this consent remains decentralised, dispersed, albeit unequally, among actors of contemporary world affairs. "States may have many reasons, both political and economic," Ted Legget suggests, "for wishing to appear to be in line with global trends on arms control, while actually fostering illicit commerce."⁴⁹ These treaties contain no formal mechanism through which parties can find assurance that other parties abide by those articles and provisions; that is, there is little oversight of the administration of other governments' activities relating to these treaties. Aside from Article 16 of the *UN Firearms Protocol*, which explicitly directs parties to resolve disputes through the International Court of Justice, there is no compulsion to seek recourse from a higher authority in order to derive judgement on a government's activity or its interpretations of certain provisions. Consequently, there are no indications of the shape a penalty for non-compliance might take, if one was detected.

⁴⁸ There are, moreover, many derogations and reservations relating to these treaties. See, for example, the reservations and declarations relating to the *UN Firearms Protocol*, <http://www.unodc.org/en/crime_cicpp_signatures_firearms.html> (accessed 2 April 2007). Of course, any such reservation does not evade the non-derogable *jus cogens* peremptory international rules admitting of no exception, by way of exercising sovereign prerogative, as to the prohibition of acts of genocide and/or crimes against humanity.

⁴⁹ Ted Legget, "Law Enforcement and International Gun Trafficking," in *Running Guns: The Global Black Market in Small Arms*, ed. Lora Lumpe (London: Zed books, 2000), 210.

While all four treaties have entered into force, the rate of ratification limits their collective geographic coverage. In sum, there are nearly 50 governments which are signatories to any one of these treaties, but which have failed to ratify the relevant instrument. More specifically, eight of the 34 signatories to the *OAS Convention* have yet to ratify; 27 of the 52 signatories to the *UN Firearms Protocol* have yet to ratify; three of the 13 signatories to the *SADC Firearms Protocol* have yet to ratify; and three of the twelve signatories to the *Nairobi Protocol* have yet to ratify.⁵⁰ Among those governments that have signed but not yet ratified treaties, Austria, Brazil, PRC, Germany, India, Italy, South Korea, UK, and the US are considered by the Small Arms Survey to be either major or medium-sized producers of small arms and light weapons. In addition, there are almost one hundred governments under no treaty obligations whatsoever, including the Czech Republic, Egypt, Hungary, Israel, Pakistan, Russian Federation, Singapore, Spain, and Switzerland, countries which are also considered as either major or medium-sized producers of these weapons.⁵¹ Significantly, much of the world's capability to produce small arms and light weapons remains outside this treaty framework.

Because they seek to restore or preserve governmental monopoly over the legitimate use of force, hints of government culpability in instances of small arms misuse are rare, if not wholly absent, in both the preambles and the texts of these treaties. Although there are provisions calling for the exchange of criminal-related information and law-enforcement expertise among parties to these treaties, this information will remain concealed from the public for reasons of strategic and operational security: the cloak of official secrecy continues to shield governmental enforcement activities from citizens' view as provision for either domestic public oversight or civil society scrutiny are absent—as are, therefore,

⁵⁰ These figures given here are as at September 2006. For more up-to-date figures, please refer, respectively, to <http://www.oas.org/juridico/english/Sigs/a-63.html> (accessed 19 September 2006), <http://www.sadc.int/english/documents/legal/protocols/status.php> (accessed 19 September 2006), http://www.unodc.org/unodc/en/crime_cicp_signatures_firearms.html?print=yes (accessed 19 September 2006) <http://www.iansa.org/regions/cafrica/nairobi-protocol.htm> (accessed 19 September 2006).

⁵¹ Small Arms Survey, *Small Arms Survey 2001*, 16.

transparency and accountability. The process of securitisation underpinning these treaties, moreover, not only fails to check the impunity often associated with official small arms and light weapons misuse and renders governmental abuses within its jurisdiction less visible to the international community, but also enables the easy concealment of covert arms transfers intended deliberately to destabilise other governments. Such destabilising transfers are unlikely to help (unwitting) recipient governments exert effective control over small arms and light weapons.

Where governments are party to a treaty, inadequate infrastructure perverts attempts to act in accordance with international obligations. As Stemmet notes, “the ideal of addressing the small arms/light weapons problem by means of regulation, namely to reach legally binding agreements at bilateral, regional and global levels, will be ill served if effective national measures are lacking.”⁵² The fulfilment of multilateral objectives depends upon governments possessing a domestic capability that can operationalise their obligations through the active detection, investigation, and prosecution of illegal operators, accompanied by imposing penalties sufficient to deter other would-be offenders. This capability is not always present, however: for example, although SADC includes a subcommittee consisting of representatives at the ministerial, which shares intelligence on a broad range of transnational matters, as well as that relating to the prevention of *coups d’etat*, most of its conflict-wary members have limited access to the scarce resources necessary to fully implement and effectively operate the *SADC Firearms Protocol*, including very limited access to basic technologies such as computer databases and weapon-destruction tools.⁵³

The domestic regimes underpinning these treaties are, moreover, geographically restricted to each government’s territory, as there are no provisions specifically controlling nationals operating illegally beyond a

⁵² Stemmet, 27.

⁵³ Stott, 7.

government's jurisdiction. And if such legal provisions did exist, administrative capacities are limited and enforcement resources scarce.

Where governments do act in accordance with their treaty obligations, progress has been uneven. For example, whereas Costa Rica and Trinidad and Tobago have increased the penalties for firearms-related offences, Colombia continues to complain that it receives very limited law-enforcement cooperation from other parties. In April 2002, many OAS members were not yet in full compliance with the *OAS Convention*, with less than half having nominated a central point of contact for the exchange of information, while even fewer governments had enacted the domestic laws enabling the exchange of information, or having the necessary record-keeping processes in place.⁵⁴ Interpretations of government behaviour differ, as it remains difficult to know if this uneven progress results from either a lack of sufficient political will or the inadequate provision of resources, or perhaps some combination of the two.

Even though these treaties encourage and enable governments to coordinate those administrative and enforcement activities which they may wish to undertake, little is offered in the way of restricting governments' freedom of action when authorising small arms and light weapons proliferation, transfer, or possession. In other words, there is no effective means enshrined in these treaties by which to regulate and control parties' activities, including restraining production volumes, deterring destabilising transfers, or preventing excessive accumulations. The *UN Firearms Protocol*, in particular, specifically excludes consideration of government-to-government transfers and there is little in the other treaties that create legal constraints on governments when transferring weapons to other governments. Consequently, as parties to treaties, governments continue authorising transfers to countries involved in conflict.

All this is not to suggest that governments have been prevented from taking action in accordance with the provisions of these treaties, or deterred from going beyond these provisions by enacting stricter controls, but rather, to signal that

⁵⁴ Schroeder, 26-7.

any such government does so under no treaty obligation and without prejudice to either future inactivity or foreign policy reversals. Signatories already respond in ways that might create norms, if not for the purposes of customary international law, then at least in setting precedents for government behaviour in contemporary world affairs. Given the significance of these technical and strategic limitations however, much doubt exists over the current treaty framework's capability to exert control over small arms and light weapons. And the dismal record to date, in which small arms and light weapons continue to be widely available and subject to ongoing use, does little to suggest otherwise.

Soft Law Measures

Treaties are not the only instruments of international law through which intergovernmental organisations respond to the widespread availability and ongoing use of small arms and light weapons. Since the late 1990s, at least a dozen major soft law measures relating to small arms and light weapons have undergone negotiation and achieved consensus, though one of these has failed to take hold. Soft law measures constitute a commitment by governments, usually belonging to an intergovernmental organisation, to cooperate for a common end and to refrain from acting in any way undermining the intent informing a particular measure.⁵⁵ The operative verb in such instruments of international law is 'should' rather than 'shall.' Hence, soft law measures are not legally binding instruments whereby governments explicitly consent to be bound by a series of articles. Consequently, a government's behaviour relating to these measures cannot be the subject of a legal dispute among governments.

While soft law measures are "not 'law' in the sense of producing legally binding rights and obligations...[they can and do] spur the development of new rules of customary international law and/or lay the foundation for new treaty

⁵⁵ Nadia Fischer, "Outcome of the United Nations process: the legal character of the United Nations Programme of Action," in *Small Arms and Light Weapons: Legal Aspects of National and International Regulation* eds. Erwin Dahinden, Julie Dahlitz and Nadia Fischer, Vol.IV, Arms Control and Disarmament Law (Geneva: United Nations, 2002), 159.

law.”⁵⁶ In other words, where a treaty binds those governments that have ratified the instrument and proscribes certain activities to those governments that have signed it once it enters force, governments neither sign, nor ratify soft law measures. Instead, these measures apply to all those governments involved in their negotiation.

The power of a soft law measure lies, therefore, in the norms it creates which, in turn, influence and prescribe, to a limited degree, the conduct of governments except where a government has “consistently and persistently” objected to the rule or to the expression of that rule.⁵⁷ In this respect, the conduct of governments relating to soft law measures is just as, if not more important than, the instrument’s text, providing the basis from which to develop norms which could inform customary international law with respect to controlling small arms and light weapons, but only after a sufficient period of time has elapsed (though that which constitutes ‘sufficient’ is a highly contestable matter).

While most of these measures focus upon specific regions and subregions, some engage co-called developed nations possessing significant weapons-producing capability. The potential for global geographic coverage renders the *UNPoA* unique among these soft law measures. And as a recent *Biting the Bullet* publication notes: “As a general rule, where a sub-region has developed substantial regional agreements and programmes of action to address [small arms and light weapons] issues, the states within that sub-region have made more progress towards national implementation [of the *UNPoA*].”⁵⁸

The *Bamako Declaration*, adopted in March 1997 by members of the Organization of African Unity (OAU), was among the first attempts to express a multilateral response to the challenge of controlling small arms and light weapons at a continental level. Calling upon non-state actors to assume an important role in providing a workable and durable solution to this challenge, this declaration, a single page in length, obscures the role played by some

⁵⁶ Small Arms Survey, *Small Arms Survey 2003*, 219.

⁵⁷ *Ibid*, 218.

⁵⁸ *Biting the Bullet, Reviewing Action on Small Arms 2006*, 4.

governments in creating, intensifying, and prolonging many of the problems associated with small arms and light weapons. This declaration, for example, seeks to “[l]aunch an appeal to the various actors in society: women, young people, elected representatives, members of the armed forces, communicators and educators, to work for the building of peace and democracy, and for development in a spirit of solidarity and tolerance.”⁵⁹ There is a strong sense in which this declaration seeks to justify any and all action towards combating the problems associated with small arms and light weapons in the name of, say, respecting human rights, but offers little in the way of practical measures enabling the actual exertion of control over these weapons. While commendable for promoting the urgency of responding to this challenge and useful for diplomatic posturing, the *Bamako Declaration* is moribund as a strategic framework.

The OAU followed up its 1997 declaration with a more robust declaration in 2000: the *African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons* (African Common Position).⁶⁰ Since the emergence of this declaration, the AU has replaced the OAU and, to date, much of the AU’s effort appears directed towards fulfilling its members’ obligations under the *UNPoA*. At the AU Summit held in Khartoum in January 2006, for example, the “Windhoek Position” was endorsed as “a basis for the African common position, and for debate and negotiation at the UN Review Conference in June/July 2006.”⁶¹ As a regional organisation, the AU’s response to the challenge of controlling small arms and light weapons signals a partial shift away from a preference for regional internationalism towards a preference for

⁵⁹ The full text of the *Bamako Declaration* is available at <<http://www.unesco.org/cpp/uk/declarations/bamako.pdf#search=%22bamako%20declaration%201997%22>> (accessed 15 September 2006).

⁶⁰ The full text of this instrument is available at <<http://www.disarmament.un.org/rdb/Meetings,%20Conf%20and%20Events/LASconf/bamakosaaf01.pdf#search=%22OAU%20African%20Common%20Position%20on%20the%20illicit%20Proliferation%2C%20Circulation%20and%20Trafficking%20of%20Small%20Arms%20and%20light%20Weapons%22>> (accessed 29 September 2006).

⁶¹ Virginia Gamba, “Africa Leads in Small Arms Control,” *Pax Africa* (February-May 2006): 3.

global internationalism; yet, at the same time, crucial subregional responses have taken shape within the continent. "In turn," according to Monica Kathina Juma, "these developments have influenced and shaped international trends in terms of the development of desirable governance frameworks for dealing with [small arms and light weapons]." ⁶²

A regional response has also emerged from within the Pacific where members of the Pacific Island Forum (PIF) adopted the *Nadi Framework* in March 2000. ⁶³ Building upon the *Honiara Initiative: Agreement in Principle on Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Material (Honiara Initiative)*, which outlines a regional approach, the *Nadi Framework* seeks to establish new, and harmonise existing, domestic legislation dealing with small arms and light weapons among PIF members. ⁶⁴ Under the *Nadi Framework*, PIF members involved in transferring small arms and light weapons are supposed to inform other members whose territory the consignment is transiting. ⁶⁵ PIF members are also expected to share information relating to the identity of any authorised dealer and user of these weapons, any relevant criminal intelligence, and any useful operational, enforcement, and legislative experiences. ⁶⁶ Progress towards implementing the *Nadi Framework* has, furthermore, sought to incorporate PIF members' obligations under the *UNPoA*, including "any substantive issues arising out of the [2001 Small Arms] Conference." ⁶⁷

Unlike all other measures discussed in this chapter, an individual's right to possess and use a small arms or light weapon as a civilian is inscribed here as a

⁶² Monica Kathina Juma, "Editorial Comment," *Pax Africa* (February-May 2006): 2.

⁶³ The PIF comprises of the following members: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, PNG, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The full text of the *Nadi Framework* is available at <<http://www.globalpolicy.org/security/smallarms/regional/nadi.rtf>> (accessed 15 September 2006).

⁶⁴ Alpers and Twyford, 108.

⁶⁵ Refer to Article 6.1(b) of the *Legal Framework for a Common Approach to Weapons Control Measures*.

⁶⁶ Refer to Article 9.1(g) of the *Legal Framework for a Common Approach to Weapons Control Measures*.

⁶⁷ Alpers and Twyford, 109.

privilege conditional upon community safety, signalling the residual force of customary practice in the Pacific's traditional ways of life. The *Nadi Framework* refers specifically to governmental possession of these weapons—justifiably given the recent crises unfolding in Bougainville, the Solomon Islands, and Fiji, each facilitated, in part, by the relaxed security controls over government arsenals.

Another regional response has emerged from within the EU,⁶⁸ comprising of three separate but interrelated instruments which, according to Anders, represent “a framework for multilateral arms policies that, while still containing serious shortcomings, is, at present, undoubtedly the most sophisticated approach to conventional and small arms control.”⁶⁹ First, the *EU Programme*, which encourages cooperation among law-enforcement agencies targeting illicit manufacture and trafficking of small arms and light weapons, was adopted by the EU Council in June 1997. Second, the *EU Code of Conduct*, providing a framework for restraining transfers of conventional weapons by EU members into locations where there is a risk that these weapons will facilitate internal repression, international aggression, or constitute a threat to regional security, was established by the EU Council in June 1998. Third, the *EU Joint Action on Small Arms*, which is a legally binding measure promoting support to those countries negatively affected by the widespread availability and ongoing use of these weapons where those countries request assistance, was adopted in December 1998.⁷⁰ The negotiation of this framework occurred as the European arms-manufacturing industry underwent restructuring and trans-nationalisation

⁶⁸ As at July 2005, EU membership included: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the UK. For the full text of the *EU Programme for Preventing and Combating Illicit Trafficking*, *EU Code of Conduct*, *EU Joint Action on Small Arms*, refer to, respectively: <http://www.sipri.org/contents/expcon/eu_illicit.html>, <<http://www.fas.org/asmp/campaigns/code/eucodetext.htm>>, <http://www.nisat.org/EU/EU%20Joint%20Action%20on%20Small%20Arms%20and%20Light%20Weapons/EU_Joint_Action.htm> (accessed 26 September 2006).

⁶⁹ Anders, “The Role of Non-State Actors in the European Small Arms Regime,” 12.

⁷⁰ *Ibid*, 7-8.

following the ending of the Cold War, a time when economic competitiveness replaced superpower interests as the primary factor informing arms exports decisions. At the same time, however, policymakers were acutely attentive to the role played by European arms transfers in the 1991 Gulf War and to the potential benefit of restraining future destabilising transfers.⁷¹

Like the EU, members of the Organization for the Security and Cooperation in Europe (OSCE) have agreed to abide by a tripartite framework.⁷² First, the *OSCE Principles Governing Conventional Arms Transfers*, adopted in November 1993, commits members transferring arms to consider various factors pertaining to the recipient government and discourages exports that might be used to commit human rights violations or threaten governmental security. Second, the *OSCE Document on Small Arms and Light Weapons*, adopted in November 2000, consists of six sections which devote specific attention to combating illicit activities, introduce common export criteria and controls over government-held stockpiles and, unlike most measures, provides for disarmament processes in post-conflict settings. Third, the *OSCE Document on Stockpiles of Conventional Ammunition*, adopted in November 2003, provides for the destruction of ammunition which is surplus to requirement. The focus on disarmament here reflects that much of South Eastern Europe—Bosnia and Herzegovina, Croatia,

⁷¹ Sibylle Bauer and Mark Bromley, *The European Union Code of Conduct on Arms Exports: Improving the Annual Report*, SIPRI Policy Paper no.8 (Stockholm: Stockholm International Peace Research Institute, 2004), 2.

⁷² The OSCE include the following members: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Ireland, Iceland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, UK, US, and Uzbekistan. For a full text of the *OSCE Principles Governing Conventional Arms Transfers*, refer to <http://www.osce.org/documents/fsc/1993/11/460_en.pdf> (accessed 15 September 2006), for a copy of the *OSCE Document on Small Arms and Light Weapons*, refer to <<http://www.sipri.org/contents/expcon/OSCE2000.html>> (accessed 15 September 2005), and for a copy of the *OSCE Document on Stockpiles of Conventional Ammunition*, refer to <http://www.osce.org/documents/fsc/2003/11/1379_en.pdf> (last accessed 15 September 2006).

and Serbia and Montenegro, for example—suffered intense conflict during the 1990s, though the “activities of established criminal networks coupled with porous borders and weak arms exports controls has in the past resulted in weapons being trafficked to Western Europe and beyond, including in some cases to conflict zones.”⁷³

The *ECOWAS Moratorium*, adopted on 31 October 1998, shapes government controls over small arms and light weapons, and has been especially significant in Nigeria, Ghana, and Senegal.⁷⁴ Subregional in geographic coverage, 15 West African governments declared this voluntary measure. This measure does not discriminate between government and civil activities, aiming instead to promote confidence-building among its participants and their neighbours by choosing to not manufacture, import, or export light weapons, though participants can apply for exemptions, particularly when replacing damaged and obsolete weaponry that will be destroyed.⁷⁵ The *ECOWAS Moratorium* has been effective despite finding expression in, as Stemmet puts it:

the weakest possible language: it merely “declares” a moratorium, without focusing on any specific measures of implementation: more than half of the one-page text consists of the Preamble. It therefore amounts merely to a voluntary political decision by the heads of state: no provision is made for the movement towards implementation of the moratorium in national legislation or for an institution that could monitor and effect implementation.⁷⁶

⁷³ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, *South Eastern Europe SALW Monitor 2005* (Belgrade: South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, 2005), 1.

⁷⁴ Christiane Agboton-Johnson, Adedeji Ebo, and Laura Mazal, *Small Arms Control in Ghana, Nigeria and Senegal*, West Africa Series no.2 (London: International Alert, 2004), 9.

⁷⁵ These 15 states are as follows: Benin, Cape Verde, Cote d’Ivoire, Burkina Faso, Guinea, Ghana, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and the Togolese Republic. For a full text of the moratorium, refer to <<http://www.wcc-coe.org/wcc/what/international/ecowas.html>> (accessed 27 September 2006). For details on exemptions, see Adedeji Ebo, *Small Arms Control in West Africa*, West Africa Series no.1 (London: International Alert, 2003), 20.

⁷⁶ Stemmet, 22. In spite of being ‘politically binding’ and lacking an oversight mechanism for member-state activity, this moratorium restrains member-state activities and makes transparent member-state use of discretion; and, although there is no independent body to ensure state compliance, self-policing, underpinned only by the good faith of its participants, has not provided any publicly available evidence suggesting that any

Awash with these weapons for reasons linked to the Cold War and to the continent's decolonisation,⁷⁷ West Africa was host in the 1990s to most of the world's small wars and intra-state conflicts and, as Herbert pointed out in 2000, "no less than half a dozen of the 16 regimes governing in West Africa are still products of military coups. A good many others are maintained in office as a front for military power holders."⁷⁸ Hence, the apparent success of the moratorium lies not in spite of, but quite possibly because of, a subregional context that witnessed circumstances nearing endemic civil war. This is promising for all those confronting the small arms and light weapons challenge, though, more sceptically, it also implies that elsewhere nothing much will be done until the situation is as bad as parts of Africa during the 1990s. Not all assessments have been so rose-tinted, however. According to Greene, for instance, "[i]n several ECOWAS countries, the military and the arms transfer licensing authorities were apparently unaware that their government had declared the moratorium."⁷⁹

More recently, another subregional soft law measure has emerged. On 25 June 2003, Foreign Ministers from Bolivia, Colombia, Ecuador, and Peru adopted the *Andean Plan to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in all its Aspects (Andean Plan)*.⁸⁰ The plan itself was largely derived from the *UNPoA*, articulated with technical support and financial resources from SaferAfrica, though the commitment to action can be traced back to the Lima Commitment, agreed in June 2002. In May 2005, government experts from the

member-state has acted in a manner inconsistent with their obligations under the moratorium.

⁷⁷ Boh Herbert, "Introduction," in *The Making of a Moratorium on Light Weapons* (Lomé, Togo: UN Regional Centre for Peace and Disarmament in Africa, Norwegian Institute of International Affairs, and the Norwegian Initiative on Small Arms Transfers, 2000), 25.

⁷⁸ Boh Herbert, "Instability and Insecurity in West Africa: State of the Art," in *The Making of a Moratorium on Light Weapons* (Lomé, Togo: UN Regional Centre for Peace and Disarmament in Africa, Norwegian Institute of International Affairs, and the Norwegian Initiative on Small Arms Transfers, 2000), 34.

⁷⁹ Greene, 160.

⁸⁰ For the full text of this measure, please refer to: <<http://www.comunidadandina.org/INGLES/normativa/D552e.htm>> (accessed 26 September 2006).

Andean community met, recommending “the preparation of Community legislation to regulate control of the importation, exportation and movement of firearms, explosives and related material in the subregion.”⁸¹ Like the *OAS Convention*, the *Andean Plan* can be seen as a tool combating the subregion’s organised criminals and narcotics traffickers, though “[a]ll of the Andean countries have been arms suppliers to the Colombian conflict at one or other of its stages.”⁸²

Described by Steffan Sohlman as “the first global multilateral agreement covering exports controls on both conventional weapons and sensitive dual-use goods and technologies,”⁸³ the *Wassenaar Arrangement* was established in September 1996 in order to prevent destabilising accumulations of weapons by promoting the transparency of transfers of certain goods, materials, and technologies. In particular, it was envisaged that transparency would follow the exchange, among governments, of information relating to authorised transfers. The *Wassenaar Arrangement* consists of two major lists, one dealing with dual-use goods and technologies, the other with munitions, including small arms and light weapons. Like participants of the *EU Code of Conduct*, the 40 participating governments of the *Wassenaar Arrangement* are expected to exercise restraint in exporting items described on its agreed lists where these items might be used for military purposes, either by a government that behaves in a manner causing concern to the international community, which presumably includes internal repression and international aggression, or to a region experiencing circumstances causing concern to the international community.⁸⁴

⁸¹ Andean Community, “Press Release: Andean experts propose a common arms control regime.” <www.comunidadandina.org/INGLES/press/press/np20-5-05.htm> (accessed 26 September 2006).

⁸² William Godnick and Helena Vásquez, *Small Arms Control in Latin America*, Latin America Series no.1 (London: International Alert, 2003), 20.

⁸³ Steffan Sohlman, “The Wassenaar Arrangement and the Proposed Moratorium for West Africa” <http://www.nisat.org/publications/the%20west%20africa%20book/wassenaar_arrangement> (accessed 06 June 2004).

⁸⁴ As at March 2007, participants of the *Wassenaar Arrangement* include the following states: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan,

Participating governments, most of which are considered to be so-called developed nations, meet at least once each year and both lists are subject to regular review and are revised on an as-required basis, though consensus is required to revise any item on these lists. Although originally focused upon weapons of mass destruction, in December 2002 the participating governments agreed to intensify their sharing of terrorism-related information, adopting *Best Practice Guidelines for Exports of Small Arms and Light Weapons*.⁸⁵ (The adoption of these guidelines echoes the guidelines implicit in the *UNPoA* and the *OSCE Document on Small Arms and Light Weapons*.⁸⁶) This reflects a shift in contemporary perceptions of security threats following the terrorist attacks in the US on 11 September 2001 and the legacy of the 1991 Gulf War, both of which register concurrently in the minds of policymakers.

As mentioned in the previous chapter, following a recommendation by the UN Panel of Governmental Experts on Small Arms, the UN General Assembly announced on 15 December 1999 its decision to hold a conference focusing on the illicit trade in small arms and light weapons at New York between 9 and 20 July 2001.⁸⁷ The resulting *UNPoA* has been proclaimed “the centrepiece of multilateral efforts,”⁸⁸ “a milestone achievement in multilateralism,”⁸⁹ “a

Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, Spain, South Africa, Sweden, Switzerland, Turkey, Ukraine, UK, and the US. For a full text of the *Wassenaar Arrangement*, refer to <<http://www.wassenaar.org>> (accessed 31 March 2007).

⁸⁵ US State Department, “Fact Sheet,” 22 March 2004 <<http://www.state.gov/t/np/rls/fs/30957pf.htm>> (accessed 6 June 2004).

⁸⁶ Michael von Tangen Page, William Godnick, and Janani Vivekananda, *Implementing International Small Arms Controls: Some Lessons from Eurasia, Latin America and West Africa* (London: International Alert, 2005), 12.

⁸⁷ United Nations General Assembly, *General and Complete Disarmament*, UN Doc. A/RES/54/54 (New York: United Nations, 1999), section V, paragraph 1.

⁸⁸ Krause, 248.

⁸⁹ United Nations General Assembly, *Report of the United Nations First Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN Doc. A/conf.192/bms/2003/1 (New York: United Nations, 2003), paragraph 5. For a full text of the *UNPoA*, refer to <<http://www.disarmament.un.org/cab/poa.html>> (accessed 27 September 2006).

watershed event,"⁹⁰ and "the central global agreement on preventing and reducing trafficking and proliferation"⁹¹ of small arms and light weapons. Over 150 governments reached consensus on the *UNPoA*. But among those governments developing this soft law measure, some would have preferred an instrument legally binding governments to its provisions.⁹² And the conference has not been without its critics. For Karp:

It is no exaggeration to say that efforts to deal with the issue would be more aggressive today if the conference had never taken place. Even worse than the underwhelming final document was the climate of hopelessness it left behind. The whole issue has acquired a bad taste that will take some time to wear off.⁹³

Nevertheless, the *UNPoA* is the broadest-ranging and most inclusive of all the measures devised by intergovernmental organisations as a means of providing frameworks for regulatory regimes controlling small arms and light weapons. It perceives the challenge of controlling these weapons in terms beyond the nexus of securitisation and criminalisation to include issues such as the introduction and development of conflict prevention methods, the abolition of child soldiering, and humanitarian recovery. In other words, the *UNPoA* is not merely an arms control measure, but also responds to varying impacts created, at least in part, by the widespread availability and ongoing use of these weapons. The *UNPoA* has, moreover, built upon and overtaken some regionally-focused soft law measures, while other instruments of international law have been informed by the *UNPoA* as it gathers momentum.

Here, then, soft law measures emerge from within particular intergovernmental organisations, responding to the challenge of controlling small arms and light weapons from within unique historical circumstances, as does treaty law. The common belief in collective security as a prime source of international security is again underscored by these measures though, at the

⁹⁰ Brem and Rutherford, 181.

⁹¹ *Biting the Bullet, Implementing the Programme of Action 2003*, 4.

⁹² Fischer, 158.

⁹³ Karp, "Laudable Failure," 178.

same time, some significant weaknesses inherent in the existing internationalist governance architecture are exposed, as they are in the cases of the abovementioned treaties.

Like treaties, soft law measures interrelate. The *UNPoA* encourages governments to strengthen existing moratoria, as well as any other regional and subregional attempts to prevent and combat small arms trafficking.⁹⁴ More specifically, the *EU Code of Conduct* refers to the *Wassenaar Arrangement*,⁹⁵ the *EU Joint Action on Small Arms* welcomes the *ECOWAS Moratorium*,⁹⁶ and the *Andean Plan* refers to the *UNPoA*.⁹⁷ The linkage between the *ECOWAS Moratorium* and the *Wassenaar Arrangement* has proven valuable because the moratorium has been supported by those weapons-producing governments participating in the *Wassenaar Arrangement*,⁹⁸ as well as by former Cold War opponents, former colonial masters, and major arms-producing firms.⁹⁹ Soft law measures also interrelate with treaties. Whereas the *EU Code of Conduct* refers to treaties regarding weapons of mass destruction, the *Andean Plan* refers to the *OAS Convention*.¹⁰⁰ Adopting definitions of key terms appearing in treaties, the *UNPoA* builds upon an emerging mosaic of obligations by selecting standards and identifying norms from those treaties: paragraph 20 of its preamble recognises, for example, that the *UN Firearms Protocol* “establishes standards and procedures that complement and enforce efforts to prevent, combat, and eradicate the illicit trade in small arms and light weapons in all its aspects.” Paragraph 25 of the *UNPoA* also encourages governments to conclude, ratify, and implement other “legally binding instruments aimed at preventing,

⁹⁴ United Nations, *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, paragraph 26.

⁹⁵ Refer to the *European Union's Code of Conduct for Arms Exports*, Criterion One (e).

⁹⁶ Refer to the *European Union's Joint Action on Small Arms*, “preamble.”

⁹⁷ Andean Community, *Andean Plan to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in all its aspects*, Section C(2).

⁹⁸ Herbert, “Introduction,” 26.

⁹⁹ *Ibid*, 29.

¹⁰⁰ Refer to *OAS Convention*, “preamble.” Also, Article 2 of the *EU Joint Action on Small Arms* “shall enhance efforts to build consensus in the relevant regional and international forum....as the basis for regional and incremental approaches to the problem and, where appropriate, global international instrument on small arms.”

combating and eradicating the illicit trade in small arms and light weapons.” The Biting the Bullet project deems this to be a “web of mutually reinforcing commitments.”¹⁰¹

Like treaties, soft law measures also strengthen connections among intergovernmental organisations. In particular, the *UNPoA* seek to strengthen links with Interpol,¹⁰² while the *ECOWAS Moratorium* seeks support from the AU and the UN.

The nascent interconnectivity among the international community’s major responses to the challenge of controlling small arms and light weapons is evident in, and further enshrined by, intergovernmental measures of control referring explicitly to Security Council resolutions authorising collective action. The *EU Code of Conduct*, for example, refers to the importance of supporting UN sanction regimes,¹⁰³ whereas the *OSCE Document* gives focus to UN peacekeeping operations.¹⁰⁴ Section II, paragraph 15 of the *UNPoA* also encourages governments “to take appropriate measures, including all legal or administrative means, against any activity that violates a United Nations Security Council arms embargo.” As Kirkham and Flew observe:

Whilst it is recognised that the *UNPoA* contains measures that relate only to the illicit trade in small arms and light weapons, if implemented fully, many of these would serve to strengthen the international apparatus of control, information exchange and provision of assistance relating to arms proliferation and misuse as a whole. In turn, this would greatly enhance the implementation of UN arms embargoes.¹⁰⁵

¹⁰¹ Biting the Bullet, *Implementing the Programme of Action 2003*, 4.

¹⁰² Refer to *UNPoA*, paragraph 37.

¹⁰³ Refer to *EU Code of Conduct*, Criterion One (a).

¹⁰⁴ Refer to *OSCE Document*, Section 1, paragraph 3(ii).

¹⁰⁵ Elizabeth Kirkham and Catherine Flew, *Strengthening Embargoes and Enhancing Human Security*, Briefing Paper no.17 (London: Biting the Bullet, 2003), 8.

The Security Council reciprocated this interconnectivity when it “welcomed the results of the conference and expressed the council’s support for the actions that were agreed upon.”¹⁰⁶

Even though governments are its primary authors, the *UNPoA* calls for the participation of non-state actors, casting them in the role of arms control protagonists. Referring specifically to the potential role to be played not only by regional and subregional intergovernmental organisations, the UN Security Council, the WCO, and Interpol, but also by researchers and civil society organisations, this measure seeks to develop relationships among key arms control protagonists. Of particular relevance is paragraph 18 of Section III, which states the following:

States, regional and subregional and international organizations, research centres, health and medical institutions, the United Nations system, international financial institutions and civil society are urged, as appropriate, to develop and support action-orientated research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems associated with the illicit trade in small arms and light weapons in all its aspects.

The *UNPoA* is not the only soft law measure invoking the involvement of these non-state actors: the *Andean Plan* seeks the “active involvement of civil society in formulating and implementing a national program of action”¹⁰⁷ while the *EU Joint Action* provides for financial and technical assistance to the International Committee of the Red Cross in particular.¹⁰⁸

While the negotiation of soft law measures may foster willingness among governments to undertake action against illicit small arms and light weapons manufacture and transfer, enabling the better coordination of their activities exerting control over these weapons, these measures also prove useful for identifying those governments experiencing delays or difficulties implementing

¹⁰⁶ Camilo Reyes Roderiguez, “The UN Conference on Small Arms: Progress in Disarmament through Practical Steps,” *Brown Journal of World Affairs* 9, no.1 (Spring 2002): 175.

¹⁰⁷ Refer to the *Andean Plan*, Section A, paragraph 4(g).

¹⁰⁸ Refer to the *EU Joint Action on Small Arms*, Article 6(1).

them. The adoption of soft law measures encourages members of the international community—other governments, members of civil society organisations, and researchers—to use them as a touchstone from which to scrutinise governments' conduct. Indeed, the BMS occurring in 2003 and in 2005 in New York, along with the UN Small Arms Review Conference held in 2006 also in New York, are pertinent to this undertaking. By creating a further source of external pressure upon those governments displaying hesitancy or reluctance to follow through with, and deliver on, their commitments, soft law measures interconnect the major responses to the widespread availability and ongoing use of small arms and light weapons. Here, then, while treaties and soft law measures are interrelated at a technical and strategic level, these instruments of international law also seek to formally interconnect the strategies for, and approaches towards, controlling these weapons, while helping develop maturing relationship among key arms control protagonists as they confront this challenge.

Unlike those treaties obliging state-parties to regulate the relevant industrial and commercial sectors—as a means of distinguishing illicit activity from the regulated manufacture and trade receiving official consent, and of enabling cooperation among governments through improved information flows and the timely identification of suspected illegal operators—soft law measures tend to encourage restraint over official transfers. Whereas the *ECOWAS Moratorium* prohibits the import and export of these weapons by its participants, the *EU Code of Conduct*, the *OSCE Document*, and the *Wassenaar Arrangement* each provide a set of criteria against which participants ought to assess proposed transfers. The *EU Code of Conduct*, for example, comprises eight criteria against which potential exports are to be assessed before they can be authorised for transfer.

Not all attempts to restrain officially-authorized transfers are expressed so strongly, however. Whereas the *UNPoA* calls for governments to assess export applications in light of “the risk of diversion of these weapons into the illegal

trade,”¹⁰⁹ the *Nadi Framework* merely urges members to “notify one another when firearms, explosives, other related materials and prohibited weapons are in transit through their respective territories.”¹¹⁰ The *OSCE Document, Andean Plan*, and the *UNPoA* also call for brokers of small arms and light weapons to be regulated,¹¹¹ and for their professional activities to be authorised, a measure which would further enhance the government’s ability to control and, by extension, restrain transfers.

Beyond restraining officially-authorised transfers of small arms and light weapons, soft law measures address other major aspects of the challenge of controlling these weapons, some of which have been addressed by some treaties, but neglected by others. While not all measures encourage better stockpile management and improved security of government-held stockpiles, the *OSCE Document, Andean Plan*, and the *UNPoA* do so explicitly,¹¹² as do the *SADC Firearms Protocol* and *Nairobi Protocol*. Moreover, these measures call for cooperative law-enforcement operations targeting illegal production and trafficking, as well as public awareness campaigns and weapons-surrendering initiatives aimed at civilian users, as do the *SADC Firearms Protocol* and *Nairobi Protocol*.¹¹³ Each of these measures provides for the destruction of surplus government-held weaponry, as well as of those weapons seized and confiscated from criminal users. This technical commonality between soft law measures and treaties, which creates a mosaic of responsibilities comprised of obligations and commitments, is further strengthened where governments belong to more than one of these frameworks.

Focusing upon such commonality among soft law measures, however, tends to obscure the extent to which technical inconsistencies abound among these

¹⁰⁹ Refer to the *UNPoA*, Article 11.

¹¹⁰ Refer to the *Nadi Framework*, Article 6.1(b).

¹¹¹ Refer to the *OSCE Document*, Section III(d); the *Andean Plan*, Section A, paragraph 4(f); and the *UNPoA* section II, paragraph 14.

¹¹² Refer to the *OSCE Document*, Section IV(b); the *Andean Plan*, Section A, paragraph 4(c); and the *UNPoA*, Section II, paragraph 10 and paragraph 17.

¹¹³ Refer to the *OSCE Document*, Section III(e); and the *UNPoA*, Section II, paragraphs 27 & 28.

frameworks. Indeed, technical inconsistencies pervading this mosaic of responsibilities threaten to undermine the objectives of these agreements. The *UNPoA*, representing a substantial range of commitments undertaken by governments to control small arms and light weapons, while also addressing some of the most disturbing associated impacts, is broader in technical scope than any of the treaties examined earlier in this chapter. However, as an autonomous framework, the *UNPoA* contains reference neither to restraining the volume of small arms and light weapons being produced, nor to reducing flows of small arms and light weapons. It does not contain provision for oversight over official discretion pertaining to authorised transfers.¹¹⁴ (A definition of small arms and light weapons is absent here too.¹¹⁵) The *UNPoA* is, moreover, limited by its neglect of regulating civilian ownership and Camilo Reyes Rodriguez, President of the 2001 UN Conference, expressed his “disappointment over the Conference’s inability to agree, due to the concerns of one State, on language recognizing the need to establish and maintain controls over private ownership of these deadly weapons and the need for preventing sales of such arms to non-State groups.”¹¹⁶ That single government withholding consensus was, of course, the US, though as is common in multilateral negotiations the

¹¹⁴ Transfers authorised by each of the Group of Eight of Industrialised States (G8), for example, have recently reached areas experiencing armed conflict, fallen into the hands of known human rights violators, and been delivered to states under EU embargoes: in particular, the following states have received weapons from G8 members; Sierra Leone, Colombia, Indonesia, India and Pakistan as states experiencing conflict or conditions approaching conflict; Egypt, Kazakhstan, Kuwait, Malaysia, Mexico, Saudi Arabia, Thailand, Turkey, and the United Arab Emirates as states in which human rights are violated; and finally Myanmar, Sudan, and the PRC, each the target of EU arms embargoes, have received weapons. The activities of the G8, six of which rank among the ten most significant exporters of small arms and light weapons, demonstrate both the inadequacy of existing national regulation and the weakness of current international obligations. For further details, please refer to Control Arms, *The G8: Global Arms Exporters: Failing to prevent irresponsible arms transfers*, Control Arms Briefing Paper, June 2005, <<http://www.controlarms.org>> (accessed 13 September 2006).

¹¹⁵ Krause, 250.

¹¹⁶ United Nations General Assembly, “Statement by the President of the Conference after the adoption of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects.”

known position of one delegation may represent the views and positions held by others.

Because soft law measures are based on the consent of all parties, they are sometimes criticised as embodying little more than the lowest common denominators. The danger here is, of course, that “consensus is simply another name for allowing a reluctant state to impose its veto.” For Peters, consensus is, therefore, a codeword for the “tyranny of the minority.”¹¹⁷

Even though other soft law measures deal with important aspects neglected by the *UNPoA*, some of these measures have a very narrow technical focus. While most soft law measures seek to restrain officially-authorized transfers of small arms and light weapons in order to limit their misuse, only the *ECOWAS Moratorium* restrains authorized production. The *Wassenaar Arrangement*, *ECOWAS Moratorium*, and the *Nadi Framework* do not provide for better stockpile management or for weapons collection and destruction programmes. The *Andean Plan*, *ECOWAS Moratorium*, *EU Code of Conduct*, and the *Wassenaar Arrangement* do not place restraints on civilian ownership. There is a strong resemblance, therefore, between treaties and soft law measures as technical inconsistencies among these instruments of international law preclude a coherent response to the multifaceted challenge of controlling small arms and light weapons.

In addition to those technical inconsistencies, strategic limitations dog these agreements. Negotiated within the UN General Assembly, the *UNPoA* does not necessarily apply to all UN members as some governments—specifically, Comoros, DRC, Equatorial Guinea, Kiribati, Mauritania, Saint Vincent and the Grenadines, Sao Tome and Principe, Seychelles, Somalia, and Tuvalu—attended neither the 2001 Small Arms Conference, nor the 2006 Review Conference. 23 other governments attended only one of these meetings.¹¹⁸

¹¹⁷ Peters, 8.

¹¹⁸ United Nations General Assembly, “List of Participants,” *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 9-20 July 2001, UN Doc. A/CONF.192/10 (New York: United Nations, 2001); United Nations General

Excepting the *UNPoA*, soft law measures are undermined by their limited participants and, by extension, geographic coverage. Even though most governments participate in at least one of the major soft law measures introduced by this chapter, a number of key arms-producing governments do not. In particular, Brazil, PRC, Egypt, India, Israel, Pakistan, Singapore, South Africa and Taiwan, each considered by the Small Arms Survey to be either major or medium-sized producers of small arms and light weapons,¹¹⁹ do not belong to either the *EU Code of Conduct*, *OSCE*, *ECOWAS Moratorium*, *Nadi Framework*, *Andean Plan*, or the *Wassenaar Arrangement*. Moreover, because fewer than 40 countries regulate brokering activities, transfers of small arms and light weapons persist regardless of the original production location.¹²⁰

Where governments consent to soft law measures, they do not always behave in accordance with their commitments, either acting in ways contravening their commitments or making uneven progress toward fulfilling those commitments. The implementation of the *UNPoA* is an instructive example in this regard. According to the Biting the Bullet Project:

After four years since the [*UNPoA*] was agreed, we are obliged to emphasise how little has so far actually been achieved in many respects....The scale of the interventions is generally not sufficient to have more than a local or marginal impact on the problems of [small arms and light weapons] trafficking, proliferation, and misuse....Many

Assembly, "List of Participants," *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 9-20 July 2001, UN Doc. A/CONF.192/10/add.1 (New York: United Nations, 2001); United Nations General Assembly, "List of Participants," *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 9-20 July 2001, UN Doc. A/CONF.192/10/add.2 (New York: United Nations, 2001); United Nations General Assembly, "List of Participants," *United Nations Conference to Review Progress made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 26-7 July 2006, UN Doc. A/CONF.192/2006/RC/INF/1 (New York: United Nations, 2006); United Nations General Assembly, "List of Participants," *United Nations Conference to Review Progress made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, New York, 26-7 July 2006, UN Doc. A/CONF.192/2006/RC/INF/1/Add.1 (New York: United Nations, 2006).

¹¹⁹ Small Arms Survey, *Small Arms Survey 2001*, 16.

¹²⁰ Biting the Bullet, *International Action on Small Arms 2005*, 6.

States have not really even put in place the basic mechanisms and procedures for [UNPoA] participation.¹²¹

Just as treaties are undermined by parties failing to fully administer and enforce their obligations, soft law measures are compromised by those governments that are reluctant to fulfil their commitments. Regardless of the reasons behind such conduct (or, more precisely, the lack of such conduct), whether it is deficient infrastructure, insufficient resources, or inadequate political will, very limited means are available to compel governments to remedy their conduct in light of their commitments, especially since the so-called 'naming and shaming' of those governments not acting in full accordance with their commitments has so far done little to inspire remedial action.

Although most soft law measures aim to provide greater transparency surrounding transfers, information exchanged through diplomatic channels usually remains confidential to governments because it circulates within the classified domain of the diplomat, or the defence or trade official. As such, information pertaining to the quantity, type, and destination of officially-authorized small arms and light weapons transfers often falls outside the scrutiny of civil society organisations, remaining unavailable to commercial operators, arms control activists, and researchers. Furthermore, although guidelines encourage officials to consult with other governments, the decision to transfer any item covered by, for instance, the *Wassenaar Arrangement*, lies with the exporting authority, as it does with the *EU Code of Conduct*. Officials thus exercise discretion when judging what constitutes a destabilising accumulation and when authorising such transfers. Confidentiality provisions ensure that information relating to the justifications surrounding officially-authorized transfers of these weapons, or the denial of such transfers, will, as Article IX of the Guidelines and Procedures for the *Wassenaar Arrangement* puts it, "remain confidential and be treated as privileged diplomatic communications,"¹²² thereby

¹²¹ Ibid, 10.

¹²² Refer to the *Wassenaar Arrangement*, "Initial Elements: Purpose," paragraph (4); See also the *EU Code of Conduct* "operative provisions" paragraph 3.

limiting the effects of any improved transparency and accountability over participating governments. While the details of these soft law measures are publicly available, specific information relating to the proposed, authorised, and prevented arms transfers occurring under their auspices is not.

Conclusion

In July 2001, six and a half years after Boutros-Ghali reported his "Agenda for Peace" to the Security Council, the then-Secretary-General Kofi Annan acknowledged that:

The world is flooded with small arms and light weapons numbering at least 500 million, enough for one of every 12 people on earth. Most of these are controlled by legal authorities, but when they fall into the hands of terrorists, criminals and irregular forces, small arms bring devastation. They exacerbate conflict, spark refugee flows, undermine the rule of law, and spawn a culture of violence and impunity. In short, small arms are a threat to peace and development, to democracy and human rights.¹²³

Even though these particular remarks celebrate the consensus reached over the *UNPoA*, such rhetoric and its attendant gestures must have been all too familiar to the international community by the turn of the millennium. Well briefed about the seriousness of the impacts associated with the widespread availability and ongoing use of small arms and light weapons, and recognising the urgency to control these weapons, policymakers began to negotiate and establish various control measures. This is not to suggest that these weapons, or the impacts they generate, are under control, but rather, that in the late 1990s members belonging to intergovernmental organisations were appreciating the dynamic contours and extreme magnitude of the impacts generated by the widespread availability and ongoing use of small arms and light weapons, and have since agreed to various obligations and commitments. Taken together, these instruments of international law comprise a mosaic of responsibilities shaping policymakers' conduct in ways enabling regulatory regimes to exert control over these weapons.

In fact, by creating this mosaic of responsibilities to exert control over small arms and light weapons, these instruments of international law constitute the central effort of the international community's response to this urgent challenge.

¹²³ Kofi Annan, "Small arms, big problems," <<http://www.un.org/Dept/dda/CAB/smallarms/sg.html>> (accessed 21 May 2002).

In spite of the varying justifications for confronting this challenge which emerge from within different intergovernmental organisations, a common belief in instruments of international law as a prime source of collective security informs these responses which, in turn, help reinscribe the internationalist governance architecture.

As an interrelated suite of strategic frameworks, however, this mosaic of responsibilities has limited capability to exert control over small arms and light weapons. Despite all four treaties examined in this chapter being in force, the geographic coverage of this strategic framework is inhibited by the reluctance of many governments to ratify these agreements. Although this chapter introduces twelve soft law measures confronting this challenge, relatively few governments act in a manner fully consistent with these measures. And where these instruments of international law take hold and their provisions are realised as obligations and commitments, technical inconsistency precludes a coherent response to the multifaceted challenge of controlling small arms and light weapons.

In brief, the negotiation, development, and implementation of these treaties and soft law measures as strategic frameworks does not restrain those governments seeking to protect, pursue, and promote their interests and, as this occurs, the opportunity to control these weapons suffers from negligence, as do the ongoing security needs of millions of victims of these subaltern killers. As this occurs, the internationalist assumptions informing these multilateral responses undergo interrogation by the intransigence of certain governments. Even though insufficient resources and inadequate will might explain why some governments fail to act in full accordance with their international obligations and commitments, the mosaic of responsibilities is in itself a deficient mechanism for controlling small arms and light weapons, with its primary deficiencies rooted in its technical incoherence and strategic limitations. Significantly, much of the world's weapons manufacturing capability falls outside this framework, particularly where treaty obligations are concerned. Moreover, the intended

effects of these responses are easily mitigated, resisted, and eluded by those international actors who produce, transfer, and use these weapons, as Part III of this thesis demonstrates.

But before the thesis considers those recalcitrant figures, the following chapter suggests the frustration caused by the widespread availability and ongoing use of these weapons to UN peacekeeping operations has not gone unnoticed by the UN Security Council and by those UN members either contributing resources and troops to these operations or working in concert with these operations. It explores the ways in which the UN Security Council exerts control over small arms and light weapons through its resolutions authorised under the UN Charter.

4. UNITED NATIONS SECURITY COUNCIL AND COLLECTIVE ACTION

The UN Security Council responds to the widespread availability and ongoing use of small arms and light weapons through some of its resolutions authorising sanction regimes and peacekeeping operations. Whereas sanction regimes containing arms embargoes seek to prevent transfers of these weapons from reaching targeted actors, peacekeeping operations administering DDR programmes seek to remove these weapons from the immediate reach of particular belligerents. Given that decisions taken under Chapter VII of the UN Charter by the Security Council's 15 members are to be respected by all 192 members of the UN, these resolutions can generate responsibilities resonating throughout the interstate system, often with powerful effect. On the one hand, some of these resolutions can create obligations to implement, administer, and enforce sanction regimes, while on the other hand some of these resolutions can encourage commitments, typically in the form of troop deployments, logistical support, and other resources required to establish and maintain peacekeeping operations.

These particular forms of arms control are, however, administered in competition with other operational priorities: declining travel visas, prohibiting certain financial transactions, and restricting the international trade of lucrative commodities, most notably diamonds, timber, and oil in the case of sanction regimes, as well as monitoring ceasefire agreements, reforming security sectors, and helping run 'free and fair' elections in the case of peacekeeping operations. While distinguishable as arms control measures, arms embargoes and DDR programmes must, therefore, be considered as an integral component of a larger range of activities pursued for particular ends. Significantly, successful arms control measures do not necessarily translate into successful sanction regimes

and peacekeeping operations, just as unsuccessful sanction regimes and peacekeeping operations do not necessarily follow the unsuccessful control of weapons. The question of 'what constitutes success' is also highly contestable. Unlike those intergovernmental responses analysed in the previous chapter, controlling weapons is not directly pursued by these activities as an end in itself, but rather, occurs in the course of the Security Council discharging its core responsibility of maintaining international peace and security.

Commencing with a brief outline of the formal procedure by which arms embargoes and DDR programmes receive authorisation from the Security Council, this chapter analyses these two very different forms of arms control in terms of their strategic capability and, in corollary, operational efficacy. It describes, first, ways in which the negotiation of resolutions within the Security Council is sometimes subject to considerations removed from the immediate issue at hand and, second, ways in which the effects of these considerations continue to shape mandates for collective action, often manifesting as strategic limitations and as operational constraints. After identifying these and other relevant operational constraints evident in the administration of sanction regimes and in the conduct of peacekeeping operations, this chapter considers the UN's monitoring processes, as well as some of the many difficulties confronting the Security Council when enforcing its resolutions.

The chapter draws to a close by noting the resemblance between the measures of control negotiated multilaterally within various intergovernmental organisations and the collective action authorised by the Security Council, both of which create a mosaic of responsibilities comprising of obligations and commitments while reflecting a common belief in collective security. This resemblance is, moreover, brought into sharper focus by observing that the composition of international law by intergovernmental organisations constitutes a particular notion of the political and this notion is identical to that asserted (at times forcefully) by the Security Council's collective action.

Authority, Purpose, and the Power of Veto

Founded in 1945 at the United Nations Conference on International Organisation held at San Francisco, California, the UN was designed, as Article 1(1) of the UN Charter illustrates, in order to “maintain international peace and security.” Under Article 24(1) of the UN Charter, the Security Council is granted primary responsibility for maintaining international peace and security among UN members. The Security Council can recommend or introduce measures under Articles 41 and 42 in order to maintain or restore international peace and security when it determines a threat to the peace exists, or that a breach of this peace or an act of aggression has occurred. Such preventative or remedial measures include sanction regimes and peacekeeping operations. For Andrew Mack and Asif Khan, these measures lie on a continuum of policy responses available to the Security Council, suggesting that sanction regimes not only help build international support for the collective use of force, but also grant a certain amount of legitimacy to the use of that force by virtue of being “a crucial rung in an escalation ladder of coercive measures.”¹

In accordance with Article 35(1) and (2), potential breaches of the international peace are brought to the Security Council’s attention by way of diplomatic representation by UN members, or by governments that are not members of the UN but consent to the obligations inherent in the pacific settlement of disputes. Once an item is on its agenda as a subject of discussion, the Security Council determines if a breach of the peace exists and, as a matter of course, encourages diplomatic solutions by inviting parties to the conflict to inform its deliberation. The Security Council’s deliberation on the nature of the threat to international peace posed by conflict, as well as the appropriateness of a UN response, has, however, been far from consistent and unanimous throughout its sixty-year history.

¹ Andrew Mack and Asif Khan, “The Efficacy of UN Sanctions,” *Security Dialogue* 31, no.3 (2000): 286; see also Arne Tostensen and Beate Bull, “Are Smart Sanctions Feasible?” *World Politics* 54 (April 2002): 399.

Reflecting the power distributed among governments during the establishment of the UN in the immediate aftermath of the Second World War, the five permanent members of the Security Council can veto measures interfering with the pursuit of their interests.² To be sure, the utility of the Security Council was, to a large degree, held hostage by superpower rivalries during the Cold War. However, by January 1992, the then US President George Bush (Snr.) was able to enthuse the following view regarding the First Persian Gulf War and the emergence of a new world order:

The U.N. was all too often paralysed by cruel ideological divisions and the struggle to contain Soviet expansion. And today, all that's changed. And the collapse of imperial communism and the end of the cold war breathe new life into the United Nations. It was just one year ago that the world saw this new, invigorated United Nations in action as this Council stood fast against aggression and stood for the sacred principles enshrined in the U.N. Charter.³

The frequency of Security Council resolutions authorising collective action has increased significantly since the end of the Cold War, signalling the power of veto no longer impedes the Security Council in the ways that it had during its first 45 years. Since 1947, the Security Council has authorised 60 peacekeeping operations, 42 of which it has authorised since 1991.⁴ The absence of mandatory embargoes during the Cold War, save for embargoes targeting Southern Rhodesia (1966-79) and South Africa (1977-94), also signals this disabling fracture of the Security Council along capitalist and socialist preferences, rather than any

² The five permanent members of the Security Council are, of course, PRC, France, Russian Federation, UK, and the US. The fall of the Chinese mainland to Mao Zedong in 1949 and the ensuing communist experiment saw China's permanent seat at the Security Council retained by the Guamindong, which fled to Taiwan. PRC obtained its permanent seat after the Nixon administration granted diplomatic recognition to the communist regime in 1971. With the dissolution of the Soviet Union in 1991, the Russian Federation obtained the permanent seat formerly occupied by the Soviet Union.

³ George Bush (Snr.), "Remarks to the United Nations Security Council in New York City, January 31, 1992 <<http://www.presidency.ucsb.edu>> (accessed 18 August 2004).

⁴ All figures cited here, unless otherwise indicated, are as up-to-date as possible at the time of writing. For more up-to-date information, please refer to <<http://www.un.org/Depts/dpko/>>.

perceived weakness inherent in sanction regimes: since the end of the Cold War, 16 sanctions regimes have been authorised.⁵ As Simon Chesterman and Béatrice Pouligny put it, the “sharp increase in the recourse to sanctions appears to have less to do with a consensus on their utility than with the more general political consensus that emerged within the [Security] Council after the Cold War.”⁶

This is not to suggest, however, that the power of veto has become obsolete. Its use is, of course, evident in the self-immunisation of the Security Council’s five permanent members against all UN enforcement action and, more specifically, in the retention of comprehensive economic sanctions against Iraq which the US proved reluctant to lift.⁷ Since the end of the Cold War, the US has also cast at least eleven vetoes regarding Israel, reflecting the so-called Negroponte doctrine.⁸

Nor does this suggest that the Security Council is now consistent and unanimous in its appraisal of contemporary conflict as a threat to international peace. According to Lotta Harbom and Peter Wallensteen, 16 locations hosted 17 major conflicts during 2005.⁹ Yet only ten sanction regimes are currently in force and only 15 peacekeeping operations are currently deployed: sanction regimes

⁵ Office of the Spokesman for the Secretary-General, “Use of Sanctions Under Chapter VII of the UN Charter,” <<http://www.un.org/news/ocsg/sanctions.htm>> (accessed 2 March 2006). Since this document was last updated in January 2006, sanctions targeting North Korea and Lebanon have been authorised.

⁶ Simon Chesterman and Béatrice Pouligny, “Are Sanctions Meant to Work? The Politics of Creating and Implementing Sanctions Through the United Nations,” *Global Governance* 9, no.4 (October-December 2003): 504.

⁷ Cortright and Lopez with Conroy, Dashti-Gibson and Waglar, 18 & 56.

⁸ Refer to “Statement by Ambassador John D. Negroponte, United States Permanent Representative to the United Nations, on the situation in the Middle East, at the Emergency Special Session of the General Assembly, August 5, 2002,” <http://www.usunnewyork.usmission.gov/02_112.htm> (accessed 26 October 2006), in particular the final paragraph. For more details concerning “The changing patterns of Security Council veto use, 1946-2004,” see Table 13.1, in Thakur, *The United Nations, Peace and Security*, 308.

⁹ Lotta Harbom and Peter Wallensteen, “Patterns of Major Armed Conflicts, 1990-2005,” *SIPRI Yearbook 2006: Armaments, Disarmament, and International Security*, <<http://www.yearbook2006.sipri.org/chap2/app2A>> (accessed 4 October 2006). However, “[s]ince the end of the cold war, there have been 57 major armed conflicts. There has been a steady decline in the number of conflicts since 1999, and the figure for 2005 is the lowest for the entire post-cold war period.”

targeting Liberia, Côte d'Ivoire, and the Democratic Republic of the Congo overlap, respectively, with UNMIL, the United Nations Operations in Côte d'Ivoire (UNCOI), and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC); and seven of those 15 peacekeeping operations are observer missions with little or no military force to project.¹⁰

Consensus surrounding the necessity of potential UN peacekeeping interventions in major armed conflicts occurring, for example, in Chechnya, Tibet, and until recently Northern Ireland, remains elusive among members of the Security Council primarily because these high-profile examples fall within the so-called spheres-of-influence of the Russian Federation, PRC, and the UK respectively.¹¹ (Incidentally, Nigeria, Mexico, India and the Philippines have each similarly "resisted peacekeeping in their own civil wars, even as they have participated in peacekeeping missions elsewhere."¹²) The potential conflict of interest, between the responsibilities granted to the permanent members of the Security Council and their status as the five largest arms producers in the world, has not gone unnoticed.¹³

The selectivity of recent collective action is, moreover, often influenced by the perceived national interests of Security Council members and "[t]he letter of the law, as imbedded in the text of resolutions, loses prominence, while the most powerful states, especially the United States, interpret the spirit of the resolutions

¹⁰ United Nations Disengagement Observer Force, United Nations Interim Force in Lebanon, United Nations Truce Supervision Organization, United Nations Peacekeeping Force in Cyprus, United Nations Observer Mission in Georgia, United Nations Interim Administration Mission in Kosovo, and the United Nations Military Observer Group in India and Pakistan each lack powerful military forces. Refer to "Security Council Sanctions Committees: An Overview," <<http://www.un.org/Docs/committees/INTRO.htm>> (accessed 11 October 2006) and to <<http://www.un.org/depts/dpko/dpko/text.htm>> (accessed 3 June 2005).

¹¹ Paul D. Williams, "International peacekeeping: the challenges of state-building and regionalization," *International Affairs* 81, no.1 (2005): 164.

¹² Fortna, 281.

¹³ Kirkham and Flew, 12.

to meet their own particular interests."¹⁴ The ongoing sanctions against UNITA, for example, were in part encouraged by the importance of the Angolan government's oil exports to France, the UK, and the US, as well as Angola's importance as an arms market for Russia.¹⁵ At the same time, as Arne Tostensen and Beate Bull argue, in "anticipating the responses of domestic constituencies, government representatives in the Security Council may be guided more by shifting popular sentiments at home than by the merits of the case itself."¹⁶ To complicate matters, diplomatic objectives—and the interests upon which these objectives are based—vary among Security Council members,¹⁷ as they do between the Security Council and the General Assembly.

Since the early 1990s, the Security Council, acting under Article 41 authorising measures to "include complete or partial interruption of economic relations, and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations," has established resolutions calling for 13 sanction regimes that refer, albeit only implicitly, to controlling small arms and light weapons.¹⁸ Arms embargoes almost always constitute a single element of a wider sanction regime and, therefore, accompany restrictions over the trade of other commodities and natural resources, and the prohibition of other activities,

¹⁴ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 6.

¹⁵ Alex Vines, "Monitoring UN sanctions in Africa: the role of panels of experts," *Verification Yearbook 2003* (London: Verification, Research, Training and Information Centre, 2003), 252.

¹⁶ Tostensen and Bull, 396.

¹⁷ *Ibid.*, 395.

¹⁸ Given the often evolving political conditions to which sanction regimes respond, sanction regimes are amended through further Security Council resolutions. The following international actors are targeted by sanction regimes which contain mandatory arms embargoes and the resolutions noted here refer to those establishing arms embargoes, rather than modifying or amending them: Afghanistan (S/RES/1333 (2000)), Angola (S/RES/864 (1993)), Côte d'Ivoire (S/RES/1572 (2004)), Democratic Republic of Congo (S/RES/1493 (2003)), Eritrea and Ethiopia (S/RES/1298 (2000)), Haiti (S/RES/841 (1993)), Iraq (S/RES/661 (1990)), Liberia (S/RES/788 (1992)) Libya (S/RES/748 (1992)), Rwanda (S/RES/918 (1994)), Sierra Leone (S/RES/1132 (1997)), Somalia (S/RES 733 (1992)), and The Former Yugoslavia (S/RES/713 (1991)). Sanction regimes targeting Sudan (S/RES/1556 (2004)) and Cambodia (S/RES/792 (1992)) did not contain arms embargoes. More recently, a sanction regime has targeted North Korea (S/RES/1718 (2006)) but does not include an arms embargoes. The recent sanctions against Lebanon (S/RES/1701 (2006)) do, however, include an arms embargo.

such as granting travel visas to targets or facilitating their international travel. As Angela Woodward explains:

Arms embargoes are intended to halt the flow of weapons and the provision of training and related services to the government, regime, or a named militia within the target state or states. They are often accompanied by sanctions regulating transportation, particularly aviation sanctions and naval blockade, which reduce the opportunity for cross-border movement of weapons through inspections as well as deter sanctions violations. Often they form part of a comprehensive sanctions regime including restrictions on trade in lucrative commodities, such as oil and diamonds, funds transfer and diplomatic representation.¹⁹

The primary purpose of sanction regimes is not for a higher authority to inflict punishments for perceived wrongdoings as a way of distributing justice in world affairs. Nor are these regimes primarily imposed as a means of pursuing justice by ending human rights violations *per se*. (As a symptom of contemporary conflict, however, human rights violations may have, in part, prompted Security Council action in the first instance and may also undergo investigation in some peacekeeping operations.)

Rather, as David Cortright and George A. Lopez observe, sanction regimes “are often a biting and devastating tool of economic coercion and need to be understood as instruments of forceful diplomacy.”²⁰ Following agreement among Security Council members regarding the conduct of a particular international actor, coordinated action is taken as a means of encouraging the target to behave in accordance either with the Security Council’s will in respect to a specific set of circumstances, or with the purposes and principles of the UN Charter; namely, the prevention of acts of aggression or breaches of the peace, or the restoration of peace where it has been compromised. Sanction regimes thus represent an economically coercive means of seeking to maintain, or restore order to, the interstate system, while arms embargoes in particular seek to limit

¹⁹ Angela Woodward, *Verification of Mandatory Multilateral Arms Embargoes*, Unpublished background paper for the Small Arms Survey, 2.

²⁰ Cortright and Lopez with Conroy, Dashti-Gibson, and Wagler, 7.

targeted actors' capability to wage war by restricting their access to weapons procurement. Hence, as Michael Brzoska puts it, sanction regimes that undergo periodic review also "become part of a wider negotiating process between the international community of states and a targeted elite."²¹

As an arms control measure, however, these embargoes necessarily have a very narrow conceptual focus, as they do not refer to exercising control over the proliferation of these weapons and are without provisions to disarm combatants, or to remove and disable those weapons already available in these locations. Consequently, an arms embargo is less likely to prove effective where its target is largely self-sufficient in its military production, as was the case with the Federal Republic of Yugoslavia in the early 1990s.²² And because arms embargoes cannot be applied retrospectively, they do little to deter those actors who have already procured and stockpiled a sufficient quantity of weapons for their intended purposes. (Incidentally, although most sanction regimes authorised by the Security Council impose embargoes on the supply of weapons to targeted actors, which include small arms and light weapons, embargoes do not, in and of themselves, expressly prohibit UN members from purchasing or otherwise acquiring arms exported by those actors.) Nevertheless, all of these embargoes seek to create geographic enclaves in which the transfer of weapons to a targeted party is impeded, curtailed and, at best, prevented.

Because sanction regimes create obligations to which all UN members must abide, these measures resemble treaty law which create obligations for its parties. However, unlike the conceptual incoherence of international law, arms embargoes are conceptually limited to confronting a single aspect of the challenge to control small arms and light weapons because this form of control exists only to serve the Security Council's wider responsibilities. Compared to the vast areas of jurisdiction covered by those instruments of international law

²¹ Michael Brzoska, "From Dumb to Smart? Recent Reforms of UN Sanctions," *Global Governance* 9, no.4 (2003): 522.

²² Peter Andreas, "Criminalizing Consequences of Sanctions: Embargo Busting and Its Legacy," *International Studies Quarterly* 49 (2005): 341.

examined in the previous chapter, activities authorised by the Security Council often concentrate upon very specific locales, operating in some of the world's deadliest trouble spots, though not all trouble spots receive an equal share of the Security Council's attention, deliberation, and resources. And in contrast to the regulatory regimes fostered by governments' responsibilities under international law, this collective action is almost always temporary and, in many cases, very short-lived, especially when contextualised against the duration and intensity of many contemporary conflicts.

In addition to a narrow conceptual focus, arms embargoes have significant strategic limitations, some of which reflect concessions made by members of the Security Council during their negotiation of resolutions. Since May 2000, the Security Council's negotiation of various embargoes has been somewhat impeded by disagreement over the practical issue of their duration, for instance. On the one hand, France and Russia support the periodic review of an embargo's effectiveness and the regular assessment of its wider consequences while, on the other hand, the US and the UK oppose the inclusion of such 'sunset clauses' in embargoes. However, both the US and UK governments accept sanctions containing sunset clauses, but continue to protest against their inclusion. This disagreement has its roots in the contrasting perspectives taken on the humanitarian consequences following the imposition of the sanction regime targeting Iraq, "which is in a class by itself as the longest, most comprehensive, and most severe multilateral sanctions regime ever imposed."²³

While this might appear to be a technical issue of little strategic importance, embargoes without sunset clauses can be imposed indefinitely by a permanent member exercising its veto in decisions regarding its termination. Conversely, all members must accept the need for sanction regimes with predetermined timeframes to be extended.²⁴ Sunset clauses may, in principle, enable the target of a sanction regime to apply pressure upon a single member of the Security

²³ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 8.

²⁴ Brzoska, 523; see also Chesterman and Pouligny, 508-9.

Council to withhold its consensus, thereby drawing the term of a sanction to a close. Furthermore, as Chesterman and Pouligny point out, "even when there is agreement to impose sanction on a state or other actor, this agreement may in fact stem from different reasons particular to the various states imposing the sanctions. This leads to problems when implementing sanctions, and, in particular, when evaluating whether sanctions should be modified or lifted."²⁵

The formal deliberation of the Security Council, including the negotiation of its preventative or remedial course of action, can take considerable time. This lapse of time provides armed actors involved in conflict with notice to acquire weapons, and to do so expediently. The massacre which escalated into the Rwandan genocide stands as a powerful example of the efficacy of embargoes advertised and then belatedly applied (though this example is atypical as Rwanda held a seat on the Security Council at that time). Embargoes directed at Yugoslavia following 1998 and at both Ethiopia and Eritrea in 2000 were similarly ineffective,²⁶ while "the arms embargo against Liberia seems to have been effective in stopping arms shipments to that state, although this may be because Liberia has already obtained the weapons it needs and therefore is not seeking to acquire more."²⁷

Not all of the Security Council's negotiations result in resolutions that are mandatory. The Security Council has authorised voluntary sanction regimes targeting Afghanistan, Azerbaijan and Armenia, Ethiopia and Eritrea, and Yemen.²⁸ Just as the legally-binding nature of treaty law is a key distinction between it and its soft law counterpart, signalled by the use of the operative verbs "shall" in treaties and "should" in soft law measures, embargoes can be

²⁵ Chesterman and Pouligny, 506.

²⁶ Tostensen and Bull, 383.

²⁷ Vanessa Shields, *Verifying European Union arms embargoes* (London: Verification Research, Training and Information Centre, 2005), 12.

²⁸ Kirkham and Flew, 10. Non-mandatory sanctions targeted Afghanistan (S/RES/1076 (1996)), Armenia and Azerbaijan (S/RES/853 (1993)), Eritrea and Ethiopia (S/RES/1227 (1999)), and Yemen (S/RES/924 (1994)).

distinguished as being either obligatory or recommendatory in status.²⁹ All resolutions made under Chapter VII are mandatory, however. This distinction becomes important when monitoring the implementation of sanction regimes because, where responsibilities are political rather than legal, “the verification process can only assess states’ adherence to, rather than compliance or non-compliance with, the obligation.”³⁰ The decision to observe a voluntary embargo and the differing interpretations of its precise scope can easily undermine the intent behind that embargo through its inconsistent application, leaving it in some cases “open to exporters to define what classifies as weapons and munitions, and there is considerable scope for the spirit of the embargo to be abused.”³¹

Moreover, the technical scope of an arms embargo, as articulated in resolutions crafted by the Security Council, is often vague, leaving governments—including those targeted by it, alongside those under a responsibility to implement and administer it—with considerable latitude with which to determine precisely what constitutes a serious breach of the letter of a particular embargo, and which activities might be inconsistent with the intent of that embargo. Most frequently, embargoes refer only to the sale or supply “of arms and related matériel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts,”³² without reference to the technical definitions used to underpin treaties negotiated multilaterally within the UN, as well as within regional and subregional intergovernmental organisations. The definition provided by the UN *Report of the Panel of Governmental Experts on Small Arms* has not gained currency among those crafting Security Council resolutions either. The criteria

²⁹ Woodward, 6.

³⁰ Shields, 4.

³¹ Kirkham and Flew, 11.

³² See, for example, United Nations Security Council *Resolution 1701* (2006), paragraph 15(a).

by which sanction regimes are deemed sufficiently successful for their lifting are also absent.³³

Like sanction regimes, UN peacekeeping operations receive their mandate from, and are often amended through, Security Council resolutions. When invoked under Article 42, such measures are usually undertaken only after diplomatic efforts to ease tensions, invoke cessation of hostilities, or resolve conflict have been exhausted. Unlike the sanction regimes which UN members are obliged to implement and administer, peacekeeping operations are resourced by contributions of members, with such contributions usually prompted by appeals from the Secretary-General. While consistent with the Security Council's responsibilities enshrined in the UN Charter, the particular objectives of each peacekeeping operation vary according to the circumstances of its deployment. Because the UN has continued to develop its capacity to deploy peacekeeping operations since authorising its first large-scale enforcement operation in the Korean peninsula in 1950,³⁴ with its operations responding to increasingly complex circumstances and with mandates that are increasingly ambitious, there are now at least four discernible types of, or analytical distinctions drawn over, UN peacekeeping operations. As Virginia Page Fortna explains:

Observer missions are typically small in size and involve unarmed monitors. *Traditional peacekeeping missions* are somewhat larger and involve lightly armed military units (often in addition to observers). They are usually authorized to use force only in self-defence. *Multidimensional peacekeeping missions* supplement traditional peacekeeping forces with large civilian components to monitor elections, train or monitor police, monitor human rights, and sometimes temporarily to administer the country. All three of these types of mission are based on the consent of the parties and are authorised under Chapter VI of the UN Charter. *Enforcement missions* are authorised under Chapter VII, and do not necessarily require the

³³ Tostensen and Bull, 378.

³⁴ Hillen, 226. Incidentally, as Hillen notes, "because the Soviet representative to the Security Council was boycotting its sessions (because of the issue over Chinese representation), the United States and her allies were able to push for a more explicit Security Council mandate."

consent of the belligerents. Their forces are generally better armed and larger, mandated to impose peace by force.³⁵

There are, however, a myriad of distinctions drawn over these operations by analysts and “[d]ifferent analysts use different typologies to classify the many operations that have been mounted in five decades of UN experience,” as Ramesh Thakur and Albrecht Schnabel observe.³⁶ In practise, these analytical distinctions dissolve as many peacekeeping operations are perhaps more aptly described as ‘Chapter VI-and-a-half actions,’ a term coined by former UN Secretary-General Dag Hammarskjöld.³⁷

The widespread availability of small arms and light weapons constitutes a situational threat to almost all contemporary peacekeeping operations, especially given that peacekeepers are sent “where they are most needed rather than where peace is easy to keep.”³⁸ And, as noted in the introduction to this thesis, the legacies of weapons availability help problematise the distinction between conflict zones and post-conflict settings, endangering those peacekeepers regardless of any formal recognition of war. Released in 2000, a UN report notes that although the UN’s engagement in DDR programmes is “relatively recent, it has rapidly become a well-established feature of post-Cold-War peacekeeping.”³⁹ However, while peacekeeping operations dating back to the United Nations Observer Group in El Salvador (ONUSAL) in 1989 had formal arms control components, more recent operations “have assumed responsibility for only some elements” of DDR processes.⁴⁰ Since the release of that report, the term ‘DDR’ has become increasingly prevalent among Security Council parlance, especially in resolution texts. Of the 42 UN peacekeeping operations conducted since the

³⁵ Fortna, 270 (my emphasis added).

³⁶ Ramesh Thakur and Albrecht Schnabel, eds., *United Nations Peacekeeping Operations: Ad hoc Missions, Permanent Engagement* (Tokyo: United Nations University Press, 2001), 9.

³⁷ Simon Chesterman, “Blue Helmet Blues,” *Security Dialogue* 34, no.3 (September, 2003): 370.

³⁸ Fortna, 281.

³⁹ United Nations Security Council, *The Report of the Secretary-General on the Role of the United Nations Peacekeeping in Disarmament, Demobilization and Reintegration*, paragraph 9.

⁴⁰ *Ibid*, paragraph 10.

early 1990s, however, only 18 of those managed by the DPKO were authorised by resolutions referring explicitly to the administration of DDR programmes.⁴¹

DDR programmes are underpinned by a basic assumption: since these weapons are used to articulate and create grievances, and can thereby engender and exacerbate insecurity, removing these tools of violence from the hands of particular belligerents will diminish conditions of insecurity in those locales. However, even where most available weapons are believed to have been surrendered, insecurity can persist as belligerents resort to alternative tools of violence, such as knives, axes, and farming equipment, thus reigniting conflict.⁴² As Ball and Hendrickson explain, “in a post-conflict setting, DDR may be a necessary component of improving security but it is by no means a sufficient condition.”⁴³ Successful DDR programmes, according to Robert Muggah, Philippe Maughan, and Christian Bugnion, function as:

a temporary intervention designed to reduce insecurity. In laying the basis for security, DDR is supposed to establish the *preconditions* for

⁴¹ The following countries hosted one or more peacekeeping operations with DDR programmes and the resolutions noted here refer to those which first endowed the respective mandates with DDR programmes: Angola ((S/RES/976 (1995) and (S/RES/1118 (1997)), Burundi (S/RES/1545 (2004)), Central African Republic (S/RES/1159 (1998)), Côte d’Ivoire (S/RES/1528 (2004)), Democratic Republic of the Congo (S/RES/1291 (2000)), Guatemala (S/RES/1094 (1997)), Haiti (S/RES/1542 (2004)), Liberia (S/RES/1020 (1993) and S/RES/1509 (2003)), Mozambique (S/RES/797 (1992)) Rwanda (S/RES/872 (1993)), Sierra Leone (S/RES/1187 (1998) and S/RES/1270 (1999)), Sudan (S/RES/1590 (2005)), Somalia (S/RES/751 (1993) and S/RES/814 (1993)), and Tajikistan (S/RES/968 (1994)). For further information, please refer to <<http://www.un.org/Depts/dpko/dpko>> (accessed 16 October 2006). Please note in the case of Rwanda, a DDR programme was authorised by the Security Council, but overtaken by events on the ground. Please also note that “the role of [the United Nations Mission in the Central African Republic (MINURCA)] in the disarmament process was limited to safekeeping the weapons and ammunition already collected by the Inter-African Mission to Monitor the Implementation of the Bangui Agreements and to monitor their final disposition. However, soon after its establishment, MINURCA found that the disarmament process was far from being completed. The Mission had therefore to continue with the programme of disarmament, with the financial support of UNDP.” United Nations Security Council, *Third report of the Secretary-General on the United Nations Mission in the Central African Republic*, UN Doc. S/1998/1203 (New York: United Nations, 1998), paragraph 28.

⁴² Sarah Douglas and Felicity Hill, eds., *Getting it Right, Doing it Right: Gender and Disarmament, Demobilization and Reintegration* (New York: United Nations Development Fund for Women, 2004), 24.

⁴³ Ball and Hendrickson, 11.

development to take hold. DDR is not a substitute for development. Nor should it be carried out indefinitely....DDR includes a cluster of specific activities to reduce the number of weapons in the hands of ex-combatants, to ensure short-term reintegration assistance, to reform the security sector and to ensure the repatriation of foreign ex-combatants to their place of origin.⁴⁴

This rationale is supported by the UN's experience in Angola during the early 1990s, where UNITA was not disarmed, refused to accept unfavourable election results, and reverted to paramilitary operations in order to pursue its politics.⁴⁵ In order to counter their suspicions that UNITA had not disarmed, the Popular Movement for the Liberation of Angola (MPLA) had secretly established an elite paramilitary force, referred to as the ninjas, with troop strength estimated at between 1,500 and 10,000.⁴⁶ This led to what Jaremey McMullin dubs an 'Angola Anxiety,' whereby the Security Council vigorously pursues DDR programmes in order to avoid similar scenarios that disrupt peace.⁴⁷

Just as arms embargoes focus exclusively upon preventing transfers of small arms and light weapons from reaching targeted actors, DDR programmes focus exclusively upon removing these weapons from the immediate reach of particular belligerents. By focusing upon disarming combatants, DDR programmes do not exert control over the proliferation of small arms and light weapons, the transfer of these weapons beyond, or circulation within, areas of UN operations and, in most cases, do not cover government-held stockpiles even where large surpluses of these weapons might exist. The prospects of successful disarmament are easily undermined where weapons are collected and stored, but

⁴⁴ Robert Muggah, Philippe Maughan, and Christian Bugnion, *The Long Shadow of War: Prospects for Disarmament Demobilisation and Reintegration in the Republic of Congo*, A Joint Independent Evaluation for the European Commission, UNDP and MDRP Secretariat (Geneva: European Commission, UNDP and MDRP Secretariat, 2003), 5.

⁴⁵ Norrie MacQueen, "Peacekeeping by attrition: the United Nations in Angola," *The Journal of Modern African Studies* 36, no.3 (1998): 410; see also Chris Alden, "Making Old Soldiers Fade Away: Lessons from the Reintegration of Demobilized Soldiers in Mozambique," *Security Dialogue* 33, no.3 (2002): 343.

⁴⁶ Dzinesa, 656.

⁴⁷ Jaremey McMullin, "Reintegration of Combatants: Were the Right Lessons Learned in Mozambique?" *International Peacekeeping* 11, no.4 (Winter 2004): 626.

not destroyed: for instance, while the collection of over 200,000 small arms and light weapons by the United Nations Mission to Mozambique (ONUMOZ) is commendable, none of these weapons were transferred to a centralised depot from the regions in which they were initially taken into custody and none of these weapons were deactivated or destroyed. While these weapons were not used to reignite the conflict in Mozambique, loose controls over stockpiles resulted in significant leakages whereby collected weapons became commodities for organised criminal groups, either for their illegal use or for trafficking purposes, slipping into the black market.⁴⁸

As with arms embargoes, the technical mandates for DDR programmes are also frequently vague, sometimes referring to peace accords that are not attached to Security Council resolutions, with ONUMOZ being an example of this.⁴⁹ In some cases, such as the United Nations Angola Verification Mission II (UNAVEM II), resolutions are informed by ceasefire agreements over which the Security Council exerted scant influence and played little role in articulating.⁵⁰

This is important because:

In the advent of a peace agreement, a large number of these armed groups are not officially considered as protagonists of the conflict, and therefore evade inclusion in programs. Similarly, a lack of emphasis on weapon holders not covered by DDR mandates (eg. civilians and militias) often constitutes a major flaw in many processes, especially in countries where 'everybody is armed' according to common belief.⁵¹

⁴⁸ Ibid, 632.

⁴⁹ United Nations Security Council *Resolution 797 (1992)*, paragraph 2, for example: "decides to establish a United Nations Operation in Mozambique as proposed by the Secretary-General and in line with the General Peace Agreement for Mozambique."

⁵⁰ MacQueen, 401-2; refer also to Dzinesa, 650. However, as McQueen elaborates, "[t]he dual status of the United States and Russia as permanent members of the Security Council and 'Observer States' to the Lusaka agreement and its implementation greatly facilitated the effective working of the complex of relationships encircling the Angola problem, despite their global diminution of their influence in the post-Cold War environment," 421.

⁵¹ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Program*, 7.

The DDR programme in Tajikistan, for instance, “primarily lessened the appearance, rather than the volume, of illegal small arms,” which are widely held by members of the public, as well as by political and criminal groups.⁵²

Where DDR programmes are explicitly provided for in resolutions, definitions of small arms and light weapons remain absent. Although this approach allows force commanders operating on the ground the flexibility necessary in order to achieve their mission’s objectives, it does not always translate into an effective arms control strategy. For the most part, DDR programmes administered as part of UN peacekeeping operations rely heavily on voluntary compliance. Former Secretary-General Annan instructively articulates this point, when in early 2001 he wrote:

The tracking down of armed groups and their disarmament by force are not peacekeeping functions....Any recommendation I make concerning the assistance MONUC can provide to the disarmament, demobilization, reintegration, repatriation, or resettlement process will be based upon the assumption that MONUC will not be called upon to use enforcement action. In some cases, it is anticipated that armed groups/elements serving with allied forces may present themselves to MONUC for voluntary disarmament and demobilization. MONUC may be called upon to assist.⁵³

Such an approach, if successful, is heavily indebted to other aspects of the peacekeeping operation, including security sector reform and post-conflict development.

A disconnect among the frameworks providing for the various collective actions authorised by the Security Council represents a lost opportunity to maximise control over small arms and light weapons. During the 1990s in particular, the Security Council responded to conflict in Angola, Cambodia, Côte d’Ivoire, Rwanda, Sierra Leone, and Somalia in such a way that sanction regimes

⁵² John Heathershaw, “The paradox of peacebuilding: peril, promise, and small arms in Tajikistan” *Central Asian Survey* 24, no.1 (March 2005): 28.

⁵³ United Nations Security Council, *Seventh report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, UN Doc. S/2001/373 (New York: United Nations, 2001), paragraph 103.

and peacekeeping operations coincided: in Haiti, sanction regimes were followed almost immediately by the authorisation of a peacekeeping operation there. However, resolutions mandating these activities do not always explicitly connect arms embargoes with DDR programmes. UNMIL's mandate, for example, did not extend to enforcing the arms embargo targeting Liberia, not only exposing "a serious security gap that threatens the integrity of the mission as a whole,"⁵⁴ but also enabling weapons to flow to other combatants and criminals in the immediate region and beyond. Similarly, both the United Nations Angola Verification Mission III (UNAVEM III) and the United Nations Observer Mission in Angola (MONUA) in particular, and the UN in general, did little to ensure the sanction regime targeting UNITA was impermeable, enabling UNITA to generate revenue from the sale of diamonds, which it used to procure further weapons.⁵⁵

More recently, UN peacekeeping operations have been deployed contiguously as a response to conflict in Liberia and Côte d'Ivoire, as well as in the Democratic Republic of the Congo, Sudan, Central African Republic, Angola, and Burundi. Yet as Festus B. Aboagye and Alhaji M. S. Bah explain, "at the operational level, disparities in the DDR processes between the contiguous missions in Liberia and Côte d'Ivoire provide a gap through which some of the deadly arsenal could fall into the hands of ex-combatants roving as regional mercenaries."⁵⁶ Similarly, sanction regimes targeting Liberia and Sierra Leone, as well as Ethiopia, Eritrea, and Somalia, have undergone contiguous implementation without mandates referring explicitly to other sanction regimes. However, a nascent interconnectivity is evident in very recent resolutions which provide force commanders with the mandates to cooperate with contiguous deployments: ONUB and MONUC are instructive examples of such interconnectivity in areas such as "detering foreign combatants from infiltrating

⁵⁴ Aboagye and Bah, 17.

⁵⁵ Dzinesa, 657.

⁵⁶ Aboagye and Bah, 17.

the border, curtailing the flow of illegal weapons and assisting in the monitoring of the arms embargo against the Democratic Republic of the Congo."⁵⁷

In short, the Security Council's negotiation and articulation of resolutions authorising sanction regimes and peacekeeping operations can negatively affect the strategic capability of their auxiliary arms embargoes and DDR programmes. In particular, considerations removed from the immediate issue at hand, including the superpower rivalry sustaining the Cold War and, more recently, permanent members' perceptions of their own national interests which include ongoing access to oil resources and shifting domestic public opinion, have either incited veto over, or encouraged consensus regarding, Security Council resolutions. Moreover, a disconnect among strategic frameworks does little to strengthen the emerging mosaic of responsibilities comprising of obligations to implement arms embargoes and of commitments to sufficiently resource peacekeeping operations. Hence, just as the influence of powerful governments both enables and impedes the multilateral negotiations occurring within intergovernmental organisations, it also enables and impedes the negotiations within the Security Council, shaping the resolutions which authorise these two particular forms of arms control.

Implementing Security Council Resolutions

An essential difference between those measures of control negotiated multilaterally within intergovernmental organisations and those arms embargoes authorised by the Security Council is evident in the exclusion of the target from the Security Council's deliberation and negotiation.⁵⁸ Also excluded from the

⁵⁷ United Nations Security Council, *Fourth report of the Secretary-General on the United Nations mission in Burundi*, UN Doc. S/2005/328 (New York: United Nations, 2005), paragraph 28; see also *ibid*, paragraph 32.

⁵⁸ By target, I mean here the actor, or group of actors, at whom a particular embargo is directed. While the target of a proposed sanction might be present at deliberations—indeed, it ought to have been invited by the Security Council to appear before it to provide information, or to work through its own or nominated 'good offices'—it does not participate in the formation of the sanction regime. Similarly, while consent from

Security Council's deliberation are most of the governments that, while sovereign, are obliged to respect the Security Council's will. Unlike treaties requiring ratification by signatories, and unlike soft law measures creating norms and standards to which governments ought to adhere (except where a particular government has consistently signalled its opposition), arms embargoes declared as mandatory by the Security Council must be adhered to by all UN members. This key difference has serious implications for a subject government's capability, not to mention desire, to administer and observe the terms of an arms embargo,⁵⁹ especially since embargoes rely almost entirely upon governments for their implementation, ongoing administration, and enforcement.

Many of the administrative processes and enforcement procedures necessary to implement arms embargoes, such as controlling the import and export of goods at points of origin, during transit, and at destinations, are necessary to administer and enforce the regulatory regimes fostered by governments' responsibilities under international law.⁶⁰ Some governments, however, lacking the infrastructure necessary to exert effective control over the activities of their nationals, nevertheless willingly accept the rights and privileges accompanying UN membership. These governments take all administrative care while authorising their nationals to undertake activities involving small arms and light weapons transfers, but assume no enforcement responsibility. They are flags of convenience. Unable to expediently establish domestic legislation reflecting Security Council resolutions, other governments exert little, if any, control over

belligerents party to conflict is sought, it is not a prerequisite for a Security Council resolution authorising peacekeeping operation.

⁵⁹ Woodward, 3.

⁶⁰ Moreover, as Shields points out, "A common law state must transform its international law obligations into national legislation in order for them to apply in its territory. This is often by adopting an Act to give effect to UNSCRs or sanctions generally, followed by secondary legislation (such as regulation) to give effect to a specific embargo. The regulation can establish the offences committed by breaking the embargo and consequent penalties. In contrast, civil law states have a 'monist' tradition, whereby the adoption of an international law instrument serves to automatically incorporate it into the state's domestic law. The monist tradition can be problematic as offences and penalties are found in the state's penal code and, consequently, may not be directly tied to that state's implementation and enforcement of each individual arms embargo," 8-9.

transactions involving small arms and light weapons occurring within their territory or across international borders. Some governments claim that the national implementation of arms embargoes suffer unavoidable delays and refuse to prosecute known traffickers in order to shield their own international standing: in 1998, for example, the UK government admitted as much, as did the government of South Africa.⁶¹ In some circumstances, such transactions occur in accordance with domestic law, placing that government in violation of its international obligations.⁶²

Furthermore, the more specific the terms of a sanction regime, the greater care required when administering it. This is especially significant given the Security Council's recent policy shift from comprehensive economic sanctions, predicated on broad-based restrictions, towards so-called smart sanctions. Broadly speaking, the former generate difficult economic, social, and humanitarian conditions for the general populations of targeted governments without applying meaningful pressure upon their political elite, while the latter intends to limit this harm to civilian populations by better targeting the appropriate decision-makers through prohibiting their travel visas, certain types of their financial transactions, and their trade of weapons, oil, diamonds and other lucrative natural resources. Since *Resolution 917* (1994) on Haiti, the Security Council has not authorised any further comprehensive economic sanction regimes.⁶³ Yet the danger here is, as Brzoska warns, "that the naïve theory of 'political gain through economic pain' is substituted by a similarly naïve theory of 'political gain through nauseating the powerful.'"⁶⁴ Accordingly, it "is a fallacy to think that the smart sanctions concept will necessarily alleviate the cost problem of enforcement."⁶⁵

Where governments are obliged to observe arms embargoes, but possess inadequate border control infrastructure and/or insufficient resources with which

⁶¹ Brian Wood and Johan Peleman, *The Arms Fixers: controlling the brokers and shipping agents* (Oslo: Norwegian Initiative on Small Arms Transfers, 1999), 35.

⁶² Chesterman and Pouligny, 506-7.

⁶³ *Ibid*, 506.

⁶⁴ Brzoska, 532.

⁶⁵ Tostensen and Bull, 398.

to control the vast volumes of trade and movement of people across international borders, the efficacy of sanction regimes can be invigorated through Sanctions Assistance Missions (SAMs). SAMs assist governments, especially those immediately surrounding target actors' territory, by providing, for example, latest communications technologies enabling front-line inspectors to verify official documents and accompanying cargoes in real-time. When supported by members of the international community, as in the case of the arms embargoes targeting Yugoslavia during 1991-1995, SAMs help sanction regimes to become "the most effective in history." Yet:

The requisite resources for establishing such arrangements, however, are likely to be available only in cases where the interests of the wealthiest states are at stake. In Africa, where Western efforts to resolve conflict have been minimal, such monitoring mechanisms have been nonexistent. In the cases of Liberia and Sierra Leone, for example, [ECOWAS] imposed sanctions and attempted to establish a regional monitoring system, but a lack of resources and the absence of assistance from the United States and Europe undermined the effectiveness of these efforts. If the SAMs system is to have relevance beyond Europe, a system for sharing resources and technical capacity will be necessary.⁶⁶

Where governmental will to observe an embargo is wavering, or worse is largely absent, the sanction's intent is easily undermined. According to Mack and Khan:

The level of resources allocated to monitoring, assessing, and enforcing sanctions is a function of the degree to which the perceived interests of major powers are engaged; it may be politically impossible to implement sanctions successfully when they are not. Thus implementation of UN sanctions directed against Rwanda, Liberia, and Somalia, where the major powers have only minor interests at stake, have generated so little effort that the regimes have been described by one UN insider as 'atrophic'. By contrast quite extraordinary efforts have been devoted to the sanctions imposed on Iraq where the perceived vital interests of major powers were engaged.⁶⁷

⁶⁶ Cortright and Lopez with Conroy, Dashti-Gibson, and Wagler, 70.

⁶⁷ Mack and Khan, 283.

As Gilbert Barthe points out, some governments of countries in the developing world, which were to a large extent defined by European imperialism, have long-standing tribal affiliations motivating them to refrain from fully implementing an embargo.⁶⁸ In 1995, reports issued by Human Rights Watch and Amnesty International also pointed to several governments violating arms embargoes targeting the Rwandan conflict, identifying France, UK, and PRC, as well as South Africa, Albania, Bulgaria, and Israel as so-called sanction busters.⁶⁹ As a former imperial power, France provided arms to the Habyarimana regime and the Sindikubwabo interim government in Rwanda, deliberately avoiding UN monitors operating at known points-of-entry, contravening the very sanction regime it authorised.⁷⁰ Like France, PRC covertly contravened this embargo, rather than overtly veto the adoption of *Resolution 918* (1994). Rwanda, a non-permanent member of the Security Council between 1994-95, was the only dissenting vote cast during the adoption of this resolution on 17 May 1994.⁷¹ It is sometimes more convenient for the Security Council's permanent members to deliberately contravene arms embargoes than it is to exercise their power of veto in order to either prevent resolutions or weaken the provisions of sanction regimes. The exact reasons for governments contravening arms embargoes are probably as varied as the instances of contravention, however.

Successfully implemented arms embargoes tend to preserve, reinforce, or exacerbate the asymmetric power relations characterising many contemporary conflicts, favouring a particular party to a conflict at the expense of neutrality.⁷²

⁶⁸ Gilbert Barthe, "The Impact of Arms Embargoes—a view from a UN Expert," as quoted in Elizabeth Kirkham and Catherine Flew, *Strengthening Embargoes and Enhancing Human Security*, Briefing Paper no.17 (London: Biting the Bullet, 2003), 19.

⁶⁹ Amnesty International, *Rwanda: Arming the Perpetrators of the Genocide*, 13 June 1995 and Human Rights Watch, *Rwanda/Zaire: Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide* 7, no.4. (May, 1995).

⁷⁰ Woodward, 28-9; See also Peter Viggo Jakobsen, "Overload, Not Marginalization, Threatens UN Peacekeeping," *Security Dialogue* 31, no.2 (2000): 173.

⁷¹ Mel McNulty, "French arms, war and genocide in Rwanda," *Crime, Law & Social Change* 33 (2000): 117.

⁷² Tostensen and Bull, 384.

(This logic holds too for the disarming of rival factions by peacekeepers, and where insecurity persists “demobilization may put at risk those who indeed agreed to disarm, and may create tremendous asymmetries between stakeholders, thereby undermining prospects for meaningful stability and security.”⁷³) Where a party is disadvantaged in this way, it becomes increasingly vulnerable to violent recriminations from rival forces, as was the case between 1991 and 1995 when the embargo targeting Yugoslavia “had the effect of preserving a balance of military power that significantly favoured the Serbs...[and] tended to lock in place this imbalance and impeded the ability of the emerging Bosnian state to defend itself.”⁷⁴

Other impacts result where sanction regimes are implemented and prove effective. While primarily an economically-coercive instrument, sanction regimes can have conflict-like consequences, engendering human suffering on a massive scale, including civilian casualties and attendant social dislocation. When this occurs, tension is exposed between the ways in which the Security Council discharges its responsibilities and the commitment to respecting human rights enshrined in the UN Charter and its ancillary declarations, specifically the *Universal Declaration of Human Rights* (1947).⁷⁵ The government of Iraq, for instance, made the following statement to the UN, with respect to the sanction regime aimed at it:

The people of Iraq are today facing veritable destruction by a weapon that is just as dangerous as weapons of mass destruction; this has so far led to the death of 1 million persons, half of whom were children. This destruction, which is a form of genocide inflicted on the Iraqi

⁷³ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 5.

⁷⁴ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 65.

⁷⁵ Mack and Khan, 284. For a discussion dealing with the institutional arrangements, and shortcomings therein, between peacekeeping operations with human rights components and the Office of the High Commissioner for Human Rights, please refer to Todd Howland, “UN Human Rights Field Presence as Proactive Instrument of Peace and Social Change: Lessons from Angola,” *Human Rights Quarterly* 26 (2004): 9-10.

people, is a crime punishable under international law regardless of whether it is committed in time of war or peace.⁷⁶

Saddam Hussein's entourage thrived as the general population suffered hardship and "Baghdad was quite successful in blaming the UN for the humanitarian crisis in Iraq, both within the country and worldwide."⁷⁷ Perverse effects emerge in cases where governments targeted by sanction regimes control domestic media organisations in such a way as to embolden its popular support.⁷⁸ Furthermore, former Secretary-General Annan has warned of the dangers associated with the collateral impacts on third parties; often those "neighbouring countries that bear much of the economic and trading loss from compliance have not been compensated by the rest of the international community and, as a result, have allowed sanctions to become porous."⁷⁹

More significantly for this thesis, sanction regimes also "harm those very social sectors within a targeted country that might be most supportive of the norms being protected by the UN Security Council,"⁸⁰ including those members of civil society who might otherwise have been in a better position to help organise and conduct local arms control campaigns, encourage and monitor military and constabulary use of small arms and light weapons, and encourage transparency over governmental stockpiles, official transfers, and weapons procurement.

⁷⁶ Refer to *note verbale*, dated 29 January 1996, from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, UN doc. E/CN.4/1996/140, paragraph 19, as quoted in Tostensen and Bull: 376. Note, also, as Cortright and Lopez with Conroy, Dashti-Gibson and Wagler observe, "[t]he principle of civilian immunity applies no less in the application of sanctions than in the conduct of war. This suggests that sanctioning authorities bear the fundamental responsibility for mitigating unintended consequences and for ensuring that the measures enacted to uphold international norms do not cause suffering disproportionate to the ends served," 26.

⁷⁷ Brzoska, 520.

⁷⁸ Mack and Kahn, 282; see also Tostensen and Bull, 376-7.

⁷⁹ Kofi Annan, "Secretary-General Reviews Lessons Learned During "Sanctions Decade" in Remarks to International Peace Academy, 17 April 2000," <<http://www.un.org/dos/sc/committees/sanctions/sgstatement.htm>> (accessed 12 July 2005), 2.

⁸⁰ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 4.

Moreover, sanction regimes can encourage the informalisation and, in some cases, the criminalisation of markets as “[c]risis economies under sanctions develop close (or closer) linkages to the illegal spheres of the world market. Those who wield political power may develop these linkages in order to ensure the supply of goods that can no longer be obtained legally.”⁸¹ Peter Andreas demonstrates the ways in which governments targeted by a sanction regime develop links to, cooperate with, and even encourage the activities of traffickers and other organised criminals, emphasising the repercussions of this nexus instead of disregarding these as unimportant legacies of sanction regimes. Significantly, Andreas concludes that:

The imposition of comprehensive sanctions by the international community unintentionally encouraged much closer state-criminal ties and large-scale smuggling, and now in the post-sanctions period, the international community has blamed organized crime and corruption for blocking much needed reforms. Rarely is there any Western acknowledgement of having contributed to the problem in the first place.⁸²

This kind of criminalisation—of the government, the economy, and society— not only depletes the resources available to the government enabling its adherence to any responsibilities to control small arms and light weapons which it might have under international law, and undermines any governmental will to support such obligations and commitments, but also empowers those international actors who are able to mitigate, resist, or elude the intended effects of the international community’s attempts to exert control over these weapons. (And, as Chapter Six illustrates, sometimes embargoed governments rely upon the services of unauthorised brokers to procure weapons.) As Andreas also points out, strengthening sanction regimes might intensify this process of criminalisation, as well as proliferate and prolong its deleterious effects.

⁸¹ Chesterman and Pouligny, 511; See also Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 20.

⁸² Andreas, 357.

DDR programmes are sometimes inhibited by the provision of insufficient resources. DDR programmes administered as part of peacekeeping operations managed by the DPKO receive funding from various sources, including the UN's assessed budget, the World Bank, and the UNDP, as well as from host governments and bilateral security-related funds.⁸³ But despite occasional cooperation among these agencies, "they also regularly endorse competing and even contradictory philosophies and approaches."⁸⁴ Moreover, specific constraints accompany funds. For example, when drawn from the UN's assessed budget, funds cannot be used to plan DDR programmes before the Security Council mandates collective action and cannot be used to assist reintegration initiatives perceived as development projects.⁸⁵ Yet this funding stream is less vulnerable to those wider considerations to which the negotiation of resolutions is sometimes subjected because individual UN members cannot withhold their dues in order to prevent particular DDR programmes. By contrast, funding from development agencies and the World Bank tends to focus upon post-conflict development without engaging military (or pseudo-military) actors in disarmament activities.⁸⁶ Ball and Hendrickson surmise that the "multidisciplinary nature of DDR processes militates strongly against any one type of organization (development, peace support, diplomatic) being able to manage all the necessary functions, [though] coordination of donor support for DDR processes needs to be improved."⁸⁷

In addition to insufficient funding, inadequate troop contributions from UN members in many cases retard the establishment of entire operations, confining the geographic coverage of some DDR programmes. The deployment of ONUB, for example, was significantly delayed because UN members were "slow to respond to requests for specialized units and some troop contributors have

⁸³ Ball and Hendrickson, 4-8.

⁸⁴ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 4.

⁸⁵ Ball and Hendrickson, 17.

⁸⁶ *Ibid*, 6.

⁸⁷ *Ibid*, 18.

requested delays in previously agreed deployment timelines, while others have deployed troops without necessary equipment.”⁸⁸ According to Phillip Sibanda, the Chief Military Observer of the UNAVEM III, the Security Council declined to authorise the 15,000 troops that UNAVEM III requested, opting instead to authorise only half this figure.⁸⁹ Given the unusable road network in war-torn Angola, the difficulties encountered by UN personnel were compounded by the inadequate provision of aircraft. The number of troops and the technical resources available to them were, according to Gwinyayi Albert Dzinesa, “grossly insufficient to cope with the complex and rapidly deteriorating scenario in Angola, which would soon lead to a relapse of war.”⁹⁰ In some cases, too few personnel were available to monitor so-called secured weapons, resulting in leakages.⁹¹ A similar situation emerged in Mozambique where the “massive influx of Mozambican National Resistance (RENAMO) troops has led to overcrowding in some areas (almost 221 per cent of capacity at one camp), resulting in shortages of food and other essential items, inadequate lodging and storage facilities and potential health hazards,”⁹² though a subsequent report from the Secretary-General notes that “some of the [assembly] areas are overcrowded, while others are virtually empty: capacity utilization ranges from a low of 3 per cent to a high of almost 420 per cent.”⁹³

⁸⁸ United Nations Security Council, *First report of the Secretary-General on the United Nations Operation in Burundi*, UN Doc. S/2004/682 (New York: United Nations, 2004), paragraph 38.

⁸⁹ Phillip Sibanda, “Lessons From UN Peacekeeping in Africa: From UNAVEM to MONUA,” in Jackie Cilliers and Greg Mills, eds., *From Peacekeeping to Complex Emergencies: Peace Support Missions in Africa* (Johannesburg: South African Institute of International Affairs, 1999), 119-20, as quoted in Gwinyayi Albert Dzinesa, “A Comparative Perspective of UN Peacekeeping in Angola and Namibia,” *International Peacekeeping* 11 no.4 (Winter 2004): 654.

⁹⁰ Dzinesa, 654.

⁹¹ *Ibid.*, 653.

⁹² United Nations Security Council, *Report of the Secretary-General on the United Nations Operation in Mozambique*, UN Doc. S/1994/89, paragraph 8.

⁹³ United Nations Security Council, *Report of the Secretary-General on the United Nations Operation in Mozambique*, UN Doc. S/1994/511 (New York: United Nations, 1994), paragraph 6.

Deficient preparedness creates self-imposed handicaps. UNMIL, for example, offered a one-off cash payment of US\$300 to those combatants willing to relinquish their weapons, but the collection sites, anticipating about a thousand combatants per day, were unprepared both financially and logistically for the 12,000 combatants who appeared, most of whom bore arms. Widespread discontentment among belligerents at the collection sites resulted in riots and the DDR programme was suspended on 17 December 2003, resuming on 15 April the following year.⁹⁴ According to Aboagye and Bah, the “lack of adequate facilities and personnel to process the large number of [Government of Liberia] combatants that turned up at Camp Scheffelin pointed to the unsuitable timing of the start of the DDR programme and the lack of preparedness of UNMIL and other stakeholders.” The imminent arrival of the rainy season, combined with the lack of functioning infrastructure, only exacerbated the challenge of collecting weapons.⁹⁵

Further operational constraints are exposed where DDR programmes are poorly coordinated. Civil society organisations regularly assist with the administration of DDR programmes under the auspices of some peacekeeping operations. However, in certain situations, such as occurred in Liberia, NGO staff have lacked the required training and necessary authority to identify and then exclude those individuals who did not qualify for inclusion within the DDR programme, rendering any subsequent screening activities largely superfluous.⁹⁶ Civil society support is not restricted to UN peacekeeping operations, however. Save the Children worked closely with UNICEF, implementing aspects of DDR programmes in Afghanistan, where the intervention was under North Atlantic Treaty Organisation (NATO) command. While these DDR programmes suffered from many of the same strategic limitations and operational hindrances as those directly managed by the DPKO, civil society organisations confront the

⁹⁴ Douglas and Hill, 13-4.

⁹⁵ Aboagye and Bah, 7.

⁹⁶ Nichols, 120.

additional complexity of managing relationships among civil society organisations with competing agendas, contested definitions and criteria, and overlapping funding streams.⁹⁷

Likewise, further operational constraints are exposed where DDR programmes are poorly administered. Where the number of DDR programme participants are underestimated, weapons-storage facilities are placed under strain and in some cases, as occurred in Mozambique, weapons that are collected are secured poorly, placing ex-combatants and UN personnel in grave danger.⁹⁸ When peacekeepers lack a sophisticated understanding of local conditions, they mistakenly “sometimes tend to look for constitutional armies, a hierarchy, and officers with which to negotiate.”⁹⁹ At other times, traditional practices and customary rituals are not fully exploited within the context of DDR programmes, though of course respect for indigenous protocol “is no substitute for energetic commitment on the part of the international community.”¹⁰⁰

The selection of unsuitable and obscure collection sites can result in many unrealised collection opportunities. In Tajikistan, combatants registered for disarmament, but did not remain in assembly points, retaining their weapons.¹⁰¹ Following the murder of staff-members in July 1998, the United Nations Mission of Observers in Tajikistan (UNMOT) withdrew from the capital and discontinued monitoring collection points.¹⁰² Furthermore, disarmament opportunities observed outside collection points were not always pursued, with UN troops aware of large quantities of weapons flowing across international borders: in

⁹⁷ For an excellent account of the complexities surrounding the DDR programme in Afghanistan, please refer to Vera Chrobok, *Demobilizing and Reintegrating Afghanistan's Young Soldiers: A Review and Assessment of Program Planning and Implementation*, Briefing Paper no.42 (Bonn: Bonn International Center for Conversion, 2005).

⁹⁸ United Nations Security Council, *Report of the Secretary-General on the United Nations Operation in Mozambique*, UN Doc. S/1994/89, paragraph 7.

⁹⁹ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 7.

¹⁰⁰ Alden, 353-4.

¹⁰¹ R. Grant Smith, “Tajikistan: the rocky road to peace,” *Central Asian Survey* 17, no.2 (1999): 245

¹⁰² *Ibid*, 248-9.

Mozambique, peacekeepers could only passively observe weapons trafficking—in some cases noting the licence plate numbers of vehicles conveying illicit weapons into neighbouring countries—because they were not authorised to seize weapons.¹⁰³ A similar scenario unfolded in Somalia, where US commanders operating in hostile conditions narrowly interpreted their mandate to disarm combatants, choosing only to disarm them where they directly interfered with the delivery of humanitarian aid, if they disarmed anyone at all.¹⁰⁴ This shortcoming, originating in the operation's mandate, is increasingly significant because many heavy weapons, including mortars and anti-aircraft guns, evade voluntary disarmament and are probably transferred to nearby conflict zones,¹⁰⁵ signalling the necessity for peacekeepers "to embark on cordon and search operations to recover these weapons."¹⁰⁶

Much has been made by the world's press of the allegations of sexual harassment within the UN Secretariat and within some peacekeeping operations.¹⁰⁷ Less attention focuses, however, upon those DDR programmes demonstrating an institutionalised bias based on gender and professional background: the technical application of 'combatants' becomes a matter of some significance, therefore. Where the term 'combatants' is interpreted narrowly for DDR purposes, it tends to neglect women as targets for disarmament. UNMIL reported, for example, that women's involvement in DDR programmes did not correspond to the estimate of women's involvement in the conflict.¹⁰⁸ While some women claim status as survivors of conflict and as victims of sexual violence, others must bear culpability as perpetrators of sexual violence targeting women, for some female soldiers deliberately sought to capture female prisoners

¹⁰³ McMullin, 636.

¹⁰⁴ Hillen, 218.

¹⁰⁵ Wolf-Christian Paes, "The Challenges of Disarmament, Demobilization and Reintegration in Liberia," *International Peacekeeping* 12, no.2 (Summer 2005): 256.

¹⁰⁶ Aboagye and Bah, 17.

¹⁰⁷ Refer to United Nations General Assembly, *A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations*, UN Doc. A/59/710 (New York: United Nations, 2005).

¹⁰⁸ Douglas and Hill, 14.

as a means of providing an alternative target for rape and other acts of sexual violence by their male counterparts.¹⁰⁹ Where women are neither targeted by DDR programmes as either combatants or as non-combatants contributing to ongoing hostilities in support roles, nor involved in the administration of DDR programmes, opportunities to identify hidden weapons caches are not fully realised. Moreover, disarmament initiatives based solely upon those in possession of weapons neglect those women who have handed weapons to men, as well as those, male and female, who have disarmed prior to the DDR programme's commencement.

The bias against professional backgrounds implicit in ONUMOZ's reintegration programme, in which officers who have received considerable education and attained relatively high levels of professional and management skills were not differentiated from those general combatants who, prior to taking up arms, found subsistence working as peasants in rural hinterlands, may have encouraged the criminalisation of Mozambique's post-conflict society. Former military officers utilised their command and control skills with their technical and operational expertise in leadership roles within organised criminal groups.¹¹⁰ The weapons used by such criminals are, as Muggah reveals, "often the very ones looted from the country's own arsenals and inventories to begin with."¹¹¹ The criminalisation of post-conflict settings is a disturbing phenomenon not only because it resembles, and in some cases intensifies, the criminalising effects created and fostered by some sanction regimes, but also because peacekeeping operations are often deployed in order to secure long-term peace processes, not just to monitor short-term ceasefire agreements, important as these are.

Where combatants are excluded, for whatever reasons or biases, from DDR programmes, frustration and resentment can combine to produce 'spoilers' of the peace process. And by spoilers I mean, as does Stephen John Stedman, those

¹⁰⁹ Ibid, 11.

¹¹⁰ Alden, 350.

¹¹¹ Muggah, "No Magic Bullet," 241; and also in Muggah, "Emerging from the Shadow of War," 193.

“leaders and factions who view a particular peace as opposed to their interests and who are willing to use violence to undermine it.”¹¹² Again, in Mozambique, those who belonged to government-run militias were not considered to form part of the government’s military forces, and were thereby excluded, without exception, from the DDR programmes and its associated benefits.¹¹³ In Liberia, ex-combatants were excluded from the DDR process because they were without weapons; some had surrendered arms to the previous (regional) peacekeeping operation, others had relinquished weapons to their former commanders while several combatants may have shared a single weapon.¹¹⁴ These so-called spoilers undermine security if they have access to, or knowledge of, weapons caches. Spoilers undermine economic recovery if they do not receive the assistance and benefits afforded to those able to take advantage of DDR programmes, turning instead to banditry and engaging in other criminal enterprises. Spoilers also undermine social cohesion if the ex-combatant’s role as outcast is reinforced by the lack of available new roles, leaving them to rely upon weapons as their primary means of ensuring basic human security and economic survival, and, in some cases, of enhancing personal prestige within the community.

Like arms embargoes, when DDR programmes are successfully implemented they can generate adverse consequences for both local communities and the international community. Because DDR programmes focus upon disarming combatants, for example, they are seen by some as rewarding those who take up arms as a means of pursuing political ambitions while neglecting those who abstained from involving themselves in the conflict.¹¹⁵ Indeed, war criminals rank among these instigators of violence receiving ‘rewards’ and ‘benefits.’¹¹⁶ Successful DDR programmes not only run the risk of forging a culture of

¹¹² Stephen John Stedman, “Peace Processes and the Challenges of Violence,” in *Contemporary Peacemaking: Conflict, Violence, and Peace Processes*, eds., John Darby and Roger Mac Ginty (New York: Palgrave Macmillan, 2006), 103.

¹¹³ Alden, 347.

¹¹⁴ Nichols, 134.

¹¹⁵ Faltas, McDonald, and Waszink, 7.

¹¹⁶ Pouligny, *The Politics and Anti-Politics of Contemporary ‘Disarmament, Demobilization and Reintegration’ Programs*, 7.

dependency, or what Muggah describes as a “reintegration industry,”¹¹⁷ but also create weapons flows into collection points from beyond the local catchments areas, as occurred in Liberia where the financial inducements encouraged disarmament among belligerents and ex-combatants.¹¹⁸ As Ryan Nichols explains:

The lack of coordination and communication between UN officials in neighbouring countries was apparent when, in March 2004, Côte d’Ivoire announced the details of its forthcoming DDR programme—taking many UNMIL officials by surprise. Confounding Liberia’s DDR, is the fact that in Côte d’Ivoire, ex-combatants will be receiving considerably more money than Liberians when (and if) the disarmament process finally takes place. This has prompted speculations that many Liberian fighters may be holding back weapons in order to cash them in next door. Côte d’Ivoire’s DDR process, which had been scheduled for 15 October 2004 but was delayed indefinitely, originally called for a payment of USD900.¹¹⁹

The corresponding payment in Liberia was US\$300. Importantly, when news of failing DDR programmes spreads beyond the specific area of operations, the reputation of DDR programmes suffers, as does the UN’s reputation more generally.

The conceptual disconnect among the key components of DDR programmes jeopardizes their overall efficacy. Where reintegration projects fail to match expectations, benefits derived from disarming combatants are squandered when ex-combatants remobilise and reacquire arms. In Mozambique, for instance, the reintegration projects were remarkable more for their “dark comedy than for their success,” as ex-combatants received training as electricians before returning to villages without electricity: however, in “raising expectations beyond what the market could offer,”¹²⁰ ONUMOZ’s experience is not unique as the increasing

¹¹⁷ Muggah, “No Magic Bullet,” 247; and also in Muggah, “Emerging from the Shadow of War,” 199.

¹¹⁸ United Nations Security Council, *Report of the Panel of Experts pursuant to paragraph 2 of Security Council Resolution 1549 (2004) concerning Liberia*, UN Doc. S/2004/955 (New York: United Nations, 2004).

¹¹⁹ Nichols, 128.

¹²⁰ McMullin, 629.

number of demobilised fighters was not reflected by a proportional increase in the number of reintegration opportunities offered by UNMIL.¹²¹ The poor coordination between UNMIL's disarmament and demobilisation programmes, and the UNDP's reintegration activities only exacerbated this disconnect.¹²² Moreover, targeting ex-combatants for disarmament without addressing civilian-held stockpiles is a partial (and therefore potentially dangerous) response to the widespread availability of small arms and light weapons.

While the Security Council's negotiation and articulation of resolutions authorising sanction regimes and peacekeeping operations may negatively affect their auxiliary arms embargoes and DDR programmes, the implementation of these resolutions also generates serious operational constraints, limiting their efficacy as arms control measures in some cases, while in others also enabling organised crime groups to flourish in some post-conflict settings.

UN Monitoring Processes

The Security Council first instigated sanction committees in 1996 as a means of monitoring the implementation and administration of sanction regimes. Tasked with collecting, compiling, and analysing reports issued by governments regarding their own conduct in relation to particular embargoes, these early committees proved somewhat ineffectual until the Security Council enlarged their tasks to include investigating suspected violations of non-compliance.¹²³ The first of these sanction committees with an investigative mandate was led by Canadian ambassador, Robert Fowler. Until the release of the *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA (Fowler Report)* in 2000, which named Zaire, Togo, Burkino Faso, and Bulgaria as among those

¹²¹ Paes, 255.

¹²² Ibid, 259.

¹²³ Shields, 10.

responsible for undermining the sanction regime imposed upon UNITA,¹²⁴ little official information was publicly available regarding the impact of embargoes upon their targets and the methods by which the regime's provisions are circumvented. While the *Fowler Report* was criticised by France for its bias against francophone countries, its findings disputed by those named within it, and few of its recommendations implemented by the Security Council, the Report's value lies in the new level of transparency accorded to sanction violations within the UN system.¹²⁵ Since the release of the *Fowler Report*, the Security Council has established sanction committees for almost all of the regimes it authorises (Sudan and Cambodia are notable exceptions in this regard¹²⁶) and these committees issue regular reports signalling implicit shortcomings inherent in arms embargoes.

The use of a panel of experts, as a means of providing independent reports to sanction committees, was another enduring initiative informing the *Fowler Report*, though the first panel was designed to monitor the 1995 arms embargo targeting the Hutus in Rwanda.¹²⁷ These panels are significant since, according to Alex Vines, "[s]anction committees and the [Security] Council are normally bogged down by diplomatic procedure, protocol and consensus-seeking, but independent panels are not tied to these norms and can provide information that members of the Council may dissociate themselves from."¹²⁸ The ongoing efforts of various civil society organisations exposing sanction violations and detailing the humanitarian consequences associated with the imposition of sanction regimes complement the work of these in-house committees.¹²⁹ The overlap here signals another nascent interconnectivity among responses from particular

¹²⁴ United Nations Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA*, UN Doc. S/2000/203 (New York: United Nations, 2000), paragraph 51; for a discussion of the *Fowler Report*, see Vines, 249-253.

¹²⁵ Brzoska, 524.

¹²⁶ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 123 & 140.

¹²⁷ Chesterman and Pouligny, 506.

¹²⁸ Vines, 251.

¹²⁹ Chesterman and Pouligny, 506.

members of the international community, especially as sanction committees draw, at times, upon necessary expertise from outside the UN system.

However, even though the now routine establishment of these sanction committees compensates, to a limited extent, for the UN's insufficient monitoring capability, the "sanction committees established in each case to oversee implementation varied in effectiveness according to the degree of politicization of the particular episode, its relative priority for the major players, and the leadership provided by the committee chairs."¹³⁰ In some cases, UN members suspected of violating arms embargoes deliberately delay and frustrate panels' investigations, which rely upon governmental collaboration for information.¹³¹ A recent sanction committee report, dealing with sanctions targeting Al-Qaida and the Taliban, speculates a few reasons for the non-reporting of over half of all UN members:

In addition to the possible lack of political determination to submit such reports, other possible factors were also identified, such as (a) reporting fatigue; (b) lack of resources and technical capacity; and (c) coordination difficulties at the national level. Recognition of the possible presence of Al-Qaida or those associated with the network within its territory furthermore appears to be a stigma to some states.¹³²

Another recent development of particular significance is the establishment of an Analytical Support and Sanction Monitoring Team, which, like the panels of experts, informs sanction committees' work.¹³³ However, as with the *Fowler Report*, the Security Council has demonstrated its reluctance to pursue the recommendations of these reports, sometimes, as Brzoska notes, "for political

¹³⁰ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 5.

¹³¹ Kirkham and Flew, 17.

¹³² United Nations Security Council, *Report of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities*, UN Doc. S/2004/281 (New York: United Nations, 2004), paragraph 19.

¹³³ See, for instance, United Nations Security Council, *Third report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning Al-Qaida and the Taliban and associated individuals and entities*, UN Doc. S/2005/572 (New York: United Nations, 2005).

reasons, sometimes because their implementation would have required resources that member states were unwilling to mobilize.”¹³⁴

Regardless of the specific reasons why arms embargoes are vulnerable to lapses in their administration—which range from incompetence to corruption and wilful negligence—and notwithstanding these recent monitoring processes, monitoring and verifying government compliance with an embargo remains a difficult task for the Security Council. While the reports issued by sanction committees help illuminate suspected violations of these embargoes, the deterrence effect created by so-called naming-and-shaming of those contravening a sanction regime is difficult to measure and alternative punishments have not yet been routinely applied.

Although use of force, including naval blockades and border patrols, is sometimes used to ensure targets do not succeed in violating an embargo of their own accord, the collective use of force has not yet been used to enforce provisions of sanction regimes on those subject governments whose non-compliance is detected. Consequently, there is little in the way of penalties and, thereby, deterrence for so-called sanction busters. When Liberia was denounced for breaching a sanction regime, for instance, a secondary sanction regime was imposed upon it, though the impact of this sanction regime may well have been negligible, especially given Charles Taylor and “Liberia [were] on many governments’ list of culprits anyway, and there are few who have less power, money, and friends at the world organization.”¹³⁵ In general, however, such secondary sanction regimes are seldom applied.

Just as the Security Council establishes committees to review and report on particular sanction regimes, it requests the Secretary-General to provide regular reports detailing comprehensively the conduct of the peacekeeping operations it authorises.¹³⁶ Former Secretary-General Annan also initiated reviews in order to

¹³⁴ Brzoska, 524.

¹³⁵ Ibid, 531.

¹³⁶ Refer to “Reports of the Secretary-General” at <<http://www.un.org/Docs/sc>> (accessed 1 April 2007).

improve the conduct of peacekeeping operations. *The Report of the Panel on United Nations Peace Operations* (2000) (*Brahimi Report*), for example, produced many frank and far-reaching recommendations, including “that legislative bodies consider bringing demobilization and reintegration programmes into the assessed budgets of complex peace operations for the first phase of an operation in order to facilitate the rapid disassembly of fighting factions and reduce the likelihood of resumed conflict.”¹³⁷ In doing so, however, the *Brahimi Report* took a “disproportionate focus on disarmament and demobilisation, at the expense of longer-term activities such as reintegration” much like those “[d]onors and governments [that] continue to prioritize, even fetishize, the gathering of hardware.”¹³⁸ In contrast to the *Fowler Report*, however, the *Brahimi Report* had almost two-thirds of its recommendations acted upon in some way. Using this monitoring capability, the Security Council has, in particular, increased the speed with which its operations are deployed and, according to Mats Berdal, this represents “some evidence of a capacity on the part of the organisation to respond to criticism and adopt functionally to new tasks and changing circumstances.”¹³⁹

Unless the Security Council undergoes reform, however, little is likely to change in the near-term to improve the drafting, implementation, and enforcement of its arms embargoes, as well as the planning, execution, and consequences of its peacekeeping operations. In any case, reform might entrench existing constraints with respect to the collective action authorised by the Security Council. Remarking upon the *High-Level Panel on Threats, Challenges and Change: A More Secure World: Our Shared Responsibility* (2004), Thakur laments:

...the report is itself state-centric in its approach to Security Council reform. The regions of the world are divided and grouped according to numbers of states. Yet India by itself has more people than all of

¹³⁷ United Nations Security Council, *Report of the Panel on United Nations Peace Operations*, UN Doc. S/2000/809 (New York: United Nations, 2000), paragraph 47(c).

¹³⁸ Muggah, “No Magic Bullet,” 246; and in Muggah, “Emerging from the Shadow of War,” 197-8.

¹³⁹ Mats Berdal, “The UN after Iraq,” *Survival* 46, no.3 (Autumn 2004): 91.

Africa with 53 countries, as well as the Americas with 35 states. To ignore population as a criterion of representation seems as odd as to insist on operationalising it mathematically to the exclusion of all other criteria.¹⁴⁰

Of course, the extent of, and ramifications following, any major reform remains to be seen; as Brzoska observes, “[s]anction reform at the UN, like all UN reform, stops where major powers want it to stop.”¹⁴¹

Asserting the Political

Those treaties and soft law measures negotiated within various intergovernmental organisations, and the Security Council’s resolutions for collective action, create a mosaic of responsibilities comprising of obligations and commitments while sharing a common belief in collective security. This belief in the promise of collective security persists in spite of Article 51 of the UN Charter, which, not incidentally, is referred to by the *UN Firearms Protocol* and the *Nairobi Protocol*, as well as by the *EU Code of Conduct*, the *Andean Plan*, the *OSCE Document*, and the *UNPoA*. But whereas the current arms control treaties and soft law measures help reinscribe this internationalist governance architecture underpinning contemporary world affairs (despite their technical incoherence and strategic limitations), the Security Council’s resolve for collective action is a powerful universalising form of world-making.

To be sure, this collective action not only reflects a commitment to a particular notion of the political, but also reinscribes this notion through various activities undertaken by arms control protagonists, helping extend the reach of the internationalist governance architecture essential to conducting politics on a global scale. In other words, drawing upon the resources of many governments, activities authorised by the Security Council not only strengthen these grand politico-strategic frameworks, but also project, at times forcefully, these frameworks to areas where governmental authority has been eroded and has, in

¹⁴⁰ Thakur, “UN reforms and the use of force,” 12.

¹⁴¹ Brzoska, 533.

some cases, collapsed under the burden of conflict. As mentioned in the thesis' introduction, for Roland Paris peacekeeping operations, especially those authorised during the 1990s, embodied an ongoing experiment in liberalization, reforming the political and economic institutions of conflict-affected countries.¹⁴² This thesis deliberately situates DDR programmes within these transformative peacekeeping operations, signalling that these programmes are an important mode of this transformative process, but are by no means a sufficient condition for effecting drastic change in their own right. Within this context of strategic and economic reform, DDR programmes are thus a further form of 'social engineering,'¹⁴³ all the more significant too because these are now "something of a 'post-conflict reconstruction orthodoxy.'"¹⁴⁴

By contrast, sanction regimes seek to alter an actor's behaviour in order to restore or maintain order, rather than refashion a particular component of the interstate system. Despite the advice of various sanction committees and panel of experts' reports, many of which imply arms embargoes are incapable of arresting flows of small arms and light weapons and have, by and large, proven futile in limiting target actors' capability to wage war,¹⁴⁵ these measures continue to be invoked by the Security Council. And even though effective implementation, administration, and enforcement of sanction regimes proves elusive to the international community, sanctions remain, at a very minimum, an important means of posturing for the 15 members of the Security Council. After all, "[w]hen Sanctions are meant as a signal of disapproval or as a gesture of

¹⁴² In particular, as Paris elaborates in *At War's End*: "In the political realm, liberalization means democratization, or the promotion of periodic and genuine elections, constitutional limitations on the exercise of governmental power, and respect for basic civil liberties, including freedom of speech, assembly, and conscience. In the economic realm, liberalization means marketization, or movement toward a market-orientated economic model, including measures aimed at minimizing government intrusion in the economy, and maximizing the freedom for private investors, producers, and consumers to pursue their respective economic interests," 5.

¹⁴³ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 14.

¹⁴⁴ Muggah, "No Magic Bullet," 242; also in Muggah, "Emerging from the Shadow of War," 193.

¹⁴⁵ Shields, 11.

support for international norms, the very fact of nations joining together to impose such sanctions is itself a manifestation of success."¹⁴⁶

Instances of cooperation between the UN and regional and subregional intergovernmental organisations, such as the AU or ECOWAS, can help buttress the internationalist governance architecture, particularly where various peacekeeping operations are coordinated among authorising organisations. Although the Security Council's delegation of enforcement operations under Chapter VII of the UN Charter has, in the views of some analysts, exposed the UN's degree of irrelevance, exercising this policy choice represents "not the marginalization of the UN but the emergence of a new division of labour in the field of peace operations which will stretch existing UN capabilities to the limit," as Jakobsen contends. He goes on to write: "This division of labour limits the role played by the UN in Chapter VII operations to authorization, monitoring and civilian support, but leaves the UN in the driver's seat with respect to Chapter VI activities."¹⁴⁷

The EU, furthermore, duplicates some of those arms embargoes imposed by the UN Security Council, though it also imposes arms embargoes autonomously from the UN, targeting, for instance, Bosnia and Herzegovina, Myanmar, China, and Zimbabwe. At times, EU embargoes can have wider conceptual scope, and the negotiation of embargoes have been quicker than similar negotiations occurring in the UN Security Council. EU arms embargoes are, however, voluntary. According to Vanessa Shields, as at 31 March 2005 there were 13 EU and UN embargoes in force, one of which is "an autonomous UN arms embargo, two are EU embargoes with wider scope than their UN counterparts, six are EU arms embargoes that duplicate UN arms embargoes, and four are autonomous EU arms embargoes."¹⁴⁸ In effect, cooperation among intergovernmental

¹⁴⁶ Cortright and Lopez with Conroy, Dashti-Gibson and Wagler, 16.

¹⁴⁷ Jakobsen, 175.

¹⁴⁸ Shields, 6.

organisations authorising collective action reinforces the current configuration of world affairs.

Yet governments assisting embargoed actors implicitly challenge this configuration of world affairs, testing, in particular, the durability of its internationalist governance architecture by advancing their specific interests at the expense of cooperating with governments in a positive-sum game. The grand politico-strategic frameworks are also strained by those governments which are party to treaties while being targeted by sanction regimes: whereas Liberia has signed the *UN Firearms Protocol*, Rwanda, Somalia, Sudan, and the Democratic Republic of the Congo are each signatories to the *Nairobi Protocol*. This interconnectivity does little to strengthen the international community's response to the challenge of controlling small arms and light weapons, but does not seriously undermine it.

There is, moreover, a weak sense in which the Security Council diminishes the preference afforded to governments as the primary actors of world affairs. Although governments are the prime actors administering sanction regimes, non-state actors—such as Usama Bin Ladin, Al-Qaida and insurgent groups in Rwanda, Sierra Leone, and Angola—are, or have been, targets of arms embargoes. By denying non-state actors unrestricted access to arms procurement, the Security Council necessarily grants a limited degree of recognition to them as significant international actors which are to be reckoned with, though they are not to be considered as members of the international community.¹⁴⁹ A similar recognition is granted to those belligerent non-state actors involved in contemporary conflict to which the Security Council responds and with whom, in some cases, the Security Council helps to negotiate peace settlements. As Part III of the thesis contends, these non-state actors matter to the general pursuit of contemporary international security and in the particular challenge of controlling small arms and light weapons.

¹⁴⁹ R.T. Naylor, "Gunsmoke and Mirrors: Financing the Illegal Trade," in *Running Guns: The Global Black Market in Small Arms*, ed. Lora Lumpe (London: Zed Books, 2000), 178.

Conclusion

Granted the primary responsibility for maintaining international peace and security among UN members, the UN Security Council relies upon sanction regimes and peacekeeping operations as the central tools through which it expresses and enforces its decisions. In so doing, and increasingly since the early 1990s, the Security Council responds to the widespread availability and ongoing use of small arms and light weapons, preceding the major responses of researchers, intergovernmental organisations, and, as the following chapter demonstrates, civil society organisations.

Although often useful for diplomatic posturing, Security Council resolutions, and the collective action they mandate, are inadequate as arms control methods. The roots of this inadequacy lie in a conceptual narrowness, as arms embargoes and DDR programmes each address only a single aspect of the small arms and light weapons problem. The inadequacy of this conceptual narrowness is compounded by the temporary nature of these interventions and by their very limited geographic focus: interventions most frequently focus upon so-called trouble spots, though this 'fire-fighting' approach is almost insignificant when compared against both the volume of weapons which continue to be produced and the existing weapons (whether held legally or not) which flow quickly from one trouble-spot to another. This is not to deny the urgency demanded to address this challenge, but to signal an important limitation inherent in this specific form of collective response. In order to prove effective as arms control measures, these activities must necessarily be supported by controls over other major aspects, namely the proliferation, possession, use, and deactivation of these weapons.

At present, this conceptual narrowness does little to compensate for the conceptual incoherence of the various instruments of international law negotiated within intergovernmental organisations, though by fostering political will at the governmental level, highlighting improvements to governmental infrastructure, and encouraging the provision of sufficient resources, it may help

strengthen the basis for effective international law. (That, however, is not to suggest that these are the only ingredients of an effective response.) Together with treaty law and soft law measures, arms embargoes and DDR programmes do help constitute an emerging mosaic of responsibilities.

Even in circumstances where the Security Council uses its monitoring processes as a means of improving the efficacy of the activities it authorises, such readjustments continue to suffer the limitations embedded in the existing internationalist governance architecture. Even if possible to mobilise, an increase in governmental will to support Security Council resolutions and a sufficient provision of resources would not necessarily enable the better control of these weapons through these means. Even deploying a standing UN military force, if such a force could be agreed upon, would not necessarily enable more effective arms control through arms embargoes and DDR programmes alone. However, the ongoing effects of criminalisation resulting from sanction regimes and peacekeeping operations seriously undermines the rule of international law, amplifying many of the burdens facing current and future UN collective action. Further weaknesses are revealed by the ongoing intransigence of those governments deliberately contravening arms embargoes and the Security Council's inability to detect and punish such disobedience and disregard for its authority. Thus, although complementing treaties and soft law measures in some respects, the Security Council's activities sometimes produce side-effects which undermine, rather than strengthen, the international community's response to the challenge of controlling small arms and light weapons.

And, as Part III of this thesis demonstrates, these major responses are hotly contested by other international actors, as is the notion of the political informing those responses. But before Part III of this thesis explores ways in which weapons-producing firms, arms brokers and chief users of these tools of violence mitigate, resist, and subvert the intended effects of those responses from intergovernmental organisations and the UN Security Council, the following chapter, the last of Part II, explores ways in which civil society organisations

respond to the widespread availability and ongoing use of small arms and light weapons, focusing in particular upon the arms control campaign led by IANSA.

5. CIVIL SOCIETY ORGANISATIONS AND ARMS CONTROL CAMPAIGNS

The formal launch of IANSA's arms control campaign in May 1999 signalled the emergence of another major response by members of the international community to the widespread availability and ongoing use of small arms and light weapons. As a civil society organisation, IANSA seeks "to facilitate international NGO action that is fundamentally aimed at enhancing the security of persons by preventing the proliferation and misuse of small arms."¹ In practice, IANSA attempts to coordinate the activities of its 700 or so member organisations, relying upon their ongoing engagement with a range of actors involved in contemporary world affairs and upon any leverage or momentum it can thereby generate and sustain. This approach is, as Cukier and Sidel recently describe, a "'campaign of campaigns' or 'network of networks.'"² Significantly, IANSA's membership includes many high-profile civil society organisations, including Human Rights Watch, OXFAM, and Amnesty International, though lesser known members include the Physicians for Social Responsibility, Comic Relief, People and Planet, and the Asian Brotherhood Concern.³ Located in over 100 countries, these organisations give IANSA an extensive geographic reach, especially as many of these organisations have representatives based in the world's major capitals. Even though IANSA continues to position itself as the predominant civil society organisation engaging in gun control activism, its campaign does not formally direct the activities of its members. And, of course, not all civil society organisations campaign for comprehensive arms control.

¹ International Action Network on Small Arms, "Founding Document of IANSA," <<http://www.iansa.org/about/m1.htm>> (accessed 31 March 2007).

² Cukier and Sidel, 226.

³ For a full and up-to-date list of IANSA's members, refer to <<http://www.iansa.org/about/members.htm>> (accessed 6 November 2006). All of the examples of civil society organisations campaigning as arms control protagonists drawn upon in this chapter are members of IANSA at the time of writing.

This chapter explores two elements of IANSA's arms control campaign. It begins by examining IANSA's advocacy for controls over small arms and light weapons, including some of those intergovernmental measures examined in Chapter Three of this thesis, before examining IANSA's monitoring of governmental behaviour vis-à-vis the emerging mosaic of responsibilities derived from certain instruments of international law and Security Council resolutions. Of particular relevance here are two major reports assessing governments' progress towards implementing the *UNPoA*, disseminated by IANSA immediately prior to the first and second BMS in 2003 and in 2005, respectively. A further report was released by IANSA in 2006, coinciding with the UN Small Arms Review Conference. While these reports, and others like them, seek to monitor the implementation of specific measures by governments, IANSA's members have also sought to: raise further awareness of the urgent need to control these weapons; lobby particular governments on improving domestic regulatory regimes; provide opportunities for officials to engage in informal discussions leading to intergovernmental agreements; inform those measures of control by contributing to multilateral discussions concerning their conceptual scope; and, in some cases, articulate draft texts.

However, by problematising IANSA's role in confronting the challenge of controlling small arms and light weapons, this chapter suggests that there might well be effects resonating from these two elements of its arms control campaign, but that this does not necessarily embody a direct or discernible impact upon the composition of arms control measures where these are negotiated multilaterally. Reflecting upon the character of those major responses examined in Chapters Two, Three, and Four, this chapter concludes Part II of this thesis by positing that IANSA has refrained from contesting a particular notion of the political throughout its response to the challenge of controlling these weapons. Consequently, as arms control protagonists, IANSA has had little demonstrative political success to date. As the space for civil society campaigning, which expanded in the wake of the Cold War, continues to yield to a collective

reassertion of sovereignty and national interest within grand politico-strategic frameworks which prioritise governments as prime actors of world affairs, further responses from these organisations are unlikely to increase in their own potency and resonance.

Advocacy

As Chapter Two demonstrates, arms control activists feature as prominent members of the research community, employing to good effect the publishing and disseminating opportunities presented by civil society organisations as a means of articulating and asserting a call for international action to control small arms and light weapons. This research has been used by activists, not only as a means of articulating the urgent need to control these weapons, but also as a means of enhancing their own credibility as experts when dealing with other social movements, governments, and intergovernmental organisations.⁴ Indeed, research connects members of the international community when it serves “to contribute to dialogue among researchers and users of researchers, such as NGO activists and diplomats, concerned with international security issues that states are either unwilling or unable to address.”⁵

In addition to these literary endeavours, arms control activists organise grassroots movements, employing, for example, letter-writing campaigns and public protests in order to build a wide constituency upon an awareness of the deadly impacts generated by small arms and light weapons. The momentum generated by grassroots movements within one location can register in another, and even resonate throughout a wider region. The Global Week of Action Against Small Arms held during July 2004, for example, coincided with International Gun Destruction Day, with activities ranging from the destruction of weapons that were deemed surplus to military requirements and of weapons

⁴ Adèle Kirsten, *The Role of Social Movements in Gun Control: An international comparison between South Africa, Brazil and Australia* (Durban: Centre for Civil Society, 2004), 18.

⁵ Brem and Rutherford, 170.

confiscated by constabulary in South America, to a flame of peace ceremony held in Cambodia. In this week alone, activists from forty-five countries drew attention to the costs associated with the misuse of these weapons, and in eleven countries a total of 35,000 guns were destroyed.⁶ Although primarily focused upon mobilising citizens to pressure their governments into taking action, these sorts of awareness-raising activities necessarily forge new, and rely upon existing, transnational connections among other social movements and civil society organisations with shared concerns. Indeed, this convergence is a vital source of power for many social movements, and arms control activists are no exception.

However, some grassroots activities are often more decisive in a practical sense than protests—though, indeed, protests are important as much for their symbolism as for their potential to build and consolidate support among social groups with disparate interests—because they also include establishing and maintaining gun collection programmes for weapons surrendered voluntarily by members of the public. Weapons collection programmes organised by Gun Free South Africa, for example, were followed by the South African government's announcement of a twenty-four hour gun amnesty in late 1994.⁷ In 1996, Gun Free Zones were established in which 'No Gun' signs, resembling 'No Smoking' signs, were displayed in prominent areas where gun possession was no longer tolerated.⁸ In Brazil, moreover, Viva Rio forged relationships with local communities, encouraging them to assert control over those small arms and light weapons held by members of their communities within their immediate locales.⁹ Here, then, arms control activists help broaden the onus of responsibility to control small arms and light weapons from the exclusive legislative and enforcement authority of governments to include local communities.

⁶ IANSA "IANSA's 2004 Review: the Year in Small Arms," 7. <http://www.iansa.org/campaigns_events/index.htm> (accessed 17 January 2005).

⁷ Kirsten, 4.

⁸ Ibid, 19.

⁹ Ibid, 14.

Fostering ongoing relationships with those individuals and groups positioned within domestic political arenas proves useful for activists encouraging governments to adopt, as part of both domestic and foreign policy, tighter national and international controls over these weapons. Gun Free South Africa was directly involved in the South African government's formulation of its domestic gun policy and resultant legislative reforms.¹⁰ In Cambodia, the Working Group for Weapons Reduction, a coalition of local and foreign civil society organisations, was involved in the Royal government's weapons collection and destruction programme, encouraging officials to destroy those weapons considered surplus to requirements.¹¹ Saferworld's liaison with the British Labour Party, while it was in opposition, engendered both parliamentary scrutiny over incumbent policy and a clear plan of action for the opposition if it were elected into power. The Labour Party's General Election victory in 1997 coincided with the UK's presidency of the EU, enabling their tabling of the proposed Code of Conduct in 1998.¹² Significantly, the work of arms control activists has also enabled certain policymakers to legitimise and expedite their intended legislative reforms. Australian Prime Minister, John Howard, for example, was quick to respond to the mass shootings occurring in 1996 at Port Arthur, Tasmania, by introducing legislative reform over existing gun controls. Yet, as Adèle Kirsten observes, before the shootings the Australian-based Coalition for Gun Control "had largely been ignored."¹³

Although only governments can become signatories to treaties, arms control activists have identified and collaborated with like-minded governments in order to prompt and negotiate agreements; the successful and rapid conclusion of the recent campaign to ban anti-personnel landmines, which culminated in the *Ottawa Treaty*, is a case in point. The conclusion of this treaty demonstrates that

¹⁰ Ibid, 16.

¹¹ Holger Anders, "Small Arms Control in Cambodia: A Field Report," *Peace, Conflict & Development: An interdisciplinary Journal* 3, no.3 (June 2003): 6.

¹² Anders, "The Role of Non-State Actors in the European Small Arms Regime," 17.

¹³ Kirsten, 5.

arms control activists can realise their vision, signalling the potency of a well-organised, coordinated campaign utilising civil society organisations, including the burgeoning networks underpinning them, in order to overcome opposition from some of the most powerful governments in contemporary world affairs, including the US, Russia, PRC, India, and Pakistan.¹⁴ Whereas Ramesh Thakur and William Maley suggest “any account of the Ottawa conference to sign the [anti-personnel landmine] convention will be grossly deficient if NGOs are not given prominent attention,”¹⁵ Jody Williams goes further, suggesting the coalition between nongovernmental organisations and like-minded governments could constitute a new global ‘superpower.’¹⁶ Here, coalitions of like-minded governments comprise mostly of so-called medium-sized countries, such as Canada, Norway, and Switzerland. Decisions within these coalitions are reached by majority vote, rather than on a consensual basis. In this respect, the achievement of the *Ottawa Treaty* signals an alternative diplomacy beyond the conventional UN frameworks for multilateral negotiation and it is significant, at least symbolically, that IANSA formally launched its arms control campaign at the 1999 Hague Appeal for Peace Conference, which celebrated the entering into force of that treaty.¹⁷

IANSA’s origins, however, can be traced back further than May 1999. According to IANSA’s Founding Document, its strategic vision was forged during the two preparatory meetings leading to its establishment. Held in Canada in August 1998, the first preparatory meeting “explore[d] ways in which civil society groups and institutions around the world could work together more effectively to advance policies and actions to control the diffusion and misuse of small arms, and to respond to the devastating consequences of small arms for

¹⁴ Although each of these governments refrained from signing the *Ottawa Treaty*, each generally acts in a way that does not contravene its intents and purposes.

¹⁵ Ramesh Thakur and William Maley, “The Ottawa Convention on Landmines: A Landmark Humanitarian Treaty in Arms Control?” *Global Governance* 5, no.3 (1999): 285.

¹⁶ Brem and Rutherford, 181.

¹⁷ *Ibid*, 169.

individuals, local communities, states, and the international community.”¹⁸ The second preparatory meeting, held in Brussels in October 1998, “reach[ed] agreement on the scope and nature of IANSA amongst a wider international audience.”¹⁹ Prior to this, in January of 1998, Edward Laurance of the Monterey Institute of International Studies organised the Preparatory Committee for an International Campaign on Light Weapons, the intention of which was to bring together individuals and groups interested in developing a campaign to control these weapons. So that research and ideas could be easily exchanged, a website was established in order to complement the Preparatory Committee’s work. This initiative followed a working session that drafted a *Proposed Convention on the Prevention of the Indiscriminate and Unlawful Use of Light Weapons*, which took place during the signing ceremony for the *Ottawa Treaty* during early December 1997.²⁰ These various meetings produced a consensus among arms control activists which developed “around the need, not for one campaign, but rather for a network of campaigns under the umbrella of an International Action Network on Small Arms (IANSA).”²¹

Despite the innovative ‘new diplomacy’ enabling the *Ottawa Treaty* to enter into force within only six years of its inception, the challenge of controlling small arms and light weapons requires a more complex response, not only because these tools of violence are more varied in type, more widespread, and used more frequently than anti-personnel landmines, but also because many governments throughout the world authorise legitimate civilian possession of these weapons and UN peacekeepers rely upon these weapons in order to fulfil their mission’s mandate.²² Furthermore, confronting this challenge requires IANSA to draw upon participants from many social movements and civil society organisations,

¹⁸ International Action Network on Small Arms, “Founding Document of IANSA,” 2.

¹⁹ Ibid.

²⁰ Brem and Rutherford, 177. See also Laurance and Stohl, 4; and Cukier and Sidel, 222.

²¹ Liz Clegg, “NGOs take aim,” *The Bulletin of the Atomic Scientists* 55, no.1 (January/February 1999): 50-1; For a more elaborative background to this emerging civil society campaign, see also Garcia, “Norm Building in the Evolution of the Control of Small Arms in the International Agenda,” 243-47.

²² Clegg, 49.

including former members of the landmine ban campaign, making for a “more diffuse campaign than that of the [international campaign to ban landmines].”²³ Some of the governments with which these coalitions must engage have very powerful economic interests in the arms industry, moreover, while for others the arms trade has been an important dimension of foreign policy and a useful foreign exchange earner.²⁴

The successful campaign to ban anti-personnel landmines not only encouraged activists to persist in their collective and coordinated efforts to help establish controls over small arms and light weapons, but also galvanised resistance to their anticipated influence in subsequent multilateral small arms control fora. The UN, for example, reasserted its claim as the pre-eminent institution through which to confront the most crucial issues on the international security agenda, reorganising its implementing agencies and establishing the Coordinating Action on Small Arms (CASA) during 1998 in order to better facilitate and coordinate its activities.²⁵ Some governments were also reluctant to endorse the precedent set by the new diplomacy informing the *Ottawa Treaty* and limited civil society organisations’ involvement in the UN Small Arms Conference to a more conventional role. In particular, civil society organisations were granted a morning in which to deliver presentations of no more than five minutes duration each, their public gallery access was limited to open sessions, and they were excluded from negotiation sessions. As Peter Batchelor suggests, it is likely that some governments, including Algeria and PRC, sought to deny the participation of those civil society organisations primarily concerned with publicising poor human rights records.²⁶

²³ Brem and Rutherford, 178.

²⁴ Clegg, 50.

²⁵ Brem and Rutherford, 175-176.

²⁶ Peter Batchelor, “NGO perspectives: NGOs and the small arms issue,” *Disarmament Forum* 1 (2002): 38-39; For further details, see also David Atwood, “NGOs and the 2001 UN Conference on Small Arms,” Unpublished background paper for the Small Arms Survey.

These conference arrangements did not, however, preclude the usual informal opportunities in the so-called margins for civil society organisations to exchange information with governments and lobby for their positions, while delegations from Canada, Ireland, Netherlands, New Zealand, Norway, Switzerland, and the UK included civil society representatives seeking better controls over small arms.²⁷ Nor did it prevent activists advocating outside the conference attracting media attention to the issues at hand. While the UN Small Arms Conference did not deny the rise of a new diplomacy it did, in part, curtail that rise as governments reasserted their primacy in arms control negotiations within a reinvigorated UN framework.

Although activists have proposed new intergovernmental measures of control over small arms and light weapons that policymakers could adopt, these have, broadly speaking, generated little interest and even less momentum on their own. In 1997, eight Nobel Peace Prize-winners, led by former President of Costa Rica, Oscar Arias Sánchez, expressed their collective concern over the devastation caused by the uncontrolled spread of military weapons. This declaration, entitled the *Nobel Prize Laureates' International Code of Conduct on Arms Transfers* (*Laureates' Code of Conduct*), attempts to foster existing concern around the globe by calling upon "citizens of the world [to] demand that leaders support this Code as well as similar efforts on the national and regional level."²⁸ Since its announcement, the *Laureates' Code of Conduct* has attracted support from a further ten Nobel Peace Prize recipients.²⁹ Expressing their concern not only over the

²⁷ Krause, 256; Refer also to *Small Arms Survey 2002: Counting the Human Cost* (Oxford: Oxford University Press, 2002), 203-233. Details regarding proceedings in closed sessions were, of course, immediately given to those at the conference who were excluded from the sessions.

²⁸ The full text of the *Nobel Peace Laureates' International Code of Conduct on Arms Transfers* is available on <<http://www.arias.or.cr/fundarias/cpr/code2.htm>> (accessed 7 June 2004).

²⁹ The following laureates now support the *Laureates' Code of Conduct*: American Friends Service Committee, Amnesty International, Oscar Arias Sánchez, Norman Borlaug, Su Santidad el Dalai Lama, John Hume, International Physicians for the Prevention of Nuclear War, Mairead Maguire, Rigoberta Menchu, Adolfo Perez Esquivel, José Ramos Horta, Joseph Rotblat, Aung San Suu Kyi, Reverend Desmond Tutu, Lech Walesa, Elie Wiesel, Betty Williams, Jody Williams.

uncontrolled spread of small arms and light weapons, but also over the ongoing proliferation of tanks, armoured combat vehicles, aircraft, encryption software, thermal-imaging equipment, and super computers, these activists encourage citizens from around the world to apply pressure upon their governments to take a specific course of action.

In particular, the *Laureates' Code of Conduct* suggests that governments supplying these weapons should ensure that any recipient is of a sufficient moral pedigree; that is, that recipients observe human rights, comply with international humanitarian law, and show respect for democracy. The Code also recommends a link to the UNROCA as a way of monitoring the arms trade among governments. In so doing, this measure proposes to hold governments accountable for the transfer of these weapons and for their deadly consequences, though, unlike the provisions of the four treaties examined in Chapter Three, it does so without distinguishing authorised trade from trafficking. The text expressing the *Laureates' Code of Conduct* is unclear as to where the onus of responsibility falls and to whom the burden of proof belongs. It also fails to set out the precise means by which an importing government's behaviour should be assessed. Although these Nobel Laureates might very well be high-profile opinion-makers with excellent intentions of improving the condition of humankind, their modest role as prominent actors of world affairs, signalled by the more hopeful than optimistic tone of the Code's language, is demonstrated by the limited outcomes it has so far achieved. An admirable call for collective action to arrest the devastation caused by the transfer of military weapons, the *Laureates' Code of Conduct* received little if any commitment from governments, none of which were involved in its articulation. However, as Alley points out, while governments did not accept the code, it did gain some publicity, influencing the articulation of the *EU Code of Conduct*.³⁰

³⁰ Alley, 49.

More recently, arms control activists have proposed an Arms Trade Treaty (ATT) which builds upon the norms articulated in the *UNPoA*. A briefing paper released by IANSA in June 2005 states the following:

The proposed Arms Trade Treaty (ATT) is a coherent response to the commitments in the Programme of Action by drawing together and consolidating states' current obligations under international law. It is a simple clear framework which provides a universal standard for international arms transfers to stop arms getting into the wrong hands. The ATT was inspired by Nobel Prize Laureates and developed by lawyers, human rights organisations, and humanitarian NGOs. It now enjoys the support of a growing number of governments, as well as more than 600 civil society organisations worldwide. In March 2005, following the lead of Costa Rica, Finland, Tanzania, Kenya, and others championing the ATT, the UK government pledged to promote the ATT during its presidencies of the G8 group of nations and the European Union in 2005.³¹

Here, then, a core group of governments supporting the proposed treaty have already been identified, suggesting that IANSA will attempt to replicate the Ottawa Process by further refining the treaty and by increasing the number of governments supporting its content, before engaging those governments likely to weaken or oppose it. There is discernible momentum for this initiative, culminating in a decision, made by the First Committee of the UN General Assembly on 10 October 2006, to commence work on such a treaty. However, while 139 governments voted to open negotiations on the treaty, 24 governments, including Russia and China, abstained from voting. The US was the only government voting against the motion.³² It remains to be seen if such a proposal can be realised as a robust and comprehensive instrument of international law

³¹ Control Arms, *Towards an Arms Trade Treaty: Next Steps for the UN Programme of Action*, Control Arms Briefing Paper, June 2005, 4. For a more recent report advocating for the proposed Arms Trade Treaty, refer to Control Arms, *Arms Without Borders: Why a Globalised Trade Needs Global Controls*, Control Arms Briefing Paper, October 2006. Both reports are available at <http://www.controlarms.org/find_out_more/reports/index.htm> (accessed 22 November 2006)

³² BBC News, "UN initiates arms trade agreement," <<http://www.news.bbc.co.uk/go/pr/fr//2/hi/americas/6088200.stm>> (accessed 6 November 2006)

and, if so, the extent to which necessary trade-offs and concessions will water down its provisions.

So far unsuccessful at prompting major measures of control, civil society organisations do, however, provide opportunities for officials to engage in informal discussions which may lead to negotiations of arms control measures. These organisations also seek to influence the character and, more specifically, the conceptual scope of these frameworks as these undergo negotiation and articulation within intergovernmental organisations. IANSA's members have, for example, provided opportunities for officials to engage in informal discussions resulting in subregional soft law measures. The President of Mali, Alpha Oumar Konaré, first raised publicly the idea of an *ECOWAS Moratorium* at a conference organised by the Norwegian Initiative on Small Arms Transfers (NISAT) in Oslo during April, 1998. Within six months, the 15 heads of state belonging to ECOWAS declared the moratorium.³³ Furthermore, working under the auspices of a UN Regional Disarmament Centre in 1999, ISS helped raise awareness of small arms and light weapons control among governmental representatives belonging to the OAU. It also helped develop a mutual understanding on small arms by leading a series of workshops culminating in the *Bamako Declaration* which, in turn, informed the UN Small Arms Conference.³⁴

At a regional level, the Ottawa Process was faithfully followed by a member of IANSA. Saferworld identified a core group of European governments sympathetic to their vision, facilitated informal meetings among these governments during which it circulated research, fostering a consensus for an *EU Code of Conduct* without directly confronting the opposition of those governments deemed unsympathetic. The consensus emerging among these core governments made it easier to enlist the support of other European governments.³⁵ Reflecting the vision of many civil society organisations in general and of Saferworld in

³³ Brem and Rutherford, 179.

³⁴ Krause, 254.

³⁵ Anders, "NGOs and the Shaping of the European Controls on Small Arms Exports," 185.

particular, the provision for a confidential consolidated annual report of all EU members' transfers in the *EU Code of Conduct* is an important step toward greater transparency. Although this reporting process remains classified by EU member states, thereby evading the ongoing scrutiny of civil society, some governments, such as Sweden, publish their reported transfers. However, other governments, such as France, continue to oppose the publication of these reports outside diplomatic channels.³⁶ According to Sibylle Bauer and Mark Bromley, a summary of national reports has been published since 1999 even though no obligation exists for the EU to make available such information. "The agreement to publish a consolidated report," they contend, "can be attributed to successful pressure from the European Parliament and non-governmental organizations as well as the insistence of the 1999 Finnish EU Presidency."³⁷ As important a development as this is, this is not to suggest, however, that all of Saferworld's agenda translated into tangible outcomes from these intergovernmental negotiations.

IANSA has also been heavily engaged in the multilateral processes leading to the *UNPoA*, the only small arms-specific soft law measure of global reach. At the UN Small Arms Conference, for example, IANSA claimed a membership of over 320 organisations drawn from 70 countries,³⁸ signalling that it was an actor with which to be reckoned. According to Laurance and Stohl, the contributions of civil society organisations could not be ignored by those managing the conference because "[i]ts members had been conducting extensive research for several years, and as a result had produced a wide body of knowledge on the causes and consequences of the proliferation and misuse of small arms, as well as extensive policy recommendations on how to solve the problems associated with these weapons."³⁹ The significance of this contribution is enshrined in the instrument itself: paragraph 16 of its preamble, for example, recognises "the

³⁶ Anders, "The Role of Non-State Actors in the European Small Arms Regime," 19.

³⁷ Bauer and Bromley, 5.

³⁸ Krause, 256.

³⁹ Laurance and Stohl, 18.

important contribution of civil society, including non-governmental organizations and industry in, inter alia, assisting Governments to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects." Notably, the *UNPoA* is the only intergovernmental measure of control both acknowledging the role of, and seeking support for, civil society, empowering them under Section III (2), Section III (18), and Section IV (2)(c).⁴⁰

Various members of IANSA also participated in a series of meetings held by the UN Commission on Crime Prevention and Criminal Justice, which led to the *UN Firearms Protocol*. As Cukier and Sidel explain, the "focus of these meetings was examining the current status of and standards for national legislation, import/export controls on commercial shipments of firearms, as well as marking and tracing standards. Regional meetings provided an opportunity to expand international cooperation among gun control organizations."⁴¹

Here, then, IANSA's advocacy for instruments of international law extends to both soft law measures and treaties, though its contribution varies from case to case. Civil society organisations can form issue-based policy coalitions with particular governments where their policy interests converge, while also seeking to influence those governments' perception of its policy interests, encouraging the pursuit of those interests in multilateral settings. Such a 'winning' coalition is

⁴⁰ Section III, paragraph (2) reads "States undertake to cooperate and to ensure coordination, complementarity and synergy in efforts to deal with the illicit trade in small arms and light weapons in all its aspects at the global, regional, subregional, and national levels and to encourage the establishment and strengthening of cooperation and partnerships at all levels among international and intergovernmental organizations and civil society, including non-governmental organizations and international financial institutions." Section III (18) reads "States, regional, and subregional and international organizations, research centres, health and medical institutions, the United Nations system, international financial institutions and civil society are urged, as appropriate, to develop and support action-orientated research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems associated with the illicit trade in small arms and light weapons in all its aspects." And, Section IV, paragraph (2)(c) reads that states should consider to "further encourage non-governmental organizations and civil society to engage, as appropriate, in all aspects of international, regional, subregional, and national efforts to implement the present Programme of Action."

⁴¹ Cukier and Sidel, 221.

attractive to both civil society organisations and officials because it promotes an ongoing dialogue in which ideas and information can flow between activists and policymakers. Each becomes familiar with the other's position and aware of the other's potential negotiating flexibility which, in turn, increases the standing of both within the wider international community when each claims the support of the other.⁴²

Notwithstanding IANSA's active presence at these various intergovernmental meetings (and in some cases even arranging them), assessing their influence over the negotiation and articulation of these soft law measures, including their conceptual scope, remains problematic. One reason for this is that officials' calculations include, among other things, not only considerations of activists' proposals but also, and possibly more importantly, other governments' positions and, in the case of subregional instruments, the regional implications of any agreements reached. In light of these complexities, IANSA's members may provide important negotiating opportunities, though their input is a single factor in a complex negotiating process. Moreover, keen to celebrate negotiating outcomes, officials are prone to exaggerating the role of civil society organisations in shaping instruments of international law, especially where the provisions are not legally binding upon governments, as a means of bolstering impressions of support for agreements.

Some civil society organisations engage the processes of European governmental policymaking with respect to small arms controls to an unprecedented degree. Some of these governments appear sensitive to the concerns and recommendations offered by arms control activists, in some cases even recognising their contributions as helping strengthen potential arms control measures.⁴³ However, as Anders correctly concludes:

the existence of nongovernmental advocacy by itself or even if coupled with support by sympathetic governments, is clearly not sufficient to achieve policy change. This is particularly so where

⁴² Anders, "The Role of Non-state Actors in the European Small Arms Regime," 14-5.

⁴³ Anders, "NGOs and the Shaping of the European Controls n Small Arms Exports," 190.

specific policy elements are concerned rather than the general acceptance of the need for controls in certain areas of the arms trade.⁴⁴

In fact, policy developments are most easily discerned in those cases where the policy positions of civil society organisations and governments coincide.

Assessing the extent of IANSA's influence over the negotiation of the *UNPoA* is equally problematic. Indeed, as one observer of the process maintains, "[i]n a slow pantomime, governments began looking to non-governmental organizations for good ideas, while the NGOs looked to the governments for a sense of what was feasible."⁴⁵ Besides suggesting that all small arms and light weapons are marked at the time of their manufacture, "the NGO agenda consisted almost exclusively of taking ideas from governments and parroting them back."⁴⁶ Significantly, the text of the *UNPoA* did not reflect IANSA's key positions which, if incorporated, could have helped prevent many weapons from reaching belligerent users of these weapons.

According to Krause, who is generally reliable in his assessments, the "experience of the UN conference suggests that NGO influence was perhaps more important at the national than at the global level, and that it was more effective in agenda setting than in achieving particular outcomes."⁴⁷ Moreover, IANSA's members "appear to have exercised their influence by broadening the stakeholder base at the national and regional levels, by pushing governments to develop policies where none exist, and by raising the level of awareness and expertise that states can bring to the negotiating table."⁴⁸ Endorsing Krause's assessment, Batchelor concludes, "[a]lthough they had been able to exert some

⁴⁴ Ibid, 193. See also Anders, "The Role of Non-State Actors in the European Small Arms Regime," in which he writes "although non-state actors have played important roles in the creation of the EU regime on arms, governmental interests and governmental leadership have remained key to achieving policy change on the level of the EU...[consequently] there is not sufficient evidence for claiming a shift towards the governance of European arms controls," 20.

⁴⁵ Karp, "Laudable Failure," 180.

⁴⁶ Ibid, 181.

⁴⁷ Krause, 257.

⁴⁸ Ibid, 258.

influence over other negotiation processes at the sub-regional and regional levels, and at the PrepCom meetings, the NGO community had a fairly limited impact on the Conference negotiations, as delegations focused on following instructions from their capital.”⁴⁹

In short, while IANSA attracts attention to the urgent need for governments to take action to control small arms and light weapons, and its members have been involved in building support for subregional, regional, and global measures of control, it is somewhat problematic to assert that it has made a discernible difference in negotiating or articulating soft law measures. This is especially so given the extent to which IANSA’s engagement with instruments of international law varies, and that nongovernmental organisations unaffiliated with IANSA were also present at some of these meetings, including the UN Small Arms Conference.

To be sure, not all civil society organisations engaged in composing intergovernmental measures of control advocate within the policy bounds prescribed by IANSA. The inclusion of US congressman and swerving member on the NRA Board of Directors, Robert Barr, as an official delegate to the UN Small Arms Conference demonstrates “the US position on civilian possession of firearms was clearly linked to the importance of these domestic lobby groups for the Bush government.”⁵⁰ Barr’s participation in the conference reduced the *UNPoA*’s conceptual scope to aspects other than those relating to regulating both civilian possession of these weapons and transfers to non-state actors. The incorporation of the NRA’s views into the text of the *UNPoA* reflects a more general US policy on multilateral arms control agreements. Immediately prior to the conference, the then US Undersecretary of State for Arms Control and International Security Affairs, John Bolton, identified both the longstanding recreational use of these weapons enjoyed by US citizens and the right to bear

⁴⁹ Batchelor, 39.

⁵⁰ Krause, 258.

arms enshrined by the Second Amendment of the US Constitution as informing the official US position. Bolton expressed the position in terms of its reservations:

We do not support measures that would constrain legal trade and the legal manufacturing of small arms and light weapons....We do not support the promotion of international advocacy activity by international or non-governmental organizations, particularly when those political or policy views advocated are not consistent with the view of all member states....We do not support measures that prohibit civilian possession of small arms....We do not support measures limiting trade in SALW solely to governments....the United States also will not support a mandatory Review Conference.⁵¹

In so doing, at least in the view of one observer, "he stripped the conference of its agenda, its goals, and any trace of hope. When he stepped down from the speakers' podium, the conference was, for all practical purposes, completely over."⁵²

The official US position is similarly reflected in the major treaties controlling small arms and light weapons, specifically the *OAS Convention* and the *UN Firearms Protocol*, which the US helped negotiate, but has yet to ratify. Enduring throughout multilateral negotiations, this position underscores the relative bargaining power of the US as a global hegemon where it pursues its interests among the international community. It also signals the powerful influence of the NRA, as a civil society organisation, in formulating US foreign policy. The nature and extent of this influence emerges from the NRA's close relationship with the domestic arms industry, from which it receives funds enabling it to finance certain politicians' election campaigns. When elected, these politicians in turn ensure the ongoing defence of gun-users' rights and the advancement of

⁵¹ As cited in Derghoukassian, 4. And, as Batchelor points out in "NGO Perspectives," US opposition to NGO advocacy seemingly excludes the NRA members included in the US delegation, 40.

⁵² Karp, "Laudable Failure," 177. Karp elaborates beyond his hyperbole by suggesting that the conference's failure was underpinned by "the inherent intractability of the issue, the lack of a unifying normative principle to guide international consensus, the reassertion of the primacy of the national interest in international politics, and the ambivalence of small arms activist and their supporters," 179.

certain corporate interests in Washington.⁵³ The NRA was also responsible for establishing the World Forum on the Future of Sport Shooting Activities (WFSA), a coalition of nearly 30 organisations located in over 13 countries, each sharing a common interest in preserving civilian gun-ownership rights.⁵⁴ In terms of both its objectives and its political efficacy, the NRA is an exceptional civil society organisation involved in the composition of controls over small arms and light weapons.

Significantly, there is no single, effective gun-control organisation within the US whose influence on US foreign policymaking remotely compares to the NRA's. For Derghoukassian, "the gun control movement [is best seen] as the societal countermovement to the gun market's expansion,"⁵⁵ and he explains that "[w]ith an agenda too much dispersed, a focus on narrowly local issues or communities and unable to assume a leading role in transnational advocacy groups, the U.S. gun control community were unable to globalize."⁵⁶ The multiple layers of jurisdiction covering firearms legislation, specifically at the federal, state, and municipal levels, discourage cohesion among domestic gun control movements which, in any case, are more preoccupied with local impacts of weapons misuse than with any of the international effects.⁵⁷ Without a domestic lobby contesting the NRA's influence, the US is unlikely to alter its foreign policy position with respect to controlling small arms and light weapons through multilateral means.

Despite their contending purposes, both IANSA and WFSA recognise the importance of maximising the official role granted to civil society organisations

⁵³ Derghoukassian, 20. According to Cukier and Sidel, US Senator Jesse Helms blocked financial aid requested by members of ECOWAS to help implement its moratorium and opposed disarming Iraqis on the grounds that taxpayers' money should not be used to "promote policies in foreign countries that may very well be a violation of the Second Amendment to the U.S. Constitution," 224.

⁵⁴ Batchelor, 38.

⁵⁵ Derghoukassian, 15.

⁵⁶ *Ibid*, 17.

⁵⁷ Cukier and Sidel, 208.

within the UN Small Arms Conference and during its follow-up meetings.⁵⁸ In fact the NRA was, for a time, the only firearms-related nongovernmental organisation accredited with consultative status at ECOSOC.⁵⁹ While the NRA demonstrates a powerful influence over the formulation of US foreign policy, specifically with respect to multilateral efforts to control small arms and light weapons, there is little available evidence suggesting that IANSA's campaign has an appreciable and comparable impact on the negotiation and articulation of intergovernmental arms control measures. Since IANSA's policy 'success' occurs mostly, if not exclusively, in those 'winning' policy coalitions where IANSA's objectives coincide with governmental interests, serious doubt must necessarily persist regarding its ability to either enable or curtail government decision-making within intergovernmental organisations; this is highlighted where governmental interests are at odds with, and prevail over, the objectives of IANSA's arms control campaign. This, in turn, calls into question any claims asserting that IANSA's arms control campaign is politically effective when contextualised against the other major responses to the challenge of controlling small arms and light weapons.

Monitoring

Civil society organisations not only advocate for establishing instruments of international law, but also seek to enhance existing intergovernmental measures of control by monitoring governmental behaviour in relation to the emerging mosaic of responsibilities described by Chapters Three and Four. This monitoring sometimes occurs endogenously, that is, within formalised processes assessing controls with a view to improving them. At other times, it occurs exogenously, usually in the form of publicly available reports scrutinising the gap between specific responsibilities and a government's arms control policies and practices.

⁵⁸ Batchelor, 39; see also Atwood.

⁵⁹ Cukier and Sidel, 223.

As an example of endogenous monitoring, IANSA has been involved with the *UNPoA* review process by giving various presentations during both BMS. At the first BMS, side-events staged by civil society organisations were significant in maintaining a sense of enthusiasm for the *UNPoA*, fostering momentum built since the 2001 conference. According to one observer, these side-events enabled interaction among officials, representatives from intergovernmental organisations, and members of civil society organisations, strengthening relationships among these actors.⁶⁰ At the second BMS, IANSA formally presented to delegates a series of personal testimonies which were both horrific and emotionally moving. However, the sentiment was, perhaps, misplaced, at least from a strategic perspective. As Stephanie Koorey accurately describes:

the arms control NGOs, co-ordinated through IANSA, confused delegates by showing a presentation on machete victims, leaving its main adversary, the US National Rifle Association which represents the interest of sporting shooters and self-defence advocates, wondering if IANSA was re-visiting the definition of small arms that had been established eight years before. IANSA failed to take the opportunity to elaborate its position on small arms availability and misuse, instead spending most of the morning session pointing out to delegates that being shot is unfortunate and largely preventable, and that firearms can be used coercively. This told the conference nothing new, and many considered the presentation to be unhelpful.⁶¹

Put crudely, these presentations implied that because small arms and light weapons feature as a vital ingredient in perpetuating violence, they ought to be controlled. Yet this key message merely endorses the existing objectives of the *UNPoA* without contributing to the utility of the BMS itself, the purpose of which was to evaluate progress towards fulfilling the objectives of the agreement. In its session, IANSA provided very little evidence of its progress towards assisting governments with their implementation of the instrument; in any case, many

⁶⁰ Peter Batchelor, "The First Biennial Meeting of States on Small Arms: Building Momentum for Global Action," *Disarmament Diplomacy* no.72 (August-September 2003): 3.

⁶¹ Stephanie Koorey, "The UN Small Arms Control Process: What if this is as good as it gets?" *Security Challenges* 2, no.2 (July 2006): 4.

officials were absent from the conference room during that particular session. Although a spectacle in every sense, it was also, and more importantly, a high-profile opportunity squandered by IANSA, damaging its credibility in the eyes of some witnessing its performance.

While the UN Security Council exclusively declares resolutions authorising arms embargoes, some of the panels of experts assisting Sanction Committees in their tasks of monitoring particular sanction regimes include members of civil society organisations, as Chapter Four notes. The formalised processes reviewing sanction regimes in more general terms also incorporate input from members of the research community and of civil society organisations. For example, in collaboration with government officials, but under the leadership of the UN, researchers and members of civil society organisations have undertaken a series of studies described as the Interlaken (1998-99), Bonn-Berlin (1999-2001), and Stockholm (2001-03) Processes.⁶² The purpose of these studies was to review the efficacy of sanction regimes with two broad aims in mind: first, to increase the effectiveness of these regimes in altering the behaviour of its target; and second, to limit adverse collateral impacts on non-target populations, who are predominantly civilian.

Various outcomes of the Interlaken Process include “a consensus on the potential advantages of financial sanctions over comprehensive economic

⁶² Whereas the Interlaken Process was convened by the Swiss Federal Office for Economic Affairs, the Bonn-Berlin Process and the Stockholm Process were organised by non-state actors: BICC and the Department of Peace and Conflict Research, Uppsala University, respectively. Besides government and intergovernmental officials, private bank representatives and academics from institutions, such as The Watson Institute for International Studies of Brown University, Harvard University, and The Graduate Institute of International Studies (Geneva), the University of Notre Dame, and the Free University of Amsterdam, attended the Interlaken Process. The Bonn-Berlin Process included participants from universities as well as from so-called independent research centres and civil society organisations, including SIPRI, NISIT, BICC, the Centre for Conflict Resolution, Saferworld, and International Alert. The Stockholm Process also included representatives from the International Federation of the Red Cross and Red Crescent Societies, Amnesty International, and Human Rights Watch.

embargoes”⁶³ and a recognition that, although financial sanctions are unlikely to be effective as autonomous measures, they “may offer additional valuable tools to demonstrate the determination of the international community and to support a growing sense of individual accountability of targeted elites for the unlawful acts of states by seeking control over their financial assets and transactions.”⁶⁴ Moreover, this process identified and elaborated the practical means by which credible financial sanctions could be targeted, assisted in part by: the better harnessing of technologies; the intensification of cooperation among governments; the further developing of those frameworks through which governments share information and expertise; and the improved formulation and application of domestic law.

Focusing upon arms embargoes and travel-related sanctions, the Bonn-Berlin Process identified key “deficits and deficiencies” resulting from poor implementation and administration, provided a broad range of potential solutions to these deficits and deficiencies, and identified from among these potential solutions a few areas for further consideration.⁶⁵ Predictably, non-governmental participants of this process suggested important monitoring roles played by civil society organisations should be expanded and strengthened.⁶⁶

The Stockholm Process explored particular ways in which sanction regimes might be better implemented, including the routine establishment of sanction committees and an in-house database containing relevant and timely information, wider involvement among governments in the sanctioning

⁶³ Swiss Federal Office for Foreign Economic Affairs in cooperation with the United Nations Secretariat, *Report of the 2nd Interlaken Seminar on Targeted United Nations Financial Sanctions*, 29-31 March, 1999, 5. The full report is available at <<http://www.un.org/docs/sc/committees/sanctions/initiatives.htm>> (accessed 20 November 2006).

⁶⁴ Ibid, 6.

⁶⁵ Michael Brzoska, ed., *Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions: Results of the 'Bonn-Berlin Process'* (Bonn: Bonn International Center for Conversion with the Germany Foreign Office and United Nations Secretariat, 2001), 10-11.

⁶⁶ Laura Norris, “Arms embargoes: making sanctions smarter,” *Ploughshares Monitor*, (March 2000), 2. <<http://www.ploughshares.ca/CONTENT/MONITOR/monm00g.html>> (accessed 7 January 2005).

procedure whereby it is made clear that “sanctions regimes are ‘owned’ by the international community,”⁶⁷ and assistance to those governments lacking effective administrative infrastructure, as well as model domestic legislation for those governments without it.⁶⁸ The increasing involvement of multiple actors in these formalised review processes signals a nascent interconnectivity among their various approaches towards controlling small arms and light weapons.

As was also mentioned in the previous chapter, some civil society organisations manage and implement certain aspects of DDR programmes, as does Save the Children in Afghanistan. There is, however, no comparable multi-actor review process for those DDR processes authorised as part of UN peacekeeping operations, though some insightful reports, expressing lessons learned, are available from the UN DPKO Best Practises Unit.⁶⁹

While some of IANSA’s members seize upon opportunities connecting their response to the widespread availability and ongoing use of small arms and light weapons with those major responses belonging to intergovernmental organisations and the UN Security Council, others seek to develop relationships with these actors by providing reports scrutinising the distance between particular governments’ policies and practices and their emerging mosaic of responsibilities derived from international law. These reports exist beyond the formalised review processes.

Resembling researchers’ call for international action explored in Chapter Two of this thesis, these reports are of analytic significance, specifically as contributions exploring an aspect of this topic against various subregional, regional, and global contexts. Yet these reports potentially serve a more decisive function: first, these reports might be used by policymakers seeking to improve the ways in which they evaluate, observe, or implement their arms control

⁶⁷ Peter Wallensteen, Carina Staibano, and Mikael Eriksson, ed., *Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options*, Results from the Stockholm Process on the Implementation of Targeted Sanctions (Uppsala: Department of Peace and Conflict Research, Uppsala University, 2003), v.

⁶⁸ *Ibid*, vi.

⁶⁹ See <<http://www.un.org/Depts/dpko/lessons>> (accessed 16 November 2006).

responsibilities; and, second, these reports might embarrass those policymakers whose will to take action in accordance with their responsibilities is insufficient, if not entirely absent. More than a call for action, then, these reports present information, analysis, and assessments primarily as a means of monitoring the conduct of certain governments responding to the challenge of controlling small arms and light weapons, the effects of which might help to indirectly improve weapons' controls.

Since March 2003, International Alert has published a series of reports under its Security and Peace Building Programme: Monitoring the Implementation of Small Arms Control (MISAC). The objective of these reports is:

to better implement international and national small arms control measures. By working with governments, donors and NGOs its intention is not only to develop a better level of understanding regarding the scope and nature of international and regional small arms control but to directly assist stakeholders in working towards the full implementation of small arms controls.⁷⁰

Focusing upon the subregions of Central and Eastern Europe, Central Asia, the Black Sea, Central America, MERCOSUR, and West Africa—though the series broadens its focus to a regional perspective of Eurasia and Latin America—these reports compare domestic regimes against multilateral obligations and commitments.⁷¹ In particular, these reports assess governments in terms of the weapons manufactured under their jurisdiction, the basis of their domestic regulation of trade and possession, and their law enforcement capabilities.

The findings of the MISAC reports inform the analysis of a 'cross-regional' report, entitled *Implementing International Small Arms Controls: Some Lessons from Eurasia, Latin America, and West Africa* (2005), concluding this three-year initiative. The report, revealing the differing regional experiences implementing the

⁷⁰ Suzette Grillo, *Small Arms Control in Central and Eastern Europe*, Eurasia Series no.1 (London: International Alert, 2003), 6.

⁷¹ Godnick and Vázquez; Grillo; Agboton-Johnson, Ebo, and Mazal; Pablo Dreyfus, Carolina Lotty de Paiva Dias, Benjamín Lessing, and William Godnick, *Small Arms Control in MERCOSUR* (London: International Alert and Viva Rio, 2003). Each of these reports, and others, are available at <<http://www.international-alert.org/publications/subjectb.php?sub=arms>> (accessed 20 November 2006).

emerging mosaic of responsibilities, notes that although the “motivation of joining NATO or the EU has been a positive factor in getting governments to modernise SALW legislation and practice in South Eastern Europe...in Latin America and Africa, there is no similar motivation.”⁷² Helpful for maintaining momentum towards improving controls, the report links inducements with various key impediments to the full adherence to the responsibilities of the 29 countries analysed. A constant refrain pervading many of the reports’ various conclusions suggests that insufficient resources is one of the main obstacles hindering the matching of official governmental policy to its practices; unsurprisingly, the limited role played by civil society organisations is presented here as another common obstacle which ought to be removed.

Given the large extent to which the *UNPoA*’s provisions overlap the provisions of other soft law measures examined in Chapter Three, reports monitoring the implementation of this agreement are germane to assessments of governments’ compliance with other responsibilities. In fact, one report recognises that “it is neither possible nor desirable to distinguish between efforts to implement the POA and these other associated regional and international agreements.”⁷³ (Of course, this only applies where these responsibilities are neither more onerous than those expressed by, nor extend beyond the scope of, the *UNPoA*.) Even though most governments attending the UN Small Arms Conference agreed to participate in two further meetings as a means of reviewing their progress towards full implementation of this instrument, the *UNPoA* does not specifically delegate to civil society organisations the task of monitoring governmental activities. Nevertheless, the *Biting the Bullet* project, comprising of researchers from International Alert, Saferworld, and the Department of Peace Studies, Bradford University, has produced for IANSA three major reports focusing exclusively upon the *UNPoA*.

⁷² von Tangen Page, Godnick and Vivekananda, 36.

⁷³ *Biting the Bullet, Implementing the Programme of Action 2003*, 4.

Often referred to as the 'Red Books' (reflecting the colour of their covers), the first of these reports assesses the extent to which 156 governments uphold their commitments under the *UNPoA* in terms of each government's control over: the ongoing proliferation of these weapons in terms of both organised manufacture and casual craft; transfers of these weapons in terms of legal trade, grey transfers, and illicit trafficking; weapons possession in terms of both existing stockpiles and informal caches; and, lastly, any disarmament processes, disposal techniques, and reintegration efforts undertaken by the government in question. The second and third volumes examine the relevant progress by over 180 governments. The similarity between the information contained in the MISAC reports and the information contained in the Red Books signals the cooperative working relationship among some members of civil society organisations.

Whereas the first two reports, entitled *Implementing the Programme of Action 2003: Action by States and Civil Society*, and *International Action on Small Arms 2005: Examining Implementation of the UN Programme of Action*, were published in order to contribute to the BMS process, the third report focuses instead upon "thematic examinations of progress towards implementation of the PoA in a way that aims to be of the most use to inform debates at the Review Conference."⁷⁴ According to its authors, the timing of IANSA's first report deliberately precedes the first BMS held at New York in July 2003 so that it might assist officials to "identify strengths, weaknesses, and priorities for the future."⁷⁵ Yet the timing of the report compromises the extent of its information and, by extension, the quality of its analysis because some governments, complying with the letter of their commitments, only released their official information during the BMS process.

More problematic, however: the first report's tone is as overly optimistic as its findings are largely uncritical. The authors' preference to suggest the "glass has been slightly filled," rather than remaining "over 95 per cent empty,"⁷⁶ reflects a

⁷⁴ Biting the Bullet, *Reviewing Action on Small Arms 2006*, 4.

⁷⁵ Biting the Bullet, *Implementing the Programme of Action 2003*, 4.

⁷⁶ *Ibid*, 5.

tone which does not easily reconcile with its central findings; that is, first and foremost, there was “little evidence to suggest any overall success so far in reducing the scale and impacts of SALW trafficking and proliferation.”⁷⁷ Furthermore, the report’s tone appears inconsistent with its recommendation that “NGO and other civil society groups should take opportunities for constructive, *even if sometimes critical*, relationships with governments to promote inclusive social engagement in efforts to implement the POA and related agreements.”⁷⁸ This, in turn, suggests the report’s conclusions are held hostage to IANSA’s ambition of becoming politically relevant through its ongoing involvement in multilateral arms control negotiations, particularly in any formalised review processes. Understood in this light, the reasons informing the authors’ optimism have less to do with the respecting verisimilitude and more to do with establishing, and then maintaining, a readership consisting of diplomats, government officials, and arms control practitioners, as policymakers confronting the challenge of controlling small arms and light weapons.

The tone of the second report is less rose-tinted, however. Its authors, for example, acknowledge that they “are obliged to emphasise how little has so far actually been achieved in many respects,” before admitting the:

scale of the interventions is generally not sufficient to have more than a local or marginal impact on the problems of SALW trafficking, proliferation and misuse. Our examination shows that there are indeed some countries and sub-regions that have achieved substantial progress in more than one of these areas. These were already emerging by 2003, and have in several cases maintained their momentum. In many other countries and regions, promising early indicators of imminent action have proved misleading: they have not been properly followed-up. Many States have not really even put in place the basic mechanisms and procedures for PoA participation.⁷⁹

The third report similarly distances itself from the first report’s tone by suggesting, “[w]hile it is important to recognise some positive developments

⁷⁷ Ibid.

⁷⁸ Ibid, 7 (my emphasis added).

⁷⁹ Biting the Bullet, *International Action on Small Arms 2005*, 10.

("the glass has begun to be filled"), it is at least as important to face the fact that implementation is not on track towards overall effective action ("the glass remains almost empty").⁸⁰

While each of these three reports analyses governmental progress towards fulfilling commitments under the *UNPoA*, none consider whether or not the programme itself is effective in, or even capable of, exerting control over small arms and light weapons. In other words, while much of the Red Books focus upon policymakers making good on their international commitments, the hard work of analysing the strategic capability of the *UNPoA* to stem the problems at hand is not confronted here by IANSA.

IANSA's ability to monitor the *UNPoA* depends largely upon the availability of official information. Because official information is often kept confidential by governments, where such information exists, IANSA relies in part upon their own information-gathering activities. Accordingly, the transparency-related responsibilities introduced during the framing and negotiation rounds of some measures are, therefore, of particular salience for civil society organisations. The benefits derived from this improved degree of transparency—which remains both limited and partial—would prove useful not only to civil society organisations, but also to those statemakers, intergovernmental organisations, members of the UN Security Council, and researchers seeking to better control small arms and light weapons. Equipped with this information, each of these actors, as arms control protagonists, could improve the efficacy not only of the *UNPoA*, but of all the responses considered in Part II of this thesis.

Notwithstanding the value of these various publications as a useful compilation of data, the analysis and conclusions drawn by these reports' authors are of limited policy utility to the international community and the effects of their recommendations are not easily discerned. This is not to say that some governments will not endorse a report's findings as a means either of enhancing their own international prestige or of diminishing that of another government.

⁸⁰ Biting the Bullet, *Reviewing Action on Small Arms 2006*, 4.

There is, however, a lack of strong evidence suggesting governments have altered their policies and practices in accordance with the wishes of civil society organisations, particularly IANSA, where those wishes do not already coincide with existing governmental interests. As previously noted in Chapters Three and Four, the diplomatic tactic of naming-and-shaming has proven a weak and ineffectual deterrent, even when it has been deployed by the Security Council. Monitoring governmental progress towards fulfilling the objectives of the *UNPoA* from beyond the *UNPoA*'s formal review process, the Red Books produced for IANSA do not appear to bear upon that review process in any significant way, especially as they do not necessarily compel governments into a specific course of action that those governments would not otherwise take.

Here, then, the nascent interconnectivity among these approaches and the maturing relationships among these actors of world affairs demonstrate an international community confronting the challenge of controlling small arms and light weapons. This sense of solidarity was momentarily enhanced on 16 March 2006 when IANSA addressed the Security Council, presenting a series of papers to the council, encouraging its members to assist in establishing international legal frameworks controlling small arms and light weapons, to strengthen its enforcement of arms embargoes, and to emphasise the importance of DDR programmes in its peacekeeping operations.⁸¹ However, the major ways in which civil society organisations monitor governments' adherence to the emerging mosaic of responsibilities derived from international law—that is, by engaging endogenous processes reviewing measures and by reporting from beyond those formalised review processes—uncritically endorse contemporary world order. In particular, IANSA's involvement in the BMS process and in reviewing sanction regimes authorised by the Security Council, as well as its major reports examining progress towards implementing the *UNPoA*, reveal an enduring but uncritical commitment to internationalism as a primary means of

⁸¹ For copies of the presentations, refer to <<http://www.iansa.org/un/secuirty-council-presentations.htm>> (accessed 7 November 2006).

securing and maintaining international peace and collective security. And, as the remainder of this chapter contends, IANSA's unwillingness to disturb, let alone contest, this notion of the political can help explain why its arms control campaign has been, at least so far, a relatively ineffectual response to the challenge of controlling small arms and light weapons, especially when compared against the successful landmine ban campaign and against other actors responding to this challenge.

Reinforcing an Orthodoxy

Put very briefly, the preceding three chapters of Part II of this thesis argue: first, researchers describe the topic of small arms and light weapons as a local, national, regional, and global problem for policymakers to solve, calling upon governments to cooperate in order to take the action necessary to control the proliferation, transfer, possession, and use of these weapons; second, policymakers negotiate measures of control within intergovernmental organisations and, as products of a grand politico-strategic framework, instruments of international law strengthen this existing governance architecture; and third, the collective action authorised by the Security Council under the UN Charter extends the reach of this governance architecture, often forcefully, to areas where governments no longer exercise a monopoly over the use of force. Unsurprisingly, these members of the international community tend to prefer those responses which consolidate or improve their positions within contemporary world affairs.

Despite the diversity of those major responses, these central actors share a common notion of the political; as each of these responses to the challenge of controlling small arms and light weapons prefers governments cooperating together in the pursuit of collective security, internationalism has become a kind of orthodoxy. And this orthodoxy takes hold as the nascent interconnectivity and maturing relationships among actors develop.

IANSA's arms control campaign reinforces this internationalist orthodoxy, drawing, to a large extent, upon governments to provide its sense of legitimacy as a member of the international community. Some governments, for example, provide funds, not just for domestic, but also for transnational civil society organisations. According to Stefan Brem and Ken Rutherford:

Over the last few years, committed *states* have strengthened their cooperation with interested NGOs and acknowledged the importance of NGOs in conducting and disseminating research, educating the public, and providing advice to government on small-arms issues. In sum, *a core group of states decided that it was in their hands* to strengthen the collaboration with interested NGOs in order to build a solid coalition to situate the SALW crisis at the top of the international political agenda.⁸²

This is not to say, however, that governments prescribe the range of issues for which civil society organisations must necessarily campaign. Rather, it is to acknowledge, as does Krause, that "the NGO network 'maps onto' the concerns of like-minded states (usually middle-powers) that provide support for it."⁸³ While all this does not deny IANSA a role in multilateral arms control efforts, it does, however, acknowledge that such a role depends upon widespread governmental consent and it is with, for the most part, medium-sized governments that arms control activists have established productive working relations. In other words, medium-sized governments, especially those with a vested interest in a substantive and ongoing commitment to internationalism, be it on a global, regional, or subregional scale, benefit from the engagement of civil society organisations which, at least in appearance, contribute to countering the influence of powerful statemakers in world affairs. And while IANSA's members might develop their responses, enlarge the scope of their involvement, and improve the sophistication of their approach, these developments do not necessarily influence the behaviour of policymakers in discernible ways, especially in non-trivial matters.

⁸² Brem and Rutherford, 181 (my emphasis added).

⁸³ Krause, 259.

Significant too, is the emergence, before IANSA was established, of that coalition of like-minded and action-orientated governments. As Garcia correctly asserts:

The wealth of initiatives promoted by governments during the period 1995–99 within the UN and through the coalition of like-minded states is an indicator that states had a stronger sponsorship role in the advancement of the issue of small arms within the international agenda than non-governmental actors in that period. They acted as agenda setters and elevated the small arms issue to a position of prominence within the international agenda. The role of some states, like Canada and Norway, was key in the making of a coalition of like-minded states that played a central role in advancing the global efforts to control small arms.⁸⁴

Furthermore, the literature published by researchers, an emerging body of international law, and the collective action authorised by the UN Security Council, each occurring before the establishment of IANSA, underscores the limited extent to which civil society organisations exercised leadership over the international community's emerging response to the challenge of controlling small arms and light weapons.

In this respect, IANSA's campaigning does not signal a shift from internationalism towards a form of global governance in which a range of actors, including but by no means limited to statemakers, play important roles in addressing problems recognised as being of global scope. As Laurance and Stohl observe, "[a] broader range of actors, especially those from civil society, will need to be more involved if the emerging global public policy framework on small arms is to take full flight."⁸⁵ The actors, in addition to being involved, will need to be politically effective. Even though Laurance and Stohl concede the concept of a global public policy framework for these weapons is in its "infancy,"⁸⁶ the evidence they provide, particularly the increased level of engagement by non-state actors within intergovernmental organisations, does not necessarily signal

⁸⁴ Garcia, "Norm building in the Evolution of the Control of Small Arms in the International Agenda," 243.

⁸⁵ Laurance and Stohl, ix.

⁸⁶ Ibid, 41.

the emergence of such a framework. In other words, the case for an emerging global public policy framework around the control of small arms and light weapons is not entirely convincing because mere participation does not necessarily equate to effective political engagement, as this chapter demonstrates. Similarly, despite Derghoukassian's observation that "[t]he landmine case inaugurated a novel modality of 'new internationalism' centered on the collaborative process of NGOs and moderate states,"⁸⁷ no such new internationalism is evident with respect to controlling small arms and light weapons. Much the same can be said of Krause's concept of a 'new multilateralism.'⁸⁸ While these developments may indeed be novel, they make little impact on the major responses to this challenge.

As this chapter demonstrates, IANSA's campaign does not make a significant discernible difference to the ways in which intergovernmental organisations function in non-trivial matters; civil society organisations do not feature here as agents representing the emergence of a new form of global governance, despite being important members of the international community. The case of IANSA appears to support Pouligny's claim that "although they often criticise the actions of governments and international organisations on specific aspects of their policies, NGOs rarely challenge the broader notion of political and economic principles which constitute the framework of their actions."⁸⁹ Rather than emerging in opposition to the state, the relationship is more complex and dynamic, signalled by the ease with which experts shift between civil society organisations and the policy division of governments and intergovernmental organisations. Understanding the complex and dynamic nature of this relationship reveals that "[t]he contemporary increase of the discourse on 'civil society,' as something opposed to the state, functions as if there was a clear, universal, and intangible frontier between what refers to politics and what does

⁸⁷ Derghoukassian, 3.

⁸⁸ Krause, 259.

⁸⁹ Pouligny, *NGOs as transnational forces?* 34.

not.”⁹⁰ Rather than signalling the emergence of a specific global public policy in particular, or a form of global governance in general, Part II of this thesis illuminates the ways in which the international community’s response to the challenge of controlling small arms and light weapons reinscribes internationalism. In fact, it serves to highlight the entrenchment of internationalism and its ability to remain the predominant notion of the political in contemporary world affairs.

This entrenchment of internationalism is also evident far from the diplomatic conference halls. In post-conflict settings, international civil society organisations working closely with peacekeeping operations are seen by some local nongovernmental organisations as acting in “collusion” and by local actors as part of the “invasion by international NGOs arriving in their countries with UN soldiers.”⁹¹ Furthermore, the strategies employed by these international civil society organisations are informed by their own ‘universalist’ principles which do not necessarily easily transplant into war-torn post-conflict settings. In fact, existing social organisations are often neglected, quite possibly because they are “insufficiently understood and widely marginalised.”⁹² While there might be significant interaction between international civil society organisations and local actors, there is often little in the way of meaningful and sustained negotiation and few genuine cultural transactions, resulting in frameworks informed more by the ideologies of the west with its ‘best practices’, than by the concrete practices permeating host societies.

While the belief in internationalism underpins the international community’s response to the challenge of controlling small arms and light weapons—determining who should control these weapons and in what circumstances they

⁹⁰ Ibid, 7.

⁹¹ Béatrice Pouligny, “UN peace operations, INGOs, NGOs, and promoting the rule of law: exploring the intersection of international and local norms in different postwar contexts,” *Journal of Human Rights* 2, no.3 (September 2003): 363.

⁹² Ibid, 372.

are to be used—these responses are, for the most part, problem-solving attempts.

And by problem-solving, I mean here what Cox means when he writes:

It takes the world as it finds it, with the prevailing social and power relationships and the institutions into which they are organised, as the given framework for action. The general aim of problem-solving is to make these relationships and institutions work smoothly by dealing effectively with particular sources of trouble. Since the general pattern of institutions and relationships is not called into question, particular problems can be considered in relation to the specialised areas of activity in which they arise.⁹³

Relying upon this internationalist governance architecture without disputing the key philosophical assumptions underpinning those control strategies, IANSA neglects advancing other key philosophical assumptions commonly held by many social movements. It contests neither the primacy of the state, nor the assumption that human nature is calculating, for example. Since those arms control activists following IANSA's guidance avoid contesting the particular notion of the political deeply embedded in the structures informing contemporary world affairs, IANSA's campaign endorses the legitimacy enjoyed by statemakers, supporting the existing governance architecture, as it is in turn supported by it.

Noticeably absent from the international community's major responses to this challenge is what Cox describes as critical theory, which is:

critical in the sense that it stands apart from the prevailing order of the world and asks how that order came about. Critical theory, unlike problem-solving theory, does not take institutions and social and power relations for granted but calls them into question by concerning itself with their origins and how and whether they might be in the process of changing. It is directed towards an appraisal of the very framework for action, or problematic, which problem-solving theory accepts as its parameters. Critical theory is directed to the social and political complex as a whole rather than to the separate parts.⁹⁴

⁹³ Cox, 261.

⁹⁴ Ibid, 262.

While civil society organisations, such as Human Rights Watch, can gain some leverage over governments by linking, for example, human rights records to potential EU membership, IANSA has not. Similarly, whereas the “[v]iolent antiglobalization demonstrators in Seattle in 1999 totally eclipsed the meeting of the World Trade Organization they came to protest....[the UN Small Arms Conference] never rose above analytic sobriety.”⁹⁵

IANSA does not, therefore, resemble what Walker describes a ‘critical social movement,’ which he defines as:

distinguishable in part by their capacity to recognize and act creatively upon the connection among structures, processes, and peoples that do not enter significantly into the calculations of conventional political actors or that are denied by movements of a more reactionary character. Recognizing connections, critical social movements are able to engage not only in struggles around specific problems but also in struggles that recognise the emancipatory potential inherent in certain kinds of connections and solidarities. Acting on such connections and forging new solidarities, critical social movements have the capacity to extend the horizons of our political imagination. Reacting to the intolerable, they extend the boundaries of the possible.⁹⁶

Against this criterion and compared against the efforts of intergovernmental organisations and of the UN Security Council, IANSA’s performance to date as an arms control protagonist has been ineffectual. Partly an indictment of IANSA’s leadership, it also signals the limits of what is possible for non-state actors to achieve when engaged with issues on the contemporary security agenda which have important economic and social dimensions.

Even though involvement in various multilateral processes, and the formal recognition of this involvement by certain instruments of international law, does not necessarily signal political efficacy, such recognition has, however, had a profound impact upon arms control activists. This official recognition not only provides necessary resources and a sense of legitimacy to activists as members of the international community, but also enables a broader civil society constituency

⁹⁵ Karp, “Laudable Failure,” 181.

⁹⁶ Walker, 3.

to be cultivated while sustaining their collective identities as fervent campaigners with, at times, very public demonstrations of utopian-like zeal. In these terms, IANSA can claim success in consolidating support for controls over small arms and light weapons among fellow individuals. Its 'collective' urge finds expression as a social movement and legitimises its purpose as an organisation, but is essentially a reaction against the alienation from the mainstream which informs many of the most vibrant contemporary social movements.

In this light, the UN Small Arms Conference was particularly important in fostering interest and further consolidating civil society support for arms control activism. According to Batchelor, "[i]t mobilised new organizations to join the NGO community and help build relationships between NGOs from different parts of the world and from different sectors...The Conference was also useful for building better relations between the NGO community and governments."⁹⁷ The meetings preceding and following the conference also offered IANSA opportunities to develop policy recommendations, nurture partnerships, and improve their capability for future campaigning. As a civil society organisation, "IANSA is significant, in part because it represents the coming together of a range of groups from many countries concerned about the problems of small arms and firearms from a variety of perspectives."⁹⁸ The conference also enabled relationships among researchers and civil society organisations to mature. For Laurance, it was an:

occasion for the creation, dissemination, and sharing of knowledge that firmly established the SALW problem as global in nature....and has set in motion a host of post-Conference studies and conferences designed to connect the knowledge on small arms problems with that of international law, human rights, and public health, to name a few."⁹⁹

All this is not to imply, however, that activists do unimportant work: IANSA's campaign is broad, and it probably makes a difference in multiple ways, yet

⁹⁷ Batchelor, "NGO Perspectives," 40.

⁹⁸ Cukier and Sidel, 228.

⁹⁹ Laurance, "Shaping Global Public Policy on Small Arms: After the UN Conference," 197.

IANSAs impact on the negotiation, implementation, and monitoring of those mosaic of responsibilities examined in Chapters Three and Four, which this thesis argues are the central responses of the international community, has so far been faint at best and coopted at worst.

It remains a core contention of this thesis, however, that the appalling impacts associated with the widespread availability and ongoing use of small arms and light weapons—which were described as a ‘carnival of horror’ in the thesis’ prologue—are in and of themselves insufficient to reform the internationalist governance architecture. To be sure, those impacts present an opportunity for governments, especially as members of intergovernmental organisations, to further consolidate their prime positions in contemporary world affairs. Focusing here upon the disappointment of the UN Small Arms Conference, Karp’s reasoning is highly germane to all of the major responses to the challenge of controlling small arms and light weapons examined in Part II of this thesis. He writes:

The UN Small Arms Conference had the misfortune of being conceived in the last light of an era when it seemed possible to redesign international affairs, minimizing the role of squabbling states. By the time the conference convened the climate had changed. Strengthening the state was the order of the day. With their own particular needs foremost in mind, jealous of their prerogatives as states, there was no longer any chance for agreement, least of all within the UN. African governments arrived at the conference bent on keeping weapons out of the hands of rebels. Islamic governments were determined to sustain the flow of support to the Palestinians and Kashmiri Muslims. Delegates from Latin America sought to stymie the flow of guns to rebels and narcotics traffickers. China and Russia just wanted to keep prying eyes out of their own affairs. Meanwhile some European countries and the United States were striving to protect domestic liberties. The search for agreement took the only path left open, accepting the lowest common denominator and adopting diluted recommendations.¹⁰⁰

As governments reassert sovereignty and national interest within the grand politico-strategic frameworks ordering world affairs, the space for civil society

¹⁰⁰ Karp, “Laudable Failure,” 187-88.

campaigning continues to narrow, despite a brief but very apparent expansion in the wake of the Cold War.

Conclusion

First mobilising in 1998, and then formally established in the following year, IANSA's campaign is the most recent major response by members of the international community to the challenge of controlling small arms and light weapons. Although there is much evidence suggesting civil society organisations have become increasingly involved in the composition of controls—and at times this involvement has been welcomed, and even facilitated, by government representatives within intergovernmental organisations—there is less evidence suggesting this involvement necessarily demonstrates an effective political engagement at the global level. This is not to discount the important impact they might have on individuals and communities in local contexts. As arms control protagonists, these organisations have also been unable to prompt major measures of control, be they either treaties or soft law measures, or of global, regional, or subregional scope. The record to date suggests that civil society organisations under IANSA's direction have yet to demonstrate an ability 'to get and use power over others for non-trivial purposes.'

Because IANSA's campaign deliberately maps onto the concerns and interests of certain governments and, for the most part, onto the existing security agendas of those intergovernmental organisations to which these governments belong, those organisations following IANSA's leadership have not always fully exploited the power available to them as social movements. Other civil society organisations not affiliated to IANSA have, however, proven politically effective in pursuing their objectives during multilateral negotiations occurring at intergovernmental organisations: more specifically, the NRA, as members of the US delegation to the UN Small Arms Conference, to the UN meetings preceding the *UNCATOC*, and to the OAS, prevented consensus over regulating both civilian possession and transfers to non-state actors. As argued in Chapter Three,

this conceptual neglect seriously impairs the efficacy of those specific measures as effective arms control measures.

As Part II of this thesis demonstrates, there is a high degree of nascent interconnectivity among the literature published by researchers, the measures of control negotiated within intergovernmental organisations, the collective action authorised by the UN Security Council, and the campaigning of civil society organisations. Despite such interconnectivity among these members of the international community, a particular notion of the political remains uncontested by these actors as each response evolves. Broadly speaking, statemakers collaborating within intergovernmental organisations continue as the prime actors composing controls over these weapons, and their commitment to the internationalist governance architecture is further justified, embedded, projected, and uncritically endorsed by these major responses. While awareness of the nature and extent of the myriad of deleterious impacts generated by the widespread availability and ongoing use of small arms and light weapons compels some international actors into taking action, these responses serve to reinforce what has become an internationalist orthodoxy. Without prejudicing claims that a broad shift toward new forms of governance is occurring in contemporary world affairs, Part II of this thesis demonstrates that such a shift, if it exists, is neither epitomised by, nor particularly evident in, the ways in which the international community composes controls over small arms and light weapons.

The following two chapters, comprising Part III of this thesis, signal that not all international actors share this commitment to internationalism. In fact, Chapters Six and Seven illustrate ways in which arms-producing firms, brokers, and chief users of small arms and light weapons each seek to mitigate, resist, or subvert those treaties and soft law instruments emerging from within intergovernmental organisations, as well as those arms embargoes and DDR programmes authorised by the UN Security Council. In so doing, Part III

illustrates how these actors, as arms control antagonists, contest the notion of the political in differing ways and with differing degrees of success.

PART III

DRAMATIS PERSONAE, and the erosion of control

6. FIRMS AND BROKERS SUSTAINING WIDESPREAD AVAILABILITY

Whereas arms control protagonists are, generally speaking, quick to recognise firms and brokers as international actors contributing to the widespread availability of small arms and light weapons, recognition especially evident in their penchant for regulating producers and suppliers of these weapons, they appear less keen to explicitly acknowledge these actors as potential antagonists of those control processes and, more importantly, of those control processes' intended effects.¹ Before identifying particular ways in which firms and brokers mitigate, resist, and elude the intended effects of the various measures established by the international community as a means of exerting control over the proliferation and transfer of small arms and light weapons, this chapter distinguishes those firms and brokers authorised by governments from those commercial operators whom are not. Some of these unauthorised firms and brokers operate beyond the administrative and enforcement reach of the regulatory regimes established in accordance with international law, often in what is commonly referred to as the black market. Focus is also given here to those commercial operators deliberately transferring weapons in contravention of UN arms embargoes.

In practice, however, both authorised and unauthorised operators can draw upon—sometimes simultaneously, at other times interchangeably—a common pool of commercial ploys that help erode the international community's control over small arms and light weapons. Possessing technical expertise and operational flexibility which is frequently superior to the monitoring and enforcement capabilities underpinning the intergovernmental frameworks designed specifically

¹ A notable exception here is the *UNPoA*. While the *UNPoA* focuses on firms as an object of control, paragraph 16 of its preamble also recognises the "important contribution of civil society, including non-governmental organizations and industry in, inter alia, assisting Governments to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects."

to regulate the small arms and light weapons industry, firms and brokers are motivated, often to a large extent, by powerful corporate interests which ought to be of significance to those concerned with controlling the widespread availability of these weapons. Indeed, given that the commercial practices deployed by firms and brokers are not only changing the face of the global arms market and shaping the dynamics of contemporary conflict,² but also directly contesting the internationalist notion of the political informing the major responses examined in Part II of this thesis, this motivation is especially relevant to analysts and policymakers alike. By way of conclusion, the chapter makes use of 'dark networks,' a conceptual device recently elaborated by Jörg Raab and H. Brinton Milward, as a means of problematising the dichotomy comprising of those members of the international community who help compose controls over these weapons and those international actors whose practices help erode the intended effects of those controls.

Captains of Small Arms Industry

While intergovernmental organisations remain the primary members of the international community responding to the challenge of controlling small arms and light weapons, firms and brokers play a central role in sustaining the widespread availability of these weapons. Indeed, the major members of the international community seeking to compose controls over small arms and light weapons recognise the importance of firms producing the tools frequently used to facilitate violent crime, initiate, conduct, and prolong armed hostilities, and hinder post-conflict reconstruction efforts, each of which threatens peace and intensifies insecurity.

According to the Small Arms Survey, for example, "the presence of new and increasing numbers of companies and countries that produce small arms—and who are willing to sell to anyone, anywhere, at any price—means that it is now easier for authoritarian governments, non-state actors, terrorists, and criminals to obtain

² Amnesty International, *Dead on Time—arms transportation, brokering and the threat to human rights* (10 May 2006), 9.

weapons that are newer, more sophisticated, and more lethal than ever before."³ IANSA argues, furthermore, that "[a]s access to modern machine technology becomes widespread, small-scale producers are becoming increasingly capable of producing significant quantities of highly capable and sensitive firearms, including semi- and fully-automatic weapons. The issue of 'craft' production also cannot be dismissed as a small or peripheral issue."⁴ More decisively, intergovernmental organisations include weapons-producing firms as an object of control in the regulatory regimes fostered under international law. The preamble of the *Nairobi Protocol*, for instance, acknowledges the link between:

the problem of the proliferation of illicit small arms and light weapons in the Great Lakes Region and the Horn of Africa and the devastating consequences they have had in sustaining armed conflict and armed crime, degrading the environment, fuelling the illegal exploitation of natural resources and abetting terrorism and other serious crimes in the region.

The notable exception here is, of course, the UN Security Council which, given that its five permanent members rank among the largest producers and exporters of conventional arms, is less likely to explicitly condemn the role its industries play in contributing to contemporary conflicts, many of which are the subject of Security Council resolutions.

Brokers are similarly recognised as international actors sustaining the widespread availability of small arms and light weapons. A recent report issued by Amnesty International defines "international arms brokering" as:

...activity carried out by individuals or companies to mediate, arrange or facilitate an international arms transaction between a buyer and seller in return for a fee or material reward or benefit. Brokering activity does not necessarily involve the actual purchase, possession or delivery of the arms directly by the brokering agent, although this is often linked in practice. Rather, the brokering activities focus on mediation and may include the provision of vital technical, logistical and financial information to customers about arms suppliers and prospective clients and sub-contractors in different countries, the facilitation of documentation and/or

³ Small Arms Survey, *Small Arms Survey 2001*, 48.

⁴ Biting the Bullet, *International Action on Small Arms 2005*, 299.

payment between buyer and seller, and/or the arrangement of transportation, finance or insurance services for the delivery of the arms cargo in question.⁵

The Small Arms Survey acknowledges that “brokers and their associated networks of intermediaries and sub-contractors are increasingly involved in the transfer of new and surplus weaponry into contemporary conflict zones. Most of these transfers have dubious legitimacy, contravening national and/or international law and occurring in the grey and black markets of the global arms trade.”⁶ According to Amnesty International, the “[g]rowing state-sponsored out-sourcing and the increasing private mediation of international arms distribution and procurement is adding to the risk of arms being delivered, diverted, and used for grave human rights violations.”⁷ Much of the *Fowler Report*, submitted to the UN Security Council in 2000, deals with the vital role brokers played in procuring weapons for UNITA, thereby enabling conflict to prevail in Angola. Subsequent UN Sanction Committee reports also document brokering activities, but rarely do so with the candour so forcefully articulated by the *Fowler Report*. Intergovernmental organisations, such as the EU, explicitly recognise “that the availability and accumulation of massive quantities of conventional arms and *especially their illicit trafficking*, often associated with destabilising activities, are disturbing and dangerous phenomena, particularly for the internal situation of affected states and for the respect of human rights.”⁸ While somewhat less developed than the treatment of weapons-producing firms as objects of control, there has been some progress towards establishing new, and improving existing, controls over arms brokers in important agreements constituting an emerging body of international law.⁹

⁵ Amnesty International, *Dead on Time*, 58.

⁶ Small Arms Survey, *Small Arms Survey 2001*, 95.

⁷ Amnesty International, *Dead on Time*, 3.

⁸ Refer to the *EU Programme for Preventing and Combating Illicit Trafficking*, (my emphasis added).

⁹ For detailed reports of this progress, please refer to official documents—especially the United Nations General Assembly, *Report of the Group of Governmental Experts established pursuant to General Assembly resolution 56/24 V of 24 December 2001, entitled “The illicit trade in small arms ad*

Despite their recognition as international actors sustaining the widespread availability of small arms and light weapons, weapons-producing firms evade easy characterisation. At one extreme of the production scale, commercial entities are structured as state-owned manufacturing plants in countries where central planners continue to exercise a heavy hand in managing domestic economies. China North Industries Corporation (NORINCO) is a prime example of a state-owned enterprise producing large quantities of small arms and light weapons, including derivatives of the near ubiquitous AK47, for PRC's own defence purposes and for export abroad. As a means of facilitating its external trade, NORINCO maintains over twenty offices outside the PRC; it has also been involved in road building projects in Ethiopia and subway construction in Iran.

Also located at this extreme of the production scale are those multinational corporations fulfilling ongoing commercial contracts for government defence organisations, representing the military-industrial complex found in some western liberal democracies. Colt Manufacturing Company is one such firm, privately owned by shareholders, which supplies small arms and light weapons to the armed forces of the US government, including the M16 assault rifle used during the Vietnam War. At present, Colt is a major supplier of weapons to the US military forces in Iraq as well as to many of the private security firms currently contracting throughout that occupied country.¹⁰ These two commercial enterprises, and hundreds others like them, provide ongoing employment for thousands of workers and generate foreign exchange revenue, both of which are not insignificant concerns for policymakers responsible for managing domestic economies.

At the other extreme of the production scale, commercial entities are structured as family-owned businesses which operate with fewer than a dozen employees¹¹ and West African blacksmiths in particular, repairing damaged weapons, also produce

light weapons in all its aspects," UN Doc. A/58/138 (New York: United Nations, 2003), available at <<http://www.disarmament.un.org/cab/salw.html>> (accessed 3 December 2006).

¹⁰ For more information on these companies, please refer to their commercial websites <<http://www.norinco.com>> and <<http://www.coltsmfg.com>> respectively.

¹¹ Small Arms Survey, *Small Arms Survey 2004: Rights at Risk* (Oxford: Oxford University Press, 2004), 10.

weapons as craft. According to Emmanuel Kwesi Aning, weapons produced as craft in Ghana “are now known regionally for their competitive prices, their effectiveness, and their accessibility—thus raising concerns that they might one day represent a significant source of weaponry for armed groups. Indeed, some local blacksmiths now possess the requisite know-how to copy imported AK-47 assault rifles.”¹²

Company structures aside, “it is often difficult to distinguish between end producers that sell final products (e.g. rifles) to buyers, and intermediate producers—companies that produce parts or components for small arms that are then sold by end producers.”¹³ And where production occurs:

[u]nder the guise of producing trinkets, gold ornaments, and basic farm implements, blacksmiths secretly [continue] to manufacture the more profitable small arms which then [slip] outside the purview of the law and the state. Not only [does] clandestine manufacture continue to grow, but it also [engenders] networks and mechanisms designed to elude law-enforcement agencies.¹⁴

To further complicate matters, the actual process of producing a small arm or a light weapon can occur across multiple jurisdictions.

Like captains of small arms industry, arms brokers evade easy characterisation. In many cases, firearms dealers supply local markets without contravening domestic law. In other cases, however, brokers deal on behalf of governments whose international responsibilities render such transactions improper and illegal; the Iran-Contra affair provides a much-publicised example of such arms-length brokering. In addition to these weapons, some brokers traffic missiles, attack helicopters, and make claims about accessing nuclear materials, though not all brokers are of so dubious a pedigree. According to Brian Wood and Johan Peleman, contemporary arms brokers are, more often than not, entrepreneurs possessing professional military and security expertise who are driven by financial incentives, are prepared to exploit legislative loopholes, employ transport agents and secretive financial transactions, and engage in morally repugnant, though in some cases technically

¹² Aning, 79.

¹³ Small Arms Survey, *Small Arms Survey 2001*, 11.

¹⁴ Aning, 81.

legal, business practices of selling arms to human rights violators, repressive governments, and perpetrators of genocide.¹⁵

Blurring the distinction between firms and brokers, however, are those manufacturers that market and distribute their own products as well as those brokers maintaining their own inventories.

Just as weapons-producing firms and arms brokers evade easy characterisation, the motives informing proliferation and transfer vary. During much of the Cold War, it was almost commonplace for both superpowers to transfer small arms and light weapons to client actors as a means of fuelling the ideological rivalry between democratic liberalism and communist socialism. The legacies of these transfers are readily apparent in many of the locales currently hosting conflict or recovering from hostilities: the US, for example, provided weapons to armed groups active in Africa, Central Asia, South America, and South East Asia, as did the former USSR. More recently, however, a significant proportion of the world's manufacturing infrastructure, established for non-commercial reasons during the Cold War, has been reduced by the radical neo-liberal reform of those economies formerly controlled by Soviet planners and, more generally, by the gradual rationalisation of the arms industry throughout the world. Like many industries, the small arms and light weapons industry is at once transformed by globalisation and functions as its vehicle. And by globalisation, I mean here what Kaldor means when she describes it as "the intensification of global interconnectedness—political, economic, military, and cultural."¹⁶

Since the end of the Cold War, direct governmental control over firms manufacturing small arms and light weapons has been relaxed, especially within the

¹⁵ Wood and Peleman, 12-13. For a very similar description, see Amnesty International, *Dead on Time*, 59.

¹⁶ Kaldor, 3. Kaldor goes on to note: "Even though I accept the argument that globalisation has its roots in modernity or even earlier, I consider that the globalisation of the 1980s and 1990s is a qualitatively new phenomenon which can, at least in part, be explained as a consequence of the revolution in information technologies and dramatic improvements in communication and data-processing. This process of intensifying interconnectedness is a contradictory process involving both integration and fragmentation, homogenization and diversification, globalisation and localization."

former Soviet Union, as these firms are increasingly privately owned and commercially operated, rather than managed as state-owned enterprises. This is not to suggest, however, that no state-owned or subsidised arms manufacturing plants exist, but rather, to signal a broad trend towards private commercial ownership within this industry. Broadly speaking, these economic reforms appear to follow US economic leadership and, moreover, according to Derghoukassian:

The growth of the gun business in the 1990s is the consequence of aggressive marketing efforts that were put in place in the last two decades in the U.S. and created a powerful lobby to preserve an expanding business. These efforts are best understood within the free-market logic of neoliberal economics that predominated U.S. economic policy since the late 1970s and, eventually, became the driving force of globalization. Though aggressive marketing is an inherent logic for almost any consumer product to maintain competitiveness, guns are not the kind of good that needs renewal every few years like cars or computers. The gun business, therefore, needed greater creativity to expand the naturally more restricted limits of its market. More than demand, thus, it was the supply-side of the gun business that was active in creating incentives for potential buyers.¹⁷

Although the total number of firms manufacturing these weapons has increased following the collapse of the Soviet Union, the range of weapon-types produced has enlarged, and the geographic distribution of these firms has spread, the estimated rate at which these weapons are produced has, however, declined.¹⁸

Brokers of small arms and light weapons also benefit from Cold War legacies since covert operations conducted by governments—specifically, the US, the UK, France, the Soviet Union, and East Germany¹⁹—established transfer routes beyond regulated channels, enabling certain individuals to acquire skills of strategy necessary for successful arms brokering. Normally maintained exclusively by governments, these skills include establishing and utilising secret bank accounts, straw men, and shell companies. Brokers in less developed countries derive or, in some cases, mimic these skills of strategy, with some emerging as former combatants

¹⁷ Derghoukassian, 13.

¹⁸ Small Arms Survey, *Small Arms Survey 2001*, 7.

¹⁹ See Wood and Peleman, particularly chap. 1, entitled "Arms Brokering Emerges from the Cold War," 6-12.

with closely forged relationships with those belligerents fuelling weapons demand. As with firms operating in the aftermath of the Cold War, the concomitant intensification of globalisation further enables many of the world's brokering activities. Again, Wood and Peleman are instructive here:

The increasing globalization of trade and electronic info-commerce make it easier than ever for experienced arms dealers and operators to circumvent national arms control systems and to exploit the weakest links in a fragile international regulatory chain. Globalization has enabled the aviation industry to move away from traditional public ownership and regulation. Cross-border mergers between airlines, marketing alliances, leasing, chartering, franchising and offshore registration of fleets, crews and companies all make it very difficult to monitor and regulate the airspace and freighting industry. Brokers and shipping agents have become skilled exploiters of these new market realities.²⁰

Yet the commercial relationship between militaries and the transport industry has its roots dating back to the logistical support provided by the private sector to the US military during the Second World War. Important too is the 'logistics revolution' that followed in the ensuing decades. The US military's reliance on the commercial logistics service providers for Operation Desert Storm testifies to the importance of this enduring relationship.²¹

This industry, manufacturing and trading small arms and light weapons, is big business which, as Tom Diaz alludes, is making a killing.²² Recent estimates suggest 1,134 firms are currently involved in some stage of small arms, light weapons, and ammunition production processes. Signalling the industry's global distribution, these commercial enterprises occur in at least 92 countries with the US, the Russian Federation, and the PRC ranking as the world's major producers.²³ The Small Arms Survey estimates the total value of the global small arms and light weapons industry to be at least US\$7.4 billion, and this for a total volume of between seven-and-a-half and eight million weapons, and between ten and fourteen billion units of

²⁰ Wood and Peleman, 11.

²¹ For more details, see Amnesty International, *Dead on Time*, 41-48.

²² Tom Diaz, *Making a Killing: The Business of Guns in America* (New York: New Press, 2000).

²³ Small Arms Survey, *Small Arms Survey 2004*, 9.

ammunition each year.²⁴ These so-called captains of industry continue producing small arms and light weapons, in some cases developing and refining associated technologies, in spite of a global stockpile estimated at about 639 million known weapons.²⁵

The world's stockpiles not only continue to grow even in the wake of the Cold War, but also circulate among users with a high degree of velocity. The Small Arms Survey estimates the value of total legal international trade in small arms and light weapons to be worth approximately US\$4 billion each year,²⁶ though this might be an underestimate as it remains difficult to ascertain the quantities of these weapons distributed as gifts and aid, or sold at bargain-basement prices. The nature of the small arms and light weapons industry, particularly the motives informing production and trade, is at once informed by considerations of military strategy—including for national defence purposes, to support client armed groups, and to undermine and destabilise rivals—and of economic prosperity—including short-term commercial gains and sources of ongoing employment.

The global small arms industry is, however, so complex that it defies reductive categorisation and, according to the Small Arms Survey, “although it is frequently treated as a single entity, the industry is in fact highly differentiated.”²⁷ Thus, as an analytical tool, country profiles (an approach favoured by much of the literature examined in Chapter Two) may not fully reflect the many operational complexities of commercial enterprises and are, thereby, rendered less meaningful than profiles based upon corporate structures and the dynamic incentives to which these actors respond. Put simply, country-specific profiling is not necessarily meaningful for analysts, nor does it possess much in the way of utility for policymakers.

²⁴ Small Arms Survey, *Small Arms Survey 2003*, 13.

²⁵ *Ibid.*, 9 & 57.

²⁶ *Ibid.*, 97.

²⁷ Small Arms Survey, *Small Arms Survey 2005*, 39.

Operating Beyond the Mosaic of Responsibilities

Despite its heterogeneous and dynamic character, the small arms and light weapons industry can be meaningfully and usefully differentiated between those commercial operators that are authorised and regulated by governments and those operators that are not. By regulated and authorised I mean, quite simply, those operators engaging in commercial activities with explicit governmental consent, whereas by unauthorised and unregulated I mean those operators engaging in commercial activities without such consent. In this sense, illicit production and trafficking of small arms and light weapons occurs where regulated firms and authorised brokers engage in activities that breach domestic legislation and regulation (though such technical and administrative breaches are not necessarily minor infringements). It also occurs where unregulated producers and unauthorised brokers commit offences against domestic legislation, usually but not necessarily in contravention of their government's responsibilities under international law, including UN Security Council resolutions. Indeed, establishing such a distinction lies at the heart of the measures of control examined in Chapter Three.

Few firms and brokers exert much in the way of direct influence over the legislature establishing regulatory regimes controlling small arms and light weapons, and few directly influence the formulation and advancement of foreign policy with respect to these controls. Few firms and brokers, moreover, attend relevant international conferences as delegation members.²⁸ But where such firms belong to powerful industrialised countries, their influence can be highly disproportionate and, more often than not, the weakening of international instruments is considered an objective necessary for protecting their corporate interests. Whereas few firms and brokers are routinely involved in composing intergovernmental measures of control, none are routinely involved in composing Security Council resolutions establishing arms embargoes. Taken together, these

²⁸ A notable exception here is the Manufacturers Advisory Group of the World Forum on the Future of Sports Shooting Activities, which has submitted reports that recommend standards and specifications for weapons marking, in accordance with the *UNPoA*. Refer to Laurance and Stohl, 19.

responses help comprise a mosaic of responsibilities, identified and assessed by Chapters Three and Four of this thesis, which ought to foster regulatory regimes for those governments cooperating within various intergovernmental organisations and into arms embargoes for those governments belonging to the UN. But, as Chapter Three also demonstrates, this mosaic of responsibilities enables the authorised manufacture and trade of these weapons which, in turn, generate impacts registering violently against the internationalist governance architecture.

These frameworks do not, for instance, restrict the volume of weapons produced within each government's jurisdiction, except for those governments committed to the *ECOWAS Moratorium*. Even though many weapons-producing firms engage in legal commerce with governments and private consumers, most of the weapons replaced by such acquisitions are neither deactivated nor destroyed but are, instead, held in poorly-secured stockpiles or armouries, sold at discount prices in order to offset the expense of weapons procurement or, in some circumstances, are simply given away. Moreover, the mosaic of responsibilities does not restrain the volume of weapons transferred, but merely seeks to preclude certain destinations for transfers, a commitment consistent with aspects of international humanitarian law (though this also is contested by those who debate its application and by those who dissent from their responsibilities under it). While only participants of the *ECOWAS Moratorium* prohibit themselves from all transfers, other agreements, including the *EU Code of Conduct* and the *Wassenaar Arrangement*, create an onus of responsibility for governments to act with transparency in all transfers they authorise as a means of deterring weapons from reaching destinations where conditions of civil conflict prevail or threats to the international peace exist. The legal trade, that is, the transfer of these weapons occurring with governmental consent, adds to existing official and, in some cases, civilian stockpiles, resulting in leakages of these weapons into unauthorised hands. Hence, many legally manufactured and traded weapons are subsequently misused or become illicit weapons in the hands of unauthorised users.

As Chapter Three also notes, while the geographic reach of this mosaic of responsibilities covers much of the inter-state system, including a very significant

proportion of the world's small arms industry, it does not span the entire globe, thereby excluding from its ambit of control some weapons-producing firms and arms brokers. And as Chapter Four notes, while the UN Security Council has targeted sanction regimes at Eritrea, Ethiopia, Iraq, Liberia, Libya, Somalia, the Former Republic of Yugoslavia, Afghan Taliban, Al-Qaeda, Usama Bin Ladin, Angolan UNITA, Rwandan rebels, and Sierra Leone rebels,²⁹ consensus has not always prevailed throughout the council's deliberations and conflict continues in many locations, such as Darfur, Sudan. In contexts where might-is-right logic prevails over the rule of law, regulatory regimes are unlikely to flourish as the manufacture and transfer of these weapons is both easy to organise and highly profitable. Less prevalently, some productive capability might be located in countries whose governments are non-member observer states (or 'entities') to the UN, including Palestine, and, until 2002, Switzerland. Other governments without full UN member status, specifically the Cook Islands, Niue, Taiwan, and the Sahrawi Arab Democratic Republic, might prove locations useful as safe-havens to arms brokers. Even the Holy See, in 2001, purchased weapons from an Italian firm.³⁰

In short, the manufacture and trade of small arms and light weapons authorised by governments with international responsibilities appears unrestrained, negatively affecting contemporary world affairs for millions of victims suffering under these tools of violence. Moreover, some weapons-producing firms and arms brokers operate beyond the frameworks governing the proliferation and transfer of these weapons, while others operate from within countries which are not subject to UN Security Council resolutions. Consequently, these commercial operators do not contravene governmental responsibilities under international law because, simply put, none exist.

Although there is no easy way of quantifying all of those operators dispersed throughout the world producing and transferring small arms and light weapons

²⁹ For further details of particular mandates and the duration of these UN arms embargoes, please refer to fn.18 of Chapter Four.

³⁰ Amnesty International, *Dead on Time*. 6, fn.14.

without authorisation from governments, it might be possible to identify those firms and brokers that are registered and authorised by governments. Yet since information relating to their commercial activities is scarce and often contested, especially by those directly involved in business dealings, and since assessments of these activities lack veracity, there is no easy way of determining (at least with any degree of certainty) either the proportion of those firms and brokers engaging in practices mitigating their government's ability to adhere to its international responsibilities, or the frequency of such subversive practises. Similarly, it is not currently possible to estimate either the full extent to which authorised brokers engage in practices resisting the intended effects of arms embargoes or the cumulative quantity of small arms and light weapons reaching embargoed actors.

Sufficient evidence exists, however, indicating that regulated firms and authorised brokers do engage in a variety of subversive practises, including approaches relied upon by brokers as a means of avoiding detection where the international community has reinvigorated its monitoring and surveillance efforts focusing on embargoed actors. Awareness of these ploys is crucial to any appreciation of the international community's attempts to exert control over small arms and light weapons because the limitations inherent in these frameworks, some of which arise as these frameworks are composed, are exploited by commercial operators in such a way as to erode the intended effects of these controls. Recognising that these commercial ploys help erode the intended effects of the international community's efforts to compose controls over these weapons is as useful to those policymakers who, involved in composing controls over these weapons, wish to improve the efficacy of these measures, as it is meaningful to those analysts who merely wish to better comprehend the reasons why the international community's response has proven to be so ineffectual.

Mitigating Domestic Regulations

While few regulated firms and authorised brokers participate in multilateral negotiations of control measures, the ongoing commercial practices of these operators are of enormous significance to the efficacy of those measures. Notwithstanding the number of regulated firms and authorised brokers abiding by their host government's international responsibilities, many are capable of mitigating the intent of these responsibilities by deliberately hindering their host government's ability to regulate the manufacture and trade of these weapons. And just because hard evidence of a few of these commercial practices is scarce, this does not mean there is no scope for such practices to occur.

Regulated weapons-producing firms can, for example, mitigate the intended effect of their host government's responsibilities by misreporting the type, volume, and value of items they manufacture, often exploiting authorities' inadequate monitoring efforts. Once produced, weapons that remain unreported are easily diverted into the so-called black market, though such diversions are not necessarily undertaken for mercantile advantage. Like weapons-producing firms, authorised arms brokers can misreport the content, volume, and value of particular consignments, and the destination of weapons consignments provided to officials may be misleading or false. On one occasion in 1992, Polish authorities granted an arms export licence on the basis of an end-user certificate issued by the Peoples' Democratic Republic of Yemen, a country which ceased to exist in 1990.³¹ Declaring a false destination enables brokers to transit their consignment through a foreign country that is not of particular concern to the international community, but which exerts inadequate control over its international borders and is unable to prevent these weapons flowing elsewhere: as this chapter illustrates, the use of countries as a 'staging post' is particularly prevalent among brokers, employed by armed groups, resisting the intended effects of arms embargoes.

³¹ United Nations Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425 (2002)*, UN Doc. S/2003/223 (New York: United Nations, 2003), paragraph 44.

Firms have also granted permission for their weaponry to be reproduced under licensing to foreign-owned companies based offshore, with some firms providing design plans, technological support, and skilled professionals in order to facilitate production. Granting these production licences enables firms located in, and operating under, the jurisdiction of one government to establish and maintain an arms-length commercial relationship with firms operating in a foreign territory, thereby circumventing its host government's authority, mitigating its ability to adhere to its international responsibilities. According to Pete Abel:

The close manufacturing arrangement between Heckler & Koch (Germany) and Royal Ordnance (UK) raised serious concerns that the two companies were exploiting inconsistencies between German and UK export controls in order to evade arms control embargoes. After reports emerged that H&K MP5 weapons had been identified in Bosnia and Serbia, apparently breaching the UN arms embargo levied in 1991, Heckler & Koch states that the weapons in question 'were made under licence by Royal Ordnance at its small arms factory in London, before 1987,' and that H&K did 'not know how many MP5 barrels have been delivered to Enfield.'

Prior to the UN embargo, it was not illegal for UK firms to export to Yugoslavia, although it was for German firms.³²

In this respect, firms not only circumvent governmental control—and in this case defy arms embargoes—but also encourage the spread of a small arms production capacity throughout the world, intensifying the challenge of exerting control over the proliferation of these weapons.

Similarly, some brokers conduct commercial activities from home soil, but register their companies in locations under foreign jurisdiction. Mil-Tec Corporation, which sold weapons to the Rwandan Ministry of Defence, was registered in the Isle of Man, but continuously used a postal address (and telephone and fax numbers) in East Sussex.³³ In circumstances such as these, the weapons which they transfer might never reach their host government's territory, denying authorities both the opportunity to monitor or inspect cargo and the ability to seize

³² Pete Abel, "Manufacturing Trends: Globalising the Source," in *Running Guns: The Global Black Market in Small Arms*, ed. Lora Lumpe (London: Zed Books, 2000), 90.

³³ Wood and Peleman, 32.

or confiscate unauthorised weapons. Some brokers merely facilitate contracts between suppliers and those who demand these weapons without ever possessing those arms. Without direct access to consignments, enforcement authorities necessarily rely upon paperwork generated and authorised by foreign governments, and upon inspections conducted by foreign enforcement agencies.

In spite of the emerging mosaic of responsibilities, few governments have yet to enact and enforce specific laws controlling brokering activities, especially where these activities occur beyond their area of jurisdiction. In particular, less than a quarter of all UN members have enacted regulations that specifically control brokering activities.³⁴ Of those, few governments enact legislation of extra-territorial scope and even fewer possess the capability to enforce the terms of such legislation.³⁵ Thus, trafficking may go undetected and, if detected, unpunished.

Authorised brokers do not necessarily source all of their weapons directly from the regulated production line, as some arrange supply from legally-held stockpiles and illicit arsenals, disguising weapons' illicit origins before reintroducing them into the regulated sector. Just as Samuel Cummings, one of the world's most notorious arms brokers, purchased weapons leftover from the Second World War and sold these to belligerents in postcolonial Africa, South America, and East Asia,³⁶ contemporary arms brokers purchase surplus weapons held in government stockpiles. As Wood and Peleman explain:

Surplus stocks from former Soviet military bases all over Eastern Europe have turned into warehouses for weapons brokers based in Western Europe. Shopping lists circulate between traders and suppliers; when a recipient is found who cannot buy in the mainstream government markets, the weaponry is shipped by civilian cargo companies to a transit point, from where it is transported to a final destination in a war zone. Once the war is over, large quantities of weapons are stockpiled or

³⁴ Amnesty International, *Dead on Time*, 63.

³⁵ *Ibid.*, 70.

³⁶ Wood and Peleman, 10. For further particulars regarding Cummings' career, refer to R.T. Naylor, "The Rise of the Modern Arms Black Market and the Fall of Supply-Side Control," in *Combating Transnational Crime: Concepts, Activities, Responses*, eds. Phil Williams and Dimitri Vlassis (London: Frank Cass Publishers, 2001), 214-215.

exported abroad, often through the same brokering channels that were used as supply channels during the war.³⁷

According to the *Fowler Report*, the “arms reduction requirements imposed by the *Conventional Forces in Europe Treaty (CFE)* have resulted in the need for some countries to reduce and dispose of stockpiles. Likewise, the desire of a number of former Warsaw Pact countries to join NATO may have resulted in those countries selling off non-NATO standard equipment at a discount.”³⁸ Weapons that are surplus to military and constabulary requirements and are held in poorly-secured stockpiles are especially vulnerable to leakage. Even though former Soviet bloc countries have been identified as especially prone to leakage, they are not alone. Cameroonian armed forces, for instance, trafficked weapons from their own stockpiles, helping fuel internecine conflict in neighbouring Chad in the late 1980s and early 1990s. In February 2001, an explosion at the central armoury in Yaoundé is suspected to have been a deliberate ploy obscuring the extent of missing official weapons.³⁹ (Stockpile leakage occurs not only as commodities for exchange, but also for immediate use, as the following chapter explores.)

Here, then, regulated firms and authorised brokers hinder their host government’s ability to regulate the manufacture and trade of small arms and light weapons in a variety of ways, none of which are particularly inventive or complex. While each of these subversive practices lacks a high degree of sophistication, they appear to be relatively effective when deployed against the current monitoring procedures used by governments attempting to fulfil their relevant responsibilities under international law. The *modus operandi* used by firms and brokers to misreport the type, quantity, value, and destination of the weapons which they manufacture and trade depends, of course, as much upon the specific record-keeping regulations as it does the level of resources devoted to their administration. The regulatory regimes are, as already mentioned, highly varied and inconsistently applied.

³⁷ Wood and Peleman, 44.

³⁸ United Nations Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA*, paragraph 39.

³⁹ Atanga, 26-27, fn.18.

Regulated firms and authorised brokers operating with criminal intent rely upon their own informal and personal networks in order to overcome the inadequate efforts of some law enforcement agencies and necessarily exploit deficiencies in state-based law enforcement:⁴⁰ by saying so, however, I do not mean to slander the effort of many law enforcement officers, but rather, wish to signal the challenge of monitoring these industrial and commercial sectors, as well as to highlight the difficulties involved in verifying commercial and official documents issued or authorised by a foreign government without a centralised, time-sensitive repository allowing comparison. Such difficulties must be contextualised against the broader challenge of monitoring the enormous volume of goods and increasing sophistication of transactions occurring across international borders as contemporary trade.

Resisting Arms Embargoes

In addition to, and sometimes in concert with, the multiple and ongoing ways in which the commercial practices of regulated firms and authorised brokers can mitigate the intended effects of the control measures negotiated within intergovernmental organisations, authorised brokers can adopt a range of approaches resisting the intended effects of arms embargoes authorised by the Security Council. And by resist, I mean here that arms brokers can refuse to comply fully with those laws and regulations, derived from their host government's responsibilities, by continuing to transfer weapons to those actors targeted by arms embargoes. But in order to do so, these brokers must avoid the detection of their illicit cargoes by authorities.

When trafficking weapons to embargoed actors via overland routes, brokers can avoid detection by transporting their consignments to countries bordering areas occupied by embargoed actors and then entering this territory through largely uninhabited areas and traversing terrain which proves difficult to monitor. In

⁴⁰ For more on the issues hindering international cooperation among law enforcement agencies, see Legget.

Kosovo, for example, mules were used as a means of ferrying illicit weapons across the border located in Albania's alpine regions.⁴¹ Roméo Dallaire, Force Commander of the United Nations Assistance Mission For Rwanda (UNAMIR), recalls the "Ugandan border was hard to monitor because of its altitude, its terrain and mist-filled valleys, and I suspected that the [Rwandan Patriotic Front] was already sneaking all kinds of supplies into the country, using an old Viet-Cong ploy: loading up bicycles and taking the stuff over the tiny mountain paths that criss-crossed the border."⁴² Without timely intelligence, adequate numbers of armoured personnel carriers, helicopters, night-vision equipment, and sufficiently well-trained troops, effective monitoring proved increasingly elusive as tensions intensified in and around Rwanda during 1994. Porous borders such as these provide a multitude of trafficking opportunities, especially in land-locked territories targeted by UN sanction regimes, including not only Rwanda but also Afghanistan.

Brokers can also avoid detection by using devious flight plans in order to deliver weapons to embargoed actors, at times deceiving even the flight crews. One arms flight, for instance, which began as a humanitarian aid mission, left the UK for Kilimanjaro, but upon arrival there the crew received instructions to fly via Cairo to Bulgaria. Once in Bulgaria, the aircraft was loaded with small arms and light weapons and the pilot was told to fly to Chad, but during refuelling at Cairo, the destination was altered to Oman, and then altered again in mid-flight to South Yemen, a country then (in 1994) experiencing civil war and under an international embargo.⁴³ At other times, aircraft simply land and unload *en route* without informing authorities.⁴⁴ Rather than land and unload illicit cargoes at airports, arms brokers can use improvised landing strips in remote locations or deploy unusual means of delivery including, for example, airdrops to pre-planned locations.

⁴¹ Khakee and Florquin, 29.

⁴² Roméo Dallaire, *Shake Hands With The Devil: The Failure of Humanity in Rwanda* (London: Arrow Books, 2003), 88.

⁴³ Wood and Peleman, 60.

⁴⁴ *Ibid*, 54.

Aircraft are a particularly attractive means of delivery where roads and railroads are in poor condition or have been damaged by disaster or conflict.

Where ships are the preferred conveyance for arms trafficking to embargoed actors, their re-registering while on the high seas beyond any government's effective jurisdiction can deliberately obscure the intended destination of weapons consignments, fooling those officials authorising export permits. Unauthorised transshipments at sea similarly deceive authorising officials. In 1992, an authorised shipment of arms from Poland rendezvoused with a fishing vessel off Somalia's coast, after putting in at Latvia where only a small portion of the cargo was offloaded even though the entire cargo was signed for.⁴⁵ The use of two sets of documents enables brokers to 'cook the books' and provide plausible records to any enforcement agency inspecting their holds. Where coastlines are remote, vessels receiving transhipped weapons can put in at concealed bays and coves, with their unloading activities undetected by surface patrols.

Brokers using more conventional commercial routes, such as roads, railroads, airports, and sea ports, can avoid detection by disguising their illicit cargo as medical supplies, agricultural equipment, and development aid.⁴⁶ Weapons transferred from PRC to Somalia have been labelled as "Uniforms and General Cargo,"⁴⁷ for instance. Sometimes the crew transporting such cargo remains unaware of its nature and when they do become aware that they are transporting weapons, believe they are conducting an authorised government-to-government transfer.⁴⁸ Brokers can rely upon the sheer volume of international trade to provide some cover for their illicit cargoes, and unauthorised consignments can be further concealed among authorised cargo.⁴⁹

⁴⁵ United Nations Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Resolution 1425 (2002)*, paragraph 48.

⁴⁶ Wood and Peleman, 53.

⁴⁷ United Nations Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Resolution 1425 (2002)*, paragraph 68.

⁴⁸ Wood and Peleman, 31.

⁴⁹ Amnesty International, *Dead on Time*, 8.

More generally, however, surveillance activities are scarce, if not nonexistent. (The exceptions, of course, emerge from the presence of US interests, or the interests of other powerful governments possessing enforcement capabilities, most evidently in the Gulf and Yugoslavia.) Where surveillance is conducted, it is often targeted with poor intelligence and brokers can easily evade patrol units simply by waiting for them to retire at nightfall. At other times, brokers can provide either inducement or intimidation to patrol teams, though unsurprisingly there is little hard evidence of this practice. Brokers can take full advantage of the immense difficulties confronting the implementation and enforcement of arms embargoes targeting non-state actors, such as that which, focusing on Al-Qaida and the Taliban, are “not restricted to the territory of any specific country or region,” as an Analytical Support and Sanctions Monitoring Team recently observed.⁵⁰

Arms brokers are sometimes assisted by embargoed groups that have good relations with a neighbouring or nearby government which allows weapons to be stockpiled in their territory. UNITA, for instance, used Zaire as a staging-post and as a storage point for weapons it procured through brokers while under UN arms embargo, but when President Mobutu was overthrown, UNITA leaders quickly shifted their procurement activities to Togo.⁵¹ Governments neighbouring territory controlled by armed groups, such as Togo and Zaire, can grant official documentation, specifically end-users certificates, to support trafficking activities, providing legitimate cover for illicit consignments. These examples of ‘sanction busting,’ already identified by Chapter Four as an important limitation of international community’s response to the challenge of controlling small arms and light weapons, encourage, embolden, and enable brokers to continue eroding the intended effects of arms embargoes.

⁵⁰ United Nations Security Council, *Third report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning Al-Qaida and the Taliban and associated individuals and entities*, paragraph 114.

⁵¹ United Nations Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA*, paragraph 35.

But while governments are culpable for violations of arms embargoes and, by extension, the consequences of such violations, the UN must also bear some responsibility in certain circumstances. According to a *Report of the Panel of Experts on Somalia*:

Some blame must also be placed on the United Nations for contributing to a perception that the embargo need not be taken seriously. In a number of instances, certain United Nations agencies had knowledge of apparent violations of resolution 733 (1992) that could have been verified and publicly reported to the Security Council Committee established pursuant to resolution 751 (1992) concerning Somali. In one incident, in June 1992, an aircraft used for the delivery of Somali currency to Ali Mahdi was previously under contract to a United Nations agency, and still displayed United Nations markings at the time of the incident. It was widely held by Somalis that the aircraft carried illegal weapons. The United Nations conducted an investigation which concluded that there were no weapons on the aircraft. The fact that the findings were never published contributed to a prevailing attitude among Somalis and others that they need not comply with the arms embargo.⁵²

In circumstances where embargoes have no normative value, arms brokers can act with a sense of impunity while increasing the widespread availability of these tools of violence.

Here, then, the commercial practices of authorised operators hindering a government's ability to regulate the manufacture and trade of small arms and light weapons occurring within its jurisdiction, and the approaches exploiting the practical difficulties confronting those monitoring and enforcing arms embargoes both signal the interstices in, and limits to, the international community's various attempts to exert control over the widespread availability of these weapons. Regulated firms and authorised brokers can routinely exploit the regulatory inconsistencies created as various strategic frameworks suffer uneven implementation and, where implementation occurs, some governments only sporadically enforce their responsibilities. More alarming, however, is the ease with

⁵² United Nations Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Resolution 1425 (2002)*, UN Doc. S/2003/223, paragraph 21. For another example, see Amnesty International, *Dead on Time*, 50-52.

which brokers can exploit the conceptual disconnect between the various intergovernmental measures of control focusing upon regulating transfers at the point of origin and at the point of transit, rather than at the point of destination, and arms embargoes primarily concerned with preventing weapons from reaching the hands of particular belligerents.

The uneven implementation and sporadic enforcement of these various frameworks is complicated by the transnational nature of much of the small arms and light weapons industry, and by the ways in which this industry continues to develop, particularly in the aftermath of the Cold War. The transnational nature of this dynamic industry, a dynamic intensified by the processes of globalisation, not only frustrates the unevenly implemented and sporadically enforced strategic frameworks—or more specifically the intended effects of these frameworks on domestic regulation—but also reveals a somewhat more basic conceptual disjunct between firms and brokers as relatively autonomous commercial international actors and governments as members of the international community seeking to control, by way of regulation, the activities of these commercial operators.

This tension is also apparent in the differences between legal definitions seeking to create an object of control, and analytical distinctions seeking to identify a subject of analysis, especially as comprehending the affairs and consequences of commercial operators in light of governmental structures is a somewhat static approach which fails to fully confront the profound dynamism of this industry and to illuminate the role it plays in the economic dimension of world affairs. As previously mentioned, research describing and quantifying proliferation and transfer in terms of country-specific output does little to reflect the complexity of contemporary corporate structures and business practices deployed across international borders, for example.

These commercial practises also further undermine the international community's attempts to reinforce and extend the existing internationalist governance architecture which, as Chapter Four demonstrates, is already undermined by those so-called sanction-busting governments that knowingly

authorise their nationals to act in ways contravening those embargoes. This is especially the case in those locales where UN peacekeeping operations coincide with sanction regimes, such as in Angola, Cambodia, Rwanda, Sierra Leone, and Somalia during the 1990s; targeted by arms embargoes, governments currently involved in conflict possess little, if any, surplus capacity with which to patrol international borders as a means of detecting and deterring arms trafficking or unregulated production, not only of large-scale production, but also as small-scale craft. Where UN peacekeepers are deployed as *de facto* border patrol resources in order to enhance border patrol capabilities, embargo-monitoring efforts merely offer a somewhat deficient and nearly always temporary compensation for what is often woefully inadequate, if not entirely absent, government capability. As Naylor puts it, a “conflict zone is for weapons what an offshore banking centre with strict secrecy laws is for money—with the added advantage that anyone attempting to probe the secrets of the zone’s arms business risks considerably more than the mere indignity of deportation.”⁵³ The legacies of those sources and routes established under conditions of conflict or embargo prove durable, frustrating post-conflict reconstruction efforts.

Unauthorised Operators

By engaging in commercial practices within the jurisdiction of governments that have international responsibilities to establish and maintain regulatory regimes over the manufacture and trade of small arms and light weapons, unauthorised firms and brokers help erode the intended effects of the international community’s response to the widespread availability of these weapons. This erosion of control is especially evident where unauthorised operators deliberately elude cooperative law-enforcement investigations which, targeting unauthorised proliferation and transfer, are provided for by some intergovernmental measures of control. (Almost all of these agreements provide for information-sharing relating to authorised operators, any operator’s conviction records, or intelligence of any trafficking.) And by elude, I

⁵³ Naylor, “The Rise of the Modern Arms Black Market,” 219.

mean that these unauthorised operators conduct their business affairs in such a way as to place them, for the most part, beyond the administrative and enforcement reach of these regulatory regimes. Significantly, many of the countermeasures deployed against cooperative law-enforcement investigations can also prove of use to those regulated firms and authorised brokers mitigating domestic regulations and resisting arms embargoes.

As unauthorised weapons producers, some artisans and guilds acquire their raw materials from established and trusted sources. By marking weapons in such a way as to resemble imported weapons, craft producers also protect their identity and location. The methods of delivery can be similarly clandestine, with completed weapons stored in neighbouring villages and delivered to customers only upon receiving final payment.⁵⁴

Unauthorised operators can use fraudulent identity as part of a web of deception misleading, confusing, and ultimately eluding cooperative law-enforcement investigations. Unauthorised arms dealers can, for example, act as impostors of well-known regulated traders, seeking to introduce unregulated weapons into regulated markets, as occurred during the Lebanese Civil War when three individuals each separately claimed to represent Colt at a meeting held by the Lebanese government in 1980.⁵⁵ Individuals, and the companies they represent, can also provide false or misleading information to authorities at the initial point of their registration as regulated firms and authorised brokers. Relying upon registrars' inability to verify information, applicants are almost assured that administrators remain unaware of any previous trafficking-related convictions. In these circumstances, the true identity of those who organise, manage, and derive profit from manufacturing and brokering activities remains concealed from authorities. Problematically for both analysts and policymakers, where there is no effective verification of an applicant's identity and associated details by administrators, the distinction between an authorised and an unauthorised operator is undermined and

⁵⁴ Aning, 89 & 91.

⁵⁵ Fisk, 949.

rendered irrelevant. Put simply, governments are unable to prosecute offenders if they cannot ascertain their identity.

Brokers wishing to hinder investigations (and to evade accountability and punishment following successful enforcement action taken against them) have used deliberately complex company arrangements in conjunction with strict confidentiality provisions of banks as a means of concealing their identity and of obscuring any link between their identity and illicit trafficking. Front companies, for example, are sometimes represented by a nominated director who remains unaware of the firm's business dealings. These front companies can do business with transport agents "whose headquarters is designated by one of several dozen brass-plates on the door of a small Cayman Islands office, staffed by one secretary who sits watching American soaps for the whole working day."⁵⁶ Such arms-length business arrangements are used to distance commercial dealings from those individuals responsible for them and from those accruing their proceeds.

Moreover, brokers and their transport agents can use aircraft and vessels, many of which were procured at low cost during the immediate aftermath of the Cold War,⁵⁷ which are registered under a so-called flag of convenience. Some governments, such as Liberia under Taylor's rule,⁵⁸ collect revenue derived from fees charged for conveyances to be registered under their jurisdiction, but do not actively seek to verify the applicants' information and have little in the way of any enforcement capability by which to control those conveyances operating under its flag. These registers remain closed to foreign scrutiny, frustrating investigations by protecting registered client's identities and associated details. The registers are significant, given the major flags of convenience—Bahamas, Bermuda, Cyprus, Liberia, Malta, and Panama—have granted authorisations to just under half of the world's maritime transport capacity.⁵⁹ Aircraft that sub-lease over-flight

⁵⁶ Naylor, "The Rise of the Modern Arms Black Market," 225.

⁵⁷ Amnesty International, *Dead on Time*, 37.

⁵⁸ Jörg Raab and H. Brinton Milward, "Dark Networks as Problems," *Journal of Public Administration Research and Theory* 13, no.4 (2003): 428.

⁵⁹ Amnesty International, *Dead on Time*, 33.

permissions but use the leaser's call-sign, and unregistered aircraft that act as a 'phantom' by deliberately resembling another registered aircraft, obscure the aircraft's identity, misleading authorities monitoring airspace.⁶⁰

In addition to the difficulties encountered when trying to untangle deliberately complex company arrangements, financial transactions also prove difficult for authorities to trace, especially when funds are funnelled through 'tax haven' style institutions often used as a means of laundering ill-gotten gains. However, the secrecy provided by offshore banks is often exaggerated:

Even where secrecy is extremely tight on paper, the key to penetrating it is usually no more complicated than a \$100 bill. Precisely for that reason, it has long been an adage among users of foreign banks for illicit purpose that real bank secrecy comes not from legislation but from keeping one's mouth shut—and working where possible using multiple or false passports as identification. Under those circumstances, a bank in New York open to the full force of the law can be just as effective, and just as discrete, as one in Nauru protected by all manner of legal barriers to information flows.⁶¹

Moreover, the Financial Action Taskforce of the OECD recently proposed a set of measures that might help lift the so-called corporate veil in these 'fiscal paradises,' though it has done so for reasons other than for combating arms trafficking.⁶² Officials from the US Treasury, however, opposed the plan which would have targeted the Bahamas, Cayman Islands, Cook Islands, Dominica, Israel, Lebanon, Lichtenstein, Marshall Islands, Nauru, Niue, Panama, Philippines, Russia, St. Kitts and Nevis, St. Vincent and Grenadines.⁶³ As "epicentres of globalization," the world's largest cities, specifically London, New York, and Tokyo, not only provide banking expertise to shift funding surreptitiously, but also provide the kinds of

⁶⁰ Wood and Peleman, 53-54.

⁶¹ Naylor, "Gunsmoke and Mirrors," 174-175

⁶² For further details of these measures, please refer to <http://www.oecd.org/document/60/0,2340,en_2649_201185_36791868_1_1_1,00.html> (accessed 31 March 2007), specifically *Tax Co-operation: Towards a Level Playing Field* (2006).

⁶³ Amnesty International, *Dead on Time*, 8, fn.20.

cosmopolitan societies in which “criminals and entire criminal organizations [can] blend into legitimate institutions in ethnic neighbourhoods.”⁶⁴

Instead of hard currency, blood diamonds have been used by belligerents involved in contemporary conflict as a means of financing weapons procurement, particularly in West Africa: UNITA, for example, generated an estimated US\$500 million from diamond revenues in 1997,⁶⁵ and Al-Qaida has purchased diamonds from Sierra Leone at discounted prices, on-selling them in Europe in order to help finance its activities.⁶⁶ Although the international community has made some progress towards restricting this trade under the auspices of the so-called Kimberley Process, a recent report from Global Witness claims that while “the scheme makes it more difficult for diamonds from rebel held areas to reach international markets, there are still significant weaknesses in the scheme that undermine its effectiveness and allow the trade in blood diamonds to continue.”⁶⁷

Financial transactions are sometimes complemented by, or in lieu of hard currency payments replaced with, the granting to arms brokers of extraction rights for other natural resources. Charles Taylor, for example, “sold off as much of Liberia’s timber and mineral wealth as he could get his hands on. And when still more funds were needed to equip his forces, Taylor sought to gain control over the diamond trade in Sierra Leone.”⁶⁸ By some accounts, ships disembarking arms to Liberia depart with cargoes of timber.⁶⁹ (France and China, both importers of Liberian timber, objected to timber’s inclusion in a sanction regime during deliberations within the Security Council.⁷⁰) The multiple sources of revenue used to

⁶⁴ James H. Mittelman and Robert Johnston, “The Globalization of Organized Crime, the Courtesan State, and the Corruption of Civil Society,” *Global Governance* 5, no.1 (January-March 1999): 112.

⁶⁵ McQueen, 418.

⁶⁶ Raab and Milward, 426.

⁶⁷ Global Witness, “The Kimberley Process at Risk,” November 2006, 2.

⁶⁸ Michael T. Klare, *Resource Wars: The New Landscape of Global Conflict* (New York: Henry Holt and Company, 2002), 200.

⁶⁹ Amnesty International, *Dead on Time*, 26.

⁷⁰ *Ibid*, 24.

finance wars and procure weapons also complicates investigations into arms trafficking, especially as accompanying:

the unparalleled expansion of international migration in the last two decades has come the formation of underground trade diasporas, regional and global networks based on extended family or ethno-sectarian loyalties that are well positioned by virtue of their contacts with the underground economy to smuggle everything from diamonds to designer jeans, from cigarettes to heroin, with at least part of the profits recycled back into arms.⁷¹

When authorities are closing in on a trafficking operation, brokers can quickly dismantle and abandon their operation, immediately establishing new companies in other territories.⁷² In this respect, the leasing of aging aircraft and other conveyances mitigate any capital losses incurred by brokers if their operations are detected and assets seized as evidence, and confiscated as a penalty if prosecutions are successful. Here, the burden of such losses fall on the owner's shoulders, not the leaser who engages in indictable criminal offences.

Without sufficient proof reaching a high evidential standard, brokers are unlikely to confess the true nature of their commercial practices when confronted by investigators, instead providing flimsy cover stories and implausible excuses. When Wilhelm Tertius Ehler, an experienced arms broker operating out of South Africa in the mid and late 1990s, was informed that Colonel Bagosora (whom he had helped obtain weapons) was not a Zairian defence official, but a high ranking officer of the Rwandan Hutu-in-exile government, Ehler simply replied that he was "shocked."⁷³ Similarly, when Israeli arms dealer Yair Klein was prosecuted for supplying weapons and training to the Medellin drug cartel operating out of Colombia, he claimed to have thought "his trainees were ranchers in Colombia who wanted to

⁷¹ Naylor, "The Rise of the Modern Arms Black Market," 225.

⁷² Brian Wood and Johan Peleman, "Making the Deal and Moving the Goods: The Role of Brokers and Shippers," in *Running Guns: The Global Black Market in Small Arms*, ed. Lora Lumpe (London: Zed Books, 2000), 137.

⁷³ Wood and Peleman, *The Arms Fixers*, 29.

defend themselves against leftist guerrillas.”⁷⁴ Such responses, while not surprising, are nevertheless disingenuous.

The risk of detection by routine monitoring posed to those without authorisation to participate in this sector, and the prospect of any subsequent prosecution, can be managed by firms and brokers as an operating cost. Operators can, for example, manage this risk where the cumulative profits derived from their illegal commerce exceed the financial penalties of prosecution. This risk is further managed in circumstances where routine monitoring and related enforcement action are predictable. Firms and brokers not only appreciate that law-enforcement officers are unlikely to discover them, or if discovered, will be unable to successfully prosecute them, but also take practical steps in order to reduce the likelihood of detection and prosecution. Law enforcement officers can be offered bribes ‘to look the other way’ during routine monitoring of productive and export sectors. If government officials prove resilient in the face of inducements and threats, then brokers can obtain counterfeit documents, specifically fraudulent export authorisations and fake end-user certificates, in order to fool or mislead local enforcement officers. (However, particular transfers of weapons were halted when authorities discovered fakes, as occurred in 1995 in the Ukraine and in Russia.⁷⁵) Such counterfeit documentation also enables brokers to transit their consignments through third countries, thereby avoiding the close scrutiny of foreign countries monitoring and inspecting their cargo because it is likely to be considered a legitimate transfer.

Here, then, the so-called black market for small arms and light weapons is not a single, autonomous, unified, global economic underworld, detached from regulated arms manufacture and the authorised weapons trade. Rather, it is a term used to denote a dark side of globalisation in which unauthorised and authorised operators necessarily co-exist within regulated markets, while a set of complex processes not only helps facilitate the transfer of these weapons, but also encourages the

⁷⁴ Wood and Peleman, *The Arms Fixers*, 75.

⁷⁵ United Nations Security Council, *Report of the Panel of Experts on Violations of Security Council Sanction Against UNITA*, paragraph 37.

interconnectivity among official regulators and commercial operators. The confluence of globalisation's intensification with the post-Cold War era, during which many governments reduced their stockpiles of, and ongoing demand for, conventional weapons, has facilitated a growth in this illicit commerce. "This situation, in which the terms of trade turn progressively against the legal market," argues Naylor, "will persist until illegally available second-hand stocks approach exhaustion, a point that is today nowhere in sight. When the phenomenon of lower cost is added to the traditional black-market advantages of anonymity and rapid delivery, the competitive balance shifts decisively in favour of the black market."⁷⁶

The reality of illicit arms dealing is, therefore, more complex than simplistic analytic dichotomies imply. As this chapter demonstrates, the distinction between 'regulated' and 'unregulated' is blurred by illegal practises undertaken by authorised operators and by commercial practises undertaken by unauthorised operators. It is also true, as James H. Mittelman and Robert Johnston point out, that:

a realm of cooperative and conflictual relationships blurs the lines between the legal and the illegal. For example, in order to collect *actionable* information that leads to arrests and interdictions, intelligence services must cooperate with and attempt to recruit defectors from organized crime groups and terrorist organization. This process often means turning a blind eye to the activities, past and present, of individuals who may have broken laws but are the only ones with firsthand experience and insights into the opaque world of the terrorist group, organized crime gangs, and other illicit groups with which they are associated.⁷⁷

Similarly, unregulated operators can coerce regulated operators into engaging in unlawful practices. For example, according to Peter Bleach, a UK-based military equipment broker and former intelligence officer, an insurgent group based in West Bengal approached him for 2,500 Kalashnikov rifles in 1995. After agreeing to supply weapons, he was then targeted for intimidation, though on this particular occasion these weapons were unwittingly delivered into the hands of local law

⁷⁶ Naylor, "Gunsmoke and Mirrors," 158-9.

⁷⁷ Mittelman and Johnson, 106.

enforcement officers.⁷⁸ Despite Bleach's efforts to keep the UK Security Services informed of the deal—indeed, Bleach claims to have been encouraged to pursue the business arrangement by officers belonging to Special Branch—he was arrested by Indian authorities.

The distinction between officials (regulators) and commercial operators (regulated and unregulated) is also blurred by the selective application of the rule of law. In some situations, firms and brokers operate without authorisation, but are nonetheless tolerated by authorities. Craft production in West Africa, mentioned earlier in this chapter, persists regardless of the official policy because enforcement officers are reluctant to investigate gunsmiths creating weapons for traditional purposes and customary usage.⁷⁹ The Philippines also has a significant informal production capability, with an estimated 3,000 gunsmiths operating in the south of the country.⁸⁰

Unauthorised operators can also express power over domestic regulation by corrupting those employed to administer its processes and to enforce its provisions. Bribes, extortion, and intimidation go hand-in-hand with colluding officials with respect to routine monitoring, the authorisation of exports, and the issue of end-user certificates. So much so that for Naylor "the end-user certificate ceased to be a technique of control so much as a tool for the personal enrichment of corrupt officials in the purchasing country, and a means by which selling countries could establish an alibi (the weapons were supposed to go elsewhere) whenever news of a sale to some embargoed or illegal destination leaked out."⁸¹ In PNG, furthermore, corruption appears in little need of external stimulation, especially as "the real arms dealers are shown to be much closer to home than the 'foreign gun-runners' so often blamed by public figures. Politicians and civil servants emerge as being deeply

⁷⁸ For a more detailed account of this case, please refer to Wood and Peleman, *The Arms Fixers*, 16-24.

⁷⁹ Aning, 98.

⁸⁰ Capie, *Small Arms Production and Transfers in Southeast Asia*, 21 & 72-73.

⁸¹ Naylor, "The Rise of the Modern Arms Back Market," 217.

implicated in the small arms trade, with each election seen as an opportunity to seize votes, political influence, and resources at gunpoint."⁸²

Government officials have acted illegally in foreign jurisdictions by posing as officials from other foreign governments. For example, Colonel Bagosora, a Rwandan national suspected of perpetrating genocide, purchased weapons confiscated by the Seychelles government by identifying himself as a member of the Zairian Ministry of Defence, and presenting a fraudulent end-user certificate authorised by the Zairian Ministry of Defence.⁸³ In other cases, statemakers, rather than their officials, are culpable. As already mentioned, Charles Taylor appropriated the apparatus of government to pursue private interests. But Taylor is not alone in his kleptocracy: other West African leaders, such as Bah, Campaore, and Sankoh "are at the center of a network that uses war for means other than power. Their power is based on terror and the use of the state for their own purposes. The means for this are guns, diamonds, and increasingly timber, all under the mantle of whatever legitimacy a failed state can provide."⁸⁴

Where weapons-producing firms and arms brokers are highly organised, they can form networks. Networks have, of course, been described "as appropriate devices to tackle public management problems and to successfully coordinate political, social, and economic action....Because the problem is bigger than any single organization, collaborating with other organizations is necessary if there is any hope of making progress in alleviating the problem."⁸⁵ In the specific case of controlling small arms and light weapons, as Chapter Five relates, civil society organisations have adopted this organising principle as their primary approach, establishing IANSA as a "network of networks." Civil society organisations have also fostered coalitions of like-minded governments following this network approach. These kinds of networks are bright networks, engaging in "a legal and

⁸² Phillip Alpers, *Gun-running in Papua New Guinea: From Arrows to Assault Weapons in the Southern Highlands*, Special Report no.5 (Geneva: Small Arms Survey, 2005), 30.

⁸³ Wood and Pelemen, *The Arms Fixers*, 28.

⁸⁴ Raab and Milward, 426.

⁸⁵ *Ibid*, 413-414.

overt governance form that is supposed to create benefits for the participating actors and to advance the common good and does not—at least intentionally—harm people.”⁸⁶

By contrast, unauthorised dealers of small arms and light weapons operate as dark networks. And by dark networks, I mean what Jörg Raab and H. Brinton Milward mean when they explain that:

there is a set of individuals and organizations that constitute a network striving to achieve ends that create collective-action problems for governments all over the world...This network may be strictly a terrorism network, or it may be connected to other illegal networks such as arms smuggling, money laundering, and drug dealing. These connections among illegal networks in the problem space can be critical to the success of their wicked ends....Forgetting the requirement to be functionally non-judgemental in the social sciences, the actors and organizations that cooperate in the problem space are called dark networks, in that their activities are both covert and illegal.⁸⁷

David Kinsella notes that “[b]ecause black market arms transfers occur in a lawless environment, one without formal mechanisms of contract enforcement, parties to these transactions must rely heavily on trust (often reinforced by threat) than is the case for legal market transactions,” though at the same time he concedes “[m]ore theoretical work needs to be done in order to fully conceptualize the global arms trade, and its multiple legal and illegal forms as a social network.”⁸⁸ Resembling IANSA’s approach to organising their arms control campaign, firms and brokers form networks because it enables them to circumvent administrative processes and reduces their exposure to law-enforcement investigations. Because these dark networks prove relatively successful, unlike IANSA they do directly contest the internationalist notion of the political informing the composition of controls over these weapons.

Maturing relationships among actors involved in these dark networks strengthen them. Discussing the nexus between organised crime and terrorist groups, Picarelli

⁸⁶ Ibid, 419.

⁸⁷ Ibid, 415.

⁸⁸ David Kinsella, “The Black Market in Small Arms: Examining a Social Network,” *Contemporary Security Policy* 27, no.1 (April 2006): 105.

asserts “[w]hen such interactions are closely timed and repeated, it becomes an increasingly likelihood that bonds of trust will evolve between the groups that can serve to cement common bonds.”⁸⁹ The Tri-Border Area of South America, comprising of Argentina, Brazil, and Paraguay, has emerged as a subregion where dark networks coalesce.⁹⁰ West Africa, specifically Liberia, Sierra Leone, and Burkina Faso, is another. These maturing relationships are encouraged, in part, by the lack of governments exercising a legitimate monopoly over the coercive use of force and, in part, by the mining and distribution of diamonds, a highly valuable and exchangeable currency for dark networks.⁹¹

More problematically for those composing controls over these tools of violence, however, is a nascent interconnectivity among commercial operators and those officials regulating their commercial affairs. Indeed, dark networks connect with certain members of intergovernmental organisations, undermining not only the domestic regulatory regimes, but also the dichotomy comprising of those actors of the international community seeking to compose controls over small arms and light weapons and those actors whose practices help erode the intended effects of those controls. The implication here—that the broader politico-strategic framework helps sustain the challenge of controlling these weapons—acknowledges that not all members of the international community are fully behind the various efforts to compose controls over small arms and light weapons. In fact, that the challenge remains, and even intensifies, suggests that those members of the international community colluding with international actors deliberately sustaining the widespread availability of these weapons at once erodes the control measures and contests the notion of the political to a decisive degree.

⁸⁹ Picarelli, 20.

⁹⁰ Ibid.

⁹¹ Raab and Milward, 431.

Conclusion

Often absent from the formal processes composing controls over small arms and light weapons, firms and brokers engage in a range of commercial practices eroding those controls' intended effects. In some cases, these commercial practices, helping fuel the widespread availability of these weapons, are often authorised, enabled, or assisted by governments belonging to the frameworks designed to confront the challenge of controlling small arms and light weapons. However culpable these governments might be, they are often not held to account for their actions. In light of this operational complexity, the analytical dichotomy—between intergovernmental organisations as protagonists composing arms controls and firms and brokers as their antagonists—is unsustainable and dissolves.

Like some governments, authorised brokers act as sanction-busters, though unlike governments, brokers possess flexible corporate identities and can change business names, premises, and contact details almost immediately when their illegal enterprise is detected or at risk of imminent detection. These commercial actors not only rely upon governments of dubious pedigree and exploit the inconsistent implementation and irregular enforcement of a mosaic of responsibilities created by intergovernmental measures of control and Security Council resolutions, but also take advantage of the conceptual disconnect between responsibilities relating to the production of small arms and light weapons and responsibilities relating to the transfer of these weapons. Whereas commercial practices undertaken by regulated firms and authorised brokers mitigate a government's ability to fulfil its responsibilities under international law, contributing to the erosion of the intended effects of the international community's attempts to exert control over these weapons, commercial actors that are neither registered nor authorised by their governments also erode the intended effects, but do so by eluding the administrative and enforcement reach of these frameworks. Ineffective, to a large extent, in constraining the activities of firms and brokers, the existing state-centric control measures fail to restrain the widespread availability of small arms and light weapons sustained by both legal and illicit commerce, a distinction serving to

endorse the monopoly of the so-called legitimate use of force enjoyed by many governments by disadvantaging those armed non-states groups violently contesting key institutions of civil governance.

Whereas governments acting as sanction-busters undermine the notion of the political informing the major responses to the challenge of controlling small arms and light weapons, unregulated production and unauthorised transfers explicitly contest (despite its clandestine nature) this internationalist orthodoxy, especially where the proliferation occurs and transfers are successfully transacted. Indeed, the challenge of controlling small arms and light weapons is sustained because this notion of the political is contested by firms and brokers, a contest that is ongoing, remains unresolved, and is, perhaps, unresolvable. Also contesting the primacy accorded to internationalism in contemporary world affairs, and thereby sustaining the challenge of controlling small arms and light weapons, are those international actors involved in the ongoing use of these weapons, many of which are obtained in ways other than those international transfers described in this chapter. The following chapter, the thesis' penultimate, explores particular ways in which key users of these weapons obtain arms intended for immediate use, rather than as tradable commodities, and retain their arms when confronted by disarmament initiatives.

7. BROTHERS IN ARMS SUSTAINING ONGOING USE

Like those firms and brokers sustaining the widespread availability of small arms and light weapons, these weapons' chief users can prove antagonistic to the collective will of the international community, especially when it responds to the ongoing use of these weapons. At a time when these weapons circulate with a high degree of velocity, intergovernmental controls over weapons users have, however, often lagged behind the development and implementation of supply-side controls. As Neil Cooper correctly suggests, "the reality of contemporary arms diffusion requires a corresponding shift to a system of regulatory diffusion that incorporates a greater focus on recipient initiatives, an enhanced role for civil society and a shift to an outputs/impacts model of regulation."¹ Even though militaries, constabularies, private security firms, civilians, organised crime groups, and non-state armed groups are, each to varying degrees, emerging as objects of the international community's attempts to exert control over these weapons, this diverse array of actors persist with their almost insatiable appetite for these weapons. Supplementing the weapons which they already possess with arms obtained directly from various sources—including existing governmental stockpiles, caches captured during combat operations, nearby recently concluded conflict, and members of the criminal fraternity—these users are, in spite of their competing interests, brothers in arms.

Before identifying particular ways in which these brothers in arms mitigate, resist, or elude the intended effects of an emerging framework governing the possession of small arms and light weapons, this chapter distinguishes those users authorised by governments to possess weapons within their jurisdiction from those users possessing these weapons without official authorisation. Focus is also given

¹ Neil Cooper, "What's the Point of Arms Transfer Controls?" *Contemporary Security Policy* 27, no.1 (April 2006): 118.

here to those belligerents who are targeted by DDR programmes administered as part of recent UN peacekeeping operations, but who nevertheless retain their arms in the face of these disarmament initiatives.

This chapter concludes Part III of this thesis by contextualising the activities of those international actors sustaining the ongoing use of small arms and light weapons against the international community's responses explored in Part II. Compared to the controls over the manufacture and trade of these weapons, controls over weapons possession are underdeveloped, signalling a serious weakness in the emerging mosaic of responsibilities to regulate these weapons. The final section of the chapter shows that the controls emerging from within intergovernmental organisations, including collective action authorised by the UN Security Council, are not only deliberately weakened by some of those governments implementing them, but are also easily circumvented and sometimes exploited by those actors who are targeted by them. It builds on the previous chapter which problematised the dichotomy comprising of those members of the international community who help compose controls over these weapons and those international actors whose practices help erode the intended effects of those controls. A post-internationalist heresy is shown to emerge from, amplify weaknesses in, and exploit to its own ends, the grand politico-strategic frameworks which underpin the internationalist governance architecture. And it is this framework which underpins the international community and its major responses to the challenge of controlling small arms and light weapons.

Chief Users of Small Arms and Light Weapons

Preferred by most combatants ahead of nuclear, biological, chemical, and major conventional weapons, small arms and light weapons are overwhelmingly the weapons of choice used in contemporary conflict. Compared to those other weapons of war, a combination of characteristics inherent in, and unique to, small arms and light weapons make them particularly attractive to a diverse and dynamic array of potential users. These weapons are, as Boutwell and Klare argue,

inexpensive, widely available, simple to use, durable, portable, easily concealed, and, importantly, lethal.² To be sure, these characteristics enable non-state armed groups to engage governmental military forces, as well as other armed groups, in protracted and, in some cases, internecine conflict. Although much of the burgeoning literature focusing on small arms and light weapons draws attention to the deadly consequences resulting from the ongoing use of these weapons by government forces and rival armed groups—especially where either are involved in what have been described as intra-state, internal, or civil war,³ as well as low-intensity, ethno-political, or protected social conflict⁴—not all users of these weapons are directly involved in conflict as combatants. Rather, as tools of violence, these weapons are demanded and used by a broader range of actors, specifically constabularies,⁵ private security firms, and civilians, including organised and opportunistic criminals.

The international community recognises the importance of each of these actors possessing small arms and light weapons. Such recognition is reflected not only in some of the work published by researchers, including those, like Boutwell and Klare, associated with various civil society organisations, but also in the texts of some instruments of international law. Whereas agreements relying upon export criteria, such as the *EU Code of Conduct* and the *Wassenaar Arrangement*, acknowledge governments as ongoing users of these weapons, other instruments give focus to non-state actors. Upon agreeing to the *Andean Plan*, for example, the Andean Council of Foreign Ministers recognised the link between trafficking these weapons

² Jeffrey Boutwell and Michael T. Klare, *Light Weapons and Civil Violence: Policy Options for the International Community Project on World Security* (New York: Rockefeller Brothers Fund, 1999), 6. Refer also to a very similar argument published as Jeffrey Boutwell and Michael T. Klare, "Small Arms and Light Weapons: Controlling the Real Instruments of War," *Arms Control Today* (August/September 1998): 1-2.

³ Alley, 1.

⁴ Christopher Mitchell, "Mediation and the Ending of Conflicts," in *Contemporary Peacemaking: Conflict, Violence and Peace Processes*, eds. John Darby and Roger Mac Ginty (New York: Palgrave Macmillan, 2003), 77.

⁵ The constabulary, used here in its broad sense, includes prison services, customs officers, anti-poaching units of national parks and wildlife reserves, police reserve forces, and special constables.

and terrorists, drug traffickers, transnational organised criminals, and mercenaries.⁶ Similarly, the preambles of the *SADC Firearms Protocol* and the *OAS Convention* note the connection between these weapons and “drug trafficking, terrorism, transnational organized crime, mercenary, and other violent criminal activities.”⁷ As Chapter Three mentions, the *UN Firearms Protocol* exclusively targets organised crime groups, while the *Nadi Framework* provides for civilian possession of these weapons.⁸

Recognising these actors’ importance does not, however, immediately or necessarily convert them into objects of control targeted by the international community. In fact, as this chapter later demonstrates, user-focused measures of control negotiated multilaterally are underdeveloped in comparison to those instruments of international law fostering regulatory regimes over the manufacture and trade of these weapons. While most instruments of international law tend to focus upon supply-side controls, the collective action authorised by the UN Security Council targets specific weapons users. These targets are almost always belligerents—a term used here to signify both active non-state armed groups and governmental military forces. Yet UN arms embargoes, as well as the export criteria used by some intergovernmental organisations, are selectively applied and therefore often perceived by some analysts such as Cooper (and no doubt by the targets) as tools punishing those actors deemed to be either strategic enemies or political pariahs.⁹ So even though UN arms embargoes and DDR programmes are user-focused controls, they are selectively applied in accordance with the Security Council’s deliberations, are temporary measures when they are implemented, and as Chapter Four argues are difficult for UN members to observe, monitor, and enforce. Hence, they do not, in and of themselves, constitute a holistic approach to controlling weapons’ users.

⁶ Refer to the *Andean Plan*.

⁷ Refer to the respective preambles of *SADC Firearms Protocol* and the *OAS Convention*.

⁸ Refer to the *UN Firearms Protocol* and the *Nadi Framework*.

⁹ Cooper, 121.

Researchers have been singled out for particular censure from among the members of the international community who, recognising the importance of controlling weapons' users, respond inadequately to this aspect of the challenge. Researchers not only lag behind those policymakers recognising the need for meaningful and useful research into the demand for these weapons, but the research exploring the demand dimension of weapons use is also "frequently imbued with normative and bureaucratic interests that encourage a prescriptive (as opposed to an empirical) approach to arms control."¹⁰ Such research is prized more for its intended policy utility, than for its analytical clarity and sense-providing quality. This is not to suggest, however, that meaningful and useful research into weapons' users and their stockpiles has not yet been conducted.

The *Small Arms Survey 2001 Yearbook*, for instance, provides estimates of the known stockpiles held by major users of these weapons. It categorises these stockpiles as police firearms, government armed forces firearms, insurgent and other non-state actor firearms, private legal firearms, and private illegal firearms.¹¹ According to the Survey's first yearbook, constabularies possess an estimated 18 million weapons shared among somewhere between 10 to 21 million police officers,¹² whereas government armed forces possess an estimated 226 million weapons.¹³ Stockpiles of less than one million weapons are attributed to the world's non-state armed groups.¹⁴ Civilians privately own at least 305 million firearms, representing over half of the world's stockpile.¹⁵ Excluded from these estimates are stockpiles held as inventories belonging to manufacturers and suppliers, as arsenals by private security firms, mercenaries, and state-supported militia, as caches by organised crime groups, and as illegal firearms by civilians. These estimates of the global stockpile of small arms and light weapons are, nevertheless, meaningful for

¹⁰ Jurgen Brauer and Robert Muggah, "Completing the Circle: Building a Theory of Small Arms Demand," *Contemporary Security Policy* 27, no.1 (April 2006): 139.

¹¹ Small Arms Survey, *Small Arms Survey 2001*, 65.

¹² *Ibid*, 70.

¹³ *Ibid*, 77.

¹⁴ *Ibid*, 89.

¹⁵ *Ibid*, 88-89.

analysts and useful for policymakers because they signal its magnitude and lend a sense of proportionality to its distribution among those holding them.

Yet chief users of small arms and light weapons prove easy to categorise, but difficult to characterise. The size and composition of the world's police forces varies enormously, as does the size and composition of the world's militaries. Private security firms, sometimes hired in order to supplement or bolster a government's weak military or constabulary capability, are also hired by civilians as a means of protecting private property and providing personal security. Furthermore, militias and organised crime groups prove equally difficult to characterise, especially given "their ability to stay flexible and adapt quickly to changing pressures and circumstances."¹⁶ The difficulties associated with identifying and characterising insurgent groups is not only an analytical problem, but is also a concern for those "[m]ilitary personnel engaged in peace operations [who] sometimes tend to look for constituted armies, a hierarchy, and officers with whom to negotiate. A significant number of fighters, however, have little in common with the typical image of the professional soldier."¹⁷

Notwithstanding these quibbles, the global stockpile of small arms and light weapons has reached a disturbing magnitude: this world arsenal probably stands somewhere between about 550 million and 638 million firearms.¹⁸ And as the previous chapter observes, this arsenal continues to grow as proliferation persists. Furthermore, the world's stockpile increases at a rate faster than that which natural obsolescence and deliberate deactivation can reduce it. Regardless of the exact size

¹⁶ Raab and Milward, 430.

¹⁷ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 7.

¹⁸ Small Arms Survey, *Small Arms Survey 2001*, 88, and *Small Arms Survey 2002*, 103. While the *Small Arms Survey 2002 Yearbook* revised its estimate upwards to 638 million firearms, from the *Small Arms Survey 2001 Yearbook's* estimate of 550 million, this revision reflects a mixture of potential stockpile increases, additional information becoming available, and improved estimating procedures and techniques. Subsequent yearbooks, however, refrain from offering revised estimates, focusing instead on refining and re-expressing global stockpiles in terms of regional, subregional, and governmental contexts. This shift in attention is due, at least in part, to the enormous difficulties encountered when attempting to obtain reliable and accurate information pertaining to quantitative estimates of these various stockpiles. It is also, no doubt, to present research and analysis in terms more relevant to policymakers.

of this stockpile, substantial quantities of these weapons remain widely available and are frequently put to ongoing use in ways generating immediate and lasting effects. The ways in which only a few of these weapons are used in specific contexts can, as Chapter One demonstrates, have vastly disproportionate effects, rendering quantitative estimates less useful in identifying and assessing the qualitative consequences following weapons' use. Moreover, this confluence of weapons' users is not a temporary feature of contemporary world affairs, since "the ongoing intra- and inter-state conflicts in many parts of the world, together with attempts by the international community (e.g. UN, NATO) to deal with them, means that the demand for new small arms from governments and non-state actors will continue."¹⁹

Reasons motivating demand for, and possession of, small arms and light weapons vary and are, at times, contingent on highly dynamic circumstances. Most, if not all, governments refer to the right of self-defence enshrined in international law by Article 51 of the UN Charter and these weapons are routinely used by constabularies to maintain the rule of law within their government's jurisdiction. UN peacekeepers, often placed in harm's way, also rely at times upon these weapons in order to fulfil mission objectives. Some civilian users of these weapons claim legitimate possession based upon cultural and customary usage, retaining them as 'family possessions,'²⁰ while others claim privilege as sporting shooters, or cite necessity as game-hunters and farmers of livestock. Where the rule of law appears tenuous, civilians demand weapons as a means of self-protection and of protecting private property, including livestock.²¹

In other cases, however, these weapons serve the purposes of organised criminals, who have little or no concern for commonly-held notions of social justice. These weapons also feature as poaching tools in Africa's game reserves and national

¹⁹ Small Arms Survey, *Small Arms Survey 2001*, 48.

²⁰ Khakee and Florquin, 17.

²¹ Guy Lamb, "Puzzling over the Pieces: Comparing the Demand, Proliferation, Impact and Control of Small Arms and Light Weapons in Nine Southern Africa Countries," in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 322.

parks.²² The possession of, and easy access to, these weapons has enabled repressive governments to commit human rights violations, often with impunity. Such weapons are also used by those contesting the apparatus of the state, both as an aggressive means of recourse against perceived grievance and as a means of expressing a communal right to self-defence. In Burundi, for example, the government established community-based militia, known as *gardiens de la paix*, drawing upon some 30,000 people as a means of providing protection for communities against rebel attacks.²³ Others have, moreover, relied upon the possession of these weapons as a means of enhancing social standing within local communities, even when those in possession of weapons did not actually use them during conflict, with some joining belligerents after combat operations had ceased.²⁴ Thus, as Naylor suggests, small arms and light weapons “are a capital good, demanded not for their own sake (except by a handful of oddball collectors), but for what they will accomplish. In all too many cases the demand for weapons is ultimately a surrogate for the demand for social justice.”²⁵

Less varied, but equally powerful, are the main reasons informing resistance to disarmament programmes established in post-conflict settings, especially where the imminent danger posed by others’ possession of these weapons remains forcefully felt. As a kind of localised security dilemma, these immediate concerns abound, deterring participation in disarmament programmes: combatants and others who possess weapons are unlikely to embrace disarmament if security conditions are perceived to be inadequate, with some weapons stored in clandestine caches as insurance against deteriorating security. As Sami Faltas points out:

People will be reluctant to give up their arms unless the motives that drive them to want firearms are convincingly addressed. Attempts to

²² Undule Mwakasungula and David Nungu, “Country Study: Malawi,” in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 90.

²³ United Nations Security Council, *Report of the Secretary-General on Burundi*, UN Doc. S/2004/210 (New York: United Nations, 2004), paragraph 46.

²⁴ Khakee and Florquin, 13.

²⁵ Naylor, “Gunsmoke and Mirrors,” 178.

forcibly disarm them will typically heighten their desire for private firepower. So practical disarmament can only work in the context of a dual effort to improve the capacity of the state to enforce the law, on the one hand, and to create effective safeguards against the abuse of state power, on the other.²⁶

Significantly, a lack of viable employment opportunities in contemporary post-conflict settings also encourages membership of militia groups, or engagement in other forms of illegal activity, as a means of generating income. In other circumstances, reluctance to disarm is sometimes embedded in long-standing cultural practices where, in Afghanistan for instance, “guns have become an inalienable part of Afghan culture, a sign of manhood that are fired in the air at celebrations such as weddings or to mark the birth of a child.”²⁷ Pouligny goes as far as to suggest that “[i]n many other countries, to deprive a male inhabitant of his gun is like questioning his virility.”²⁸

Here, then, personal security, economic opportunity, social status, and cultural practice can motivate combatants to retain their arms in the face of disarmament initiatives and, in spite of their competing interests, all of those who possess (or have immediate access to) and use (or intend to use) small arms and light weapons are brothers in arms. Enabling a sense of security and social standing for many of those who use them, sometimes as a last resort, while creating opportunities to prosper for others, small arms and light weapons assist users to obtain and use power over others for non-trivial purposes and are, therefore, political instruments. Unsurprisingly, then, attempts to exert control over the possession of these tools of violence have been—and are since most of these attempts are ongoing—a highly charged and contentious issue for members of the international community. The demarcation between Part II (entitled ‘*Dramatis Personae*, and the composition of control’) and Part III (entitled ‘*Dramatis Personae*, and the erosion of control’) of this

²⁶ Faltas, McDonald, and Waszink, 3.

²⁷ Sedra, 37.

²⁸ Pouligny, *The Politics and Anti-Politics of Contemporary ‘Disarmament, Demobilization and Reintegration’ Programs*, 9.

thesis seeks to illustrate this issue' divisive effect among actors who are prominent on the stage of contemporary world affairs.

Mitigating Domestic Regulations

Chief users of small arms and light weapons can be distinguished between those who are authorised by their governments to possess a small arm or light weapon, and those who are not. By authorised I mean, quite simply, those users who have received explicit permission from their government to carry and operate a firearm. In this sense, illicit use occurs either when an authorised user possesses or operates a firearm in contravention of their permit conditions or an unauthorised user possesses and operates any firearm in contravention of domestic law. Here, governments differ from both authorised and unauthorised users since they are themselves the authorising actors directly involved in negotiating measures of control over weapons they hold.

Notwithstanding the usefulness of best estimates, there is no easy way of identifying all of those actors located throughout the world possessing a small arm or light weapon without their government's permission. Even identifying those users authorised to possess these weapons and quantifying those weapons held by the world's authorising actors proves unfeasible, as Chapter One explains. The velocity at which these weapons circulate among these users is also unknown and is, probably, unknowable. Research profiling the distribution of small arms and light weapons, particularly those weapons held by non-state armed groups, is of limited utility too if it does not consider the ways available to replenish or increase stockpiles and the ease with which access to sources of these weapons may be obtained. Moreover, there is no accurate way of knowing precisely how many users retain their weapons in the face of disarmament initiatives, regardless of whether these are led by members of the international community, local authorities, or community groups.

There is, however, evidence indicating some of the ways in which authorised users of these weapons mitigate a government's ability to adhere to its international

responsibilities. There is also evidence indicating some of the ways in which unauthorised operators elude enforcement investigations, and targets of DDR programmes resist disarmament initiatives. Awareness of these subversive practises is an essential part of any comprehension of the international community's attempts to exert control over small arms and light weapons because the limitations inherent in these frameworks are easily and frequently exploited by various actors possessing weapons. Appreciating that these practices help erode the intended effects of the international community's efforts to compose controls over the possession of these weapons is crucial not only to those policymakers who, involved in composing these controls, wish to strengthen them, but also to those analysts aspiring to better understand, and then explain, the reasons for the international community's largely ineffectual response.

As authorised users, civilians and private security firms can mitigate the intended effects of the emerging framework governing the possession of small arms and light weapons. There are, more specifically, three main ways in which those who are authorised to possess these weapons can moderate their government's ability to abide by its responsibilities, each of which undermines the domestic regulatory regimes providing for the licensing of firearms possession and ownership by civilians.

Civilians, including personnel employed by private security firms, can provide registrars with false details of their identity at the point at which they apply to become registered users of these weapons. This is easily achieved where background checks on applicants are weak or nonexistent. In PNG, for example, poorly maintained intelligence databases are often unable to identify those applicants who might have criminal records, including violent offences or serious mental health problems.²⁹ Where reasons for the permit application are required, less than honest reasons are seldom questioned by administrative staff processing

²⁹ Alpers, 111.

applications.³⁰ Like the commercial operators examined in the previous chapter, the distinction between 'authorised' and 'unauthorised' has little utility in circumstances where administrative processes are insufficiently critical of information they receive and where they are without verification capability.

Once registered, authorised users can misreport both the quantity and the type of weapons held, thereby excluding some weapons from the registers maintained by authorities. Such misreporting enables, for example, two or more similar guns with identical markings to be held under a single permit—of which one is considered legal while the others function as ghost weapons, for either illicit use or sale. Also, where licences are automatically renewed, users that no longer have valid reasons for possessing a weapon can retain it; in Lesotho, for instance, a business owner may seek a firearm in order to protect his or her business and can then sell that business while retaining the firearm.³¹ Weapons transferred from deceased users to their offspring, following customary hereditary protocol, similarly evade poor administrative and monitoring processes, as do those authorised weapons which are subject to pawning and pledging. Relying upon authority's poor monitoring capabilities, authorised users can make their arms available to unauthorised users.

Users who are authorised to carry small arms or light weapons as part of their professional duties, such as military personnel, members of the constabulary, and agents employed by private security firms, can sometimes take their weapons home after working hours, either lend or lease their firearms while off-duty, and occasionally retain their weapons once their term of service lapses.³² Some weapons,

³⁰ Martin Boer, "Country Study: Namibia," in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 120.

³¹ Katileho Perfole, "Country Study: Lesotho," in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 66.

³² Mpho G. Molomo, Bertha Osei-Hwedie, David Sedudubuda, Ian Taylor, and Shelly Whitman, "Country Study: Botswana," in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 27; see also Shedrack Gaya Best and Dimieari Von Kemedi, "Armed Groups and Conflict in Rivers and Plateau States,

in the hands of off-duty constabulary and military, have been used to perpetrate domestic violence, whereas in Iraq, the violence has criminal and political motivation. In countries such as Albania and Romania, private security companies acquire their weapons by leasing them from constabulary arsenals.³³ Where routine inspections of armouries are rare, record-keeping is lax, and audits are non-existent, inventories are increasingly porous.

Placing these subversive practices—each of which mitigates a government’s ability to administer its regulatory regime over the possession and, by extension, ongoing use of these weapons—in the broader context of the frail responsibilities to control civilians’ weapons possession, reveals the international community’s somewhat pallid response to this major aspect of the challenge of controlling small arms and light weapons. None of the treaties examined in Chapter Three, for instance, oblige governments to place restrictions on the volume of weapons held by civilians or on the number of civilians holding weapons. Reflecting a basic prerogative of sovereignty, governments retain the power to decide the amount of civilian holdings that is appropriate within their respective jurisdictions, a determination that governments also exercise in relation to the total volumes of weapons manufacturing they authorise. Whereas the *SADC Firearms Protocol* and *Nairobi Protocol*, calling for all civilian ownership of small arms to be registered,³⁴ create obligations for governments to prohibit civilian ownership of light weapons within their respective jurisdictions,³⁵ the *OAS Convention* and the *UN Firearms Protocol* focus exclusively on combating the illicit manufacture and trafficking of small arms and light weapons which, presumably, requires the regulation of the

Nigeria,” in *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, eds. Nicolas Florquin and Eric G. Berman (Geneva: Small Arms Survey, 2005), 36.

³³ Michael Page, Simon Rynn, Zack Taylor, and David Wood, *SALW and Private Security Companies in South Eastern Europe: A Cause or Effect of Insecurity* (Belgrade: South Eastern and Eastern Europe Clearinghouse, 2005), 13 & 73.

³⁴ Refer to the *SADC Firearms Protocol*, Article 5 (3)(a) and the *Nairobi Protocol*, Article 3 (c)(i), respectively.

³⁵ Refer to *SADC Firearms Protocol*, Article 5 (3)(b) and *Nairobi Protocol*, Article 3 (c)(ii), respectively.

industrial and commercial sectors.³⁶ In fact, unauthorised civilian possession is not only neglected here, but the preamble of the *OAS Convention* stresses the issue of civilian possession is beyond its remit,³⁷ while the *UN Firearms Protocol* restricts its applicability to organised crime groups (and only where their activities are transnational in scope) and excludes state-to-state transfers and government-to-non-state actors transfers in certain situations.³⁸

The commitments to regulate civilian possession of these weapons, which are generated by soft law agreements, are also underdeveloped in comparison to controls over the manufacture and transfer of these weapons. Where many of the soft law measures examined in Chapter Three focus on controlling authorised weapons transfers,³⁹ and target law-enforcement efforts at combating the unauthorised manufacture and trafficking of these weapons,⁴⁰ few generate concrete commitments to regulate civilian possession of these weapons. The main exception here is the *Nadi Framework* which, alongside export, in-transit, and import controls, proposes a common regional permit regime for PIF members.⁴¹ This relative underdevelopment of user-focused controls is due, to a large extent, to the US

³⁶ Refer to the *OAS Convention*, Article IV(1) and (2), and the *UN Firearms Protocol*, Article 5, provision (1)(a) and (b), respectively.

³⁷ In particular, the preamble of the *OAS Convention* states: "Recognizing that states have developed different cultural and historical uses for firearms, and that the purpose of enhancing international cooperation to eradicate illicit transnational trafficking in firearms is not intended to discourage or diminish lawful leisure or recreational activities such as travel or tourism for sport shooting, hunting, and other lawful ownership and use recognized by the States Parties; Recalling that State Parties have their respective domestic laws and regulations in the areas of firearms, ammunition, explosives, and other related materials, and recognizing that this Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership, possession, or trade of a wholly domestic character, and recognizing that State Parties will apply their respective laws and regulations in a manner consistent with this Convention."

³⁸ Refer to the *UN Firearms Protocol*, Article 4(1) and (2).

³⁹ The following soft law measures generate commitments to control (though to varying degrees) authorised weapons transfer: the *Wassenaar Arrangement*; the *ECOWAS Moratorium*; the *EU Code of Conduct*; the *Nadi Framework*; and the *OSCE Document*.

⁴⁰ The following soft law measures generate commitments to combat the unauthorised manufacture and/or trafficking of small arms and light weapons: the *EU Programme for Preventing and Combating Illicit Trafficking*; *Bamako Declaration*; *Andean Plan* (which also targets civilian unauthorized weapons' possession); *OSCE Document*; and the *UNPoA*.

⁴¹ Refer to the *Nadi Framework*, Part 1.2.

position on civilian possession of these weapons and on weapons transfers to non-state actors. So much so that many of those agreements negotiated without US participation include controls targeting weapons users; the *SADC Firearms Protocol*, the *Nairobi Protocol*, and the *Nadi Framework* are prime examples.

Governments can mitigate their own international responsibilities to constrain further accumulation of these weapons for their own arsenals. Governmental accumulations are, of course, vulnerable to close scrutiny where relevant intergovernmental measures of control apply. The *SADC Firearms Protocol* and the *Nairobi Protocol*, for instance, oblige governments to establish and maintain inventories of weapons held by military, security, and constabulary forces and to enhance the secure storage of such stockpiles. However, where increases of such accumulations could be deemed to be of concern by other members of the international community, these governments can invoke a shield under the necessity for secrecy.

The arsenals held by, and the weapons-producing capacity of, some governments—most notably Iraq, Iran, and North Korea—have undergone intense scrutiny since the early 1990s, but mostly with respect to weapons of mass destruction. Indeed, each of these countries has been the topic of recent Security Council deliberations resulting in specific resolutions.⁴² This intense scrutiny, which overlooks small arms and light weapons stockpiles, signals an ongoing obsession with perceived threats surrounding weapons of mass destruction, reflecting the legacy of Cold War theorising more than it addresses contemporary security realities. This intense scrutiny also signals that the fears and preoccupations of the major powers of the Security Council outweigh the fears and preoccupations of the millions of less powerful individuals confronted by the nightmare of conflict, fuelled by the ongoing use of these tools of violence. Such policymaking preferences—which are especially callous and unconscionable where governments authorise the manufacture and trade of these weapons, as well as hold stockpiles and authorise civilian possession of them—suggest that the term ‘subaltern killers,’ used in this

⁴² For further details, please refer to the thesis’ introduction, fn.9.

thesis to refer to small arms and light weapons, might also aptly apply to the members of the international community whose responses to the challenge of controlling the weapons are not merely inadequate, but also function as tools of violence in their own right.

Governments can also enter into debates over interpretations of the nature, extent, and application of their responsibilities under international law, exploiting the lack of consensus regarding interpretations of ancillary terms found in the texts of multilateral arms control agreements. In particular, 'excessive' and 'destabilising' are two such terms referring to the quantities of accumulations and transfers of small arms and light weapons deemed unacceptable to the international community which abound in these agreements. Reaching a common interpretation over what exactly constitutes 'excessive' transfers and 'destabilising' accumulations, a distinction that the UN Panel of Governmental Experts found difficult to draw,⁴³ remains elusive, however. Consensus is elusive because a small number of weapons can prove highly 'destabilising,' as those used in the Fiji coup of 2000 have proven,⁴⁴ and because a few weapons transferred to criminals, terrorists, or insurgents are often automatically deemed as 'destabilising.' Consensus also remains elusive because large stockpiles held by a so-called responsible government might not appear to some as 'excessive,' though the application of the term 'responsible' is itself, to put it mildly, highly contingent. Such assessments are both provisional and circumstantial. As Graciela Uribe de Lozano points out, "[t]he basic problem here, of course, is in defining when a government can be considered 'responsible' in matters of arms control and when such weapons are thought to be 'in the wrong hands.'"⁴⁵

⁴³ Refer to paragraph 36 of the *Report of the Panel of Governmental Experts on Small Arms*, which states: "The terms 'excessive' and 'destabilizing' are relative and exist only in the context of specific regions, sub-regions, or States. The mere accumulation of weapons is not a sufficient criterion by which to define an accumulation of weapons as excessive or destabilizing, since large numbers of weapons that are under the strict and effective control of a responsible State do not necessarily lead to violence."

⁴⁴ Capie, *Under the Gun*, 106.

⁴⁵ Uribe de Lozano, 166-7.

Placing the two main ways in which governments can mitigate their own responsibilities in the broader context of the frail responsibilities to control official stockpiles further reveals the international community's pallid response to this major aspect of the challenge of controlling small arms and light weapons. The *UN Firearms Protocol* and the *OAS Convention* both construe governments as important elements of the solution to the problems generated by the widespread availability and ongoing use of illicit small arms and light weapons, but do so without acknowledging the complicity of those governments sustaining the availability, and stimulating the use, of these weapons. Consequently, these two treaties are without obligations for governments to restrict the volume of weapons they accumulate. In contrast to these two measures, the *SADC Firearms Protocol* and the *Nairobi Protocol* establish obligations relating to official inventory management and secure storage of weapons.⁴⁶ In particular, Article 18 of the *Nairobi Protocol* provides for cooperative action to curb corruption in relation to unauthorised manufacture and transfers, as well as possession of these weapons. As soft law measures, the *Wassenaar Arrangement*, the *ECOWAS Moratorium*, the *EU Code of Conduct*, and the *OSCE Document* each generate commitments to prevent destabilising accumulation of governmental stockpiles. However, when contrasted against the responsibilities to regulate authorised manufacture and trade, and to target law-enforcement efforts at combating unauthorised manufacturing and trafficking of these weapons, the responsibilities to control official stockpiles are underdeveloped. Regardless of the reasons given by policymakers, the underdevelopment of controls over official stockpiles reinforces governmental claims over the exclusive use of legitimate force within its area of jurisdiction, collectively reaffirming the principle of sovereignty as paramount in contemporary world affairs.

⁴⁶ Refer to the *SADC Firearms Protocol*, Article 8(a) and (b), and to the *Nairobi Protocol* Article 6(a) and (b), respectively.

Unauthorised Possession

Whether organised or opportunistic, criminals residing within territories subject to regulatory regimes controlling the possession of small arms and light weapons can, nevertheless, possess weapons without official authorisation. More than simply refusing to participate in disarmament initiatives, exemplified by arms amnesties, volunteer weapons-surrendering campaigns, and government-run buy-back schemes,⁴⁷ such unauthorised possession must elude the law enforcement investigations targeting illicit possession, which are encouraged by relevant intergovernmental measures of control. Not all unauthorised weapons are sought as tools for criminal enterprise, however, as many civilians perceive a need for these weapons for self-protection and to protect private property, but may be disqualified from registering as weapons' users, unable to afford registration fees, or unwilling to wait for time-consuming application processes to unfold.⁴⁸

Perhaps the easiest way in which unauthorised users maintain possession of these weapons is by concealing them in a myriad of locations, including homes, nearby forests, caves, wells, and, in some cases, buried in the ground. From a law-enforcement perspective, dormant small arms and light weapons are extremely difficult to detect, as are those weapons leftover from nearby conflict as caches or which are carried by refugees fleeing nearby conflict, with both examples occurring recently in Zambia.⁴⁹

Criminals who are not in direct possession of weapons can maintain immediate access to those that are held legally, but secured poorly. Poorly-secured governmental stockpiles are especially vulnerable to leakage. "Combatant groups and criminals alike seem satisfied with the rich and easily available domestic supply of firearms within PNG," Alpers argues, "while the leakage of weapons and

⁴⁷ For a broad overview of these practices as crime prevention, peace-building, and post-conflict recovery measures, refer to Faltas, McDonald, and Waszink.

⁴⁸ Pefole, 58-9.

⁴⁹ Robert Mtonga and Gregory Mthembu-Salter, "Country Study: Zambia," in *Hide and Seek: Taking Account of Small Arms in Southern Africa*, eds. Chandré Gould and Guy Lamb (Pretoria: Institute for Security Studies, Centre for Conflict Resolution, and Gun Free South Africa, 2004), 291-2.

ammunition from state-owned stocks remains a major hazard. It must be emphasized that existing local stockpiles, and not cross-border trafficking and smuggling, are the primary source of firearms misused in crime, conflict, and intentional and unintentional death and injury in the Highlands.”⁵⁰ Civilian stockpiles are also vulnerable, though for different reasons, as Katleho Pefole relates: “legal and illegal firearms are frequently lent by their owners to friends, neighbours, or relatives who might need them for temporary/short-term security.”⁵¹

If willing to steal, then unauthorised users appear spoilt for choice given the easy access to some authorised weapons held as government stockpiles, on the local premises of dealers in firearms and manufacturing plants, and stored in civilian homes. Taken together, official and civilian stockpiles represent a significant source of weapons for immediate use by unauthorised users. During the period 1994-2002 in South Africa, for example, the Defence Force and Police Service each year lost, on average, about 190 firearms and 1,450 weapons, respectively. For the same period, South Africa’s civilian firearms owners each year lost, on average, about 20,810 firearms.⁵² Even though such leakages might be an unintentional consequence of an authorised user’s negligence, governments can hold permit holders accountable by prosecuting them through judicial procedures; however, when not in possession of them, it can be difficult for authorities to prosecute unauthorised users, though weapons can be seized as evidence of an offence and then destroyed if the authorities so choose.

However, unauthorised users do not necessarily have to steal weapons from legally-held stockpiles in order to obtain them for immediate use. They can, of course, have weapons made locally. In Malawi, for example, “the country has an extensive home-based small arms industry at village level, producing ‘home-made’ weapons. The industry has been sustained by a demand for low cost and low

⁵⁰ Alpers, 121.

⁵¹ Pefole, 59.

⁵² Lamb, 328.

maintenance guns for (illegal) hunting and crop protection against game.”⁵³ The previous chapter noted the growing artisan production in Ghana and in the Philippines, and that damaged weapons can, of course, be repaired by craftsmen too.

As criminals, unauthorised users can also make illicit purchases of weapons from those responsible for guarding locally-stored weapons, licensed dealers in firearms, and corrupt officials. A common enough anecdote illustrates this point: “an illegal firearm was taken from a villager during a police raid. The villager was not detained because he surrendered the firearm voluntarily. A few days later the firearm was believed to be in the possession of another villager who had bought it from the police officer.”⁵⁴ Paid poorly, those who are charged with guarding arsenals and security stockpiles, like those officials who grant fake end-user trade certificates, are vulnerable to collusion and corruption. Mercenaries from nearby or neighbouring countries can carry weapons, surpluses of which are put out for hire.⁵⁵ In the Central African Republic, retreating Congolese troops sold weapons to locals in order to support themselves and their dependents.⁵⁶ Even peacekeepers, such as those deployed as part of the ECOWAS Ceasefire Monitoring Group, return home with weapons collected in conflict zones which are ready for resale.⁵⁷

When unauthorised possession of weapons occurs, it can be part of the dark networks noted in the previous chapter. Yet the activities of organised crime groups can go even further than corrupting law-enforcement officers and officials, as Mittelman and Johnston explain:

criminal groups are alternative social organizations that in some respects challenge the power and authority of the state to impose its standards, codified as law. These groups constitute an alternative system by offering commerce and banking in black and gray markets that operate outside the

⁵³ Andrew Charman, *Small Arms Proliferation in Malawi: An Overview of the Supply of Weapons and Small Arms Demand for Crime and Game Poaching* (Geneva: Graduate Institute for International Studies, 2003), as quoted in Mwakasungula and Nungu, 88.

⁵⁴ Pefole, 60.

⁵⁵ Best and Von Kemedi, 35.

⁵⁶ United Nations Security Council, *Eighth Report of the Secretary-General on the United Nations Mission in the Central African Republic*, UN Doc. S/1999/1038 (New York: United Nations, 1999), paragraph 38.

⁵⁷ Best and Von Kemedi, 24-25.

regulatory framework of the state; buying, selling, and distributing controlled or prohibited commodities such as narcotics; providing swift and usually discreet dispute resolution and debt collection without reference to the courts; creating and maintaining cartels when state laws proscribe them; and arranging security for the so-called protection of businesses and sheltering them from competitors, the state, and rival criminals.

Adding to the concentration of unaccountable power amassing with economic globalization, organized crime groups are tapping into a global system of arms trade and raising and channelling immense amounts of money for this purpose. Insurgents in different regions increasingly rely on organized crime groups, and their armed forces are now intermingled with Serbs, Croats, and other soldiers of fortune, demobilized at home and seeking new employment opportunities.⁵⁸

Competing with the authority and legitimacy of the state, the activities of organised crime groups can lead to the decomposition, reconfiguration, or corruption of civil society, especially where the state is viewed by many as playing a courtesan role, which "services clients, especially wealthy or upper-class ones."⁵⁹ The rise of vigilante groups in South Africa taking justice into their own hands signals dissatisfaction with an ineffective governmental judicial system. Citizens have also relied on organised crime groups as service providers, evident in the protection rackets run in the former Soviet Union and the people smuggling operations emerging out of Asia.⁶⁰ Members of the Yakuza provided relief supplies to victims of the Kobe earthquake in 1995, contrasting with the tardy official response.⁶¹ Hezbollah in Lebanon have consolidated domestic support by funding health care, other social services, and most recently, cash hand-outs to aid those whose homes were destroyed by the Israeli military strikes. However, as Mittleman and Johnston

⁵⁸ Mittleman and Johnston, 114-5.

⁵⁹ Mittleman and Johnston elaborate the following: "Some countries are cast literally in this role, offering or promoting a sex industry, now organized transnationally in eastern Asia, in which the state does not provide social protection for its young women and men (or children) but rather tacitly forsakes safeguarding the local culture in favour of global market forces. For other countries, the courtesan role is less blatant and more figurative but nonetheless emblematic of the interregnum between a Westphalian, interstate system and a more multilevel, post-Westphalian world order," 116-117.

⁶⁰ *Ibid.*, 119-121.

⁶¹ Picarelli, 9.

caution, "a large segment of civil society itself is undemocratic, if not fundamentally repressive."⁶²

By contextualising the multiple ways in which unauthorised weapons users elude the enforcement reach of the regulatory regimes against the weak responsibilities of governments to target law-enforcement efforts at combating unauthorised civilian weapons' possession, this chapter underscores the international community's narrow response to this major aspect of the challenge of controlling these weapons. Unlike the *OAS Convention* and the *UN Firearms Protocol*, the *SADC Firearms Protocol* and *Nairobi Protocol* provide for cooperative law-enforcement investigations targeting illicit possession of these weapons.⁶³ By comparison, however, all of these treaties provide for the exchange of information relating to the illicit manufacture and trafficking of small arms and light weapons, and for cooperative law-enforcement investigations targeting illicit manufacturing and trafficking of small arms and light weapons.⁶⁴ Of the soft law measures committing governments to target law-enforcement efforts at combating the illicit manufacture and trafficking of these weapons, only the *Andean Plan* provides for law-enforcement efforts targeting the unauthorised possession of weapons by civilians.⁶⁵

⁶² Mittelman and Johnston, 123.

⁶³ Refer to the *SADC Firearms Protocol*, Article 15 and to the *Nairobi Protocol*, Article 16(b) and (c), respectively.

⁶⁴ Refer to: Article 15 of the *SADC Firearms Protocol*; Article 15 of the *Nairobi Protocol*; Articles XIII, XIV, XV, XVI of the *OAS Convention*; and Articles 12 and 13 of the *UN Firearms Protocol*.

⁶⁵ Refer to the *Andean Plan*, Part A "in the domestic sphere," paragraph 3, which reads: "Recommend the adoption, as promptly as possibly and whenever appropriate, of the legislative and other measures that are needed to classify as a criminal offence under national law the illicit manufacture, import, export, transfer, sale, brokerage, transport, possession, concealment, usurpation, carrying and use of small arms and light weapons." Then refer to Part B, "in the subregional Andean sphere," paragraph 4, which reads: "Enhance subregional and hemispheric cooperation among competent national authorities who are responsible for ensuring compliance with and the full implementation of all laws connected with small arms and light weapons in all their aspects. These efforts should include, but not be limited to, training and the exchange of information to support common and coordinated efforts to control and reduce illicit cross-border trade in small arms and light weapons, and the signing of agreements for those purposes."

In practice, however, most of the high-profile cooperative law-enforcement investigations combating the illicit trafficking of small arms and light weapons have occurred under bilateral circumstances, before many of the instruments were negotiated and agreed: perhaps the best known, Operation RACHEAL, involving the South African Police Service and the police force of the Republic of Mozambique, has been ongoing since 1995.⁶⁶

Incidentally, unauthorised weapons which are seized and confiscated during law-enforcement investigations are sometimes made legal and incorporated into governmental arsenals. Authorities in Kosovo now use, as an important part of their arsenal, the AK47 assault rifles which were seized and confiscated during border monitoring and control operations.⁶⁷ Despite the advantage of the initial low cost per unit, this particular weapon-type might not necessarily be the most appropriate tool for the purposes of border control and enforcing the rule of law, and its routine use might undermine the enforcement effort. More disturbingly, some weapons that are seized and confiscated by authorities are lent, leased, or sold back to criminals, as occurs in PNG.⁶⁸

In sum, by focusing on the methods by which these brothers in arms obtain and retain possession of small arms and light weapons, this chapter illustrates that the frameworks governing the civilian possession of these weapons are less developed than the equivalent frameworks governing the authorised manufacture and trade of these weapons. This, in turn, signals the international community's emphasis on supply-side controls at the neglect of demand/users focused controls. Similarly, the chapter shows that international community has been much more focused upon restricting the potential destinations of official weapons transfers through the use of export criteria and sanction regimes, than on controlling accumulations of governmental stockpiles. Moreover, focusing on the methods used by these brothers in arms highlights that few governments are obliged to regularly target civilians

⁶⁶ Faltas, McDonald, and Wasink, 15.

⁶⁷ Khakee and Florquin, 12.

⁶⁸ Alpers, 50.

possessing illicit weapons, whereas most major intergovernmental measures of control—with the exceptions of the *ECOWAS Moratorium* and of the *Wassanaar Arrangement*—encourage the targeting of law-enforcement efforts at combating illicit manufacturing and trafficking. In this light, the international community's response to controlling this major aspect of the challenge to control small arms and light weapons is held hostage to the interests of sovereignty, is unduly narrow, and easily circumvented. The significance of this narrow focus is illuminated by those best estimates suggesting the world's civilian stockpiles amount to about 305 million firearms, and the world's governments hold about 240 million weapons. Taken together, this represents most of the estimated small arms and light weapons in the world. While estimates of unauthorised weapons are highly unreliable, these weapons are used, with frequency and disproportionate affect, to perpetuate armed crime, initiate, intensify, and prolong conflict, and to destabilise post-conflict settings. Indeed, as Chapter One illustrated, the prevalent and intense criminal use of these weapons help blur the distinction between areas under the rule of law and locations deemed a conflict zones.

Resisting DDR Programmes

Belligerents can use an array of methods with which to deliberately resist DDR programmes, including those that are administered as part of UN peacekeeping operations, as well as the many disarmament initiatives undertaken outside the auspices of the DPKO. (While the thesis' focus is on the former, relevant lessons can be learned from the latter.) And by resist, I mean that by retaining unauthorised weapons and/or by maintaining access to existing caches and other sources from which they can immediately supplement their existing stockpiles, belligerents circumvent the intent behind those DDR programmes. At other times however, these weapons users, especially local force commanders, can subvert the DDR programmes, rendering them into the service of their own political purposes.

Like unauthorised users eluding the reach of law-enforcement investigations, belligerents can resist the disarmament component of DDR programmes by

retaining their weapons as hidden caches. In Nicaragua during early 1990, for example, large numbers of combatants were unimpressed with the peace agreement and the associated peace dividend, and by 1991 re-armed with weapons which they had hidden.⁶⁹ In some cases, such as in Kosovo, clandestine storage facilities have become more sophisticated as a reaction to active weapons collection initiatives and DDR programmes.⁷⁰ The simple practice of concealing weapons caches proves effective against those peacekeeping operations which are authorised to provide incentives for disarmament, but which are without authority to conduct search and seizure operations: these scenarios are cases of too much carrot and not enough stick.

Belligerents can erode the intended effects of DDR programmes by giving them partial support, preferring to only surrender either obsolete, low quality, or damaged weaponry, as occurred during the initial phase of the Mozambique DDR programme.⁷¹ In these circumstances, a fraction of belligerents' caches are captured by collection programmes. While this limited participation might be seen by some as a symbolic gesture of endorsement for such programmes, it also, more importantly, signals the reluctance of ex-combatants to fully disarm; or put more cynically, reveals a keenness to withhold their best weaponry for future use. In Angola, both the UN and the government expressed concern regarding the caches of small arms and light weapons held by Savimbi's personal 'security detachment,' a small contingent of UNITA's battle-tested fighters.⁷² This concern was not misplaced given the resumption of hostilities already noted in Chapter Four of this thesis.

Force commanders can abuse DDR programmes, taking advantage of administrative processes with weak screening procedures, by refusing to provide

⁶⁹ Atanga, 21.

⁷⁰ Khakee and Florquin, 20.

⁷¹ United Nations Security Council, *Report of the Secretary-General on the United Nations Operation in Mozambique*, UN Doc. S/1994/89, paragraph 7.

⁷² McQueen, 412.

detailed lists of those combatants under their command.⁷³ Some commanders have been unwilling to identify the precise number of their combatants, perhaps because they believe that by overestimating the forces and weapons under their command their negotiation position is strengthened and their bargaining power is increased. In Burundi, the armed forces withheld both troop lists and information relating to munitions stockpiles.⁷⁴ Pouligny is poignant on this point (though she makes it in relation to the NATO-led intervention in Afghanistan), when she writes the following:

As in Afghanistan today, every commander tends to inflate the number of his men, to show political superiority and to draw more entitlement from the donors. In Kabul and Mazar, the commanders made up smaller units for disarmament, by taking bits from several military units. This is just one of the strategies that can be used to hide significant forces and weapons.

The situation is even more complicated when, as in Haiti, Afghanistan, Iraq, or in various places in Africa, local militias have been paid and armed by external powers. It is even more the case in Afghanistan due to the war against terrorism. Such situations are very difficult to manage in DDR programs, among other reasons because former patrons are inclined to apply double standards to their former clients, and are reluctant to reveal any information regarding the actual strength and composition of these forces.⁷⁵

Force commanders can continue exerting control over former combatants by coercing them to relinquish the inducement money provided to them by the international community for surrendering their weapons at official collection points. Commanders can also disarm those under their control in order to either reallocate their weapons to less valued fighters or sell these weapons to non-combatants who then benefit in terms of financial gain, health care, and training opportunities through their involvement in DDR programmes.⁷⁶ In so doing, commanders

⁷³ Nichols, 114.

⁷⁴ United Nations Security Council, *Second report of the Secretary-General on the United Nations Operation in Burundi*, UN Doc. S/2004/902 (New York: United Nations, 2004), paragraph 24.

⁷⁵ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' Programs*, 9.

⁷⁶ Nichols, 121. According to Nichols, "[t]he power that faction leaders continue to exercise over their followers is significant: during a post-disarmament uprising of disgruntled ex-

compress the effect of DDR programmes, ensuring their powerbase remains unchanged while any lucrative activities, with which they may have been engaged during conflict, remain unmolested.⁷⁷

Force commanders do not hold a monopoly over the abuse of DDR programmes, however. If incentives for surrendering weapons are sufficient, individuals (not necessarily directly involved in conducting hostilities) who do not possess weapons may attempt to steal them, and those who receive funds for their weapons might seek to procure more in order to obtain further compensation.⁷⁸ Where cash incentives are high, belligerents can hand in weapons, but use funds to purchase more arms which, in some cases, prove more lethal. In Liberia, 3,000 of the 13,000 ex-combatants disarmed were probably disarmed twice a result of poor screening procedures.⁷⁹

In addition to retaining access to at least some of those weapons under their control, belligerents can continue to source weapons in order to either replenish depleted stocks or increase the size and quality of their arsenals for immediate use. In Northern Afghanistan, for instance, weapons collected were then either held by local factions or transferred for safe storage to the control of warlords in adjacent areas and factions outside the immediate region.⁸⁰ Significantly, such weaponry was neither transferred to an independent authority, nor destroyed. Consequently, these weapons can easily be requisitioned informally from official stockpiles, as raids on armouries represent relatively simple military operations. Many of the 12,000 weapons which were collected from armed non-state groups by the government of Sierra Leone but not destroyed, were recaptured following the collapse of the peace process in May 2000.⁸¹ According to Nicolas Florquin and Stéphane Pézard, during

combatants in Tabmanburg, UNMIL troops had to bring in a former LURD commander to quell the rioting," 127.

⁷⁷ Poulligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' programs*, 19.

⁷⁸ Faltas, McDonald, and Waszink, 7.

⁷⁹ Nichols, 113.

⁸⁰ International Crisis Group, *Disarmament and Reintegration in Afghanistan*, Asia Report no. 65 (Kabul/Brussels: International Crisis Group, 2003), 8.

⁸¹ Faltas, McDonald, and Waszink, 14.

the Malian insurgency, non-state armed groups relied heavily on weapons they captured during combat operations or seized from official stockpiles, eventually supplementing these sources with weapons purchased illegally from soldiers and Malian officers.⁸² Yet belligerents are not the only sources of weapons in conflict zones and post-conflict settings; as Gamba laments, “one of the most interesting aspects of the Sierra Leone case is the fact that so many of the weapons used by the RUF were obtained by seizing arms from the peacekeeping force itself: the contingents of Guinea, Kenya, Nigeria, Jordan, Zambia, and India have all suffered heavily in this regard.”⁸³ At other times, of course, hard-line leaders of armed groups can exert influence over combatants to refuse to participate in DDR programmes, as occurred in the Democratic Republic of the Congo.⁸⁴

Here, then, the intent of these DDR programmes is eroded where weapons that have been collected are neither destroyed, nor deactivated permanently. The easy access to official stockpiles due to poor armoury controls is exacerbated by belligerents who use the financial incentives and employment opportunities inherent in DDR programmes as a means of fostering patronage while targeting their rivals for demobilisation.⁸⁵ Thus, it is not merely the disarmament component of DDR programmes which is vulnerable to exploitation, because economic incentives are abused which, in turn, undermines the assistance intended for those ex-combatants reintegrating into civilian life. Also, demobilising combatants and then reintegrating some of them into the national armed forces is not always seamless. In the Solomon Islands during 2001, the lack of discipline of these so-

⁸² Nicolas Florquin and Stéphanie Pézard, “Insurgency, Disarmament and Insecurity in Northern Mali, 1990-2004,” in *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region*, eds. Nicolas Florquin and Eric G. Berman (Geneva: Small Arms Survey, 2005), 51-53.

⁸³ Virginia Gamba, “Managing Violence: Disarmament and Demobilization,” in *Contemporary Peacemaking: Conflict, Violence and Peace Processes*, eds. John Darby and Roger Mac Ginty (New York: Palgrave Macmillan, 2003), 132.

⁸⁴ United Nations Security Council, *Second special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, UN Doc. S/2003/266 (New York: United Nations, 2003), paragraph 21.

⁸⁵ International Crisis Group, 23.

called special constables contributed to further lawlessness, which perpetuates cycles of violence and impedes weapons collection initiatives.

As the Angolan experience testifies, failed DDR programmes can result in dissatisfied combatants storming demobilisation encampments and compounds, as well as triggering aggression and reigniting tensions that, perhaps, contribute to renewed conflict which, in turn, creates conditions which impede future weapons collection initiatives. The legacy of failed disarmament attempts not only erodes confidence in current and future DDR programmes, but also emboldens those belligerents unwilling to relinquish their weapons; or worse, encourages those who desire to subvert DDR programmes to their own advantage. This subversion, producing very dangerous results for local communities in post-conflict settings, fosters insecurity beyond the parameters of the initial conflict zone.

Armed Beyond the Mosaic of Responsibilities

Just as arms embargoes authorised by the Security Council reinforce those intergovernmental measures seeking to exert control over transfers of small arms and light weapons, DDR programmes administered as part of UN peacekeeping operations reinforce those international agreements seeking to exert control over the possession of these weapons. In some cases, the mosaic of responsibilities relating to weapons possession is extended by peacekeeping operations deployed to those conflict zones which the UN Security Council deems a threat to international security. Despite the many disarmament initiatives conducted in recent years, including those administered as part of DDR programmes and those undertaken in accordance with instruments of international law, collected weapons have not always been destroyed or deactivated permanently. This is of particular concern to those analysts and policymakers confronting the challenge of controlling small arms and light weapons because the mosaic of responsibilities over proliferation does not restrict the volume of weapons produced, exposing another central conceptual disconnect among the international community's various responses to the major aspects of this challenge.

While over 42 peacekeeping operations have been authorised by the Security Council since the early 1990s, the Security Council has not authorised interventions for each and every recent conflict. Areas of conflict where armed non-state groups either control territory or contest a government's monopoly over the legitimate use of force within its jurisdiction therefore lie outside this governance framework; in these areas, technically speaking, such possession is unauthorised, but is not illegal. These are areas in which dark networks flourish. Where DDR programmes are exploited to the extent that they serve belligerents' ends, they resemble the dark networks of the previous chapter, where organised crime groups cooperate in order to coerce and corrupt officials and law-enforcement officers who have professional duties to administer, monitor, and enforce regulatory regimes. Indeed, "[n]ew forms of criminality infringe the principle of sovereignty, the centrepiece of the Westphalian state system."⁸⁶ New forms of authority, based on criminality, gather legitimacy in conflict theatres and post-conflict settings where dark networks provide much-needed public services. As noted in the introduction to this thesis, the widespread availability of these weapons blurs the analytical distinction between conflict zones and post-conflict settings, just as the rise and persistence of armed criminality blurs the distinction between areas under the rule of law and those deemed conflict zones. For some belligerents, this blurring represents opportunities: "Most of the bandits who operated under the guise of fighters and took advantage of the [Malian] rebellion to rob civilians and loot villages kept their arms and continued to pursue their illicit activities."⁸⁷

In circumstances where state authority has been eroded and rule of law is no longer observed, regardless of whether they are described as conflict zones or post-conflict settings, black markets necessarily flourish. The situation in Burundi is instructive. According to Nelson Alusala, "[t]en years of armed conflict have turned

⁸⁶ Mittelman and Johnston, 115.

⁸⁷ Florquin and Pézard, 59.

Burundi into an open theatre for the illicit arms trade, whose lethality has made almost every citizen a victim.”⁸⁸ A recent UN report supports this view:

While hostilities have generally ceased, criminality appears to have increased, aided by the thousands of weapons in circulation. Attacks, ambushes and harassment of individuals or groups along the main roads are commonplace, particularly in Cibitoke, Bubanza, and Bururi Provinces, as well as in areas along the border with the United Republic of Tanzania. Refugees and internally displaced persons have also reported cases of rape and general insecurity during the return process. Furthermore, some uncontrolled [Burundi Armed Forces (FAB)] elements are allegedly involved in criminal activity, and elements belonging to the armed parties regrouping in assembly areas have been cited as harassing local civilians.⁸⁹

As Capie notes, “some groups also manufacture their own military weapons and ammunition. The sophistication of these operations varies enormously. Many armed group can service their own arms or produce simple homemade firearms, but some have also been able to manufacture high quality weapons.”⁹⁰ Lawlessness in areas such as these represent especially troublesome scenarios for those policymakers seeking to better control small arms and light weapons.

Seeking to reduce the world’s total stockpiles by seizing, confiscating, and in some cases deactivating unauthorised weapons (but, in effect, only curbing its the extent of its burgeoning), intergovernmental measures of control do so as a means of enhancing governmental claims for the monopoly over the legitimate use of force within its jurisdiction. However, contrasted against those agreements fostering regimes regulating the proliferation and transfer of small arms and light weapons, few governments have responsibilities concerning the possession of these weapons within their jurisdictions. As already mentioned, the *UN Firearms Protocol*, the *OAS Convention*, and the *UNPoA* are each silent on controls over civilian possession of these weapons. Many governments, therefore, do not have domestic laws covering

⁸⁸ Nelson Alusala, *Disarmament and the Transition in Burundi: How Soon?*, ISS Paper no.97 (Pretoria: Institute for Security Studies, 2005), 1

⁸⁹ United Nations Security Council, *Report of the Secretary-General on Burundi*, UN Doc. S/2004/210, paragraph 17.

⁹⁰ Capie, “Armed Groups, Weapons Availability and Misuse,” 6.

the civilian possession of these weapons which have resulted from their international responsibilities referred to in Chapters Three and Four.

The US is of particular significance here since its government refuses to uniformly register its civilian gun ownership despite its citizens holding over half of the world's small arms and light weapons. US domestic controls over civilian firearms ownership and possession, which are permissive relative to many other countries, continue to generate serious problems for US domestic enforcement agencies and health care providers—diverting precious resources away from other health and social services⁹¹—as well as for those countries bordering the US or located within its region. The so-called ant trade across the US-Mexico border, for instance, occurs where weapons are purchased legally by individuals in US territory, but then trafficked across the border into Mexico where they are used to commit crime. This trafficking continues to occur in spite of recent efforts by US border control agencies.⁹² Accordingly, the lax control over civilian gun ownership perpetuated by US domestic policy contributes to the widespread availability of these weapons and, at the same time, informs US foreign policy which helps dilute the provisions, relating to civilian ownership, of those measures of control that the US negotiates and to which it is a party.

In short, there are multiple methods—which can be used separately, successively, or in concert with one another—that authorised users, unauthorised users, and targets of DDR programmes can employ in order to mitigate, resist, and elude the emerging controls over the possession of small arms and light weapons. The chapter has shown that the international community's responses to the challenge of controlling the possession of these weapons are unduly narrow, easily circumvented, and, in some cases, subverted specifically by: civilians, including personnel employed by private security firms; opportunistic and organised criminals; governmental military forces and constabularies; and non-state armed

⁹¹ Cukier and Sidel, 6.

⁹² Boutwell and Klare, "Small Arms and Light Weapons: Controlling the Real Instruments of War," 5.

groups. Yet, even though it is possible to categorise chief users of these weapons, these categories prove malleable, with some users shifting from category to category. In conflict situations, officially-constituted militaries blend with politico-mafioso armies supporting organised crime. Moreover, ad-hoc and part-time combatants help problematise the strict demarcation drawn between combatants and civilians.⁹³ A conflict's outcome can help dissolve the basis of such categories as insurgencies and so-called rebel armies that successfully obtain power over the apparatus of government legitimate themselves.⁹⁴ Certain researchers appear attentive to this: in their study of Human Security in West Africa, for instance, Florquin and Berman prefer the term 'armed groups'—which they define "as groups equipped with small arms and light weapons that have the capacity to challenge the state's monopoly of legitimate force"—over 'insurgents' and 'militias' because governments "change frequently and often violently...an armed group formed ostensibly to protect the state may soon find itself in opposition to it...[and] a group might support the state politically and still challenge its monopoly on coercion."⁹⁵ Authorised users of these weapons acting in unauthorised ways also undermine the basis for these categories. Where civilians, registered as firearms owners, breach conditions of their firearms licences, they too become criminals.

As authorising actors, governments and their military and constabulary forces can act in criminal ways. For example, officials belonging to the Iraqi government have used these weapons in order to commit crimes, such as car-jacking, hostage-taking, and highway robbery. As Robert Fisk maintains, these men are "cops by day, killers by night."⁹⁶ So too in Cameroon, where members belonging to the security forces commit crime, or act as accomplices to crime, as junior and middle-ranking officers of the constabulary and military are responsible for initiating and

⁹³ Pouligny, *The Politics and Anti-Politics of Contemporary 'Disarmament, Demobilization and Reintegration' programs*, 7.

⁹⁴ Small Arms Survey, *Small Arms Survey 2001*, 82.

⁹⁵ Nicolas Florquin and Eric G. Berman, "Introduction," chap. in *Armed and Aimless: Armed Groups, Guns, and Human Security in the ECOWAS Region* (Geneva: Small Arms Survey, 2005), 1.

⁹⁶ Fisk, 1244.

coordinating much of the violent crime occurring in the country's major urban centres.⁹⁷ There are many instances where government employees have illegally sold weapons from official stockpiles.⁹⁸ A recent study by Mark Galeotti signals the extent to which Russia's state security apparatus has become criminalised not just since the dismantling of the Soviet Union, but more recently under President Putin. "Russian organised crime," this expert concludes, "has not only benefited immensely from the protection, weapons, and skills it can buy from corrupted members of the security forces, it has also infected it."⁹⁹ Such activities, and others like these, undermine the analytical distinction drawn among these categories of weapons' chief users.

Post-internationalist Heresy

Authorised by their governments to produce, possess, and transfer small arms and light weapons, regulated commercial operators and approved weapons users can employ various means with which to circumvent their government's ability to fulfil its responsibilities under international law. In so doing, those who operate within the relevant regulatory regimes illuminate weaknesses inherent in the mosaic of responsibilities exerting control over small arms and light weapons. Even though the activities of those who are authorised by governments help erode the intended effects of the international community's attempts to compose measures of controls, they do not necessarily represent a direct challenge to the internationalist orthodoxy underpinning those attempts. In fact, because these actors seek out and rely upon the authority of governments, they simultaneously endorse their primacy in contemporary world affairs and, in this respect, resemble IANSA.

By virtue of their central role in developing and implementing the various frameworks governing the possession, as well as the proliferation and transfer, of these weapons, statemakers hinder the efficacy of these frameworks by unevenly

⁹⁷ Atanga, 43.

⁹⁸ See, for example, Mtonga and Mthembu-Salter, 290.

⁹⁹ Mark Galeotti, "The Criminalisation of Russian State Security," *Global Crime* 7, nos.3-4 (August-November 2006): 485.

implementing, sporadically enforcing and, in some cases, deliberately contravening them. In spite of their responsibilities to do so, for example, some governments have not yet nominated a national point of contact for international small arms issues.¹⁰⁰ Many governments have not reviewed their legal frameworks covering small arms and light weapons since 2001 and most do not have laws controlling arms brokering.¹⁰¹ Few governments have criminalised illicit stockpiling of these weapons¹⁰² and even fewer have reported destroying surplus weapons.¹⁰³ Scarcer yet are those governments reporting on regular cooperative law-enforcement investigations targeting the illicit possession of these weapons.¹⁰⁴ In addition to authorising civilian possession of these weapons, governments rank among chief users of these weapons and, as Chapter Four demonstrates, occasionally transfer weapons in contravention of arms embargoes. Where governments allow or facilitate the proliferation, transfer, or stockpiling of these weapons, but do not officially authorise them, they are antagonists to the international community's attempts to exert control over small arms and light weapons. While governments are not alone in their intransigence, they are the only actors that feature as both major protagonists confronting the challenge of controlling small arms and light weapons and as antagonists sustaining this challenge.

Like regulated weapons-producing firms, authorised arms brokers, and registered users of small arms and light weapons, unauthorised dealers and users of these weapons exploit the uneven implementation and sporadic enforcement of, as well as the technical and conceptual inconsistencies inherent in, the mosaic of responsibilities created by various intergovernmental organisations and Security Council resolutions. Unlike those actors regulated by governments, however, unauthorised arms brokers and weapons users operate beyond the administrative and enforcement reach of the regulatory regimes fostered by a mosaic of

¹⁰⁰ Biting the Bullet, "Global Table 1: Foundations," *Reviewing Action on Small Arms 2006*, 34-42.

¹⁰¹ Ibid, "Global Table 2: Laws and Procedures," *Reviewing Action on Small Arms 2006*, 44-55.

¹⁰² Ibid.

¹⁰³ Ibid, "Global Table 3: Weapons Management," *Reviewing Action on Small Arms 2006*, 56-71.

¹⁰⁴ Ibid, "Global Table 4: International Assistance, Co-operation, and Transparency," *Reviewing Action on Small Arms 2006*, 72-83.

responsibilities generated by various instruments of international law, arms embargoes of UN sanction regimes, and DDR programmes of UN peacekeeping operations. Particularly recalcitrant—at least from the point of view of analysts considering, and policymakers confronting, the challenge of controlling small arms and light weapons—are those unauthorised brokers facilitating transfers of small arms and light weapons to recipients who are the targets of UN-authorised arms embargoes, and those belligerents retaining their weapons in the face of DDR programmes administered by UN peacekeeping operations. By deliberately undermining the efficacy of those responses, these unauthorised actors seriously contest the primacy of internationalism as the central notion of the political, testing the resilience of the internationalist governance architecture, the current configuration of the international community, and the internationalist orthodoxy which binds them.

Where unauthorised actors form dark networks among themselves and with coerced and corrupt law-enforcement officers and officials, they problematise the dichotomy between those who compose controls and those who erode the intended effects of those controls. Where such networks are sustained and gather momentum, they coalesce around a set of beliefs contrary to the prevailing internationalist orthodoxy. Such networks reflect the emergence of a post-internationalist dimension to world affairs, a dimension in which, as Picarelli explains, categorises:

two sets of actors based on their relationship to sovereignty....States serve as the perfect example of an actor characterised by its binding to the principle of sovereignty, and thus states and actors like them are referred to as *sovereign-bound*. The other category of actors is composed of individuals and groups who do not consider sovereignty as the primary ideational compass for their organisational composition, and thus these actors are deemed "*sovereign-free*." The realm of sovereign-free actors includes a wide range of actors, ranging from super-empowered individuals to sub-national interest groups to multinational corporations.¹⁰⁵

¹⁰⁵ Picarelli, 10-11 (my emphasis added).

The parallels between the terms 'sovereign-bound' and 'sovereign-free,' on the one hand, and the distinction drawn between those actors authorising the manufacture, trade, and possession of those weapons and those actors who produce, trade, and possess these weapons without the necessary authorisation on the other hand, are readily apparent. Unauthorised actors, who might be construed as sovereign-free, can and indeed do exert strong influence over authorising actors, who might be construed as sovereign-bound, for instance. Moreover, both sovereign-bound and sovereign-free actors can circumvent and subvert the mosaic of responsibilities comprising of intergovernmental measures of control and Security Council resolutions, limiting the efficacy of the international community's attempts to exert control over these weapons.

It is, therefore, not simply the case that these 'sovereign-free' actors emerge only in opposition to the state. Rather, they collectively engage in a set of practices used to exploit, to their own ends, specific opportunities embedded in concrete situations, all of which occurs as a broader reaction to the state's preponderance, especially where governments cooperate for collective advantage. A post-internationalist heresy thus emerges from, signals weaknesses in, and exploits the grand politico-strategic frameworks ordering contemporary world affairs. Accordingly, statemakers ought to be contextualised as but one type of actor embedded in a so-called post-Westphalian world order, though the recognition of just such a phenomenon probably reflects a revised intellectual appreciation of analytical constructs, than the emergence, existence, or decline of particular social realities.¹⁰⁶ And as an actor of world affairs, the state is not a static entity, enduring without change down through the centuries; it is instead better understood as a dynamic, reflective, composite feature of world affairs, which is made and remade as it oscillates between responding to domestic and external pressures, to historical traditions and calculations of future aspirations.

Here, then, the contrast between Parts II and III of this thesis demonstrate the multifarious ways in which a specific cast of actors—distinguished in this thesis as

¹⁰⁶ Pouligny, *NGOs as transnational forces*, 6.

playing an important role among a particular *dramatis personae* of world affairs—can erode the intended effects of the international community's major responses to the challenge of controlling small arms and light weapons. More specifically, this contrast amplifies the technical inconsistency and conceptual incoherence of these responses, exposes domestic influences which, hampering these responses, contribute to their uneven implementation and irregular enforcement, and illustrates the exploitation of these weaknesses while their efficacy is, consequently, eroded. Underpinning these actors eroding the intended effects of those responses is a post-internationalist heresy, the vitality of which is signalled by the overwhelming extent of the widespread availability and ongoing use of small arms and light weapons and by the lethal legacy of these subaltern killers.

Conclusion

The international actors examined in the two chapters of Part III of this thesis—weapons-producing firms, arms brokers, and chief users of these weapons—are able to mitigate, resist, and elude the intended effects of the international community's major responses to the challenge of controlling small arms and light weapons. To be sure, these actors, most of which are both non-state and sovereign-free, can not only easily circumvent these intergovernmental measures of control, arms embargoes, and DDR programmes, but can also sometimes exploit them in such a way as to subvert them into the service of their own political ends. Contextualised against those responses examined in Part II of this thesis, which contain technical inconsistencies and conceptual disconnects that continue to dog these measures despite the slow pace at which these measures of control are often negotiated in multilateral settings, the recalcitrance of these international actors erodes the intended effects of those responses and, thereby, helps render the challenge of controlling small arms and light weapons intractable and insurmountable for the international community.

This chapter has shown that, by retaining their arms for immediate and ongoing use, weapons users not only erode the efficacy of the framework governing the

possession of small arms and light weapons, but also contest the internationalist notion of the political determining who has legitimate access to these tools of violence and in which circumstances their possession and use are to be restricted. Some of these brothers in arms not only infect the state in the way that organised crime groups explored in the previous chapter form dark networks, but also help provide alternative public services which, in turn, compete with the primacy of the state, at least in local affairs. In certain circumstances, civil society is reconfigured by international actors relying on small arms and light weapons as political tools. Weapons users targeted for control by the international community are, therefore, neither devoid of politics, nor assert an anti-politics, but rather, like other key international actors targeted for control by the international community, engage in a set of practices and activities which are saturated with various notions of the political. Significantly, these various notions are, for the most part, at odds with the internationalist orthodoxy which, as Part II demonstrates, is deeply embedded in the grand politico-strategic frameworks comprising the governance architecture essential to conducting world affairs; this orthodoxy also imbues the architecture strengthened by those members of the international community involved in invoking, conducting, or monitoring the various efforts to control small arms and light weapons. In response to more than a decade of the international community's attention and action, the unauthorised manufacture, transfer, and possession of small arms and light weapons conveys a post-internationalist heresy, the power of which is reflected by the widespread availability and ongoing use of these weapons and by the lethal legacy of these subaltern killers.

In this light, overcoming the challenge of controlling small arms and light weapons is not simply a case of the international community providing sufficient resources and fostering adequate political will, as some analysts and policymakers claim. Rather, as the thesis' epilogue contends, an ongoing contest over the notion of the political currently renders the challenge of controlling small arms and light weapons an intractable and insurmountable one for the international community. And this contest, which is both unavoidable and unresolvable, is merely one of the

multifarious dynamics of international security informing contemporary world affairs, albeit a vitally important one.

EPILOGUE *EXEUNT,* SUBALTERN KILLERS?

While certain actors of contemporary world affairs have been prompted into action by an awareness of the grisly and macabre impacts associated with small arms and light weapons—ranging from civil disturbance and violent crime to human rights violations by repressive governments and full-scale conflict—the international community’s major responses to the widespread availability and ongoing use of these weapons have so far proven ineffectual as reliable methods of arms control. In particular, the mosaic of responsibilities comprising of various instruments of international law negotiated multilaterally within intergovernmental organisations, the arms embargoes contained in UN sanction regimes, and the DDR programmes administered as part of UN peacekeeping operations, is technically inconsistent and conceptually incoherent. It is also unevenly implemented and sporadically enforced. Consequently, each of the major aspects of this challenge—proliferation, transfer, possession, collection and deactivation—are not addressed by the international community in a coordinated, comprehensive, and holistic manner. And where these responses are negotiated, implemented, and enforced, they are subject to the dictates of state self-interest, including those of the permanent members of the UN Security Council that are pursued, on occasion, in blatant disregard of their special responsibilities enshrined in the UN Charter.

In spite of the maturing relationships among important members of the international community and the nascent interconnectivity among their strategies for, and approaches toward, controlling these weapons, these crucial disconnects and shortcomings persist, enabling the captains of small arms industry, arms brokers, and a range of weapons users to easily circumvent these responses. Significantly for policymakers with professional obligations relating to international security, and crucially for the millions of these weapons’ victims, this assessment is unlikely to alter dramatically in the foreseeable future.

Even though the well-founded epistemic anxiety over available information signals that such an assertion is unprovable, it does not render it false, however. Best estimates suggest that, despite the abovementioned efforts, the global stockpile of small arms and light weapons increases because, quite simply, the rate of proliferation exceeds the combined rate of natural obsolescence and deliberate deactivation. At the same time, advancements in technology render new weapons more lethal, while existing weapons appear to circulate with a high degree of velocity. In any case, given the multiple and ongoing ways in which these control measures are frequently circumvented, this assessment holds a high degree of validity, regardless of whether these responses are treated by analysts as autonomous instruments or as a collective mosaic of responsibilities.

While the impacts associated with these weapons are of a disturbing magnitude, they do not, in and of themselves, constitute a magnitude sufficient to induce a radical reordering of contemporary world affairs. Rather, the challenge of controlling small arms and light weapons is seized upon by certain actors as an opportunity to strengthen the status quo. To this end, the four chapters of Part II collectively demonstrate the ways in which particular members of the international community justify, project, embed, and uncritically endorse the prevailing world order, preferring major responses strengthening the internationalist governance architecture of which they are, or seek to be, part. Yet since the preferred responses strengthen the existing internationalist governance architecture by either co-opting or excluding non-state actors, the potential membership of the international community, as well as the unique contributions that each of these potential members could make, are seriously circumscribed. As such, the current configuration of, and subsequent engagement among, the international community at best inhibits, or at worse prevents, effective control over small arms and light weapons.

The assumptions underpinning this governance architecture are, however, contested not only by many analysts of world affairs, but also by various international actors, as both chapters of Part III illustrate. Notwithstanding the

scarcity of relevant quantitative information, commercial practices engaged by those operators authorised by their governments to manufacture or trade small arms and light weapons can help erode the intended effects of these controls. Where the intended effects of these controls are eroded—because they are successfully mitigated, resisted, or eluded—the internationalist orthodoxy informing these controls is interrogated and its provisional primacy, as a preferred notion of the political asserted with contemporary world affairs, is strained. The activities of those who are not authorised by governments to produce, trade, or possess these weapons, yet who nevertheless do so, not only helps erode the intended effects of these controls, but also overtly contests this notion of the political—despite the clandestine nature of these activities.

Where unauthorised operators, coopting or corrupting officials, form dark networks in order to pursue their clandestine commercial activities, they subvert the regulatory regimes fostered under international law. Statemakers deliberately enabling, encouraging, or coercing unauthorised operators in their lethal commerce dissolve the dichotomy drawn between arms control protagonists composing measures of control and arms control antagonists eroding the intended effects of those controls. Cohering around a counter-notion of the political, a range of international actors including some governments described as pariah or failed states, emerge from, signal weaknesses in, and take advantage of, the grand politico-strategic frameworks helping to order contemporary world affairs. Here, a post-internationalist heresy is conveyed with powerful effect, at once disturbing and consolidating the internal cohesion of the international community.

Subscribing to this post-internationalist heresy, so-called black marketeers can contest the primacy of governments, even where governments cooperate for collective advantage, in a manner far more *politically* effective than the campaigning of civil society organisations. And here, I place an emphasis on the term ‘politically’ because, as the thesis’ introduction mentions, politics is “all those things we do, individually and in concert, to get and use power over others

for non-trivial purposes. Politics is always about trying to get our way to some substantive end.”¹ Despite the increasing prominence given by some analysts and policymakers to the arms control campaign of civil society organisations, the lack of any significant policy outcome unique to civil society—as opposed to their mere participation—demonstrates that no discernible shift towards global governance has occurred with respect to the challenge of controlling small arms and light weapons. Conversely, the widespread availability, ongoing use, and lethal legacy of these subaltern killers signal the forcefulness this post-internationalist heresy brings to bear upon in contemporary world affairs.

The challenge of controlling small arms and light weapons is, therefore, underpinned by the greater challenge of building a substantive consensus among all actors of world affairs—not merely governments, though governments remain crucially important—around this particular notion of the political. Given that a substantive (let alone common) consensus surrounding internationalism has not yet been reached and is, in fact, highly unlikely to be reached in the foreseeable future, then these weapons will continue to be both widely available and find ongoing use, no doubt, with lethal consequence. Indeed, as vital ingredients in contemporary conflict and violent crime, these weapons also function as security enablers sought by individuals, communities, groups, and governments. This insatiable appetite for these tools of violence, particularly coming from members of the international community claiming to lead efforts to control them, serves merely to attenuate these control efforts.

Since key international actors subscribe to, endorse, and assert contending notions of the political, the challenge of exerting control over the widespread availability and ongoing use of small arms and light weapons is unlikely to be overcome by emboldening political will and increasing resources. This reasoning is not yet fully appreciated, nor seemingly comprehended, by those analysts authoring the numerous policy-orientated reports confidently asserting all that is required to resolve this problem is sufficient political will and the provision of

¹ Refer to fn.20 of the introduction.

additional resources. Conversely, placing blame on insufficient will and inadequate resources as a prime reason for the international community's inability to curb these weapons' availability and use, construes the challenge of controlling these weapons as a problem to be solved, without paying due regard to the complicity of some of the problem-solvers themselves; as a mode of explanation this line of reasoning, while not necessarily invalid, is highly suspect because it is advanced by, and on behalf of, those whose interests lie in preserving the status quo it serves. Accordingly, this thesis eschews those simplistic explanations blaming the existence of insufficient political will and the provision of inadequate resources as prime reasons for the international community's failure to exert adequate control over these weapons. Rather, the thesis contends that even if sufficient political will could be mustered and adequate resources could be summoned and effectively marshalled, the international community would not necessarily be in a better position to exert control over small arms and light weapons, leaving it confronting a challenge that remains intractable and insurmountable.

As the contrast between Parts II and III of this thesis illustrates, the challenge of controlling small arms and light weapons is both enabled and restrained by a series of contests over the notion of the political. This tension, among statemakers and between statemakers and non-state actors, is unavoidable and, probably, without remedy: it is also a central dynamic of international security informing contemporary world affairs which warrants further attention from, and consideration by, policymakers. The topic of this thesis thus reflects a much deeper ongoing tension in contemporary world affairs, one which could also sustain and sharpen the analytic focus of much research into questions of contemporary conflict and international security. It highlights the analytic need for something like a postcolonial politics which, according to Phillip Darby, "cannot be read from the canon of Western political theory, much less from the archive of [disciplinary international relations], hobbled as it is by its insistence on the primacy of the state, the privileging of the modern (meaning Western) and

a circumscribed understanding of what constitutes the political.”² In policy-relevant terms, however, internationalism seems a less problematic response, especially in foreseeable circumstances, than other alternatives, though of course “[a]ccepting the broad objectives of liberal internationalism—peace through political and economic liberalization—does not preclude criticism of the methods that peacebuilders have employed to pursue this objective.”³ Given this insight, the research conducted for this thesis, its central findings, and, most importantly, the argument it conveys, hold relevance for the discipline of international relations.

This thesis has shown that, as tools of violence, these subaltern killers will not be exiting the stage of world affairs anytime soon. Their fatal echoes, however, can remain easily ignored by those diplomats who, writing the script of small arms control by attending conferences dealing with international security issues, do not fully revise their policymaking preferences in accordance with the contemporary realities occurring beyond their own milieu. At the same time, domestic prerogatives, especially those with significant economic and social dimensions, are powerful sovereign determinants shaping international security ventures, including those undertaken in multilateral fora. This suggests that, even as they attempt to compose controls over these weapons, policymaking diplomats representing the international community are themselves possible candidates for the malevolent label of subaltern killers. Assertions to the contrary will likely echo the rhetoric of Milton’s Satan as he disingenuously persuades his crew of rebel angels that no-one could possibly fathom the “force of those dire Arms.”

² Phillip Darby, “Pursuing the Political: A Postcolonial Rethinking of Relations International,” *Millennium: Journal of International Studies*, 33, no.1 (2004): 31. Darby goes on to say that “[t]he politics that we seek must in the first instance be drawn from within non-European societies, tapping sources that give us glimpses of other life worlds. These glimpses will tell us of how people come to terms with external influences and intervention, but they will also tell us much about other concerns, quite unrelated to imperialism and its aftermath.”

³ Roland Paris, “Peacebuilding and the Limits of Liberal Internationalism,” *International Security* 22, no.22 (Fall 1997): 81.

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