

UN INITIATIVES

There are well established precedents and international norms to support a focus on the regulation of civilian firearms. (Most national laws prohibit civilian possession of military weapons (although definitions vary), license firearm owners and regulate firearms.

The report of the UN Disarmament Commission, reviewed at the UN General Assembly in December 1999 states⁴

36. States should work towards the introduction of appropriate national legislation, administrative regulations and licensing requirements that define the conditions under which firearms can be acquired, used and traded by private persons. In particular they should consider the prohibition of the unrestricted trade and private ownership of small arms specifically designed for military purposes, such as automatic guns (e.g. assault rifles and machine guns).

UN Commission on Crime Prevention and Criminal Justice Resolution

At the United Nations Commission on Crime Prevention and Criminal Justice in 1997, a resolution was signed by more than 30 countries which specifically linked access to weapons availability to increased levels of death and injury, and acknowledged the important role of national legislation in controlling the flow of guns from less regulated to more regulated areas.⁵ The resolution "Requests the Secretary-General to promote, within existing resources, technical co-operation projects that recognize the relevance of firearm regulation in addressing violence against women, in promoting justice for victims of crime and in addressing the problem of children and youth as victims and perpetrators of crime and in re-establishing or strengthening the rule of law in post-conflict peace-keeping projects." Specifically, it:

Encourages Member States to consider, where they have not yet done so, regulatory approaches to the civilian use of firearms that include the following common elements:

(a) Regulations relating to firearm safety and storage;

(b) Appropriate penalties and/or administrative sanctions for offences involving the misuse or unlawful possession of firearms;

(c) Mitigation of, or exemption from, criminal responsibility, amnesty or similar programmes that individual Member States determine to be appropriate to encourage citizens to surrender illegal, unsafe or unwanted firearms;

(d) A licensing system, inter alia, including the licensing of firearm businesses, to ensure that firearms are not distributed to persons convicted of serious crimes or other persons who are prohibited under the laws of respective Member States from owning or possessing firearms;

(e) A record-keeping system for firearms, inter alia, including a system for the commercial distribution of firearms and a requirement for appropriate marking of firearms at manufacture and at import, to assist criminal investigations, discourage theft and ensure that firearms are distributed only to persons who may lawfully own or possess firearms under the laws of the respective Member States.

Sponsored by Angola, Australia, Botswana, Brazil, Brunei, Burundi, Canada, Columbia, Croatia, Fiji, France, Gambia, Germany, Greece, Haiti, Italy, Japan, Lesotho, Malaysia, Mexico, Morocco, Netherlands, Philippines, Poland, Qatar, Republic of Korea, Romania, Saudi Arabia, Sweden, Thailand, Tunisia, Tanzania, and the Russian Federation which emphasized the importance of state responsibility for effective regulation of civilian possession of firearms.

Special Rapporteurs

Efforts to regulate civilian possession of firearms often raise questions of rights. In the past the Special Rapporteur on Violence Against Women has raised this issue in the context of Declaration of the Elimination of Violence Against Women.

More recently the UN Special Rapporteur on Human Rights and Small Arms has added impetus to the movement by suggesting that states which fail to enact reasonable regulations to limit the availability and misuse of small arms by individuals within their borders may be failing in their obligations under international law. She argues that while rights for legitimate national security, self determination, and national sovereignty have been reaffirmed several times, there is no evidence of a general right to unrestricted civilian access to arms under any international human rights instrument.

Indeed the UN recently issued a working paper on small arms which reinforced the responsibility of states under international human rights law to address the problems associated with misuse of firearms by civilians generally and particularly from the perspective of the rights of women. In her recent report, the Special Rapporteur on Human Rights has issued a report which adds further impetus to international efforts to develop norms around civilian possession of small arms:

Under international human rights law, the State is responsible for violations committed with small arms by private persons who, because they are operating with the express or implicit permission of authorities, are considered to be State agents. Under this theory, the State would be responsible for failing to prevent, investigate or prosecute vigilante groups or private militias that carry out ethnic or religious massacres, or "social cleansing" of street children. There is also growing pressure to hold States accountable for patterns of abuses, such as the State's failure to establish reasonable regulation regarding the private ownership of small arms that are likely to be used in homicides, suicides and accidents; its failure to protect individuals from a pattern of domestic violence; and its failure to protect individuals from organized crimes including kidnapping and killing for ransom.

By rereading the discussion on regulation of civilian possession of small arms in the context of the right of civilians to be protected from small arms violence, the Special Rapporteur has provided new and important support for efforts to move in this direction which counter claims which have cast opposition to regulation of civilian possession as an exercise of rights.

The United Nations 2001 Programme of Action on the Illicit Trade in Small Arms in All its Aspects.

The L4 version of the draft Programme of Action made explicit reference to the need for states to regulate civilian possession and use, highlighted below:

*To put in place adequate laws, regulations and administrative procedures to exercise effective control over the legal manufacture, stockpiling, transfer and possession of small arms and light weapons within their areas of jurisdiction. To ensure that those engaged in illegal manufacture, stockpiling, transfer and possession, can and will be prosecuted under appropriate penal codes. To seriously consider the prohibition of unrestricted trade and private ownership of small arms and light weapons specifically designed for military purposes.*⁶

These references were dropped in the final version.⁷ Nevertheless, it has been suggested that obligations contained within the Programme of Action cannot be easily fulfilled without appropriate controls over the sale, possession and use of civilian weapons.⁸ This is particularly true with respect to obligations for record-keeping and tracing. In addition, most countries in reporting on their progress towards meeting the commitments of the PoA describe changes to

their national laws implicitly recognizing that it is not possible to meet the PoA obligations to combat the illegal trade without appropriate controls on the legal sales and possession.

Statements And Reports By States At The United Nations Biennial Meeting Of States

In the 2003 and 2005 Biennial Meetings of States, countries reported on their progress in meeting their obligations under the 2001 Programme of Action (PoA). More than 50 countries have reported strengthening their gun laws, only one has relaxed them. At the 2005 BMS many countries discussed their civilian laws in their reports. In the session "Reporting in the Implementation of the PoA, UNIDIR stressed that this as one of the key areas noted by states in their reports but has not yet completed its analysis.⁹

Statements at the BMS referring to national regulation of small arms or gun control were made by the following countries:

Algeria
Argentina
Benin
Brazil
Canada
Colombia
El Salvador
Gambia
Germany
Ghana
Guatemala
Indonesia
Iran
Israel
Malaysia
Netherlands
New Zealand
Nicaragua
Norway
Paraguay
Serbia and Montenegro
South Africa
Sri Lanka
Trinidad & Tobago
Uruguay (for 4 MERCOSUR countries and 6 associates)

Stronger laws have been passed in Jordan, Lebanon, Palestine, Yemen, Bangladesh, Afghanistan, Pakistan, the Philippines, Uganda, Zimbabwe, Angola, Sri Lanka, Somalia, Montenegro, Ireland, France, Germany, Australia, Great Britain. Kenya, Papua New Guinea, and El Salvador are undertaking reviews. Brazil will have a national referendum on the prohibition of sales of firearms to civilians in October. At the BMS countries such as Mexico have identified the regulation of civilian possession as a key issue and spoke to it frequently during the BMS. Some examples of initiatives reported:

Bangladesh

An illegal arms collection program carried out in 2002-2003, as part of Bangladesh's controversial crackdown on criminals, "Operation Clean Heart", has netted 4,700 firearms. Of these, 55 were modern automatic weapons. As many as thirty-four thousand weapons had become illegal in November of 2002 when their owners failed to renew their licenses.

Germany

In June of 2002, seven weeks after a high school shooting which left seventeen dead, the German Parliament passed new legislation to tighten the rules on gun ownership, raising the age for possession from eighteen to twenty-one as well as requiring a medical and psychological exam as preconditions for licensing. Pump action weapons have also been banned entirely. The German Police Officers Union criticized the new law and renewed their call for a national firearms register.

Afghanistan

In January of 2002 Afghanistan began the difficult process of attempting to regulate the civilian ownership of firearms by requiring people whose job requires them to carry a gun to obtain a Government ID card. After ID cards have been issued the police plan to require civilians to register their weapons with police and begin collecting illegally held weapons.

Brazil

The Disarmament Statute was passed in December 2003 which requires the registration of all firearms and outlaws public firearm carrying except for limited cases. It also increased penalties and raised the minimum age for obtaining a firearm license to 25. The law also calls for a national referendum in October 2005 to test the question of whether or not to ban all civilian gun sales and the law created a national amnesty which has already resulted in hundreds of thousands of firearms submitted for destruction.

Phillipines

The Government of the Phillipines has banned the public carrying of guns in what has been considered as the most drastic step taken in decades to control the use of firearms in what is considered to be Asia's most heavily armed country. The Philippine National Police have been authorized to track down and confiscate an estimated 328,000 unlicensed firearms. The legislation passed February of 2003, Senate Bill 2480 outlines punishment of six to ten years of imprisonment and penalties of between P20-100,000 for the carrying of firearms outside of a residence.

Uganda

The Ugandan Government announced in June of 2002 that it would inventory and register all arms in the hands of the military, police and intelligence services. The registration will be computerized. Registration of firearms held by local government administration and private security organizations would also be registered.

Zimbabwe

The Government of Zimbabwe declared a ninety day amnesty in September of 2002, for those illegally in possession of firearms. The amnesty covers people who were in violation of the Firearms Act by being in possession of fully automatic machine pistols, sub-machineguns or rifles, fully automatic rifles that have been converted to semi-automatic and semi-automatic rifles that have been converted to fully automatic.

Angola

Angola has set up a commission to explore civilian disarmament, where government estimates that one third of the population is armed. During a recent appeal for the surrender of weapons in the south of the country, 564 weapons were handed in, including mortars and automatic weapons. The government has acknowledged some of the blame for the high rates of civilian possession, having freely handed out weapons to civilian supporters during the country's decades-long civil war. The Angolan president has dismissed the idea of providing cash for guns and has encouraged civilians to voluntarily hand in weapons.

Nigeria

Despite calls by a traditional leader in Western Nigeria in August of 2002 for more permissive firearms carry laws for the purpose of self-protection against armed robbers, State Police have reiterated the dangers posed to society including those of domestic violence.

Somalia

In January of 2002 The Somali Transitional National Government (TNG) issued a proclamation prohibiting Mogadishu residents from carrying weapons in the streets of the capital. The police have been given a mandate to confiscate weapons including assault rifles. Two thousand police have been deployed in Mogadishu to tackle rampant banditry. The government has warned rival warlords not to contest the ban, warning them to refrain from actions which might lead to what they called the "creation of a sensitive military situation". Somali women's organizations and female parliamentarians have been raising funds to support this initiative, to which the TNG has allocated \$5,000.

Lebanon

In late 2001 the Lebanese Defense Minister, Khalil Hrawi, announced the imminent cancellation of all firearms licenses, pending new regulations that would restrict ownership to "justified and pressing cases". He said that there were currently 35,000 firearms licenses in Lebanon and that the measures were being taken to consolidate stability and security in the country.

South Africa

In April of 2003 the South African Education Minister announced that all firearms, including those used for target shooting, would be removed from schools. In October 2000, the South African Parliament passed the Firearms Control Act which significantly strengthened existing regulation over possession and use of firearms. The law strengthened the criteria for obtaining a license and added a regular renewal requirement. It also introduced stronger controls over the number and types of firearms and ammunition an individual could possess as well as stricter penalties. It also added provision for the declaration of certain public areas (such as schools, places of worship, bars, and so forth) as Firearm Free Zones. After years of developing the needed systems, regulations and administrative supports, the law came into effect in July 2004.

Canada

Canada passed new firearms legislation in 1995 which required all firearm owners to be licensed, all firearms registered and prohibited some military assault weapons and short barreled handguns. It also introduced mandatory 4 year sentences for firearm violations. The deadline for obtaining a firearm license was January 1, 2001 (extended to June) and the deadline for registering firearms was 2003. To date more than 90% of firearm owners (over 2 million) have complied and more than 90% of firearms (over 7 million) are registered. According to the most recent data available, firearm deaths, robberies and homicides (particularly with rifles and shotguns have declined considerably). Homicides with handguns, at least half of them originating in the US, have not declined.

Australia:

In December of 2002 the Australian Government passed new legislation, raising the penalties for certain types of firearms infractions. Under the new legislation, anyone caught crossing state boundaries with an illegal firearm could be sentenced to ten years in prison and fined up to \$250,000. In early 2004, a study indicated firearm death and injury in Australia had fallen significantly with stronger gun laws.

United Kingdom

A gun amnesty program in the UK ran until the end of April 2003 aims to improve public safety by removing as many firearms as possible, including replica guns and air guns. This amnesty comes ahead of the implementation of tougher new gun laws which would see a minimum sentence of five years of imprisonment for the illegal possession or use of a prohibited firearm.

El Salvador

Members of the Society without Violence Coalition in El Salvador have convinced President Elias Antonio Saca to set up a National Commission to review the gun laws, incorporating representatives from the coalition. The Commission will recommend improvements to a proposed new gun law.

Belgium

A new law has been proposed which requires all firearm owners (including owners of rifles and shotguns) to have licenses and register their firearms.

Germany

In response to the killings at Erfurt, Germany introduced new gun control laws in 2003. The law raised the minimum age for ownership of sporting guns from 18 to 21 and for hunting firearms from 16 to 18. Anyone younger than 25 must now have a certificate asserting they are mentally capable to own weapons unless they are registered sport shooters or hunters.

Ireland

Early in 2005 Ireland introduced new legislation strengthening the licensing of firearm owners and requiring license renewals. The screening process allows the police who issue firearms licences may contact an applicant's physician to check for stress or depression. Applicants must also provide the names of two referees who can vouch for them over a two-year period. The fundamental change is that it will be a re-granting rather than renewal system.

Jordan

Jordan has prohibited the holding of arms and arms possession in the Aqaba Special Economic Zone (ASEZ) and the port city of Aqaba. Owners were allowed to remove their firearms from these locations.

Yemen has banned civilians from carrying guns on all city streets.

Palestine issued a civilian weapons ban early in 2005.

Sri Lanka held a 2 week amnesty in January 2002 to encourage the surrender of unauthorized weapons

Montenegro has banned carrying concealed weapons in public spaces in July 2004. The law provides a legal deadline of six months for all interested citizens to legalise the arms they possess, and twelve months to return the weapons that can't be legally owned.

Kenya and Papua New Guinea are among the many countries undertaking a reviews of their firearms legislation.

See appendix 1 below for a summary of national gun laws.