Gun Ownership and Human Rights

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The previous issue of the *Brown Journal of World Affairs* (Volume IX, Issue 1) contained a collection of articles arguing for dramatically reducing the numbers of small arms and light weapons (SALW) in the hands of "non-state actors." In this article, we suggest that such a reduction is neither realistic nor desirable. Should the reduction project succeed, the result might well be a substantial increase in mortality.

Does No Legal Guns Mean No Illegal Guns?

Canadian gun confiscation advocate Wendy Cukier repeats the mantra that, "virtually every 'illegal' small arm began as a legal small arm."[1] Similarly, Nicholas Marsh asserts, "the black market is ultimately sustained by the relatively easy access to legal weapons."[2] Their implication is that if the legal firearms industry were eliminated or substantially curtailed (e.g. allowed to produce guns only for governments), then the problem of illegal firearms would be greatly reduced.

This theory, however, ignores the evidence from the somewhat comparable, massive worldwide market in illegal drugs. This market supplies

marijuana, hashish, ecstasy, heroin, amphetamines, psychedelic drugs, and many other drugs to hundreds of millions of consumers—despite the fact that most of these drugs are illegal throughout the world. The supply of "illegal" methamphetamine is not the result of the "legal" methamphetamine being diverted into a gray or black market; the illegal supply is illegal from the day of its creation, and this wholly-illegal product is apparently sufficient to meet billions of dollars worth of annual demand around the world.

As for firearms, underdeveloped nations such as the Philippines and Afghanistan have already developed notable firearms cottage industries. In America's early republic, a significant amount of firearms production was by a cottage industry. Books such as *Home Workshop Guns for Defense and Resistance* detail the not especially difficult process of home firearms manufacture. Furthermore, home manufacture of ammunition is currently very widespread in the United States, as part of the lawful hobby of "reloading" ammunition for legal firearms. Even the lack of a commercial supply of gunpowder can be overcome. Struggling against the genocidal Turkish government during the early twentieth century, a small group of Armenians was able to hold off the Turkish army for five weeks using home-made powder.[3] In short, there is every reason to believe that if the legal firearms industry disappeared, an illegal cottage industry would quickly take its place.[4]

Bougainville

Should earthlings ever colonize Mars, it is possible that a gun-free world might be created. But here on Earth, with hundreds of millions of firearms already in circulation, prohibiting guns is an exercise in futility—even on an isolated Pacific island bereft of international friends, and without the money to pay smugglers to deliver arms.

After World War II, Bougainville was placed under Australian control as a United Nations Trust territory, despite the Bougainvilleans' long-expressed desire for self-determination. In 1960, copper was discovered on Bougainville, and in 1963, the company that eventually evolved into what today is known as Rio Tinto (a leading international mining conglomerate, based in London and Australia) commenced operations.

To the people of Bougainville, their land is of utmost importance. Inheritance is maintained through the matrilineal clan system, passing from mother—who is both titleholder and custodian of the tribal land—to eldest daughter. When, in January 1965, it became apparent that a large open-pit copper mine was to be established on Bougainville, local villagers protested. A hearing was held in the Warden's Court in the town of Kieta, and the court awarded a mining license to Conzinc Riotinto of Australia (a subsidiary of the mining company today known as Rio Tinto). Under the court's interpretation of

Australian law, what was "on top of the land" was the villagers', but what was underneath—the copper deposits—belonged to the government and not to the titleholders of the land.[5]

This ruling ran contrary to traditional Bougainvillean ownership. It was also contrary to traditional Anglo-American common law, by which subsurface and mineral rights belong to the owner of the surface land. To the villagers, it was incomprehensible how after countless generations, the land was no longer theirs.

When the bulldozers came, Bougainvillean landowning women resisted, laying down with their babies in front of the machines. Nevertheless, construction of the mine proceeded, accompanied by chemical defoliation of an entire mountainside of pristine rain forest—the "top of the land" that belonged to the villagers—and huge amounts of toxic mine waste were dumped onto the land and into major rivers.

Papua New Guinea (PNG) gained independence from Australia in 1975, and Bougainville found itself ruled by the new nation, despite the fact that Bougainvilleans are more closely related to the Solomon Islanders culturally, ethnically, and geographically (PNG lies more than 900 kilometers away). In defiance, Bougainville declared itself the independent Republic of the North Solomons fifteen days before PNG gained independence. But the declaration was in vain.

On 1 December 1988, Francis Ona, the son of a dispossessed village chief, and other local villagers shut down the copper mine using explosives stolen from the mining company. In April 1990, the PNG government—with the assistance of the Australian government—responded with a blockade of the island in an attempt to reopen the mine and to prevent Ona and his fellow rebels from acquiring arms.

Because of the enormous wealth the mine could yield, there was no lack of resolve on the part of the Papua New Guinea kleptocracy to continue the embargo for years. The rebels, eventually evolving into what was to be known as the Bougainville Revolutionary Army (BRA), were unarmed and were effectively cut off from black market access to firearms.[6]

Most affected by the blockade were women and children; pregnant women died in childbirth and young children died from easily preventable diseases. According to the Red Cross, the blockade resulted in the deaths of more than 2,000 children in just the first two years of operation,[7] with a final casualty figure of 15,000-20,000 people.

Despite isolation from the rest of the world, and lacking friends, funds, and sophisticated armament factories, the BRA prevailed. They stole weapons from PNG soldiers and used materiel and equipment salvaged from mining operations—as well as materials left on the island after World War II—to build homemade sophisticated guns. As Aziz Choudry noted, "without modern

weapons, the BRA built guns from waterpipes which could fire more quickly than the automatic weapons of the PNG Defence Force."[8] By 1999, it was admitted that the BRA possessed thousands of guns in the villages.[9]

The BRA had outmaneuvered trained, well-armed soldiers from PNG wielding M79 grenade launchers and mortars, backed up by Australian-supplied Iroquois helicopters outfitted with automatic weapons. The Panguna copper mine never reopened.

Mention of the Bougainville people's success, and their suffering, was conspicuously absent at the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects. In Bougainville, the "international community"—in other words, the apologists for international interests determined to steal the resources of Bougainville, no matter how many Bougainvilleans had to die—successfully imposed an embargo preventing firearms from entering the island. The island had no legal firearms industry. Yet the people of this Third World nation were able, by their own ingenuity and perseverance, to create a cottage firearms industry that prevented the foreign imperialists from achieving their goals of exploitation.

The Bougainville experience suggests the practical impossibility of disarming a people who refuse to be disarmed. And Bougainville is a reminder that sometimes neither the UN, developed democracies such as Australia, nor the "international community" will defend a people against rapine. The only protectors of the birthright of the people of Bougainville were the people themselves, bearing their "illicit" firearms.

Jamaica

Despite the demonstrated ability of the black market to supply SALW in spite of prohibition, some advocates contend that enacting more laws will cure the failure of current laws. Kathi Austin argues that "arms brokering is a global phenomenon that will require global measures to shut illegitimate merchants down."[10] She expects that "more effective regulatory regimes ... at both the national and international level" will "ensure that brokers engage in authorized sales."[11]

While the disarmament agenda is ineffectual at suppressing the black market, it is capable of inflicting tremendous collateral damage on human rights. Perhaps in no nation is the devastation to society caused by restrictive firearm laws more evident than in Jamaica.[12] The Jamaica of today is no longer an idyllic island paradise. Instead, it is a hellhole caught in the terminal stage of what some euphemistically call "gun control." Much of the loss of human rights can be traced directly to the Gun Court Act of 1974, which imposed national gun prohibition. To enforce provisions of the Act, authorities resorted to confiscation, house-to-house searches, incommunicado detention, secret trials, warrantless

searches and seizures, and mandatory lifetime prison sentences for the possession of even a single round of ammunition.

The Gun Court Act was intended to "take guns off the streets, out of the hands of criminals, and to lock up and keep gunmen away from decent society."[13] But as Delroy Chuck, an opposition member of Parliament and attorney, has noted, the law has had no such effect. A quarter of a century of draconian gun laws have miserably failed to make Jamaica safer.

Today in Jamaica, easily acquired black-market guns, in addition to homemade weapons, have now largely replaced lawfully acquired guns. As Jamaican Melville Cooke observed, "the only people who do not have an illegal firearm [in this country] are those who do not want one."[14] A wide variety of guns are available, starting at $65.[15]

Senior Superintendent Carl Williams, head of Jamaica's Narcotic Division, admitted that "with 800 miles of coastline to cover, it is virtually impossible with the resources we have to stop the guns from coming in ... There are the secret airstrips, there are the little rural beaches, and the secluded coastline. It would take over 100,000 police officers to monitor the coastline properly."[16] If the small island of Jamaica, with all its severe regulations and penalties for their violation, has no hope of controlling the guns pouring through its borders, what reasonable person could imagine that the global regulation of firearm transfers would meet with greater success?

Jamaica's murder rate is among the world's highest, lagging only behind South Africa and Brazil, according to current UN estimates. While rising crime rates were used to justify the Gun Court Act and a variety of other repressive laws, crime today is out of control. Notably, a regime in which civilians are legally forbidden to possess firearms has led to endemic firearms misuse perpetrated by government employees with their "licit" guns. In Jamaica, the rate of lethal police shootings is 5.38 per 100,000, compared to about 0.11 in the United States. Jamaica's rate of "homicide-by-police" is higher than is the rate of homicide-by-anyone in many American states and most European nations. Joining the Jamaica Constabulary Force is tantamount to obtaining a license to kill; of every two police officers who spend 25 years on active duty in Jamaica, one of them is destined to kill in the line of duty, suffering no legal or employment repercussions.

Karamoja

Under the regime of Idi Amin, the government of Uganda enforced complete gun prohibition for civilians while retaining its "licit" arms. The government then used its "licit" arms to perpetrate a genocide of three hundred thousand people.[17] Occupying the northeast corner of Uganda are the Karamojong pastoralists, a marginalized minority of about 100,000 people who wander with

their cattle from one pasture to another. Cattle-rustling is a traditional Karamojong activity. When firearms became available in Uganda after Amin was deposed, genocide ended, but Karamojong petty thievery turned more sinister.[18]

In December 2001, Ugandan President Yoweri Museveni announced a voluntary gun surrender program, with guns to be exchanged for promises of oxen, ploughs, and building materials. When the voluntary turn-in expired on 15 February 2002, and after a disappointing number of guns (about 7,000) were collected, the Uganda People's Defence Forces (UPDF) launched a "forcible disarmament operation" in Karamoja. But instead of offering protection against inter-tribal raiding parties to those who had already disarmed, the UPDF tortured people for information about hidden weapons, attacked women and girls, and beat and killed many civilians.[19]

On 21 March 2002, Father Declan O'Toole, a member of the Mill Hill Missionaries in Uganda, and his companions were murdered because O'Toole asked the army to be "less aggressive" in their disarmament campaign.[20] Despite the brutal methods used by the UPDF to disarm the citizenry, the program was unsuccessful. As of this writing, the program had yielded fewer than 10,000 firearms of an estimated supply of 40,000.

Furthermore, although the Ugandan government promised that a reduction in violence would follow disarmament, it was announced in the government-owned *New Vision* newspaper on 3 May 2002 that "inter-ethnic cattle raids had increased in Karamoja despite the disarmament exercise."[21]

On 1 July 2002, *New Vision* reported that "funds approved by Parliament for development programmes under the Karamoja Development Agency (KDA) have been diverted . . . since 1994."[22] Where are the promised wells? Where are the roads? What did the UPDF do with the 10,000 guns already handed in? Where are the benefits the pastoralists were promised in exchange for their weapons?

In the previous *Brown Journal of World Affairs*, Jayantha Dhanapala asserted that "there is ample evidence that the proliferation of weapons is closely associated with levels of violence."[23] Wendy Cukier echoes the theme: "Research has shown that rates of small arms death and injury are linked to small arms accessibility."[24] Yet with roughly one-fifth to one-quarter of the Karamojong weapons removed from the civilian population by the UPDF, should there not have been some decrease in the violence, rather than an increase? If this arguement holds, when civilian guns were prohibited in Uganda under the Amin dictatorships from 1971 to 1979, why did the Ugandan homicide rate rise to over 30 times the level of the gun-rich United States?[25]

Instead of providing the people with security, the UPDF has become an efficient predator. How rational would it be for the Karamojong pastoralists to disarm or to believe that a genocidal regime could never take power again in

Uganda? How rational would it be to believe that the "international community" which tolerated the murder of three hundred thousand Ugandans would ensure that the Ugandans are never again exploited or murdered by their government?

Is the Only Good Gun a Government Gun? The Case of East Timor

The elimination of "illicit" weapons sometimes is the *sine qua non* for the deaths of thousands or millions of innocent people. In East Timor, it was the presence of "illegal" firearms, wielded by civilians, that prevented genocide.[26]

Shortly after Portugal abandoned its colonies in 1975, East Timor declared independence. But independence was short-lived, when Indonesia invaded on 7 December 1975. The armed occupation lasted 24 years, and between 1975 and mid-1999, more than 200,000 East Timorese—a third of its pre-invasion population of 700,000—had been killed. The overwhelming majority of casualties were civilians. That, combined with the twin policies of forced sterilization and the migration of Indonesians into East Timor led observers to the conclusion that Indonesia intended ethnic cleansing for the Maubere people.[27]

Despite the formidable manpower and resources expended by Indonesia to prosecute the war (a cost of up to $1 million per day), the Armed Forces for the National Liberation of East Timor, known as Falintil, waged a successful guerrilla campaign using weapons left over from the days of Portuguese rule and battleground seizures of Indonesian weapons.

Some authors in the last issue are apparently worried only about arms when the arms are not in the possession of the government. Aaron Karp argues that "state-owned small arms—those of the armed forces, police, and other government agencies—are neither the most numerous nor the ones most likely to be used" improperly.[28] Nicholas Marsh claims that "as black market arms are used by groups or individuals deemed to be illegal under national or international law, the arms will likely be used in 'unacceptable acts' such as genocide, armed conflict, human rights abuses, or organized crime."[29]

Yet in East Timor, it was the Indonesian military's state-owned arms that were used for ethnic cleansing. As Charles Scheiner, National Coordinator for the East Timor Action Network, pointed out: "The guns used by the Indonesian military to kill 200,000 East Timorese civilians were almost all 'legal' … [but] the line between legality and illegality is irrelevant to the victims …"[30]

Indeed, over the course of the twentieth century, governments—using their state-owned arms—were, by an overwhelming margin, the leading cause of premature violent death.[31] Almost without exception, genocide is preceded by a very careful government program that disarms the future victims of genocide. The historical record is quite clear that genocide is almost never attempted against an armed populace.[32]

In contrast, it was "illegitimate" transfers that armed Falintil. Measured against the standards of the disarmament movement, the Falintil guerrillas—as "non-state actors"—were in unlawful possession of the firearms they used to defend their country and their people when there was no one else to do so. Likewise illegitimate by such standards was the French underground that resisted the Nazis, as well as almost every anti-colonial movement in the world, including the American Revolution.

According to the UN Institute for Disarmament Research, "the ready availability of weapons makes it far too easy for substate groups to seek remedy for grievances through the application of violence."[33] In other words, it was "far too easy" for Falintil to resist Indonesia's intended genocide. Although the United Nations issued numerous resolutions directing Indonesia to withdraw from East Timor, those words were meaningless without the countervailing force supplied by Falintil's "illicit" arms.

On 1 February 2001, the Falintil guerrilla force became the world's newest internationally recognized army, thereby formally legitimizing its arms. Its mission was declared by its new commander, Brigadier-General Taur Matan Ruak: "to guarantee the defence of our homeland, of the new sovereign state of Timor, fully respecting the new democratic institutions and the political representatives democratically elected by our people."[34]

But until those arms became "licit," the only real protectors of the East Timorese against the Indonesian marauders were the people of East Timor themselves, armed with "illicit" weapons.

More Gun Control, More Genocide

Disarmament is a particularly pernicious form of the age-old alliance of developed and underdeveloped world elites against the exploited people of the underdeveloped world. Samuel Wheeler observes:

> It is hard to see how a United Nations interested in the safety of persons rather than nations could hold that disarming the citizenry is a good idea. In none of the deadly sequence of genocides and citizen-slaughters that have characterized the Third World in the eighties and nineties have ordinary citizens been better off for having been helpless before the assaults of government agents … It is hard to avoid the conclusion that the United Nations initiative [of disarmament] is concerned with the interests of nation-states rather than the interests of people. It would be unkind to speculate about the post-colonial attitudes that block consideration of the possibility of directly arming the citizens of the turbulent regions of Africa and Asia that have been the locus of recent genocides.[35]

It is true, of course, that many of the developed world members of the disarmament alliance sincerely believe that they are doing the right thing by

taking away power from the people of the undeveloped world. Over the centuries, the nominal ideology for disarming the people of the Third World has taken various forms—including racism, imperialism, Christianity, the white man's burden, and Cold War politics. We are not questioning the sincerity and good intentions of most of the past and present disarmament advocates, but the awful consequences of disarmament must not be ignored. Northern dough-faces agreed with the Southern slavocracy that black people should not have guns; American progressives agreed with Stalin and Mao that only the government should have guns; Western advocates of *realpolitik* agreed that friendly kleptocracies (i.e. "governments") should have guns and that the people of East Timor and Bougainville should not.

Accepting, *arguendo*, the factoid about half a million annual deaths from SALW, and further accepting, *arguendo*, that adopting the repressive laws sought by the disarmament movement would prevent every single one of those deaths, the disarmament movement remains the most dangerous, death-creating movement on this planet. Over the course of a century, the total deaths from "illicit" SALW is tens of millions less than the total number of genocidal murders perpetrated by governments with their "licit" SALW. As detailed by R.J. Rummel, a political science professor at the University of Hawaii, the civilian victims of mass murder by government from 1900 to 1988 total approximately 170 million.[36] This total for the victims of "licit" government weapons does not include soldiers killed during wars.

Eliminate "illicit" (non-government-approved) SALW, and you eliminate the most effectual barrier against genocide. Civilians with light arms cannot necessarily overthrow a well-entrenched and well-armed regime, but even the most powerful governments find it very difficult to perpetrate genocide against populations armed with firearms. Genocide victims can, at the least, make it likely that a few secret policemen may die every time another family is rounded up. The costs quickly become unacceptably high for a regime that needs the approval and cooperation of its secret police.[37] The historical record is very clear about how very rare it is for genocide to be attempted—let alone succeed—against an armed populace. If every family on this planet owned a good-quality rifle, genocide itself would be on the path to extinction.

If every family on this planet owned a good-quality rifle, genocide itself would be on the path to extinction.

Diplomats at a disarmament conference would never say so out loud, but the fact is that most of Africa and Asia are under the "government" of murderous kleptocracies which lack popular consent, and whose political power

grows only from the barrel of a gun. To follow what Aaron Karp calls "the imperative of the gun" is to join a campaign to take power from the exploited and the oppressed, and to prevent regime changes for regimes which have no moral legitimacy.[38]

The proper imperative for human rights advocates remains that of the greatest paragraph ever written. It is a "self-evident" truth "that all Men … are endowed by their Creator with certain unalienable Rights." Because "to secure these Rights, Governments are instituted among Men, deriving their just powers from the Consent of the Governed … it is the Right of the People to alter or to abolish" governments which destroy rights. Thus, the non-consensual governments which comprise the solid majority of votes in the General Assembly of the United Nations are illegitimate. Rather than ensuring that these illicit governments have a monopoly on "licit" guns, the proper strategy for human rights advocates is to look for ways to remove illicit regimes in the long run, and, in the short run, to empower the victims of these regimes so as to reduce the scope of human rights violations, especially genocide. The oppressed people of the world have a right to keep and bear arms, for this right guarantees "the natural right of resistance and self preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression."[39]

Notes

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