

Arms availability and violations of international humanitarian law

BY JAN EGELAND

The massive influx of weapons into already unstable regions, where they are sometimes sold for a pittance, justifies grave doubts about respect for humanitarian standards. Such proliferation sets in motion a vicious circle in which people arm themselves out of fear for their safety, thus further destabilizing the situation, which is soon governed by the law of the jungle. At that point, any and all standards are ignored. The result: tension, unrest, violence, even armed conflict, all of which is extremely detrimental to any effort to foster respect for international humanitarian law. The International Committee of the Red Cross (ICRC), which monitors compliance with that law, cannot stand idly by. Its President therefore voiced the organization's concern to the 26th International Conference of the Red Cross and Red Crescent, held in 1995, and reminded governments of their responsibilities.¹

That Conference called on the ICRC to take a closer look at the effect, in terms of violations of humanitarian law and the deterioration of the situation of civilians, of the arms proliferation of weapons in conflict areas, and the International Red Cross and Red Crescent Movement as a whole decided to consider what role it could play and what stand it should take on the issue.

One element in this process of reflection was an international meeting organized jointly by the ICRC and the Norwegian Red Cross in Oslo in May 1998, which brought together researchers as well as governmental, military and non-governmental experts from 14 countries in Africa, the Americas, Asia and Europe to consider the problems caused by unlimited arms availability. The participants included government offi-

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¹ Keynote address by the President of the International Committee of the Red Cross, *IRRC*, No. 310, January-February 1996, pp. 20 - 35.

cials involved in licensing, limiting and policing arms transfers, military and academic experts, representatives of the United Nations and specialists from a number of international humanitarian organizations.

The main aim of the meeting was to gain a better understanding of the intricacies of the issue. It was also an opportunity to take stock of the relevant studies and of projects under way. One hopeful sign that immediately became evident was the growing awareness of the problem. A number of governments are beginning to take action and are thinking about both developing existing international norms on the manufacture and sale of arms and how to combat illicit arms trafficking. The forming of dynamic coalitions of non-governmental groups concerned with the grave effects of arms proliferation is another favourable development.

International action to study, control and limit arms transfers that result in violations of international humanitarian law and in human rights abuses has become an increasingly important concern for the Norwegian Red Cross. Together with its partners in the Movement and like-minded organizations belonging to the Norwegian Initiative on Small Arms Transfers, the Norwegian Red Cross will seek to form the strongest possible coalitions in order to curb the proliferation of small arms and thus protect humanitarian law and human rights.

The Norwegian Initiative on Small Arms Transfers is a joint effort to study and encourage measures to control and limit small arms transfers that may endanger peace and human rights. Our partners in this endeavour are Norwegian Church Aid, the International Peace Research Institute and the Norwegian Institute for International Affairs.

Conclusions of the Oslo Group of Experts

After considering a number of case studies from all continents, the 36 Red Cross/Red Crescent and other international experts summarized their findings in a report prepared and published by the Norwegian Red Cross and the ICRC:²

“In the absence of vigorous efforts to address the problem of arms availability, the suffering of civilians both during and after armed conflicts may be expected to increase in the years ahead as new sources of weapons become

² *Arms Availability and Violations of International Humanitarian Law and the Deterioration of the Situation of Civilians in Armed Conflict*, Report, ICRC and Norwegian Red Cross, Geneva/Oslo, 1998.

available owing to reductions in the size of armed forces, privatization of arms industries, the “upgrading” of existing arsenals when accompanied by the transfer of surplus weapons to other regions, and other factors. Under such conditions, providing development aid or relief to people in need and promoting respect for international humanitarian law will grow ever more difficult, dangerous and costly”.³

The conclusions of the meeting were, however, not entirely bleak. The participants were encouraged by the many efforts currently being made to place stricter limits on the availability of small arms, light weapons and ammunition. These include:

- the three-year moratorium on the production, import and export of small arms and light weapons formally adopted by the Heads of State of the Economic Community of West African States in October 1998, and the implementation mechanism set up with UN support;
- the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, adopted by the Organization of American States in 1997;
- the European Union’s programme to prevent and combat illicit arms transfers;
- specific proposals made in the framework of the United Nations for the control of small arms and light weapons on the basis of humanitarian, security and crime-control considerations;
- national legislation in a number of arms-producing and -exporting countries to regulate their arms transfers; and
- a growing number of dynamic non-governmental and local community initiatives addressing arms availability, small arms transfers and gun control.

The participants considered such efforts to be key initial steps dealing with the humanitarian problems caused by unrestrained arms availability. However, as a matter of urgency, these ad hoc responses to the proliferation of weapons in conflict areas must become part of a coherent international strategy for the control of both lawful and unlawful transfers of small arms, light weapons and ammunition. Such a strategy would not only alleviate the plight of civilians caught up in armed conflict but would also bring major benefits in terms of economic development, promoting national and regional stability and ensuring respect for human rights.

³ *Ibid.*, p. 73.

The participants stressed that regional action – if supported by civil society, implemented by the governments concerned and backed up by governments from outside the region – will form the cornerstone of effective strategies to develop norms for the transfer of arms and ammunition and to put an end to illicit transfers. Without a coordinated regional approach, the efforts of any one country to control the presence of arms on its territory could easily be undermined. At the same time, however, regional efforts to limit arms availability are also needed and deserve the support of the entire international community. The Participants proposed a wide range of measures to be taken at the national, regional and international levels.

Future action

The fact that governments are waking up to the problem and that some of them are starting to take action is in itself a very promising development. The meeting of West African States and arms-exporting States members of the Wassenaar Arrangement, held in Geneva on 5 May 1999 to consider the implementation of the West African moratorium on the import, export and manufacture of small arms in that region, is a recent example of this. The Henry Dunant Centre for Humanitarian Dialogue in Geneva brought together representatives of some 40 governments who pledged to support the implementation of this unique regional moratorium on small arms in war-torn West Africa.

The pioneering efforts of the Mali government which led to the West African moratorium, along with the drafting of a European Union code of conduct for arms exports and meetings held on the subject by a number of governments and international organizations – all these are sure signs that the message sent to governments, in particular at the 26th International Conference of the Red Cross and Red Crescent, is getting through.

A growing number of non-governmental organizations are also becoming involved; by explaining the problem to the public and to governments, seeking and proposing solutions and mobilizing media pressure.

What must be decided is whether existing standards on arms transfers are adequate and how illicit transfers can be halted. In the author's view, it is quite clear that when a State fails to fully shoulder its responsibility for ensuring security, or does so in an arbitrary manner, private groups or

even individuals will feel that they must arm themselves for their own safety. Yet the proliferation of weapons does nothing but increase insecurity and erode moral values. So the volume of available weaponry is a serious problem in itself. It is a striking fact that even in the midst of armed conflict, many injuries result not from the hostilities as such but rather from the violence that permeates all human interaction once State authority breaks down and arms flood in. It is also extraordinary to see how arms spread from one region to another, following lines of tension, and how they are sold on the black market for a pittance.

The question then arises as to the responsibility of those who manufacture, sell or possess arms, and particularly their responsibility to destroy surplus arms so that over time the total number of weapons goes down instead of up.

Let us not forget the great complexity of this issue. We are not talking about arms which are prohibited, but about ordinary weapons which everyone agrees are needed by the public authorities to defend themselves and maintain order. It is thus not a question of mobilizing against an indiscriminate, particularly cruel weapon of limited military value, as was the case with anti-personnel landmines. We are getting into a much more sensitive area when it comes to the issue of small arms because of the way it relates to State security and national sovereignty. Nor are the economic stakes inconsiderable.

Thus we could find a million and one reasons not to become involved in this question. But we cannot hide behind the argument that we should do nothing because the matter is just too complicated, not when we see what we all agree is a matter of enormous humanitarian concern. However, it is unlikely that we are looking at an initiative as forceful or well-coordinated as the campaign to ban anti-personnel mines. There are too many different points of view and concerns among the potential campaigners. What we need to do is to find a common understanding for everyone who is aware of the importance of this issue and wants to take action. To this end, we should start by organizing an ongoing exchange of information and analysis, and hold meetings such as this from time to time to engage in useful dialogue. This is the way to build and consolidate a platform allowing the different organizations involved to take action that is in keeping with their specific nature and does not neglect their priorities.