



Small Arms, Light Weapons and Illicit Arms Trade

A Study on the Challenges of Stopping Their Use
in Violations of International Humanitarian Law

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***“As long as weapons are easier to obtain
than food in many parts of the world,
but less strictly regulated than medicines,
civilians will pay the price in
preventable death, injury, and suffering.”***

– [International Committee of the Red Cross](#)

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Introduction

Since the first half of the twentieth century, peoples, as well as the international community, have realized the danger of weapons of mass destruction and their use in wars and armed conflicts as the greatest threat to humanity; which prompted the international community after World War I to gradually prohibit the use of this type of weapons, starting from the *Geneva Protocol on Prohibition of Chemical and Biological Weapons*¹ to the more recent *Treaty on the Prohibition of Nuclear Weapons*². However, since the end of World War II, small arms and light weapons have begun to emerge as real weapons of mass destruction. Without detracting from the devastating and catastrophic effects of nuclear, radiological, chemical, and biological weapons, it should be noted that the vast majority of dead and wounded in armed conflicts from that time after World War II to the present day have fallen victims to attack by rifles, grenades, mortars, and other small arms and light weapons³.

Despite these devastating effects of the proliferation of small arms and light weapons that are no less lethal than nuclear and chemical weapons, the latter became at the center of the attention of researchers, politicians, and international legislators – whereas the former, which is the subject of this Study, has been almost completely ignored until the end of the twentieth century. Over the past two decades, the international community has begun to realize the grave danger posed by the proliferation and illicit trade in small arms and light weapons. This tendency from the side of the international community began to crystalize more clearly since the *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* in 2001, which considered that their spread in this form has become “one of the most urgent problems facing international peace and security”⁴.

Today, weapons that fall under the category of small arms and light weapons, such as assault rifles, machine guns, grenades, and mortars, are not only the most used in armed conflicts around the world but also the most used to deliberately target civilians in particular⁵. In addition, compared to the other means of warfare we have referred to alongside major weapons systems, estimating the scale of trade in small arms and light weapons is much more difficult – whether in respect of global trade or illicit trade.

¹ The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol) of 1925.

² Treaty on the Prohibition of Nuclear Weapons (TPNW) of 2017.

³ International Committee of the Red Cross, “Arms availability: Answers to your questions about the humanitarian consequences of unregulated arms availability, why ‘small arms’ is a major problem and how to address it”, 01 December 2006. Retrieved from: www.icrc.org/en/doc/resources/documents/faq/arms-availability-0505.htm (all web addresses accessed in August 2021).

⁴ 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, Annex to Document No.: A/CONF.192/15, 20 July 2001. Retrieved from: [www.undocs.org/en/A/CONF.192/15\(Supp\)](http://www.undocs.org/en/A/CONF.192/15(Supp))

⁵ International Committee of the Red Cross, “Targeting the Weapons: Reducing the Human Cost of Unregulated Arms Availability”, Geneva, June 2020, Retrieved from: www.icrc.org/en/publication/0864-targeting-weapons-reducing-human-cost-unregulated-arms-availability

Therefore, it is hard to estimate the volume of this trade precisely, not to mention the difficulty to control or track small arms and light weapons⁶.

Accordingly, *Maat for Peace, Development, and Human Rights* focused in this Study on addressing the issue of small arms and light weapons in terms of the challenges confronting humanity in the road towards stopping the violations committed using them. The study explains at the outset what small arms and light weapons are, mentioning their examples and characteristics (I); then takes a glance at the emergence and spread of using small arms and light weapons in armed conflicts around the world (II); and moves on to present the situation of these weapons today and the effects of their proliferation (III); then it addresses the legal framework and the international community's response to this issue (IV); and addresses after that the situation with regard to the illicit trade in small arms and light weapons (V); it also presents the position of international humanitarian law on the small arms and light weapons (VI); and sheds light on the violations committed by using small arms and light weapons in Arab countries witnessing armed conflicts (VII); and lastly discusses the challenges confronting stopping the use of small arms and light weapons in violations of international humanitarian law; and concludes with the conclusions and a set of recommendations.

I. Small Arms and Light Weapons: Definition and Characteristics

The *Small Arms and Light Weapons International Tracing Instrument*⁷ defines this type of weapon as **“any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive”**. Small arms and light weapons (hereinafter, **SALWs**) are often combined in the same relevant international instruments as well as in the various reports and studies addressing this subject because of sharing a large number of characteristics and being very similar in terms of scope and use.

Although the terms "small arms" and "light weapons" share a number of unique features, each of them includes a distinct set of weapons. In order to distinguish between the two terms, we present what is meant by each of them as follows:

- (A) **Small Arms:** are weapons designed for individual use. They include handguns (*i.e.* pistols of all kinds), bolt action, semi-automatic rifles, assault rifles, carbines, shotguns, hunting rifles, shoulder arms, machine guns, and grenades.⁸

⁶ International Committee of the Red Cross, "Arms Availability and the Situation of Civilians in Armed Conflict: A Study by the ICRC", Geneva, 1999, p. 6.

⁷ The "International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons" (ITI), Adopted by the United Nations General Assembly on 8 December 2005. Retrieved from: www.un.org/events/smallarms2006/pdf/international_instrument.pdf

⁸ Saferworld, "Small Arms and Light Weapons Control: A Training Manual", London, 2012, p. 3 *et seq.* Retrieved from: www.saferworld.org.uk/downloads/pubdocs/Small-arms-and-light-weapons-full.pdf;

The International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, *op. cit.*, p. 2.

(B) **Light Weapons:** are weapons designed for use by two or three persons, although some can be carried and used by one person. They include heavy machine guns, light cannons, mortars, rocket-propelled grenades (RPGs), hand-held grenade launchers, recoilless rifles, portable missile launchers, and portable launchers of anti-aircraft missile systems (man-portable air defense systems).⁹

The most prominent feature of these weapons is their ease of use to a large extent compared to heavy weapons and major weapons systems, as they do not require receiving specialized technical or military training to enable the individual to deal with them. Another important feature is the ease of transportation, storage, and concealment, which makes it easy to smuggle and transport SALWs across borders and into areas of armed conflicts. Finally, the SALWs low cost and that they are widely accessible.¹⁰

II. Emergence and Development of SALWs: The Historical Context

These weapons have been preferred and prioritized in use since the end of World War II, especially after the non-international armed conflicts have gradually come to the fore. In the eyes of the belligerents, SALWs have become particularly convenient in the armed conflicts that have proliferated since the nineties of the last century until the present day¹¹. After major weapons systems such as tanks and planes entered the scene clearly during World War I, and then were inflicted by weapons of mass destruction during World War II, firearms came to the fore again. Having been largely primitive in the past, these weapons have become more sophisticated today.

Since the emergence of the international efforts on the prevention of illicit trade in SALWs, African countries have been the world's most afflicted area with this phenomenon¹². Then the scope expanded until the issue of the proliferation of these weapons and the illicit trade in them became an issue that was widely discussed in connection with the situations in Africa, Latin America, the Pacific, and South-East Asia¹³. Gradually, with the increase in non-international armed conflicts in various parts of the world, there are a large number of areas that became afflicted by the unregulated or illegal proliferation of these weapons; and thus afflicted with their devastating effects.

III. Consequences of the SALWs Proliferation: The Human Cost

The proliferation of SALWs is different from the proliferation of nuclear and chemical weapons. The proliferation of the former not only makes armed conflict highly lethal and destructive but also hinders accessibility of humanitarian access. Moreover, it makes the

⁹ *Ibid.*

¹⁰ International Committee of the Red Cross, "Arms Availability and the Situation of Civilians in Armed Conflict: A Study by the ICRC", *op. cit.*, p. 5.

¹¹ *Ibid.*, p. 5.

¹² 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, *op. cit.*

¹³ Peter Woolcott, "Commentary on the Arms Trade Treaty", United Nations Audiovisual Library of International Law, 2017, p. 1. Retrieved from: legal.un.org/avl/pdf/ha/att_e.pdf

cessation of hostilities extremely difficult and exacerbates their effects. Even after the cessation of hostilities, this proliferation significantly limits reconciliation and reconstruction efforts¹⁴.

Due to the spread of non-international armed conflicts since World War II to the present day and the increasing number of non-state armed groups, SALWs have become the “weapon of choice” for many armed groups around the world; while the reasons behind this have been their low cost and ease to obtain, transport, hide, as well as to use. Nonetheless, parties to the conflicts did not become the side that bear the cost of this preference, civilians did¹⁵. In recent decades civilians have become the side that bears the exorbitant cost and incurs the majority of losses due to the ease of access and wide proliferation and misuse of SALWs, as these weapons have become the most used when it comes to deliberately targeting civilians, forcing them out of their homes, and destroying their property¹⁶.

As a result, thousands of civilians in areas affected by armed conflict around the world face risks that are usually similar to those they were exposed to at the time of armed conflict, even after the end of the war. The reason for this is that armed violence continues in a manner almost identical, fueled by the abundance and accessibility of SALWs and their ammunition by the various individuals in many areas that have engaged in previous armed conflicts¹⁷.

IV. Legal Framework and State Responsibility

The international community began paying attention to the issue of the illicit trade in SALWs during the last years of the twentieth century, as the international efforts witnessed an important development that began with the United Nations General Assembly resolution issued in 1995, which stated that this type of weapon is being used to kill hundreds of thousands of people and that those weapons obtained through illegal trade are “most likely to be used for violent purposes”¹⁸. The United Nations returned and referred to the challenges of the proliferation and stockpiling of SALWs in its resolutions issued in 1997¹⁹ and 1998²⁰. Until the General Assembly resolution of 1999 to convene the *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* which was decided to convene in view of the necessary need for a “comprehensive approach to promote, at the global and regional levels, the control

¹⁴ International Committee of the Red Cross, “Unregulated arms availability, small arms & light weapons, and the UN process: A Background paper”, 26 May 2006, Retrieved from: www.icrc.org/en/doc/resources/documents/report/small-arms-paper-250506.htm

¹⁵ UN News, “UN launches new project to address link between terrorism, arms and crime”, 12 February 2020, Retrieved from: news.un.org/en/story/2020/02/1057891

¹⁶ International Committee of the Red Cross, “The Impact of Small Arms: Statement by the ICRC VP Christine Beerli at the UN Security Council”, 26 September 2013, Retrieved from: www.icrc.org/en/doc/resources/documents/statement/2013/09-26-att-small-arms-beerli.htm

¹⁷ International Committee of the Red Cross, “Arms availability: Answers to your questions about the humanitarian consequences of unregulated arms availability, why ‘small arms’ is a major problem and how to address it”, *op. cit.*

¹⁸ United Nations General Assembly Resolution 70/50(B), 12 December 1995. Retrieved from: undocs.org/en/A/RES/50/70

¹⁹ United Nations General Assembly Resolution 52/38 (J), 09 December 1997. Retrieved from: undocs.org/en/A/RES/52/38

²⁰ United Nations General Assembly Resolution 53/77 (E), 04 December 1998. Retrieved from: undocs.org/en/A/RES/53/77

and reduction of small arms and light weapons”²¹. The resolution noted that the humanitarian and socio-economic consequences affecting “large segments of civilian populations, exacerbated by the illicit trafficking in and the ready availability of small arms and light weapons”²².

The mentioned Conference was held in 2001 and resulted in 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*²³. And it can be truly said that these were the first steps that paved the way for addressing this issue when the *Arms Trade Treaty* was drawn up about a decade after convening the Conference.

The *Arms Trade Treaty*, which stipulates that its scope of application includes SALWs²⁴, has been a historic achievement; as it has set a global standard to prevent arms transfers when there is a manifest risk of war crimes or serious human rights violations being committed using them²⁵; as the Treaty prohibits states parties from authorizing any transfers of small arms and light weapons, their munitions, or their parts and components if they knew at the time that those weapons would be used in crimes against humanity, war crimes, crimes of genocide, or attacks directed against civilian objects and civilian populations in general²⁶.

V. Illicit Trade in SALWs

The issue of the illicit trade in SALWs has drawn increasing attention over recent years, and today it occupies a large part of discussions on disarmament, reintegration, and the protection of civilians in armed conflicts²⁷. Also, this illicit trade has become one of the most dangerous activities that fall under organized crime²⁸, as it has become a major part of investigations of the relationship between organized crime and terrorism, leading the international community to recognize the broad implications of illicit acquisition or trafficking of SALWs as an issue of particular concern in the context of organized crime²⁹.

The UN investigation reports have shown the pivotal role played by SALWs dealers in violations of Security Council arms embargoes, which are often imposed on states parties to armed conflicts in which a number of grave and repeated violations of international

²¹ United Nations General Assembly Resolution 54/54 (V), 15 December 1999, retrieved from: undocs.org/en/A/RES/54/54

²² *Ibid*.

²³ Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, UN Doc. No.: A/CONF.192/15, 09-20 July 2001. Retrieved from: [undocs.org/en/A/CONF.192/15\(Supp\)](https://undocs.org/en/A/CONF.192/15(Supp))

²⁴ Article 2 of the Arms Trade Treaty (ATT) of 2013.

²⁵ International Committee of the Red Cross, "The Impact of Small Arms", *op. cit*.

²⁶ Articles 6(3), 7(1) of the Arms Trade Treaty of 2013.

²⁷ UN Secretary-General, "Report to the Security Council: Small Arms and Light Weapons", UN Doc: S/2019/1011, 30 December 2019, p. 2. Retrieved from: www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2019_1011.pdf

²⁸ International Criminal Police Organization, "About Firearms Trafficking". Retrieved from: www.interpol.int/en/Crimes/Firearms-trafficking

²⁹ UN Secretary-General, "Report to the Security Council: Small Arms and Light Weapons", *op. cit*. p. 15.

humanitarian law and international human rights law took place³⁰, which may render arms embargoes aimed at halting ongoing violations in a conflict useless and go in vain.

Although the value of the illicit trade in SALWs constitutes only a small percentage of the total value of the conventional arms trade compared to the global legal trade in those arms, probably 5%-13% – nevertheless, it is this small percentage that causes the largest number of victims in most of the armed conflicts in recent years³¹. However, it is not reasonable to limit the problem to the illicit trade in SALWs. Studies have shown that the transfer of SALWs across countries may begin in the form of legal transactions and deals within the framework of military sales, aid programs, or bilateral cooperation between countries and that the largest proportion of all illegal transfers started at some point with weapons that were legally transferred in one of those ways³². To answer the question of how these weapons can end up entering into a series of illicit trade operations, there are a range of means by which previously legally transferred weapons can be converted into illegal weapons, for instance, the deliberate diversion by governments or private entities, theft or seizure of a state's stock of weapons and ammunition by armed groups and rebel groups, or exchange between organized crime groups and dissident military³³.

VI. The Position of International Humanitarian Law on SALWs

The use, production, and stockpiling of SALWs are not unlawful or prohibited *per se* under international law, as SALWs do not fall within the scope of internationally banned weapons such as chemical and biological weapons, anti-personnel mines, and cluster munitions for instance³⁴; and it is not conceivable to be so, since SALWs are not means of warfare which are "of a nature to cause superfluous injury or unnecessary suffering"³⁵. Rather, the problem lies in using these weapons to commit violations of international humanitarian law by pointing these weapons at the civilian populations and being used for threatening and terrorizing them. This results in a flagrant violation of the basic rule of distinction "between civilians and combatants and between civilian objects and military objectives"³⁶, the rule which is the cornerstone of the set of provisions of international humanitarian law related to the protection of the civilian populations.

³⁰ International Committee of the Red Cross, "Arms availability: Answers to your questions about the humanitarian consequences of unregulated arms availability, why 'small arms' is a major problem and how to address it", *op. cit.*

³¹ International Committee of the Red Cross, "Unregulated arms availability, small arms & light weapons, and the UN process", *op. cit.*

³² International Committee of the Red Cross, "Arms Availability and the Situation of Civilians in Armed Conflict: A Study by the ICRC", *op. cit.*, p. 6.

³³ *Ibid.*

³⁴ International Committee of the Red Cross, "International Humanitarian Law: Answers to Your Questions", Geneva, 2015, p. 50.

³⁵ Article 23(e) of Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (The Hague Regulations) of 1907; Article 35(2) of the Protocol Additional (I) of 1977 to the Geneva Conventions 1949, and relating to the Protection of Victims of International Armed Conflicts; Rule 70 of the Customary International Humanitarian Law Rules published by the International Committee of the Red Cross in 2005.

³⁶ Article 48 of the Protocol Additional (I) of 1977 to the Geneva Conventions 1949, and relating to the Protection of Victims of International Armed Conflicts; Rule 7 of the Customary International Humanitarian Law Rules published by the International Committee of the Red Cross in 2005.

Therefore, the proliferation of these weapons in its current form undoubtedly facilitates violations of international humanitarian law and international human rights law.

In addition, with the proliferation of SALWs in an unregulated and illegal manner as a result of the spread of non-international armed conflicts, promoting respect for international humanitarian law has become an even more difficult and complex task. This has been a result of the fact that this quantity of weapons fell into the possession of armed groups whose members are unaware of the provisions of international humanitarian law and its rules of conduct of hostilities – outweighed the efforts aimed at ensuring compliance with the basic rules of war for nearly a century and a half³⁷. Accordingly, the more accessible weapons become, the more difficult it will be to promote respect for international humanitarian law.

It is well established that international humanitarian law creates obligations that are not limited to the warring parties to an armed conflict only, but such obligations extend to be on the entire international community³⁸. Among the most prominent of these obligations that fall on all states is the obligation to respect international humanitarian law in all cases as well as to ensure respect for it³⁹, as this duty on all states is the general principle that governs the enforcement and implementation of international humanitarian law⁴⁰. Subsequently, and since it has become clear that the proliferation of SALWs -as discussed in this study- is one of the most prominent ways that lead to the occurrence of serious violations of international humanitarian law, producing and supplying states have an ongoing obligation to ensure and enforce respect for international humanitarian law by doing their best to ensure that SALWs and their ammunition do not end up in the hands of those who are expected to use them in violation of international humanitarian law. In light of this, arms producers and exporters - whether states or private companies - bear political and moral responsibility for the violations committed by their arms products.

VII. Role of SALWs in Arab Conflict Areas: Palestine, Yemen, and Syria as Case Studies

As we have already discussed, SALWs have become the most preferred and most used weapons by armed groups in various conflict areas around the world. However, although this type of weapon is imagined to be used in the commission of most violations of international humanitarian law, still, there are other violations that would not be imagined to have been committed by these weapons. Examples of violations predominantly committed by SALWs are unlawful murder amounting to war crimes,

³⁷ International Committee of the Red Cross, "Arms availability: Answers to your questions about the humanitarian consequences of unregulated arms availability, why 'small arms' is a major problem and how to address it", *op. cit.*

³⁸ Nils Melzer, "International Humanitarian Law: A Comprehensive Introduction", Geneva, 2019, p. 265 *et seq.*

³⁹ Article 1 Common to the four Geneva Conventions for the protection of war victims of 1949; Article 1(1) of the Protocol Additional (I) of 1977 to the Geneva Conventions 1949, and relating to the Protection of Victims of International Armed Conflicts; Rule 139 of the Customary International Humanitarian Law Rules published by the International Committee of the Red Cross in 2005.

⁴⁰ Nils Melzer, *op. cit.*, p. 274.

arbitrary murder of civilians, extrajudicial executions of civilians and persons *hors de combat*, intimidating and terrorizing civilians, hostage-taking, enforced disappearance, deprivation of liberty, physical or moral coercion against protected persons, forced displacement and deportation, rape and sexual violence, forcible recruitment of children, forced labour, looting, and obstruction of humanitarian access. As for violations that are not imagined or expected to be committed using SALWs, but are often committed using heavy weapons and major weapons systems, they are air raids on civilian neighborhoods, shelling of areas containing civilians or civilian objects, using internationally banned or indiscriminate weapons, destruction of property, causing severe damage to the natural environment.

Due to the fact that Arab region is plagued with armed conflicts and turmoil, non-international ones has increased significantly during the recent decades, which has led to a large number of violations of international humanitarian law using SALWs. The vast majority of violations committed by non-state armed groups in the Arab region came with the use of this type of weapon. This is because it is often difficult for these groups to possess heavy weapons, major weapons systems, and weapons of mass destruction, they have only SALWs because they are much more easily obtained as we have shown.

Among the first conflict areas affected by the proliferation of SALWs is **Occupied Palestine**. It must be said that all the grave violations of international humanitarian law that occurred during the 1948 war were carried out by the use of these weapons, by the Zionist armed groups at the time. Those groups, namely the Haganah, the Irgun, and Lehi, had been committing violations of the laws and customs of war or the rules of customary international humanitarian law in force at that time before the adoption of the *Geneva Conventions* a year later and then its *Additional Protocols*.

These violations included forced displacement, unlawful murder of civilians and persons *hors de combat*, rape, intimidating and terrorizing civilians. However, the gravest of the violations were the massacres committed by these groups against Palestinian villages, the most famous of which was the massacre of *Deir Yassin village* in the Palestinian capital of Jerusalem, which resulted in the killing of hundreds of Palestinian civilians in those massacres at the time. It is worth noting that those armed groups that committed these violations were the nucleus of the Israeli occupation army (IOF) that exists today, which in turn continued this systematic policy of committing grave violations, crimes against humanity, and war crimes more than before even after the entry into force of the *Geneva Conventions*.

As for **Yemen**, the **Houthi armed group** has committed a large number of violations of international humanitarian law since the outbreak of the armed conflict in Yemen seven years ago until today. These violations included arbitrary murder of civilians, extrajudicial executions of civilians and persons *hors de combat*, intimidating and

terrorizing civilians, enforced disappearances, sexual violence, forcible recruitment of children, looting, and obstruction of humanitarian access. However, the most prominent violations committed by the Houthi armed group using the SALWs were those in which mortars were used, as the Houthis used this type of light weapons - which led to a number of violations against civilian population and civilian objects, as civilians were injured and civilian objects were hit as a result of the bombing areas that include civilians with mortar shells fired by the Houthis, which led to the killing and wounding of large numbers of civilians including children who were victims of those shells⁴¹.

The reasons for the spread of small arms specifically in Yemen in such a wide manner, which facilitated the commission of these violations to a large extent, appear in the nature of Yemeni society even before the outbreak of the ongoing conflict. Yemeni society has suffered for many years from the phenomenon of small arms proliferation very widely without legalizing their possession and bearing conditions, until Yemen has become the second country in the world in terms of the percentage of civilians owning weapons after the United States of America, having every 100 civilians owns about 53 weapons with a total of more than 14.8 million weapons in the possession of civilians⁴². This in turn led to the entrenchment of a culture of armed violence among a large number of members of society, as the number of people killed as a result of violence carried out using only firearms reached more than 6,300 in 2018⁴³. This widespread of weapons among civilians in the various Yemeni governorates has worsened the situation in Yemen and increased the intensity of violence during the course of hostilities, especially with the involvement of a large number of community members who carry that culture in the Houthi armed group. In that context, the United Nations Security Council clearly indicated in its resolutions the grave danger of the illicit transfer, stockpiling, and misuse of SALWs in Yemen in a manner that threatens peace and security in Yemen and undermines stability⁴⁴. Those weapons and their spread in this way greatly worsened the Yemeni crisis, especially with the failure of all parties to the conflict in Yemen to abide by the provisions of international humanitarian law⁴⁵ and the commission of a large number of war crimes and grave violations, until the Yemeni crisis became "the worst humanitarian crisis in the world"⁴⁶. Moreover, the proliferation of SALWs in Yemen has not only affected the Yemeni crisis, but Yemen has become a source

⁴¹ United Nations Security Council, "Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council", 26 January 2018, UN Doc. No. S/2018/68, p. 297 *et seq.* Retrieved from: www.securitycouncilreport.org/un-documents/document/s201868.php

⁴² Small Arms Survey, "Global Firearms Holdings - Civilian-held Firearms per 100 Population". Retrieved from: www.smallarmssurvey.org/weapons-and-markets/tools/global-firearms-holdings.html

⁴³ Small Arms Survey, "Global Violent Deaths: Interactive Maps and Charts of Armed Violence Indicators". Retrieved from: www.smallarmssurvey.org/tools/interactive-map-charts-on-armed-violence.html

⁴⁴ United Nations Security Council, Resolution 2140 (2014), 26 February 2014, UN Doc. No. S/RES/2140(2014), p. 2. Retrieved from: [www.undocs.org/en/S/RES/2140%20\(2014\)](http://www.undocs.org/en/S/RES/2140%20(2014))

⁴⁵ United Nations Security Council, "Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council", *op. cit.*, p. 3.

⁴⁶ UN News, "Humanitarian crisis in Yemen remains the worst in the world, warns UN", 14 February 2019. Retrieved from: news.un.org/en/story/2019/02/1032811

for the spread of arms to conflict areas in neighboring countries - as the spread of these weapons and thus the increase in their supply led to a decrease in their prices in Yemen compared to other conflict countries such as Somalia, for example, what encourages at the arms dealers buy at cheap prices in Yemen and then sell them in Somalia or elsewhere at higher prices⁴⁷.

Last but not least, in Syria, the armed conflict has continued, causing a myriad of violations of international humanitarian law and causing suffering to the civilian populations over the course of a decade of conflict. As we have already explained, SALWs are at the forefront of the means of warfare used by armed groups and, consequently, by which they commit violations of international humanitarian law. The same was the case in Syria, where most of the violations were committed by armed groups using small arms and light weapons. Abuses committed by armed groups using small arms and light weapons included unlawful murder amounting to war crimes, extrajudicial executions of persons *hors de combat*, forced displacement, arbitrary detention, hostage-taking, enforced disappearances, sexual violence, forced recruitment, attacks on persons and objects enjoying special protection, and attacking medical and religious personnel⁴⁸.

Although the previous violations were clear to everyone since the outbreak of the conflict in Syria, **Turkey** has provided armed groups in Syria since the beginning of the conflict with weapons and ammunition, and has undoubtedly remained the main supporter of the armed groups opposing the government in Syria⁴⁹. This support was not limited to political or financial support only, but Turkey has repeatedly supported the armed groups in Syria militarily⁵⁰, thus Turkey has become the main supplier of the military arsenal of these groups. Turkey's behavior in this manner violated the provisions of the *Arms Trade Treaty*, which Turkey signed in 2013, as the Treaty prohibited authorizing any transfers of SALWs, their ammunition, or their parts and components if it was known that those weapons would be used in crimes against humanity, war crimes, genocide, or attacks directed against civilian objects and civilians in general⁵¹. Although Turkey signed the Treaty eight years ago, it refuses to ratify it until today⁵², which reveals its intention to derogate from the provisions of the Treaty and to continue transferring weapons to areas of armed conflict to be used in violations of international humanitarian

⁴⁷ Inside Arabia, "Weapons Trafficking Fuels Conflicts in Yemen and Africa", 30 January 2020. Retrieved from: insidearabia.com/weapons-trafficking-fuels-conflicts-in-yemen-and-africa/

⁴⁸ United Nations Human Rights Council, "Report of the independent international commission of inquiry on the Syrian Arab Republic", 12 February 2014, UN Doc. No. A/HRC/25/65, p. 7 *et seq.* Retrieved from: undocs.org/A/HRC/25/65

⁴⁹ BBC News, "Why has the Syrian war lasted 10 years?", 12 March 2021. Retrieved from: www.bbc.co.uk/news/world-middle-east-35806229

⁵⁰ Reuters, "Turkey sends weapons to Syrian rebels facing Russian-backed assault: Syrian sources", 25 May 2019. Retrieved from: www.reuters.com/article/us-syria-security-idlib-idUSKCN1SV0FA; Reuters, "Exclusive: Turkish intelligence helped ship arms to Syrian Islamist rebel areas", 21 May 2015. Retrieved from: www.reuters.com/article/us-mideast-crisis-turkey-arms-idUSKBN0O61L220150521; Hurriyet Daily News, "CHP head again accuses Turkish gov't of sending arms to jihadists", 16 February 2016. Retrieved from: www.hurriyetdailynews.com/chp-head-again-accuses-turkish-govt-of-sending-arms-to-jihadists-95291; Deutsche Welle News, "Russia claims Turkish NGOs are 'main supplier' of extremists in Syria", 1 April 2016. Retrieved from: www.dw.com/en/russia-claims-turkish-ngos-are-main-supplier-of-extremists-in-syria/a-19159685

⁵¹ Articles 6(3), 7(1) of the Arms Trade Treaty of 2013.

⁵² United Nations Treaty Collection, "Treaty Status: Disarmament, Arms Trade Treaty", Status as at: 16 August 2021. Retrieved from: treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-8&chapter=26&clang=en

law and international human rights law and in provoking chaos and violence in the Middle East.

It is clear from the foregoing in the previous three examples, Occupied Palestine, Yemen, and Syria, that SALWs are capable of being a source of a large number of violations of international humanitarian law in times of armed conflict and a cause of civilian suffering no less massive than other types of weapons and means of war. It is also clear that the illicit transfer of SALWs and their ammunition by states to those committing violations of international humanitarian law is an act no less grave in its effects than the unlawful acts that would be committed with the use of those weapons.

In Occupied Palestine, the government of the United Kingdom during the British occupation of Palestine supported the Zionist armed groups -such as the Haganah, the Irgun, and Lehi- which later developed into the Israeli occupation army. This support came in the form of providing these groups with weapons, equipment, and other forms of support, after which these weapons will be used in massacres and war crimes against Palestinian civilians. In Yemen, the external parties supporting the Houthi armed group, specifically Iran, transferred weapons and ammunition to the Houthis. These transfers were carried out across the eastern Yemeni border with the Sultanate of Oman or by sea to the west. All this comes despite the 2015 Security Council resolution banning the direct and indirect supply of arms to the Houthis⁵³, which led to the continuation of the violations committed and the prolongation of the conflict. The same was the case in Syria, where Turkey continued to supply armed groups there with weapons at a time when the world was, and still, talking about the danger of this type of armed group present in Syria and Iraq. Instead of concerted international efforts to defeat and eradicate these groups so as not to cause more suffering to civilians and more devastation to the countries of the region, Turkey has both directly and indirectly fueled these groups, which has undermined all efforts aimed at stopping the armed conflict in Syria.

VIII. The Road Towards Stopping Violations Committed by SALWs: Current Challenges

SALWs are of particular concern, since, despite all of the foregoing, these weapons are still subject in their use and availability to a few internationally accepted and applicable rules. In contrast to other means of warfare, for which a number of treaties were adopted prohibiting or restricting their use, manufacture, and stockpiling.

Perhaps the most prominent challenge associated with SALWs is the extent of their widespread, which continues to rise as a result of the huge quantities that are produced, as the number of new small arms produced each year has reached about 8 million pieces of weapons and 15 billion bullets, which made the value of the arms trade estimated at

⁵³ United Nations Security Council, "Resolution 2216 (2015)", 14 April 2015, UN Doc. No. S/RES/2216 (2015). Retrieved from: [undocs.org/en/S/RES/2216\(2015\)](https://undocs.org/en/S/RES/2216(2015))

about 8.5 billion US dollars annually⁵⁴. It also increases the difficulty of the challenges, the concentration of weapons in areas of crises and armed conflicts, as in the African continent alone, there are 100 million pieces of these weapons; and while the population of the continent is 1.2 billion people, out of every 12 people there is at least one person who owns this type of weapon⁵⁵, and this is a large proportion and constitutes a major obstacle to containing this crisis. Indeed, the spread of small arms and light weapons and the ease of obtaining them to this extent has resulted in some regions of the world becoming in a state of semi-permanent armed conflict⁵⁶, which in turn has resulted in the lives of the people of those regions turning into a perpetual human tragedy.

As for the long-term, we can say that the most important problem resulting from the widespread availability of these weapons is the creation of a culture of armed violence and its deep rootedness in society, in a way that results in continuing human suffering, undermining the rule of law and threatening reconciliation efforts even for years after the cessation of hostilities⁵⁷. Naturally, the consolidation of a culture of armed violence in societies in this way often results in new armed conflicts that are more violent and more destructive.

Furthermore, the impact of the proliferation of SALWs is not limited to a specific region, as its impact is not limited to the areas of armed conflict in which these weapons are used, but extends to other conflicts within the same geographical scope or extends to conflicts in other regions. This occurs through the rotation of arms from one conflict to another or from one conflict area to another. Therefore, we can say that one of the main sources of weapons is the stockpiles that are already in existence and recycled from previous armed conflicts in the same or adjacent areas.⁵⁸

Among the challenges associated with SALWs are not only their proliferation in terms of use, but also their proliferation in terms of production. By 2004 the number of countries that were involved in one way or another in the manufacture and production of small arms was estimated at 90 countries⁵⁹. Although nearly 7 years have passed since the entry into force of the *Arms Trade Treaty*, the number of countries that have ratified it is less than two-thirds of the member states of the United Nations⁶⁰, while the two largest manufacturers of SALWs in the world, *i.e.* Russia and the United States of America⁶¹, are not among those countries; which is another challenge to the effective implementation of the treaty. As we mentioned earlier, the problem is not only in the illicit trade, but in what precedes this trade in legal trade between countries before those

⁵⁴ Amnesty International, "Gun Violence - Key Facts". Retrieved from: www.amnesty.org/en/what-we-do/arms-control/gun-violence/

⁵⁵ UN News, "UN launches new project to address link between terrorism, arms and crime", *op. cit.*

⁵⁶ International Committee of the Red Cross, "Arms availability: Answers to your questions about the humanitarian consequences of unregulated arms availability, why 'small arms' is a major problem and how to address it", *op. cit.*

⁵⁷ International Committee of the Red Cross, "The Impact of Small Arms", *op. cit.*

⁵⁸ International Committee of the Red Cross, "Unregulated arms availability, small arms & light weapons, and the UN process", *op. cit.*

⁵⁹ Graduate Institute of International Studies - Geneva, "Small Arms Survey 2004: Rights at Risk", Oxford University Press, Oxford, 2004, p. 7.

⁶⁰ United Nations Treaty Collection, "Treaty Status: Disarmament, Arms Trade Treaty", *op. cit.*

⁶¹ Graduate Institute of International Studies - Geneva, *op. cit.*, p. 7.

weapons end up in the hands of those who are not legally authorized to carry arms; perhaps this trade is essentially a legitimate trade between two countries and the fact that it is on its way to violators of international humanitarian law and international human rights law.

There is also among the challenges the violation and non-respect of the resolutions of the arms embargo imposed on a country as these resolutions are often issued by the United Nations General Assembly, the United Nations Security Council, or various regional organizations in order to stop the flow of weapons to areas where serious violations of international humanitarian law and international human rights law are committed. As a consequence of not respecting those embargo decisions, the country to which the supply of arms is banned will transfer those weapons to other areas where more violations are committed; or that country is basically suffering from a state of chaos, lack of order, and loss of control, meaning that the supply of arms to it will fuel the illicit trade in small arms and light weapons, which will exacerbate the effects as mentioned earlier.

Finally, in order for us to be able to ask someone to respect the rules of international humanitarian law and not to violate it, this individual must be aware of the nature and objectives of international humanitarian law in the first place and be aware of its rules. One of the most difficult challenges before us in this regard is SALWs are now easily within the reach of various armed individuals and groups who often have no idea about international humanitarian law and therefore have no intention of respecting or complying with its rules⁶². In fact, we believe that this particular challenge is the most serious obstacle to avoiding civilians' further loss and suffering, as well as being victims of grave violations of international humanitarian law and international human rights law in areas of armed conflict where the deadly and devastating use of such weapons is rampant.

Conclusion

It is clear from the aforementioned that the issue of small arms and light weapons is one of the most important issues that arise within the scope of discussion of violations of international humanitarian law and international human rights law. The illicit trade in these weapons is the most dangerous way to use these weapons in grave violations and war crimes, and the widespread of this trade in the world is an indirect, yet crucial, source of the protracted suffering and lethal effects suffered by civilians in areas of armed conflict.

Despite all regional and international efforts taken to confront this problem, it is still insufficient. The international community and individual states can still make more

⁶² International Committee of the Red Cross, "Arms availability: An Overview", 30/04/2013, Retrieved from: www.icrc.org/en/doc/war-and-law/weapons/small-arms-availability/overview-small-arms-availability.htm

efforts to curb the destructive effects of the unlawful use of these weapons and drain the crisis from its sources. We have also seen to what extent the abundance of SALWs that already exist has become among the prominent challenges for facing the proliferation of these weapons, as this leads to their low cost at a time when the most prominent feature of these weapons is the ease of use and transportation, which makes them accessible to various segments of societies in which these illegal weapons abound. There is no doubt, as we mentioned, that the spread in this way establishes a culture of armed violence in societies that have suffered or suffer from armed conflicts. There is no doubt, as we mentioned, that the spread in this way establishes a culture of armed violence in societies that have suffered or suffer from armed conflicts, which directly contributes to prolonging the conflict, enriching the flames of war and disrupting reconciliation and reconstruction efforts, which in turn can often cause the flames of conflict to ignite again after they appear to have been put out.

We have also seen to what extent the transfer of SALWs by states to areas of armed conflict increases the rate of grave violations of international humanitarian law in those areas by means of those weapons, especially in cases of transferring those weapons to non-state armed groups, and how much this leads to increasing the suffering of civilians, prolonging the conflict, complicating the crisis more than it is, and undermining efforts to bring peace to areas of armed conflict. This means that the obligation of states to stop transferring arms to areas of armed conflict where violations are committed in this way is indispensable in order to be able to confront the crisis of the proliferation of SALWs as it is now.

Recommendations

In light of all of the aforementioned, Maat for Peace, Development, and Human Rights recommends the following:

- **To the International Community and UN bodies:**

1. Strictly control the supply of SALWs in relation to areas of armed conflict and areas of potential armed conflict, so that such weapons are not used by parties violating international humanitarian law and international human rights law;
2. Restricting the circulation of munitions and prohibiting their transfer to areas of armed conflict that witness violations of international humanitarian law and international human rights law, as munitions have a shorter lifetime than the weapons themselves, and they are consumed and run out over time. Thus, there is no doubt that stopping the flow of ammunition in particular will result in a significant decrease in casualties and

deaths, and will render weapons, though abundant, useless over time as long as the supply of ammunition is cut off;

3. Imposing all possible control over arms and ammunition depots in areas on the brink of armed conflict, without detracting from the sovereignty of States, so that those weapons do not eventually fall into the hands of those who might use them to violate international humanitarian law;

4. Taking decisive steps towards the effective collection of weapons and ammunition after the cessation of hostilities and the destruction of their surplus, in order to ensure that they are not rotated from one conflict to another or entered into a long chain of potentially years of illicit arms trafficking;

5. Support the comprehensive disarmament and demobilization of ex-combatants in areas experiencing severe insecurity following armed conflicts that have witnessed widespread violations of international humanitarian law and international human rights law;

6. Strengthening international legal frameworks and covenants that aim to restrict dealing with such weapons in a manner that may result in violations of international humanitarian law;

7. Strengthening monitoring mechanisms to ensure respect for international and regional arms embargoes;

- **To Specialized International Organizations and Civil Society Organizations:**

8. Raise awareness of non-state arms carriers, such as non-state armed groups and private military and security companies, of the rules of international humanitarian law and international human rights law and the need for them to abide by them;

9. Contribute to addressing the spread of the culture of armed violence in societies that have witnessed armed conflicts for many years and rehabilitating the members of those societies, so that this destructive culture does not spread on a larger scale;

10. Attempting to intensify relief efforts in areas of armed conflict that suffer from the illegal spread of these weapons and to provide means of support for the affected civilians while protecting medical and relief staff from the dangers they are exposed to in light of the spread of this type of weapons in this way;

- **To the States and Governments:**

11. Appropriately and effectively train the holders of SALWs, members of the armed forces and police forces, to respect international humanitarian law and international human rights law and comply with their rules in all circumstances, so that such weapons are not misused by them;
12. Taking practical measures to reduce the number of weapons already existing in excess of the state's needs;
13. Destruction of surplus weapons that were seized after the end of armed conflicts, received from armed groups, or seized from illicit arms trafficking gangs;
14. Work to eradicate the culture of armed violence that may have spread among members of society as a result of various factors;
15. Enact deterrent national legislations criminalizing the illicit dealing in SALWs and their ammunition;
16. Combating organized crime groups involved in the illicit trade in SALWs more broadly and effectively, as these groups directly exacerbate the crisis;
17. Seeking that anyone who misuses small arms and light weapons, and anyone who engages in illicit trade in these arms and their ammunition, receives deterrent judicial penalties;
18. Strictly comply with international and regional instruments regulating arms transfers to which a state is a party;
19. Cooperating with other States at all levels to combat the illicit cross-border trade in arms;

- **To the SALWs Producing and Exporting Countries:**

20. To ensure respect for international humanitarian law by doing their best to ensure that weapons and ammunition do not end up in the hands of those they are expected to use in violation of international humanitarian law;
21. Completely refrain from supplying any arms to states and groups that are already committing violations of international humanitarian law and international human rights law;
22. To completely refrain from violating international resolutions regarding arms embargoes to countries or regions;
23. Not to develop small arms and light weapons in such a way that they go beyond legitimate purposes and, when used, cause undue pain;

- **To State and Non-state Parties to Armed Conflict:**

24. Not to participate in fueling the illicit trade in small arms and light weapons and their ammunition by pushing more arms into that trade;
25. Refrain from purchasing weapons from illicit channels, whatever the reasons and justifications, in order to discourage the illegal trade in SALWs;
26. Not to use such weapons for other than legitimate security or military purposes or to target civilian objects and the civilian populations instead;
27. Dealing with extreme caution with stockpiles of weapons and ammunition so that they do not fall into the hands of third parties who use them in violation of international humanitarian law and international human rights law;
28. Obliging affiliated combatants to respect and comply with the rules of international humanitarian law and international human rights law in all circumstances.