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# GUN PROLIFERATION & VIOLENCE

Complicating Conflict Dynamics & Peace Building



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# **GUN PROLIFERATION & VIOLENCE**

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## Introduction & Context

The issue of gun proliferation is contentious.

*One*, the topic itself is controversial. In the United States, gun ownership has stirred constitutional debates. In the Philippines, enthusiasts attempt to invoke the right to self-defense as a constitutional guarantee to gun ownership. There are “pro” and “anti” positions as regards gun ownership. The topic is polarizing.

*Two*, not very many people view *gun-proliferation* as the issue. Sure, there are deaths involved, but in a society that has been de-sensitized by violence, these events are dismissed as part of the ‘way things are.’ In fact, people had found ways to make gun-related violence palatable. For instance, the 2007 election with reportedly 122 deaths, as compared to 189 in 2004 (PNP Report), was considered a “*relatively*” peaceful election; civilian deaths due to the conflict between the government forces and rebels are considered as “*collateral damage*”; a driver getting shot because of a traffic altercation is regarded as an “isolated event.” What’s usually given attention are the crime rate, the insurgency and the election violence. While these issues are important, the most obvious is often glossed over – all of these involved guns, and all of these became issues precisely because of the easy access to guns.

*Three*, guns or firearms, in a society with weak security enforcement, are regarded ambivalently. Those who doubt the capacity of security law enforcers to carry out their job well view it as an instrument of protection. This is especially true in conflict areas. On the other hand, those who do not possess guns view gun owners with distress. More so, in the hands of organized groups – whether state or non-state - firearms become an instrument of power and coercion. Possession of firearms inherently creates a security issue in a community setting. In other words, guns not only have a socially constructed value; their value and appreciation is also contextual.

This research reflects these controversies. It attempts to nuance the subject beyond the binary positions of gun possession and ownership versus those who do not approve of the same. It presents the social and policy-level dilemma that contextualize why policy makers seem to always perform a balancing act. While the research acknowledges the reality of the polar positions regarding firearms ownership, it avoids the typical formula of either supporting possession or rejecting it.

## Framework of the Study

The socially constructed value of guns or firearms is closely associated with how one views the logic behind the social organization, particularly, the level of social order and control in society.

On one hand, there is the view that society and social order is based on the consensual agreement and commonality of values of people in a community. Stability is maintained by ensuring that everyone is on the same page, and there exists an implicit agreement among its members. It is apparent that this view regards individuals as capable of voluntarily limiting their desires for the benefit of the group. This frame has a strong normative, somehow idyllic view of society.

Social control in this context pertains to the willingness of individuals to change their ways in order to fit a group. The individual's willingness to self-reproach in a sense reflects the effectiveness of the social institutions' ability to regulate and temper the individual's desire in exchange for societal harmony. For the most part, social control is the outcome of a normative socialization process, creating the image of a consensual society. (Deflem 2008: 228-229; see also Mead 1934) This view is based on the belief that social harmony is indeed possible based on consensual peace among the members.

On the hand, the opposite view states that social order is possible only if there is an authority that could curb the individuals' desires and inherent selfishness for the collective good. It does not subscribe to the idea that individuals have the magnanimity to voluntarily give up pursuing their own agenda for the collective welfare.<sup>1</sup>

The killings associated with a bigoted and racist view of community, dramatized especially during the Second World War, were clear indications that a harmonious peace based on community consensus is not only premised on shaky grounds, but can actually be used to justify atrocious acts.

The concept of social control is thus perceived as a set of institutions, and a system of mechanisms which main goal is to prevent and/or address deviant behaviors in society. It is "employed to refer to the more repressive and coercive forms of control that are instituted, not by socialization into norms, but on the basis of power and force."(Deflem 2008, 229)

Deviant behaviors have been regarded as threats to the social harmony, with some labeled as crimes. While crime is a legal concept<sup>2</sup>, it is also a social construction. An act that is considered as a crime in one context may be perfectly legal in another. For instance, abortion is a crime in the Philippines, but is legal in certain states in the USA. Marijuana is banned in the Philippines, but is allowed in some European countries, albeit in limited quantity. Moreover, a deviant behavior may be regarded as *illegal*, but not necessarily illegitimate.<sup>3</sup> For example, based on the imposed rules of the

1 for an extended discussion on the topic, see Social Contract theories of John Locke and Thomas Hobbes  
2 crime is formally defined as a "behavior that is considered so harmful that it is banned by criminal law." (Barkan 2005)

colonizers, gun possession during the revolution for independence was illegal, but nonetheless supported by the population. In other words, deviant behaviors or crimes are context dependent, and time dependent. (Barkan 2005). 'Deviance' defined is judged not only based on the behavior but also in the context and circumstance to which the action occurred. (Ibid) The label 'deviant' or 'criminal' is based on the subjective agreement of the power holders in society. It is the application of rules as defined by the powerful majority- rules that are supposed to benefit social order and harmony.

"The punishment of deviance clarifies social norms and reinforces social ties among those doing or watching the punishing."  
(Durheim 1962, in Barkan 2005)<sup>4</sup>

Gun possession therefore is either a threat to the consensual peace, but can also be viewed as an instrument to maintain it. If the community has been used to non-coercive means to enforce harmony, introducing a gun – technically a foreign instrument - in such a setting can be viewed as a threat to consensual peace. On the other hand, if the community is used to seeing weapons or using weapons to enforce control, firearms can be viewed as an instrument to maintain peace.

### The regulatory regime in gun ownership

Social control has always been imposed in regard to guns/ firearms possession for the simple reason that only the state should have the monopoly of the legitimate use of violence. (Weber 1918) Despots resist gun ownership by a significant number of the population since history shows that an armed population has the capacity to rise up against a dictator. This is the context of the *right to bear of arms* provision in the US Constitution. The first act of Marcos,<sup>5</sup> in fact, when he declared martial law in 1972 was to round up all guns in civilian possession.

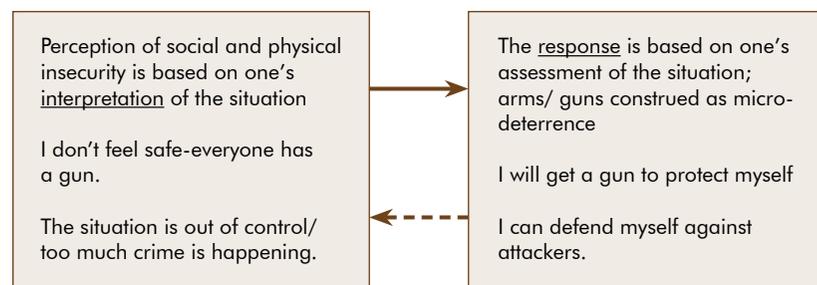
Since most of the criminal acts utilize weapons - the most effective of which are guns- the normal and expected reaction of law enforcers is to regulate its use; hence, the regulatory regime that is enforced in guns and firearms possession on civilians. This regulatory regime has been in existence since the time of colonization until the present.

Groups and individuals who favor civilian gun ownership challenge this framing. They argue that the state security organs – the police, military, and deputized units – fail to make people feel secure, both in their homes and communities. Thus, civilians resort to arming themselves as a deterrent to the criminal and hostile acts of those who challenge peace in the community. It is perceived as a way to deter aggressors. Firearms, thus, are viewed as an instrument of protection. Acquiring guns as protection instrument is, thus, a *reaction* to perceived external situation.

3 Legitimacy is the subjective agreement of the relevant population on what is ethical and proper. It usually is based on the acceptable 'rules' – rules that are defined either legally or based on the customary, traditional values of the community.  
4 Emile Durkheim also believes that deviance is necessary for social change – deviance is the natural expression of freedom of thought.  
5 Philippine President Marcos declared martial law from 1972 to 1981

The paradox, however, is that while gun possession seemingly makes people feel secure, its proliferation can also make people feel more insecure. More guns in circulation create greater risks for misuse. (See Figure 1) A high incidence of violence caused by guns also creates some question on the strength of the argument that guns are instruments of protection. This spikes the demand for firearms, and consequently, increases also the pressure for state security forces to enforce social control/ regulatory measures over gun proliferation.

The demand for stronger regulatory measures usually comes from groups who believe that order in society is possible based on the consensual agreement of its members. In this view, possession of firearms hinders the possibility of achieving community consensus since it provides the leeway of resorting to force rather than genuinely pursuing an agreeable solution to conflicts. Hence, the higher the incidence of gun violence, the greater the pressure these groups exert on law enforcers to impose gun control.



**Figure 1:** The social construction of demand and the consequent effect to gun proliferation

This has been the ebb and flow of the gun proliferation debate in the Philippines. When the incidence of gun violence is high, the pressure for regulation is high, as well. When gun violence incidents are low, the debate takes a back seat.

### Argument of the study

Regardless of one's position in the debate, the reality remains that the easy access to firearms (and weapons) exacerbates the conflict formation and dynamics in the country. The Philippine Human Development Report (2004) posited that perceptions and experience of deprivation are an impetus for conflict formation in the country. The reality of unmet needs, both economic and political, fuels the perception of deprivation that further push people to resort to violence. Criminality and insurgency thrive in a context where the perception of relative deprivation<sup>6</sup> is high.

Gun owners, state authorities, criminals, and insurgents are able to wield power over others who do not possess guns. The perception of physical insecurity among civilians, juxtaposed with a

6 The term "relative deprivation" was introduced by Ted Robert Gurr in his seminal work, *Why Men Rebel* (1971).

perception of a weak state motivates people to secure arms for protection.

"The demand for small arms and light weapons is often fuelled by conditions of insecurity, oppression, human rights violations and under-development." (UNDP Essentials No. 9, Nov. 2002)

In 'conflict' areas where rebel groups have strong presence, the easy access to guns can instigate or even intensify existing hostilities between and among groups. More guns in circulation can further exacerbate the already volatile social, political, and economic divides that exist in Philippine society.

This research argues that people generally acquire guns because of perceived physical-social insecurity, and not due to the inherent aggressive nature of individuals and groups, as some would like to believe.<sup>7</sup> The way to mitigate such is for state security forces to put their acts together and ensure the physical protection and security of the peoples.

That notwithstanding, this research also argues that side by side with the need for the state apparatus to perform its mandated function is the need for regulation and control as regards civilian gun ownership. While the research does not discount the possibility of pursuing societal peace based on community consensus, such can only be possible if there are "no bullets whizzing by."<sup>8</sup>

### Chapters of the Book

The first chapter of the book presents the theoretical frame and argument of the research. It poses the contending views of social control based on *community consensus*, and social control based on *regulation and punishment*. These contending views largely frame the discourse as regards arms control and management in the Philippine context.

Chapter 2 looks at the state of affairs of gun proliferation in the Philippines, and the legal and illicit markets, while Chapter 3 traces the history of the firearms industry and the proclivity of civilians to this instrument.

Chapter 4 reviews the existing legal regime of firearms proliferation in the Philippines, while Chapter examines the firearms industry in the country.

Chapter 6 problematizes on how gun proliferation impacts on the social insecurity of civilians. Finally, Chapter 7 looks at how firearms proliferation impacts on the peace making and peace, and argues for comprehensive arms control and management program.

7 This argument challenges the hasty generalization that there are individuals and groups who are "trigger-happy," have a "culture of violence," or a "culture of guns." It is the social structure and condition and not the inherent nature of individuals that motivates people to secure weapons of protection. That humans are inherently violent is also challenged in the Seville Statement drafted by scientists and scholars in Seville Spain in 1988

8 This term was used by CHR Commissioner Etta Rosales in the Round Table Discussion held at the Camp Aguinaldo-Commissioned Officers Club, \_\_\_ August 2010

# The State of Affairs: Gun Proliferation in the Philippines<sup>1</sup>

Jennifer Santiago Oreta

In the present study, the terms *guns*, *small arms*, and *firearms* – used synonymously in this paper – are taken to mean hand-held weapons of military, commercial, or sporting specification that *fire a projectile through a tube by explosive charge*.<sup>2</sup> The term covers guns that are officially and legally manufactured like revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles, light machine-guns (Small Arms Survey 2008)<sup>3</sup>, as well as home-made guns like “paltik,” “sumpak,” and such other improvisations that fire a projective using gun powder.

*Guns-in-circulation* in this study covers legal and illegal firearms and will not differentiate between those in government and in civilian hands. The basic consideration is access, that is, the percentage of the household possessing firearms, the extent to which firearms are regulated, and the number of firearms in civilian hands. According to the Small Arms Survey (2007), the estimate of firearms in circulation in the Philippines is approximately 3.9 million (high of 5 million and low of 2.8million).<sup>4</sup>

The official statistics regarding the number of guns in circulation comes from the Philippine National Police-Firearms and Explosives Division (PNP-FED). However, the PNP fails to specify the specific dates covered by their statistics; reported figures, thus, vary. The data gap, except in the last three years, makes systematic assessment of arms proliferation difficult. It also affects the way the public and government officials appreciate the gravity of the issue.

Nevertheless, as far as practicable, this research utilized the figures issued by the PNP as well as official reports from various government units. To fill the data gaps, newspaper and country-assessment reports were also used for purposes of discussion. But to drive home the point, *Table 2.1* and *2.2* illustrate the gaps in reported data. It should be noted, though, that beginning 2008, the FED has regularly updated statistics re gun ownership.

<sup>1</sup> A portion of this paper has been presented in the PNP Firearms Summit, held at Camp Crame in May 2009. Likewise, some data have been quoted by Ms. Gemma Bagayuna Mendoza in her Newsbreak articles, *Armed and Dangerous: more civilians own guns than military and police* (Jan 29, 2011); and *Gun Amnesties don't work* (Feb 1, 2011)

<sup>2</sup> The phrase “that fire a projectile through a tube by explosive charge” is the current accepted gun-definition by the UN, based on the 1997 Report by Government Experts

**Table 2.1: Distribution of Firearms (FA) Licenses by Qualification, 2002 & 2008<sup>5</sup>**

Qualification*	No. of FA 2002	No. of FA 1 <sup>st</sup> Semester 2008
<i>Businessmen</i>	243,253	283,522
<i>Private individual</i>	150,345	--
<i>Scty Agencies</i>	--	217,124
<i>Pvt. Employees</i>	128,838	172,414
<i>AFP/ PNP/ BJMP/ BFP*</i>	93,688	134,000
<i>Govt Employee/ Official</i>	82,811	104,950
<i>Govt Entities</i>	30,711	54,858
<i>Professionals</i>	37,468	42,084
<i>Elected Officials</i>	14,621	25,632
<i>Retired AFP/ PNP</i>	13,369	17,270
<i>Private Entities</i>	10,353	12,494
<i>Ret. Govt Employees/Officials</i>	8,500	9,016
<i>Reservist</i>	--	6,383
<i>Ret. Private Employee</i>	605	819
<i>Religious Official</i>	--	378
<i>Diplomatic Corps</i>	--	130
<b>TOTAL</b>	<b>814,562</b>	<b>1,081,074</b>

\* in italics: private/ civilian owners

\*AFP (Armed Forces of the Philippines), PNP (Philippine National Police), BJMP (Bureau of Jail Management and Penology), BFP (Bureau of Fire Protection)

In the first semester of 2008, there were 1,081,074 *licensed* firearms, half of which (517,341) were in the National Capital Region or NCR. (Maligalig 2008)<sup>6</sup> What is interesting here is that 69.85% of legal arms in circulation were in civilian or private hands, and only 30.15% were with the police, military, deputized government employees/ officials, elected officials, reservist, and diplomatic corps combined. Compared with 2002 figures, the percentage of private-public ownership has not changed much, where 73% of FAs were also in private hands.

In 2010, a gun owner<sup>7</sup> shared that the cost of firearms licensing (which included license fees, processing fees, and other documentary and tests fees), was at approximately Php5,000.00 (roughly US\$ 116), with the amount increasing proportionate with the gun caliber.<sup>8</sup> However, the official amount of licensing is much lower, based on the Rationalized Fees and Charges on Firearms Licensing (*Exec. Order 256*, s.1995; see Appendix 1, Chapter 4), where a short arm could be licensed from Php240 (US\$5) to Php400 (\$9).

While the existing law on firearms, PD1866, states that a civilian is allowed ownership of only one long arm and one short arm (or the “one-long, one-short” rule), this ruling was ‘relaxed’ during the time of Former President Estrada. Despite the absence of implementing rules and regulation (IRR), gun groups still view *Executive Order 164<sup>9</sup>* issued by President Estrada on February 2000 as a general repeal not only

<sup>7</sup> legal gun owner; name withheld upon request

<sup>8</sup> Former FED head, Gen. Caccam, however, stated that the basic amount for a firearm license is just about P720 or about US\$ 17. (Interviewed June 3, 2008, PNP-FED Office, 2 pm)

of the 'one-long, one-short' rule, but also a repeal on the ban regarding civilian ownership of high caliber firearms.<sup>10</sup> *Executive 171* (2003) issued by Former President Arroyo, however, reversed the EO 164 ruling on the matter of gun-caliber, but was silent on the number of guns that may be owned by civilians. Nevertheless, it was the PNP that issued a cap of ten firearms per civilian. (Papa 2006)<sup>11</sup>



Chinese-made guns available in the local market.

The seeming indecisiveness of the state as regards civilian gun ownership reflects on the exemptions granted to groups and individuals. For instance, certified gun club members are allowed up to fifteen handguns and five semi-automatic rifles for training and competition.<sup>12</sup> The famous boxer *Manny Pacquiao* applied for twenty FAs for his security detail at the height of the election gun ban in 2007, and his application was granted.<sup>13</sup> The alleged mastermind of the Maguindanao Massacre Datu Unsay Ampatuan has “19 high-powered firearms registered with the Philippine National Police.” (Felipe 2009)<sup>14</sup> This goes to show that while there are official limits, exemptions, usually determined by one’s connection, are very rampant.

As a side-note, there is no cap on the amount of *ammunitions* one can purchase. A ‘permit to purchase’ is issued to those with firearms license, allowing one to purchase ammunitions. Kramer (2008) reports that the round of ammunitions allowed to be purchased *at a time* are as follows.

Shotgun of any gauge:	300 rounds
Low-powered rifles:	600 rounds
Revolvers (.22 caliber):	300 rounds
Pistols (.22 caliber):	300 rounds
All other FA:	100 rounds

*Republic Act 8294* states that “illegal possession of firearms has a penalty of *prision correccional* in its maximum period and a fine of not less than fifteen thousand Pesos (Php15,000.00 or about US\$340).”<sup>15</sup> Legally, guns cannot be brought outside the home without a permit-to-carry (PTC) which is issued only by the Chief PNP, except during election period when issuance of the PTC rests with the Commission on Election (COMELEC). The reality, however, paints a different picture, as penalties seem to pose little deterrence for illegal gun-holders.

## Gun Proliferation and Violence

Early in 2009, six people were hit by stray bullets (up by two at the same time in 2008), prompting a crackdown on loose firearms in the areas of Caloocan, Malabon, Navotas, and Valenzuela. (Natividad 2009)<sup>16</sup> Almost every day there is a report on gun violence, whether accidental or intentional. (See Appendix 2.1)

*Loose* firearms are those weapons that are bought from legal dealers but are unregistered (Pattugalan 2003),<sup>17</sup> or whose license have expired or have not been renewed; *illegal* arms, on the other hand, are those that are illegally manufactured (domestic or foreign made), traded, and sold. Loose firearms, therefore, can be estimated, but illegal firearms are harder to gauge. The PNP, however, interchangeably uses ‘loose’ and ‘illegal’ as if they meant the same. There may be reasons for doing so. Combining these two concepts gives the impression that the PNP knows how many loose and illegal guns are out there.<sup>18</sup> The reality, however is that the agency does not but rather have, only an estimate of *loose* firearms.

Between the periods 1999 to 2008, there was a steady increase in the number of licensed guns, yet the number of unlicensed guns was not decreasing. Statistics on reported loose firearms were also inconsistent. Table 2.2, for instance, suggests a dramatic decrease on the number of loose FAs from 1999 to 2002, but figures from 2002-2003 indicates a sharp rebound. Likewise, figures reported in 2006 on loose FAs indicate a large leap from figures reported in 2003. There are two possibilities here: either the PNP was extremely unsuccessful in running after loose FAs between 2003 and 2006 or these reported data are extremely inaccurate.

Thus, it is important for the PNP to clarify and differentiate between ‘loose’ and ‘illegal’ firearms, and to release statistics on firearms on a regular basis.

**Table 2.2: Distribution of Licensed and Loose Firearms, selected periods**

Year	Licensed FA	Loose FA
1999 <sup>19</sup>	706,148	349,782
2002 <sup>20</sup>	814,562	284,100
2003 <sup>21</sup>	--	328,000
2006 <sup>22</sup>	800,000	500,000
2006 <sup>23</sup>	--	106,686 (as of 3 <sup>rd</sup> Q of 2006)
2008 <sup>24</sup>	1,081,074 (as of 2 Sept 2008)	482,162
2008 <sup>25</sup>	1,103,616 (as of 9 Oct 9, 2008)	--

PNP estimate of loose firearms in the country in 2009 was at 1,110,372.<sup>26</sup> For the purpose of clarity, this study will distinguish between the labels ‘loose’ and ‘illegal’ and use them with care.

The highest numbers of illegal<sup>27</sup> firearms were

<sup>18</sup> It is no surprise, then that the “approximate number of loose firearms” statistics released by the PNP is exact to the last digit – because these are the firearms that used to be licensed whose license have expired or not renewed. In other words, loose firearms can be accurately gauged, but illegal guns cannot.

reported in the areas of Autonomous Region for Muslim Mindanao (ARMM), Cavite-Laguna-Batangas-Rizal-Quezon areas (CALABARZON), Central Visayas, Southern Mindanao, and Metro Manila (Sinfuego, Ilagan 2005)<sup>28</sup> This is not surprising, considering that certain parts of these regions are considered ‘conflict’ areas.

The PNP reported in 09 October 2008 that “In the Autonomous Region of Muslim Mindanao there are an estimated 35,000 unregistered guns; 20,700 in Metro Manila; 9,100 in Western Mindanao; 7,100 in Eastern Visayas; 6,500 in Northern Mindanao; 6,300 in Western Visayas; and more in the rest of the country,”<sup>29</sup> totaling 84,700.

Based on PNP data, of the estimated 1.1M loose and illegal firearms in 2009, 559,326 have expired/ unexpired licenses; 15,676 illegal arms are in the hands of threat groups like the Moro Islamic Liberation Front (MILF), New People’s Army (NPA), and Abu Sayaff Group (ASG) (In 2011, the conservative estimate is that 16,000 firearms are in rebels’ hands);<sup>30</sup> and 5,725 illegal arms are in the hands of criminal elements.<sup>31</sup> The AFP-Office of the Deputy Chief of Staff for Intelligence (AFP-OJ2) claims that as of 2010, 358,000 “loose” firearms were in the ARMM. (Feb. 9, 2011) While the AFP uses the term ‘loose’ firearms here, the more appropriate term, perhaps, is ‘illegal’ firearms.

While the ‘usual’ suspected users of illegal arms are members of the New Peoples’ Army (NPA), Moro Islamic Liberation Front (MILF), and Abu Sayyaf Group (ASG); the CAFGUs (Citizens’ Armed Force Geographical Units), private armed groups (PAGs) and civilian volunteer organizations (CVOs) seem to escape public scrutiny, until the massacre at Ampatuan, Maguindanao in November 2009 turned the spot light on them. The CAFGUs and CVOs moonlighting as private bodyguards of political personalities (thereby becoming members of a private armed group) while simultaneously performing their legal functions further exacerbate the conflict dynamics in certain areas.

AFP-OJ2 claims that 42 of the 86 identified Private Armed Groups are in Mindanao. (9 Feb 2011)

In the study done by Philansa (Philippine Action Network on Small Arms)<sup>32</sup> in 2007, “farmers from Mindanao... have described... (an) impressive range of weapons in circulation in their respective province: AK-47s, M-16s, M-14s, M-1s, .38 and .45 pistols and revolvers, paltik (locally-manufactured guns), rocket propelled grenades (RPGs), M-79s, PV-49s, landmines, machine guns (30/50/60), and 81mm mortars.” (PhilANSA 2008)<sup>33</sup> Appendix 2.2. lists the kind and caliber of guns reportedly used in crimes.

*“If you don’t have a gun here in Sulu (Mindanao), if your home is not armed, you will be crushed. Instead we use our guns for defense, so that when people give us trouble we can fight to our deaths.”<sup>34</sup>*

In the massacre at Ampatuan, Maguindanao in November 2009, it was reported that the arms recovered were enormous.

<sup>31</sup> If the figures are simply estimation, it then begs the question on how the PNP is able to accurately declare the exact number of firearms in the hands of insurgents and criminals.

“The raid followed the discovery of an arms cache—enough to supply two battalions—buried in a vacant lot some 500 meters from the mansion of Autonomous Region in Muslim Mindanao Gov. Zaldy Ampatuan.

In two shallow pits, soldiers of the 73rd Infantry Battalion found two anti-tank bazookas; four 60mm mortars; two 80mm mortars; a 90mm recoilless rifle; three M60 machine guns; a 57mm recoilless rifle; a Barrett sniper rifle; two Browning automatic rifles; a .50-cal. heavy machine gun; a 9mm pistol; seven .45 pistols; an Ultimax light machine gun; a Bushmaster carbine; a Heckler & Koch 11 light support machine gun; and thousands of rounds of ammunition for M16 rifles still in boxes marked “Arms Corporation of the Philippines,” with the October 2008 date of Manufacture stamped on them.

A spokesman for the military, Lt. Col. Romeo Brawner, said some of the munitions were commercial, while others came from the armory of the Defense Department.”<sup>35</sup>

The limitations on the caliber on firearms that a civilian may own imposed by PD 1866, further affirmed by *Executive Order 171* leaves questions on why and how the Ampatuan family was able to secure these types of weapons, some of which are exclusively issued to the PNP and AFP.<sup>36</sup>

Data also show that a considerable number of illegal guns are used in crimes. Figures in *Table 2.3* indicate that almost all guns used in crimes are illegal. One should note, though, that a number of crimes go unreported. Hence, it is safe to assume that the number of illegal guns used in crimes may be higher than what is actually reported.

**Table 2.3: Number of Firearms Involved in Crimes, Selected Periods**

Year	No. of FAs involved in crimes
1993-2003 <sup>37</sup>	Of the 13,365 firearms used during this period, only 1,953 (15%) are licensed while 11,412 (85%) are unlicensed
2002 <sup>38</sup>	Of the 4,034 firearms used, only 831 (21%) are licensed and 3,203 (79%) are unlicensed
2004 <sup>39</sup>	Of the 1,731 firearms involved, only 12 (1%) are licensed and 1719 (99%) are unlicensed
2006 <sup>40</sup>	Of the 4846 firearms involved, only 52 (1%) are licensed and 4794 (99%) unlicensed
2008 <sup>41</sup>	Of the 5,752 crime incidents recorded, there were 6,030 firearms involved therein – 5,999 (99%) of which were loose firearms and only 31 licensed
2009 <sup>42</sup>	Of the 6,537 firearms involved in crimes, 6,505 (99.5%) are loose/ illegal, while 32 (.05%) are licensed

With such figures, government is expected to exert more effort into addressing the proliferation of loose and illegal weapons. One concrete step is to strengthen the monitoring mechanism it imposes on legal manufacturers to make sure that legal firearms will not

<sup>36</sup> It is useful to note here that an Independent Commission against Private Armies (ICAPA) was convened in late 2009 until mid-2010. ICAPA, also known as the Zenarosa Commission, submitted its full report to Pres. Arroyo in May 2010, prior to the transfer of power to Pres. Aquino. The report contains useful information regarding the breadth of firearms proliferation in the country. The report has not been declassified as of this writing.

cross over the illegal market. It might also be prudent for the government to be more circumspect as regards its seeming intention to beef-up the economic potential of the firearms industry – at least until such time that more control and regulation is effectively instituted in the industry.) The issuance of *Executive Order 95* (issued April 15, 2002), officially lifting foreign investment restrictions on the country’s small arms industry, is therefore, a cause for concern. EO 95 is an obvious move to position the country to become the next weapons-producing country in the region.<sup>43</sup> Civil society groups have criticized the Executive Order since its existence can further exacerbate the already thriving illicit arms trade in the country. Still, the EO is a clear recognition that gun production is actually a thriving industry in the Philippines.

In 2003, the Firearms and Explosives Division (FED) of the PNP earned PhP212M in gun licensing alone. This increased to PhP314.4M in 2006. (Papa 2006). A more liberal estimate even pegs the income generated by FED anywhere between PhP350 to 650M annually. (Esguerra and Del Puerto 2004)<sup>44</sup>

Members of PhilANCA (Phil. Action Network to Control Arms) meeting with PNP-FED representatives. (from left) Col Roldan, Jennifer Santiago Oreta, Jasmin Nario Galace, Arjan Aguirre, Col. Maligalig, Jaymelyn Nikki Uy, Meg Villanueva, Bev Orosco



### Sources of Guns: Legal Channels

#### 1. Legal manufacturers (local and foreign)

As of December 2009, the PNP-Firearms and Explosives Division (FED) records thirty three (33) registered firearms manufacturers, twenty five (25) firearms importers, three (3) firearms exporters and one hundred thirty eight (138) firearm authorized dealers.<sup>45</sup> These numbers are lower compared to the last decade. In April 1998, PNP-FED figures recorded 45 legal firearms manufacturers, 522 authorized dealers, 133 gun repair shops. (Makinano and Lubang 2001)<sup>46</sup> Makinano and Lubang (2001) also claimed that in 1998, there were approximately 5,000 illegal gunsmiths nationwide. Legitimate gun dealers sold about 5,000 firearms annually (AFAD 2004).

The number of manufactured firearms is steadily increasing. In 2008, Arms Corporation of the Philippines, Scopro Optical Co., Inc. Shooters Guns and Ammo Corporation, Twin Pines Corporation, and Floro International Corporation exported their firearms and ammunitions to the following countries: Indonesia, Venezuela, Australia, Cambodia, Canada, China, Costa Rica, Dominican Republic, Ecuador, El Salvador, France, Hong Kong, Italy, Malaysia, Singapore, Thailand, US, Japan, New Zealand, Bolivia, Switzerland, Peru, Guatemala,

Paraguay, Honduras, Panama, Hungary, Israel, Norway, Taiwan, and the United Kingdom. (PNP-FED-CSG 2008).

Danao City, widely acknowledged to have the best gunsmiths in the country, boasts of having the Danao Arms Corporation (DAMCOR) and the Workers League of Danao Multi-Purpose Cooperative (WORLD-MPC) as the legitimate gun makers and traders in the area. “These two manufacturers are authorized to produce a total of 6,000 assorted firearms annually based on their manufacturers’ license issued by the PNP Chief.”<sup>47</sup> However, ‘Danao’ is also widely perceived to be the sanctuary of illegal gun manufacturers.

2. Procurements to arm the state security forces. While there are a number of gun manufacturers in the country (e.g. Armscor, DAMCOR, Shooters Arms Manufacturing Inc.), most of the imported guns come from the United States. (Caccam 2008), and most if not all of the guns issued to PNP and AFP personnel are also imported.

At the moment, the police force has 125,000 members, yet at least 20,000 of them are without service firearms due to budget constraints.<sup>48</sup> The AFP, on the other hand, has a cache of small arms and light weapons and equipment, and has a standing proposal to purchase more, as part of the AFP Modernization Program.

The military also organizes and trains CAFGU Active Auxiliary units (CAA) and Special Civilian Armed Auxiliary (SCAA), both of which are armed and under the leadership and supervision of the AFP. The firearms issued to CAAs and SCAAs include M16, M14, BAR, Carbine, and Garand, and as of 2010, there are approximately 37,000 firearms issued to CAAs and SCAAs nationwide (AFP 2010)

3. Military aid. Arms donations make up a considerable size of the police and military hardware. The Foreign Military Financing (FMF) program is meant to pay for the procurement of military equipment from the US, including surplus from the US military stockpile. (Docena 2005)<sup>49</sup> In 2001, the Philippines received from the United States a US\$ 2 million grant under the Foreign Military Financing (FMF) program. After the 9-11 attack on the World Trade Center and the subsequent War on Terror led by the US, the FMF grant ballooned to US\$ 49.9 million in 2003. “Between 2001 and 2005, the Philippines received \$145.8 million in Foreign Military Financing and another \$11.5 million in military training aid, for a total of more than \$157.3 million.” (Berrigan, Hartung 2005)<sup>50</sup> In 2006, the FMF grant reached almost US\$ 30 million.<sup>51</sup>

A good number of arms donated, however, have crossed the illegal arena due to surprise attacks against military personnel and/or installations, theft, *agaw armas* (arms-grabbing) during armed encounters, and corruption in the police and the military.

<sup>47</sup> Under the Revised Administrative Code, the power to approve and disapprove applications for firearms manufacturing license is vested on the President of the Philippines. However, this power is delegated to the Chief, PNP under Section 27 (f) of Republic Act 6975. PCTC Paper on Illicit Trafficking and Manufacturing of Firearms: Philippine Context (Ibid)

## Sources of Guns: Illegal Channels

1. Illegal manufacturers. “Two gun makers were arrested and 11 high-powered guns were seized by policemen in Danao City...The gun-maker said he can finish making a KG-9 in a month... with a capital outlay of about Php 7,000 (about US\$150) and sell it for about P10,000 to P11,000 (about US\$ 220 to 240).” (Aragon 2008)<sup>52</sup>

“Danao City doesn’t get the moniker as the “gun capital of the Philippines” for nothing. Many in the area are skilled gunsmith, learning the craft from generations past. The skill in gun manufacturing is closely tied with the colonial past of the country. Roble, a local resident, asserts that gun-making skill in Danao dates back to the Spanish period when *guardia civils* would bring their guns for repair. (Roble, 2008)<sup>53</sup>. During the Japanese period (1940-1945), small cannons were manufactured in the area. Not long after, they were manufacturing guns and other artilleries. Elders pass on the skill to children so that they can assist in the manufacturing process. For example, children, according to Roble, can do the “sanding” (or the polishing of the finished-metal/ guns using sand-paper) where they get paid Php2.50 per piece (US\$.05). The task and responsibility given to a child advances as the child grows older. (Oreta, 2009)

“Danao-made (Cebu) handguns such as the cal. 22, cal. 5.56 (rifles), cal. 38 revolvers and cal. 45 pistols are the most commonly traded small arms in the country. Aside from being relatively cheaper, these firearms are highly marketable and easier to procure than foreign-made handguns.” (PCTC Report)<sup>54</sup>

In 2003, gun trade in Danao involved roughly 5,000 to 10,000 members of the community, or about one in 10 of the population. (Reuters 2003)<sup>55</sup> “Paltik” or home-made gun<sup>56</sup> is among the most common product of the area.

While the local government of Danao is putting serious effort to bring the “illegals” into the legal fold, it is still too early to determine if its efforts will be successful. Moreover, it is not easy to immediately put a stop to illegal manufacturing since it is a clandestine activity, and to a large extent, manufacturing is regarded as a ‘back-yard’ industry (and are mostly done in far-flung areas) - only the ‘finishing’ is done in the city (e.g. polishing, quality control, testing and ballistics). The materials used in gun manufacture are also locally available as these are the same materials used in house or building constructions. Most of the gunsmiths are home-based or in the mountains, and manufacturing guns is interspersed with their farming or fishing activities. Also, the lack of available jobs in the area makes gun-making an attractive alternative. These factors make it difficult to track down those who are involved in illegal manufacture. (Oreta 2009)

<sup>56</sup> “The most common form of the weapon was a gas pipe attached to a rifle stock. Usually some sort of wire was wrapped around the barrel to keep the pipe from expanding from the fire. There was a small hole at the bottom end of the barrel that a cigarette or match was placed to ignite the primer, which made aiming difficult. This also gave it the nickname the “Cigarette Gun”. It was muzzle loaded and fired a medium sized bullet or musket ball. The accuracy was poor and the mechanism of firing the weapon made it even worse.” <http://www.nationmaster.com/encyclopedia/Paltik> accessed Jan 15, 2008 1004am

The craftsmanship and skill of Danao gunsmiths attracted the infamous Japan-based Yakuza criminal group. The Phil. Center on Transnational Crime (PCTC) released a *Draft National Plan of Action against illicit trafficking in small arms and light weapons 2000*. The report noted that “the notorious Yakuza crime syndicate...brought to Japan Filipino gun makers using the cover of tourist or a contract worker and hired them to manufacture guns inside Japan” (Carlos 2002).<sup>57</sup> Gen. Caccam (2008), then chief of the PNP-Firearms and Explosives Division even claimed that illegally manufactured guns are loaded in vessels that ply the Cebu-Japan route causing Japan to complain on the rising number of illegal guns coming from the Philippines. (Caccam 2008)<sup>58</sup> Garrido (2003) wrote that “the Philippines ranks third among countries in the production of seized handguns in Japan, and third again in the number of gun shipments foiled by the Japanese.”<sup>59</sup>

Criminal groups in Japan, “with special mention of “BORYOKUDAN” have been involved in many crimes involving the use of illicit firearms from the Philippines.” (PCTC Report) This prompted the Phil. government to establish a ‘Japan’s Desk’ which is now in full operation. (Maligalig 2008)<sup>60</sup>

But Danao is not the only source of illegal guns in circulation. Smuggling and illegal manufacture in conflict areas; the crossing over of legal guns to the illegal trade due to corruption, surprise attacks on military personnel, theft, and fabrication/ making fake replica of original firearms also contribute to the steady increase of illegal guns in circulation.

2. Smuggling and illicit manufacture in conflict areas. There were reports coming from foreign papers claiming that North Korea had sold thousands of arms to MILF in 1999 to 2000. A Taiwan-based criminal ring was also reported to traffic arms in the country in 2004.<sup>61</sup> In 2004, as well, the newspaper *Philippine Star* reported that the “MILF had received 1,190 automatic rifles and hundreds of thousands of ammunition in two shipments on 24 July in Palembang, Sultan Kudarat, and Kapatagan town in Lanao del Sur.” The Armed Forces of the Philippines (AFP) had confirmed this, saying it was able to receive intelligence reports about the arms shipment. This, however, was denied by the MILF.<sup>62</sup>



Sniper rifle confiscated by PNP-FED from a private owner (civilians are not supposed to own high-powered firearms)

The PNP admitted that it did not have a good estimate on the amount of firepower that the insurgents have. The conservative method of counting assumes a one-gun-one-member ratio, thus the number of guns are the same as the number of members. But that, obviously, is very conservative.

In the first semester of 2002, the firepower strength of Communist Party of the Philippines-New People’s Army (CPP-NPA) was pegged at 6,149.(Ferrer 2003)<sup>63</sup> The group reportedly brings in guns through Palawan and Mindoro. Much of its firepower comes from China, Argentina, and Brazil. They enter through the ports and are declared as ‘used equipment’ though there are actually guns tucked inside. (Caccam 2008)<sup>64</sup> Table 2.4 lists the weapons holding of insurgent groups, based on available reports.

**Table 2.4: Weapons Holding of Insurgent Groups<sup>65</sup>**

Group	Estimated Membership	Weapons Holdings
MILF	(1998) 13,459	10,227
	(2007) 11,769	7,747
	(2010) <sup>c</sup>	7,500
CPP/NPA	(1998) 1,148	386
	(2002) 9,388	6,149
	(2010)	4,972
Abu Sayyaf Group (ASG)	(2007) 383	

A report made by the AFP Office of the Deputy Chief of Staff for Intelligence (OJ2) posited that from a peak of 15,500 firearms holding in 1987, the Communist Party of the Philippines-New People’s Army’s firepower was down to 4,972 in 2010. Likewise, the MILF had 11,280 firearms in 1999 – considered its peak – but firearms holding was down to 7,500 in 2010. (AFP-OJ2, Presented in IPSP Assessment Planning and Development Workshop, Camp Aguinaldo, 9 Feb 2011)

In 1999 there was a controversial report claiming that the MILF had already developed the capacity to manufacture its own weapons and artillery. “In 1999, reports emerged claiming the MILF had built an arms factory in central Mindanao. A spokesman Ustadz Sahriff Mohsin Julabbi, told the *Philippine Daily Inquirer* that the factory had nearly one hundred employees and produces high caliber weapons and ammunitions, including replicas of the Russian RPG-2, .60mm mortars, and unspecified bullets and bombs... More recent accounts, however, raised questions about the quantity and quality of the arms being produced.”(Capie 2004: 198; Kramer 2001)<sup>66</sup> Small Arms Survey also reported that the MILF “has fabricated replicas of US and Soviet 40mm RPGs.” (2008, 15)

Eliza Griswold, a journalist who interviewed members of the Moro Islamic Liberation Front (MILF) in 2006, wrote: “I have never seen the level of military hardware that I saw in the MILF camp. A MILF commander showed me several M-16

<sup>64</sup> Other smuggling modus include mixing the guns with metal items or machinery parts, door-to-door deliveries of packages, or thrown from vessels in prearranged areas and later picked up by small boats.

assault rifles equipped with night vision scopes. So not only does the Philippine military have those, but [the MILF commander] has also bought them from the Philippine security forces.”(Guevara 2007)<sup>67</sup>

3. Crossing of Legal to Illegal. “The United States has supplied the Armed Forces of the Philippines with high-tech weaponry that some members of the [Philippine military] have gone on to sell to the insurgents...” (Griswold 2006)<sup>68</sup>

Graft and corruption in the military and police, weak institutions, and disregard for the rule of law are among the major reasons why legal guns cross over to the illegal trade. “Insurgent groups have long admitted that their most important source of weapons is the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and the various well-armed citizens’ militias.” (Capie 2004: 197) In 2002, massive gunrunning was reported in the areas of Agusan, Misamis, Surigao, Sulu, Basilan, Tawitawi, and Zamboanga provinces, all part of the Mindanao group of islands. (Carlos 2002)

Corruption in the military, in fact, was a major grievance raised by the junior military officers (a.k.a Magdalo) who staged a mutiny in July 2003:

“First, the GMA government, through the AFP leadership and Secretary Angelo Reyes, has been selling bullets and arms from the government arsenal to the MILF, Abu Sayyaf and the NPA. These bullets, which kill our soldiers, actually came from the very government that we fighting (sic) to defend. This is why there is a war for over 30 years now, and still our enemies have not run out of bullets. As evidence, all the bullets that were recovered from the enemy had the markings that they came from the DND arsenal.” - *Magdalo statement made during the Oakwood Mutiny of July 27, 2003*<sup>69</sup>

More than five years after the mutiny, corruption remains widespread in the military and the AFP, so grave that even “a **janitor at the Philippine National Police (PNP) headquarters has been arrested for selling revolvers and assault rifles that were to be destroyed because they were unserviceable** ... Edward Villarta, head of the National Bureau of Investigation (NBI) office in the capital, said the man led officers to a cache of 88 pieces of .38 calibre revolvers and nine M16 assault rifles.” (Reuters 2008)<sup>70</sup> Currently, there are about 30,000 arms in the PNP stockpile. (Caccam 2008)

The police force is not the only source of leakage, according to Caccam (2008) - even the military and NBI (National Bureau of Investigation) and other law enforcement agencies of the government employees authorized to use FAs are also to blame. Corruption is endemic.

Another source not usually noticed are the firearms under *custodia legis* or those that are kept in court as evidence to a case. The Supreme Court circular directs all courts to deposit these firearms in the PNP-FED. However, while the guidelines are in place, “there are no specific instructions on how to ultimately account for and dispose of the firearms used as evidence upon their complete turn-over to the FED.” (ICAPA Report 2010, 42)

4. Improvised or Fabricated guns. The ingenuity of Filipinos to imitate the original is also a concern in as far as gun production is concerned. Improvisation is primarily a consequence of one's economic standing. In the Philippines, it is mostly the poor who resort to improvisation using available, local and inexpensive materials

These makeshift weapons – still considered as firearms because of the use of bullet/ metal ball discharged by using gun powder - usually emerge when there is trouble or “gang wars.” They usually surface in areas commonly believe to be ‘havens’ of notorious gangs. “Marta (not her real name) disclosed that in her neighborhood in Tondo- an urban poor community that has gained national prominence because of the numerous incidents of violent confrontations among squabbling groups- *“it’s common knowledge that almost everyone has a weapon. If there’s a conflict in the community like a gang-war, these weapons surface. Most of the guns are paltik (home-made gun) and are unlicensed. My own friend who was walking beside me one day was shot in the head. I was soaked in his blood and was really afraid.”*<sup>71</sup> (Oreta, 2009)



A gun smith employee of the Workers League of Danao Multi-Purpose Cooperative (WORLD-MPC)

In the Aeta community of *Sapang Uwak*,<sup>72</sup> an improvised “gun” is also a common household item. They use it for hunting wild boars and other animals in the forest. The Aetas claimed that each family knew how to make one, and everyone – male and female - knew how to use them. But they also claimed that there had never been an incident when these guns were used against humans.

To take back guns to the legal arena, the government introduced a *Cash for guns* program. This program is meant especially for the members of the CPP-NPA (Communist Party of the Philippines-New People’s Army), with a two-pronged objective: to retrieve more guns, and to lure members of the CPP-NPA back to the legal fold. In Oct 2008, Hermogenes Esperon, the government’s chief peace adviser, said that the government would pay Php50,000 (about US\$1,060) for every M-16 assault rifle surrendered by an insurgent who was willing to abandon the long-running rebellion. This money would be given on top of another Php70,000 (about US\$1,490) incentive “in cash and livelihood assistance to be extended to any

<sup>72</sup> Aeta is an indigenous group found mostly in Northern Luzon. This particular community, “Sapang Uwak,” is located in Porac, Pampanga. The interview was held in the kiosk of the community’s cooperative store last September 12, 2008, 10 am.

New People’s Army (NPA) rebel turning over a new leaf.” The Communist Party of the Philippines has been waging war against the Philippine government since 1969. Official estimates pegged the NPA force at 9,388 during the 1<sup>st</sup> semester of 2002<sup>73</sup>, to about 5,000 at present, “down from more than 26,000 in the 1980s, following the collapse of communism worldwide and defeats on the battlefield.” (Agence France 2008)<sup>74</sup>

Allegations abound that the ‘cash for guns’ is only used by insurgents and sympathizers to get more cash to buy newer and more sophisticated weapons. Whether this allegation is true or not remains to be proven.

The Philippine government is also seriously supporting efforts to address the issues emanating from the illicit trafficking of arms. PCTC reports the following efforts:

- The Philippine government signed an agreement on Information Exchange and Establishment of communication procedures on May 7, 2002 with the governments of Malaysia and Indonesia, and it is also in the process of drafting a Memorandum of Agreement with the Indonesian government to specifically address the small arms and light weapons (SALW) issue;
- The Philippines actively participates in the ASEANAPOL (Asean’s Chief or Police) and the ASEAN Ministerial Meeting on Transnational crime;
- Updates on Small Arms and Light Weapons (SALW) issues are incorporated in the PNP’s community relation service; the media are also regularly updated;
- The Office of the Special Envoy on Transnational Crimes (OSETC) conducts conferences with owners of private security agencies, recognized gun clubs, dealers, manufacturers, and NGOs; and
- JICA has given the PNP Crime Laboratory an Automated Fingerprint Identification System (AFIS).

#### Closing Remarks

Security is not just about defense and order. A broader understanding of security relates it to “personal and state safety, access to social services and political processes. It is a core government responsibility, necessary for economic and social development and vital for the protection of human rights... Security matters to the poor and other vulnerable groups, especially women and children, because bad policing, weak justice and penal systems and corrupt militaries mean that they suffer disproportionately from crime, insecurity, and fear.”(OEDC DAC Handbook on Security Sector Reform 2007)

Curbing the proliferation of illegal guns remains a big challenge for the state and warrants a concerted effort among social and political institutions. People will not feel the need to arm themselves if they feel safe and secure in their homes and communities, and if they believe that the security sector is effective, impartial and trustworthy.

The fact that a number of firearms are in the hands of civilians clearly shows that the perception of physical insecurity and/or threat to safety remains high.

- <sup>8</sup> AFP-OJ2, 2010
- <sup>3</sup> Small Arms Survey 2008: Risk and Resilience. Cambridge University Press, p. 3
- <sup>4</sup> Small Arms Survey 2007. Cambridge University Press. p. 47. available online [http://www.smallarmssurvey.org/files/sas/publications/year\\_b\\_pdf/2007/CH2-Stockpiles.pdf](http://www.smallarmssurvey.org/files/sas/publications/year_b_pdf/2007/CH2-Stockpiles.pdf) accessed Feb 2, 2009, 104pm
- <sup>5</sup> 2008 data source: PNP-FED, presented during the PNP Summit of Firearms, 18 May 2008  
2002 data source: National Report on the Implementation of Programme of Action to prevent, combat, eradicate the illicit trade in Small Arms and Light Weapons in all its aspect. July 3, 2003 available online <http://disarmament.un.org/CAB/nationalreports/2002/philippines.pdf> accessed Jan 21, 2009 1152am
- <sup>6</sup> Col. Maligalig of PNP-Firearms and Explosive Division-Civil Security Group (FED-CGS) presentation to Phil. Action Network on Small Arms (Philansa) on Sept. 2, 2008
- <sup>9</sup> Executive Order 194, issued Feb. 14, 2000, Amending Gen. Order No. 7, dated Sept. 23, 1972; General Order No. 7-A dated Sept. 30, 1973; General Order No. 7-B dated January 17, 1973, and Gen. Order No. 7-C dated Feb. 21, 1973.
- <sup>10</sup> see Pro-Gun open discussion on Facebook <http://www.facebook.com/topic.php?uid=113303732048357&topic=28> accessed March 21, 2011
- <sup>11</sup> Papa, Alcuin. (2006). "Gun Dealers Oppose Amnesty for Loose Firearms." Inquirer.net. Nov. 1. [http://newsinfo.inquirer.net/breakingnews/metroregions/view\\_article.php?article\\_id=30002](http://newsinfo.inquirer.net/breakingnews/metroregions/view_article.php?article_id=30002) accessed Jan 21, 2009 1059am
- <sup>12</sup> see <http://fforum.110mb.com/introfaq.html> accessed March 21, 2011
- <sup>13</sup> Pacquiao, in a TV interview, argued that he needed said number of FAs to protect his family from criminals and/or terrorists. The calibers of the firearms were not specified to the media. COMELEC Commissioner Ferrer "estimated the number of gun ban exemptions to be about 17,000. Of the figures, 6,000 have been granted exemption as these were from military and police personnel." GMA News TV The Official Website of GMA News and Public Affairs. (2007). COMELEC Ok's 20 guns to Pacquiao. Jan 23. <http://www.gmanews.tv/story/27901/Comelec-OKs-20-guns-for-Pacquiao> accessed 07 Feb 2009, 430pm Based on Republic Act 7166 Synchronized Election Law, a gun ban is issued during election period; only the Commission on Election or COMELEC is granted the power to issue permit-to-carry during these period.
- <sup>14</sup> Felipe, Cecille. 2009. "PNP revokes Mayor Ampatuan's 19 gun licenses." The Philippine Star. Nov 30. available online <http://www.philstar.com/Article.aspx?articleId=528121&publicationSubCategoryId=63> accessed Jan 18, 2010
- <sup>15</sup> Republic Act 8294 "An Act Amending The Provisions of Presidential Decree No. 1866, as amended, entitled "Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof, and for Relevant Purposes" amends Presidential Decree 1866. RA 8294 (Sec. 1.) states that "Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. The penalty of prison correccional in its maximum period and a fine of not less than Fifteen Thousand Pesos [P15,000.00] shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rifle handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, That no other crime was committed."
- <sup>16</sup> Natividad, Beverly. (2009). "Operations vs loose firearms ordered." Inquirer.net Jan 9. <http://newsinfo.inquirer.net/breakingnews/metro/view/20090109-182459/Operations-vs-loose-guns-ordered> accessed Jan 18, 2009 533pm
- <sup>17</sup> Pattugalan, Gina Rivas. (2003). "Two Year After: Implementation of UN Programme of Action on Small Arms in the Asia Pacific Region." Center for Humanitarian Dialogue. October. [http://www.iansa.org/regions/asiapacific/documents/asia\\_pacific\\_occasional\\_paper\\_oct2003.pdf](http://www.iansa.org/regions/asiapacific/documents/asia_pacific_occasional_paper_oct2003.pdf) accessed Jan 18, 2009 629pm
- <sup>18</sup> Dursin, Kanis. (2009). "Worried governments target small arms trade." Asia Times online May 12. <http://www.atimes.com/se-asia/BE12Ae01.html> accessed Jan 21, 2009 1121am
- <sup>20</sup> Baja, Lauro L. Jr. (2003). "Report to the First Biennial Meeting of States on the Implementation of the Program of Action of the 2001 United Nations Conference on the Illicit Trade of Small Arms and Light Weapons in all its aspects." New York. July 8. Available online <http://disarmament.un.org/CAB/salw-2003/statements/States/Philippines.pdf> accessed Jan 18, 2009 612pm ; also National Report on the Implementation of Programme of Action to prevent, combat, eradicate the illicit trade in Small Arms and Light Weapons in all its aspect. July 3, 2003 available online <http://disarmament.un.org/CAB/nationalreports/2002/philippines.pdf> accessed Jan 21, 2009 1152am
- <sup>21</sup> Agence France Presse. (2003). "Philippines bans owners from carrying guns in public." Jan 30. <http://www.thehighroad.org/archive/index.php/t-6612.html> accessed Jan 21, 2009 1128am
- <sup>22</sup> Papa, Alcuin. (2006). (Ibid)
- <sup>23</sup> Loose FA as of 3rd quarter of 2006. Gen. Florencio Fianza, Special Envoy on Transnational Crime (OSETC). (2007). "OSETC and Initiatives on Regulation." Presented at the Asian Parliamentarians Workshop on SALW and the proposed ATT. House of Representatives, Philippines. Feb. 6-7
- <sup>24</sup> Mailgalig (Ibid)
- <sup>25</sup> PNP Press Release No. 08-1007. "Verzosa orders nationwide crackdown on illegal guns." Available online <http://www.pnp.gov.ph/> accessed Jan 27, 2009, 535pm
- <sup>26</sup> Felipe, Cecille. 2009. "PNP revokes Mayor Ampatuan's 19 gun licenses." The Philippine Star. Nov 30. available online <http://www.philstar.com/Article.aspx?articleId=528121&publicationSubCategoryId=63> accessed Jan 18, 2010
- <sup>27</sup> PNP uses the term 'loose' FA in this report
- <sup>28</sup> Sinfuego, Roy and Ilgan, Aris. (2005). "PNP Orders Crackdown on 150,000 loose firearms." Manila Bulletin. April 16. <http://www.articlearchives.com/crime-law-enforcement-corrections/law-police-forces/753556-1.html> accessed

Jan 19, 2009, 953am

<sup>29</sup> Ibid

<sup>30</sup> <http://www.abs-cbnnews.com/nation/08/18/09/pnp-moves-recover-million-illegal-guns> accessed March 20, 2011

<sup>32</sup> PhilANSA now called PhilANCA or Phil. Action Network to Control Arms

<sup>33</sup> 2008. "Voices to Silence Guns." PhilANSA (Phil. Action Network on Small Arms) Publication, p. 12.

<sup>34</sup> De Guzman, O. (2008). "Guns in southern Philippines." PRI's The World. Audio File. Retrieved March 2008 from <http://www.theworld.org/?q=node/16981>, cited in Voices to Silence Guns." 2008. Phil. Action Network on Small Arms Publication

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## CHAPTER 3

### History of Firearms Proliferation in the Philippines

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#### Historicizing the Philippine Firearms Industry:

Tracing the history of gun industry in the Philippines is no easy task. Despite the lack of scholarly work on the history of guns/firearms in the Philippines, the major research hurdle was addressed through the extant narratives on Philippine gun-making and arms trade.

Pre-Spanish period. Prior to the modern-day Philippine firearms industry, the early gun market was dominated by local gunsmiths, small metal workshops and rudimentary system of trade. Using the work of Abinales and Amoroso (2005), the interlocking socio-political and economic features of the time can be ascertained.

The pre-colonial Filipino society was predominantly localized, relatively fragmented, small communities, which were heavily influenced by hierarchal relations, religious and animistic beliefs and strong kinship ties. Economic trade relations became possible due to their strategic location and affinity with other communities in the region. In fact, aside from the Sumatran communities that time, the early Filipinos also had economic ties with the growing economic sea trade centers in India and China. The economic trade relations also facilitated the exchange of cultural and belief systems. The political system was relatively parochial and structured according to kinship ties. At the top of the *barangay*, the 'datu' enjoyed relatively strong (using the contemporary parlance) executive, legislative and judicial powers. He was expected to settle disputes, exhibit military prowess, and be a keen economic tactician. The 'datu' embodied both the secular and spiritual authority in the community.

This period saw numerous intermittent armed conflicts between and among communities within and outside the archipelago. The constant interaction with other settlers in the archipelago created more occasions for conflict among the early Filipinos. As aptly put by Abinales and Amoroso (2005: 13), "*(c)ommon reasons for going to war included avenging a killing, mistreatment, or abduction.*" At around fourteenth century, as China's regional power began to grow (Abinales & Amoroso 2005), the reconfiguration of the sea trade most likely facilitated the shipment of gunpowder to the Philippines. As pointed out by

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most scholars on the origins of firearms, the consolidation of power of the Ming dynasty (1368-1644) may have helped spread the knowledge and technologies of gunpowder through their military and economic engagements (Goodrich & Chia-Sheng 1946; Ling 1947).<sup>2</sup> These interactions may have given the local 'datus' the opportunity to upgrade their military equipment. In the absence of a centralized system of control and regulation in the archipelago, it may be safe to surmise that the unregulated fourteenth century trading centers in Tondo, Malai (modern-day Mindoro), and Sulu, were the first areas in the Philippine to actually possess, use, dispose and maybe, later on manufacture the early and yet to be dichomitized (i.e. legal and illegal) firearms in the Philippines.

During the embryonic years of the Spanish colonial rule, the conflicts that saw the death of Magellan and eventual crush of most sea trade centers of the archipelago revealed the initial stage of the Philippine firearms industry. In the accounts of Molina (1993), the personal narratives of some Spanish historians that were present in the expeditions all implied the existence of the pre-Spanish firearms industry. According to Molina (1993), available for use by Filipinos in the early years of colonization were long arms and cannons. (Ibid) Taken from his quotation of a letter from a certain *Guido de Lavezares* to then *King Felipe Segundo* (Philip II of Spain): "*The people are the most valiant yet found in these regions; they posses much good armor... and some arquebuses and culverins*" (de Lavezares, 1574; In Benitez, 1969: 214; cited in Molina, 1993:17).<sup>3</sup> It is assumed that the use of metal-smelting technologies, art of metal casting, and gun powder coupled with the knowledge and skill that are shared through the economic and political links that time may have paved the way for the Filipino's use of metal and fire in warfare.

During the expeditions, the Spaniards Antonio de Morga implied the subsistence of local firearm industry in the Philippines:

"Since they have seen the Spaniards use their weapons, many of the natives handle the *arquebuses* and *muskets* quite skillfully. Before the arrival of Spaniards they had bronze culverins and other pieces of cast iron, with which they defended their forts and settlements, although their powder is not so well refined as that of the Spaniards." (de Morga, 1595: *Sucesos de las Islas Filipinas*, in Garcia, 1979: 273; cited in Molina, 1993: 17)

Spanish Period. The coming in of Spaniards catalyzed a major change in the political and social state of affairs in Philippine society. The used-to-be fragmented Filipino communities were drawn to the centralized Spanish colonial power.

The Spanish government asserted its supremacy over the Filipino inhabitants through religion and civil and military power. Throughout the more than three centuries of rule, this new system of government was tested by internecine clashes in the islands brought by the native inhabitants, Moro (together with the

<sup>2</sup> The use of sulphur (liu), saltpetre or potassium nitrate (hsiao) and charcoal as the main ingredients in producing gunpowder was already perfected by the Chinese as early as A.D. 85. This therefore goes beyond and obviously transcends the use of 'fire' in warfare by the early Assyrian and Greek civilizations. See also Carman, W. (1965).

<sup>3</sup> Arquebuses are the old long arm rifle which uses wood and a metal tube to propel an object. Culverins, on the other hand, are those early cannons called 'Lantaka' used by native Filipinos. See Molina, M. (1993), p.17.

Dutch), and then, later on, the *Filipinos* themselves (Phelan 1959; Scott 1970; Mallari 1986, 1987; Loyre 1987; Abinales & Amoroso 2005).

In Bicol, Fr. Francisco Mallari, S.J. in his reading of the *Ereccion de Pueblos—Albay* (1799-1864) said that:

The petitions for weapons ring with a tone of piteous urgency born of years of seemingly irremediable and unrelenting torment at the hands of the Muslims. Of the twenty seven pueblos and one visita, only the pueblo of Albay did not ask for arms and ammunition. *The arms in its possession, including those of private individuals, its report claimed, were sufficient for defense purposes.* (italics supplied) (Mallari 1987: 194)

Thus, the demand for firearms during the colonial period was, to a large extent, fueled by the conflict with the Moros.

In dealing with the resistance, the Spanish colonial government imposed a centralized control over the purchase, possession, and use of firearms of the native *indios*.

The threat posed by Filipinos, both the *indios* and *Chinese*, forced the Spanish colonizers to impose a comprehensive control on firearms across the country. This was the first experience of dichotomizing legal and illegal firearms in the Philippines. Only the central government had the sole control of legal firearms, and armament supply (muskets, cannons, and gun powder) through the contracts between various states (Netherlands, China or Britain) or private companies or individuals (local gunsmiths) operating in Spain and in the Philippines (Arenas 1850; In Diaz-Trechuelo 1964; Mallari 1987). It is assumed that this controlling power was rigidly imposed to the *indios*, and was loosely imposed to the Spaniards living in the Philippines.

The colonial's government's desire to impose 'control' on firearms possession (to address the resistance) versus the need to defend the territory against attacks from its enemies (at the time, the Moros) was a serious concern for the Spanish government. In the letter sent by a representative from the *Consulado de Manila*, Spanish authority tried to explain its reluctance to supply guns and ammunitions to the devastated Bicol territories:

*There are many difficulties in arming all the pueblos so that they can defend themselves when attacked: the first, is to train and supply with ammunition a subjugated people; and the second, in the final analysis, being peasants devoid of order, leader and courage, at the least surprise, they flee wherever they can, abandoning their arms and ammunitions which fall into the hands of the enemies. In this manner, the Muslims have seized many cannon.* (italics supplied) (Paterno 1872:2; In Mallari 1987: 206)

The supply of armaments for most of the rebel and resistance movements usually come from gun retrievals and raids, but there is also reason to believe that the Moros get their supply through the unregulated international sea

trade. The Moros raided Spanish armories and retrieved Spanish muskets and cannons after the armed clashes (Mallari 1986, 1987). In an account depicting the fate of the Spanish forces during a series of Moro offensives in a Spanish Iligan Fort from 1750-1760, the Moros were known to be capable of easily adapting to the ways of their enemies:

... [Spaniards] continued its struggle for survival without any increase in troops while the Moros became more and more daring. *They copied the Spaniards' coats, mail, helmets and increased their number of firearms.* It is easy to understand why Spanish soldiers did not like being detailed in Mindanao. (italics supplied) (Loyre 1987: 166)

Another source of illegal firearms during this time was the state actors themselves. At the height of the Spanish colonization, local officials were often accused of selling or leasing guns to unauthorized individuals (Mallari 1987). Moreover, the enemies of Spain were also known to supply arms to rebel Filipinos. During the Netherlands-Spain and Great Britain-Spain wars, the firearms used in the Moro expeditions to Spanish territories were usually sourced from the Dutch and the British forces (Mallari 1986, 1987).

During the late 1800s, the cracks in the Spanish government in the Philippines finally emerged. First, through the influx of the *ilustrado* class to the European continent, a new form of anti-Spanish sentiment emerged in the reformist Propaganda movement (Schumacher, 1997). In their numerous travels across Europe, this first generation of Filipino nationalists had sown the seeds of revolution through ideational diffusion of liberalism and nationalism (Arcilla 1991; Abinales & Amoroso 2005; Anderson 2006). Second, as a response to these developments, Filipinos quickly organized an underground armed movement called *Katipunan* (Agoncillo 1996; Abinales & Amoroso 2006).

*Katipunan* got its firearms through seizures and retrievals (Agoncillo 1996). Some local officials like the then young Mayor of Kawit, Cavite (and later on first President of the Philippine Republic) Emilio Aguinaldo, also helped in raiding armories or even seizing firearms from the Spanish military forces (Agoncillo 1996). Likewise, the United States (de Togoires 1908) and Taiwan (Anderson, 2006) facilitated the flow of military supplies to the *Katipunan* through smuggling (illicit trade) and underground arms transfer.

American Period (and the Second World War). After the brief yet bloody Philippine-American war (1899-1902), the American colonial regime restructured the residual colonial state through the policy of "benevolent assimilation" or the institutionalization of the democratic values and practices in the Philippines (Abinales & Amoroso 2005). Part of the changes introduced was the replacement of the old *guardia civil* with the Philippine Scouts and later on, the Philippine Constabulary (Laurie 1989; Hutchcroft 2000; Abinales & Amoroso 2005).

The Americans instituted a liberal democratic government, albeit still within the frame of colonization. By 1916, the Filipinos were given the chance to

Danao gun-smiths allegedly acquired the skill in gun making during the Spanish period. According to Roble (2009), the Spaniards usually bring their guns to the black smiths in Danao. These black smiths eventually learned how to fabricate guns.



participate in policy making (Abinales & Amoroso 2005). During this period, Filipinos enjoyed an inclusive system of education, professionalization of the bureaucracy, and relative stability in the peace and order situation across the country.

There were several difficulties that confronted the American colonization. First, just before it formally assumed power at the turn of the century, the army of the revolutionary government of President Emilio Aguinaldo posed a major hurdle for the foundational period of the American government (Hutchcroft 2000). Armed with 20,000 rifles (Mausers, Remingtons, Muratas, and Ambers), the remaining 50,000 members of the revolutionary army of Aguinaldo were immediately mobilized in 1899 to resist the American occupation (Zaide 1954). From one province to another, this country-wide resistance braved the superior firearms and more experienced American military contingent. Despite the announcement of the American president Theodore Roosevelt of the end of hostilities in 1902, various forms of armed resistance against the Americans continued across the country.

The Administrative Code of the Philippines (ACP) (1917) attempted to re-institutionalize gun regulation by deputizing the Philippine Constabulary to regulate the use, possession, manufacturing and trading of guns in the Philippines (Molina, 1993). Pertinent provisions of the ACP are as follows: Section 877 – Provides the legal definition of guns. "Firearm' or 'arm' as herein used, include, rifles, muskets, carbines, shotguns, revolvers, pistols, and all other deadly weapons from which a bullet, ball, shot, shell, or other missile may be discharged by means of gunpowder or other explosive."

- Section 878 – Prohibits the use of unlicensed guns
- Sections 879 – Listed those who are exempted from Section 878. The list includes military personnel, peace officers (including the Philippine Constabulary), prison guards, and government officials
- Section 882 – Exemption given to those people who are involved in hunting
- Section 883 – Prohibits the involvement of any individual in an unlicensed trade or deal of firearms

- Sections 884 – Empowered the Chief of the Philippine Constabulary to issue license to dealers and sellers of guns
- Section 887 – Private individuals are allowed to use firearms for self-defense and other lawful purposes

During the Second World War, the American government was forced to surrender the Philippine colonial sovereignty to the Japanese forces. To maintain peace and order, specifically to control the growth of the home-grown guerilla force, Partido Komunista ng Pilipinas (PKP) – Hukbong Bayan Laban sa Hapon (HUKBALAHAP), the Japanese endorsed Philippine government and the Japanese military forces imposed a total gun ban across the islands (Constantino & Constantino 1978; In Molina 1993)<sup>4</sup> and delegitimized the arms and ammunitions registered under the American government. The Japanese controlled the manufacture of firearms, while the underground movement acquired its firearms from the armaments of the old commonwealth government and the US military forces. When the Americans and Filipinos finally reclaimed the Philippine Islands from the Japanese in 1945, all that was made illegal under the Japanese government was again made lawful.

Post-Second World War Era. After the war, the establishment of the new Philippine state faced two main challenges in its effort to regulate firearms across the archipelago: emergence of private armies in the rural areas and the radicalization of the communist movement, the Partido Komunista ng Pilipinas (PKP). The PKP-HUKBALAHAP<sup>5</sup> was the only organized and stable non-liberal democratic political force since the arrival of the Americans at the turn of the twentieth century. It became a formidable force during the reconstruction period of the post-World War II Philippines. Inspired by its successful operations during the Second World War, the PKP-HUKBALAHAP (which then metamorphosed into Hukbong Mapagpalayang Bayan [HMB]) during this period continued its struggle against the continued presence of the elite-dominated Philippine politics, denounced the denial of congressional seats of the *Democratic Alliance* candidates, and asserted the Filipinos' right to arms through armed guerilla struggle (Molina 1993; Abinales & Amoroso 2005).<sup>6</sup> For the former, the reconstruction period of the post Second World War Philippines also allowed the local leaders to further consolidate their powers through the mobilization of private armies in their localities (Kreuzer 2009). With the relative weakness of the central government that time, most of the local political families resorted to the use of firearms and goons in asserting their political influence among the people in their respective territories (Molina 1993; Thompson, 1995; Kreuzer 2009). In response to the growing tension between HMB and the Philippine government and the proliferation of armed groups in the localities, the Roxas administration sought to bolster the extant regulative measures through the promulgation of Republic Act no. 4 (on 29 July 1946),

<sup>4</sup> According to Constantino & Constantino, 1978, the Japanese made such declaration on 19 February 1942.

<sup>5</sup> Hukbalahap or Hukbong Bayan Laban sa Hapon started as a anti-Japanese guerilla movement. After the war and after independence, the Hukbalahap merged with the communist forces.

<sup>6</sup> Democratic Alliance was a radical political party of the post-second world war composed of former nacionalistas and members of PKP. In 1957, the Philippine government, under President Carlos P. Garcia, passed the anti-Subversion law which made it illegal to join or to be part of the communist insurgency group and participate in any of its operations. See Abinales and Amoroso (2005).

calling for the surrender of all firearms across the country. Nevertheless, in its two decades of operation, the eventual retreat of the PKP-Stalinist communist movement and the persistence of the use of private armies in the Philippines did not help much on the state's effort to address the continued proliferation of firearms in the country.

Marcos Era. In 1965, Ferdinand Marcos won the presidency against the incumbent President, Diosdado Macapagal. The proliferation of private armies of prominent political families and the rising criminality in the metropolis caused internal security problems for the Marcos administration (Adkins 1973; Kreuzer 2009). Also, the persistent armed conflicts in some parts of southern Philippines indicated the inability of the Philippine state to pacify the Muslim armed groups in Mindanao. By 1972, Marcos handed down Proclamation 1081 or the Declaration of Martial Law to quell moves to oust and undermine the Philippine democratic government (Abinales & Amoroso 2005).

In the late 1960s, the Marcos government saw the rise of the Maoist-communist group, Communist Party of the Philippines (CPP) and its armed wing, New People's Army (NPA) as a major threat to national security. With the impending economic crisis, and the deepening political problems caused by continued reliance on the Americans, the communist movement rapidly grew and developed into a strong armed movement in the mid-seventies (Daroy 1988; Rocamora 1994; Thompson 1995). Since its inception in 1969, the combined armaments of the old PKP cadres and captured weapons from the military allowed the new communist movement to arm its growing number of cadres during the heyday of the martial law era (Tiglaio 1988). Also, during the period of 1969-1971, the Marcos administration faced another challenge from the Muslim local politicians and warlords. Despite the government efforts to mollify the growing unrest in Mindanao, Muslim armed militias and idealist students organized themselves to what is now known as the Moro National Liberation Front (MNLF). In addition to the military equipment and armaments it obtained through foreign backing, MNLF received other forms of foreign support such as financial (e.g. Kaddafi of Libya), military training (Malaysia) and supplies (Tun Mustapha of Brunei) (Noble 1981; Thompson 1995).

Proclamation 1081, issued on 21 September 1972, was Marcos' concrete response to these challenges. (Abinales & Amoroso 2005). In its effort to legitimize the military government and to undermine the use of firearms of both insurgents and secessionist movements, Marcos promulgated the following state policies under the Martial law regime (Molina 1993):

- General Order No. 06 – prohibition to use unlicensed firearms
- General Order No. 07 – authorizing uniformed personnel to carry firearms
- General Order No. 07-A – inclusion of other government agents to the authorization order (National Bureau of Investigation and Prison Guards)
- General Order No. 22 – laid down the guidelines on the classification of firearms

During the martial law years, various sectors responded to the repressive tendencies of the Marcos government through the mobilization of anti-Marcos

movements. Some members of social democratic organizations (e.g. Partido Demokratiko Sosyalista ng Pilipinas or PDSP and SANDIGAN) engaged in underground insurrectionist activities. The Light a Fire Movement (LAFM) was organized in April 1978, following the failure to gain leverage in the electoral exercise. The group used arson and explosives to vilify the Marcos regime. (Thompson 1995) In 1980, with the capture of some LAFM operatives, the April Six Liberation Movement (ASLM) used the same strategy and network for weapons use and operations against the dictatorship (Thompson 1995). Throughout this period, the government of Marcos used all its resources (i.e. military personnel, state agencies, media, etc.) to quell the anti-Marcos movements, and to bolster its control over firearms. It codified all presidential decrees on firearm usage, manufacturing, and dealing into PD 1866, issued in 1983 (Molina 1993).

### Contemporary Regulative Philippine State and The Philippine Firearms Industry

As pointed out earlier, the birth of the contemporary regulative state and firearms industry in the Philippines traces its roots from various historical events. Starting with the American period, the use of the administrative code of the Philippines allowed the Philippine colonial state to formally institutionalize the regulation of firearms in the Philippines. During the post-World War II era, the new Philippine independent state adopted this measure to ensure the legitimization of state monopoly over the use of arms across the country. Under the martial rule of Marcos, the Philippine government strengthened this claim on the use of firearms through the promulgation of general orders, which further strengthened the regulation of firearms in the Philippines. For the post-Marcos era (1986-Present), these regulative measures provided some stability on the political economy of firearms ownership in the Philippines.

Notwithstanding the restoration of freedom and the promise of restructuring the Philippine economy, the years that came after the Marcos dictatorship were predominantly unstable due to the periodic assaults made by numerous armed groups from the post-Marcos era. The post-Marcos Philippine state still faced an enormous task of maintaining peace and order throughout the country by addressing challenges posed by the remaining insurgent groups (NPA, MNLF, MILF), as well as by controlling private armies, proliferation of non-state armed groups (e.g. kidnap for ransom groups) and even placating the growing disillusionment of its military (Abinales & Amoroso 2005; Donnelly 2005; Fernandez 2006; Kreuzer 2009; Kraft 2010; Santos 2010b). For the Philippine government, the effort to assert its authority and legitimacy over these armed groups heavily influenced the regulation of the firearms industry.

Compared to the previous periods during which the old Philippine state functioned according to the demands of the colonial powers, the contemporary exercise of political power is conditioned by challenges from an array of armed groups, extending from both extremes of the political spectrum. To the right, is the military still trying to cling to power it enjoyed during the martial law years, hence, a total of eleven coup d'états were endured by Pres Corazon Aquino during her term (Abinales & Amoroso 2005; Santos 2010c). From 1986 to 1989, the Aquino government braved the ire of the disgruntled military personnel in

a series of coups which almost led to a disappointing defeat of the fledgling Philippine democratic state: May 1986-Loyalist Failed Coup; 06 July 1986-Manila Hotel Proclamation; 23 November 1986-*God Save the Queen* Fiasco; January 1987-GMA 7 Siege; April 1987-Black Saturday Rebellion; July 1987-MIA Foiled Hostage Attempt; August 1987-August Bloody Coup Attempt; December 1989-Three Day Siege (Abinales & Amoroso 2005; Fernandez 2006).<sup>7</sup> In an odd twist of fate, the second President after the EDSA Revolution, Former President Arroyo, also faced a number of military adventurism and radicalism: July 2003-Oakwood Mutiny; February 2006-Foiled EDSA Anniversary Uprising<sup>8</sup>; November 2007-Manila Peninsula Siege (Montesanto 2003; Coronel 2007; Hicken 2008; Santos 2010c).

Additionally, efforts to put a closure to the centuries-old Mindanao conflict did not succeed. Despite the success of the Ramos administration to appease the MNLF in 1996, Muslim armed groups continued to grow in number along



Illegal firearms proliferation is a long-standing problem that dates back from the time of colonization.

various orientations. With the eventual integration of some of the MNLF forces in 1996, the splinter group, MILF inherited the secessionist struggle of the Moro population in the southern Philippines (Santos 2010a; Abinales & Amoroso 2005). Since its inception in 1977, the MILF managed to recruit thousands of armed personnel and establish huge military bases in Mindanao (Santos 2010a). To date, despite its initial retreat in 2000, the military strength of MILF remained relatively stable due to its strong military presence in some parts of Mindanao. Apart from MILF, the culmination of the MNLF's struggle also led to the birth of another homegrown Muslim separatist group, called 'Al-Harakatul Islamiyya' or Islamic Movement or

<sup>7</sup> Depending on how one defines the concept of 'coup', the number of the attempted military takeover during the time of Aquino ranges from seven to ten. For this paper, I used the works of both Fernandez (2006) and Santos (2010c) to quantify the coups during the Aquino administration.  
<sup>8</sup> This military uprising is divided into two: 25 February foiled plan to mobilize in EDSA and 26 February stand-off in the Marine barracks in Fort Bonifacio. See Coronel (2007) for the detailed accounts.

popularly known as, *Abu Sayyaf* group (Donnelly 2005; Santos & Dinampo 2010). As a distinct group that was borne out of a dream to have an independent Bangsamoro state, *Abu Sayyaf* appropriated both the ideals and principles of the MNLF nationalistic stance and MILF Islamic orientation. Due to its size and commitment to its ideological orientations and principles, *Abu Sayyaf* uses terror-activities as its major strategy. Since 1995, *Abu Sayyaf* has been active in assassination attempts, bombings, kidnappings, mutilation and decapitation (Abinales & Amoroso 2005). In succeeding years, Muslim secessionist groups mushroomed rapidly (i.e. Rajah Sulayman Group) and later on became 'terrorists' by nature (Santos 2010b). In fact, the international community, after the September 11 attacks included these groups to a larger network of 'jihadist' operating around the world.

Turning now to the opposite side of the spectrum, the removal of Marcos and the eventual return of democracy in the Philippines forced the Philippine Left to rupture into factions and to burgeon into numerous movements with differing leftist orientations. On the one side, the communist Left or the national democratic movements (CPP-NPA and its democratic arm, National Democratic Front [NDF]) greeted the new democratic Philippine state with serious fallout among the ranks of the once strong network of communist cadres. The internal strife was rooted in the growing differences among party officials over the future of the communist Left under the new Philippine state (Rocamora 1994; Quimpo 2008). Due its unyielding commitment to the Marxist-Leninist- Maoist principles, the CPP responded with the publication of "Reaffirm our Basic Principles and Rectify the Errors" (Liwanag 1992) to silence the intra-party bickering and end the open objections of the 'counter-revolutionaries' against the leadership of Jose Maria Sison of CPP-NPA-NDF (Rocamora 1994; Quimpo 2009). This later on led to widespread party breakup along regional lines, with some recognizing the doctrinal validity of the "Reaffirm" stance (Reaffirmists or RAs) and others openly rejecting the "Stalinist faction" of Sison (Rejectionists or RJs) (Quimpo, 2008). As an offshoot of this split, this infighting erupted into the establishment of splinter groups like that of the Rebolusyonaryong Partido ng Manggagawa-Pilipinas (RPM-P) in May 1998, Partido ng Manggagawang Pilipino (PMP) in January 1999, and the Rebolusyonaryong Partido ng Manggagawa-Mindanao (RPM-M) (Quimpo 2008). In the years after the break-up, together with the CPP-NPA, these groups also adopted armed struggle as their means to engage the Philippine state (Rodriguez 2010).

On the other hand, the existence of private armed groups or armed individuals tends to challenge or undermine the government's monopoly over the use of force across the archipelago. The spate of killings allegedly perpetrated by vigilantes, gun-for-hire individuals, assassin, gangs, syndicates and even the dreaded private armies reveal government's failure to control peace and order both in the urban and rural areas. From 1993 to 2007, the average total crime committed (per 100,000 population) was 106.92 (NSCB, 2010). In the 1990s, the Philippines was confronted with kidnap-for-ransom cases involving Chinese nationals in the urban area (McCoy, 1993). During this time also, secessionist groups like *Abu Sayyaf* turned into a kidnap-for-ransom (KFR) group that set off a series of KFR cases involving both Filipinos and foreigners (Santos, 2010b; Santos & Dinampo, 2010).

The vestiges of the old armed entities of the local political families still remained as a serious threat to post-Marcos regimes (Kreuzer 2009). During elections, private armies are still used by local politicians to harass voters and opponents to entrench themselves to power (Kreuzer 2009; Paredes 2010). Prior to the 2010 elections, the problem of private armies finally erupted into an international media frenzy when close to sixty bodies were discovered in an isolated place in the province of Maguindanao. Approximately two hundred police officers and civilian volunteer organization (CVO) members were charged for allegedly executing about sixty civilians and media operatives upon the alleged orders of suspected mastermind, Andal Ampatuan, Jr. (Philippine Daily Inquirer 2010).

#### **Final note**

The past attempts at social control or regulation of the firearms industry in the Philippines was a product of its state-building effort.

The contemporary framework of governance is heavily influenced by its effort to consolidate the legitimate use of force by state actors and undermine the armed capacity of non-state actors. Some clarity is necessary, however, towards civilian gun ownership.

It has been elucidated in the chapter that the state has exerted efforts to "neutralize" the capacity of non-state armed groups. However, in as far as destructive capacity is concerned; there is a very thin line that separates a civilian gun owner from a non-state armed group member. A civilian gun owner can claim that its motivation to hold a gun is to protect property and family; a member of a non-state armed group can also say the same to justify its membership to the group. While they differ in actualizing their motivation, the capacity of both to inflict harm on others, nonetheless, is the same. Hence, this paper argues that a clear position as regards civilian gun possession be woven in the state's effort to address non-state armed groups.

## The Legal Terrain of Firearms' Ownership

Jennifer Santiago Oreta  
with Bernadette Eugenio

“Most private citizens are not qualified to possess firearms. But many citizens, nonetheless, keep unlicensed firearms in the most secret places in their residences. This is true also among government officials and employees, to include members of the Armed Forces and the Police. In the Philippines, there are clans and even small families who do not see eye to eye with each other, either for reasons of politics, agrarian problems or business competitions. To have firearms, in the Philippines, moreover, is a status symbol – of a macho image and power. With gunrunning around, firearms can be easily obtained and kept from the eyes of the law enforcers. Somehow, in a community, one would know who has the most and deadly inventory of firearms.” (Phil. Center on Transnational Crime)<sup>1</sup>

The Philippine government has implemented various initiatives to address the issues associated with the illicit trafficking in arms. The Philippine National Police has, in 2006, confiscated 5,414 firearms and 4540 persons were arrested for illegal gun possession. Likewise, by August 29, 2008, there were 9,247 applications for gun amnesty, and 8,992 were approved.<sup>2</sup> In 2009, when another gun amnesty was launched (July to Nov 30, 2009), the PNP was able to register 225,000 illegal firearms. (PNP-FED) These numbers, however, remain a far cry from the number of illegal guns in circulation (see Chapter 2).

Critics argue that the problem lies with the failure to fully implement existing laws, and the assumption that there is no deficiency with existing rules. This paper views it otherwise. It argues that there is deficiency in the legal measures due to society's ambivalence on guns, and the state's swinging position as regards civilian gun possession.

Several directives had been issued during pre-independence, but it was during Marcos's regime that laws pertaining to civilian possession of firearms have been codified. Ferdinand Marcos signed **Presidential Decree 1866** on June 29, 1983, providing for the general rules on possession, manufacture, and trade of firearms and ammunition as well as the

<sup>1</sup> No date. Office of the President-Phil. Center on Transnational Crime (PCTC) Paper On Illicit Trafficking and Manufacturing of Firearms: Philippine Context. Available online <http://www.pctc.gov.ph/papers/FA's%20illicit%20Trafficking%20&%20Manufacturing.htm> accessed Feb 2, 2009, 753am

<sup>2</sup> Col. Maligalig of PNP-Firearms and Explosive Division-Civil Security Group (FED-CGS) presentation to Phil. Action Network on Small Arms (Philansa) on Sept. 2, 2008

corresponding penalties for violations. Similarly, it also provides for the rules that govern men and women in uniform in as far as firearms possession and use are concerned.

### State Control and Civilian Possession: Legal Domain

Rules and laws are social control measures imposed by the state to create standards and parameters as regards a particular concern. They have, thus, the *flattening* effect such that their implementation is sweeping and indiscriminate.

Unlike in the United States where citizens enjoy constitutional protection to bear arms, in the Philippines, gun ownership remains a privilege. Hence, the state has within its power the authority to issue stringent measures on civilian possession. The **Revised Administrative Code (RAC) of 1917**, particularly **Sections 877 to 906**, provided the first legal definition of a firearm, and granted the Police Constabulary regulatory powers over it.<sup>3</sup> Firearms, under the RAC include “rifles, muskets, carbines, shotguns, revolvers, pistols and all other deadly weapons from which a bullet, ball, shot, shell or other missile may be discharged by means of gun powder or other explosive.”<sup>4</sup> Moreover, **Section 878** of RAC requires the licensing of firearms, **Section 879** justifies the issuance of service firearms to state security forces and deputized officers, **Section 883** requires all individuals who wish to start a business of firearms-dealing must secure a license from the government, and **Section 887** allows private individuals to possess firearms for self-protection.<sup>5</sup>

When the Japanese came, all firearms in civilian possession were confiscated, nullifying with one stroke the provisions of the Revised Administrative Code. That notwithstanding, firearms continue to circulate albeit illegally, in the black market and dark alleys, and helped fuel the guerilla movement.

The defeat of the Japanese occupation forces and the end of the Second World War in 1946 saw a society awash with firearms. The Philippine Constabulary attempted to regain control and required a general registration of firearms in civilian hands, “sending personnel in the field to register guns on the spot.” (Molina 1993, 37) But contrary to what the government wanted, the people's response was an articulation of the demand to allow open and legal civilian gun ownership. The Pambansang Kaisahan ng Magbubukid or PKM and the Huk leaders<sup>6</sup> insisted on allowing civilians to possess firearms.<sup>7</sup> The government opposed the idea especially since the demand came from a group whose ideology is directly opposed to that of the government in power. On July 29, 1946, President Manuel Roxas issued **Republic Act No. 4**, requiring the surrender of all firearms. Moreover, all rules (regarding guns/ firearms) that were imposed prior to the Japanese occupation were reinstated. The Huk leaders resisted the orders, viewing them as attempts aimed at PKM and Huk members. (Ibid)

<sup>3</sup> This move must be understood in its proper context. The Revised Administrative Code was promulgated during the American occupation hence, assigning jurisdiction over civilian firearms possession under a police-military organization is within the frame of subjugation and control, and prevent the possibility of another uprising for independence.

<sup>6</sup> Pambansang Kaisahan ng Magbubukid or PKM and the Hukbalahap, or Huk were the guerilla forces that fought the Japanese colonial forces during the Second World War

What ensued was a tug-of-war between the government's effort to strengthen its control over civilian possession of firearms on one end, and the PKM, the Huks, and their supporters' conscious resistance to the state imposition on the other.

Because of the failure of the post-war government to demobilize the guerilla movement, the oligarchic elite grew increasingly edgy due to the continued popularity of the guerilla's agenda for the poor. Slowly, they started amassing firearms and recruiting private bodyguards that eventually turned into private armies.

In 1972, when Marcos declared martial law, the state of the nation was far from what Weber had idealized<sup>8</sup>— it was a society with several nodes of governance operating in spaces that was beyond the reach of the state. (Shearing 2006) More so, security operations were far beyond the control of the government — certain parts of the archipelago were controlled by guerrilla fronts, as well as by private armed groups under the tutelage of political landlords.

The first act of the martial rule was to confiscate the firearms in civilian hands, obviously to prevent any significant force to challenge its political authority. While it effectively silenced all its critics and rounded up a significant amount of firearms in civilian hands, the guerilla group remained and, ironically, was strengthened during the repressive years. Marcos' iron grip continued even after the official lifting of martial law in 1981.

On June 29, 1983, **Presidential Decree 1866** was issued. PD 1866, codified "laws on illegal/ unlawful possession, manufacture, dealing in, acquisition or disposition, of firearms, ammunition or explosives or instruments used in the manufacture of firearms, ammunition or explosives, and imposing stiffer penalties for certain violations thereof." While seemingly innocuous, this decree was widely viewed as directed against the leftist rebels.

PD 1866 was amended by **Republic Act 8294** (signed into law on June 6, 1997), and **Republic Act 9516** (signed on December 22, 2007). RA 8294 increased the penalties for illegal possession of firearms, and included in the definition of "*unlicensed firearms*" those with expired license and/or those with license but are used without authorization, in the commission of a crime (Sec 5). RA 9516, on the other hand, clarified further the responsibilities of the owner/ financier/ manufacturer of explosives and incendiary devices, and further clarified the responsibilities of law enforcement agencies and government officials.

To this day, the Revised Administrative Code (RAC) of the Philippines and PD 1866 (as amended) remain to be the overarching rule in as far as civilian firearms' possession is concerned. However, RAC and the provisions of PD 1866 (plus the subsequent amendments) seem (delete "direly") inadequate as they are focused on penalizing those in possession of illegal guns, but do not include measures on how to go after the illegal guns in circulation. The punitive aspects of these laws obviously fail in creating a

<sup>8</sup> Weber argues that only the state should have the monopoly of the legitimate use of violence

deterrent effect as regards illegal possession of firearms. The reality is that a good number of illegal guns remain unaccounted. Moreover, PD 1866 has often been used to file charges against suspected rebels, a way to go-round-about the Hernandez Doctrine.<sup>9</sup>

Not much has changed when Cory Aquino assumed the Presidency, except after the 1989 coup attempt. **National Emergency Memorandum Order No. 6 (NEMO 6)**, issued in 1990, was a knee-jerk reaction to the attempted coup, requiring the re-registration of all civilian firearms, the inventory of all government issued firearms, and the confiscation of all unlicensed firearms. (Molina 1993) The subsequent **Executive Order 22** (1993) mandated the surrender and licensing of all loose firearms and the establishment of a central records unit. (Today, the records unit claims to have complied to the UNPoA<sup>10</sup> requirement of computerizing the FED records.) The synchronized election law (**RA 7166**), passed in 1991 provided for the legal basis of gun ban during election period. Apart from these, no significant legislation has been passed in the post Marcos period. There are, of course Letter Directives issued by the PNP Director General, but these are more elucidation of implementing rules and regulations of existing laws.

In sum, rules and regulation on firearms are, for the most part, captive by the government's wavering position (rigidity vs. flexibility) over civilian firearms' possession.

### Managing The Legal Gun Trade

Firearms laws in the Philippines basically rests on the premise that civilian possession is a privilege granted by the State. Hence, civilian owners, and even state forces acquiring firearms for private use, must secure a license. This is still within the frame of state control aimed at public safety, but may be a way to control and monopolize the legitimate use of instruments of violence.

The law enforcement agency mandated to administer the licensing of firearms is the Firearms and Explosives Division (FED)<sup>11</sup> of the Philippine National Police (PNP). The unit is also responsible in tracking down illegal guns in circulation.

Under the Civil Security Group (CSG) of the Philippine National Police, FED is the primary unit

<sup>9</sup> The Hernandez Doctrine requires authorities to file rebellion charges against suspected rebels. Since rebellion is a bailable offense, most often, however, authorities use "regular" criminal/ non-bailable offenses in the filing of charges. Violation of PD 1866 is one of the most often used charges.

<sup>10</sup> United Nations-Program of Action on Small Arms and Light Weapons (UNPoA-SALW), 2001

<sup>11</sup> FED function includes

1. To supervise and control the importation/exportation, manufacture, dealership, ownership, sale, transport, repair and carrying of firearms and ammunition.
2. To supervise and control the importation/exportation, manufacture, dealership, purchase, sale, transport, possession and use of explosives, blasting agents, explosives ingredients and other explosives materials.
3. To supervise and control the manufacture, dealership, purchase and sale of firecrackers and pyrotechnics and their ingredients.
4. To supervise and control the operation of repair shops, gun clubs, hunting clubs and firing ranges.
5. To support the PNP Units and other law enforcement agencies in the operation and investigation of firearms and explosives related cases.
6. To act as the final repository of all firearms records in the country.
7. To formulate rules and regulations pertinent to laws relative to firearms, ammunition, explosives, firecrackers and pyrotechnics, explosives ingredients and other explosives materials.
8. To conduct education on firearms and explosives laws, rules and regulations; and gun safety and responsible gun ownership seminars. (PNP-FED, 2010:6)

responsible with the implementation of the firearm laws in the country. It has the powers of supervision and control over licensing, manufacturing, trading, transferring, and carrying of firearms and ammunition, including the operation of repair shops, gun clubs, hunting clubs and firing ranges. Also, it formulates implementing rules and regulations pertinent to the firearms laws in the country and carries out the corresponding public education necessary in disseminating the rules and regulations. Its function of 'issuing the implementing rules' seems paradoxical to its function of 'supervision and control': the unit that issues the rules is also the one that implements it. Check and balance may be necessary for greater effectiveness.

**Licensing and control.** Licensing is the central method employed by the PNP to control firearms proliferation. It draws the line that separates legal from illegal firearms. The licensing process applies to both the individual wanting to legally possess a firearm, and the business entity that distributes firearms (retail or whole sale).

There are different licenses issued by the government depending on the applicant and the purpose of the firearm.

1. Regular License (RL) – issued to a private individual for his/her personally-owned firearm, and to security agencies/ company guard forces for firearms used by their security guards.
2. Long Regular License (LRL) – issued to private firms, establishments or corporations for firearms which are to be used by their employees (security guards not included).
3. Short Regular License (SRL) – for a private employee who was issued by his/her employer a firearm covered by LRL.
4. Special Permit (SP) – issued to government officials and employees for privately owned firearms.
5. Long Certificate of Registration (LCR) – Issued to government agencies or offices and government-owned or controlled corporations for firearms which are to be used by their official employees, excluding security guards.
6. Short Certificate of Registration (SCR) – for a government official or employee who was issued by his/her employer a firearm covered by LCR.

Only Filipino citizens who are at least 21 years of age and of good moral character are eligible to apply for a license. Moreover, active or retired personnel of the Philippine National Police (PNP), Armed Forces of the Philippines (AFP), Bureau of Jail Management and Penology (BJMP), Bureau of Fire Protection (BFP), the Philippine Coast Guard (PCG), commissioned officers and enlisted personnel of the Reserved Force of the AFP on inactive status, private firms, establishments or corporations, and government agencies or offices and government-owned or controlled corporations may apply for firearms license. (**S.O.P. No. 13 Firearms Licensing 2008**).

**Private ownership.** While it is true that application is open to private individuals, not everyone can apply for a license. For civilians, three qualifications apply: that s/he is (1) a Filipino citizen, (2) at least 21 years of age (except for shooting sport athletes), and (3) of a good moral character. The third qualification proves to be most problematic. The qualification "of good moral

character" is meant to ensure that the applicant is responsible and compliant to the mandate of existing laws. Hence, individuals must go through neuro-psychiatric tests and drug tests from government-accredited agencies, and a gun safety seminar conducted by the PNP or duly accredited gun clubs.

These tests are mandatory apart from the various required documents that need to be submitted, like the employment certificate, income tax certificate, professional license, business permit, assessed value of land, among others. All pertinent application documents must be filed in person either directly to the PNP Firearms and Explosives Division (FED) or through the office Provincial/City Police Directors (that serves as the FED conduit).

After all documents are filed, applicant pays the annual license fees prescribed by **Executive Order No. 256**, as amended. The applicant will then receive a Temporary License to Possess a Firearm issued by the Chief of FED-PNP that is valid until the issuance of the computerized license card. This computerized license card is good for a period of four years, renewable every two years. If the individual, however, loses his/her firearm, s/he has to pay the fine, based on **Executive Order 580**.

Renewal of the license is not an automatic process and will again subject the licensee to another series of paper works and requirements. Nevertheless, renewal is compulsory; otherwise the licensee must surrender the firearm. Not going through the process of renewal will subject the person or entity under the penalties imposed in Section 1 of P.D. No. 1866 as further amended by R.A. No. 8294, for the simple reason that an "unlicensed firearm" includes those with expired licenses (Sec.5 of RA 8294). The penalty of *prison correccional* in its maximum period and a fee of up to Fifteen Thousand pesos (P15,000.00) can be levied against the owner.<sup>12</sup>

Note that while these various documents and tests allow for a more stringent control over civilian ownership, these also provide several opportunities for corruption. It is an open secret that some centers can be bribed to get a favorable drug and neuro-psychiatric tests; and certificates can also be fabricated. In other words, the old cliché that implementation of laws is the persistent challenge remains very true in as far as gun licensing is concerned. This is therefore a matter to be considered for those advocating for greater state control on civilian gun ownership. While the intention is to ensure that only the most qualified should be entitled to secure a license, adding more requirements can also mean additional possibilities for corruption.

There are also restrictions to the number of guns and caliber that one can own.

1. Each individual may hold under license a maximum of only one (1) low-powered rifle caliber 22 or shotgun not heavier than 12 gauge; and one (1) pistol or revolver, not higher than caliber .38 except caliber .357 and caliber .22 center fire magnum and those which may later be classified by the Chief, Philippine National Police (C, PNP) as high-powered regardless of the type, make or caliber. (**Gen. Order No. 22**) This is also referred to as the "one-long-one-short" rule as to

<sup>12</sup> This amount is obviously too small in the present context. Note that PD 1866 was enacted in 1983.

the number of firearms one can own.

2. Officers and non-commissioned police officers enlisted personnel in the active service and in the retired list of the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) may hold under license a maximum of only one (1) low powered rifle caliber .22 or shotgun not heavier than 12 gauge and one (1) sidearm of any type or caliber.
3. Commissioned Officers in good standing at the Reserve Force of the AFP who are on inactive status may hold under license a maximum of only one (1) low-powered rifle caliber .22 or shotgun not heavier than 12 gauge and one (1) sidearm not heavier than caliber .45, except caliber .357 and caliber .22 center fire magnum and those which may later be classified by the Chief-PNP as high-powered regardless of the type, make and caliber.

**What about air rifles?** Under Executive Order 712 (s. 1981), the Chief of the Philippine Constabulary (now PNP) is mandated to regulate the manufacture, sale, and possession of air rifles/ pistols whose type/ caliber are enough to cause permanent maiming or death. Currently, the Department of Trade and Industry has issued guidelines on which air rifles/ pistols can be classified as toys and which must be regulated by the PNP.

Some groups, however, continue to challenge the ruling, arguing that air rifles/ pistols should be classified as toys and must not be subjected to police regulations.

However, EO 712 is no different from the rules in countries like Austria, Canada, Belgium, Israel, Austria, France, Germany, Sweden, Ireland, Italy, Japan, Poland, Portugal, and United Kingdom, that distinguish air guns as toys or as real firearm by measuring the muzzle velocity and/or muzzle energy capacity of the air gun.

Currently, the (unofficial) guide that PNP/authorities employ is simple – if the air gun has the capacity to eject a shot that penetrates a plywood, it is already considered a firearm.

While an individual may legally own a gun, a different permission is required to carry it outside one's residence/ business establishment. The law heavily regulates carrying firearms outside these premises, and its basic assumption is that the firearm is supposed to be permanently kept at home or the business establishment (as a source of protection). Under **General Order No. 6** promulgated on September 22, 1972, persons or entities are required to have a permit to carry or transport the firearm outside of the owner's residence. Application for "Permit to Carry Firearm Outside of Residence" (PTCFOR) requires another set of documents and requirements, and FED will determine if the applicant's purpose and credentials are enough to merit the permission. Note further that the PTCFOR does not allow the owner to brandish the gun in any place outside what is stated in the PTCFOR. The permit clearly specifies the areas or places where the firearm(s) can be brought, e.g. from one's residence to one's business address; or from one's residence to a specified shooting range. If the owner brings the firearm to areas not specified in the PTCOR (or the route is outside the range of the specified areas), technically, s/he can already be arrested.<sup>13</sup> **PNP Circular No. 7** issued on February 1993 serves as a guide to the control and monitoring

<sup>13</sup> Hence, upon purchase, the owner will have to apply for a PTCFOR to be able to bring his/her new firearm from PNP-FED to his/her residence. Without the PTCFOR, the firearm cannot be moved from one place to another.

of the movement of firearm by gun clubs, ensuring that they comply with the firearm laws in place or else risk penalty or withdrawal of recognition by PNP.

**Dealership.** Also required to secure FED licenses are those who intend to operate gun stores, gun repair shops, and/or to operate as *indentor* (marking system).<sup>14</sup> The licenses declare the approved maximum number of firearms, ammunition, and related items that may be imported counting the actual stock available when the application was filed. **Republic Act No. 1937** or the "Tariff and Customs Code of the Philippines" subjects all articles imported to duty even though they were previously exported from the Philippines. Specifically, the quantity of imported firearms, ammunition, raw materials for manufacturing, and the like by a licensed dealer is based on "the highest yearly importation made by concerned dealer during the past three (3) calendar years, minus current stock on hand following the ratio of 70% and 30% for low-powered and high-powered handgun respectively based on their present quantity as reflected in their approved LTO and/or Import Authority." (**PNP Circular No. 9, 2008**)<sup>15</sup> Upon arrival, the imported objects are subject to fees imposed by the Bureau of Customs and deposited to the PNP-Firearms and Explosives Division. Samples of new models of firearms when imported are subject to approval by the Firearm Classification Board to ensure quality and safety before they are made available to the public. The authority to import is issued by the Chief PNP, valid only for three years, and permission to import is granted only to the main branch that has the main license.

In the case of exportation, defective items are allowed to leave the country to be re-exported to the country of origin. (Ibid)<sup>16</sup> Also, licensed manufacturers can only "export their products to countries with whom the Philippines maintain diplomatic relations, in accordance with **Memo Circular 99-009** dated March 16, 1999..." (2008 Report on the Implementation of the International Tracing Instrument and of the SALW PoA)<sup>17</sup>

Entities or individuals who have successfully obtained firearm licenses should get their firearm from these licensed dealers (from local sources or through importation or purchase from abroad). If the firearm was acquired through transfer or sale from a duly licensed holder, the firearm should be delivered by the transfer/vendor to the transferee/buyer only after the latter has secured the corresponding license.<sup>18</sup> Outside these sources, the firearm is classified as illicit or loose firearms. Loose firearms include those acquired from unaccredited firearms dealers (illegal importation), private individuals (gun running and smuggling), locally home-made guns, agency-to-agency, losses (e.g. from AWOL Security personnel), and from criminal elements.

Clearly, the government is very strict with the compliance of applicants to the many requirements to secure a firearm license. Note that in the case of

<sup>14</sup> Marking system. As per FED Memorandum dated Aug 15, 1997, major part of the gun - barrel, slide, and receiver – must have distinctive or unique marks of the manufacturer

<sup>16</sup> Members of PNP and AFP with authority to purchase FAs while travelling abroad is subject to the following requirements 1) Letter of request addressed to the Chief PNP; 2) Letter of authorization of the unit commander to travel abroad; and 3) Command Clearance from the Director of Intelligence (DI) for PNP members, and Deputy Chief of Staff for Intelligence (J2) for AFP members

individual applicants, there are additional requirements that are specific to the kind of license that is being applied for and the profession of the applicant. Some firearm dealers or sellers offer to arrange all the paperwork for the customer, who would only have to submit the documents needed. But this route is still a long, rigid, and detailed process.

Other rules relevant to Dealership are: (1) Memorandum Circular No. 03-2006, dated 8 March 2006, "Export of Defense/ Military Items, Commercial Firearms, Ammunitions, and Explosives"; (2) HPC SOP No. 4, dated 2 Nov 1972, "Sale of Firearms to Police Forces and Security Agencies"; (3) Memorandum Circular 99-009, dated 16 March 1999, " Policy on Firearms and Ammunition Dealership"; and (4) PNP Circular No. 9, dated 14 Feb 2008, "Policy on Firearms and Ammunition Dealership/ Repair.

**Record-keeping.** The huge amount of paperwork is essential for the government to file records of the entities and their respective firearms circulating in the Philippines. Record-keeping is a task that falls under the FED. A permanent record of all the transactions in relation with the firearms is kept by the FED and will be open for inspection if necessary.

A Ballistic Test Report and Stencil form must also be attached to the application for the firearm license. Every firearm under application is test-fired for ballistics and its make, caliber and serial number is stenciled. The FED issued a memorandum on "**Firearms Description**" on August 15, 1997, requiring the marking and stenciling of serial numbers in at least three main parts of the firearms – the receiver, barrel, and the slide. These markings are unique to each firearm, identifying the manufacturer through their trademarks required by the FED for easy identification and could also be used to identify its country of origin.

These tests can be done either at FED office at Camp Crame or in the office of the Provincial/City Police Directors. The Ballistic and Stencil Reports are useful in tracking down the owner of firearms if used unlawfully.

At present, FED has computerized the records to systematically track down firearms, their parts and components. Called FIMS (Firearms Information Management System), it allows the identification and verification of an owner's firearms. However, this system is still reliant on the voluntary cooperation of dealers. A legal rule is still necessary to require companies to fully disclose relevant information as regards arms production and sales. (2008 Report on the Implementation of the International Tracing Instrument and of the SALW UN PoA).

There are also gaps in the record-keeping of FED and the actual tracking of existing records, resulting to a sluggish collection of documents and information on persons, entities and firearms. These data are not utilized to their full potential due to the volume of information, coupled with a lack of clear mechanisms to proactively use them to identify violators.

**Storage.** The FED serves as the receiving end of all the firearms records in the country and is the sole repository for all imported and locally manufactured firearms and ammunition, as well as the Confiscated, Captured, Surrendered, Deposited, Abandoned and Forfeited (CCSDAF) firearms. The Storage Branch of FED is responsible for the all the firearms delivered for safekeeping and for storing the inspected and recorded arms in classified vaults located at the PNP National Headquarters in Camp Crame. The storage is given maximum security. The following guidelines are observed to keep the storage safe and secure:

- "The storage vault shall only be used for safekeeping of firearms and ammunition. It shall not be used as an office, sleeping quarters, dining and snack area, smoking area, loitering area and other. The complement of a storage space is steel vaults, the stocks consisting of firearms and ammunition and fire extinguisher. Office tables, chairs, typewriters, computers and voluminous records are not allowed inside storage vaults. Only the store man and armorer of each dealer shall be allowed to stay inside the storage vaults;
- Only licensed gun dealers with designated storage vaults shall be allowed inside the storage vaults. The number of storage personnel per dealer shall depend on the size of their business. Identification cards shall be issued for this purpose;
  - A "No I.D., No entry" policy shall be implemented within the storage area
  - FED organic personnel and other PNP members having official business with the Storage Branch shall be allowed up to the storage office only. The storage vaults are declared off-limits to them
  - All persons transacting business with any firearm dealer or representative must transact business outside the storage office. The storage vault is absolutely off-limits to customers of firearm dealers
  - Only vehicles of FED personnel shall be allowed inside the storage parking area
- The storage vaults shall be opened at 9 am and closed at 5 pm, Monday to Friday. After 5 pm, no transaction shall be entertained except for the delivery of firearms from the Ninoy Aquino International Airport-Customs or local factories;
- Only limited personnel and employees of firearms and ammunition dealers will be allowed to enter the storage vault area. In this regard, dealers are classified according to their volume of importation.<sup>19</sup>; and
- Dealers in the provinces without any vault inside the storage shall be entitled to one (1) representative each.
- To claim the firearms imported by licensed dealers and stored in their designated storage vaults, each licensed firearms dealer must bring the appropriate license cards (including permit to possess, or, if no permit exists, an application must be made then and there and the permit must be issued before any claim is made) and identification cards. If the claimant is a duly assigned and identified

<sup>19</sup> Dealers whose total importation exceeds one thousand (1,000) firearms shall be classified as big dealers while those dealers whose importation is less than 1,000 down to 500 firearms shall be considered as medium. Those dealers with importation of less than 500 firearms and those without any importation are considered small dealers. Dealers with several branches but owned by a single proprietor shall be considered as one dealer. Each big dealer is authorized five (5) identification cards to be issued to them and their storage personnel. Medium dealers are authorized four (4) identification cards and small dealers are authorized three (3) identification cards

representative of a government agency, the representative must bring with him, in addition to the above-mentioned requirements, an appointment order from his government agency.”<sup>20</sup>

All the firearms entering the country are necessarily recorded in the Firearms Information Management System (FIMS) database. There also exists a Firearms Records Verification (FRV) that tallies the total number of firearms in the possession of an agency.

Given the intricacies and rigidity of storage rules, one cannot help but wonder how (allegations of) gun-running persists.

The Firearms and Explosives Division supports related PNP Units and various other law enforcement agencies in the operation and investigation of firearms and explosives law. These agencies include, but are not limited to, the Department of National Defense for its direct access to and use of firearms, the Department of Justice for prosecution of the cases pending the illegality of the firearms or the use thereof in other cases, and the Department of Finance for the remunerations related to firearms and other impositions for both export and import of firearms.

Just the same, since controlling firearms cannot be done by the PNP-FED alone, inter-agency cooperation among the different units involved is crucial in solving the issues concerning firearms’ control and supervision.



Gun Statue in Phnom Penh, Cambodia (courtesy of MP Son Chhay, 2007)

### Exerting Control on the Illegal domain

**Expired license.** Non-renewal of expired license is a major concern of FED, given the consistently low turnout in annual renewal. This may be due to the tedious paper work associated with renewal. It can also be due to a rule – that is, once there is delay in renewal (e.g. one day), the firearm is automatically categorized as ‘illegal,’ and hence, the owner faces the legal consequences of owning an illegal firearm. While there is a proposal to allow for a grace period for owners whose situation would certainly result to delay in renewal (e.g. out of the country on the due date of license renewal), such remains in the drawing board of Congress.

The non-renewal of license creates a multitude of problems to FED. Fundamental of which is the fact that the agency has no way to determine if the firearm remains in the hands of the original owner, has been illicitly traded or was lost.

What the government has done to remedy the problem was to declare “gun amnesties.” This is a grace period that removes the legal penalties associated with expired license or having no license at all. It aims to entice people and entities to cooperate with the government and have their guns listed by making the process simpler, and the fees lower. From the point of view of authorities, having a list (of illegal and loose firearms) is better than having none at all. The problem, however, is that offering too many gun amnesties discourage owners from going through the licensing process (which is meant to weed out undeserving owners) and simply wait for the next declaration of gun amnesty. It does not only reduce the income of the government from firearms renewal fees, it also allows non-deserving owners to slip through the process.

The last of these amnesties<sup>21</sup> was **Executive Order No. 817**, providing for the implementation of a Final General Amnesty for all individual and juridical entities to renew their expired licenses and/or register their unregistered firearms with the PNP from October 1 to 30 of 2009 (Section 2).

Renewal of expired firearm licenses is just one issue out of many that aggravate the situation of loose firearm proliferation in the Philippines. Policies have to be made regarding abandoned arms as well. Neglect in making sure that abandoned arms are in the possession of the proper authorities contributes to the number of loose firearms.

**CCSDAF Firearms.** Based on the Implementing Rules and Regulations of Executive Order 817, 7 July 2009<sup>22</sup>, Captured, Confiscated, Surrendered, Deposited, Abandoned, and Forfeited (CCSDAF) firearms and ammunition are as follows (also found on **PNP Circular No. 5 Series 2005**, dated 10 Dec 2005):

- 1) *Captured Firearms*: those recovered during military and/or law enforcement encounters;
- 2) *Confiscated Firearms*: those seized from the possession of owner(s), by virtue of law enforcement operations like serving search warrant, *Oplan Bakal* or any operation of Special Laws;
- 3) *Surrendered Firearms*: are firearms turned-in by owner or any person (natural or juridical) at authorized repositories of PNP-FED;
- 4) *Deposited Firearms*: are firearms deposited to the PNP by individuals or juridical persons for safekeeping for a particular period of time as well as for future licensing and those deposited in court as evidence in pending cases;
- 5) *Abandoned Firearms*: are those deposited by the owner in the custody of the PNP which he/she failed to claim after five (5) years from the date of deposit. Same shall be forfeited in favor of the government without need of any proceedings; and
- 6) *Forfeited Firearms*: are firearms acquired by the government through summary process or by order of the court.

<sup>21</sup> There were 11 other amnesties offered, from the time of Pres. Cory Aquino. EO 817 is the 12<sup>th</sup> gun amnesty.

In general, CCSDAF firearms obtained by the Local Police Units and the Armed Forces of the Philippines are turned over to the Storage Branch of the PNP-FED to be recorded, classified, and acted upon.<sup>23</sup> Abandoned firearms and ammunition for more than five years will be reverted to government ownership.

The following are the regulations in as far as CCSD firearms are concerned:

1. All CCSD firearms, ammunitions and explosives are accounted for by the City/Municipal Police Station, Police District, PNP Mobile Groups, or Ordinance Unit. The PNP Provincial or Regional Directors and Chief are the officers responsible for the initial storage and security of the firearms. The respective unit has to submit a complete report to PNP Provincial Office through their respective Provincial Property Officers. The CCSD firearms are then ready for turn-in to PNP-FED head office (at Camp Crame).
2. After the reports are made, and after securing a corresponding permit from the Chief of FED to transport, the firearms are turned-in at the FED Storage Warehouse. The FED then becomes the responsible agency for storing and securing the CCSD firearms, ammunition and explosives.

Should these arms be verified as licensed or registered, they will be deposited for safekeeping with the Firearms and Explosives Division. FED will then do an inventory, inspection and classification on whether the firearms are usable, recyclable/ repairable, or disposable. Note that all CCSD firearms are to be stored separately from the other arms in the custody of the PNP.

3. Lastly, the act of disposition depends on the firearms' classification. If it is classified as serviceable, the firearms will be transferred without cost to PNP, with a corresponding certificate of registration issued by FED. If it is classified as Repairable, the same rule as that of a serviceable firearm applies.<sup>24</sup>

Reusable parts will be salvaged for use from non-useable firearms, while the remaining parts will be destroyed and disposed through melting under the presence of Commission on Audit (COA) representatives, in accordance with other existing policies and audit regulation.

Part of the difficulty with CCSDAF firearms is, again, record-keeping. A better accounting of all the CCSDAF firearms is needed in order to ensure that they will not cross over to the illicit trade. In case a unit loses the CCSDAF firearms in its custody, there are administrative penalties that must be levied. This, however, is another loophole. The PNP-FED is oblivious on the amount of CCSDAF firearms in the custody of other units, and is totally dependent on reports submitted to it. Hence, there is a high risk of under-reporting on the actual amount of CCSDAF firearms (and the unreported FAs entering the illicit market). There is also a possibility of wholesale non-reporting of CCSDAF firearms, which eventually end up also in the illegal trade.

Theoretically speaking, it is the officer in charge that is responsible in ensuring that rules and regulations

<sup>24</sup> However, repairing will be the responsibility of PNP Logistic Support Service.

are followed. In the end, however, the effectiveness of the social control mechanisms spells the difference.

In terms of inter-agency cooperation, the law is very clear that CCS (captured, confiscated, surrendered) firearms under the custody of the AFP must be transferred to the PNP. There is an issue, however, of turf in these units. Since some of the CCS firearms are still reusable, there seems to be some silent competition regarding which agency- the AFP or PNP- is entitled to reuse these firearms.<sup>25</sup> Thus, while the rules of procedure require all government units to turn over all CCSDAF firearms to the PNP-FED, in actual practice, those turned-over to the FED are only the non-usable or disposable firearms.<sup>26</sup>

The fact that there is no specific unit within FED that handles CCSDAF cases adds to the problem of accounting. This is an issue that needs to be seriously tackled instead of simply looking at it as one of the many factors that contribute to the proliferation of loose firearms.

Firearms in **custodia legis** are those that are in the custody of a court or the prosecutor's office for safekeeping, and intended to be used as evidence in the prosecution of a case. On September 11, 1998, the Supreme Court issued **Circular no. 47-98**, "Disposition of Firearms, Ammunition or Explosives in Custodia Legis," directing all judges and clerks of court of municipal, regional, and Shari'a courts, to turn over all firearms to the PNP-FED *only* upon the termination of the cases or when they are no longer needed as evidence." (italics supplied)

Along this line, the PNP Letter of Instruction (LOI) of 23 July 2009 created a **Joint Firearm Control Desk (JFCD)** in all AFP Camps, law enforcement agencies, local government units, government-owned and controlled corporations, and other judicial entities. The LOI laid down the procedures for the accounting of firearms under custodia legis.

Whether or not PNP-FED subjects the turned-over *custodia legis* firearms to the same rules as that of the CCSDAF firearms, is, however, not clear.

Moreover, other issues that must be raised are: who monitors the pendency and the eventual closure of court cases that involve firearms as evidence? Is there a deadline or a grace period for courts when it is supposed to turn over the firearms after the resolution of the case? Are there penalties in case the court loses the firearm-evidence?

The challenge with the rules of custodia legis exhibits exactly how coordination between the agencies affects the state of firearms control in the country.

The concerns above not only highlight the necessity to re-envision a restructuring of PNP-FED to allow it to develop more responsive strategies and guarantee an efficient implementation of firearms laws. It also brings into discussion the importance of inter-agency cooperation.

The National Law Enforcement Coordinating Committee (NALECC) has been formed to help in the communication between different implementing

<sup>25</sup> Note that the UN Program of Action (2001) on Small Arms and Light Weapons suggests that all CCSDAF firearms are destroyed, to prevent their possible leakage to the illicit trade.

agencies involved, as well as in evaluating the actions of these agencies. The effectiveness of this coordinating body, however, remains to be seen.

### Fighting Fire with Fire – Penalizing Violators

The penal components regarding the violations of firearms law is governed by Presidential Decree No. 1866, as amended by RA 8294, and RA 9516. There are, however, limits to the law that needs to be addressed:

The unlawful manufacture, sale, acquisition, disposition or possession of firearms or ammunition or instruments used or intended to be used in the manufacture of firearms and ammunition receive a penalty of prison *correccional* in its maximum period with a fine of not less than P15,000.00. These penalties imposed by R.A. No. 8294 take into consideration the type of gun in question. As such, a high-powered firearm for instance would warrant a more severe punishment. The penalties of prison mayor in its minimum period and a fine of P30, 000.00 are imposed for possession of illegal high-powered guns.

It should be noted that these penalties are operative in the instances that no other crimes are committed. Should these unlawful acts be committed in aid of homicide or murder, the possession of illegal firearm would be regarded as aggravating circumstance but the charge that will be filed is that of the (supposedly) graver offense. Critics argue that this procedure undervalues the crime of illegal possession of firearms and propose instead that rather than subsume the “lesser” crime (of illegal possession of FA) to the graver offense, the offender must be charged with separate offenses – that of illegal possession of firearms, and the crime s/he committed using the illegal firearm.

Quite obviously, the amounts specified in the law are grossly undervalued, another reason why the existing laws have to be amended. But more than the amount, the law also needs to be updated. For instance, the fact that illegal possession of firearms simply becomes an aggravating offense to the ‘major’ offense defeats the whole social control agenda on firearms proliferation.<sup>27</sup> The classic case that can be cited here was the Ampatuan, Maguindanao massacre in November 2009. Despite the cache of arms and ammunition found in the possession of the Ampatuan family, the lawyers tried to have the charges filed as “rebellion”<sup>28</sup> (rather than murder or massacre), obviously attempting to overshadow altogether the fact that the firearms, weapons and ammunition recovered are enough to arm a whole battalion, literally.

The burden of the penalties, however, is not only borne by the person who wielded the firearms or ammunition unlawfully. The owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity is also liable should s/he willfully or knowingly allow the use of any of their firearms. Violations relating to explosives and detonation receive a different and greater penalty.

Tampering of the serial numbers of the firearms, which are crucial in identifying and tracking firearms, are also penalized. Section 5 of PD 1866 as amended tackles this violation by imposing the penalty of *prison correccional* to any person who shall “unlawfully,

<sup>27</sup> Currently, there is a pending proposal in Congress, meant to treat the illegal possession of firearms as a separate offense from that of the other crime committed.

tamper, change, deface or erase the serial number of any firearm.”

**Executive Order 256** is the basis of fees that must be paid related to firearm licensing. This issuance is complemented by **Executive Order 580** which imposes an administrative fine for loss of firearms regardless of the type or caliber covered by Special Permit or Certificate of Registration, and permanently disqualifies the person from obtaining a license after losing the registered firearm for a third time.<sup>29</sup>

Having one’s firearms licensed allows the law enforcers to exercise their social control function. The penalties are all meant to tighten firearm control through the imposition of stricter rules and stiffer penalties. Still, the state of loose firearms in the country is worsening. In order to combat the increasing number of loose firearms, the government has to improve their action. But more than this, the state has to clearly spell out its position as regards civilian ownership of firearms. At the moment, the attitude of the state wavers – from tightening control (e.g. during the time of Pres. Cory Aquino) to relaxing the rules (e.g. during the time of Pres. Estrada). This wavering attitude sends mixed signals to the population, and since the *black and white* rules are not clearly communicated, the *gray* area expands further.

### Global-Local dynamics

The problem of proliferation of loose firearms is not confined to a singular state. This was the spirit behind the “UN Programme of Action (UN-POA) to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) In All its Aspects” that was adopted in the UN meeting in New York on July 9 to 20 of 2001.



PhilANCA members during the Peoples Consultation 2007

The Office of the Special Envoy on Transnational Crime (OSETC) is the Philippines’ national coordinating agency that links with national, regional and global institutions that address

<sup>29</sup> Circular No. 2 or the “Annual Verification of Firearms” promulgated on September 11, 1990, gives the Chief of the Philippine National Police the authority to inspect all the firearms in the custody/ possession of the police force. Administrative penalties are imposed on police officers that lose a firearm.

transnational crimes. It is the primary unit that monitors the Philippine state's compliance to the UN-POA on SALW.<sup>30</sup>

As of 2009, the permanent mission of the Philippines to the United Nations, enumerated what the Philippine government has done so far to accomplish the mission of the UN-POI against the illicit trade in SALWs

- (1) "maintaining appropriate partnerships with the local firearm industry, private security providers, gun clubs, and civil society" (for example, PNP Circular No. 7 issued on February 1993 serves as a guide to the control and monitoring of the movement of firearm by gun clubs, ensuring that they comply with the firearm laws in place or else risk penalization or withdrawal of recognition by PNP);
- (2) enforcement of existing laws to prevent the illicit transfer of SALWs (3) sharing "information on illicit transfers with like-minded States through international instruments" (for example, the "Agreement on Information and Exchange and Establishment of Communication Procedures");
- (4) controlling export and import of SALWs and not re-exporting or re-transferring previously imported SALWs (for example, requiring/ using End User Certificates or Letters of Intent in export-import transactions).<sup>31</sup>

In the final analysis, it remains to do inter-agency cooperation within the Philippine government, and with outside agencies (regional and international agencies) to effectively address the implementation issue. But as equally important with the consistent implementation of laws is the updating of existing rules and regulations, to cope with new challenges in regard to firearms proliferation.

<sup>4</sup> Cited in Molina 1993: 27

<sup>5</sup> *ibid*, 28-29; Sec 887 of RAC is the precursor of the present rule re civilian gun ownership

<sup>7</sup> Constantino 1987, cited in Molina 1993, 38

<sup>15</sup> PNP Circular No. 9 or the "Policy on Firearms and Ammunition Dealership/Repair" dated February 14, 2008

<sup>17</sup> also available online, see <http://www.un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/1NationalReports/Philippines.pdf>

<sup>18</sup> Standard Operating Procedure No. 13 revised October 08, 2008

<sup>20</sup> Information based on *Report of the Republic of the Philippines on implementation of the UN PoA on SALW*; and PNP memorandum issued on 20 June 1995

<sup>22</sup> Available online, <http://www.pnpcsg.org/CSG/irrtexo817.html> accessed April 22, 2011

<sup>23</sup> PNP Circular No. 5 Series 2005 approved for implementation on December 10, 2005

<sup>25</sup> Note that the UN Program of Action (2001) on Small Arms and Light Weapons suggests that all CCSDAF firearms are destroyed, to prevent their possible leakage to the illicit trade.

<sup>26</sup> Based on formal and informal discussions with former PNP-FED officials between May to Aug, 2010.

<sup>28</sup> There are several reports re the Ampatuan massacre. See for instance <http://www.gmanews.tv/story/187771/charges-mulled-vs-ampatuans-over-illegal-firearms> accessed Dec 23, 2010

<sup>30</sup> See OSETC webpage <http://www.poa-iss.org/CountryProfiles/CountryProfileInfo.aspx?Col=156&pos=1000> accessed April 22, 2011

<sup>31</sup> Statement by Mr. Raphael S.C. Hermoso at the Thematic Debate on Conventional Weapons of the First Committee, 64<sup>th</sup> General Assembly, New York, 20 October 2009.

## Appendix 1

### Annual License Fees: Civilian Ownership

Based on Executive Order 256: Rationalizing Fees and Charges on Firearms, Ammunition, Spare Parts, Accessories, Components, Explosives, Explosives Ingredient, Pyrotechnic and Devices, on 21 Dec 1995 (revising Exec. Order 58)

1. Rifle Caliber .22	P180.00 (approx US\$4)
2. Shotgun (all gauges)	P210.00 (\$4.67)
3. Pistol/ Revolver Caliber .22 (ordinary)	P240.00 (\$5.33)
4. Pistol/ Revolver Caliber .25; .32; .38; .380; .9mm; 7.65; 6.35; and Magnum .22 rim fire	P360.00 (\$8)
5. Pistol/ Revolver caliber .357; .40; .41; .44; .45; Magnum .22 center Fire	P400.00 (\$8.89)
6. HP Rifles	P800.00 (\$17.78)
7. License Card	P150.00 (\$3.33)

at conversion rate of \_\_\_\_\_

US\$1 = PhP45.00

*(Note: please make sure this goes to the section on Appendix)*

## The Firearms Industry

Jennifer Santiago Oreta &

Arjan Aguirre

### Global Context

It is useful to present some figures to contextualize this chapter's discussion. In 2004, the value of conventional arms transfer (deliveries) in the world amounted to US\$34.75 billion, (CRS 2005)<sup>1</sup> and the top five arms exporters in the developing nations, as of 2004, were the United States, earning US\$ 6.9 billion; Russia, US\$5.9 billion; United Kingdom, US\$ 3.2 billion; Israel, US\$1.2 billion; and France, US\$ 1 billion. (CRS 2005 27) Notice that these same countries, except for Israel, are also the permanent members of the UN Security Council. It is hard to ignore that the countries that are supposedly responsible for maintaining peace in the global community are also the ones who profit the most from producing the instruments used in perpetuating conflict.

To date, the following are the major arms producers in the world --

**Table 5.1 : The Largest Arms-Producing Corporations in the World, 2010**

	Company	Country	Continent	Arms Sales	Overall Company Profit
1	BAE Systems	United Kingdom	Europe	US\$ 32.420 bn	US\$ 3.250 bn
2	Lockheed Martin	United States	N. America	US\$ 29.880 bn	US\$ 3.217 bn
3	Boeing	United States	N. America	US\$ 29.200 bn	US\$ 2.672 bn
4	Northrop Grumman	United States	N. America	US\$ 26.090 bn	US\$ 1.262 bn (loss)
5	General Dynamics	United States	N. America	US\$ 22.780 bn	US\$ 2.459 bn
6	Raytheon	United States	N. America	US\$ 21.030 bn	US\$ 1.672 bn
7	EADS	Trans-European	Europe	US\$ 17.900 bn	US\$ 2.302 bn
8	Finmeccanica	Italy	Europe	US\$ 13.240 bn	US\$ 0.996 bn
9	L-3 Communications	United States	N. America	US\$ 12.160 bn	US\$ 0.949 bn
10	Thales	France	Europe	US\$ 10.760 bn	US\$ 0.952 bn

Source: Stockholm International Peace Research Institute, June.02.2010

Note that the players are more or less the same compared to five years past (2004 to 2008), where the top five suppliers of conventional weapons were the United States (31%), Russia (25%), Germany (10%), France (8%), and the United Kingdom (4%). "Around 71 per cent of Russian arms were exported to the Asia-Pacific region for 2004-2008, with deliveries of advanced combat aircraft and naval vessels to China and India accounting for a considerable share." (SIPRI Background Paper 2009)

On the other hand, the largest importers of major conventional weapons continuously change. "For the period 1980-1984 the five largest recipients of military equipment—Iraq, India, Libya, Syria and Egypt—accounted for 26 per cent of total imports. For the period 2004-2008 the top five—China, India, the UAE, South Korea and Greece—accounted for 35 per cent of all imports." (Ibid) While it may seem that there is an emerging shift in destination, from the Middle East to Asia, recent data suggests that there is a reverse shift, making again the Middle East as the major destination of military equipment. "Nonetheless, in recent years the composition of the list of largest recipients has remained relatively stable. China and India were the world's two largest arms importers for both 1999-2003 and 2004-2008." (Sipri 2009)<sup>2</sup>

Based on value and volume of production, total employment, range of small arms products (including ammunition), number of companies, global distribution and use of products, the Philippines is considered a 'small' arms producer (see Appendix 1)

Some terminologies need to be defined before proceeding:

**Ammunition:** are cartridges (rounds) for small arms; shells and missiles for light weapons; mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems; anti-personnel and anti-tank hand grenades; and landmines. (Report of the UN Panel of Government Experts on Small Arms 27 Aug 1997)

**Illegal black market transfers** (from Small Arms Survey 2001): "In clear violation of national and/or international laws and without official government consent or control, these transfers may involve corrupt government officials acting on their own for personal gain." (Small Arms Survey 2001 167)

**Illicit grey market transfers** (from Small Arms Survey 2001): "Governments, their agents, or individuals exploiting loopholes or intentionally circumventing national and/or international laws or policies" (Ibid)

**Legal Transfers** (from Small Arms Survey 2001): "These occur with either the active or passive involvement of governments or their authorized agents, and in accordance with both national and international law." (Ibid)

**Small arms:** are revolvers and self-loading pistols; rifles and carbines; sub-machine guns; assault rifles;

<sup>2</sup> The most significant change in the composition of the five largest arms importers in recent years has been the entry of the UAE, which rose from being the 16th largest importer in the period 1999-2003 to being the third largest for the period 2004-2008. SIPRI Background paper April 2009. Available online <http://www.unidir.org/pdf/activites/pdf14-act432.pdf> accessed July 1, 2011

light machine guns. (Report of the UN Panel of Government Experts on Small Arms 27 Aug 1997)

**Light weapons:** heavy machine-guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns, recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; mortars of calibers of less than 100 mm. (Report of the UN Panel of Government Experts on Small Arms 27 Aug 1997)

The firearms industry acts as the formal hub that facilitates the transfer and trade in firearms in a given society.<sup>3</sup> In addressing the demand for guns, the industry systematically facilitates the creation, distribution or ownership of firearms through its interrelated market institutional mechanisms (Wintemute 2002).

The firearms business is now among the important industries in the globalizing market economy (Cukier and Sidel 2006). In 2006, more than 1,200 companies worldwide registered a staggering total income of \$4 billion (Small Arms Survey 2006). This figure translates to more or less 875 million small arms worldwide (Small Arms Survey 2007). Note that in 2001, 10 to 20% of the total trade was reported to have been done illicitly (Small Arms Survey 2001: 167-168).<sup>4</sup>

**Production and Trade.** The production stage entails a long production line of gun design conceptualization, assembly of components, detailing of finished products, ballistics check, and markings. Similar to other industries, the components needed for gun production are not manufactured by one singular company but of many. Some parts are clearly identified with gun production, like the barrel, firing pin, and muzzle, among others. The major parts of a firearm, in fact, are the parts proposed to be 'marked' and regulated in the 2001 UN Program of Action (UN-POA).

But other parts are innocuous and are in fact used for other purposes (also referred to as 'dual use technology'), e.g. the spring, camera lenses (used in reconnaissance system glass), and semi-conductor chips. Japan and Germany, for instance, are leading players in the international market for 'dual-use' technology. A number of its *non-military* export actually ends up as a component part of conventional arms export. Since these items seem harmless, including them in the list of items to be regulated becomes tricky.<sup>5</sup>

The finished products are sent to various local and foreign distributors. Gun retailers allow civilians to have access to these instruments, while wholesale distributors target not just the retailers, but more importantly, state-clients.

State to state transfer occurs through bilateral sales or military assistance programs, while civilian markets cover both local and foreign markets. "While marketing of small arms to governments is based on high-level negotiations behind closed doors,

<sup>3</sup> In 2004, *Small Arms Survey*, in its count, estimated that there more or less 1,200 companies operating in the industry. See *Small Arms Survey* [Graduate Institute of International Studies, Geneva], 2004. Oxford: Oxford University Press, 7.

<sup>4</sup> The *Small Arms Survey* is a project of the Graduate Institute of International Studies, Geneva

the marketing of firearms to consumers is evident on a daily basis through advertising, associations and even entertainment media." (Cukier and Sidel 2006: 86)

With the Cold War officially over, the global firearms industry has progressively shifted to the civilian market. This has dramatic effects in fueling intra-state conflicts by increasing access and availability of firearms to civilians.

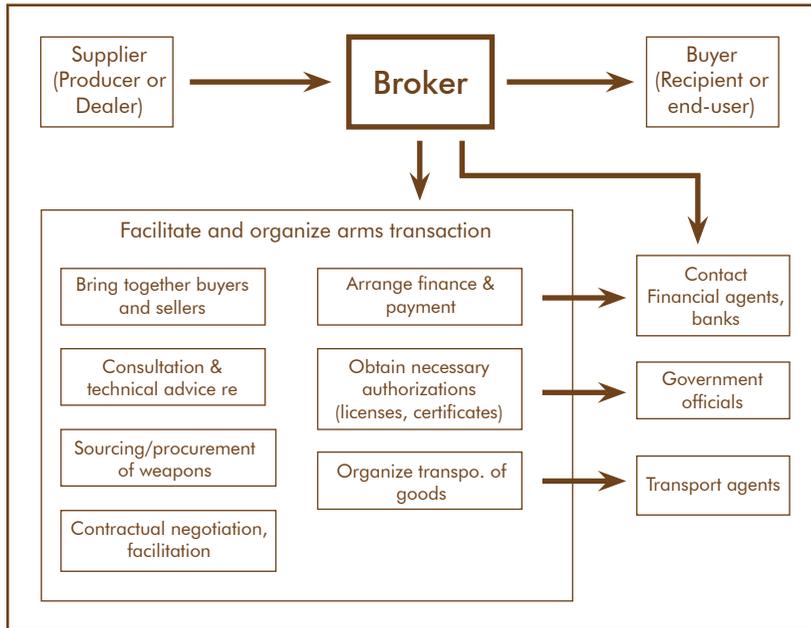
Among the drivers of increased usage of small arms in conflict include: (See Cukier and Sidel 2006: 85; ICRC 1999)

- **Durability:** assault rifles can remain operational for twenty to forty years, with minimal need for maintenance
- **Portability and easiness to conceal:** because of its small size, they are easy to transport and/or smuggle along legitimate goods
- **Simplicity:** they do not rely on the user's strength, they put weaker individuals on an equal defensive footing
- **Lethality:** some automatic rifles are capable of firing several rounds (blanket firing) and require minimal skills to use

Behind each stage of the production line and market transactions is a chain of interconnected phases and openings for the illegal industry of gun making and trade to flourish (Cukier & Sidel 2006; Efrat 2010). Like the legal trade, the covert market shares some systemic and organizational features present in all the gun businesses. The underground manufacturing and trade of guns uses the same economic logic of how to gain profit in the capitalist market. Due to its ability to skirt legal norms and practices of the larger capitalist market, it generates more profit than its legal counterpart. As seen in most countries today, the economic success of the liberal (unrestricted) arms transactions is usually higher during moments of crisis or times when there is relaxation of state regulative power (Kramer 2001; Della Vigna & La Ferrera 2007), where the relative weakness of state control opens the door to the economic actors to intensify their illegal transactions. During period of 'no-conflict,' the illegal industry uses every moment of state ineptitude to transact more than what are allowed. (Cook, Molliconi, & Cole 1995; Brinkert 2000; Green 2000; Kopel 2000; Wintemute 2002).

**Brokers and Agents.** The chain that links the producer and the buyer is the 'broker' or the agent. Brokers are the ones that facilitate and organize weapons flow. Given its nature and function, brokers are (SAS 2001:98):

- **Independent/ autonomous:** Most act as 'middlemen' and brings together buyers and sellers. They often serve as arbitrators or third party witnesses to the transaction.
- **Experts:** They possess considerable technical and marketing know-how, abreast with the easiest transport routes and financial modalities, and have a large network of contacts, collaborators, and experts in the business.
- **Managers:** They have a high level of management skills to be able to maintain a complex network of contacts, intermediaries, and (possible) sub-contractors that are involved in any given transaction



**Figure 5.1 Simplified schema of the Broker's role (based on SAS 2001:99)**

“Considering the transient, intangible, and invisible nature of facilitating and arranging deals, brokers often do not even see, much less take concrete possession of the weapons they procure. As a result, they cannot easily be held legally accountable under contractual arrangements based on the notion of ownership.” (Ibid 98) Given the important, if not central role that brokers play, as well as their seemingly imperceptible nature, they are usually suspected of engaging, if not fuelling the illegal trade.

Illicit transactions usually operate in the ‘grey weapons market.’ “Grey market transactions...are commonly understood to encompass only those small arms transfers that are legally endorsed or not regulated or those that take place covertly, with either the tacit or explicit support of governments. Covert (secret) transactions may either be legal or illicit, depending on whether they have violated the sanctioning state’s laws. Organizing arms transfers beyond the pale of the law – yet not in open violation of it – is a form of expertise that only the most astute brokers possess. They can bring this to the negotiating table in at least two ways:

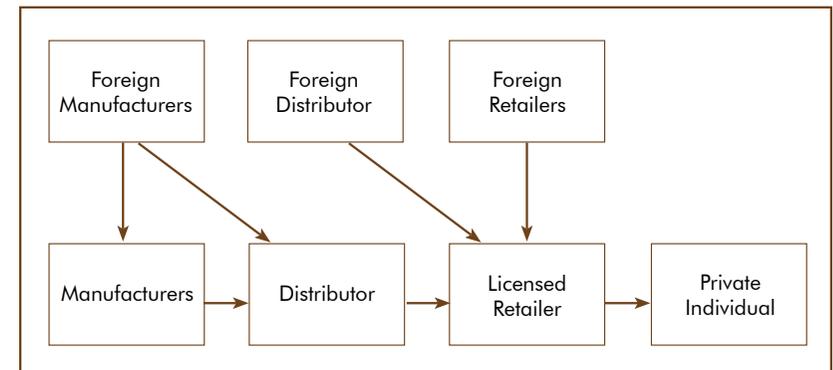
- a. “Many brokers depend on either the active or passive complicity of governments and officials to obtain the necessary authorization for a given arms transaction, regardless of its legal status.” Either the (purchasing) government tries to conceal the weapons purchased to keep them out of the public scrutiny, or the (supplier) state provides arms to questionable groups (e.g. rebel groups, states known to violate human rights) and act through brokers to disguise the true nature of supplier and recipient.
- b. Brokers can exploit “loopholes and inadequacies in national and

international arms control regulations.” They can create fronts or holding companies, and disguise the money trail through money laundering schemes. “By constantly registering and closing down front companies, arms traffickers can evade accountability for their actions...Brokers often exploit discrepancies between national arms control system, taking advantage of inconsistent documentation requirements, and ineffective verification mechanisms.” (SAS 2001:101-105)

Brokers operating in the illicit market facilitate weapons transfer under the noses of authorities. These grey market players fuel and sustain illegal arms trade, and by implication, sustain conflicts.

**The local firearm industry.** The entire anatomy of local firearms industry in the Philippines covers the manufacture, distribution, licensing, ownership, transfer and use of firearms. The pioneers in the arms manufacturing and dealing industries in the Philippines are ARMSCOR and P.B. Dionisio & Co., respectively.<sup>6</sup>

Looking at the simple figure below, this can be illustrated through the specific stages of production that cover the actual creation, circulation and usage of firearms between the market and individual societal actors:



**Figure 5.2: Simplified Flow of Guns in the Philippine Legitimate Firearm Industry (Shaded boxes are those stages that are regulated by the state)**

At the start of the legitimate gun production, manufacturers or manufacturing entities are responsible in the design conceptualization, assembly of components, detailing of finished products, ballistics check, and markings of guns (G. Angangco 2010)<sup>7</sup>. From the production line, the guns are transferred to gun distributors who then facilitate the initial sale of guns to traders and retailers. The distributors are the local version of ‘brokers.’ Small and big business establishments consume the bulk of gun sales of retailers. Foreign arms industries participate in this process through direct and indirect sales. As seen in Figure 5.2, the foreign market actors engage themselves in the production, distribution, and sales contracts (Deckert 2008; G. Angangco 2010). At present, the Philippine government controls a total of one hundred and ninety-nine (199) registered companies engaged in the firearm industry

by specifically regulating the various stages in the production line (Kramer 2001a; PNP-FED 2009; Government of the Republic of the Philippines 2010).

Access to firearms by private individuals is facilitated through a licensed company authorized to transact or sell firearms and ammunition (S. Calixto 2009<sup>8</sup>; A. Serrano 2010<sup>9</sup>). Actual ownership is established once the private individual manages to register the firearm, and gets a license to own it. (A. Serrano 2010) The registration and licensing formally establish the legality of the ownership of the firearm.

The PNP-Firearms and Explosives Division (PNP-FED) is the specific regulative agency of the government mandated to administer, enforce, and implement the firearms laws, rules and regulations (PNP-FED, 2008). In its 2008 data, PNP-FED recorded a total of 752,752 purchased legal firearms in the Philippines.

**Table 5.2: Licensed Firearms Purchased from Gun Dealers (1990 to 2008)**

Year	Purchased Firearm	Year	Purchased FA	Year	Purchased FA
1990	13,409	1997	90,480	2004	40,737
1991	10,060	1998	41,815	2005	41,574
1992	18,418	1999	69,293	2006	56,651
1993	18,418	2000	17,299	2007	50,851
1994	23,533	2001	31,162	2008	27,281
1995	34,757	2002	59,273	<b>TOTAL</b>	<b>752,752</b>
1996	65,113	2003	49,418		

Source: PNP-FED, 2008

Also in 2008, FED issued license to export to ARMSCOR, Scopro Optical Co., Inc., Shooters Guns & Ammo Corporation, Twin Pines Corporation and Floro International Corporation to export firearms, gun parts and ammunition to the following countries: Australia, Bolivia, Cambodia, Canada, China, Costa Rica, Dominican Republic, Ecuador, El Salvador, France, Guatemala, Honduras, Hong Kong, Hungary, Indonesia, Israel, Italy, Japan, Malaysia, New Zealand, Norway, Panama, Paraguay, Peru, Singapore, Switzerland, Taiwan, Thailand, UK, USA, and Venezuela. (PNP-FED 2008)

**Regulating the legal trade.** The Philippine government, as discussed in Chapter 4, has a weak presence in the gun industry. Its system of regulation can be described as ‘compartmentalized

<sup>6</sup> Established in 1952, ARMSCOR was the first-ever local company to be issued by a permit to operate in the manufacture of guns in the Philippines (D. Tuazon, personal communication, 31 August 2010). From a small printing and merchandizing shop in 1905 (in 1952, Squires Bingham Co. became Squires Bingham Manufacturing Co.), ARMSCOR now becomes one of the major manufacturing companies in the country and in the region (Odaka, 1983). Under the leadership of the current president, Demetrio Tuazon, the company has managed to expand its operation from manufacturing, exporting, importing, retailing, and shooting ranges (D. Tuazon, personal communication, 31 August 2010). Currently, the company continues to operate around the world as the major exporting company to showcase Filipino made firearms (D. Tuazon, personal communication, 31 August 2010). For the firearms dealership, P.B. Dionisio & Co., Mr. Paulino Dionisio, as then sole proprietor of the Philippine army, pioneered the local firearm industry in September 26, 1950 (P.B. Dionisio & Co., 2010). Tracing its history to the early years of the post-World War II, Mr. Dionisio was the first one to be authorized by the Philippine government to expand the firearms commercial operation to private individuals (P.B. Dionisio & Co., 2010). The company’s rich history in the local firearm industry made it one of the most established firearm dealers of guns, gun parts, ammunitions, and accessories in the country (P.B. Dionisio & Co., 2010). Of late, the company also expanded its operation to include shooting ranges and sale of world renowned guns and ammunitions.

control’ at various levels in the production, sales, and trade in firearms. For instance, while the PNP-FED handles the licensing of firearms, it’s role in procurement, especially high-powered firearms needed by the Armed Forces of the Philippines (AFP) is mainly perfunctory. Production of ammunition (by the Government Arsenal) is under the Department of National Defense, (DND) and the PNP-FED has no administrative control over the unit. Executive Order 95 (issued on April 15, 2002) lifts foreign investment restrictions on the country’s small arms industry, and empowers the DND to be the clearing house to monitor “non-Philippine nationals to manufacture, repair, store, and distribute guns and ammunitions for warfare, weapons repair and maintenance equipment, military ordinance and parts thereof, combat vessel, military communication and equipment, among others.” (EO 95)<sup>10</sup>

As of 2008, PNP-FED (2008) registered a total of 1,081,074 legitimate firearms (PNP-FED, 2008). This number includes the 458,264 firearms registered before NEMO No. 6; 328,322 under Amnesty Program of 1994 as well as the 752,752 firearms that were bought from legitimate gun dealers. This data also indicates that a total of 482,162 illegal firearms (with expired license) were registered. These numbers therefore translate into a total of 1,563,236 or 1.5 million registered and unregistered firearms in the country in 2008. (Note that 2009 FED data showed that the number of loose FAs or those with un-renewed license was 1.1M; while licensed FAs were at 1.2M). The 2008 data also showed that shotguns, followed by revolvers, were the most widely used firearms in the Philippines (see table 5.3) (PNP-FED, 2008).

**Illicit trade.** The illicit manufacture and trade has a parallel operation with that of the legal trade. These illicit operations have the following mutually independent conceptual qualities: unregistered operations (manufacture, distribution and selling); expired license to operate (manufacture, distribution and selling); operations going beyond those stipulated in the license to operate; and unlicensed firearm (S. Calixto 2009) At the international level, this illegitimate trade happens when foreign manufacturers, distributors and retailers establish transactions with the underground and/or unregistered traders in the Philippines (D. Tuazon 2010,<sup>11</sup>). This indicates that some legal entities are themselves engaged in illicit trade, capturing profit in both the open market and the underground market.

The thriving illicit market of firearms explains the proliferation of arms and persistence of armed groups in the Southern Philippines despite the draconian measures imposed by the Philippine government (Misalucha 2004). There are allegations that Pakistan, Afghanistan and Libyan religious organizations indirectly linked to western allied states supply the armaments of contemporary Muslim rebels (Misalucha

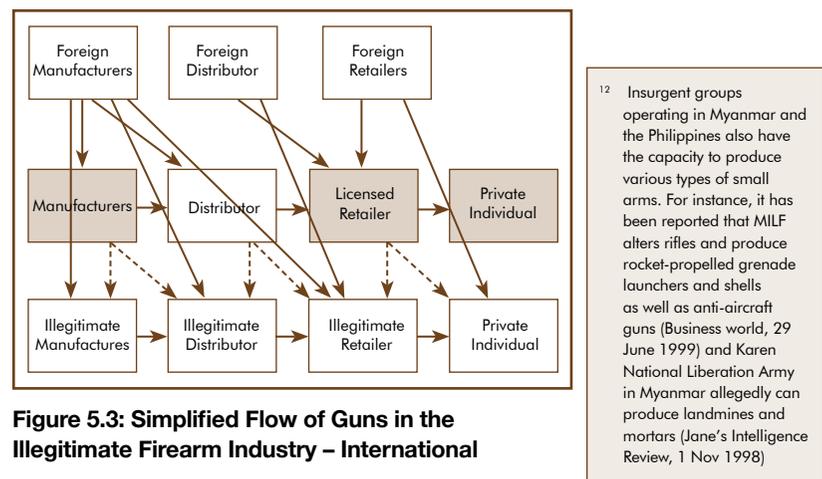
<sup>10</sup> Lucas, Daxim. (2002). *Palace allows foreigners to manufacture guns, ammo* in Business World. April 19. The EO allows non-Philippine nationals to manufacture, repair, store, and distribute guns and ammunitions for warfare, weapons repair and maintenance equipment, military ordinance and parts thereof, combat vessel, military communication and equipment, among others, subject to clearance of the Department of National Defense. The Executive Order has been criticized by civil society groups because of the possibility that it will further exacerbate the already thriving illicit arms trade in the country. Still, the EO is a clear recognition that gun-making is actually a thriving industry in the Philippines.

2004). There are also reports that insurgent groups have limited capacity to manufacture their own firearms and explosives.<sup>12</sup>

**Table 5.3 Type of Registered Firearms**

Type	Caliber	Number of FA	Type	Caliber	Number of FA		
LP RIFLE	22	84,295	SHOTGUNS	.12GA	152,290		
	17	42		.16GA	1,229		
PISTOLS	.22	26,228	REVOLVER	.20GA	1,320		
	.25/6.35MM	7,519		410 GA/.22	1,004		
	.30	36					
	7.62MM	805		.22	94,022		
	.32/4.65MM	7,956		.32	6,391		
	.38	24,419		.38	205,019		
	.380	33,037		.357	4791		
	9MM	188,413		.41	16		
	.357	403		.44	198		
	10MM	74		.45	320		
HP RIFLE	.40	17,416	SUB MGUN	.223/5.56MM	6,828		
	.41	39		.30	2,032		
	.44	54		.308/7.62MM	1,689		
	.45	209,901		9MM	307		
	.50	34		.45	105		
	MPISTOLS	.22		6	SUB MGUN	9MM	857
		9MM		1,638		.45	161
.45		43					

Source: PNP-FED 2008



**Figure 5.3: Simplified Flow of Guns in the Illegitimate Firearm Industry – International**

There is an obvious absence of state regulative capacity in the illicit market, save for the natural regulative capacity of free/ profit-oriented market . While the players in the gun industry continue to yearn for more state protection – e.g tax incentives, high tariff of imported products, institutionalized brokering and retailing to individual consumers (Tuazon 2010), the conundrum is that the state is still *ambivalent* as regards its policy on private gun ownership (see argument in Chapter 1; and discussion in Chapter 4). As noted, the attitude of the state pendulums from tightening control (e.g. during the time of Pres. Cory Aquino) to relaxing the rules (e.g. during the time of Pres. Estrada). The wavering attitude allows for the expansion of the gray area since the black and white domains are not clearly spelled out.

While the police and other state security forces would argue that gun ownership in the Philippines, unlike the United States of America, is a privilege granted by the state on select individuals, the reality is that gun proliferation – legal and illicit – remains to be a major challenge not only in addressing criminality but also in conflict dynamics.

This *ambivalence* extends even on how the state regards the firearms industry. On one hand, the local industry complains that it is not given space and opportunity to grow, and seemed to be destined to perpetually rely on a consumer-based market economy; on the other hand, there is also a seeming invitation to foreign investors and an attempt to position the country to become the next weapons producing country, as illustrated by the issuance of Executive Order 95 (2002).

**The Private Security Providers**

By Danielle de Castro

Of the 637 private security agencies that are registered and licensed to operate until the year 2011, only 385 agencies are able to provide a list of security personnel and firearms inventory. This presents a problem to regulatory agencies and researchers. For the former, this information is necessary because it is required in the process of securing or renewing operating licenses, as well as establishing a good business reputation. For the latter, the information is invaluable to establish the legitimacy of the security agency, and their compliance with regulatory agency protocols, or whether the security agency receives weapons from dubious sources. From the available data on the National Capital Region, however, conclusions can still be drawn on issues such as (1) the prevalence of security agencies in certain areas, (2) the amount of personnel required for security agencies, (3) the problems with weapons surplus and deficits when applicable to individual agencies.

Firstly, on the prevalence of security agencies in certain areas, it is evident in the cities in the NCR that the 2 main factors that lead to the establishment of many private security agencies are (1) the size of the population, and (2) the business-industry significance of the city. Quezon City has a total population of 2,679,450, and consequently has 156 licensed security agencies. Manila has a total population of 1,660,714 and has 57 security agencies. Although Makati only has a total population of 510,383, it is the Central Business District, home to the Philippine Stock Exchange, banks, and many local and international company offices, as well as consular offices and embassies, which require numerous security

personnel for their everyday activities. (population data sourced from Wikipedia) For the top 3 cities with security agencies, the need to maintain peace and order among large populations and prominent businesses provides the main reason for the prevalence of security agencies.

Secondly, on the issue of personnel, According to R.A. 5847, or the Private Security Agency law, Section 16(a) "No agency operating in the City of Manila and suburbs may employ more than 1,000 watchmen or security guards; (b) no agency operating in other cities and first class municipalities may employ more than 500 watchmen or security guards; (c) no agency operating in municipalities other than first class may employ more than 200 watchmen or security guards." If we do not have the employment details of roughly 252 of the 637 agencies that are licensed to operate, or 39.5% of the total percentage of agencies, how can we ascertain that they comply with the requirements of this section?

Thirdly, on the issue of weapons surplus and deficit, according to R.A. 5847, Section 13 "A watchman or security agency shall be entitled to possess firearms after having satisfactorily passed the requirements prescribed by the Chief, Philippine Constabulary pertinent to the possession of firearm of any caliber not higher than 45 caliber in a number not exceeding one firearm for every two watchmen or security guards in its employ: Provided, however, That a watchman or security agent shall be entitled to possess not more than one riot gun or shotgun in order to provide adequate security when circumstances so demand: Provided, further, That all the firearms mentioned herein shall be carried by the watchman or security guard only during his tour of duty in proper uniform within the compound of the establishment except when he escorts big amounts of cash or valuables in and out of said compound." In the case of the excessive weapons surpluses, how can the agencies justify their stockpile of firearms? For instance, here is a list of security agencies that have a weapons surplus that exceeds 100units:

Eaglestar Security Services Inc.	201
Trinity Investigation and SA Corp	236
Panther Integrated Services	223
Corporate Protection Services Phils	211
Lockheed Detective and Watchman Agency	550
Thunder Security and Investigation Agency	269
St. Thomas Sec & Gen Services Corp	210
Ultra Security Services Inc	152
ESA Protective and Security Services	170

Although each of these agencies have hired a sufficient number of security personnel to justify the amount of weapons they have in storage, there are no requirements for the assurance that these weapons will not be used at the discretion of the security personnel, who may opt to carry more than 2 units for more dangerous investigations or operations. In this situation, how is the regulatory agency able to assure that the protocol is followed in all instances?

On the other hand, in order to determine the reasons for the prevalence of security agencies in a certain area, a simpler system of evaluation must be applied to the other regions in the country, namely: the level of urbanization in the area. This is evident in the lack of security agencies in mainly rural-agricultural regions, such as region 1, 2, 3, 4, 5, and CARAGA, whereas in the developing areas such as Laguna and Zamboanga, there are a fair number of security agencies, while in developed urban centers, such as Cebu and Davao, security agencies are relatively prevalent, thus reinforcing that the need for security agencies is largely shaped by urbanization and business-industry.

### Appendix 1: Small Arms Producers

Major	Medium	Small	Unassessed
China	Austria	Argentina	Albania
Russian Federation	Belgium	Armenia	Algeria
United States	Brazil	Australia	Bangladesh
	Bulgaria	Canada	Belarus
	Czech Republic	Chile	Bolivia
	Egypt	Colombia	Bosnia and Herzegovina
	France	Croatia	Burkina Faso
	Germany	Denmark	Cambodia
	Hungary	Finland	Cameroon
	India	Greece	Cuba
	Israel	Indonesia	Cyprus
	Italy	Japan	Dominican Republic
	Pakistan	Luxembourg	Ecuador
	Poland	Malaysia	Estonia
	Romania	Mexico	Ethiopia
	Singapore	Netherlands	Guatemala
	South Africa	New Zealand	Guinea
	South Korea	Norway	Iran
	Spain	Peru	Iraq
	Switzerland	<b>Philippines</b>	Kazakhstan
	Taiwan	Portugal	Kenya
	Turkey	Saudi Arabia	Lithuania
	United Kingdom	Slovakia	Macedonia
		Slovenia	Malta
		Sweden	Moldova
		Thailand	Monaco
		Ukraine	Morocco
		Venezuela	Myanmar
		Yugoslavia	Nigeria
			North Korea
			Papua New Guinea
			Paraguay
			Sudan
			Syria
			Tanzania
			Uganda
			United Arab Emirates
			Uruguay
			Vietnam
			Zimbabwe
<b>Total: 3</b>	<b>Total: 23</b>	<b>Total: 29</b>	<b>Total: 40</b>

Source: Small Arms Survey 2001<sup>13</sup>

## Appendix 2: Private Gun ownership per 100 Residents

Country	Guns per 100 residents (2007)	Rank (2007)
Angola	17.3	34
Argentina	10.2	62
Australia	15.0	42
Austria	30.4	14
Canada	30.8	13
China	4.9	102
Cyprus	36.4	5
Finland	32.0	8
France	31.2	12
Germany	30.3	15
Greece	22.5	23
India	4.2	110
Iran	7.3	79
Iraq	34.2	7
Italy	11.9	55
Mexico	15.0	42
New Zealand	22.6	22
Norway	31.3	11
Pakistan	11.6	57
Russia	8.9	68
Saudi Arabia	35.0	6
Serbia	37.8	4
South Africa	12.7	50
Spain	10.4	61
Sweden	31.6	10
Switzerland	45.7	3
Thailand	15.6	39
Tunisia	0.1	178
Turkey	12.5	52
United States	88.8	1
Uruguay	31.8	9
Yemen	54.8	2

Source: SAS 2007

<sup>1</sup> Conventional Arms Transfers to Developing Nations, 1997-2004, Congressional Research Service (CRS), 29 Aug 2005. Available online <http://fpc.state.gov/documents/organization/52179.pdf> accessed 23 April 2011

<sup>5</sup> Ballantyne, Robin. 2005. Japan's Hidden Arms Trade. December 1. Available online <http://atimes.com/atimes/Japan/GLO1Dh01.html> accessed Sept 18, 2009

<sup>7</sup> Personal communication, 31 August 2010

<sup>8</sup> Personal communication, 08 December 2009

<sup>9</sup> Personal communication, 21 October 2010

<sup>11</sup> Personal communication, 31 August 2010

<sup>13</sup> SAS 2001, The Graduate School of Geneva. Available online <http://www.smallarmssurvey.org/publications/by-type/yearbook/small-arms-survey-2001.html>

## CHAPTER 6

### Perception of Social Insecurity & Community Safety

*Jennifer Santiago Oreta*

*with Ma. Victoria Caranay, Bernadette Eugenio*

*& Vladimir Reyes<sup>1</sup>*

...when people can wander around in their communities at night without fear of being detained or shot for no apparent reason, when they can no longer see military camps near their communities, when private armies are dismantled, when they cannot hear gunshots anymore, when they can sleep in their huts without worrying...that's when a community is considered 'safe.' (6 May 2010, Bryg Inug-ug, Pikit, North Cotabato)

The feeling of insecurity among civilians juxtaposed with a perception of a weak state<sup>2</sup> motivates people to secure arms for protection. "The demand for small arms and light weapons is often fuelled by conditions of insecurity, oppression, human rights violations and under-development." (UNDP Essentials No. 9, Nov. 2002)

The paradox is that "...countries and regions with the highest level of firearm violence and ownership are less able to address them than countries with low rates of firearm violence and ownership." (Cukier, Sidel 2006) Still, legal and illegal gun-trade thrive because of the continued and increasing demand for arms by civilians. Lawlessness, criminality, banditry, and insurgency, and a culture of impunity, coupled with the inability of enforcers to address these concerns create the impression of chaos and danger in society. A number of civilians look at guns as provider of security. The irony, however, is that while gun possession makes people feel secure, its proliferation can also make people feel more insecure. More guns in circulation can further exacerbate the already volatile social, political, and economic divides that exist in Philippine society.

With the rise of criminality associated with firearms proliferation, it becomes inevitable for governments to increase its military and police spending to combat lawlessness. Increased budget on military and police means lesser funds available for other government services like education, health care, infrastructure, housing, livelihood training, mass transportation, and environmental protection – services that are most crucial especially to the most vulnerable groups in society. Less budgetary support in these areas

<sup>1</sup> Ms. Eugenio, Ms. Caranay, and Mr. Reyes conducted the main bulk of the FGDs. They prepared reports for each of the FGDs which, subsequently, are incorporated in this chapter. The final draft of the chapter, however, is written by Dr Oreta and hence, is responsible for the ideas put forward by he chapter.

<sup>2</sup> Weak state here means the inability of authorities to enforce rules and laws impartially and consistently

means more issues that can be used by insurgent groups to recruit members. Hence, the cycle of underdevelopment and radicalization of perception of deprivation prevail. There is no doubt that both physical safety and human development concerns are greatly affected by the proliferation of firearms.

The consequences of arms proliferation are most felt in the local level. Muggah and Batchelor (2002)<sup>3</sup> stated in their report that small arms proliferation impacts on criminality, health and education services, and economic activity. It causes displacement, wastage of government resources, damage on social structures and withdrawal of development assistance. Below is a more detailed description of the costs of small arms proliferation:

- Criminal violence: Arms in the hands of criminals directly impact on the quality of life of civilians – specifically the peace and order of communities
- The collapse of health and education services: Health and education workers are often targeted or attacked in the context of arms-related violence. Access to these services are constrained or limited due to armed insecurity. “In Mindanao, child mortality rates exceed 310 per 100,000, whereas the national average is less than 175 per 100,000.” (Muggah, Batchelor 2002)
- Displacement of people: Firearm related insecurity is a significant factor that influences peoples’ decisions to flee or migrate.
- Declining economic activity: Formal and informal trade and commercial activities deteriorate in situations of armed insecurity.
- Reduced government resources: Armed violence can have a negative effect on government revenue (low tax collection) and domestic savings which can contribute to decline in economic activity.
- Damage to social structure: Small arms availability can have negative implications to family and community cohesion, gender relations, and customary institutions.
- Withdrawal of development assistance: Small arms availability generates insecurity to development agencies, resulting to withdrawal of aid

### Insecurity Fuelling Firearms Proliferation

As discussed in Chapter 2, guns are easily available. Almost everyone who participated in focus group discussions (FGDs) conducted to ascertain the perception and feelings of people regarding gun/ firearms proliferation claimed that it was “easy to acquire guns in their community especially if (one) has money.”<sup>4</sup> In Davao City, respondents shared that for Php16,000 (US\$356), one can already get an M16; for P20,000 (\$444), an M14; for Php3,000 (\$67), a caliber .357; and for Php1,500 (\$33) a caliber .38.<sup>5</sup>

In Cotabato, according to FGD participants:

Guns are easy to procure since they are given as gifts to esteemed relatives, as gifts for certain services, or as part of a groom’s dowry. For a Moro, having a gun is a way of life. They were brought up believing that gun is necessary as part of their wealth, source of their pride and as tool of survival.

Guns are easy to sell since most households in the community have guns for protection. It is rare to find a household in our community that has no guns.” (FGD, Pikit No. Cotabato, May 6, 2010)

In August 23, 2008, a report in the Philippine Daily Inquirer stated that “PNP is shipping a thousand shotguns to Mindanao to arm qualified residents as police auxiliaries.”<sup>6</sup>

While the actual amount of guns in circulation is based on collective imagination and approximation (see Chapter 2) - data from a research done in 2009 validates pervasiveness of gun ownership:

“When asked if they are associated with or know of someone *outside their family with gun(s)*, the response was more forthright. Half of the (242 survey respondents, from eight areas in Luzon, Visayas, Mindanao) respondents admitted to know someone outside their family who own a gun... To have a very informal gauge on how many these gun owners are, the respondents were asked to give numbers/ figures as regards the number of males and females (outside their family) who owned a gun. The respondents reported a total of 331 male and 57 female gun-owners... These figures obviously... are poor measure of the actual amount of guns in circulation. The relevance of the figures, however, is the seeming audacity of gun ownership in the country – audacious in the sense that on the average, each respondent know at least one gun-owner. Likewise, if we take the ratio of male and female gun owners, there is 1 female to every 5.8 male gun owners. The wide disparity of male and female reported gun owners adds support to the argument that gun-possession is dominantly a ‘male-thing,’ that is, gun as an instrument of value is linked with the heteronormative conception of assigning the function of protection to males.” (Oreta 2009)<sup>7</sup>

This finding resonates with the figure provided by the *2000 UN The Eight International Crime Victims Survey* prepared by the Interregional Crime and Justice Research Institute (2003). In said report, the percentage of households with firearms in the Philippines is five percent. The same report states that 4.1% of these households have handguns, and 3.5% maintain guns for self-protection. (Cukier and Sidel 2006: 111)

During the election gun ban in 2010, gun owners complained that such move was encouraging for illegal firearm holders/ criminals since they knew that the licensed holders could not use their guns and would not be able to defend themselves.<sup>8</sup>

In a research conducted in 2008, the top four groups identified by respondents as sources of violence in their communities were (a) youth gangs, (b) criminal groups, (c) neighbors, and (d) political families. It is thus not surprising that majority of respondents in said study declared that (1) violence exists in their area, and that (2) majority fears to be a victim of violence one day. (Oreta 2009).

The feeling of insecurity is obviously high, and is more pronounced in groups considered more vulnerable to gun violence than others – i.e., those geographically located in conflict-affected regions, and the Moros.<sup>9</sup> In both groups, the strong feeling of insecurity is tied with the long-standing conflict between the GRP (Government of the Republic of the Philippines) and the insurgent groups (CPP-NPA), separatists groups (MILF, MNLF), and fundamentalist group (Abu Sayaff Group).

Gun availability has in a way become a part of daily life of the people. It is not surprising to find farmers and goat herders with guns slinging on their shoulders or hanging from their belts. Indirectly, gun availability has become the rule rather than an exception. Without the protection of the gun you are vulnerable and easy target.” (FGD, Pikit, N. Cotabato 6 May 2010)

In their community they have this understanding that if they heard exchange of fires for five minutes that’s normal, if it gets longer like 30 minutes , they are on the alert and try to gauge where it is coming from or if they are in immediate danger. If it gets to more than an hour they will slowly gather the children, pack their worldly possession and wait for a lull in the fighting to move somewhere safe. (FGD, Pikit, N. Cotabato 6 May 2010)



FGD, Pikit, North Cotabato

One must note though that availability of firearms corresponds with demand, and demand is usually dictated by the security context. For instance, while Vigan<sup>10</sup> respondents claimed that it was easy to acquire guns in their area, the issue of proliferation in the community is less serious compared to Cotabato. The difference in the security context of the two areas is glaring – Cotabato is proximate to sporadic armed clashes between the government forces and fundamentalist (ASG), separatists (MILF), and insurgent (NPAs) groups while Vigan does not experience the same.



Workshop/ FGD in Quezon City

Moreover, the security context is also dictated by the performance of security forces in the area. Those who live in private subdivisions where people are more financially stable and can afford to hire private security guards, or those who

hail from cities where police presence is more pronounced, would probably have a better sense of security. This may not be the case in areas where police visibility is scarce.

Others who do not have the luxury of living in gated subdivisions would put gates in their community, some of which are technically illegal since the areas being cordoned off are actually public roads. This action, however, is obviously weighing the odds, believing that the illegal act of putting gates far outweighs the benefit of securing the community. (FGD, Laguna 27 April 2010)

A direct effect of gun availability in community relations is the increased risk of violence in the community. If people are in conflict, gun possession increases the risk of violence. “Indirectly, community relations may seem peaceful on the surface but can explode with just a slight misunderstanding.” (Pikit, N. Cotabato 6 May 2010)

### Purpose of Guns

There is ambivalence as regards people’s view on gun possession - on one hand people look at it as a useful object of protection – protecting one’s family and one’s property - but at the same time they also recognize the dangers associated with it. Those who favor civilian gun possession – based on the responses in the FGDs - seem to be borne more out of necessity rather than conviction. This wavering attitude is linked with the appreciation of *gun* as an instrument of value. It is not a neutral object but has ascribed social meanings: *protection* and *power*.

Of particular interest here are the views of Moro respondents.<sup>11</sup> They argue that Muslims look at gun possession because of their experience of “minoritization” and marginalization by the State. More than just the reality of “rido”<sup>12</sup> in their communities, arms or gun possession is, seemingly, the way the Moros mediate the perceived discriminatory policies of the majority. Guns are necessary for the Moros because it makes the government listen to them. Since they are a minority, they contend that if they do not have guns, the government will not pay attention to them, and will end up like the American Indians: *seen but not heard*.

### Gendered Security

While official reports show that more men are victimized by crimes, women are particularly more fearful of getting victimized. “Fear of crime is a leading social and political concern in western cities and women’s fear of male violence constitutes the core of the problem in terms of its quantity and nature.” (Pain 1997)<sup>13</sup>. Threats of crime affect women more, and thus women are more likely to support preventive measures that address criminality. (Hurwitz & Smithey 1998)<sup>14</sup> In the present study in fact, both men and women think that more women are victimized,

<sup>11</sup> name withheld for security reasons; interview was conducted on 27 Oct 2008  
<sup>12</sup> “Rido” is the term used to describe feuding or clan conflict. Some “rido” are latent, some are active. “Rido” is of particular interest among peace activists and policy makers as it tends to interact and complicate the existing armed violence in the region instigated both by the insurgents and the all-out-war principle of the GRP. For an extensive read on rido, see Torres Wilfrido Magno III. (ed) 2007. “Rido Clan Feuding and Conflict Management in Mindanao.” USAID and The Asia Foundation.

primarily because of the socially ascribed notion that they are ‘weak.’

The gendered paradigm creates a self-fulfilling prophesy – since society says that women are often victimized because of their vulnerability, indeed the women feel that they are victims and that they are weak – whether or not true. “In the face of danger, thus, the women respondents either remain passive (e.g. pray/leave things to God, keep quiet) or go to the other extreme, that is to kill her tormentor. In other words, the gendered beliefs on security and safety seemingly push women to carry out two extreme acts – withdrawal or extreme violence.” (Oreta 2009) The *victimization* syndrome further marginalizes women, serving like a barrier that prevents them from fully participating in public discourse on security matters.

In the absence of cohesive and effective community security mechanism, individuals (women in particular) continue to feel the tensions brought about by an insecure environment.

“Women thus have to endure several layers of insecurity – she is insecure in a society that has too many guns circulating and consequently have high crime incidence, and insurgency; she is insecure in a system where more power is extended to men; and she is insecure because society made her believe that she is weak and is dependent on men for protection. Given such context, it somehow pushes the woman to the wall as regards the available options for her when it comes to issues of safety. On one hand, the women respondents remained passive (e.g. pray/leave things to God, keep quiet) or on the other hand, women go to the other extreme, that is to kill her tormentor. In other words, the gendered belief apparently leaves little room for the women respondents women in mediating her safety. “ (Oreta 2009)

### Responsibility for Safety

There is a general belief that the individual is primarily responsible for one’s own and one’s immediate family’s safety.<sup>15</sup> Safety is mostly regarded as a *private* matter rather than a community responsibility.<sup>16</sup>

<sup>15</sup> This is the view of FGD participants from Cabanatuan, Nueva Ecija, 16 April 2010

Jennifer Oreta with SACOP (Social Action of Pampanga) guide, en route to Sapang Uwak, Porac Pampanga for the FGD with Aetas



This adds burden and pressure for civilians to do something to address this insecurity, and seems to create the condition for people to secure firearms for protection.<sup>17</sup>

But as repeatedly mentioned in this paper, the sad reality is that a gun is a double edged instrument – it apparently protects, but it is also used by criminal elements to pursue their ends.<sup>18</sup> There is therefore a need to search for alternative means to make people feel secure. These alternatives likewise should not only make people secure, but should also allow people to challenge and negotiate the boundaries of the traditional security discourse. Bolstering the view that security is the responsibility of the individual is the performance of state security institutions. There were mixed responses in regard to satisfaction with security institutions. Others lament the ineffectiveness and inefficiency of the police but others reported satisfaction.

FGD participants from Pikit, North Cotabato said that the barangay, local and even the national government’s way of handling issues of security is poor, and bemoan that the Bangsamoro people have always been the receiving end of all violations practiced by the national authority. (May 6, 2010)

FGD Participants from Davao del Sur said that if only the Barangay leaders would ensure that they are fair in enforcing the rules, people will follow the law. “The problem is that they talk more and could not substantiate their talk.” The committee of peace and order is also not functioning. (May 1, 2010)

There is also the view that people close to power use the military and government resources to fight their enemies, under the aegis of repressing the separatist groups. “*Ginagamit nila yung military to suppress the people.*” They are using the military to suppress the people. (27 Oct 2008, Muslim women, CDO)

But apart from politics, there are inherent structural limitations. The *barangay tanods* (village patrols), for instance, are not armed and use only a “batuta” (wooden club). A Barangay tanod-participant from Laguna recounted that he once tailed two snatchers, but when he finally caught up with the criminals, the latter pointed a gun at him and his companion; hence, they had to retreat and let the criminals escape.

Likewise, the police to population ratio is far from ideal. There are 121,000 police to 90M population (or 1:900) when the international accepted ratio is 1:500 (one police per 500 people). Moreover, of the 121,000 police, only 70% are issued side arms while the rest have to wait for the increase in PNP appropriations to purchase additional arms. (Tor 2008)<sup>19</sup>

The inadequacy of the police force to address the expectations of the population to provide peace and order is complicated by their limitations both in actual number and in the availability of arms issued, coupled

<sup>17</sup> even the view that the it’s-ok-to-have-guns-but-character-of-person-is-crucial is still within bounds of safety as personal matter

<sup>20</sup> The people actually notice the lack of visibility of police forces, which actually affects the efficiency to dispense justice. FGD, Muntinlupa, 22 April 2010

with the self-serving interest of some individuals in the police force who use the institution for their own advantage.<sup>20</sup>

### Self-help: Community as Locus of Safety

In every community there is always a conflict-management mechanism that deals with the maintenance of peace. In traditional communities, conflict management is handled by tribe leaders or elders; in others, it is the locally elected Barangay (village) officials. Many communities rely on the barangay chairpersons and councilors to maintain peace and order.

In Cotabato, in cases needing conflict management, especially when big families are involved, respected traditional leaders are called to intervene and settle conflicts. Ironically, these 'conflict-managers' are expected to have guns to facilitate the resolution of the problem. (Pikit North Cotabato 6 May 2010)

In Pacita 1, Laguna, (delete according to) FGD participants shared that there used to be many soldiers living in the area and consequently, many guns available. Interestingly, there was little/ no record of criminality during the time. "The community took charge of the peace and order and the guns helped a lot because they become a deterrent to criminality". (Laguna, 27 April 2010)

In Davao City, the FGD participants claimed that in the past, members of the NPA were the ones who maintained peace and order in their place. In these three cases, it is apparent that the presence of guns aided in ensuring peace and order. However, such kind of peace rests on shaky grounds and creates a false sense of security.

The dissatisfaction felt by respondents as regards the performance of the barangay officials and the police in maintaining peace and order may be due to high expectations. The barangay is the local government unit that is closest to the people in the community; while the police are expected to be visible in communities.

To a large extent, then, the barangay and police provide the 'human face' to the amorphous concept of 'the state' among the people in the community. People's perception of safety is based on the actions of the barangay.

The barangay therefore has great potential in becoming an even more positive force in community security. However, one must bear in mind that barangay members are civilians. If the notion of security remains to be one that is dependent on guns, it follows that the state must arm barangay officers for them to be widely perceived as an effective security force.<sup>21</sup> Such action, however, is reminiscent of the militarization of communities during the martial law era. In fact, some civilian volunteers (CAFGUs) especially in conflict areas are already armed. Giving guns to barangay officers, hence, will further increase the number of guns in circulation. It is therefore beneficial to think of alternative means to maximize the potential of the barangay in promoting

<sup>21</sup> This is something to reflect on since the Barangay officials – the Barangay patrols to be precise – are simply deputized security forces where some are issued arms/ guns but most have none. The Barangay patrols are not even elected officials. They are part of the 'force multipliers' of the police and the military and do not share the institutional and legal mandate as that of legitimate security forces.

security. This is the context and the reason why there is a need to engage the local government units. LGUs have great potential to secure its people the way that they have the potential to oppress its constituents and perpetuate injustice.

There is obviously a need to collectively re-imagine a security paradigm that is less dependent on guns. Alternative community conflict transformation management must be strengthened. Organizing the community can be an effective intervention to make the community safer. There is also recognition that the government must actively intervene in controlling guns in circulation. Participation from civil society and local communities in carrying out the rule of law can drastically lessen senseless killings and crimes from happening. A crack down on corrupt elements in the military and police is needed. There is also an urgent need for Congress to review existing laws, rules and regulations relating to arms and accordingly make them relevant to the realities of the times.

FGD participants said the concrete ways by which the government can address the issue of safety is by dismantling private armies; controlling gun smuggling; giving enough salary to soldiers (to prevent bad behavior); and increasing the budget of the police to improve their visibility. (FGD Cabanatuan, Nueva Ecija, 16 April 2010) There is also a need to improve the effective monitoring of the human rights situation in the communities. (Pikit, North Cotabato 6 May 2010)

Conflict is big business. Making peace is also a good business. With all that, creating conflict and pretending that you are fixing it, then you are earning money. It is important that people know the real score. "The conflict is not between Mindanao and Luzon, or between Mindanao and Visayas. It's between the haves and the have-nots.... People are being manipulated without them realizing it." (27 Oct 2008, Muslim women, CDO)

<sup>3</sup> Muggah, Robert and Peter Batchelor. 2002. *Development held Hostage: Assessing the Effects of Small Arms on Human development*. UNDP, New York, chapters 1 and 2

<sup>4</sup> Focus group discussion (FGD), 6 May 2010, Birgy Inug-ug, Pikit, North Cotabato

<sup>5</sup> FGD, 18 April 2010, Sitio Cabarisan, Brgy. Sibulan, Davao City

<sup>6</sup> \_\_\_\_\_. *Phil. Daily Inquirer*, 23 August 2008

<sup>7</sup> Oreta, Jennifer Santiago. 2009. *Women and Security: Issues on Gun Proliferation and Violence in Selected Areas on the Philippines*. Dissertation Study.

<sup>8</sup> This view is shared by FGD participants from Laguna, 27 April 2010

<sup>9</sup> see Appendix 6.1 Narrative Report of FGDs (Davao del Sur, Cotabato, Muslim women)

<sup>10</sup> FGD 13 April 2010, Vigan Cathedral

<sup>13</sup> Pain, Rachel H. (1997). *Social Geographies of Women's Fear of Crime*. *Transactions of the Institute of British Geographers*, New Series, Vol. 22, No. 2. Blackwell Publishing on behalf of The Royal Geographical Society (with the Institute of British Geographers) pp. 231-244

<sup>14</sup> Hurwitz, Jan and Shannon Smithy. (1998). *Gender Differences on Crime and Punishment*. *Political Research Quarterly*, Vol. 51, No. 1 (Mar., 1998), Sage Publications, Inc. on behalf of the University of Utah pp. 89-115

<sup>16</sup> see Appendix 6.1. FGD Narrative report, particularly Cavite, Nueva Ecija, Cotabato

<sup>18</sup> see Appendix 6.1. Narrative Reports of FGDs (Cabanatuan, Nueva Ecija)

<sup>19</sup> Presentation by Rodolfo Tor, former PNP-Planning Director, in the Conference "Security Sector Reform and Budget" held at the UP Hotel, Nov. 14, 2008

## The Peace Process & The Need for Arms Control & Management

Jennifer Santiago Oreta &  
Victoria Caranay

The government, through the Office of the Presidential Adviser on the Peace Process (OPAPP) is engaged in formal peace negotiations with the (1) Moro Islamic Liberation Front (MILF), and (2) National Democratic Front of the Philippines (NDFP). It is in the process of completing the implementation of the 1996 Peace Agreement with the Moro National Liberation Front (MNLF) and the 1986 Peace Agreement with the Cordillera People's Liberation Army (CPLA); and is putting a closure to peace talks with Rebolusyonaryong Partidong Manggagawa ng Pilipinas/ Revolutionary Proletarian Army/ Alex Boncayao Brigade (RPMP/ RPA/ ABB), and Rebolusyonaryong Partidong Manggagawa ng Mindanao (RPMM.)

The reasons behind the various insurgencies are multi-faceted. The opinions on how to address them are even more diverse and complicated. What is certain is that all rebel groups and the Government of the Philippines (GPH) recognize that such conflicts arise due primarily to social, political, and economic inequalities. According to Van der Graaf (1997), armed conflict and militarism are not themselves the problem but are mere symptoms of a deep systemic and structural flaw in a state and its society.

This final chapter is fundamentally interested in situating the role of arms control and management in the overall domestic peace process and security in the Philippines. It continues to problematize the issue through the contending lens of social control premised on the *regulatory frame*, or social control that is based on *consensual agreement*.

### Gun Culture

The research reiterates that the term 'gun culture' is problematic. The concept assumes a position that being violent and 'macho' are inherent traits of a given cultural identity. This overarching, homogenizing and superfluous term is often attached to societies and communities deep within the throes of armed conflict. Perhaps it would help to go into semantics and delineate culture from what it is, and how it should be understood.

Culture is a broad and highly flexible term that has yet to really find a standard definition. However for the purposes of this research, culture is defined as *the primary defining characteristic of an ethnic-national/ ethno-linguistic group*. This definition consequently requires that ones understanding of the word 'ethnic' or

'ethnicity' is nuanced - in this case, to involve a community, a language group, a corporation, association, or population with similar traits that enable them to identify with each other and to distinguish themselves from other 'ethnic groups.' Religion is often used as a significant cultural identifier.

Given said operational definition, it is, indeed, problematic to use the phrase 'gun culture' as this implies that communities are bound together by a similar fetish for guns, with violence as their distinguishing mark. How, therefore, should one understand the term culture if taken within the context of gun-saturated communities?

A study made in 2010 by the Ateneo School of Government – Political Democracy and Reform Team (ASOG-PODER) on Election Related Violence in Abra distinguished the use of *culture* from "*gun culture*" – referring to the latter as the current norms practiced in a community where there is visible and proven tolerance for guns as an assurance of personal security and power; while the former was described as the notion associated with religion, traditions and tribes.

This research argues against the use and popularization of the term "gun culture" as the phrase is discriminatory. It also deems prejudicial the declaration that 'Mindanao has a 'gun culture.' It adopts the view that Mindanao has developed a tolerance for small arms/ gun proliferation and the violence it brings. Acquiring guns in these communities is a reaction to external factors and problems that create pressure, paranoia and insecurity (see Chapter 6). As discussed in Chapter 6, the reality of social and physical insecurity of people has some clear implications on arms control and management.

### The Small Arms and Light Weapons (SALW) in the Domestic Peace Process

According to Sverre Lodgaard<sup>1</sup>, a Norwegian Political Scientist and Labor Party Representative, there are three main reasons why arms must be managed. The *first* reason is because modern states *need* to have the monopoly of force.<sup>2</sup> The existence of private armed groups – regardless of ideology and motivation – undermines the capacity of the state to enforce rules impartially.

The *second* reason, according to Lodgaard, is that arms must be managed because states have the responsibility not only to ensure its territorial integrity, but also to ensure the security of its people. Charles Tilly argues that the state's monopoly of force is a means for the state to provide 'protection' for its citizens against lawless individuals and groups. This view legitimizes the use of force (or the threat of using force) of state security forces –the police and the military. (Jackson and Roseberg, 1982; Lodgaard; Tilly, 1985)

<sup>1</sup> Lodgaard served as the director of European Security and Disarmament Studies from 1980 to 1986, director of the International Peace Research Institute, Oslo from 1987-1992 and director of the United Nations Institute for Disarmament Research from 1992 to 1996 and director of Norwegian Institute of International Affairs from 1997 to 2007.

<sup>2</sup> Political analyst Weber was the first to argue that a modern state is a corporate group that has compulsory jurisdiction, exercises continuous organization, and claims a monopoly of force over a territory and its population, including all action taking place in the area of its jurisdiction. (Weber. 1919. *Politics as a Vocation*. Lecture given to the Free Students Union of Munich University.)

The *third* reason is the expected long-term fiscal and economic gains in successfully managing illegal arms and rebel groups. Military expenditures due to extended period of conflict can amount to several millions in operational and intelligence costs. According to Lodgaard (1985) although rehabilitation and reintegration programs may be expensive undertakings, they are temporary and will only be incurred during the transition period. After which, costs will severely drop as there will no longer be need to spend exorbitantly on security provisions and military operations in affected areas.

Another economic gain is that a conflict-ridden state is seen as an unstable market and therefore deters trade and investment from extra-national and multinational corporations. Once security is improved, theoretically, trade and investment will also increase. This is particularly true for resource-rich countries such as the Philippines with immense market potential but hampered by chaotic politics and plagued with constant armed conflict. According to Kuniko Inoguchi<sup>3</sup>, a Political Science Professor from Sophia University, the proliferation of SALW leads to the recurrence of violence, hinders post-conflict reconstruction, and becomes one of the major sources of poverty and social insecurity. (Lodgaard, 1997; Inoguchi, 2005)

There is also the issue of medical expenses. In the happenstance of armed encounters the exorbitant costs of medical treatment only serve to further deplete the already limited resources of communities.

Lodgaard, however, failed to note a fourth reason that this study also wishes to highlight -- the *gender* issue. Based on statistics, the ratio between male and female persons directly affected by small arms and light weapons (SALW) proliferation is 10:1 respectively (Hugenberg, Anjango, Mwita and Opondo 2007). While more men are actually victimized by gun violence, women are disproportionately affected. Women experience gun violence differently; often in insidious ways.

In a study done in 2008 that attempted to view gun violence on a gendered frame, it was asserted that “(t) he gendered power relation that extols the strength of men and the weakness of women makes women feel more vulnerable. The data generated by this study supports the argument that women are conscious of *being women* and such awareness frames how they view themselves in relation to society. The awareness of being a woman seemingly ‘traps’ their paradigm that they themselves believe that women are more vulnerable as compared with men.” (Oreta 2009)

Other related studies reported that “(f)ear of crime is a leading social and political concern in...cities and women’s fear of male violence constitutes the core of the problem in terms of its quantity and nature.” (Pain 1993). Threats of crime affect women more, and thus women are more likely to support preventive measures that address criminality. (Hurwitz & Smithey)

Thus, in general, proliferation of firearms does not only cause physical damage to persons; it also hinders livelihood, threatens security and causes severe

<sup>3</sup> Inoguchi also serves as Special Assistant to the Minister of Foreign Affairs, Japan.

trauma and paranoia among community members. It also exacerbates the lopsided power relations of male and female in society. It perpetuates the cycle of violence and poverty that affects all persons within a community.

These arguments are, however, obviously based on the view that the state can have the monopoly on the *legitimate use of violence*.<sup>4</sup> In the Philippine context, with more than 7,000 islands, many of its areas remain vulnerable to insurgencies that practically serve as *private governments* in their areas of control. In other words, the idea of the state having the monopoly on the legitimate use of violence is more of a wish than a reality. From the time of independence until the present, no administration has successfully solved the rebellions. Even the so-called success of Benigno “Ninoy” Aquino in making Taruc surrender during the administration of Former President Magsaysay may not be considered a resounding victory since the rebel group did not actually fold up but has simply morphed into the current insurgent groups.

### Private governments

Private governments are non-state entities that act as providers of governance, authorize and direct the flow of events in the area, and control the security situation in their sphere of influence. (Wood and Dupont 2006:2) The qualifier ‘private’ is added since these groups practically act as the authority in some areas and perform the basic functions of government, i.e. managers of peace and order, and the authority that settles disputes. A crucial factor of a ‘private government’ is its control of private armies. Hence, whether or not the exercise of power and authority in a community is with consent or under duress is another issue. The point here is that these ‘private governments’ are the de facto authority in certain areas. And the existence of *private governments* is a clear indication of the failure of the state to monopolize the legitimate use of violence.

Private governments that thrive in a certain localities can be distinguished based on their orientation and agenda – they can be political groups with armed components like the Communist Party of the Philippines-New People’s Army (CPP-NPA), Moro Islamic Liberation Front (MILF), Moro National Liberation Front, Rebolusyonaryong Partidong Manggagawa ng Pilipinas/ Revolutionary Proletarian Army/ Alex Boncayao Brigade (RPMP/ RPA/ ABB), Rebolusyonaryong Partidong Manggagawa ng Mindanao (RPMM), Cordillera Peoples’ Liberation Army (CPLA), Bangsamoro Islamic Freedom Fighters (BIFF); or self-serving or in-group centered armed groups like Abu-Sayaff Group (ASG), criminal syndicates, community-based gangs/ fraternities, and cults with armed unit. These are non-state entities that perform basic ‘governance’ functions, i.e., asserting authority in their areas of control, and performing security and order functions.

To a large extent, local political families or clans with private armies are also ‘private governments.’ This type is even more insidious as they wield complete control - especially in politics, economics, and security – in the communities they inhabit. They can

<sup>4</sup> ‘legitimacy’ must be differentiated from ‘legality.’ Legitimacy is a subjective concept that attributes the rightness or the ethics of the object of inquiry. If used in the context of a leader, legitimacy can mean the public acceptance of the ascendancy of the leader (can be based on

dip their hands in the resources of the state – both economic and coercive – and use the same to advance their private agenda. Since a member of the political clan is an incumbent elected official, they are seemingly untouchable by the national government (as they enjoy the ‘mandate’ of their people). The best example of this would be the rise of the Ampatuan family in Maguindanao. This issue is actually where *political-electoral reform agenda* converge with security and peace- building agenda.

In areas where bossism and warlordism characterize politics, politicians are somehow expected to have goons since their stature largely depends on the number of guns in their possession and the armed people in their control. Patino and Velasco (2004) argue that politicians hire *goons* and build up private armies not only for their protection but also to intimidate their opponents. Given the abject proliferation of guns, it is not difficult for politicians to find guns-for-hire.

The phenomenon of private government-private armies has been present for a long time. Kuhn (1967) accounts their proliferation to the people’s “intentional collective blindness.”

The presence of private governments is a serious challenge to the legitimacy of the elected government. “Governments are formed by groups that promote particular sets of policies designed to support and respond to the objectives and concerns of particular constituencies” (Shearing, 2006). Even if it serves partisan objectives, governments still attempt to frame their agenda as ‘promoting the common good.’ Legitimacy is seriously sought and there is more compulsion for the government to be more inclusive. *Private governments*, however, are motivated by partisan, self-serving interests. Its management of the affairs of the locality is meant to support very particularistic, exclusive and partisan objectives.

In a context where the divide between the rich and poor is wide and economic mobility is difficult, the availability of firearms clearly invites the possibility of misuse. The mobilization of private armed groups, thus, can be seen as the ‘conclusion waiting to happen’ in a society awash with firearms. The presence of these private governments clearly undermines the state building and democratization process of societies, threatening even to bring the society in the ‘*failed state*’ position.

#### The internal security challenge

Alan Collins<sup>5</sup> (2003) argues that for most of Southeast

<sup>6</sup> The legitimacy of a given administration, in a democracy, is based on how acceptable is the electoral exercise that proclaim the government in power. Legitimacy is a subjective notion based on the collective view of what is right and ethical. Since it is a subjective view, it can be given, but the people can also withdraw it. For instance, even if a given administration is unpopular, and the manner by which it assumes power is questionable, *political legitimacy* can still be gained by the administration in power if it is able to satisfy the expectations and demands of the majority. Hence, legitimacy and the performance of the administration are closely intertwined.

The concept of a *regime*, on the other hand, pertains to the broader political system by which the administration is bound to. It is the system of policies, laws, rules, ideology/ worldview that govern a given society. In the Philippines, all administration is power is bound to promote the democratic system (materialized 1987 Constitution, and consequently, all the rules, laws, policies, agreements created within its bounds). The concept ‘regime legitimacy,’ therefore pertains to the acceptability and rightness – in the eyes of the majority – of the political system and all of its political rules and decisions.

Asia, security issues are predicated on the regime’s legitimacy<sup>6</sup> (or lack thereof), weak state and/or the unfinished state-building work of the political elite, politicized military, and politicized population. These issues cannot be regarded as separate and distinct; they are in fact closely intertwined. The state is weak and /or state building remains unfinished due to the states’ fractious relation with a politicized population. In the Philippine context, the tenuous relationship between political legitimacy and regime performance (largely rooted on the country’s historical baggage of colonialism, and the socially constructed divides brought about by differences in ethnicity, language, class, divides and ideological differences) greatly contribute to the political stability (or instability) of the state. The outcome of this correlation is also seen as a crucial factor in the politicization of the military.

“Precisely because it is the body that actualizes the state’s inherent monopoly of the legitimate use of violence (Weber, 1919)<sup>7</sup>, the military institution is not supposed to engage in the internal political dynamics of the state. In fact, Finer (1975) argues that one should not be surprised if the military usurps political power – because it can if it wants to; the surprise rather is on the fact that it has not. In other words, allowing the institution to dip its hands on the internal political dynamics creates the unavoidable politicization of ranks.” (Oreta 2011)<sup>8</sup>

In the Philippines, the politicization of the military is a direct consequence of the political decisions of the civilian leaders. The Philippine Scouts and the Constabularies, the precursors of the AFP, were created by the United States in the early years of colonization. They had their guns trained (literally and figuratively) in the direction of internal security threats. The problem, however, is that the training and doctrine of these institutions were patterned after that of the US military – an institution that is primarily conceived to handle territorial defense. This misaligned training and task arrangement yield unavoidable problems. “The very nature of military operations done within the confines of one’s territory, using tactics and maneuvers against one’s own people, creates delicate situations where the military traverses a tight rope, and violation of rights was more the expectation than the exception.<sup>9</sup> It is no surprise that the institution becomes embroiled in numerous complaints of abuse and human rights violations.” (Oreta, 2011)

Given that the military is the coercive arm of the state, the politicization and poor professionalism of its ranks create numerous problems. Not only does it further complicate and exacerbate the conflict dynamics (due to the human rights abuses and power excesses of some officers and enlisted personnel), allegations of gun-running continue (i.e. military officers are involved in selling guns, other weapons and ammunition to insurgent groups). If indeed the issue of gun-running is true, no matter how effective the internal security operations are (and the confiscate-capture-seize-firearms’ operations are against insurgent and criminal

<sup>7</sup> “The Politics of Vocation.” A lecture given to the Free Students Society/Movement of the Munich University in January. Max Weber famously defined the modern state as an entity claiming a monopoly on the legitimate use of violence to enforce order over a specific territory. By this definition, many of the countries that constitute the international geopolitical order fall well short of being genuine states.  
<sup>9</sup> For instance, entering a community –without doing anything – already puts the safety of the community in jeopardy since the military can be attacked, placing the safety of the entire community in peril. This is already tantamount to violation of rights – even without doing anything!

groups), the conflict cycle has no end in sight as the insurgents and criminals will always have ready supply of firearms and ammunition.

Also, due to the limitation in the number of enlisted soldiers that the state can support, the army has instituted stopgap measures to augment the ranks. Force-multipliers were recruited in the form of CAFGUs (Civilian Armed Forces Geographic Units) under the supervision of the military, and CVO (Civilian Volunteer Organization) under the supervision of the local government units. The problem, however, is that these are civilian paramilitary units – its very existence is inimical to the principles of democracy.

Moreover, while the CAFGUs are under the supervision of the army, they do not receive the same salary and benefits of a regular enlisted soldier. They serve only for 15 days per month since the idea is to create a community-based defense team. Hence, the recruits must be from the community and should not be uprooted from their regular work. As of 2011, they receive P2,700 for 15 days; while for the remaining days of the month, they are expected to continue with their regular work or find other means of livelihood.<sup>10</sup> Some of these CAFGUs moonlight as bodyguards of politicians and/or business owners/landowners/ miners. While technically speaking, it is within their rights to earn a living in whatever way they see fit, morally and ethically, they are still regarded by the community as CAFGUs and are closely affiliated with the military (for some people, there is no distinction between CAFGUs and military soldiers). This creates the unfortunate conclusion that the military serves the interest of the rich rather than the state and the people. It does not help that there are also SCAA units (Special CAFGU Active Auxilliary) whose primary function is to cater to the security requests of business enterprise, private corporations, or LGUS – further strengthening the view that CAFGUs - and by way of extension, the military - have their eyes only for the elite.

The CVOs, on the other hand, allow political families who have their private armies to ‘legitimize’ and ‘legalize’ their troops. Under Pres. Arroyo’s Executive Order 546 (issued on Aug 28, 2006), the PNP, with the approval of the local executives, is given the power to recruit force multipliers against insurgents. Again, this is due to the fact that the state has limitation in recruiting and supporting a sufficient police force. Section 2, for example, of EO 546 provides the following:

In the exercise of its responsibility, subject to the concurrence of the appropriate Local Chief Executive through the Local Peace and Order Council, the PNP is hereby authorized to deputize the barangay tanods as force multipliers in the implementation of the peace and order plan in the area.

“Each barangay will be authorized to deputize five police auxiliaries who will be under the strict supervision of the Philippine National Police,” according to former Interior and Local Government Secretary Ronaldo V. Puno (Kolambugan and Iligan, August 25 2008).<sup>11</sup> These deputized police auxiliaries are also known as the civilian volunteer organization (CVO). Enterprising politicians, however, enlist their private bodyguards as members of the CVO – a move that not only legalizes them, but also legitimizes the use of government money to pay for the

salaries of these bodyguards doubling as CVOs.

While not all CAFGUs and CVOs are abusers, there have been several instances that they figured in a human rights abuse/ power abuse case.<sup>12</sup> The most recent and most celebrated case of CAFGUs and CVOs abuse was the 2009 Maguindanao massacre where paramilitary units were used, along with some police and military, by the Ampatuan family to kill political opponents and their supporters. The incident, however, is just one of the many. In the ARMM areas, it is an open secret that certain political leaders are using not only the CAFGU and CVOs against their political opponents, but also the full force of the military and police, under the cloak of pursuing armed combatants or criminal bandits.<sup>13</sup>

There are even anecdotal reports that some members of insurgent groups ‘moonlight’ as private bodyguards of politicians during election period. Others, on the other hand, extract campaign passes from candidates to allow them safe passage in communities that are under the ‘authority’ of insurgent-controlled private governments.

Indeed, the internal security problem, coupled with the reality of private governments, increases the proliferation of arms in the hands of civilians – complicating conflict dynamics and posing numerous challenges to peacemaking and peace building efforts.

#### **Conflict Prevention and Post Conflict Reconstruction**

According to Kuniko Inoguchi,<sup>14</sup> a Political Science Professor from Sophia University, *proliferation of SALW leads to the recurrence of violence, hinders post-conflict reconstruction, and becomes one of the major sources of poverty and social insecurity.* (Lodgaard, 1997; Inoguchi, 2005) Arms control and management, in the context of peace negotiations and post conflict reconstruction, to be effective, must adopt the following strategies: (a) conflict prevention programs must be comprehensive; (b) it must be able to enhance security; (c) the rule of law must be promoted; (d) development must be stimulated; (e) refugees/ internally displaced persons must be repatriated; (f) the political system must expand so that all groups of significance may articulate their interests within the system; and (g) reform must be done with the socio-economic context. (Lodgaard, 1997; Inoguchi, 2005)

Conflict prevention and post conflict reconstruction entail the same ‘operative requirements from the state. Prevention and reconstruction, if correctly managed, will successfully control arms proliferation, demobilize rebel groups, and allow for their reintegration into the mainstream society. The expanded sphere of political participation and more equitable socio-economic conditions will foster a state and society that will include all previously marginalized sectors, groups, and individuals, and consequently, the armed-violent method of actualizing dissent will eventually be rendered irrelevant.

<sup>12</sup> In the 1980’s, the case of Fr. Tulio Favali, killed in cold-blood by Manero – the leader of a paramilitary group called *Ilaga* - was the most controversial case that highlighted the abuses of the government’s paramilitary groups.

<sup>14</sup> Inoguchi also serves as Special Assistant to the Minister of Foreign Affairs, Japan.

### Stakeholders in the domestic peace process

There are three main actors in the domestic peace process, the government (or the state), civil society, and the non-state actors (or the rebel groups). However, according to Sato (2003)<sup>15</sup>, a fourth actor in the domestic peace process is the international community (usually represented by the United Nations).

Arms reduction is closely related to prevention of future proliferation. The UN Security Council reports (1997 and 1999) that for reduction and prevention to be effective, the international community must be brought in to provide pressure, support and added capacity in handling, enforcing and maintaining genuine peace. (Sato 2003)

A 'rational' approach<sup>16</sup> must be taken in dealing with small arms and light weapons (SALW) and domestic peace and security issues to be able to entice the international community to be more participative in matters that can be considered as outside of their own interests as sovereign actors. The 'rational' approach will enable the states to see the interdependence between the domestic security issues of a sovereign state, and its own interest in that conflict affects multi-national diplomacy and international trade. This interdependence means that no country is truly free from the impact of domestic SALW and insurgency problems and thus, according to both Sato (2003) and Inoguchi (2005), no country should be left to deal with the SALW problem alone.

The UN suggests that to make international intervention more integral to the domestic peace process, a new chain of command should be established. The local bodies should coordinate with the regional bodies, the regional to the national and the national to the international. This ensures proper involvement and communication between all levels of participation. However it should be noted that the rebel groups are often wary of international intervention viewing such involvement as strategies to extend authority and control. This is particularly true for Marxist, Maoist, Communist and/or Leninist ideological rebel groups. In the Philippines, the Moro insurgents seem to be more open to international intervention. In fact there has been a documented increase in foreign stakeholders in the Mindanao peace process. Some notable participants are Japan and the United States of America.

It is also suggested that international aid should be directed to strengthening infrastructure and human resources for security forces in conflict-ridden areas. An alternative suggestion to this, in the light of fears that the monetary aid will land in corrupt hands and contribute to the problem further, is the bringing in of international peacekeeping bodies to act as supplementary but temporary security forces in affected areas until successful rehabilitation and/or reform has been achieved.

### Weapons-for-cash or Guns-for-cash programs

Based on the experience of other countries undergoing peace processes (see Appendix 7.1), compelling and coercing the communities and

<sup>16</sup> In political science, the *rational / rational choice* approach capitalizes on the cost-benefit scenario the decision makers consider. The belief of the approach is that decision makers would always choose the option that provides the greatest utility.

combatants to undergo and cooperate with DDR efforts (disarmament, demobilization, reintegration) have proven ineffective. Incentives have been peddled for groups to surrender their arms voluntarily. The most common program under the approach to DDR is the *weapons-for-cash/ guns-for-cash* program by the United Nations. Such programs have been employed in various countries such as Somalia, Mozambique, El Salvador, Haiti, Liberia, Nicaragua, Eastern Slovenia and Croatia. This program has successfully collected several thousands of SALW units since the 1990s. However, its impact is said to be at best, with average effectiveness.

According to scholars, this program has often fallen short of its goals because the combatants usually have more than one weapon and may choose to sell off only the ones that s/he no longer wants. What is more disturbing is that there have been anecdotal reports that sometimes the combatants sell their old guns to be able to get cash to purchase newer, better and more dangerous guns. This in turn creates a large demand for arms trading within the market and the cycle of proliferation becomes invigorated, enriched and renewed, creating a more serious problem than ever.

BARIL. In the Philippines, the Bring a Rifle Improve your Livelihood (BARIL)<sup>17</sup> program has also insufficiently met its targets. The program was implemented for the MNLF and was successful in 'reintegrating' 4850 former combatants (who turned over 4874 firearms).<sup>18</sup> However, this program failed to sufficiently disarm the former MNLF rebels. Some of the former rebels admitted to having more than one weapon each and surrendering only one to avail of the benefits of the program. The other weapons were either kept at home or given to other comrades who still went on fighting (see discussion in Chapter 2)

The alternative to using cash is vouchers for stores and supermarkets. These were used in El Salvador, wherein those who turned in their guns could get basic necessities in exchange. However it is said that the most effective incentive that one can give are credible, profitable, stable and nonviolent sources of livelihood.

On the national level the efforts have failed due to lack of capacity, resources and political will by the local leaders and the predatory nature of the states. On the international level, efforts have failed due to a lack of better and more cohesive coordination.

Efforts will only succeed if both national and international efforts are coordinated and units cooperate with each other, creating a community- based, genuine, well- funded, well -organized arms control and management program that will re-establish law and order and bring in the long awaited development.

### The Challenges of SALW proliferation in the Philippines

Both legal and illegal arms trading have been present in the Philippines since the late 1800s when the European colonizers first realized the market potential of selling arms to native dwellers. It would only be in the 1900s when

<sup>17</sup> This program was for intended for all armed insurgents, not only the MNLF

colonial governments would begin to impose stricter arms control due to rising instances of armed conflict (see Chapter 3). This is true for most of South Asia. (Tagliacozzo 2005)

It is documented, in the Philippine case, that Sulu Island and particularly, the Taosug and Balangingi Samal indigenous peoples have been part of this market since the colonial times. There are still allegations that this area is still active in modern day illicit arms trading.<sup>19</sup> It is included in what is now called the 'Southern Corridor' where most of the smuggled SALWs are trafficked. However, as discussed in Chapter 2, the illegal arms trade, according to the PNP and AFP, is no longer the main source of weaponry for rebels and civilians alike.

According to Makinano and Lubang (2000), the six main sources of SALW used by civilians and rebel groups, particularly in the Mindanao area are: (1) the Military and the Police, (2) unlicensed manufacturers, (3) unreturned firearms from the coup attempt in the 1980s, (4) foreign shipments reportedly from Afghanistan, (5) gun runners and (6) the rebels themselves who are endowed with manufacturing capacity.

#### **Why Firearms Proliferate: Sources of Pressure**

Using the Daryl Whitehead (2003) analysis, Table 7.1 illustrates the summarized assessment of the various sources of pressure that trigger firearms proliferation in the Philippines. The framework locates, separates and analyzes the various reasons and factors that cause community members to arm themselves.

Whitehead, in an article on SALW proliferation pressures in the Horn of Africa,<sup>20</sup> described the different levels of pressure that trigger SALW proliferation. He classifies them as Regional Level Pressures, State Level Pressures and Local Level Pressures.

Regional Level Pressure. SALW proliferation pressure deals with a larger sphere of mainly political and economic stability that directly affect the security and the development of, at the very least, entire regions and at the most, the entire world.

This level has transnational crime and international conflicts as main sources of pressure for communities to arm themselves. Matters of security, even those traditionally labeled as domestic concerns have direct and indirect effects on other states particularly the immediate neighbors of a troubled state. However, the concern becomes much greater when the conflict involves more than just one state because it has a wider scope of impact.

Domestic armed conflict and organized crime affect regional security indirectly by creating insecurity within the state and its neighbors that the disorder may magnify and eventually spill over to other states. It also presents deterrents for economic investment and thus impedes development.

<sup>20</sup> Countries included in the HORN are Djibouti, Eritrea, Kenya, Ethiopia, Somalia, Sudan, and Uganda.

Interstate conflict is a much more potent threat on the regional level as it directly involves and affects more than one state in a region. The conflict can escalate into full-scale wars and the existence of alliances may involve countries even outside the region. The resources of the government, both economic and political, will be channeled to the war instead of development. It will displace citizens, claim lives, and cause havoc that may even completely freeze trade in the region. Moreover, cost of war extends beyond the actual fighting. Apart from rehabilitation and reparation for physical damage, there is as well, a damaged political reputation that has to be reconstructed and may take several decades to repair.

The same can also be said of transnational crime that is highly organized, well-funded and often highly supported by some very powerful people. Transnational crimes such as arms smuggling and the drug trade are hard to track and solve due to the complexity of their organization and operations. Even if a state has the capacity to curb the threat in its own jurisdiction, efforts to combat become difficult since the threat also exists in neighboring states.

State Level Pressure. State level pressure comes from actors within the state as well as non-state actors (NSA.)

This level mainly focuses on the national arms cache and storage systems and how these could be, at times, be the source of weapons for unofficial security forces such as vigilantes and rebel groups.

The lack of genuine commitment to arms control and management programs and efforts add to the pressure that comes from the level of the State.

State level pressure points also include the practices of the state than can be deemed repressive, oppressive and marginalizing that motivate individuals and groups to arm themselves.

Local Level Pressure. Local level pressures come from clashes within and among groups, clans and tribes in communities that are often warring over scarce resources as a result of underdevelopment and economic marginalization, as well as over political power. The armed battle for survival glorifies the use of guns for 'self-defense'. Gun ownership is also equated with bravery and power since it endows the owners with the ability to defend themselves and fight for a larger share of economic resources.

**Table 7.1. Pressure Points where Firearms Proliferate**

Regional Level Pressures	State Level Pressures	Local Level Pressures
Transnational organized crime and terrorist activities, International Arms Trade, the Black Market and the porous borders (ex. JI and the Abu Sayaff)	Transfer of SALW from state to Non-state Actors (NSA) and poor security of the national SALW stockpiles	Mistrust between groups, clans, tribes
Regional political instability (ex. Corruption in the state and in neighboring states, Burmese Military Junta, Thailand's military dictatorships)	Inconsistent and lukewarm commitment to DDR efforts	Competition for scarce resources: e.g. cattle rustling, crime as a result of economic marginalization (poverty)
	Inequity between classes and marginalizing practices by the government – Semi-feudal, semi-capitalist structure of society, patron client system	Ideological clashes between government and insurgents
	Domestic manufacturing capabilities	Guns as a tool to ensure the protection of the self, the family and one's livelihood.

The interconnectedness of the pressure points. On the regional and state level, pressures are located in political instability, illicit arms trading through the black market, drug trafficking, repression (in some local level cases, predatory state practices), lack of genuine commitment to arms control and management programs and efforts, and the existence of armed non-state actors (NSAs) who sometimes source their weapons from the national arms cache itself, and the ability of manufacturers, both licensed and unlicensed, to produce cheap and local weapons. Threat groups such as the Abu Sayaff (closely related with the Jemiah Islamiya) has provided disincentives for economic investment, peace and order, and development.

On the state level there are also many NSAs/ private governments that have successfully gained access to arms, notably manifested in the existence of private armies and civilian security forces in the various regions of the Philippines.

There is also concern about political-economic structures in the country, perceived to serve the interests of the elite. This structural problem dates back to Spanish colonization carried through the succeeding periods of colonization. The Americans failed to genuinely reform structures in a bid to pacify the elites to which power was ultimately handed over and where it has remained ever since. This monopoly of economic and political power in the hands of the few hampers initiatives for genuine change, including initiatives on arms control and management.

This flawed structure has also served to alienate individuals and groups, marginalizing them and preventing them from truly and completely participating in the affairs of the state. This marginalization leads to political

disenfranchisement, poverty, and dissatisfaction with the government and in the most extreme cases, armed rebellion.

However, the research would like to more specifically classify the armed rebellion and insurgencies as local level SALW proliferation pressure because the armed insurgencies as a result of political and economic marginalization have produced no large-scale national movement. The rebel groups, both of separatist and ideological nature, are limited to certain regions only, such as some parts of Mindanao in the case of the MILF, and some parts of Luzon, Visayas, and eastern Mindanao in the case of the Communist insurgency.

Given the nature of the cultural and ethnic diversity of the Philippines, conflict between clans, tribes and groups have become increasingly violent and dangerous with the advent of modern weaponry. In Mindanao there is a practice called Rido or clan wars. Clan feuds also occur in Northern Philippines such as in certain areas of Abra, Kalinga and Ilocos.

Poverty and insecurity are also two leading causes of firearms proliferation in the Philippines. For instance, cattle and carabao owners arm themselves as cattle rustling and carabao-raiding are not uncommon in some parts of Visayas and Mindanao. Unfortunately, the presence of too many guns also facilitates crimes such as hold-up, armed robbery, rape and even murder. With gun proliferation, poverty and crime rates continually rise each year, so does the perceived need to arm oneself for defense and to protect one's properties. It's another cycle that just goes on.

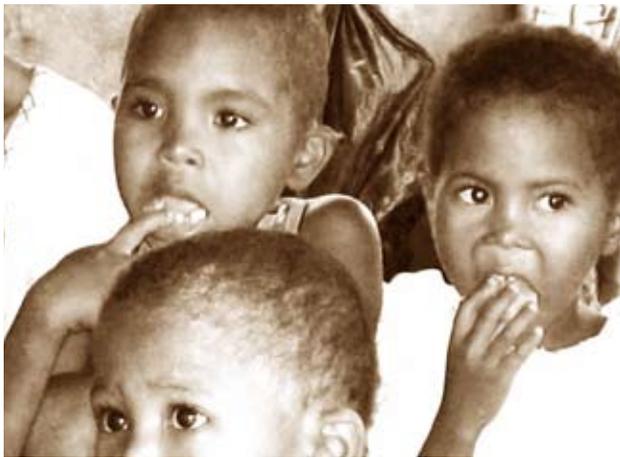
**Final words**

Arms reduction, demobilization and reintegration to communities of rebel groups, and arms control are important in the management of SALW and in conflict prevention because they will help increase the stability of the state and the legitimacy of the government, as well as promote the overall security of actors within the state. This must be done, however, within a comprehensive framework that also creates a larger arena for political participation and for socio-economic reforms towards a more egalitarian society. Taking all of these together the need for armed insurgency will dissipate and the civilians within affected areas will also find no reason to arm themselves, whether illegally or legally, due to their recognition of the state's monopoly of force, ability to provide security and capacity to protect human rights.

Efforts need to be more integrated and coordinated among local, regional, national and international organizations that want to end the problem of SALW proliferation. Regulation and storage of SALW need to be improved through the repeal of laws that allow proliferation, the implementation of existing laws and the creation of new policies and orders that will ensure better controls. Working with NGOs that know the local landscape very well may also aid in the regulation of SALW. Partnering with local groups can clearly aid in the crafting of more suitable and more sensitive policies. These groups can also lend their credibility and familiarity with the community to get them to open up and cooperate with efforts to create genuine reform.

Influential leaders from civil society like religious groups who can effectively mobilize the local populace - Bishops for Catholics, Ulamas for Muslims, tribe leaders/ elders for Indigenous Peoples- may also be tapped. Engaging these groups can facilitate the use of nonviolent mechanisms to resolve conflicts. The *Bodong* in the Cordillera and the *Sungusungu* in Kenya are good examples of such mechanisms.

Aeta children of Sapang Uwak, Porac Pampanga. Children are always the unwitting victims of gun violence



Stable livelihood sources, long-term employment and development must be brought to problem areas and communities. Quality education must be accessible and standards of living must be improved. There have been various efforts and investments in Mindanao costing billions of pesos in development projects and programs. Yet, these interventions have yet to create meaningful and visible changes that impact on the lives of the people and society – and this seeming drawback is largely due to the lethargic pace at which the government's mammoth bureaucracy operates and due to the ineptitude of rent- seeking and self- interested politicians.

Measures to curb, monitor, and control SALW proliferation must be incorporated into local, national, and international laws to be more effective. This means that commitment is needed from our national level legislators and leaders.

Overall, arms control and management, and consequently genuine reform and peace, may only be achieved through an integrated, comprehensive and participative program that involves all actors in the national, local and global levels, including non- state actors and insurgents.

## Appendix 7.1 Comparative Analysis of DDR: Select Countries

### What is DDR?

**Disarmament:** Survey, Collection, Storage, Disposal and/Reutilization of weapons of combatants & often also of the civilian population

**Demobilization:** Downsizing or complete disbandment of armed forces (government and/or opposition or factional forces) as part of broader transformation from war to peace

**Reintegration:** Assistance measures for former combatants and dependants to (re) settle in post-war communities (social), become part of democratic decision-making process (political), engage in sustainable civilian livelihoods (economic) and adjust attitudes, expectations and deal with war-related mental trauma (psychological)

The problem of international arms trade has been a global problem since the 1800s wherein the colonial west produced SALW and sold them off to their colonies. Fast forward two centuries, not much has changed. Europe and the USA are still the main sources of international arms trading, even when they continually preach and attempt to disarm, demobilize and reintegrate combatants and entire communities in developing nations. This seeming farce is allowed to continue due to the lack of a single cohesive, coordinated and binding treaty that will be the singular tool for enforcement of SALW control and regulation across all borders. However, this is not to say that there are no efforts to create such a treaty or program. Examples of such are the Arms Trade Treaty and the UN Firearms protocol.

The international arms trade is so massive that it generates at least \$5B USD legally and an additional \$2B to \$10B USD illegally. It involves 1,249 companies and over 90 states dealing with mostly second hand weaponry some of which are even reportedly sourced from old Cold War caches. The size of the market necessarily presents difficulties in monitoring and controlling the movement of arms across borders and it cannot be done by states acting alone. Successful monitoring and regulation can only be done through international or at the very least regional efforts because matters of security permeate through all borders and interests of states. (Small Arms Survey 2004)

### The International Arms Trade and SALW Proliferation in the African context

#### Why Africa?

The problem of SALW proliferation is very much present in the various African regions and states. In fact, it is said that because African state and society is so saturated with SALW that one can purchase an AK 47 for less than \$16.00 (USD) or roughly Php 800.00. This alarming level of saturation is indicative of the depth and gravity of the problem of SALW proliferation and the poverty that it perpetuates in Africa. This daunting condition is precisely what has attracted the international attention of organizations and intellectuals keen on analyzing and curbing the problem of arms in the African context. The massive efforts directed to Africa means that there is much literature and

experience that we can draw on, but not mimic, to be able to better understand SALW proliferation and how to address it in the Philippine context.

### **The Three Levels of SALW pressure in the Horn of Africa (HoA)**

Large parts of Africa are war torn, conflict ridden, miserably poor and saturated with SALW in the hands of civilians, governments, security forces both state and non-state, rebel groups and criminals. However, for the purposes of this analysis we will only use the three levels of SALW proliferation pressure on the Horn of Africa (see Whitehead's framework in Chapter 7) to be able to get a more manageable and concrete application of the indicators.

On the regional level the HoA is a den for illicit arms trafficking. It sources most of its internationally bought weapons from Europe with yearly purchases amounting in the tens of millions. The highest yearly export volume recorded was at \$700M USD in 1985, and weapons from this purchase over two decades ago are still in circulation today on top of the million dollars worth new annual acquisitions and also the locally manufacture SALW. This is said to assert a considerable pressure on SALW proliferation in the region because the guns are highly profitable, available and 'helpful' for the poverty stricken region. We also recall that we cited in the earlier parts of this essay that many scholars believe that increase in SALW possession necessarily increases the lethality of conflicts and the incidence of violence. We also have aforementioned the fact that because of the transnational nature and the size of this market it presents difficulties in tracking and controlling SALW flow. This is particularly troublesome in HoA because the regions are porous due to the high levels of migration to and fro the various states caused by war, famine, refugees, poverty and pastoralist communities.

Another regional problem in the HoA is the armed political strife that has plagued its member states. Prime examples of this disarray are the collapse of Somalia in 1991 and the more recent clash between Ethiopia and Eritrea that broke out in 1998 which has only signed a ceasefire and no lasting peace agreement. The Somali collapse created massive political anarchy as its state actors fight over power to restructure and reconfigure the state. In the quest to build a bigger better Somalia, soldier and civilians armed themselves and attacked the bordering states with an aggressive expansion in mind. No single central government has ever been established since then making peace and order very hard to institute. Lawlessness and illicit trading have reached their pinnacle to the point wherein Somalis view it as 'the way of life.' What's more is that all major SALW trade routes pass through Somalia.

The second example of regional pressure is the Ethiopia and Eritrea conflict. Even though they have reached a ceasefire in 2000 the lack of a lasting genuine peace agreement puts these states and this region constantly tethering over the edge of war. This creates more pressure because it enables a culture of insecurity and paranoia within the region.

On the state level we can again use the case of Somalia to illustrate our first factor, which is the transfer of SALW from State actors to NSA. In Somalia since there is a lack of a centralized authority to provide security and protection for

its citizens the community must constantly arm itself to survive. In the 1991 collapse the Somali weapon stockpile was dispersed into the region not only to leaderless soldiers but also to armed militia. These arms were used to invade parts of Kenya, Djibouti and Ethiopia.

The second state level SALW proliferation pressure for the HoA is the poorly coordinated and insensitive attempts at Demilitarization, Demobilization and Reintegration (DDR) of combatants and communities that have often practiced oppressive and repressive programs that have tried to force the communities to give up their arms instead of involving them and giving them proper incentives to willingly participate in the DDR. The use of force only served to further alienate the local communities such as the pastoralists of Uganda and caused renewed conflict to arise.

The last state level proliferation pressure is the ability of some states within the region namely, Kenya and Uganda to manufacture SALW locally. These weapons are crudely made and of low quality however, they are functional and cheap which enable the production and distribution at a more massive scale and at a faster rate.

Lastly we go to the local level SALW proliferation pressure variables. In the HoA and in Africa in general the existence of various tribes, clans and strong armed groups that often traverse the legal borders of the states, which were arbitrarily set by the Europeans as they left their colonies behind, create a diverse cultural, social and political atmosphere that lends itself to conflict because of the degree of availability of arms in the region. Therefore almost all conflicts turn lethal due to the use of SALW. These conflicts mostly break out due to the competition for scarce resources and power because of the extreme poverty and insecurity of the communities.

Some forms of conflict over scarce resources involve cattle rustling and crime as a last resort for livelihood. These conflicts are further fueled by the constant threat of famine in Africa due to the drought ravaged arid landscape. A last manifestation of conflict over scarce resources is the Bride Price phenomenon that according to Whitehead is specific to the HoA region wherein brides encourage their fiancés and suitors to go out in armed raids to gather enough resources to pay off the exorbitant bride prices required to be able to acquire the right to marry.

Due to the ability of guns to provide a means for defense from criminals or cattle rustlers or for a means for endowing one the capacity to undertake such shady activities in order to make ends meet the possession of guns is therefore glorified. The "strong man" society of the HoA has resulted in the *real politick* mentality as a result of dire poverty and lack of sincere change and the manifestation of the long promised development.

**TABLE 7.2 SALW Pressures Points in the Horn of Africa**

Regional Level Pressures	State Level Pressures	Local Level Pressures
<ul style="list-style-type: none"> <li>• Transnational organized crime and terrorist activities, International Arms Trade, the Black Market and the porous borders</li> <li>• Regional political instability (Ex. Collapse of Somalia and the conflict between Ethiopia and Eritrea)</li> </ul>	<ul style="list-style-type: none"> <li>• Transfer of SALW from state to Non-state Actors (NSA) and poor security of the national SALW stockpiles</li> <li>• Poorly coordinated DDR efforts and repressive and oppressive state practices</li> <li>• Domestic manufacturing capabilities</li> </ul>	<ul style="list-style-type: none"> <li>• Mistrust between groups, clans, tribes</li> <li>• Competition for scarce resources: Cattle rustling, Famine or fear of famine, Bride Price (a phenomenon specific to the Horn of Africa), Crime as a result of economic marginalization (poverty)</li> <li>• Guns as a tool to ensure the protection of the self, the family and one's livelihood.</li> </ul>

<sup>5</sup> 2003. *Security and Southeast Asia: Domestic, Regional and Global Issues*

<sup>8</sup> Oreta, Jennifer Santiago. 2011. "Democratizing the Philippine Military: Challenges and paradoxes." In Incitegov's SSR reader (for publication)

<sup>10</sup> Information is based on discussions with several military officers, between June to Dec 2011

<sup>11</sup> [http://dilg10.org/v1/index.php?option=com\\_content&task=view&id=120&Itemid=1](http://dilg10.org/v1/index.php?option=com_content&task=view&id=120&Itemid=1) accessed Nov 28, 2011

<sup>13</sup> See Torres, Wilfredo Magno. 2007. RIDO: Clan Feuding and Conflict management in Mindanao. The Asia Foundation.

<sup>15</sup> Heigo Sato, Senior Research Fellow at The National Institute for Defense Studies (NIDS) of Japan

<sup>18</sup> [http://www.international.gc.ca/arms-armes/isrop-prisi/research-recherche/intl\\_security-securite\\_int/makinano\\_lubang2001/section02.aspx?view=d](http://www.international.gc.ca/arms-armes/isrop-prisi/research-recherche/intl_security-securite_int/makinano_lubang2001/section02.aspx?view=d) accessed May 5, 2010

<sup>19</sup> See Miani, Lino. 2011. The Sulu Arms Market National Responses to a Regional Problem. Institute of Southeast Asian Studies.

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