

FINAL REPORT

INTER-PARLIAMENTARY CONFERENCE

*“Parliamentary Action on Small Arms – policies,
legislation and regional approaches”*



**THE NATIONAL ASSEMBLY OF NICARAGUA
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Inter-parliamentary Conference

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Introduction

The Latin American Parliament, hereafter 'Parlatino', the Parliamentary Forum on Small Arms and Light Weapons, and the joint UNDP/SICA project CASAC (Central American Programme on Small Arms and Light Weapons Control) held a regional parliamentary meeting at the National Assembly of Nicaragua. 27 parliamentarians from 14 countries participated in the two day conference.

Objectives:

- Enhance the involvement of Parliamentarians in issues related to SALW control and public security
- Share information on best practices and ongoing work related to improved SALW control (legislation, international and regional control mechanisms, storage and destruction, boarder control etc)
- Advance with legislative matters related to SALW control, with special focus on the current legislative reforms (model legislations, CIFTA and the Code of Conduct), harmonisation of legislation and international instruments as well issues related to the wider region (Caribbean, Mexico, Colombia)
- Deepen the discussion on privatisation of security as a theme to highlight the problems related to the state's monopoly on the legitimate use of force as well as security as a "common public good".

Day 1, Thursday 22 October

Opening session

The Inter-parliamentary Conference was opened by *Hon. René Nuñez, President of the National Assembly of Nicaragua*. In his opening speech he welcomed all participants and expressed his delight on behalf of the National Assembly of Nicaragua for having been given the opportunity to host the conference. He also discussed the severity of the problem of small arms in the regions of Central America and the Caribbean and hoped for a positive and constructive meeting.

Senator Sonia Escudero, President of the Parliamentary Forum on Small Arms and Light Weapons and Secretary General of Parlatino started her speech by giving a philosophical reflection on how humans, throughout history, have developed weapons in order to compensate their relative lack of physical strength and a constant need to defend themselves. We continue to develop more advanced weapons that have the capacity to destroy more and more human lives.

The trickle-down effect is also applicable to arms. Arms that were once in the hands of the state alone are nowadays found in civilian hands. She noted that Latin America is the region where most people die due to firearms. More Central Americans die every day than in armed conflict areas. According to UNDP, in Central America the homicide rate per 100,000 inhabitants is 29.3. In South America and the Caribbean the figures are 25.9 and 8.1 respectively, while the world average is at 7.6. She mentioned a few countries where the total number is as high as 59 homicides

per 100,000 inhabitants. Approximately 60% of violent deaths are committed with firearms, and in Central America, this ratio can be up to 80%.

Due to the widespread perception of insecurity many people choose to take up arms. This is a clear sign that modern states are failing to provide security as a public good. Violence is an expression of fear and as long as people feel insecure they cannot be entirely free.

She ended by quoting Wangari Maathai, the first African woman to win the Nobel Peace Prize that “In the course of history, there comes a time when humanity is called to shift to a new level of consciousness, to reach a higher moral ground. A time when we have to shed our fear and give hope to each other. That time is now”.

Erick Vílchez Director of Political, Legal and Security Affairs of the General Secretariat of SICA

Erick Vílchez declared that the excess circulation of small arms in Central America is a disease and that the whole region is suffering. The region is undergoing hard times as a consequence of the spread of small arms. He noted the clear connection between drug consumption, the drug trade and the prevalence of violence and small arms.

He stressed that there is a regional answer to this issue and that parliamentarians have an important responsibility and opportunity to improve the situation. He declared his firm belief that this meeting would provide a forum for innovative policies and create an understanding of the issue of small arms as a shared responsibility.

Mr. Vílchez went on to emphasize his support for the CASAC program and the Model Law developed on behalf of Parlantino as these initiatives can be of help in the creation of regional norms and improvements in boarder control. He also mentioned that small arms control had been the main theme of the meeting held in San Salvador a few days ago.

In closing, he spoke of the work of parliamentarians where he emphasized their responsibility to ratify and implement the regional norms carried forward by the Model Law. He also emphasized the need for educated technicians working with boarder control to improve the tracing of firearms.

Rebeca Grynspan Regional Director of UNDP, Latin America and Caribbean

Rebeca Grynspan spoke of the problems related to small arms in Central America. She mentioned that the worst affected countries are found in the north while in the south, figures are slightly lower. However, these figures have been increasing lately.

She stated that arms related violence prevents social and economic development in the region and the economic costs are estimated to be 3 – 7 % of GDP. In many of the countries the costs of violence constitute a larger amount than what is spent on healthcare and education. There is a need to protect the citizens.

She emphasized that there is a solution to this problem and that small arms control is an important part of this solution. There is a need to find a new model to face the scourge that is small arms and this model should be based on seeking joint solutions.

The Central American countries met in Belize where they approved CASAC as being a part of SICA (the System of Central American Integration). She stressed that the CASAC program is the main tool to control small arms and drug trafficking in the region and that it is known for promoting a culture of peace.

She spoke of globalisation as a phenomenon that has two sides, one good side and one evil side. The work to combat organized crime is a shared responsibility that is not exclusive to any one government and there is a need to engage the international community.

She highlighted the importance of tending to the demand side of the problem and the need to study the motivation behind demand. If this is done right, the possibility of finding a solution increases.

The main challenges are to be able to approach the problem both on a local level and an international level, and to find a legislative passage that is adequate to combat problems related to small arms. There is also a need, she said, to work to create an effective and intelligent police body and an effective legal system.

Furthermore, she stated that citizen security is a right to live free from threat and that human development begins with freedom.

In closing she stressed the importance of the parliamentarians of Central America and their role in finding ways to handle this issue. She finished by noting that UNDP reaffirms its commitment to continue to work with parliamentarians and civil society in Central America on these issues.

Session I- The role of parliamentarians in enhancing arms control and public security

Moderator for this session was *José Figueroa, Member of the National Assembly of Nicaragua* and also long term active member of the Parliamentary Forum on Small Arms and Light Weapons.

He opened the session by welcoming all participants. He was delighted to see so many of his national colleagues in the room and encouraged the participants to engage with them. He started by highlighting that even in this time of global financial crisis it is vital to secure resources for agencies and state institutions that deal with security. There is a need to be creative and find new ways. Security is a very valuable asset and needs to be safeguarded by the state. He stated that he looked forward to the oncoming discussion on the privatisation of the security sector.

Key note speaker for the session was *MP Christer Winbäck (Sweden)*, also Board Member of the Parliamentary Forum on SALW. He started his presentation by highlighting how armed violence constitutes a threat to human development and that violence and insecurity continue to restrain the improvement of democratic governance and the full enjoyment of human rights.

The amplitude of the problem has led to a strong, cross-party political interest in most countries to reach working solutions. Today, the Parliamentary Forum joins legislators from over 50 countries and legislative bodies, primarily in Latin America, Sub-Saharan Africa and Europe.

MP Winbäck explained that he is currently the chairman of the Parliamentary Association on Small Arms in the Swedish Parliament. The association work together in a cross-party manner, submitting motions, debate articles etc. In a few weeks a seminar on SALW will be held.

Sweden shares the Small Arms problem. In Sweden, firearms are used three times a day to commit homicides, attempted homicides and robberies. The number of confiscated weapons has risen three years in a row. Pub and restaurant staff reports that they increasingly meet customers bearing guns. The homicide rate where firearms have been used doubled the last three years: from 35 to 70. To tackle the problem, political will is essential.

The spread of firearms is a very complex issue but Parliamentarians are especially suited to tackle many of these aspects. Having been a member of the Forum for many years, he has had the chance to study in detail exactly how parliamentarians have worked, are working and could be working with small arms issues. The Forum is a parliamentary network which aims at identifying and multiplying parliamentary best practices.

The role of parliamentarians can be divided into four main functions:

- Propose, oversee, and reform national legislation
- Exercise control over our governments
- Generate social awareness and public support for the normative positions reflected in the legislation
- Responsibility for the ratification of international agreements such as the Arms Trade Treaty, The Convention on Cluster Munitions (CCM) and the UN Program of Action on the illicit trade of arms

On top of this civil society, human rights organizations and parliaments play a key role in:

- Promoting and informing public debates
- Collaborating in policy development and implementation
- Monitoring and criticising government initiatives
- Controlling the budget allocations of the public security sector
- National, long-term conflict prevention mechanisms and a special responsibility for the creation of stability in post-conflict societies.

He also pointed out that since small arms easily cross borders there is also a great need to harmonize legislation in order to stop illegal arms traders from finding loopholes etc. Parliamentary control of the public security system is confronted with significant obstacles such as corruption, lack of information that would allow an increase in the efficiency of control as well as lack of technical capacity to make those controls operational

Capacity-building is necessary in the form of support for and strengthening of parliaments and parliamentarians, as well as the provision of access to expert know-how and adequate tools. During this conference we will be presented a wide range of these tools and information which hopefully will facilitate our future work in *legislative reforms, parliamentary control and awareness-raising*.

As an example of information sharing he mentioned the Parlantino Model Law on Firearms which has now been presented during Parliamentary Conferences in Eastern Europe and Africa.

He concluded by saying that some countries still oppose our efforts but the price for this opposition is astronomic in terms of human lives. In this regard, it is worth underscoring the importance of counting on parliamentary mechanisms of scrutiny and parliamentary action in the fields of creation of public opinion and reform of legislation. The freedom to live and be safe is more important than the right to bear arms. He invited all his colleagues present to engage in dialogue and share successful parliamentary initiatives.

MP Rogelio Baruco (Panama) highlighted the strong connections between the drug trafficking in the region and Small Arms and the great problems caused by this.

MP Olivier Perez (Costa Rica) highlighted that 10 years ago guns were used for sporting. Now they are used for security and often fall into the hands of delinquents. He agreed with the previous speaker regarding drug trafficking. He inquired about the solutions to these problems. Even in the background documents for the conference he could not find any concrete answers, not even in the Model Law since he believed that legislation alone cannot stop the problem. He concluded by drawing attention to the countries that produce arms.

MP Nasser Silwanny (Nicaragua) continued talking about the producing countries and the problems their products cause in other regions, such as Latin America.

MP Benito Lara (El Salvador) stated that he agreed with those who believe that it is possible to regulate the use of arms. But he added that there will always be other more complex problems such as production. If SALW are still produced in the large volumes have heard described here today he was not sure legislation will be enough to stop the problem. Those who trade arms will make the effort to influence decision-makers while others will simply ignore legislation. He asked why this great production continues. In the past, arms in Central America were used in armed conflict. Now many years later, this has changed. It is a multinational problem linked to other multinational problems. He believed the countries' legislations should be harmonized since if one country has regulations and the other one does not, problems will emerge. He thought the Model Law covers many relevant aspects. Perhaps CASAC could help by drawing up a comparative analysis to identify gaps. He concluded by saying that in El Salvador 80 % of all homicides are committed by firearms. Political will and state policies are urgently needed.

MP Marino Mendoza (Dominican Republic) spoke on behalf of his delegation and once again pointed to the link with drug trafficking. This crime has a component that is closely linked to deterioration of the economy in our countries. He explained that efforts must be made together. In the Dominican Republic the efforts to combat the problem will not succeed if they do not cooperate with their neighbour Haiti. As concerned MPs we should concentrate on the model law.

MP Máximo Rodríguez (Nicaragua) *President of the Committee for Peace, Defence and Human Rights* highlighted that so far the participants had focused on two things: harmonization of legislations and the creation of a model law. Nicaragua has the 510 act which enables them to control arms and the authorities have been quite effective. However, any legislation created will not tackle the problem at its roots. The first commitment of the international community should be to put a stop to the production. He added that maybe he was being pessimistic, but he thought that even a completely harmonized regional legislation will not be effective if there is no sign of commitment from the producers. Could they not produce something more useful, such as tractors instead? All producing countries should reflect on this. They are destroying humanity.

MP Xochilth Ocampo Rocha (Nicaragua) agreed with MP Rodríguez that act 510 does control arms. But it does not stop crime and drug trafficking. There is a need to supply police forces with more resources so they can cover loopholes. This possibility must not be taken away due to poor economic resources.

MP Dr. Morais V. Guy (Jamaica) agreed with previous speakers in terms of drug trafficking, production as well as that legislation alone is not enough to solve the problem. If it had, there would be no need for this meeting. Corruption feeds these problems. He was surprised to hear that the USA, being a producing country, has fewer deaths than Latin America. This means that it is us in Latin America who are producing the deaths.

MP Carlos Nájera (Guatemala) highlighted that Costa Rica is also being affected despite having had a peaceful past. But he warned that laws are not going to solve the problems. There is a new law in Guatemala, which is good. He and others had noticed an increased interest from the government regarding these issues.

Senator Alejandro Gonzalez (Mexico) said that he had seen scepticism against these kinds of forums but we all must remember the purpose of these forums. He noted that legislation alone is not going to solve the problem, but it will help to have a common view of the problem. It can also help Latin America parliamentarians in their effort to put pressure on the USA. Each of these meetings helps. It is a great benefit even though it is sometimes frustrating.

MP Elida Galeano (Nicaragua) said that in many parts young people make their own home made arms. Young people as well as victims of domestic violence need to be involved in the discussions. Violence is caused by many factors. Nicaragua is one of the safest countries in the region but having open borders makes us more vulnerable. The money used on these forums will never compare to the sums involved in arms trade. But parliamentarians have the ability to affect the situation. She said that until today she did not know that it was possible to unite in this way. When talking about arms, it is important to include ammunition as well and regulation should be similar for both. With regard to the arms producers she drew a parallel to the fight against climate change. The ones that pollute the most are the ones least interested in solving the problem.

Mr. Peter Weiderud, (Secretary General of the Forum) compared the issue to the one of nuclear weapons. It is easier to see how the problems related to nuclear weapons can be solved. SALW is far more complex and requires efforts such as multilateral agreements, producing states to take responsibility, regional agreements, border control, national legislation, change of cultures etc. Parliamentarians are key actors not only on national legislations. Parliamentarians decide on

budgets, they oversee governments and constitute the link between the public and the government. The Parliamentary Forum facilitates the use of these tools but we need to know how to address the problem.

He noted that a recurring topic had been the producing countries. He mentioned that the day before he had been to Washington and discussed this issue with a US Congress representative. 50% of all arms sold in the USA are sold in southern Texas and end up in Latin America. Many have called for an Arms Trade Treaty for a long time now. The new administration in the USA is now more willing to engage although they do however insist on a consensus.

Eva Sacasa (Director CASAC) informed the audience about the Regional Survey on SALW elaborated by Arias Foundation, which has a chapter about the analysis of SALW legislation in Central America. Once validated by each government, CASAC could share this document with the parliamentarians from each country.

MP Christer Winbäck said in closing that he thought that many good remarks and comments had been made during this day. He noted that the participants have different backgrounds and even though the problems are not the same everywhere, these issues demand common action. As an example he mentioned that Sweden, a country that which in comparison does not have a large problem with weapons in society, is still part of the general problem through its manufacturing. Because the small arms issue stretches across borders, there is also a need to act across borders and it is important that legislators face their responsibility when combating these problems.

He went on to discuss the importance of organizations such as the Parliamentary Forum when working at the parliamentary level. As parliamentarians and political posts may change after elections, organisations like the Forum ensure that the knowledge and experience gathered is carried on to new parliamentarians. He stated that even though his party currently part of the governing coalition, his own awareness regarding these issues, have made him more prone to engage in debate with the government on questions where they have a conflicting view.

He noted that weapons are a reason for poverty and that it is important for legislators to do their best to eradicate this problem. It is important to share experiences because it creates awareness and a possibility of cooperation. By sharing possible solutions, a meeting like this can become an inspiration to act.

Session II- Model Legislation on SALW

This session dealt with the concept of model legislations and primarily the Latin American Parliament's Model Law on Firearms. Moderator for this session was MP Christer Winbäck (Sweden).

Key note speaker Senator Sonia Escudero (Argentina), President of the Parliamentary Forum and Secretary General of Parlatino presented the Model Law on firearms and ammunitions of the Latin American Parliament. Before presenting the Model Law, the Senator gave an introduction to the Latin American Parliament and the Parliamentary Forum and its objectives and developments over the years. She highlighted the very fruitful cooperation with the two organizations and noted

that this is now the third conference they co-organise (Panama 2007, Buenos Aires 2009 and Managua 2009).

She noted that over the last few years there has been a clear development of the work of the Forum, moving from a focus on control issues, such as illegality and non-proliferation, towards a deeper and wider approach, aimed at comprehensively targeting armed violence, notably focusing on the perspectives of security and justice sector reforms. The aim is to not only address the symptoms of violence, but also to deal with the root causes, and ultimately try to prevent conflicts from being solved violently.

She mentioned a few important processes such as the work to create a legally binding Arms Trade Treaty. She also congratulated Guatemala on its new and improved legislation.

The Model Law has been introduced in various countries in Latin America and is used as a source of reference during debates on arms legislation reform. Netherlands' Antilles, Argentina, Mexico and Panama are also in process to reform their arms legislations.

Senator Escudero said that 5 of the 6 countries with the highest percentage of deaths by weapons can be found in Latin America and Caribbean, showing a high homicide rate by firearms in the region. She explained that the purpose of a Model Law is to harmonize regulations, limit the stock and reduce legal and illegal flow of arms.

Most arms legislations focus on more control which goes hand in hand with the traditional concept of security which is normally referred to as 'national security'. Today, the concept of 'human security' or 'citizen security' is much more relevant. She explained that the conceptual framework of the Model Law is a combination of control and disarmament. It has seven components including general provisions, controlled objects and approved persons, permitted activities, control and compliance, reduction, recollection and destruction as well as regulating stocks. There are also a set of principles which guide the implementation of the law.

According Senator Escudero the Model Law establishes authorized person to bear arms, where chapters related to private person, police force and military force in duties, and security forces, are included as well a chapters referring to licenses classification, authority for application reduction of stocks and parliamentary control.

She concluded by saying that we are experiencing a paradigm shift. When slavery was abolished a group of forerunners began to open the path to freedom and she said it is now our job as legislators to continue to map this path to freedom. She quoted Abraham Lincoln '*if slavery is not wrong, nothing is wrong*', and concluded that we can say with conviction that if violence is not wrong, nothing is wrong.

For the full technical presentation of the Model Law – please see Annex 3.

The Model Law is available in Spanish, English and French and can be downloaded from the Parliamentary Forum website www.parlforum.org. To order a hardcopy, please write to info@parlforum.org

Moderator MP Winbäck (Sweden) opened the floor for questions and comments.

Senator Gonzalez (Mexico) said that Mexico is quite enthusiastic about the issue and will chair the Biennial Meeting of States on Small Arms and Light Weapons (BMS) next year. This conference focuses on illegal arms. Mexico has special problems with violence. He added that there have been situations where the state has used the army to carry out police matters. This is not allowed by the constitution.

MP Carlos Nájera (Guatemala) stated that debating is important and he acknowledged Senator Escudero's efforts and he called on the whole region to take part in this. The new law adopted by Guatemala 6 months ago encompasses 95% of the Model Law. Although the law has not solved problems, he was sure we shall see the fruits soon.

The issue has been discussed for 11 years so he asked why the process had been successful this particular year. He thought the answer was that we had touched the heart of many congressmen. There is an extortionate amount of arms and bullets in Guatemala. The amount allowed was before unregulated but this has now changed. Other improvements are harder punishments, traditions such as shooting in the air during festivals as well as carrying a gun while intoxicated. He finished by saying that he hoped other countries would follow suit.

MP Winbäck (Sweden) noted the importance to have a global vision. More guns do not mean more security.

Silvia Rosales, President of the Central American Court of Justice started her presentation by referring to Senator Escudero as a pioneer in this field. It is important that this model law allows for the establishment of two fundamental points: control and disarmament. She highlighted that it is not a copy of an existing law but it will allow the creation of national legislation. The model reinstates the state as the one in charge and the one to take responsibility for human security. Citizens have the right to demand security – and they should never have to pay for this service.

States should not only resort to control mechanisms. Other vital aspects are education and to raise public awareness about arms. She stated that, in her experience as a judge, legislation shall always be accompanied by education.

Moderator MP Winbäck closed the session thanking all participants and especially Senator Escudero for being at the forefront of these issues. He personally felt that he had learned a lot from the discussions. He then invited all participants to get ready for the group discussions.

Working groups

All participants were divided into five groups with one designated facilitator per group. They were given three different topics focusing on different aspects of the Model Legislation and other instruments and mechanism relating to legislative reforms to discuss along with a few questions relating to each topic. The reports were given the following day.

Day 2, Friday 23 October

Session III -Scope and outreach of Parliamentary Action in SALW

Daniel Luz, UNDP coordinator from the Regional Office on Central America and the Caribbean, spoke about a regional project by the UNDP in Latin America and the Caribbean. He presented the project – “Developing the capacity of national parliaments to prevent conflict and armed violence” - which had been made possible by the support from the regional offices and country programs and that intended to provide support and technical assistance in the work of promoting good processes in the selected sub-regions.

The aim of the program is to draw international attention to the important role that parliamentarians can play in crisis prevention and recovery and will work to enhance the support for parliamentary development as a vital component of crisis prevention. He also pointed to the importance of promoting parliaments as a space where dialogue can be conducted.

The objective is to provide information on the role that national parliaments can play in supporting the prevention of conflict and violence and to promote the involvement of national parliaments in conflict prevention and violence reduction. He continued by stressing the importance of promoting parliamentary coordination in conflict prevention and recovery, starting with the issue of armed violence and citizen security.

On a global level he emphasized the effort to develop a platform for intervention in the case of armed conflict and the purpose of this development project is to work in favour of good governance.

Regionally the basic initiative is the CASAC programme and the initiatives will not stop at firearms. The work program focuses on many different levels. On the global level it promotes exchange of expertise on these issues, on the sub regional level it seeks to develop the capacity of parliaments and on a national level it seeks to reinforce the capacity of the national parliament on conflict/violence prevention and citizen security.

He stated that priority issues will be identified through parliamentary needs assessments which will be conducted in the countries of the two sub regions selected. Currently, the UNDP office in El Salvador is working to update all the reports about violence in the country. Mr. Luz suggested that this work should be done in cooperation with the parliament instead of hiring a consultant, as this would make sure that the resources would be used in the best possible way. He concluded by inviting the people present to express their opinion as he considered their knowledge to be valuable in the process.

Session IV- Privatisation of security – Security as a public good

Moderator *Peter Weiderud, Secretary General of the Parliamentary Forum on Small Arms and Light Weapons* opened the fourth session by stating that security is a common concern and it is therefore important to work together from the beginning. He then referred to the four freedoms identified by Franklin D. Roosevelt; freedom of speech, freedom of faith, freedom from want and freedom from fear. Freedom from fear is a common good that should be accessible to all people. He went on to discuss the organisation of security. Over the last decade private security has been on the rise. The provision of security has been taken over by private firms which are often contracted by wealthy individuals. The privatisation of security reached its peak with the invasion of Iraq, in which private security firms have played an important part.

This development, he stated, began in the early 1990s and the reasons are mainly the outsourcing trend that has followed with free markets. There has also been a global downsizing of the military which has provided a supply of labour in the form of out of work soldiers.

Demand is created through the failure of the police force to provide sufficient security to its citizens.

He then presented some of the risks identified with regard to the privatisation of security. These firms are, if legislation is weak, not necessarily held accountable for their actions, the state monopoly of use of force is weakened, security is provided only to those who can afford to pay for it and it risks undermining security as a public good.

He pointed to the fact that in many countries there is a lack of legislation regarding private security firms, even though these firms are frequently associated with organized crime. These issues are in great need of parliamentary attention to create a national comprehensive legal framework to be able to close national loopholes. Today, there is a lack of international standards and an immediate need to develop such standards as employees in the security sector can be employed in one country and operate in another.

He then gave the floor to Luis Alberto Cordero, Executive Director of the Arias Foundation.

Luis Alberto Cordero, Executive Director, Arias Foundation spoke about the importance of identifying the premises of what we are striving for. This, he said, is the right of all citizens to have a life free from fear and from want, as Roosevelt put it.

He stated that, with regard to security in the Central American region, four big threats have been identified. The first is the trafficking of drugs, the second is the criminal activity of the so called Maras the third is the rule of law in our society and fourth, the easy access to firearms.

Furthermore he stressed the trans-national threats to our society; these threats are endangering the democratic values of society and also the respect of the fundamental rights that are meant to protect us. Among these threats we find, for example, social violence, high levels of inequality and institutional violence.

Cordero meant that it is important for countries to engage in the debate regarding private security issues at this level, as the issue of citizen/human security is a question that has to do with the

sovereignty of the state. Questions such as; who is responsible for the control of violence and who has the right to use force, are intimately connected to the sovereignty of the state.

He was very clear about his own view on the issue, and insisted that the state must have the monopoly of force. According to Cordero the state is the only body with the mandate and possibility to protect its citizens.

He argued that there is a tendency to lose perspective when discussing the private security sector. These companies are regularly contracted by large companies and often perform military-like operations. This tends to place their business in a grey area that is not regulated by international law.

In Latin America, these companies are outside of the legal system and often cannot be held responsible for their actions. Cordero argued that the fact that the companies operate across borders creates opportunities for an illegal trade of fire arms. However, even though they are not subject to effective control in the countries where they operate, there are in fact instruments that can be used to regulate their activities, such as the UN Human Rights act.

It is difficult to estimate the turnover of these companies. It is even difficult to estimate the number of people employed. Sometimes the number of employed agents is twice as big as the number employed by the police force. In Guatemala for example, there are 150 000 private security agents while the police and the army taken together only add up to 20 000.

He went on to discuss the military expenses in Central- and Latin America. According to SIPRI (Stockholm International Peace Research Institute) the military expense in Latin America for 2008 amounted to 50 billion dollars. Here the major contributors are Colombia, Venezuela, Brazil and Chile and these are countries with no obvious external military threat. There are two countries in Central America that do not have armed forces and for the others; the military expenses are 10% of the national budget. In Guatemala, there has been some downsizing of the military forces but the country still spends about five billion a year on the military.

In closing Cordero gave some specific recommendations on how to address the topic of private security. It is important to overcome the 'hard hand scheme' and find a good balance. Security is to be considered a public good and it is important to work for an autonomous and independent juridical branch. Furthermore, there is a need to work for a code of conduct in order to regulate the private security sector and to achieve a common regulation for the region. Also there is an urgent need to improve the coordination and control of these companies across borders. With regard to the transparency of these companies, it is important to increase the pressure on them to better communicate their financial performance. The parliaments in the region exercise political control over the private security sector and it is therefore vital to have permanent commissions in parliament that can work with these issues with continuity and in a coordinated fashion in cooperation with other countries. It is important to investigate the relation between social investment and military investment and this can be done in cooperation with organisations like SICA and UNDP.

William Godnick, UN-LiREC spoke about the issue of private security and control of small arms. He started by acknowledging that the problem was identified more than 10 years ago and that

very little has been done since. On top of this, the quality and quantity of data regarding the private security industry is weak at best.

Godnick emphasized the importance of identifying the concept of private security. The picture produced by the media is that of the more famous military private security companies like Blackwater. In Latin America however, the private security industry is quite different from that in Iraq. Here, Godnick stated, the problem is related to the private security guards and the private police.

The main topic, he continued, is what impact the legislators can have in handling the private security industry. According to Godnick, the expansion of the private security industry constitutes a risk to public security.

Furthermore Godnick stressed that the growth of the private security sector in the region can no longer be ignored. There are today about 2, 5 million legal private security guards in the region of Central America and about 4 million illegal. Taken together, the number of the legal and illegal private security guards surpasses the number of the police force.

He then continued to identify the problem. Some countries invest large amounts in private security companies which sometimes exceed the investments made in the national police force. As many of these companies are multinational, they carry out missions across borders. This makes supervision and regulation difficult for a single state. As companies grow, so does their demand for employees. In some countries it is possible for a policeman/woman to work as a private security guard in his/her spare time. Godnick also stressed that the growth of the private security sector means a growth in the demand of firearms and ammunition. Moreover these companies need a perception of insecurity among the population to be able to continue to grow.

Godnick then spoke of the regulations concerning the private security companies. Many countries have regulations with regard to training of private security guards, but the amount of hours and the quality of the training may differ substantially between countries. In some countries, the type of arms that the companies are allowed to use is regulated and in others it is not. He emphasized the need for parliamentarians to analyse what kinds of weapons are suitable for the use of these companies. In many countries, fire arms are used by companies illegally.

Godnick meant that there is a lack of supervision of these companies. A big part of this problem he attributed to the difficulty of supervising the owners. They are often high ranking military officers and the people appointed to supervise them are often of low rank and lack the authority to carry out their assignment. He highlighted the fact that these issues are addressed in the model law developed on behalf of Parlantino.

In conclusion Godnick asked what can be expected from the legislators in dealing with these issues. First, he meant, they can exercise control over the authority responsible for the supervision, second they can invite the private security companies to present their practices in parliament and third, they can insist that states define clear policies on private security.

Horacio Rocha, General Commissioner of the National Police of Nicaragua presented the current practices on the control of small arms and light weapons. According to the commissioner, the

police of Nicaragua have three main obligations: investigation, preventive work and management. The police is organised in one national body.

He acknowledged that violence and fear are complex concepts. This is why the Nicaraguan police together with the university and civil society, are engaged in a project called “Citizenship without Fear”, where all sectors are acting together. The commissioner noted that violence is promoted both privately and publicly and requires a trans-disciplinary approach. The basis of the national police is that it should be grounded in all layers of society to be able to respond properly to problems in the communities where they work. Citizens are a key actor in order to strengthen citizen security.

The commissioner continued by describing the situation in Nicaragua. There are different types of crime and different reasons for it. Most family related violence is related to drug use. During the last five years, liquor and drugs have been the major reason for violence. Several institutions have been created to reduce the violence such as the Institute for Women. Several football clubs have also taken part in the initiative.

When it comes to homicides, Nicaragua is not as badly affected as the rest of Central America or Latin America. 35% of the firearms in the country are found in Managua where there are about 2 legally registered arms per 100 people. However there are problems with gun related violence in the southern parts of the country.

When it comes to robbery involving firearms the figures have increased from 22% in 2007 to 30% in 2008. The Commissioner stressed that the police are paying close attention to the underlying reasons for this increase.

Most homicides are related to personal quarrels and a small amount is due to robbery. He pointed out that during the last five years 16000 arms have been collected in Nicaragua; most of them were of civil use. 13000 of these have been destroyed. All of the guns destroyed have been voluntarily given to the police. This, he meant, should be seen as an example of an engaged society.

The commissioner continued by describing the work done by the police with regard to firearms in society. To obtain a permit for the possession of a firearm the person needs to be verified by the police. There are several campaigns to inform citizens about the dangers of firearms and a school plan has been put in place. Schools should be regarded as safe zones and be free from violence.

Regarding the private security companies the Commissioner stated that the police had recently withdrawn the permit of a larger private security company. Each year, approximately 100 firearms are lost from private security companies.

For the police, it is also important to strengthen inter-institutional commissions and to work together with customs to keep track of inventories of companies that trade firearms. There needs to be a permanent control of the private security sector.

Violence with firearms is a serious problem, also in Nicaragua. The Commissioner emphasized the importance of limiting the consequences of violence and to create healthy environments. When the police work with society they are able to be more effective he concluded.

In response to this, *MP Benito Lara (El Salvador)* noted that some conclusions could be drawn from the discussion so far. He acknowledged that security should be viewed as a public good and if this could be concluded, then it should also be viewed as a right of the citizens. This means that the state is obliged to provide it. However states are not complying with this obligation.

He then discussed the situation in El Salvador where there are about 425 companies of many different types. Together they employ about 24 000 people which together have around 19 000 firearms at their disposal. Some of these companies are multinational and there is a need for a greater exchange and effort in the legislative work in the region. MP Lara asked for common stand points in the legislations and the creation of integral public policies that would allow for better possibilities of handling the issues related to the private security industry and the small arms problem in the region. He stressed that the 'hard hand policies' that have been implemented so far have been a total failure. The new Central American model of security is the model of "democratic security". This model should among other things focus on the strengthening of civil power and overcoming extreme poverty by reducing the trafficking of arms. This he meant is a basis on which we can create public policies.

José Prescott, Coordinator of the UNDP Modernisation Program at the Parliament of the Dominican Republic stressed the importance of achieving structural reforms to change the mental structures in society. He noted that strong legislation has been lacking in Latin America and that parliamentarians need to be more courageous when taking on the power that has been invested in congress. He promoted a more proactive parliament and a greater involvement of the individual citizen so that he/she is allowed to choose his/her own development.

On a question coming from a representative from El Salvador, regarding how the Nicaraguan police has involved the university in their work, the *Commissioner* answered that, for example, they engage law students in the community work, social science students work as assistants, and students of psychology are engaged in the cases of domestic violence. He went on to commend the students for their engagement and explained that he saw this as a way to give back to society.

A representative from the *Parliament of Jamaica* explained that his country is on the verge of ending up in a situation of community policing. This is because of the mistrust and hatred directed towards the police. He wondered how Nicaragua had been able to build such a strong relationship of trust between the police and the population. *The Commissioner* answered that since the forming of the National Police in 1979, they had learned that most problems could be solved. There is an interest from the people of Nicaragua in solving their problems. In addition to this the levels of social control are quite high in Nicaragua. If a crime is committed the community works together with the police to solve it. The police functions as a part of the community.

MP Filiberto Rodriguez (Nicaragua) stressed his appreciation for the work done by the Nicaraguan police and also stated that he was proud of the military as well. He mentioned that the way of acting and thinking of the police has changed. Moreover he spoke of the importance of having a law on small arms and light weapons when working to control and register these weapons. He went on to state the importance of regulating the private security sector, preferably through taxation and control of the arms systems that they use.

MP Olivier Perez (Costa Rica) explained the situation of Costa Rica. In Costa Rica, there has been a sense of pride when it comes to the police, since they have shown a lot of respect for human rights. However recently there has been a need to increase the number of police. The police are underpaid and they are under constant threat. This leads to an increase in corruption within the police force. The possibilities to cooperate with the community are heavily affected by the large number of threats directed at people who do work with the police. He concluded by asking the Commissioner how one can work to prevent corruption within the police.

The Commissioner responded by stating that the Nicaraguan National Police follows a doctrine. At the academy the students are taught to promote human values and to respect the citizens. Women make out a large part of the Nicaraguan police force. In fact, about 30% are women. He acknowledged that there is a problem of corruption in the Nicaraguan police force as well. Every year about 400 police men and women are fired due to corruption related crime and 700 new are coming in. Also the education of the police has been expanded.

MP Mario Linares (Guatemala) stated that he considered this conference to be of great value. Guatemala has signed the UN convention against organized crime and also the inter-American convention against the illicit trade and production of small arms. He went on to discuss the issue of private vs. public security. He stressed that the state has the responsibility to make sure that the life, freedom and security of the people is respected. Insecurity places the physical integrity of the people at risk. He further stated that he sensed a strong commitment from the parliamentarians present, and that this is important in order to support actions of enforcement in the region. He meant that the private security business is different from public security and there is a need to establish a more effective supervision of the private companies. This should be seen as an integral problem. He stated that, by attending this meeting, an important exchange of information has been made possible.

MP José Martínez (Nicaragua) noted that most Nicaraguans support the National Police and there is reason to be proud of the work that they do. Their salary is very low and a policeman works because he loves his job. He emphasized the importance of working close to the people, as this has made it possible to combat drug trafficking and robbery even though the resources are scarce. He also complimented the military for handing out a hard blow to the drug trafficking industry by making large seizures that surely have affected the criminal organisations.

MP Manuel de Araujo (Mozambique) emphasized the importance of learning from each other. In his comment, he chose to focus on the relationship and trust that exist between the police and the people in Nicaragua. There are many similarities between Mozambique and Nicaragua. Both countries have gone through a revolution and have had the possibility to start from scratch. Still, he said, corruption is a large problem within the police in Mozambique. He concluded by posing a question to the General Commissioner regarding what can be seen as particularly notable in the case of Nicaragua that allows their police to function in a better way. How do they manage to obtain these results with such low salaries?

MP Carlos Nájera. (Guatemala) stated that he was surprised by the fact that an officer of the police had been invited to the launch of the UNDP report concerning Central America at the University in Managua. This, he said, would never have happened in Guatemala. He continued to state that security is not a task solely for the police or the parliamentarians. It is a task that involves all

people. There needs to be an increased control of the private security companies as these are often used to commit crimes. He continued by referring to the fact that the Guatemalan military forces are losing people to the private sector where they can receive a larger pay-check. This is a problem since the military has invested both time and money in the education and training of their employees.

Closing statements

Luis Alberto Cordero (Arias Foundation) started by thanking the people present for an enriching debate. He was glad that the two main reasons for violence and crime had not been left out of the debate: social reasons where the primary source is lack of opportunity and the threats that stem from organized crime and especially drug trafficking.

He stated that even though he understood the reasons for involving the military forces in the fight against crime in, for example Mexico, he stressed that the armed forces does not have a role to play in fighting crime as they are not trained for it. He wondered if this was not the moment to start to gradually transfer the resources used for the armed forces to the police so that they can increase their ability of meeting the threat of organized crime. There are over 5 billion dollars invested in the armed forces in a region where there are no obvious threats to national security.

The General Commissioner of the National Police started by addressing the question posed by MP Manuel de Araujo. He said that after the revolution, the police was reformed and the work continued with a forward looking attitude. Sometimes the salaries are not as important as creativity and will. The police can not tell the people that it is unable to do its job because of lack of resources. In the case of Guatemala he stated that the National Police of Nicaragua had been working with the police of Guatemala two years ago, giving advice on specific issues and that they were happy to do so again.

William Godnick (UN-LiREC) concluded that the response on the issue of private security had been quite shy. However, he meant that it is clear that the states are requiring support in these questions. In Central America there are organisations such as the Arias Foundation and CASAC who have worked with these issues for a long time and it is time to bring these topics to light.

CASAC on Parliamentary action in Central America, lessons learned and future perspectives

Eva Sacasa (Director CASAC) focused her presentation on CASAC's efforts to support the reduction and control of small arms and light weapons, as well as the prevention and fight against armed violence in Central America. She mentioned that the priority for the governments of the region is the eradication of armed violence and control of SALW, and this is what CASAC'S stands for.

Sacasa started her presentation explaining that CASAC was created as a response to the increase of armed violence and criminality in the region and based on the principles and dispositions of the Framework Treaty on Democratic Security.

Central American Governments, in order to improve citizen security, have taken a series of measures to control small arms trafficking and reduce armed violence; one of which is the Central

American Programme on Small Arms and Light Weapons Control (CASAC), which was approved by the Security Commission of the Central American Integration System (SICA) in June 2003, and prioritized by the region's Heads of State and governments in the XXIV Summit that took place in Belize, on December 19th, 2003.

The CASAC Programme is executed by the General Secretariat of the Central American Integration System (SG-SICA) under the advice and financing of the United Nations Development Programme (UNDP). For its implementation, the SG-SICA created a Regional Executing Unit (REU) with broad experience in control SALW control, focused on prevention and development. As guarantor and representative of regional policies in this matter, the REU is in charge of all issues related to the prevention of armed violence from a human development perspective, based on Governments and civil society's support and with the purpose of creating a safe environment that leads to sustainable development.

CASAC's main objective is to contribute to the reduction and control of illicit traffic of SALW, and prevent the incidence of crime and armed violence, strengthen security, stability and sustainable development in the region.

Mrs. Sacasa mentioned the importance of strengthening the role of CASAC as a platform where civil society organizations, bilateral/multilateral organisations and other regional agencies can meet. She presented the project *"Supporting the fight against the illicit accumulation and trafficking of firearms in Central America and neighbouring countries"* financed by the European Commission.

Mrs. Sacasa emphasized the decisive role of parliamentarians in regulation and control with the main objective of ending the human cost of armed violence. She promoted the Model Law as an essential reference guide for the countries of Latin American and the Caribbean. She also noted the importance of parliamentarians in regulating aspects as enhanced controls; safe licensing system, improving arms registration at national and regional level, strengthen the exchange of information, and to ensure border control security.

Sacasa described CASAC's work with parliaments, and highlighted the following areas: CASAC's Regional Diagnosis which is based on the current situation of legislation in the region and provides a basis for further reforms; harmonization and standardization of SALW legislation in relation to international instruments on the basis of the Model Law; promote the ratification and implementation of international and regional regulations; the Central American Treaty on SALW; assessment of compliance of the Code of Conduct (transcendental tool to control the conduct of states regarding arms transfers, ammunition transparency, oversight and control); national and international policies; monitor compliance with international obligations; assign adequate budgets for the implementation of control and prevention policies.

For more information about the CASAC Programme, you may visit the official webpage: www.casac-uer.com

Session V- Group discussions

All participants were divided into five groups with one designated facilitator per group. They were given three different topics to discuss along with a few questions relating to each topic.

Group 1A and 1B discussed '*Cooperation and networking among Parliaments and Parliamentarians*'.

Group 2 discussed '*Identification of gaps and loopholes – identifying projects and programs which focus on Parliamentary Action on Small Arms in Central America and the Caribbean*'.

Group 3A and 3B discussed '*Security as a common good*'.

Session VI – Closing plenary session

Group 1A expressed that there is a need and a will to hold this type of meeting in the Caribbean. MP Bartlett from Jamaica expressed his will to host such a meeting. Further more the group suggested that a short information document pointing to the most important facts and conclusions of this meeting should be put together for all the delegates to bring home with them.

The Jamaican delegation spoke and expressed their appreciation for being invited to the meeting. They had learned a lot during these days. Listening to the presentations they had realized that the Caribbean participation was quite limited even though this is an important question for those countries. They therefore suggested that there might be relevant to engage the Caribbean community (CARICOM). They also said that he would like to propose Jamaica as a possible venue for a meeting of this kind.

Group 2 emphasized the importance to continue to build awareness with regard to the issues discussed here. Parliamentarians have to use their influence in their respective parliament to promote and ratify new conventions. It is important to use existing tools such as the regional model law to move forward. They also promoted a condemnation of the production and trade of small arms as well as the countries that promote the use of these arms. Also the group spoke of the need to promote a culture that does not include the use of firearms.

Group 3 stressed the need for the state to take its responsibility when it comes to providing functions of public security. The role of parliamentarians with regard to the private security sector is to regulate and supervise. This must be done in a better way. They expressed some doubt as to whether the promotion of a code of conduct was enough or if there is a need to put the effort into developing a stronger regulation.

Closing Session Discussion regarding the Managua Declaration

There was a will to further emphasize the producing countries in the declaration and they should be asked to reduce their production and an additional paragraph should be added with regard to this. Also there was a wish for the declaration to be more direct as it was perceived as a bit elusive. There was a wish to be more specific regarding the areas of discrimination that the declaration

refers to and a will to emphasize the need to promote a culture of peace. It was decided that a paragraph that expressed the delegates support for a strong Arms Trade Treaty (ATT) should be added.

Sonia Escudero concluded by declaring that the concept of security should be viewed as a fundamental right that goes far beyond the work of the police. She stated that there is advancement towards a new level of awareness on these issues.

With these changes/amendments the declaration was adopted (see Annex 1).

Annex 1

The Managua Declaration on Parliaments, Development and Small Arms Control

We, representatives of 11 Latin American and Caribbean Parliaments, together with parliamentarians from Europe and Africa, have gathered in Managua, Nicaragua on the 22-23 of October, 2009 to discuss the role of parliamentarians in promoting human security and deepen the analysis of the devastating consequences of armed violence in Latin America and the Caribbean.

The homicide rate in our region is among the highest in the world. In Central America it is four times the world average. In certain countries¹ of the region, the costs associated with gun violence represent over ten percent of GDP.

Despite this alarming data, significant progress has been achieved through the adoption of international instruments and legislative developments aimed at reducing the proliferation of small arms and light weapons and the threat they pose to humanity. Important milestones have been achieved, for example the United Nations Program of Action and the process towards a restrictive treaty on arms transfers. Through the Geneva Declaration on Armed Violence and Development and its subsequent regional declarations such as the Guatemala Declaration, a growing number of states have committed to ensuring human security to its citizens as a core responsibility of the states².

Through our role as parliamentarians, we recognise the importance of bringing issues related to human security to public debate. We see the need for the establishment of legislative reforms in many of our countries, through the knowledge of best practices, in order to reduce violence and save lives.

We recognize the excellent work carried out in favor of a model legislation on firearms, adopted by Parlatino³, and commit ourselves to continue to work to enact national legislative reforms to provide improved arms control, which respect the principles and criteria established in the Model Legislation, considering it a model to harmonize legislation in this area.

Focusing on the issue of security from a citizenship perspective, we consider the findings of the 2009/2010 UNDP Regional Report on Human Development for Central America essential in order to in further promote human security in our countries. Ensuring security to all citizens on equal and universal terms is fundamental.

Within this context we have discussed and analyzed the rapid and worrying expansion of the private security industry, which is partly a result of the failure of the states to fulfil their irrevocable obligations. People turn to these private providers to ensure that their right to security is guaranteed. Hence, the notion of security as a fundamental human right and a common good is

¹ Global Burden of Armed Violence Report, <http://genevadeclaration.org/resources-armed-violence-report.html>

² Geneva Declaration, www.genevadeclaration.org

³ Latin American Parliament, www.parlatino.org

thereby threatened. Given this rapid expansion, it is important that the states take resolute actions, to promote a sound and sustainable development in this regard. In this light, we call for the establishment of national regulations as well as international frameworks designed to address the inherent risks in this dramatic process.

We recognize with gratitude the various good efforts in our region including the involvement of our parliaments and parliamentarians in tasks aimed at being implemented in order to promote human security. We highlighted the valuable work done by the Latin American Parliament, the Parliamentary Forum on Small Arms and Light Weapons, the Central American Integration System and its Central American Small Arms Control Programme and others, in order to limit the impact that Small Arms and Light Weapons impose on our society. To encourage these and other good initiatives as well as intend to provide a platform for future initiatives, we;

Declare our support for the signing of an Arms Trade Treaty that set restrictive standards,

Emphasize the importance of working for national legislative reforms, adopting regulations that respect the principles and criteria established in the Model Legislation, throughout parliamentary assemblies,

Observe the need to strengthen mechanisms in our countries to ensure effective compliance with international conventions and treaties adopted on the issue,

Commit ourselves to working for the adoption of regulations to adequately control the expanding private security sector,

We urge the international community to promote cooperation between regions in the pursuit of strategies aimed at addressing the threat of armed violence, recognizing the essential role that parliaments and parliamentarians have in this regard,

We make a special appeal to arms-producing countries to take effective measures regarding the reduction of arms production,

Assume an active engagement in promoting a culture of peace,

Take our responsibility to provide adequate information to civil society organizations, universities and parliamentary networks, to efficiently use the support provided by these organizations,

Suggest that the Secretariats of Parlatino and the Parliamentary Forum on SALW continue to facilitate the exchange of information and to compile and analyze data on parliamentary initiatives, such as those being implemented by the Central American Integration System (SICA),

Advise the Parlatino and the Secretariat of the Forum to take further steps in the development of capacity-building and awareness-raising activities on issues related to citizen security, with the purpose of creating increased parliamentary oversight, capacity and engagement,

Appreciate and recognize the efforts of the parliamentarians and staff of the Assembly of Nicaragua, for everything done in order to make this Conference a success,

Managua, 23rd of October 2009, signed by the participants of the Inter-Parliamentary Conference ‘Parliamentary Action on Small Arms – policies, legislation and regional approaches’”, held in the National Assembly of Nicaragua, under the auspices of UNDP, SICA, Parlatino , the Parliamentary Forum and CASAC.

Annex 2

Participant List

Germany

Hans Raidel
Member of Parliament
Board Member of the Parliamentary Forum

Dr. Betina Kern
German Ambassador to Nicaragua

Argentina

Gustavo Colás
Secretary of the Security Committee
Argentinean Senate

Sonia Escudero
Senator
President of the Parliamentary Forum

Kenneth Reed
Advisor to Senator Escudero

Emilio Rached
Senator

Aruba

Valentino E. J Arends
Member of Parliament
Vice-President of the Commission of Political
Affairs

Roberto Marcelino Maduro
Senator

Costa Rica

Olivier Pérez
Member of Parliament

Luis Alberto Cordero
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Ana Yancy Espinoza
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Kirsten Harmon

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Dominican Republic

Fausto Marino Mendoza
Member of Parliament
Committee on National Security and Defence

Lic. Rafael Francisco Vásquez Paulino
Member of Parliament
Committee on National Security and Defence

Pedro A. Delgado Valdez
Member of Parliament
Chairman of the Committee on National
Security and Defence

José Jesús Rijo Presbot
Modernization Coordinator
Chamber of Deputies

José Fransisco Nuberg Canales
Consultant security issues
Chamber of Deputies

El Salvador

Benito Lara
Member of Parliament
Member of the Parliamentary Forum

Elías Romero
Member of Parliament
Committee on Public Security, Human Rights
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Member of Parlacen

Hefer Morataya
Expert on security Management

Erich Vílchez
Director of Legal and Political Affairs, SICA

Grenada

Interparliamentary Conference 22-23 October 2009, Managua, Nicaragua

Arley Gill
Senator

Guatemala

Carlos Santiago Nájera
Member of Parliament

Mario Linares
Member of Parliament
Defence committee

Jamaica

Dr. St. Aubyn Bartlett
Member of Parliament

Dr. Morais V. Guy
Member of Parliament
Committee of Interior and Interior Affairs

Mexico

Alejandro González Alcocer
Senator

Marlen Gómez Villaseñor
Director of Disarmament Affairs
Minister of Interior Relations

Mozambique

Manuel de Araujo
Member of Parliament
Vice-President of the Parliamentary Forum

Nicaragua

Víctor Manuel Duarte
Member of Parliament
Committee on Internal Affairs

José Figueroa
Member of Parliament
Member of the Parliamentary Forum

Elia María Galeano
Member of Parliament
Vice President of the Committee on Defense
and Government

Xochilt Ocampo
Member of Parliament

José Martínez
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Filiberto Rodríguez
Member of Parliament
Committee on Defense and Government

Nasser Silwanny
Member of Parliament
Committee on Defense and Government

Horacio Sobalvarro
Higher Commissioner, National Police of
Nicaragua

Panamá

Rogelio Baruco
Vice-President of the National Assembly,
Security Committee
Member of Parlatino,

Miguel Salas
Member of Parliament

Sweden

Christer Winbäck
Parliament of Sweden
Board member of the Parliamentary Forum

Central American Court of Justice

Dr. Jorge Ramón Hernández Alcerro
Magistrado

Silvia Rosales
Presidenta del CCJ

United Nations

Maribel Gutiérrez Castillo, UNDP-Nicaragua
Coordinator, Area of Governability

Interparliamentary Conference 22-23 October 2009, Managua, Nicaragua

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Annex 3

Conference paper about the Framework Law on Firearms, Ammunition, and Related Materials

Senator Sonia Escudero, Argentina

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Armed Violence in Latin America

First of all, a reason of fact. Five of the six countries with the highest arms-related death rates are in Latin America and the Caribbean: El Salvador, Guatemala, Venezuela, Colombia, and Jamaica. The homicide rate per 100,000 inhabitants is 29 for Central America and 25 for South America. Another significant fact is that more than 70% of those homicides are committed with a firearm, vs. a 19% rate of firearm-related homicides in Western and Central Europe.

In the face of these discouraging data, we consider of paramount importance that Latin America and the Caribbean could have at their disposal a legislation model that provides an adequate response to this reality and also that makes it possible to harmonize regulations, controls and requirements regarding the access to arms; to limit both the legal and illegal flow; and to set common standards for the international trade.

This is one of the very few matters in such a pressing need for harmonizing legislations. The borders of most countries in the region are very permeable. If strict regulations coexist with more permissive ones, the arms purchased in countries with laxer rules will undoubtedly manage to make their ways into neighbouring countries.

Besides, we all foster hopes in the process towards the Arms Trade Treaty, which is currently underway. With this treaty, all the countries will have at their disposal a multilateral binding instrument that will regulate the international trade in arms. However, this goal will only be reached if the majority of the countries adopt compatible internal regulations.

Drafting of the Project

The decision to draft a project for a framework law on small arms and ammunition arose during the 5th meeting of the Commission for Public Safety, Fight and Prevention of Illegal Drug Trade, Terrorism and Organized Crime (Comisión de la Seguridad Ciudadana, Combate y Prevención al Narcotráfico, Terrorismo y Crimen Organizado) of the Latin American Parliament, held in Buenos Aires on 6-7 April. At that time, the members of the commission requested the technical

cooperation of Viva Rio Foundation, CLAVE (Latin American Coalition for the Prevention of Armed Violence) and the Parliamentary Forum on Small Arms and Light Weapons.

In August 2006, the Working Group on Legislation of CLAVE, representatives of the Forum, and parliamentary consultants from different countries, with the support of SweFOR and the Panama National Assembly, drafted the technical guidelines and made progress in the development of the Framework Law project.

This phase came to an end with the presentation of a Project for a Framework Law on Arms, Ammunition, and Related Materials during the 6th Meeting of the Safety Commission of the Parlatino, which took place on October 19 and 20, 2006, in the city of Montevideo

Finally, a year later and after a thorough debate, the Framework Law was approved by the Commission in the city of Mexico, in October 2008. In December, according to the proceedings of the Body, the law was approved by the Board of Directors and the 24th Regular Meeting. Thereafter, the rule internalization phase began.

Legislative Processes

From my position as General Secretary of the Latin American Parliament, I have made a regular follow up of the internalization situation of this rule in the Body member countries. To begin with, we have good news. Last April 29, 2009, Guatemala passed an amendment of its arms law, inspired, to a high degree, in the model legislation. In the Netherlands Antilles, Argentina, Mexico and Panama similar projects are being discussed in the parliaments. In June last year, the Parlatino Vice-President for the Antilles informed me that the National Government had introduced a project inspired in the Framework Law, which is being addressed.

In Argentina, from the Interior Security Commission of the Senate, I have personally promoted an arms bill inspired in the Framework Law, which aims to replace the current law (passed in the seventies). Such project has received a positive resolution by the Defense and Security Commissions of the Senate and it is now in the position to be addressed at the full meeting. The resolution expires on November 30. In Mexico and Panama, some pre-projects are under discussion. Bolivia has started a reform process of its arms legislation, and Haiti and Uruguay have requested the Forum support on this task.

Finally, the process in Colombia is worth considering.

There, Deputy Roy Barredas (Vice-President of the Parlatino and a Forum member) has presented a bill of his authorship which was addressed in the full meeting.

That project endowed the State with more power to restrict the carrying and possession of firearms. However, the project was rejected by the House of Representatives.

The European Council Parliamentary Assembly, a parliamentary international organization made up of 47 European countries, has expressed its interest in that legislation. So has the European Parliament.

Conceptual Framework

Before I address the main provisions of the law, I want to make a fundamental clarification. The traditional typology of the arms legislation systems considered three models: FREE ACCESS, CONTROL, and PROHIBITION. However, a **new paradigm** has started to be outlined recently: **disarmament**, or, more accurately, **deterrent policies** in the face of the proliferation and free access to firearms.

During the Cold War, the National Security doctrine prevailed in all Latin America. It focused on State Security as the highest value to be protected, and any other interest should be subordinated to that scheme.

Hence, in the name of National Security basic human rights could be violated and institutions subdued. The concept of internal enemy and ideological borders emerged, and anyone who challenged or was considered a risk for the predetermined State model acquired the category of enemy.

Basically, it was an authoritative conception that did not tolerate shades, directed by war logic: friend-enemy. At war, the enemy is destroyed. It is not a coincidence that its most extreme and typical followers were supported by the military dictatorships that devastated the region during the seventies, implementing State terrorism policies.

That logic, which prevailed some decades ago, had its correlation in the arms problem conception. The main problem was not the existence of arms, or the fact that those arms could be used by our compatriots to kill one another for different reasons. The only concern was the probability of such arms being used to oppose the Armed Forces, in order to destabilize the State.

That was our countries policies prevailing characterization, until the dictatorships started their retreat during the eighties, which gave start to a widespread process of transition towards democracy and the return to the constitutional model.

In this new period, the policies and institutions that had emerged under the national security doctrine protection started to dismember, and gradually a new paradigm, called “public safety”, started to take shape. In this scheme, the main concern is not to protect the State, but the people, with a clear stress on respecting human rights. The friend-enemy concept is left behind in order to recognize a plural society, with a diversity of interests, permanent tensions, and conflicts of one kind or another.

Based on such recognition, a multi-agency intervention is contemplated, with differentiated sectorial policies, where the arms proliferation issue can not be properly solved with mere control and registration policies. For this conception, neither the arm owner identity nor the arm type is determinant in the problem configuration. The arms themselves are the problem and the risk, even those that are properly registered.

The perception is that, in the course of time, arms durability involves a severe deviation risk, and that their ready availability makes it possible to use them for settling trivial conflicts or committing suicide. This availability also makes it possible for these lethal elements to be easily acquired by criminal groups, which aggravates any conflictive situation.

In a mere control system, the access to arms is conditioned to the accreditation of some formal requirements (majority of age, psycho-physical capacity, lack of criminal records), which puts in evidence the neutrality of the State regarding the amount and type of arms to be acquired and the total stock. Anyone who fulfils the established formal requirements can acquire the amount and type of arms they want.

On the contrary, a model compatible with the public safety system requires that the reasons for the access to arms are justified, discouraging their acquisition for security self-management. The State leaves that neutral attitude to assume a position opposed to the proliferation and availability of arms in a society.

Without reaching prohibition criteria, it focuses on reducing the total stock of arms by requiring a compulsory justification for the need to acquire and use arms. The accreditation of the formal requirements that do not constitute an impediment is not enough; one is also required to justify the real, specific and current need to have access to a weapon.

While in a system that merely controls, the only goal is regular registration (illegal arms are the only concern), in a disarmament system the concern includes all arms, registered or not, since it is understood that all of them are a risk factor, all of them kill, all of them can cause accidents, all of them can be used to solve trivial arguments and, besides, that all of them can be diverted to be used for illegal purposes and by criminal organizations. In order to reduce arms stocks, the permanent destruction of surplus is promoted, and the recirculation of seized or confiscated material is banned.

Framework Law Structure

The Parlatino Framework Law is based on the following components:

1. GENERAL PROVISIONS
2. CONTROLLED OBJECTS
3. AUTHORIZED SUBJECTS
4. PERMITTED ACTIVITIES
5. CONTROL AND COMPLIANCE
6. REDUCTION, COLLECTION, DESTRUCTION
7. STOCK REGULARIZATION

Firstly, there is a list of several principles that provide guidance for the application of the law.

- **PROHIBITION.** All materials or activities that are not expressly authorized are prohibited (having an accurate definition of the materials this ban applies to, is a must).
- **RESTRICTIVENESS.** Authorizations are granted with a restrictive criterion.
- **ANTICIPATION.** The acquisition of the materials, and the activities they will be used for, must have prior authorization.
- **TIME LIMIT.** All authorizations are given for a limited time period.

- **REVOCABILITY.** All authorizations are revocable in essence.
- **JUSTIFICATION AND MATERIALIZATION.** One of the characteristics that make up the proposed system is the need to provide justifying reasons for getting the authorizations. Namely, the accreditation of the real, specific and current need to use arms and ammunition.
- **CORRESPONDENCE.** The justification principle correlates with the correspondence principle. That is to say, that the material to be acquired and the activity to be performed must accurately fit the evidenced need.

For example:

b) If I provide evidence that I need a weapon to hunt birds, I can not try to acquire an assault rifle (material correspondence).

b) If I need a weapon for sport shooting, I can not try to obtain a license for carrying weapons, as having possession is enough (activity correspondence).

- **UNIVERSALITY.** All authorizations are given impartially, without any exceptions based on position or occupation.
- **NON TRANSFERABILITY.** All materials and authorizations are non transferable without a prior state authorization.
- **NON RECIRCULATION.** All confiscated materials declared surplus or surrendered to the State are destroyed.

Since the law is governed by prohibition and restriction principles, the wording of the definition of the materials this law will apply to, must be highly accurate and strict in order to avoid an improper spreading of these prohibition principles.

To that end, we resort to the arms and ammunition definitions provided by the **CIFTA (Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials)**, which was ratified almost unanimously by the countries of the region.

Definitions: In Article I, the Convention gives several definitions which include arms and ammunition descriptions. In order not to create a duplication of legal concepts, both definitions have been adopted in the project.

“Firearms”:

a) any barrelled weapon designed to expel a bullet or projectile by the action of an explosive, or feasible to be easily converted for that purpose, except antique firearms manufactured before the 20th Century or their replicas; or

b) any other weapon or destructive device such as any explosive, incendiary or gas bomb, grenade, rocket, rocket launcher, missile, missile system, or mine.

“Ammunition” refers to the complete cartridge or its components, including cartridge cases, detonator, propellant powder, bullets, or projectiles that are used in any firearm.

“Related materials” refers to “Any replacement part of a firearm and external accessory which can be attached to a firearm to modify or improve its shot orientation, power, rate of fire, or to suppress noises; as well as to a machine designed for the production of firearms, and of the materials described in the previous subsection, ammunition and ammunition reloading”.

As regards controlled materials, the law has special requirements regarding marking and the ballistic test:

1. Every firearm, ammunition or related material, as well as its parts and components, must be identified by way of marking.
2. This marking must be unalterable.
3. Provisions are made for the marking of all ammunition.

On this basis, the law organizes a license and authorization system that links the authorized people, the kind of material included in the authorization, and the type of license corresponding to the activity to be carried out with the weapon.

Common requirements are set forth for any person —individual or legal— who wants to use a weapon. Additional requirements may apply according to the type of specific activity being authorized.

The authorization requirements for individuals are:

Legal age
Psychophysical capacity
Absence of addictions
Competence in arms use
Legal framework knowledge
Lack of criminal and domestic violence records
Justification, storage place, security plan, etc.

The activities allowed are such, through special licenses issued by the Enforcement Authority. By means of these licenses, the Authority empowers a person to carry out the authorized activity for a specific period of time. It is worth mentioning that only authorized people can obtain licenses.

Licenses are classified in different categories:

- a) Manufacture;
- b) Storage;
- c) Transportation;
- d) International Transfers;
- e) Domestic Commerce;

- f) Repair;
- g) Ammunition Recharge;
- h) Organization of Hunting Events;
- i) Shooting Entities Administration;
- j) Gunnery Instruction;
- k) Possession;
- l) Carrying;
- m) Collecting; and
- n) Private Security with Arms.

The content and requirements provided for each type of activity would require an extensive explanation, but I would like to elaborate on the regulation provided for international transfers. Firstly, the activities of export, import, traffic, re-export, intermediation, and licensed production are included within this type of licenses.

Aside from the prior authorization, an individual authorization will be necessary for each specific transfer, together with the final user certificate, duly certified pursuant to the case procedures. The Act in itself establishes which of the criteria to be evaluated should be for the concession or rejection of the transfer, among which are:

- Adherence to Human Rights and the International Humanitarian Law of the countries involved,
- Verification of internal and regional situations in terms of armed conflicts,
- Compliance with relevant obligations as regards transfers by the countries involved (for instance, respecting embargoes,)
- Attention to diversion risk, etc.

Finally, the joint authorization of areas such as ER, Defense, Security, HR, etc. is required. Determining the transfer is not the responsibility of an agency alone; such an authorization should come from the higher state bodies, after the resolution of a commission in which all the appropriate ministries are represented. In addition, the regulation requires effective confirmation of materials entrance and exit, communication with the rest of the countries involved (final destination or transit), as well as information and regular exchange of information about the transfers carried out, with third countries, multilateral entities, and international bodies.

For a more effective system application, a unique and centralized national authority is created to enforce the arms Act. Notwithstanding the specificities to consider in each country, it is suggested that the regulatory body remain in the sphere of the ministry that has jurisdiction over public security, thus transcending a widespread conception in the region which placed these issues in the defense and armed forces areas.

This authority centralizes the record of every material (belonging to individuals, companies, and state bodies), every authorized person and every activity (manufacturers, importers, brokers, possession holders, instructors, etc.)

Thus, a dynamic system is intended to be established, one that allows the possibility of relating the material to the user and to the authorized activity in order to discover any discrepancies:

- a specific arm in the hands of a user other than that who was authorized to acquire it.
- an authorized person performing an activity for which he or she is not authorized (a possession holder who uses his or her arm for private security tasks), or
- an arm assigned to an unauthorized activity (an arm assigned to a firing range carried by an individual.)

For purposes of completing this presentation, I would like to refer to the parliamentary control mechanisms established. Article 131 of the Act compels the National Executive Branch to annually report to the Congress:

1. Number of arms factories and arms manufactured and imported;
2. Licenses issued for the use of arms;
3. Law-enforcement officials' acquisitions;
4. Total number of wounded and dead people resulting from the use of firearms:
 - a) Incidents in confrontations with law-enforcement officials;
 - b) Incidents caused concurrently with another crime;
 - c) Incidents caused among neighbours or acquaintances;
 - d) Incidents caused among family members;
 - e) Incidents caused with legally possessed arms;
 - f) Incidents with arms belonging to private security companies; and,
 - g) Incidents with firearms illegally possessed by the author, indicating whether it had been reported stolen or lost by the authorized holder or whether the arm would not have been registered in the country.
5. Health system cost estimation;
6. Regularization and collection campaigns results.
7. Sanctions applied due to violations of this Act;
8. Material delivered by individuals to be destructed;
9. Material declared as surplus; and,
10. Effectively destroyed material.

Likewise, the Act stipulates a Congress report publication specifying:

Firearms control policies assessment and stock reduction,

Enforcement bodies performance,

Firearms impact on the occurrence of deaths, wounds, and on their use to commit crimes,

Compliance with the criteria about international transfers.

As regards the sanctions regime, two different types of offences are stipulated: mild and serious. The former are merely formal breaches –by the offenders or third parties– that do not put public security at risk; negligent breaches or unregistered breaches. On the other hand, serious sanctions –by the offender or third parties– are those that imply deliveries to unauthorized people, fraudulent actions, repeated breaches or those which represent a risk for public security.

Mild offences are punished through warnings, penalties, and confiscation. Serious offences can also be punished through closure, suspension, deregistration or disqualification. In case of concurrence of offences, duplicate sanctions are stipulated. The same applies for recidivism.

Conclusion

We are very close to a change of paradigm. Just as a group of pioneers started to shape the way to freedom two hundred years ago, when slavery was naturalized, our main challenge today, is to continue charting that way to freedom.

Miguel Hidalgo y Costilla, who abolished slavery in Mexico, supported this act of liberation explaining that selling men was against nature. The change of paradigm we need to take part in, confirms that selling violence is against nature's clamore.

Just as more than two centuries ago, Abraham Lincoln stated that nothing could be unfair, as long as slavery was not considered unfair; today, my dear colleagues, we are convinced that if violence is not unfair, nothing might be.

That is why the internalization of this Act is marked by big opportunities to continue showing our region's initiative and leadership in one commitment: social peace.