



Testimony of Jonathan Lowy, President & Founder, Global Action on Gun Violence¹
before the Inter-American Commission on Human Rights

Hearing on "Respecting and enforcing human rights in the face of the activities of arms manufacturing and trading firms in the Americas," October 25, at 4:00 p.m. (EST).

I. INTRODUCTION AND BACKGROUND

Honorable Commissioners and Member States, I am Jonathan Lowy, President and Founder of Global Action on Gun Violence. Thank you for inviting me to speak at this important hearing.

For 25 years I have fought to stop the illegal arms trade and pushed for best practices in the gun industry, representing dozens of families and governments, from the U.S., Canada, and Mexico, in lawsuits to stop the flow of illegal guns.

I recently created Global Action on Gun Violence because I believe that international action is the best way to end the U.S. gun violence epidemic, and prevent it from becoming a pandemic.

GAGV provides litigation and advocacy to victims of gun violence, nations and international organizations, with a focus on stopping gun trafficking from the U.S. I am an independent witness, but because GAGV engages in advocacy, we – and I – are registered under the Foreign Agents Registration Act for Mexico.

II. HOW U.S. POLICY AND THE ARMS INDUSTRY CAUSE GUN VIOLENCE

If you take away one message from my testimony, it should be:

Immunity leads to impunity. Lax U.S. laws give the arms industry effective immunity from regulation and accountability, that leads to impunity to supply the criminal market, and infringe on core human rights of people throughout the region.²

The criminal gun market is not unavoidable; it is the result of deliberate actions by private arms companies, and lax laws that allow them. Dealers choose to sell guns to buyers they know are likely trafficking, and manufacturers choose to supply them without any condition or oversight.

Mexico's lawsuits and press reports provide countless examples of dealers selling large numbers of guns to obvious traffickers who supply criminals in Mexico, the U.S., the Caribbean, and elsewhere.³

The U.S. government authorizes these dealers to sell unlimited numbers of guns, even when they repeatedly violate gun laws.⁴

Manufacturers are allowed to sell military-style weapons, and supply even the worst dealers.



Over 20 years ago, the U.S. Department of Justice called on the gun industry to “identify and refuse to supply dealers and distributors that have a pattern of selling guns to criminals and straw purchasers.”⁵ The industry refused.⁶ With no repercussions.

In 2000, Smith & Wesson agreed in a settlement with the U.S.⁷ to institute safer practices. It reneged.⁸ With no repercussions.

Since then, the arms industry has doubled down on assault weapon sales and practices that supply criminals, leading to marked increases of gun deaths in the U.S., Mexico, and other countries.⁹

III. HUMAN RIGHTS VIOLATIONS

The illegal arms trade causes a **regional citizen security crisis** and **infringes on human rights**, including the right to life.¹⁰ Contrary to its due diligence obligations, the U.S. fails to prevent or investigate human rights violations,¹¹ or impose “appropriate punishment” on those responsible.¹² Instead, the U.S. provides effective *immunity* which creates *impunity* for conduct that feeds human rights abuses.

IV. GAGV’S CALL TO ACTION

We respectfully request that the Commission:

One, recommend that all States Members of the OAS adopt and enforce **effective regulatory measures** to combat the illegal trade in firearms; and

Two, prepare a report focusing on the **human rights impacts** of the illegal gun trafficking from the U.S.

Global Action on Gun Violence stands ready to assist the Commission in any way. Thank you.

¹Jonathan Lowy, LINKEDIN, <https://www.linkedin.com/in/jonathanlowy> (last visited Oct. 22, 2022).

² See, e.g., Evan Perez, *Mexican Guns Tied to U.S.: American-Sourced Weapons Account for 70% of Seized Firearms in Mexico*, Wall Street Journal, Jun. 10, 2011, http://online.wsj.com/article/SB10001424052702304259304576375961350290734.html?reflink=desktop_webshare_permalink; see also, Rose Rivera, *U.S. State Responsibility a la Trail Smelter: Arms Trafficking and Transboundary Harm to Mexico*, 5 MEXICAN L. REV. 3, 6 (July/December, 2012); see also, Emma Jacobs, *As gun violence rises in Canada, Weapons from the U.S. complicated gun control efforts*, NPR, Jul. 9, 2022, <https://www.npr.org/2022/07/09/1108967278/canada-gun-control-us-guns-trafficking>; see also, Tim Padgett, *Guns of the Caribbean: Haiti, U.S. Virgin Islands flooded with firearms — often from Florida*, WUSF, Mar. 26, 2022), <https://wusfnews.wusf.usf.edu/us-world/2022-03-26/guns-of-the-caribbean-haiti-u-s-virgin-islands-flooded-with-firearms-often-from-florida>; *Firearms Trace Data: Central America – 2021*, ATF (Mar. 10, 2022), <https://www.atf.gov/resource-center/firearms-trace-data-central-america-2021#table-1>.



³ *Estados Unidos Mexicanos v. Smith & Wesson Brands, et. al.*, 2021 WL 3409272, (D. Mass. 2021) No. 1:21-CV-11269-FDS, Complaint at 37 – 50 (*dismissed*, 2022 WL 4597526 (2022)). *See also*, Guillermo Contreras, *Ex-GI accused of gun smuggling*, San Antonio Express-News, Dec. 11, 2018, <https://www.pressreader.com/usa/san-antonio-express-news/20181211/281505047305369>; Press Release, U.S. Dep’t of Just., Justice Department Announces Charges Against Alleged Gun Trafficker: Over 70 Guns Purchased in Just 6 Months (Jun. 13, 2022), <https://www.justice.gov/opa/pr/justice-department-announces-charges-against-alleged-gun-trafficker>;

Press Release, U.S. Dep’t of Just., Dist. Of Ariz., Former Tucson Police Officer Sentenced to 78 Months for the Illegal Sales of Firearms (Jul. 7, 2017), <https://www.justice.gov/usao-az/pr/former-tucson-police-officer-sentenced-78-months-illegal-sales-firearms>); Press Release, U.S. Dep’t of Just. Dist. of P.R., Three Men, Who Acquired and Transferred Almost 1,000 Guns, Charged with Firearms Trafficking (Aug. 2, 2022), <https://www.justice.gov/usao-pr/pr/three-men-who-acquired-and-transferred-almost-1000-guns-charged-firearms-trafficking>; *Williams v. Beemiller, Inc.*, 100 A.D.3d 143, 952 N.Y.S.2d 333 (2012), *opinion amended on reargument*, 103 A.D.3d 1191, 962 N.Y.S.2D 834 (2013) (dealer sold 180 guns sold to traffickers in six months).

⁴ Documents obtained from the U.S. Department of Alcohol, Tobacco, Firearms and Explosives (“ATF”) by the Brady Center to Prevent Gun Violence demonstrate that even in the rare cases when ATF inspects arms dealers, finds serious violations of law, and recommends that their Federal Firearms Licenses (“FFL”) be revoked, ATF often ultimately does not even initiate revocation proceedings, and allows the dealer to remain in business, selling guns. *See*, Brian Freskos et. al, *Off Target: After repeated ATF warnings, gun dealers can count on the agency to back off; sometimes firearms flow to criminals*, USA Today, May 26, 2021, <https://www.usatoday.com/in-depth/news/investigations/2021/05/26/gun-dealers-let-off-hook-when-atf-inspections-find-violations/7210266002/>. *See also* Brady, Gun Store Transparency Project, <https://gunstoretransparency.org/>, (last visited Oct. 22, 2022).

⁵ U.S. Dep’t of Just., *Gun Violence Reduction: National Integrated Firearms Violence Reduction Strategy*, DOJ ARCHIVE, (last visited Oct. 22, 2022), <https://www.justice.gov/archive/opd/gunviolence.htm>.

⁶ Mike McIntire and Luo, Michael, *Gun Makers Saw No Role in Curbing Improper Sales*, N.Y. Times, May 27, 2013, <https://www.nytimes.com/2013/05/28/us/gun-makers-shun-responsibility-for-sales-suits-show.html>.

⁷ U.S. Dep’t of Just., *supra* Note 7, at Appendix D.

⁸ Avi Selk, *A gunmaker once tried to reform itself. The NRA nearly destroyed it*, Wash. Post, Feb. 27, 2018, <https://www.washingtonpost.com/news/retropolis/wp/2018/02/27/a-gunmaker-once-tried-to-reform-itself-the-nra-nearly-destroyed-it/>.

⁹ Jacqueline Howard, *U.S. has highest rate of gun-related deaths in more than 25 years, new CDC data shows*, CNN.com, May 10, 2022, <https://www.cnn.com/2022/05/10/health/firearm-homicide-suicide-rates-2020/index.html>; Kate Linticum, *Mexicans are killing each other at record rates. The U.S. provides the guns*, L.A. Times, Oct. 6, 2019, <https://www.latimes.com/world/mexico-americas/la-fg-mexico-guns-20190430-story.html>.

¹⁰ While not all States in the Inter-American system are bound by the American Convention, all States members of the OAS are at least guided by its normative framework in complying with their legal obligations. Thus, the American Declaration is “recognized as constituting a source of legal obligation for member states of the Organization of American States, including those States that are not parties to the American Convention on Human Rights,” such as the United States. *Lenahan v. United States*, Case 12.626, at para. 172, Inter-Am. Comm’n H.R., Report No. 80/11 (July 21, 2011). This Commission has repeatedly recognized that the American Convention and its interpretation by the Inter-American Court are as an authoritative expression of many of the fundamental principles set forth in the American Declaration, the rights to life and security of person among them. *See*, Inter-Am. Comm’n H.R. Report



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No. 40/04, Case 12.053, *Maya Indigenous Communities of the Toledo District (Belize)*, October 12, 2004, at para. 87.

¹¹ See, Thomas M. Antkowiak and Gonza, Alejandra, *The American Convention on Human Rights: Essential Rights*, 19 (Oxford Univ. Press, 2017) (Distillation on Due Diligence obligations in the Inter-American system). See also, *Lenahan v. United States*, *supra* Note 11.

¹² *Velásquez Rodríguez v. Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser.C) No.4, para. 174 (July 29, 1988).