



HUMAN RIGHTS CLINIC

THE UNIVERSITY *of* TEXAS SCHOOL *of* LAW

**INTER-AMERICAN COURT OF
HUMAN RIGHTS**

AMICUS BRIEF

**MEXICO’S REQUEST FOR AN ADVISORY
OPINION REGARDING
*“THE ACTIVITIES OF PRIVATE COMPANIES
ENGAGED IN THE FIREARMS INDUSTRY
AND THEIR EFFECTS IN HUMAN RIGHTS”***

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Introduction

The Human Rights Clinic at The University of Texas at Austin School of Law¹ (“the Clinic”) respectfully submits this *amicus curiae* before this Honorable Inter-American Court of Human Rights to address the questions presented by the United States of Mexico (Mexico) on the responsibilities of private firearm companies and States’ obligations to allow redress for victims against those companies. This brief will advocate for acknowledging the human rights violations by private firearm manufacturers and distributors and the requirements on States to regulate these companies. The brief will also emphasize the importance of an effective remedy and how States must not shield responsible parties from liability. In particular, the Clinic will present arguments based on the International Covenant on Civil and Political Rights and concentrate on the issue of sales and marketing of guns and argue for the recognition of a right to be free from gun violence. The brief provides concrete examples from the United States of America (US) experience and practice.

Interest of Amici

The Clinic brings together an interdisciplinary group of law and graduate students to participate in human rights projects and cases under the supervision of Professor Ariel E. Dulitzky. The Clinic is dedicated to the progressive development of international human rights law. The range of cases and projects handled by the Human Rights Clinic illustrates the breadth of human rights practice, including fact finding, report writing, and other public advocacy. The Clinic has been working on the issue of gun violence with a focus on school shootings in Texas since 2018 and the shooting at Sante Fe High School in Sante Fe, Texas in the United States. The experience of the Clinic with

¹ <https://law.utexas.edu/clinics/human-rights/>

regards to gun violence is particularly relevant given Texas' lax gun policies and positioning as a border State with Mexico. Over these past years, the Clinic has drafted briefs with partner organizations on the firearm crisis in the US, prepared a report that will be released later in 2023, and created a blogsite with posts on the human rights issues within gun violence in the US.

In this brief, the Clinic will advance an argument that States must adopt a human-rights-based approach to firearms. This approach, if implemented, will require States to reevaluate their policies for firearms because of the human rights implicated by firearm violence. This approach would also require States to hold private firearm manufacturers responsible for the harms they create. The Clinic believes that this Advisory Opinion provides a chance to clarify the human rights violated by and the responsibilities of these private actors and the States that shield them from liability. In particular, the Clinic will present arguments based on the International Covenant on Civil and Political Rights and concentrate on the issue of sales and marketing of guns and argue for the recognition of a right to be free from gun violence.

Summary of the Argument

States must adopt a human-rights based approach to firearms because other approaches allow for human rights violations. The human rights at stake include, among others, the right to life; the right to physical integrity and freedom from violence; the right to mental, emotional, and psychological health; the right of the child; and the right to an effective remedy. When these human rights are not considered by States creating policies on firearms, the suffering of people is not confined to the territory of the responsible State.

Private firearm manufacturers and distributors have human rights obligations, and States must sufficiently regulate them to prevent occurrences of human rights violations. This regulation includes licensing of both manufacturers and distributors, which enables monitoring of the

industry. This monitoring allows for effective enforcement in companies that circumvent regulation. Regulation must also require restrictions on the industry using a human-rights based approach that limits foreseeable violations and remedies past violations. This approach will limit loopholes, such as those that allow companies to build near complete firearms without oversight. Distributors must also have oversight and regulation that effectively follows firearms that are sold. This regulation will allow more effective monitoring and stop the illicit trafficking of firearms. A lack of regulation does not absolve the firearms companies from responsibility though as they are aware of the human rights implicated and have not attempted to stop future violations.

Victims of firearm violence must have access to an effective remedy that includes compensation from responsible parties. States must avoid shielding private firearms manufacturers and distributors from they are responsible for fueling the violations in question.

[States must adopt a human-rights based approach to firearms.](#)

States must adopt a human rights-based approach to the issue of firearms. This approach takes into consideration the human rights at stake with firearm policies and recognize the grave consequences when firearms are used. Several human rights are implicated by firearm violence and compounded by the current widespread transnational status of this violence. These rights will be briefly introduced, and the consequences of not adopting such a human rights-based approach will be considered.

[There are several human rights implicated by widespread firearm violence.](#)

[The right to life is the supreme right and should not be interpreted narrowly.](#)

This right to life “is the supreme right” that is the “prerequisite for the enjoyment of all other human rights.”² This right is found in the American Convention on Human Rights (ACHR),

² Human Rights Committee, CCPR/C/GC/36 (2019).

where “every person has the right to have his life respected.”³ Likewise, the International Covenant on Civil and Political Rights (ICCPR) declares “every human being has the inherent right to life. The right shall be protected by law. No one shall be arbitrarily deprived of life.”⁴ This right is non-derogable even during emergencies that threaten the nation.⁵ Given this importance, the right should not be interpreted narrowly.⁶ The right to life “includes the duty [by States] to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice and to redress the harm caused by non-State actors. A failure to take appropriate measures or to exercise due diligence in order to fulfil this duty could give rise to violations of the ICCPR.”⁷

Unfortunately, with firearms, arbitrary and premature deaths follow at the national and transnational levels. This is contrary to the duty to protect life, which “shall be protected by law.”⁸ The reality of firearm violence makes these threats “reasonably foreseeable” and States are obligated to “adopt any appropriate laws or other measures in order to protect life” from the threat of firearm violence.⁹ These appropriate laws must include criminal prosecutions of perpetrators but must also go further. They must address “the general conditions in society that gave rise to the direct threats” and attempt to remedy these conditions to prevent future acts that threaten the right to life.¹⁰ The Human Rights Committee has addressed this requirement in the context of firearm violence where they acknowledged that such violence obliges States to act. This clear reference guarantees that when firearms violence threatens the right to life, States have a duty to act to protect

³ ACHR art. 4(1).

⁴ ICCPR art. 6(1).

⁵ *Id.* at art. 4(2).

⁶ Annex, Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, USA 20/2015 (Dec. 1, 2019).

⁷ Annex, Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, USA 20/2015 (Dec. 1, 2019).

⁸ ICCPR art. 6(1).

⁹ Human Rights Committee, CCPR/C/GC/36 (2019).

¹⁰ *Id.* at para. 26.

lives from arbitrary killings. This obligation to protect life is heightened when persons are “placed at particular risk because of specific threats or pre-existing patterns of violence” such as those fighting organized crime, children, minorities, and many others.¹¹ Thus, States must enact appropriate legislation and judicial reforms to limit gun violence that contributes to the deprivation of life in violation of the right to life.

The right to physical, mental and moral integrity and freedom from torture guarantees people should not be subjected to “cruel, inhumane, or degrading treatment.”

States must address conditions in their territory that allow for torture of persons in their territory and beyond. The ACHR recognizes that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”¹² The exact same provision can be found in article 7 of the ICCPR.¹³ The prohibition relates to both physical pain as well as mental suffering.¹⁴ Similarly, the Convention Against Torture (CAT) obliges States to “take effective legislative, administrative, judicial, or other measures to prevent acts of torture.”¹⁵ Like the right to life, the right to physical integrity is non-derogable even during public emergencies.¹⁶ The Human Rights Committee requires a State to take more preventative measures than just prohibiting such treatment or making it a criminal offense.¹⁷

Firearm violence causes both physical pain and mental suffering to direct victims and those around them. When a person is a victim of gun violence, they experience torture before the shooting as they may hear gunshots and anticipate the likelihood of being shot. This mental anguish constitutes torture. After being shot, the human body experiences unbearable pain and the victim

¹¹ Id.

¹² ACHR art. 5(2).

¹³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171; UN Human Rights Committee (HRC), General comment no. 20, Article 7, 1992

¹⁴ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171; UN Human Rights Committee (HRC), General comment no. 20, Article 7, 1992

¹⁵ CAT art. 2(1).

¹⁶ Id. at art. 2(2).

¹⁷ ?

again undergoes torture. If the victim dies, their family suffers the extreme pain of the loss of loved one. If they survive, they will experience the physical pain associated with recovery and the mental anguish and fear being a victim again. Similarly, when firearm violence becomes widespread, this right extends to those who live in fear of becoming a victim. Thus, States must work to prevent acts of gun violence through legislation and judicial reforms. States that fail to make these changes violate the human rights of the victims that endure these tragic situations.

The right to mental, emotional, and psychological health protects a standard of living and wellbeing.

The ACHR declares “everyone has the right to have his physical, mental, and moral integrity respected.”¹⁸ Similarly, the Universal Declaration of Human Rights (UDHR) guarantees “everyone has the right to a standard of living adequate for the health and well-being of himself and his family.”¹⁹ Similarly, the Human Rights Council and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health have increasingly understood mental health as a global health priority.²⁰ This modern approach recognizes “there is no health without mental health” and “mental health is more than the absence of a mental impairment.”²¹

Despite these recognitions, the widespread firearm violence in many States has led many to fear that they may be next. This State of fear impacts the emotional well-being of people in these communities. Further, survivors or family of victims of firearm violence may experience mental anguish from the terror of the shooting and grief from the loss of others. To compound this effect, the resources of mental health services are often limited and not adequate to address the vast emotional harms.

¹⁸ ACHR, art. 5(1). “His” is not limited to men but extend to all people.

¹⁹ UDHR, art. 25(1).

²⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/076/04/PDF/G1707604.pdf?OpenElement>

²¹ <https://www.ohchr.org/en/special-procedures/sr-health/right-mental-health>

The rights of the child requires increased protection to children.

The right of the child offers increased protection to children as “childhood [is] entitled to special care and assistance.”²² Likewise, “everyone has the right to education.”²³ To ensure these rights, States must protect children against physical and mental abuse and must act to prevent and protect against school shootings and other gun violence against youth with due diligence. Without these protections, guns may end up in schools, where they school interferes with the learning process. Outside of schools, children experience gun violence in their communities. These negative interactions risk many of the rights discussed above and are heightened due to the status as children.

Victims have the right to an effective remedy and judicial protection.

States must ensure that victims of human rights violations, including those from arising from firearms, have access to an effective remedy and judicial protections. The ACHR guarantees “everyone has the right to simple and prompt recourse... to a competent court... for protection against acts that violate his fundamental rights.”²⁴ Similarly, the ICCPR creates an obligation for States Party to “ensure that any person whose rights of freedoms . . . are violated shall have an effective remedy” and “ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy” and “ensure that the competent authorities shall enforce such remedies when granted.”²⁵

Remedies for victims of gun violence are often limited outside of criminal prosecution. However, mere criminal prosecutions are insufficient to qualify as an effective remedy. Therefore,

²² Id. at art. 25 (2)

²³ Id. at art. 26.

²⁴ ACHR, art. 25(1).

²⁵ ICCPR, art. 2(3).

it is important to consider what qualifies as an effective remedy. Under human rights law, an effective remedy comes in numerous forms, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Restitution is the restoration of liberty and enjoyment of human rights. Compensation provides a monetary award for “any economically assessable” violation. Rehabilitation covers psychological care or legal services for victims in their recovery. Satisfaction encompasses effective measures to halt ongoing violations, acknowledgment of the violation by the State, and public disclosure of facts. Lastly, guarantees of non-repetition includes “promoting mechanisms for preventing and monitoring social conflicts and their resolution [and] reviewing and reforming laws contributing to” violations of human rights.²⁶

When looking at firearm violence, it is clear that this standard for effective remedy is not often met. Compensation is often limited as a civil suit against the perpetrator is limited because the perpetrator is dead, judgment-proof, or not found. Similarly, some States have laws that insulate gun manufacturers from civil suits even when a strong case can be made. State institutions usually can invoke sovereign immunity that protects the State from suits arising from its own actions or failures. The definition of “victim” is often under-inclusive and narrow.

Most importantly, the failures in guaranteeing non-repetition contributes to future instances of firearm violence. State owe it to victims to review the policies that allow previous violations to take place. When the State does not amend these policies, future violations become inevitable and repetition occurs. This repetition retraumatizes prior victims and creates new victims.

The Right to Be Free from Gun Violence.

Although not an explicitly listed right in an international treaty, the Court should recognize the right to be free from gun violence. The High Commissioner for Human Rights noted in 2016

²⁶ See U.N. High Commissioner on Human Rights, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, U.N. G.A. Res. 40/34, ¶ 18-23 (1985).

that "[g]iven the potential harm and devastating impact of the misuse of firearms on the enjoyment of human rights, public policies with respect to civilian access to firearms should be reviewed and formulated through a human rights lens."²⁷ Gun violence puts numerous rights at risk, affecting not only victims' physical health, but their mental and emotional health; their ability to enjoy freedom afforded to them to pursue education, religion, and other leisure activities without fear of grave bodily harm; and, for particularly vulnerable groups, their right to be free from gender-, race, or religion-based violence involving firearms.

The human rights explained above demonstrate the implicit recognition under international human rights law of the right to be free from gun violence. Although this broad concept is already implicated in many separate treaties protecting certain aspects of it, a holistic understanding of these pre-existing human rights as the right to be free from gun violence will elucidate the urgent need of the international bodies to devote attention to the issue. Similar conceptual approach has succeeded in recognizing the right of children,²⁸ rights of people with disabilities,²⁹ and the right not to be subjected to enforced disappearance.³⁰

The human rights violations caused by gun violence present a unique experience that cannot easily be reduced to the confines of existing human rights regime alone. The recognition of

²⁷ UN High Comm'r for Human Rights, *Human Rights and the Regulation of Civilian Acquisition, Possession and Use of Firearms*, para. 52, A/HRC/32/21 (15 April 2016).

²⁸ The Convention on the Rights of the Child evolved from the ILO conventions prohibiting children from working in hazardous conditions and the Declaration of the Rights of the Child, subsequently incorporating not only welfare rights but rights of the child to act fully in his or her capacity as a person. Paula S. Fass, *A Historical Context for the United Nations Convention on the Rights of the Child*, 633 THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 17, 17–18 (2011).

²⁹ See generally Frédéric Mégret, *The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?*, 30 HUMAN RIGHTS QUARTERLY 494–516 (2008)(noting the implications of adopting the Convention on the Rights of Persons with Disabilities as it reaffirms other fundamental human rights such as right to life, right to education, and freedom from discrimination in the specific context of persons with disabilities).

³⁰ The effort of the UN Working Group on Enforced and Involuntary Disappearances from the 1980s to fill the gap in human rights protection in this area culminated in a new International Convention for the Protection of All Persons from Enforced Disappearance rather than in an optional protocol to International Covenant on Civil and Political Rights or to the Convention Against Torture. Susan McCrory, *International Convention for the Protection of All Persons from Enforced Disappearance*, 7 Hum. Rts. L. Rev. 545, 547–48 (2007).

a right to be free from gun violence will help understand the severity of the problem compared to other instances of human rights violations that are more universal. It can also encourage States to take gun violence more seriously out of a sense of international obligation. The Court has a unique opportunity to develop the recognition and scope of the State and non-State actors' duty to protect from gun violence and prevent incidents of further gun violence from occurring. The primary means of doing this is regulating the access to and use of guns.

There are devastating consequences when a human right-based approach does not guide domestic policy on guns.

When a human-rights based approach is not considered in developing gun policies, other constitutional guarantees and laws can prioritize the right to own a firearm over protecting the human rights of people on that State's territory and beyond. This inaction ignores obligations to one's own people and other States that experience the transnational effects of these laws. For example, strong private firearm ownership laws in the US have created an environment where firearms are the leading cause of death for children (1–18 years old).³¹ These laws and constitutional guarantees also fuel the illicit transnational trade of firearms that impact States like Mexico, who have otherwise restrictive gun control measures.³² Thus, the State that fails to take a human-rights based approach to firearms in their domestic policies spread unwelcome harm across sovereign borders.

³¹ <https://www.nytimes.com/interactive/2022/12/14/magazine/gun-violence-children-data-statistics.html>

³² https://www.washingtonpost.com/world/the_americas/mexico-guns-us-lawsuit/2021/08/04/181fdbaa-f52d-11eb-a636-18cac59a98dc_story.html.

Manufacturers and distributors of firearms have human rights obligations, and States must ensure these private actors follow these obligations.

With the multitude of human rights implicated in the simple existence of guns, States have a responsibility to ensure due diligence that the firearms being manufactured will not be used to violate human rights. To do this, the States needs to have an active and evolving role in regulating the gun industry. Due diligence, in the context of firearms, requires States to apply uniform federal regulation, reign in illegal production, and create adequate standards for manufacturing and production. Likewise, private businesses have a responsibility to respect human rights.³³ This requires the private business to avoid causing or contributing to adverse human rights impacts through their activities and to address the impacts when they occur. Businesses must also seek to prevent human rights impacts that are directly linked to their operations or products. This section uses the examples on how the US fails to adequately regulate the firearms industry and how the firearms industry fails to protect human rights on its own.

In the US, discourse of gun violence prevention only occurs in the aftermath of a gun-related tragedy. A focus on what could have been done to prevent the tragedy is only addressed after the tragedy. And what is even more evasive, is a discussion of how guns are so prevalent in communities in the first place. The push for responsibility in these tragedies tends not to put the responsibility on the gun industry, one that is essentially unregulated in the US. A storm of lacking laws, lack of resources, and almost no congressional support for gun regulation has led to the reality in the US that an industry that produces, advertises, and sells deadly weapons to civilians operates with limited oversight, regulation, and accountability in the legal system.³⁴

³³ UNGP on Businesses and Human Rights

³⁴ <https://www.americanprogress.org/article/gun-industry-america/>

While proponents of gun control may be inclined to focus on the aftermath and consumer demand side of the issue, the gun industry plays a prominent role as well. Between manufacturers, importers, wholesalers, advertisers, and retail gun dealers, the role of manufacturing, marketing, and distributing cannot be ignored. The actors in the gun industry hold power of deciding kinds of guns and ammunition that may be manufactured and sold, safety features to be included, commercial channels in which guns are sold, and safeguards at the point of sale to prevent gun trafficking, theft, and illegal purchase.³⁵

Manufacturers of firearms have human rights obligations, and States must adequately regulate these manufacturers.

Sufficient State regulation helps mitigate the human rights violations committed by firearms. These regulations must keep record, limit licensing, and prohibit excessive production increases. States must eliminate loopholes in their regulations and act against the illicit production of firearms. This section details an example of the insufficient regulation for the firearms industry.

The firearm industry must be sufficiently regulated by States to avoid human rights violations.

The firearm industry must be sufficiently regulated by States to avoid human rights violations. In the US, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is responsible for regulation of the industry. Unfortunately, this agency is notably underfunded and politically vulnerable, which drastically impacts how and to what extent ATF can conduct oversight activities on the gun industry.³⁶ Congressional impositions of restrictive policy riders on the ATF budget also substantially diminish the regulation that ATF can complete.

Historically, the gun industry has moved quickly in increases in technology and production capability. Legislation to regulate this evolving industry consistently lags behind. There has been

³⁵ *Id.*

³⁶ *Id.*

no major change to federal law that governs commerce in firearms in over 20 years in the US despite changes in the industry in scope, size, and variety of products that are being produced.³⁷

In the US, recreational and household products are regulated by the Consumer Product Safety Commission (CPSC), which was created through the Consumer Product Safety Act. There are some industries that the CPSC does not have jurisdiction over, but these industries typically are regulated by a specific separate agency with a safety oversight role.³⁸ The exception to this? The firearm and ammunition industry. This lack of consumer protection and oversight has ultimately resulted in injuries and death of users, who also are without the legal recourse or remedy that are normally available to consumers under CPSC. This complete lack of oversight leaves it up to consumers to have a cautious approach and rely on the good faith of the gun industry itself. The exclusion of this industry from any federal agency allows the gun industry itself to assume responsibility for ensuring the safety of its own products.

States must create adequate licensing regimes to regulate firearm manufacturers.

States must create adequate licensing regimes to regulate firearm manufacturers. There are few barriers to gun manufacturing in the US. Individuals or businesses must obtain a type 07 license from ATF, a firearms manufacturing license. Applicants for a type 07 license must be over the age of 21, be eligible to possess guns under federal law, and not have willfully violated any federal laws or regulations related to firearms.³⁹ A three-year gun manufacturer's license requires a \$150 fee, and the manufacturer must also register with the Directorate of Defense Trade Controls at the U.S. Department of State and pay an annual \$2,250 fee there.⁴⁰ These lax regulations allow for a manufacturing license to be widely available and accessible to the general public in the US.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

Once gun manufacturers have received their license to operate, they are subject to minimal oversight from ATF. Records of production and sales must be maintained, and manufacturers are subject to an annual inspection of inventory and records.⁴¹ Additionally, any potentially lost or stolen firearms must be reported to ATF within 48 hours of discovery and manufacturers must ‘immediately’ respond to crime gun trace requests.⁴²

States must prohibit the unsustainable increased production of firearms.

States must prohibit the unsustainable increased production of firearms. Earliest available data from AFT on firearms manufacturing shows that in the US in 1986, 3.04 million guns were manufactured. From 1986 to 2008, the annual average of firearms manufactured in the US at around 3.8 million. However, this average increases dramatically from 2009 to 2018 - rising to 8.4 million firearms manufactured per year.⁴³ The highest year of gun manufacturing in the US was 2016, with 11.5 million firearms manufactured that year.⁴⁴ This rise in manufacturing is accounted for by the increase in rifle and pistol production - with close to 76 percent of firearms manufactured from 2009 to 2018 being either pistols or rifles.⁴⁵ Additionally, the sunset of the Public Safety and Recreational Firearms Act, colloquially known as the federal assault weapons ban, in 2004 opened an entire category of firearms to manufacturers, also accounting for the increase in production.⁴⁶

An increase in gun manufacturers may indicate a failure in regulation.

An increase in gun manufacturers may indicate a failure in regulation. A further indicator of overall growth of the gun industry is shown through the number of licensed gun manufacturers in the US. The number of licensed gun manufacturers in the US grew by 255 percent from 2009

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ <https://www.ojp.gov/pdffiles1/173405.pdf>

to 2018, with 12,600 licensed firearms manufacturers counted in 2018.⁴⁷ There have been similar increases in licenses to manufacture ammunition, but there is no reporting requirement for ammunition manufactured in the US, so it is unclear how much is being manufactured. This number is of course subject to extreme variation State to State, as States have the power to enact their own gun legislation and there are regional differences in the culture of gun ownership. Additionally, while there have been overall increases in the industry, there are several manufacturers that dominate yearly sales and production.

States must monitor the illegal production of firearms.

States must monitor the illegal production of firearms. While there are regulatory issues addressing gun manufacturers that comply with all requirements, there is an entire underground industry of gun-makers that operate with even less oversight. Amateur gunmakers assembling homemade firearms, ammunition, and firearm accessories raise major regulatory concerns. These guns and accessories can be purchased without a background check, allowing those that should be prohibited from possession to evade that law and make their own guns. Additionally, guns and accessories can be (and often are) made with parts not required to include a serial number - making the firearm untraceable.

State regulators must avoid loopholes with production regulations in the firearm industry.

State regulators must avoid loopholes with production regulations in the firearm industry. In the US, federal regulations require gun manufacturers and importers to engrave serial numbers on the frame or receiver of each firearm and gun dealers are required to conduct a background check before selling any firearm.⁴⁸ ATF has interpreted this requirement to apply to only fully finished firearms, meaning that unfinished firearms - even those requiring only a few simple steps

⁴⁷ <https://www.americanprogress.org/article/gun-industry-america/>

⁴⁸ *Id.*

to finish - can circumvent the serial number requirement.⁴⁹ Guns finished at home using unfinished receivers are known as “ghost guns” because without a serial number, they are unable to be traced after recovery.⁵⁰

Distributors of firearms owe a duty to protect human rights, and States must regulate these distributors with due diligence

Widespread accessibility and availability of firearms leads to foreseeable violations of human rights. The private distribution of firearms in the U.S. is an enormous industry that pushes responsibility for compliance with human rights onto both private parties and the State. The State has a responsibility to ensure that private gun distributors comply with regulations, and that those regulations ensure that human rights are not violated through the sale of firearms. Private parties are responsible for their compliance with regulations. Requirements for obtaining a license to engage in the business of dealing in firearms are sparse and supervision of gun dealerships is almost nonexistent, a failure of the State to comply with human rights obligations.

The increase of firearm distributors reflects the growth of the gun industry, which means human rights are more at risk.

An overall increase in the gun industry is reflected by an increase in the number of licensed gun dealers. In 2009, there were almost 47,5000 licensed gun dealers in the US. In 2018, there were over 55,900. This constitutes an 18 percent increase - dramatically different from the U.S. population increase of 6.6 percent during the same period.⁵¹ This suggests that the increase in gun dealers is driven by an overall increase of the size of the gun industry, not simply population growth.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

Licensing of firearm distributors is a first step but requires more by States.

Licensing of firearm distributors is an important first step by States, but these licenses must be sufficiently regulated with clear statutory language. Anyone in the U.S. that is “engaged in the business of dealing in firearms” is required to be licensed by the ATF. Requirements for this license include: the individual must be legally eligible to possess firearms under federal law, undergo a background check, provide fingerprints, and pay a \$200 fee to operate for three years.⁵² ATF conducts an interview and inspection of the prospective dealer. A major loophole in current law and regulation is the lack of a definition of “engaged in the business.” This lack of clarity is exploited by some individuals to sell guns at high volumes with no license, no oversight from ATF, and no background check.⁵³ From 2008 to 2016, the US President issued executive actions directed at gun violence prevention and subsequently ATF provided more guidance for who needs to obtain a license for dealing guns, however the updated language is still ambiguous.⁵⁴ States must account for the total number of firearms distributed by firearms dealers.

States must account for the total number of firearms distributed by firearms dealers. The number of licensed gun dealers does not provide meaningful insight into the scope of the retail market of guns in the US. Currently, dealers are not required to report the volume of their sales to ATF. In fact, ATF is prohibited from maintaining any list of gun sales that would shed light on the scale of the gun industry.⁵⁵

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

States must exercise caution with the export of firearms, and States must prevent firearms from being trafficked illegally and should cooperate and collectively guarantee the rights implicated in gun violence.

States have a duty to not export firearms that may be used to commit human rights violations, and States must prevent firearms within their territory from being trafficked illegally. Regulation and oversight of the gun industry is essential in addressing all human rights violations that are implicated in every instance of gun violence. Regulation and oversight of the gun industry within US borders plays a direct role in gun prevalence in other countries that have American made guns circulating within their communities. There is currently no existing method to ensure that guns that are legally exported from the U.S. are not used to commit human rights violations, despite a duty to do so. When guns are illegally trafficked outside of U.S. borders, there is even less knowledge and control of the effect of these guns on human rights. By failing to institute any kind of protocol to certify that exported guns are not used in a way that is violative of human rights and failing to adequately address gun trafficking outside of the country, the US fails to comply with its human rights obligations.

US gun export statistics show trends that are similar to domestic manufacturing and imports. Exports rose sharply during the mid- to early 2000s and these rises continued through 2018.⁵⁶ Prior to 1995, over half of exports in this industry were composed of revolvers and shotguns; but from 2005-2018, rifle and pistol exports have taken over, accounting for 75% of all firearm exports.⁵⁷ Countries including Canada, Thailand, the Philippines, and Belgium make up the primary destinations for these legally exported firearms.⁵⁸ Gun laws in Mexico are comparatively quite strict so U.S. exports of guns are not typically made to Mexico. There is only one gun store in the entire country, and there are strict background and documentation standards.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

This store sells an average of 38 guns per day, while an estimated 580 guns are trafficked from the U.S. daily.⁵⁹ However, this does not stop the illicit transfer of weapons across the US-Mexico border, which is responsible for an estimated 200,000 firearms per year.⁶⁰

In January 2020, arms exports oversight was weakened even more. The regulatory change instead gave export control of semiautomatic pistols, assault-style firearms, some sniper rifles, and applicable ammunition to the U.S. Department of Commerce. Control over these exports was previously within the jurisdiction of the U.S. Department of State.⁶¹ This weakens oversight because the Department of Commerce has weaker protocols and methods for ensuring exported products are not sent to criminal organizations or those violating human rights. This change has raised international concern regarding arms control. Between 2016 and 2020, regulatory change also removed congressional oversight on potential arms transfers.⁶²

Aside from official firearm exports, hundreds of thousands of guns are trafficked out of the U.S. every year. It is estimated that 200,000 U.S.-sourced firearms are trafficked into Mexico each year.⁶³ Even guns that are legally manufactured and purchased in the US end up in Mexico, highlighting the failure to properly address the smuggling for firearms across the border. ATF data shows that from 2011 to 2016, 106,001 guns were recovered by law enforcement in Mexico in conjunction with a criminal investigation, and 70 percent of those guns were traced and found to have been originally purchased from a licensed dealer in the US.⁶⁴ This increased availability of firearms has a direct impact on the rising rates of violent crime in Mexico. Other countries in Central America are similarly affected. Countries with the highest percentage of crime guns

⁵⁹ <https://inthesetimes.com/article/mexico-arms-transfers-regulations-documentation-donald-trump>

⁶⁰ *Much of the firearms traffic from the U.S. to Mexico happens illegally*, NPR (June 7, 2022).

⁶¹ <https://www.americanprogress.org/article/gun-industry-america/>

⁶² *Id.*

⁶³ <https://www.gao.gov/assets/gao-21-322.pdf>

⁶⁴ <https://www.americanprogress.org/article/beyond-our-borders/>

recovered and traced that originated in the U.S. are Costa Rica, Belize, El Salvador, Panama, Honduras, Guatemala.⁶⁵

Straw purchases are also commonly used in gun trafficking schemes. These involve a proxy purchaser filling out paperwork and indicating that he or she is the actual buyer of the gun, and then transferring the gun to a third party, usually one that could not legally buy the gun in the first place. The status of the large inventory of guns in the US combined with the relatively weak gun laws allow for a steady flow of trafficked guns outside of the US.

The duty to regulate and monitor export and international transfer of guns is anchored on the well-established concept of “collective guarantee” that underlies the entire inter-American system,⁶⁶ and is understood as the “general duty of protection that the States have” to ensure the effectiveness of international human rights instruments. Thus, the Court has emphasized that “human rights norms [...] reflect common values and collective interests that are considered important and, therefore, worthy enough to benefit from collective application,”⁶⁷ and therefore “the duty of cooperation among States in the promotion and observance of human rights is a rule of an *erga omnes* nature, since it must be observed by all States, and is of a binding nature in international law.”⁶⁸ In this regard, States that have some type of participation in the consummation

⁶⁵ *Id.*

⁶⁶ *Cf. Case of Ivcher Bronstein v. Peru. Competence.* Judgment of September 24, 1999. Series C No. 54, par. 42, and *Denunciation of the American Convention on Human Rights and the Charter of the Organization of American States and the consequences for State human rights obligations (interpretation and scope of articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(1), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States).* Advisory Opinion OC-26/20, November 9, 2020. Series A No. 26, par. 163.

⁶⁷ *Cf. Advisory Opinion OC-26/20, November 9, 2020, supra, par. 164.*

⁶⁸ *Cf. The institution of asylum, and its recognition as a human right under the Inter-American System of Protection (interpretation and scope of Articles 5, 22(7) and 22(8) in relation to Article 1(1) of the American Convention on Human Rights).* Advisory Opinion OC-25/18 of May 30, 2018. Series A No. 25, par. 199, and *Advisory Opinion OC-26/20, November 9, 2020, supra, par. 164.*

of human rights violations must collaborate with each other, in good faith.⁶⁹ This situation requires a specific duty of inter-State cooperation and collaboration,⁷⁰ such that States attend to and apply all available national and international mechanisms and, if necessary, create and implement other essential mechanisms in order to effectively comply with their international obligations.⁷¹ This duty is particularly imperative when dealing with the export/import of guns “exceed the capabilities of a national justice system to accomplish on its own”.⁷² This “coordination must take the form of a work plan shared among the competent authorities, depending on the matter in question, carried out in compliance with the applicable national and international legal frameworks and with support from international cooperation and mutual aid mechanisms. The different State authorities will thus have to undertake joint efforts.”⁷³

The marketing of firearms promotes the expansion of the industry and does not ensure the protection of human rights.

Marketing in general can involve myriad human rights. However, the compounding factor of marketing firearms, implicates more strongly a duty that private and public entities have. The right to life is interpreted broadly, and marketing of firearms has the potential to infringe on that right amongst others, including the right of the child. The responsibility of the private gun industry is relatively undefined, as there is no regulatory body making their restrictions. However, this is implicated in the duty of the State to adequately protect human rights. By failing to regulate

⁶⁹ Cf. *Case of the Julien Grisonas Family v. Argentina. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of September 23, 2021. Series C No. 437, para. 118; *Case of Goiburú et al. v. Paraguay. Merits, reparations and costs*. Judgment of September 22, 2006. Series C No. 153, para. 166, and *Case of La Cantuta v. Peru. Merits, Reparations, and Costs*. Judgment of November 29, 2006. Series C No. 162, par. 160.

⁷⁰ Cf. *Case of La Cantuta v. Peru, supra*, par. 160, and *Case of Herzog et al. v. Brazil. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of March 15, 2018. Series C No. 353, par. 296.

⁷¹ Cf. *Case of Julien Grisonas, supra*, para. 119.

⁷² *Id.* para. 285.

⁷³ *Id.* para. 286.

marketing of the firearm industry, especially in failing to protect children from marketing tactics of the firearm industry, the U.S. does not fulfill its obligations under human rights law.

Other countries have taken notice of the marketing techniques used by American gun manufacturers. In 2021, the Mexican government filed a \$10 billion lawsuit against eleven US-based gun manufacturers. The lawsuit alleged the manufacturers manufactured and sold weapons favored by organized crime and subsequently contributing to violence in Mexico.⁷⁴ However, even foreign government efforts to hold U.S. gun manufacturers responsible have failed.

Modern marketing of firearms creates new customers, which increases firearms and firearm owners.

Modern marketing utilized in the gun industry has not only provided firearms to shooters, but it has had a hand in creating them as well. Trends in gun advertisements have moved from those promoting hunting and responsible self-defense to something more sinister. Ads seen in the 1990s featured a theme of craftsmanship and an outdoor life.⁷⁵ A Ruger ad tactic beginning in 1995, used the language of “responsible citizens” to directly address its clients.⁷⁶ This language was eliminated from Ruger advertising in 2007.⁷⁷

The advertising transformation was propelled in the early 2000s as the assault weapons ban ended in 2004, which reduced potential legal penalties for marketing of military-style rifles.⁷⁸ Ads began to target young men with disposable incomes, potential to be lifelong customers, and an interest in guns that could be easily exploited and warped.⁷⁹

⁷⁴ <https://www.tpr.org/border-immigration/2022-10-10/mexican-government-vows-to-continue-legal-fight-against-u-s-gun-manufacturers>

⁷⁵ <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/>

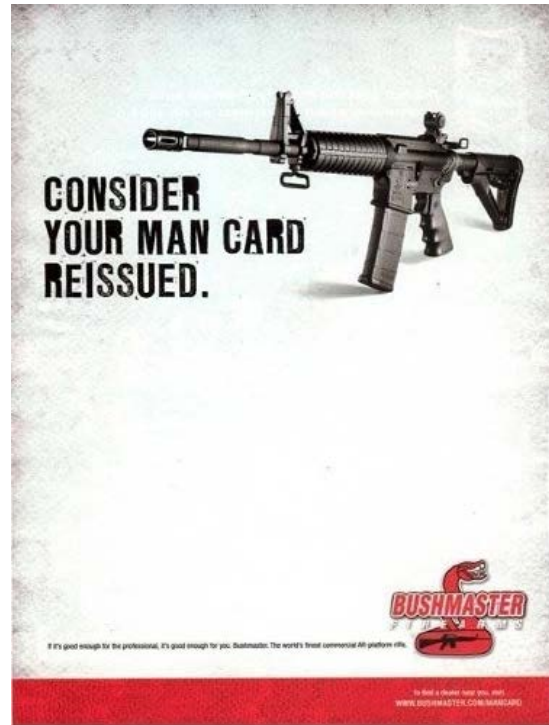
⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

For example, Bushmaster (an AR-15 manufacturer) launched a “man card” advertising campaign in 2010 directed at this kind of consumer. This ad ran in different industry publications, websites, and Maxim magazine. The ad text read, “The Bushmaster Man Card declares and confirms that you are a Man’s Man, the last of a dying breed, with all the rights and privileges duly afforded.” While controversial in the national eye, other power players in the gun industry saw the possibilities of appealing to the masculinity of the 18-35 male



demographic, particularly with when they were being constantly inundated with images and news of the US’ foreign war involvement.⁸⁰ The “Man Card” campaign was stopped by Bushmaster after the massacre at Sandy Hook Elementary - where the shooter used a Bushmaster XM-15 to shoot and kill 20 children and 6 staff members.⁸¹

Weapons that are almost identical to those carried by police and soldiers can be legally sold to the public with slight modifications. A brand known as “traditional,” Smith & Wesson, manufactured this gun and advertised it to the public under the name of the M&P15. The advertisements incorporated the word “sport” in the branding to invoke the socially accepted activity of hunting and target practice - despite the reality of the extreme lethality of this military

⁸⁰ *Id.*

⁸¹ *Id.*

and police grade rifle.⁸² Smith & Wesson relied on the industry to shift to a tactical approach and culture, rather than the traditional culture of hunting and self-defense.⁸³

The transformation of hunting enthusiasts to a culture of tactical and military interest is exhibited by the brand Daniel Defense. In the early 2000s, Daniel Defense hit the market and

turned to AR-15 sales, setting an industry standard of showcasing military standard guns to the civilian market.⁸⁴

Ads promise guns that are on par with the ones used by soldiers and



police. The company, like others, also prioritized product placement in movies and videogames directed again at the demographic of 18–35-year-old men. A now-deleted Facebook post by Daniel Defense highlighted to followers that one of the companies DDM4 V7 rifles appeared in the new Call of Duty: Modern Warfare game.⁸⁵ This gun, DDM4 V7, was the one used by the Uvalde, Texas shooter - an 18-year-old gamer previously.⁸⁶

Instead of coming together to oppose these promotional tactics, the gun industry rejected anyone that opposed them. Ed Stack, the Dick’s Sporting Goods CEO at the time, stopped selling AR-15s in-stores following the Marjorie Stoneman Douglas High School shooting in Parkland,

⁸² *Id.*
⁸³ *Id.*
⁸⁴ *Id.*
⁸⁵ *Id.*
⁸⁶ *Id.*

Florida. The tragedy ended with 17 people killed and 17 more injured by the 19-year-old gunman, a former student at the school.⁸⁷ Instead of similar moves throughout the gun industry, the National Shooting Sports Foundation - the main internal regulator of the gun industry - expelled Dick's from its membership.⁸⁸

Other prominent gun manufacturers also began to target the tactical market to maintain their place in the industry. By 2020, the Smith & Wesson M&P15 was the best-selling rifle in the US.⁸⁹ The change to a tactical culture was emphasized throughout the industry. The Shooting, Hunting, and Outdoor Trade (SHOT) - one of the world's largest trade conventions - used to prohibit the display of militaristic tactical gear.⁹⁰ Now, this gear is the default.

Ads have even included outright appeals to violence and confrontation - particularly against left-wing agitators. Spike's Tactical produced an ad in 2018 - notably before the social upheaval of 2020 - that featured the tagline "Not Today Antifa" while depicting a group of men holding AR-15s engaging in a confrontation with another group of men sporting balaclavas.⁹¹ Again, the gun industry was silent despite the major issues with this ad.

The celebrated image of these vigilantes came to life in Kenosha, Wisconsin in 2020 when Kyle Rittenhouse killed two individuals and injured a third. Instead of shunning this conduct, Rittenhouse was hailed as an icon by the industry. A major retailer, Big Daddy Unlimited, posted a graphic of Rittenhouse to social media with the words, "be a man among men" - seemingly viewing the incident as an ideal.⁹² Even outside the industry, Fox News host Tucker Carlson, who has an enormous following, called Rittenhouse, "exactly the kind of person you'd want more of in

⁸⁷ <https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101>

⁸⁸ <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/>

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

your country.” Big Daddy Unlimited further promotes itself as a defender of the Second Amendment, with the catchphrase, “Join our Revolution today!” splashed across its website.

Other companies capitalized on public anxiety over riots and social upheaval in their marketing materials. Wilson Combat started advertising an AR-15 model as the “Urban Super Sniper” - an extreme contrast to previous gun ads featuring rural hunting, outdoor sports, and country life.⁹³ A tactical culture that preys on social anxiety is now almost the only thing focused on in gun advertisements - and it is effective. Gun sales have hit all-time highs in recent years, affirming the industry's marketing strategy.⁹⁴

In a more extreme example, major retailer Palmetto State Armory has used their advertisements to appeal to the group “the Boogaloo Bois.” This group has been identified by the

⁹³ *Id.*

⁹⁴ *Id.*

FBI as a far-right domestic terrorist threat. Palmetto State Armory decorated their AK-47-style pistol in the “Big Igloo Aloha” pattern - almost identical to the group’s signature aloha shirts.⁹⁵

The targeting of men aged 18-35 has begun to expand to all genders, and even younger children. Weel Tactical recently debuted their Junior AR-15s, marketed to children at the 2022 SHOT Show.⁹⁶ The company made some of

the “best of” lists at the show.⁹⁷ The Daniel

Defense social media also recently posted a photo of a child holding one of their AR-15’s

with the bible-derived caption, “Train up a child in the way he should go, and when he is

old, he will not depart from it.” A week later, the shooting at Robb Elementary in Uvalde,

Texas took place - where the shooter used a Daniel Defense rifle.⁹⁸ The tragedy in Uvalde

is the deadliest school shooting in Texas to date, claiming the lives of 19 children and 2

adults.⁹⁹ The 18-year-old gunman was a former student at the school.¹⁰⁰



States must prohibit the marketing of firearms to children.

Senator Edward J. Markey introduced the *Protecting Kids from Gun Marketing Act* this session, which directs the Federal Trade Commission to inState rules prohibiting the marketing of

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ <https://www.texastribune.org/2022/05/24/uvalde-texas-school-shooting/>

¹⁰⁰ *Id.*

firearms to children.¹⁰¹ The firearms industry is not currently subject to any specific regulation or limitations on marketing practices - even to children. “A junior version of the AR-15 has no place in a kid’s toy box. America’s gun violence epidemic is claiming tens of thousands of lives each year as gunmakers, dealers, and vendors alike continue to put sales over safety by targeting kids with advertising of a deadly weapon,” said Senator Markey.

Firearms marketing promotes firearms that utilize loopholes to avoid regulation.

The gun industry has developed a sector recently focused on manufacturing, marketing, and selling of unfinished receivers to create ghost guns. Online retailers prominently sell kits to finish the so-called “80 percent receivers” at home and create an untraceable gun.¹⁰² One website, Ghost Guns, is an example: stating their specialty as allowing clients to “legally manufacture unserialized rifles and pistols in the comfort and privacy of home.” There are online communities dedicated to building guns at home and easily available information on the process. Gun University is an example of a site with information that instructs people on building Glocks at home without serial numbers or registration.¹⁰³ The phenomenon of “build parties” was exposed in this community, where experts helped others build their firearms without any background check.¹⁰⁴ Ghost guns have been used in several shootings in the US, including in instances where shooters failed background checks at licensed gun dealers and opted to build their own. Additionally, ghost guns are increasingly prevalent in recoveries made by State police forces, suggesting that this is a widespread and fast-growing phenomenon that is advertised and marketed within the online gun community.¹⁰⁵

¹⁰¹ <https://www.markey.senate.gov/news/press-releases/senator-markey-introduces-legislation-to-ban-marketing-of-firearms-to-children-through-ftc-rulemaking>

¹⁰² <https://www.americanprogress.org/article/gun-industry-america/>

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

States must provide an effective remedy for victims of firearm violence by private actors.

States must provide an effective remedy for human rights violation survivors, including victims of firearm violence by private actors. This right is enshrined in the ICCPR, which guarantees “Each State Party... undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.” This effective remedy is not limited to mere criminal prosecutions, but also other judicial remedies, such as civil suits; restitution, such as restoration of liberty and enjoyment of human rights; compensation, which can be provided for “any economically assessable” violation; rehabilitation, such as psychological care or legal services; and satisfaction, which encompasses effective measures to halt ongoing violations, as well as public disclosure of facts. There is also an important guarantee of non-repetition, which includes an obligation to review and reform existing laws allowing the prohibited content or adopt necessary laws or regulations to prevent such acts from reoccurring.¹⁰⁶

There are several hurdles to provide justice for victims against the perpetrator.

Victims of firearm violence are often limited in their access to an effective remedy. Often, the shooter is not brought to a criminal trial because they die before apprehended, the prosecution fails to bring a case, or they are not discovered. When a shooter is tried and convicted, this is only one piece of an effective remedy. The violence is likely to repeat in future as mass events have rarely led to sufficient legislative or judicial reforms. This repetition fails to meet the requirements of an effective remedy for victims. Similarly, reparations, in the form of compensation, are not easily available. The shooter does not usually come from means and even if found liable is judgment-proof, meaning little to no compensation can be passed to the victims and their families.

¹⁰⁶ See, e.g., *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Principle 18, General Assembly Resolution A/RES/60/147 (2005).

Civil suits against the State or private arms manufacturers and distributors should be available when they are responsible for human rights violations.

Civil suits against the State or private arms manufacturers and distributors should be available when they are responsible for human rights violations. Unfortunately, the State often protects itself from civil suits using sovereign immunity, which limits and bars victims from suing the State. Lastly, the victim cannot sue most gun manufacturers, which are based in the US, due to legislation that the US has enacted.

In the US, the “Protection of Lawful Commerce in Arms Act” of 2005 or PLCAA bars “civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.”¹⁰⁷ PLCAA only provides for six exceptions from this otherwise complete immunity.¹⁰⁸ These exceptions include (1) transferring a firearm to a person knowing or having reasonable suspicion that the firearm will be used to commit a felony, (2) “negligent entrustment,” (3) violating State or federal law as to the sale or marketing of the firearm, (4) breach of contract, (5) design or manufacture defects, and (6) actions by the Attorney General to enforce a limited set of other federal law. A majority of US States have similar laws that provide immunity.¹⁰⁹

Not only is this list limited, courts have interpreted the exceptions narrowly. This broad bar on suits against gun manufacturers “has effectively slammed courtroom doors shut even when victims bring abundant evidence of illegal gun industry conduct that caused or contributed to their loved ones’ death.”¹¹⁰ This goes against the right to an effective remedy and judicial protections under the ACHR and ICCPR.

¹⁰⁷ 119 Stat. 2095.

¹⁰⁸ Id.

¹⁰⁹ <https://giffords.org/lawcenter/gun-laws/policy-areas/other-laws-policies/gun-industry-immunity/>

¹¹⁰ Id.

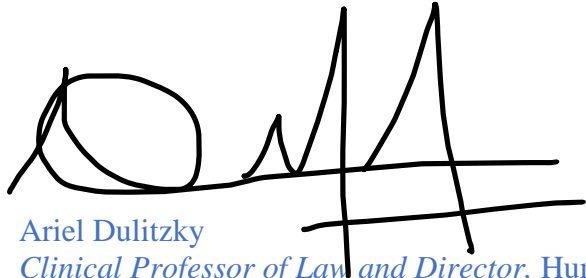
Conclusions

Gun violence implicates various human rights. The human rights affected include the right to life; the right to physical integrity and freedom from torture; the right to mental, emotional, and psychological health; the right of the child; and the right to an effective remedy. The limits of the effects are not confined to the State's territory but extend to other States, who suffer from firearm violence based on the policies of the State.

States and private actors have a duty to avoid actions or failures that lead to human rights violations, domestically or transnational. Private gun companies can take several actions that implicate their responsibility for human rights violations. These include the manufacturing, distributing, and marketing of the firearms the industry creates. States have a responsibility to regulate these activities in a way that prevents human rights abuses. States must implement sufficient regulation of gun manufacturers. This regulation includes licensing, monitoring, and enforcement. Private manufacturers are also responsible for the unsustainable production of firearms and the use of loopholes that lead to the foreseeable illicit transfer of firearms. Similar obligations apply to private gun distributors, who are the primary parties to stop the illegal trafficking of weapons through practices like straw purchases. The marketing of firearms provides evidence for finding firearms manufacturers and distributors responsible for human rights violations that occur later. These private actors target vulnerable groups and have designed their firearms to appear "militaristic." Ultimately, States must protect victims and potential victims from human rights violations arising from firearm violence by regulating the firearm industry.

Victims must have access to an effective remedy. This remedy includes compensation from responsible parties, which may implicate private firearm companies. States should not shield these parties from liability for the manufacturing, distribution, and/or marketing when a proper case can

be made for their responsibility. This shield of liability fails to acknowledge the responsibility of private firearm companies in the human rights violations occurring domestically or transnationally.

A handwritten signature in black ink, appearing to read 'Ariel Dulitzky'. The signature is stylized with a large 'A' and 'D'.

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