

Chapter 9

The Role of NGOs in the Control of Light Weapons: A Case Study of the South African Gunowners Association

Juan de Greef

Introduction

The issue of firearms and the protection they are able to afford or the negative impact they may have – either on individuals or, in a broader context, on regional and global stability – is extremely complex. Of late a simplistic approach is simply to ban firearms; but, however well intentioned this may be, it is a sure path to disaster. In order to document the role of the South African Gun Owners' Association (SAGA) in regards to the proliferation and the control of light weapons, one has to examine the background and understand the dynamics involved. This study attempts to outline the problems of gun control and suggest possible strategies that NGOs, like SAGA, should be, and in fact are, implementing. The goal should be to reduce and eradicate the criminal misuse and abuse of firearms.

The Role of the South African Gunowners Association

The South African Gunowners Association (SAGA) plays a vital role in the effort to secure the right of the law-abiding citizen to keep and bear arms for self-defence, sporting, hunting and recreational use.

The right to life, security and property are all inviolable, non-negotiable rights, entrenched in the constitution of South Africa. It is a democratically elected government's duty to ensure that these basic human rights are not denied to its law-abiding citizens. In practice, however, governments throughout the world often adopt policies and enact laws that are contrary to these basic rights. Non-governmental organisations, like SAGA, act as guardians of the rights of free, law-abiding citizens, play a vital role in

informing government, media and the populace of the issues involved (specifically pertaining to firearm related matters) and directly represent the interests of their members and those of the general public in this regard.

The Proliferation of Light Weapons

The proliferation of light weapons on a regional basis has been identified as a major destabilising factor globally. SAGA is on record as stating that the Association does not condone the illegal possession of unlicensed or stolen firearms, nor the unlawful use of weapons of war. It will render all assistance to government or any of its agencies to eradicate and control the proliferation of light weapons of war, as well as the criminal use and misuse of firearms, a separate and vastly distinct issue from that of prohibiting the legal, responsible use and ownership of firearms for recreational, commercial, sporting and self-defence purposes.

A Global Initiative to Control the Proliferation of Small Arms

The United Nations Link

The proliferation of light weapons globally is seen as a major obstacle to world peace and, although lasting peace appears to be a utopian ideal, much has been done in the past few years to move closer to this goal. The United Nations (UN) has been the driving force behind a unilateral programme to reduce the proliferation of small arms globally, the departure point being that once the capacity for conflict has been removed, or at least substantially reduced on a regional level, the prospects for lasting peace will be increased. In order to coerce governments, specifically those of developing nations, to actively participate in regional disarmament programmes, a powerful incentive, that of financial aid packages and development funds administered through the International Monetary Fund (IMF), is being awarded to those nations who actively participate, or are seen to do so, in the initiative.

Although the original motivation for the UN programme may have been benevolent – some argue that it is overly idealistic – it failed to identify proper parameters. A mounting disenchantment is growing in regards to perceived UN interference in the internal affairs of independent nations. While, in an effort to restore peace to a strife-torn region, it may well be

both justifiable and necessary to disarm a Somalian warlord, to attempt to control and prohibit the legal ownership of firearms, intended and used for hunting, sporting and purposes of self-defence, is clearly not within the mandate of operations of the UN.

In a 23 September 1999 press release, the UN introduced a programme that would place all small arms on the African continent in a UN administered database. The UN has been in the forefront of attempts to reduce the proliferation of small arms, with international seminars and workshops conducted on an ongoing annual basis. It is hoped that with this programme, through various initiatives, a reduction in the numbers of firearms on the continent can be achieved.

The Disastrous Results of Disarming a Civil Population

UN advisors and policy makers blame small arms for all sorts of atrocities, pointedly ignoring human nature and man's apparently limitless capacity to use whatever implement is at hand to destroy human life. The UN should know better: it was directly involved in peacekeeping missions in Rwanda in 1994, when the Tutsi minority was massacred by government-backed Hutu forces. During a six week holocaust, more than 500 000 people were slaughtered by Hutus using machetes, clubs and spears.

In an article that appeared in the Christian newsletter, *UCA News*,¹ the genocide was documented as follows:

“On 6 April 1994, one of the most dreadful campaigns of mass murder was unleashed upon the Tutsi people of Rwanda. In just 100 days more people had been killed with machetes and clubs than had died from atomic weapons in all of history. As the population had been previously disarmed they were helpless to defend themselves against the state which had the monopoly of weapons.”

This report was compiled and written by Peter Hammond, a Christian missionary who had firsthand experience of the massacre. In documented instances in Rwanda, UN troops were on the spot and could easily have intervened to prevent the genocide. Instead they stood idly by, in some instances bearing mute witness to a humanitarian disaster of epic proportions. More than 800 000 people were killed in the conflict, many

more displaced and millions of dollars worth of damage caused. What should be of the utmost concern, and a clear warning to the UN, is the fact that this tragic genocide was preceded by gun control, the latter advocated by the UN Assembly, the former apparently unable to be prevented by the UN Peacekeeping force.²

Once a civil population has been disarmed, it becomes relatively easy to initiate and execute an ethnic cleansing programme. Rwanda was by no means an isolated incident. Modern history is rife with examples of gun controls being the precursor to unspeakable atrocities. In this century alone more than an estimated 114.6 million people were murdered by the governments of Ottoman-Turkey, the Soviet Union, Nazi Germany, China, Uganda, Cambodia and Rwanda. With examples like these it is little wonder that resistance to the UN Proliferation of Light Weapons Programme is mounting in countries like the United States, where it is felt that this is but the first step towards an attempt at globalisation.

The lesson from the Rwandan experience is clear. An armed civil militia can be a serious deterrent to mass murder. Typically the type of arms usually available for such an emergency do not offer any means of defence against well armed government forces, since the disparity of calibers and the nature of the arms preclude their use in an offensive manner. The protection these could have afforded the Tutsi people in the circumstances experienced in Rwanda, however, could have prevented the genocide.

The Proliferation of Firearms in Southern Africa

The 20th century has been one of the most violent periods in the history of the world. Like many regions globally, Southern Africa is still embroiled in strife and conflict due to its protracted democratisation process. Although South Africa, in particular, has been spared the misery and destruction of a civil war, the transformation from a minority held government to a more inclusive democratic state has not been easy. The single biggest problem South Africa is facing at present is the unprecedented violence and criminality and, more specifically, the incidents of murder, rape and violent assault that are ravaging formerly peaceful neighbourhoods. The government's inability to address the problem, is blamed on the fact that

firearms are too easily available and the typical knee-jerk reaction is to ban the private possession of firearms.

But the problem is far more complex and, although the South African government must feel strengthened in its response by UN attempts to control the flow and possession of small arms globally, it clearly has to proceed with caution. Thousands of black people have, since the ANC's secession to power, been able legally to own firearms. In many ways this right was exactly what they fought for. There is a growing resentment among black firearm owners that the very government that urged them to participate in an armed uprising against the previous regime is now trying to disarm them. An example of this is the Concerned Gunowners Association (CGA), a black awareness organisation led by Archbishop Masiya. The CGA made front page headlines in the media recently, when the Archbishop was pictured on the front page of the *Business Day* with a bible and a handgun, defending the right of the individual to be armed and able to resist criminal attack.³

The Cultural Aspect of Firearm Ownership in South Africa

The private ownership of legally licenced firearms is inescapably part of the South African culture. Historically, legal firearm ownership was confined mainly to the white population, who have had a long and close association with firearms. A well developed firearm culture is deeply ingrained in the white population, not only because of historical associations – the earliest pioneers taming a wild and inhospitable continent and later fighting for their freedom from colonial oppressors – but, in a modern context, due to a well developed, internationally renowned, hunting industry and sport-shooting activities. In the international sporting arena, South African marksmen and women are highly regarded, while sport-shooting athletes locally have garnered more world championship titles and captured more medals at international events than any other sporting code.

Traditionally, among the white population, a crack shot was (and still is) someone who commanded respect in the community and, because almost all families, even in towns and cities, owned some sort of firearm (mostly rifles and shotguns), fathers and grandparents taught their offspring the basics of responsible firearm ownership from a tender age. It was quite common, until not long ago, for young white children to have their own air-rifles from

the tender age of five or six years, and to graduate to rimfire and centrefire arms in their teens.

A large number of male adults of the previous generation were involved in one or more of the world wars and almost all males in their late twenties, certainly thirties and later, were active participants in the border conflict in Angola and elsewhere. Firearm training, almost to the man, has been a feature of the white South African existence and culture for generations, while the responsible use and ownership of firearms are universally seen as an inalienable right. Firearm owners were, in the main, well disciplined and responsible and accidents and criminal misuse of legally owned firearms over the years were insignificant.

Even during the darkest period of modern South African history, when the country was experiencing a period of uncertainty and transition, with its attendant problems, civil unrest and criminal misuse of legally owned arms was never an issue. This was due to the discipline and sense of responsibility ingrained by the positive influence of a mature firearm culture.

The Impact of Firearms upon the Internal Stability and Personal Safety of Citizens in South African Society

Legally Owned and Licenced Firearms and their Use in Self-Defence

There are some 2.4 million licenced firearm owners in South Africa today, owning in excess of 3.5 million firearms. However, that is not the total extent of the firearms in existence in the country. Apart from the non-disclosed government small arms arsenal, there is a considerable number of illegally held firearms in circulation.

Broadly speaking, weapons of war, specifically light assault rifles, are not legally available to the general public in South Africa. There are a number of semi-automatic rifles and shotguns licenced to private citizens locally, but these arms are generally severely restricted, despite the fact that none of the licenced semi-automatic rifles or shotguns in private possession have ever been used in the commissioning of a crime by their licenced owners.

Even government had to admit that legally licenced firearm owners do not commit any significant number of crimes with their licenced firearms.

The same does, however, not apply to criminals and terrorists who have scant regard for the law in any form and who habitually use fully automatic weapons (and lately bombs) in the execution of crimes. The weapons are either smuggled in from across extremely porous national borders, or simply stolen from government and private owners. Government claims of increased border control resulting in a decrease of smuggled arms are simply not accurate.

The breakdown of the policing capability of the South African National Police Services is well documented. The reality of affirmative action programmes and budget cuts impacting on operational readiness, as well as low officer morale, is in effect causing a downward spiral of service delivery from which an early recovery seems extremely unlikely. During 1998, 236 SAPS members were murdered and a breakdown of the criminal justice and correctional services means that arrested criminals and offenders are back on the streets before the officers can process the paperwork. Policing seems a hopeless task and the public is well aware of its deficiencies.

The result has been that the burden for the personal safety of the individual has been shifted to the public sector. This has resulted in a veritable explosion of civilian security concerns offering a wide variety of services, such as armed response, business security and civil protection. The average citizen who may not be able to afford to pay for the services of a security company is forced to provide for his own protection. The result is a huge increase in the numbers of firearms legally acquired and used for self-defence, as this still remains the most cost effective alternative.

The effectiveness of the armed civilian in terms of providing for his own security has never been officially investigated or researched by government. In a study conducted by Mr John Mann from incidents reported in the *Citizen* newspaper over a period spanning from 1 June 1994 to 31 March 1998, it was found that in cases of armed private defence versus armed SAPS reaction, the armed citizen was extremely effective in protecting his life and property and played a vital role in crime prevention. It was found

that an armed civilian had a 15 to 1 chance of surviving an attack, even though the attackers outnumbered the defenders by 2.5 to 1 and even though 82% of the attackers were armed.

During this period armed civilians in the study area had to defend themselves in some 624 cases of armed attack and the police in 1 015 instances. Significantly more attackers fled after being confronted by armed civilians (1 625 perpetrators fled) than in the case of the police (1 131), ignoring the disparity in the numbers of cases. Significantly more attackers died as a result of their attacks on armed civilians (390) than the number who succumbed due to police shootings (347), although there was a marked difference in the numbers of incidents that the police had to handle. In the final analysis, during this period, 2 456 attackers were stopped from successfully carrying out their attacks on civilians, due to being killed, wounded or fleeing, versus 3 605 perpetrators being stopped by police action.

This study, although confined to a small area, produced unassailable evidence that the armed citizen is playing a vital role, not only in providing for his own protection, but also for the protection of civil society at large. Criminals never quite know whether their victims are armed or not, until they are committed to the attack. This makes it so much more difficult for a criminal to operate: last thing he can afford is to be wounded or injured as a result of his victim putting up a determined and effective defence.

Criminals are professionals who spend a great deal of time practising their 'craft'. Unfortunately, most of this training is 'sponsored' by civil society, when offenders are incarcerated for their first relatively minor offences. Removing offenders from society and incarcerating them, however, is not having much of a rehabilitative effect. Correctional services statistics indicate that at present only 2% of all those incarcerated are effectively rehabilitated. Criminals released after a protracted stay behind bars are far more professional in their methodology and usually commit more serious offences once back on the street.

Private citizens can, and do, rely only on firearms as a means of self protection in the absence of adequate police and private security services. In a reader survey conducted by *Magnum Magazine*,⁴ it appears that private

citizens used their firearms in self-defence in more than 2.5 million incidents over a two year period. In most instances, the attack was foiled merely by the citizen producing a firearm, although in some cases continued attack by criminals has resulted in their (the criminals') demise. It is estimated that more than 56 000 arrests have been effected by armed civilians in a two year period and more than 1.8 million thugs have fled due to armed civilian intervention.

Claims by Gun Free South Africa (GFSA), that armed citizens and police are more likely to be murdered by perpetrators using their own firearms against them, are patently a fabrication to try and further their own ideological aims. The study by John Mann shows that, in cases where the victim is unarmed, victims suffered a 50% mortality rate and a 50% injury rate at least. In almost all cases of criminal attack, victims either lose their lives or suffer physical injury.

In cases where armed victims put up a defence against the attack, 6% of the victims died as a result of the attack and 15% sustained some sort of physical injury, even though attackers almost always had the advantage of surprise and superiority of numbers, as well as being armed.

Illegally Held Firearms, their Sources and Use

The criminal use of firearms has been a national concern for the past five years, while murders have reached epidemic proportions. Subsequent to the 1994 elections, there was a considerable pool of 'liberation' weapons available on the black market. When the ANC came to power, the situation changed and the very weapons that were smuggled in to arm freedom fighters in order to destabilise the minority government suddenly had no purpose, other than to be used for political intimidation and criminal activity. Due to the nature of the conflict prior to secession, neither documentation nor control over the issuing of light weapons was kept and it thus became virtually impossible for the ANC to try and recover these subsequently. Unfortunately, no attempt was ever made to this end, nor was any public appeal issued to former combatants for return of the weapons in question.

Political intimidation and violence became more prevalent in certain areas in the early nineties, mostly in order to enforce a particular political dominance. The pool of 'liberation weapons' was subsequently used to

intimidate and eliminate political opponents, as well as to disrupt local elections from the time of the 1994 general elections. An unfortunate remnant of the so-called liberation struggle is the disregard for law and order and distrust of the police. Problems associated with government's inability to control former combatants manifested themselves when some of the former APLA and MK-trained insurgents turned to crime, instead of peacefully reintegrating into civil society. In countless high profile, professionally planned attacks (executed with military precision, according to the media), on cash-in-transit vehicles and numerous bank heists, weapons of war were used by former combatants with devastating effect. The AK-47, hitherto known as a liberation tool under the black population, became synonymous with bank robberies, intimidation and political violence, as the ANC failed to exercise control over its erstwhile companions and former freedom fighters.

Due the government's inability to effectively deal with the violence, murder and intimidation, criminals became so emboldened that attacks on police stations and military arsenals were carried out in order to procure more and better firepower. In part, these attacks were also necessitated by the fact the pool of 'liberation' small arms seemed to be diminishing in numbers. Although the thousands of kilometres of South African border remained as porous as ever, it appears as though the flow of small arms could have been rerouted to other areas, the Democratic Republic of Congo, for instance, as the conflict in that region escalated during 1999.

In the meanwhile, politically inspired attacks coupled with the ever increasing and the clearly out of control crime situation created a demand for smaller, more readily concealable firearms for personal protection against such attacks. Due to restrictive licencing requirements imposed by the previous minority government, only a select minority could legally own handguns for self-defence. For those who lived under the extreme conditions of intimidation and violence, the choice was simple. The penalty for being caught in possession of a stolen firearm by the police was negligible, in comparison to being murdered, robbed, raped, beaten and attacked on virtually a daily basis.

Due to a rising demand, firearms were 'procured' by theft from the police and military, including legally licenced owners. At the same time, due to the

sheer volume of criminal attacks on the besieged public, a lot of pressure was being brought to bear on the government, both from local and international pressure groups. Regrettably, the police was (and still is) unable to cope with the situation for a host of reasons, not the least of which were budget cuts, affirmative action practices and a general mistrust by the public, due partly to historic grievances and perceptions.

As the month-by-month crime figures rose virtually unchecked since 1994, in an almost direct relation to the economy's inability to recover, so the nature of interpersonal violence changed. Social disagreements and disputes were being reported more frequently, as illicit, as well as at times legally held, firearms were being used in altercations in which protagonists ended up in trauma wards after using firearms to settle arguments and fights. Alcohol and narcotic substance abuse has always been a root cause for social fabric crimes in South Africa, particularly so in the economically disadvantaged communities. Prior to 1994, the vast majority of injuries treated in emergency rooms were stab wounds and trauma caused by blunt instruments, as well as other sharp objects. Since 1994 the nature of the wounds treated in trauma units country-wide has changed dramatically, with gunshot wounds being reported and treated with ever increasing frequency.

No doubt this is the result of the increasing availability of illegally held, stolen firearms. Due to the laxness of law enforcement, particularly in regard to the policing of stolen firearms, more people are in possession of these than ever before. Increasingly, legally licenced firearm owners are being blamed for criminals being in possession of and using stolen firearms. The 'pool' of legally owned firearms is seen as a potential source for criminals. Instead of the governments introducing ever stricter requirements for the legally licenced owners to comply with, criminals found in possession of firearms should be harshly dealt with.

That such a strategy can be effectively implemented was clearly demonstrated in programmes in the United States, where convicted felons found in possession of firearms face a mandatory five-year jail sentence that comes into immediate effect without the court and judicial system coming into play. This programme (Project Exile) has been extremely successful in countering the criminal use of firearms in cities in the United States, where gun-violence was a major problem. Before the introduction of Project Exile

in Richmond, Virginia, the city had the second highest murder rate and some of the worst armed crime rates in America. In less than two years, the programme has resulted in the firearm murder rate being reduced by 65 per cent and criminal misuse of firearms was slashed by more than half in that crime-ridden city. The programme which was conceptualised and initiated by the National Rifle Association (NRA) is currently being adopted by other cities in the United States.

Locally, daily reports in the printed media focus on the easy availability of stolen firearms in townships, while television programmes have highlighted the fact that teenagers and even younger children are buying guns for as little as R10 to R15 in taxis on the way to school. The result is quite predictable. Due to a complete lack of any form of firearm education, numerous accidents and shootings are being reported. A firearm education programme coupled with an awareness campaign, as well as a programme like Project Exile (that clearly spells out that being caught in possession of a stolen firearm will mean a mandatory five years in jail for previously convicted criminals), is essential in combating the escalating tendency for firearm violence. It would appear as if the youth is particularly susceptible to the enhanced 'status' that a firearm might be perceived to bring.

Due in part to the lack of firearm education amongst the previously disadvantaged and in part to the fact that firearms in circulation are almost always illegally possessed by the offenders, there is no legal obligation for offenders to comply with the law. In contrast to this is the position of a legally licenced person who will certainly face severe penalties for negligence or irresponsible behaviour. This problem is exacerbated by the fact that it is extremely difficult to apprehend non-licenced offenders who commit crimes, ranging from being illegally in possession of a firearm, stolen or otherwise, to serious offences involving firearms. An illegally held firearm can easily be discarded in the remote possibility of a person-by-person search being conducted by security forces. New laws allowing for finger printing of all people found in the vicinity of a recovered firearm are not going to help much: simply by wiping the firearm clear of prints (achieved in a micro-second), all trace of the person who was last carrying it is removed. Even in the event of prints being found on a stolen or illegally held firearm and matched to someone in the area, it is impossible to arrest that person on the spot, purely because all the people found in the vicinity

of the discarded firearm, picked up in a public place or dwelling, will either have to be arrested or held until forensic tests have been performed. In areas of high population density and with diminished forensic services, or even the complete absence thereof in most outlying regions, how on earth are the police able to accomplish such a task?

Clearly something has to be done. As a result of the black-market trade in illicit firearms, as well as a host of other factors, firearm related mortalities rose to 49% of all unnatural deaths recorded in 1999. Because of the complete lack of categorisation of statistical data collected and maintained by the government, it is virtually impossible to determine exactly how many of the approximately thirty firearm-related deaths per day are attributable, for instance, to criminal action, justifiable homicide resulting from successful defence against attack, or simply accidents caused by untrained people with legal or illicitly held arms.

In the absence of accurate data and with mounting pressure from international interest groups, civil society and the UN, the government is under immense pressure to do something about the situation. The uninformed response has been summarily to ban firearms from private possession in the hope of stemming the tide of violence that is threatening to engulf the public. The rationale behind this is that, should firearms be removed from society, the proliferation of violence would be halted. It is this naive thought process that may very well plunge this country over the edge and into the abyss of civil disobedience. Certainly the law-abiding citizen cannot allow his/her only means of defence to be stripped from him/her.

The Impact of Privately Held Firearms on the Macro-Economy
South Africa is a land rich in natural beauty and in biodiversity. The country has a well developed infrastructure and has earned an enviable reputation as a top international tourist destination. Europe and America have paid the ultimate price for their industrialisation by having destroyed virtually all of their wildlife and untamed wilderness. South Africa and, to a lesser extent, Africa, north of its borders, are among the few places globally where tourists can enjoy the splendour of nature in all its diversity.

Ecotourism is of ever-increasing importance in South Africa and, despite the decline of the economy, is forecast as being a sunrise industry.

Commercial hunting and ecotourism are locked into a symbiotic relationship. At the turn of the century virtually all plains game and predators were exterminated in order to establish commercial stock farming and agriculture. A small band of visionaries endeavoured to create areas where nature's unspoilt treasures could be preserved for the coming generations and from that small and auspicious start the modern hunting and tourism industry had its foundation. Without commercial hunting, there would not have been ecotourism, certainly not to the extent that it has allowed the industry to mushroom over the last two decades. Farmers in the more arid regions of the country shifted their commercial activities to hunting and tourism, as game 'farming' ensured both a better return and utilisation of their resources. The domestic meat hunting industry in this country is estimated to turn over in excess of two hundred million Rand per annum. Add to that an estimated two hundred and fifty million Rand in revenue generated in the trophy hunting sector, virtually all of it earned in foreign income, and there is little wonder that hunting and ecotourism are touted as the key sustainable utilisation industries.

More than 80 000 people, mostly in underdeveloped rural areas are directly employed in the hunting and related manufacturing and service industries. The prohibition of firearms would have an immediate and negative impact on these communities. The long term effects of the prohibition of firearms will be a return to the highly destructive practices of agriculture and commercial livestock farming in most of the arid regions of this country. The immediate effect will be the loss of revenue to the economy of about a half a billion Rand per annum, as well as a further 80 000 jobs.

It takes decades to establish and mature a profitable hunting and ecotourism industry and South Africa is only now beginning to reap the rewards of projects initiated decades ago. All this can be undone in a matter of weeks and once tourists and hunters and their valuable foreign currency are lost to this country, it will take years to re-establish, if ever. Tanzania, Uganda, the DRC and a host of other African countries bears witness to this fact. South Africa has benefited enormously from the instability of the rest of Africa and, because of its well developed infrastructure, continues to draw more and more tourists wanting to experience the wonder of Africa. Instability, crime and violence will certainly drive tourists to seek safer environments elsewhere, never again to return.

The Case for Total Firearm Ban

Prohibition might still seem a very tempting solution to the problem of arms, if the above realities could be ignored. After all, it was introduced in Britain in 1997, so there certainly is a precedent for disarmament. Canadian, Australian and New Zealand experts have been quick to offer their 'expertise' here, forgetting that South Africa has had a successful thirty-year history of firearm control (that predated attempts in their own countries) and that the firearms register that is at present being set up in Canada (which is already some US \$85 million over budget and nowhere near complete) has been successfully in operation in South Africa for the past three decades.

The fact is, in the thirty years of firearm licencing in South Africa very few licenced owners have been convicted of crimes committed with their legally licenced arms. The law did what it was meant to do which was to regulate the possession of legally owned firearms and their legal use. Until prior to the period of corruption and mismanagement that was introduced from 1994, the firearm register maintained and delivered adequate services in this regard. South Africa's crime problem did not emanate from the availability of legally owned firearms, but instead from the inability of the government and the police to enforce laws to keep firearms out of the hands of criminals.

The reality of firearm prohibition, as introduced in Britain, is that the government in that country has also been unable to remove firearms from criminals, in effect echoing the problems of firearm law enforcement in South Africa. According to *The Sunday Times*,⁶ even children as young as thirteen are in possession of Uzi carbines and semi-automatic handguns. Firearms are simply imported in shipping containers. Even Britain, despite a professionally run, well equipped national police force and customs inspectorate, is only able to inspect one out of every eighty containers being imported through any of the main container ports daily. Prohibition has only one effect and that is to disarm law-abiding citizens. For criminals it is business as usual, only under much more favourable terms and conditions.

In the United Kingdom a significant rise in violent crime and a change in the modus operandi of career criminals and social deviants can be directly attributed to an awareness that the law-abiding citizen has been completely disarmed and is thus virtually defenceless. The trend since disarmament has been to attack people in their homes and, once the telephone is disabled,

criminals have all the time in the world to accomplish whatever their intent and dark desires might dictate.

No government, judicial system or police force in the world can guarantee the personal safety of the law-abiding citizen. If this is an unattainable goal, why prevent that citizen from arming to enable him/her to provide for his/her own safety? The issue of firearms control is very simple. Law-abiding, responsible citizens should be able legally to own firearms for their own protection; criminals and those deemed unfit must be prohibited from having firearms in their possession.

The South African government understands full well that it has no capacity to remove illegally held firearms from society. Its police force is in disarray, under-funded and understaffed and the general morale so low that it has been ineffectual in countering the tide of crime and violence for the past five years. This is not a police problem alone: the judicial system as well as that of the correctional services has virtually collapsed, further exacerbating the situation. These are not earth-shattering revelations, but common knowledge with a daily barrage of new allegations of escapes from prison, corruption and lack of basic police services emanating from the media. Criminals know they are virtually untouchable.

Due to the UN reduction of small arms programme and the government's participation in this programme (it has no choice really, if it wants foreign funding), as well as the outcry from the public about the general lawlessness, something had to be done. The easy way out was simply to ban the private ownership of firearms. Government would then be seen by the public to be doing something about the problem, the UN would be satisfied and a continued flow of foreign funding would be assured in the short term.

This is indeed what transpired and the government embarked upon this process by drafting a new firearm control bill during 1998. With the introduction of the proposed bill, the disarmament initiative almost resulted in civil unrest in August 1999.

The Process to Effect a Ban on Firearms

The process was initiated when one of the first committees, convened by the former Minister of Safety and Security, Sydney Mufamadi, was directed by

the Minister to “Produce progressive policy proposals aimed at bringing about a drastic reduction in the number of legal firearms in circulation in South Africa.”⁷

The Minister’s directive to the Committee was one of the earliest indicators of exactly how the Ministry for Safety and Security, and by implication the government, was going to handle the issue of private ownership of firearms in South Africa. A SAPS document, entitled *New Policy for the Control of Legal Firearms in South Africa*, was circulated among all SAPS area commanders in 1998. It clearly documented the process, as well as the recommendations from the two committees, which were personally appointed by Sydney Mufamadi.

The second committee (and a highly controversial appointment it was at that was chaired by Ms Sheena Duncan, chairperson of Gun Free South Africa, who was tasked to “conduct an investigation into the Central Firearms Register.” According to the *New Policy* document, the task of the committee was to “investigate certain allegations of corruption and maladministration of the Register.” Charges of this nature had, in fact, been made by Ms Duncan and GFSA in the media prior to her appointment. Since 1998, the manner in which the government has handled the issue has sent a clear warning to legal firearm owners, and SAGA has had to plan and act accordingly.

Control over the Private Possession of Legally Owned Firearms and Associated Problems

South Africa has had a long history of civilian arms control. For the past thirty years, ownership of firearms has been strictly regulated by the *Arms and Ammunition Act* (Act no 75 of 1969). The Act was initially effective in controlling the numbers of firearms legally available to the general public (simply because the largely white firearm owners were law abiding in the extreme and, as a result, accidents and abuse with legally held arms were negligible over the years.

The main problem with the *Arms and Ammunition Act* was that it had been enforced in an extremely discriminatory fashion by the previous government, with blacks and coloureds not being allowed legally to own and use firearms.

Whereas whites have enjoyed a long association with firearms and could legally own guns, historically, black and coloured citizens have, by contrast, had very little exposure to firearms. Since the early 1990s, when legal ownership became more open to all races, black and coloured people have been legally licencing firearms in ever-increasing numbers. From 1994 there has been a veritable explosion in the demand for licenced firearms from this sector. More than 200 000 licence applications have been received annually at the CFR and dealers have reported that more than 75% of all applications were for black first-time licence applicants.

Regrettably, there had, over the intervening years, been little or no firearm education or training for black firearm owners, and this for very specific and pertinent reasons. Language barriers, availability of training facilities in high population density areas and lack of funds were some of the problems, even should there have been awareness programmes and firearm education training that was focused on the needs of the black, first-time firearm owner. From an early stage, after the ANC government came to power, the lack of firearm education and the possible misuse by newly licenced firearm owners were identified as a concern and measures were taken, albeit in an unorganised, haphazard way to try to address some of these concerns.

During 1998, the Police Commissioner introduced a prerequisite for the obtaining of firearm licences. He passed a regulation requiring all first-time applicants to be in possession of a certificate of competence, before such a licence would be issued. The motivation for this measure was sound, but, due to the lack of planning, foresight and involvement of interest groups, and the absence of a proper curriculum and a nationally based education programme, the competency certificate issue degenerated into a next to worthless exercise, which was largely left to individual station commanders and regional firearm licencing officers to implement, and then purely as a means to limit or refuse applications. Due to the problems experienced with tough licencing procedures, most of the previously excluded populace simply did not bother to try legally to obtain and licence firearms, although they needed, more than anyone, the protection a firearm could afford. The extent of the current problem is huge. Since policing stolen firearms was not really a top priority, unless a crime had been committed, illegal ownership of stolen firearms was and is quite prevalent among the previously disadvantaged communities. Stolen firearms are readily available,

reasonably cheap (reports of modern handguns selling for R15 on the black market abound) and possessors of illegally held arms did not have to meet any of the stringent requirements enforced by the licencing authority.

Reportedly some 30 000 firearms are stolen from government and private owners each year and only some 14 000 are recovered annually (1998 figures). Current estimates of illegally held, mostly stolen, arms range from 150 000 to 4.5 million. Significantly, it appears as though most violent crime and acts of interpersonal violence involving firearms are committed by a relatively small number of hardened criminals.

The majority of these illegally held arms, it would thus appear, is then (illegally) used or held by people ostensibly to defend themselves against attack in their own communities. This, to a large extent, is exactly where the problem lies. This 'pool' of firearms in existence in communities who have no experience in dealing with firearms and are not in any way legally bound to their safe storage and use, is a major concern. The only education, unfortunately, that most of these firearm 'owners' have had access to is the extraordinarily bad example of firearm use and abuse portrayed by television shows and the cinema. With poverty, unemployment and the subsequent alcohol and narcotic substance abuse, irresponsible television and cinema shows have shaped the behaviour pattern of particularly young, impressionable people with regard to violence and firearm abuse. That influence portrays and entrenches aberrant and anti-social behaviour, teaches irresponsible firearm handling practices and misuse of firearms, as well as glorifying gang culture. All these factors have a direct influence and bearing on the problem that civil society faces in South Africa today.

Essentially South Africa is a country divided according to a first and third world reality. By and large, the first world component is well educated about firearms and responsible about the ownership and use thereof. The third world component, those people previously disadvantaged, will only face further hardship, intimidation and violence if they are not empowered to do something about the problem of crime which they are confronted by. Consequently, the responsible use and ownership of firearms must be promoted. Firearms, legally possessed or otherwise, are already present in these communities. To change attitudes and behaviour patterns, as well as to teach respect for the laws of the land, is essential.

If something is not done about the rampant crime, this country will be joining the rest of Africa in a downward spiral of violence, corruption, strife and eventual civil war. While among certain sectors of the population fears of genocide prevail, civil disobedience regarding disarmament is a distinct prospect. Seen in the context of having a highly trained, experienced reserve of former national service conscripts available, should matters degenerate into what may be perceived as mass disarmament, government should take heed of security and national intelligence reports that warn about the possibility of mass civil unrest and non-compliance with prohibitionist firearm legislation.

Despite all the indicators, the uninformed response has been to ban the private possession of firearms in order to slow down and hopefully stem the tide of violence that is threatening to engulf the public. When an attempt was made to introduce prohibitionist firearm legislation by a “handful of overzealous administrators” in August this year, there was a huge public and media outcry, to the extent that the recently appointed minister for Safety and Security was forced to intercede. The policy was re-evaluated and it would appear as though a more moderate approach is being adopted.

The Role of SAGA in Countering Prohibitionist Firearm Legislation

The role of SAGA, from its inception in 1985, was to represent the interests of legally licenced firearm owners to the government of the day and to intercede on their behalf when measures to further restrict firearm ownership were being introduced at the time. From the outset, the Association adopted a moderate approach to government, attempting to inform officials and ministers of the issues involved, rather than being confrontational and obstructive. Over the years, a good working relationship developed with administrators and specifically the police, who were empowered under the *Arms and Ammunition Act* to administer all aspects of legal firearm ownership.

SAGA membership was open to all races right from its inception, for the founding members identified the need for introducing a positive firearm culture to all races and ethnic groups. Due to racially biased licencing practices, few people of colour joined the Association early on, but this was to change once legal ownership became more open to all races in the early nineties and more specifically after 1994.

Since the ANC government came to power, little has changed in regard to legal firearm ownership, insofar as allowing law-abiding citizens the right to own firearms for specific purposes, sporting, self-defence or other, is concerned. Racial bias in terms of allocating licences was immediately dropped, although stricter ‘rules’ were introduced by the Commissioner of Police. Some of these ‘rules’ inadvertently excluded certain groups of people from owning firearms: in effect, instead of a racial bias being the limiting factor, economic discrimination was instituted instead.

The issue had more to do with firearm security than discrimination, since new regulations stated that, in order to qualify for a firearm licence, the applicant had to have a police approved safe, which had to be mounted to at least three walls in the applicant’s domicile or place of business. The installation of the safe and other security measures would be inspected by the police prior to the issuing of the licence. Although the new measures were introduced in an attempt to combat the growing number of firearm thefts, it would appear that these (as well as the existing requirements) were only being enforced and applied in some areas.

Notably, the more affluent areas, where a better police infrastructure existed, were specifically targeted for the introduction of the new measures. In other areas the rules simply did not apply or were not being enforced. For some time it had been propagated in the media that firearms were much too easily available and that licencing was merely a rubber stamp for procuring a firearm. Due to the reality of law enforcement practices today, there are without doubt two standards being applied in regard to firearm licencing. In the more affluent communities, where good policing is still prevalent, to obtain a licence is both difficult and problematic; in other, less advantaged communities it would appear as if the laissez-faire approach still applies.

It is this inequality that has created problems for firearm owners in general. The new ‘rules’ and the arbitrary fashion in which licencing procedures were being enforced in some regions were problematic at best. Although the *Arms and Ammunition Act* was not amended to include any of these new provisions, SAGA generally saw the move in the light of an attempt by the government to combat the growing violence, especially the growing trend towards firearm abuse.

As the government came under increasing fire to stem the tide of lawlessness, it unerringly looked towards stricter firearms controls as a solution to attempt to curb firearm related crimes. In an early attempt, in 1998, a provision in the *Arms and Ammunition Act* that allowed a licenced firearm owner legally to lend his firearm to another, unlicenced person, came under scrutiny. The Ministry for Safety and Security, then under the leadership of Sydney Mufamadi, attempted to repeal the provision, due to the fact that, in his opinion, it allowed a loophole in the law for criminals to exploit.

SAGA defended the provision on the basis that the police were specifically empowered under the *Arms and Ammunition Act* to address criminal use and abuse of firearms and that, should the provision be repealed, it would negatively affect the legal owner, as well as the security of other people that may need to be in possession of a firearm for a short period of time, without wanting or needing a firearm on a full-time basis. With well reasoned arguments and submissions to Parliament during portfolio committee meetings, SAGA managed to defeat the Ministry's first attempt at amending the provision.

For the first time, the broad support for the Association was demonstrated by those other than members. Throughout its defence of the Section 8.1 provision, SAGA avoided confrontation with the government and behaved generally in an exemplary fashion. After all, there was no need to alienate government and put a strain on a cordial relationship that had been built up over a number of years. SAGA realised that global attempts to disarm the public were well under way in some countries and that similar attempts would be made locally. The view within the Association was that, generally speaking, supporters of such a stance are initially misled by disarmament proponents and, once the relevant information and reasoned arguments are offered, more often than not, sense and sensibility prevail. It was believed within the Association that once dialogue had been terminated, however, distrust and confrontation would cause an irretrievable breakdown between parties, which would serve no purpose in the long run.

It was thus with some concern that SAGA became aware that communication between itself and the Secretariat for Safety and Security had become strained at first, and then broken down completely at the

beginning of 1999. It could have been due to the successful defence of the Section 8.1 provisions that the Secretariat wanted to place some distance between itself and the Association, but it would appear as though the attempts at marginalising SAGA's influence were a deliberate tactic employed by the Secretariat. At the end of February 1999, a SAGA delegation formally met with the Deputy-Director, Dr Bernie Fanaroff, to ascertain the accuracy of rumours that government was in the process of drafting new firearm legislation. At this meeting it became apparent that the secretariat was not interested in continuing any formal relationship with SAGA. Dr Fanaroff stated in no uncertain terms that SAGA's input, advice and sincere offers of assistance in regard to firearm matters were neither wanted nor needed. The secretariat's position in this regard presented a major problem for firearm owners.

Traditionally, firearm legislation was the line function of the Deputy-Minister for Safety and Security. Since Sidney Mufamadi's appointment as Minister, he has, it would appear, personally determined the firearm policy in consultation with the Secretariat. Whereas, prior to 1994, SAGA had had access to the Minister for Safety and Security, now a civilian oversight committee created (ostensibly to monitor the operations of the SAPS) in terms of a provision in the constitution, was interposed between the parties, directing and implementing the Minister's personal policy on firearms. The Secretariat was in a powerful position and it used all the means at its disposal to further an ideologically driven disarmament programme.

The no-holds-barred approach of the Secretariat became clearly evident when it made a second attempt in March 1999 to suspend the provisions of Section 8.1 of the *Arms and Ammunition Act*. By resorting to questionable tactics and misrepresentation, it managed to amend the Act and during submissions to the portfolio committee on Safety and Security, it became clear that the Secretariat had virtually completed its work on a new and comprehensive firearms control bill, which was scheduled to be introduced after the mid-year general elections.

In August 1999 the new firearms control bill was launched. The bill had been drafted under a cloak of secrecy for the better part of a year prior to its introduction. Neither SAGA, nor any other pro-firearm group, had input or insight into the drafting process. When the bill was selectively released to a

small number of associations, sport-shooting, collectors and hunting, the immediate reaction was one of shock. It was abundantly clear that the proposed legislation had only one objective and that was total disarmament of the legally licenced, private firearm owner.

It was specifically for such a turn of events that SAGA had been created. Over the years the Association had built a substantial membership base, as well as gaining support from a number of organisations and associations, not necessarily involved in sporting aspects, or the hunting or manufacturing industries. Due to its international network of pro-firearm and pro-self-defence organisations, a considerable amount of expertise and support existed, locally as well as internationally, and this was effectively mobilised within a short time-frame. The opposition political parties were informed about the proposed legislation and SAGA was able to demonstrate that the proposed bill was technically so flawed as to make implementation impossible. Public backlash and huge media pressure forced the newly elected Minister of Safety and Security (then only in office a matter of some weeks) fully to investigate the matter. He was made aware that this was clearly a very contentious issue and could very well be the start of massive civil unrest.

He called an immediate halt to the legislative process and, in fact, set about establishing proper policy on the matter of private ownership of firearms, something that had hitherto not officially been done. In the weeks that followed and amid accusations traded between the previous Minister and opposition political parties, Mufamadi denied involvement in the process. Notably several changes were made in government departments which, in the normal scheme of things, was not out of the ordinary, except for the sudden resignation of the Secretary for Safety and Security, Azhar Cachalia. To date, his position has not been filled and there is doubt whether the Secretariat will continue with its intended role of civilian oversight over police activities. With the appointment of Mr Selebi as Commissioner of Police, it has been rumoured that the secretariat's function has been somewhat obviated.

SAGA and the pro-firearm lobby were successful in bringing the sensitivity of the matter to the Minister's attention. In earlier briefing documents drafted by the ISS, it was clearly stated that public involvement and the necessity of allaying public concerns about disarmament would be a key

issue. One fact that the whole process highlighted, and which government and subsequent drafting teams have still not grasped, is that it is physically impossible to draft legislation of this nature, legislation that is highly technical and controversial, without the input and technical assistance of the pro-firearm lobby. SAGA has repeatedly made offers to the government to assist in this regard. The government, however, steadfastly refuses its help, denying that this input and involvement are crucial for any successful firearm legislation.

The Association, as well as its counterparts, has realised that the battle for the right of the individual to keep and bear arms is only just starting. The support for SAGA has been overwhelming and is mounting as the issue keeps on being thrust under the media spotlight. The silent majority of law-abiding black people of this country is waking up to the fact that this is not a 'white' issue only, but that it is indeed a human rights issue. It would hardly be surprising then to find that the level of private ownership within the community previously denied firearms is fast approaching that of the traditional white firearm ownership. In sport-shooting clubs and hunting associations, people of colour are slowly getting involved in other firearm related activities, although the overwhelming reason for firearm ownership in this sector is still personal defence.

A second drafting process, separate from the first attempt which was effectively halted by Minister Tshwete, is currently under way. The first release of the second drafting process was published on the Internet at the end of November 1999. Already extremely worrying remarks from the legal representative of the new drafting team, Advocate Louis Kok, asking for the suspension of certain rights and presumptions entrenched in the constitution, have been made in the press. This is apparently to facilitate the introduction of the new legislation and is, consequently, of some concern. And still there has been no attempt to involve the pro-firearm movement in the drafting process in any meaningful way. In the press release that introduced the proposed new bill, Minister Tshwete stated that the parliamentary process will include a submission phase, open to all interested parties, which will commence in January 2000. In practice though, it has been the experience of the pro-firearm movement in this country that once legislation has moved into the domain of the portfolio committees, all sorts of irregularities may and could indeed take place.

A good example of this was the directive issued by the chairman of the portfolio committee that deliberated on the Section 8.1 amendments in March this year. Mr. Vilikazi (ANC) stated, during his opening remarks on the first day of the proceedings, that no submissions other than that of the delegation from the Secretariat of Safety and Security would be heard, thus effectively barring any opposition that may have been brought against the amendments.

By this action, interest groups were excluded from making submissions and when it appeared that the amendments would be defeated a second time, the Secretariat appealed to the Cabinet Ministers directly to intervene in the process. Before going into the cabinet session, the opposition parties were polled by SAGA and their support against the amendments was recorded. In a ministerial address during the session, Mr Joe Matthews urged all ministers to support the amendments. Both the IFP and DP, in fact, changed their votes at the very last moment in line with the Minister's directive during the following general assembly debate. It would appear as if parliamentary process could indeed be a major problem and not an opportunity to present all interested parties' views.

SAGA's role in regard to the latest proposed firearm legislation is clear. Although, at first glance, it appears as though some of the issues regarding the collecting, sporting and hunting use have been addressed to a degree, there are still numerous issues that are extremely worrying. The Association will continue to gather information and inform the public and politicians about the issues and it will continue to seek to interact directly with the drafting team, as well as the Minister for Safety and Security. Numerous requests for meetings with the Minister have been pointedly ignored.

SAGA has a tremendous depth of experience in all matters relating to the usage of firearms, for sporting and recreational as well as commercial applications. It is, moreover, continuing to expand its horizons. The disarmament of law abiding citizens is a global trend, as is the inability of governments world-wide to address criminal misuse and abuse of firearms. In the final analysis, it is the public who suffers, because no government, no police force and no judicial system in the world can or does guarantee the safety of its law abiding citizens. Where legal governments insist that citizens abrogate their right to self-defence, there is always a place for

organisations, like SAGA and others, to ensure that the right of the law abiding to keep and bear arms is not denied.

Endnotes

- 1 Edition 3/98.
- 2 More information about the Rwandan genocide is available in P Hammond, *Holocaust in Rwanda*, UCA (tel: 021 689 4480).
- 3 *Business Day*, 18 November 1999.
- 4 December 1999 issue.
- 5 December 1999 issue.
- 6 29 May 1999, UK issue.
- 7 Underscoring and bold added by author.