



FIREARMS CONTROL BRIEFING

GUN CONTROL LEGISLATION ACROSS THE WORLD: GLOBAL NORMS AND STANDARDS

BACKGROUND

Over the last 20 years several countries have undertaken significant reforms to regulate firearm ownership through the process of strengthening national laws and policies.¹

In addition to the trend by governments to strengthen outdated, weak or incomplete national firearm laws, several multilateral processes have contributed to the strengthening of national arms control regimes: this includes the *UN Firearms Protocol* which entered into force in 2005, making it the first legally binding international agreement on small arms control.² Perhaps the most significant multilateral process on small arms control is the *UN Programme of Action (UN PoA) to Prevent, Combat and Eradicate the Illicit trade in Small Arms and Light weapons in All its Aspects*. It urges States to:

“ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons within their jurisdiction. These records should be organised and maintained in such a way to ensure that accurate information can be promptly retrieved and collated by competent national authorities.”³

WHY NATIONAL FIREARMS LEGISLATION IS IMPORTANT

The majority of small arms and light weapons are in the hands of private individuals. It is estimated that civilians hold nearly 75 percent (650 million) of the global stockpile of 875 million guns.⁴ This includes farmers, collectors, hunters, sports shooters, private security guards, armed insurgents, and criminal gangs. There is also a growing awareness that most of the problems posed by the availability of small arms involve civilians, meaning that most firearms (both legal and illegal) are owned by civilians, and most perpetrators and victims of violence are civilians.⁵

Developing and implementing national firearm laws, which regulate civilian and state possession and use, can go some way towards preventing and reducing the misuse, loss and theft of guns in the hands of ordinary citizens and also prevent the leakage of legal firearms into the illicit market. Underpinning most national approaches to regulating the possession of firearms by civilians is an attempt to balance the prevention of social harm (crime, inter-personal violence and suicide) with legitimate civilian use.⁶

¹ This includes Afghanistan, Australia, Brazil, Belgium, Cambodia, Canada, Sierra Leone, South Africa, Turkey and the United Kingdom.

² South Africa has ratified the Protocol; the list of States that have ratified the protocol is available at www.unodc.org/unodc/en/treaties/CTOC/countrylist-firearmsprotocol.html

³ UN (2001) Report of the UN PoA conference. A/CONF.192/15, July, para 11.9; in practice this entails the establishment of a firearms registration system; italics are our emphasis.

⁴ Small Arms Survey. 2007. *Small Arms Survey 2007: Guns and the City*. Cambridge: Cambridge University Press, p.39.

⁵ UNDP. 2008. *How to Guide. Small Arms and Light Weapons Legislation*.

⁶ *Small Arms Survey 2011: States of Security*. Chapter 9: Balancing Act. Regulation of Civilian firearm possession. Cambridge: Cambridge University Press.



GLOBAL NORMS AND STANDARDS

Although there are variations in approaches to strengthening national gun laws, most countries' laws are based on a combination of the following standards developed by US criminologist F. Zimring in 1991 as a measure for effective gun control: prohibit/restrict certain *types* of weapons and ammunition; prohibit/restrict certain *uses* of weapons and ammunition; prohibit/restrict certain *users* of weapons.⁷

a. Regulating the *type* of firearm and ammunition

Prohibited and restricted firearms⁸

Most countries prohibit the civilian possession of firearms whose inherent risk outweighs their utility. This includes fully automatic, semi-automatic and selective-fire assault or military rifles (such as the AK-47 and South African manufactured R1, R4 and R5 rifles). In a 2004 survey of 115 countries, 79 of the 81 respondents banned the civilian possession of military weapons, with Kenya and Yemen not specifically reporting a ban on these weapons.⁹ Countries that prohibit the civilian possession of automatic guns include Australia, China, Colombia, India, Indonesia, Latvia and Peru.¹⁰ Those banning civilian possession of semi-automatics include Argentina, Canada, the Czech Republic, France and New Zealand.¹¹

Access to handguns is frequently banned or severely restricted, given their concealable nature and prevalence in criminal violence. Countries such as Botswana and the UK have banned civilian handgun ownership, with others such as Australia and Canada allowing handguns only for professional security guards and target sports shooters.¹²

Registration

Firearms are regulated through a process of registration, which entails keeping accurate records on sales and possession of firearms as well as ammunition. The process varies considerably from country to country – with some countries not having a formal centralised register – instead recording information obtained through the owner licensing process. Several states such as Australia, Brazil, Canada, Estonia, Switzerland and notably South Africa require comprehensive records of all information relating to firearms.

b. Regulating the *use* of the firearm

This includes policies which prescribe the terms and minimum competencies for the legitimate use of guns and can include provisions for safe storage, restrictions and/or prohibitions of the possession of firearms in specified locations (such as the carrying of guns in public), as well as defining 'legitimate use'.

⁷ Zimring, Franklin. 1991. 'Firearms, violence and public policy', *Scientific American*. November. pp.24-30

⁸ A more detailed overview on prohibited and restricted firearms for civilian possession can be found in Table 9.2, pp. 269-273 of Small Arms Survey, 2011.

⁹ Cukier, Wendy and Victor W. Sidel. *The global gun epidemic: from Saturday night specials to AK-47s*. Westport, Connecticut: Praeger Security International. p. 141.

¹⁰ Cukier, Wendy and Victor W. Sidel. *The global gun epidemic: from Saturday night specials to AK-47s*. Westport, Connecticut: Praeger Security International. p.142.

¹¹ There is little difference between a fully automatic and semi-automatic military assault rifle from a public safety perspective: A fully automatic AK-47 fires 20 rounds in 2.4 seconds; a semi-automatic Norinco AK-47 takes 4.6 seconds for the same number of rounds.

¹² United Nations. 1998. *International Study on Firearms Regulation*.



Legitimate use¹³

Definitions of 'legitimate use' or 'genuine reason' vary greatly from country to country. However, in most instances, a person is required to have a 'genuine reason' for acquiring a firearm, and in most countries the national legislation specifies what constitutes a good reason.

Although state's laws differ in how they interpret and apply the principal of *regulating the use of firearms* by civilians, there are important similarities in what constitutes valid or lawful justifications. These generally fall into the following categories: hunting; sport shooting and competition; employment or profession (such as farming, pest control, etc.); performance, or art (including theatre or film); collection or exhibition such as in a museum; and protection of person or property.

Self-defence

Many countries that permit the possession of firearms for self-defence purposes restrict the type of weapon that can be held under such a licence, including some level of proof that such a weapon is required for this purpose. South Africa is a case in point (see Section 13 of the Firearms Control Act) as is Singapore.¹⁴ In many of these countries this does not mean the use of that firearm in self-defence will always be justified by law.¹⁵

c. Regulating the user of the firearm

In addition to competency and pre-licensing training requirements to ensure that the applicant and end user of the firearm is trained in the use and handling of the firearm, legislation regulating the user of a firearm spells out the owner licensing process and who can possess a firearm.

Who can possess a firearm?

States impose restrictions on who can lawfully possess firearms, primarily by establishing licensing systems and risk assessment criteria for determining eligibility.¹⁶ The criteria can involve: age restrictions; mental (and sometimes physical) health requirements; evidence of drug dependency or alcohol abuse; criminal records, including protection orders or a history of family violence; and general public interest considerations. Many states explicitly look to evaluate whether an applicant is a 'fit and proper' person who can be trusted with the responsibility of owning a firearm.¹⁷

Owner licensing processes

The owner licensing process includes putting in place administrative systems to keep track of who owns what weapon(s), with practices differing across countries and jurisdictions. A number of different terms are also used, known as licence terminology: a permit to acquire; a licence or permit to possess; a parallel permit; and a permit to carry.

¹³ This section on legitimate use draws heavily on chp 9 in Small Arms Survey, 2011, sometimes verbatim

¹⁴ In Singapore a person must be able to show proof that there is a serious threat to her or his life and that there is no other way of overcoming the threat.

¹⁵ Small Arms Survey. 2011. *Small Arms Survey 2011: States of Security*. Cambridge: Cambridge University Press. p.287.

¹⁶ Small Arms Survey. 2011. *Small Arms Survey 2011: States of Security*. Cambridge: Cambridge University Press. p.275.

¹⁷ This is a key principle of South Africa's Firearms Control Act (2000).



Many countries have adopted a two-tier licensing system, whereby a person is required to obtain a permit to acquire a firearm, and then will be granted a licence to possess or keep the firearm.¹⁸ Canada applies the *licence the person; register the gun* approach (similar to South Africa).¹⁹ In other countries such as Belize and the UK a single licence or permit is required for the possession of a firearm, with no requirements to obtain a separate permit to acquire. In several countries (as in South Africa), the licensing authority may refuse to issue an authorisation but is required to give a reason which must be 'grounded' or for any 'good and sufficient reason'.²⁰

Renewal of licence to possess

The system of firearm licence renewal is an integral part of the licensing and registration system requiring that **genuine need** for the **continued ownership** of the firearm must be proven, making provision for the legal gun owner to reaffirm his/her responsibility for the firearm registered in his/her name.

Imposing a limited duration on a gun licence provides for the following:

- regular confirmation that the licensed owner is still qualified to have a firearm;
- an incentive for complying with licensing – this places responsibility on the licence holder to maintain 'fit and proper behaviour' since there is a risk the licence may be revoked;
- an incentive for acquiring a new licence when the old licence expires

Conclusion

South Africa's Firearms Control Act (2000), which governs civilian firearm ownership in South Africa, meets the global norms of regulating who owns what weapon for which purpose as advanced by Zimring. The impact of the FCA can be measured in the number of lives saved since its implementation; both police statistics and published research show a steady decline in gun-related deaths in South Africa until 2009.²¹

This includes Croatia, Estonia, Finland, Kazakhstan, Lithuania, Papua New Guinea, Russian Federation, Singapore, Switzerland and Turkey.

¹⁹ Small Arms Survey. 2011. *Small Arms Survey 2011: States of Security*. Cambridge: Cambridge University Press Canada, 1995, s.13 as cited on p.280.

²⁰ Small Arms Survey. 2011. *Small Arms Survey 2011: States of Security*. Cambridge: Cambridge University Press. p. 281.

²¹ See Chetty, R. 2000. *Firearm Use and Distribution in South Africa*. Pretoria: The National Crime Prevention Centre. p. 20; Abrahams, N, S. Mathews, L.J. Martin, C. Lombard R and Jewkes. 2013. Intimate Partner Femicide in South Africa in 1999 and 2009. *PLoS Med* 10(4): e1001412.doi:10.1371/journal.pmed.1001412; Matzopoulos R, M.L. Thompson and J. Myers. 2014. Firearm and Nonfirearm Homicide in 5 South African Cities; A Retrospective Population-Based study, *American Journal of Public Health: Research and Practice*: e1-e6; Matzopoulos, R, M. Prinsloo, D. Bradshaw, V.Pillay-van Wyk, N. Gwebushe, S. Mathews, L.J. Martin, R. Laubscher, C. Lombard and N. Abrahams. *The Injury Mortality Survey: A national study of injury mortality levels and causes in South Africa in 2009*. Cape Town: South African Medical Research Council, which is in press and due for official release in 2015.