

Scapegoating Gun Owners in South Africa

by Jim Peron

A small neighborhood grocery store had just opened for business. Without warning five armed men entered and started shooting randomly. Agostino De Andrade was hit by a bullet, but he managed to draw his gun and fire back. Store manager Nelson De Freitas drew his .45 pistol. He said: "Three men were shooting my boss. They saw me and began to fire at me, so I emptied my pistol at them." Witnesses say that one shopper and another store employee also pulled guns and fired at the murderous gang. Finding themselves suddenly, and unexpectedly, outgunned the criminals fled for their getaway vehicle. De Freitas and some customers chased them. Another customer just pulling up to the shop was also armed and joined the battle. De Andrade's wife, Maria, told the press: "When I heard the commotion I ran out with my gun. But before I could do anything a customer took it and began shooting at the car." De Freitas reloaded his weapon and continued firing. A gas-station owner from across the road pulled out his gun and fired at the gang as well.

In five minutes the shootout was over. But three members of the gang were dead. Police said that one of them had at least 17 bullets in him. Two of the surviving gang members fled the scene but one, who was wounded,

was easily captured by citizens who had pursued him.

Not far away, and only a few weeks later, two thugs met a similar fate. It was early evening and George Myburg (not his real name) was standing on his front lawn. A couple of friends had just pulled up to visit him. But as they were getting out of the car, two armed men approached them. One gunman was screaming in a crazed manner to the other: "Shoot him. Kill him." Another visitor at the house was standing just a few yards away when this happened. He pulled his pistol, aimed, and fired. He killed one and critically wounded the other. In three minutes it was over.

Last June Heinrich Nel, a slight and shy 15-year-old stayed home ill while his family went to church. The last thing his father had told him before leaving was to remember that a revolver was in the cupboard next to the bed in his parent's room. Heinrich was sleeping on his parents' bed when he heard the family dachshund barking wildly. Looking out the window, the boy saw four men wearing balaclavas. Two were carrying guns, one of which was an AK-47. The boy called his grandmother next door to warn her. But before he could do anything else the men grabbed him violently twisting his arms behind his back. The boy fought back, pushed his attacker away, grabbed the pistol, and began firing.

Taken by surprise the four men fled the bedroom with the boy following firing

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repeatedly at them. Heinrich had been trained in the use of guns starting when he was seven. The boy fled to his grandmother's, and the attackers made off for parts unknown. Heinrich's father, a former policeman, said: "He's my hero. I am so proud of him. This was our worst nightmare but we never thought it would really happen."

Crime Explosion

These incidents are not particularly unusual—at least not for South Africa, where all three took place. An explosion of violent crime, since the African National Congress (ANC) took power, has resulted in hundreds of South Africans walking the streets armed.

For the reporting year 1975–76 there were 6,000 murders in South Africa. By 1985 the total had risen to 8,959. By 1995 it had almost tripled to 25,782. Since then the number of murders has hovered around 25,000 per year. Twenty-five years ago the number of rapes stood around 15,000 per year. Now it averages around 50,000. During the same period robberies went from about 38,000 to 150,000. In the Johannesburg area about one in four of every homes is burglarized over a one-year period. In 1998 alone there were almost 800 attacks on farms and 134 farmers were murdered.¹ For over a year the government put a moratorium on crime statistics, arguing that the methods used to collect them lead to errors. When the moratorium was lifted the new statistics showed that while a few categories of crime declined, the total number of serious crimes had in fact increased.

Many South Africans see gun ownership as their only option. The centralized national police force has become a toothless tiger. Mismanagement and corruption have taken their toll. Officers are being hired to meet racial quotas, but many of them cannot read, write, or even drive a patrol vehicle. Many simply do not turn up for work at all. In Johannesburg there are 94 police officers absent on any average day. The metropolitan area, with over 2.5 million people, only has 3,410 police officers to cover all shifts.

The *Mail & Guardian* reported that during a 17-month period 340 officers were charged with helping prisoners escape; 195 with armed robbery; over 7,000 with assault; 306 with corruption; 291 with fraud; 332 with murder; 16 with operating a brothel; 149 with rape; 171 with robbery; 1,550 with theft; and 130 with stealing cars. These charges alone amount to over 10 percent of the active police force.²

Another reason for the explosion of crime is that crime does pay, at least in South Africa. In 1997 there were 13,011 car hijackings. But there were only 1,099 prosecutions and only 209 convictions. Less than 2 percent of car hijackings lead to conviction. Some 85 percent of murderers are never convicted, and the same is true for 93 percent of all rapists.³

So how does the South African government intend to battle crime? By cracking down on the private ownership of firearms. New legislation has made it significantly more difficult for individuals to legally own firearms. Of course, the legislation has no effect on the illegal ownership of any weapons by criminals, including the state's "lost" fully automatic weapons.

One argument for the crackdown is that criminals steal guns from private citizens. But the National Firearms Forum (NFF) contends that less than 1 percent of privately held guns are stolen in any one year. It says that government documents indicate that 200,000 government-owned weapons have gone missing. A spokesman for the Department of Safety and Security admitted that from 1990 to 1999, 14,636 firearms issued to police officers were stolen or lost. The NFF notes that "the government's own security services have been a far greater source of stolen firearms than the private sector." The NFF also argues that only one out of 200 armed offenses is committed with a licensed gun, clearly indicating that the legal ownership of firearms is not the source of weapons for criminals. A study commissioned by Gun-Free South Africa, specifically to show negligence of firearms owners, failed to produce any evidence of negligence.⁴

According to “South Africa Survey 1999–2000,” a total of 29,550 weapons were stolen with 2,420 of them recovered. That’s one gun stolen per 1,373 people. The government admits that 1,802 weapons were stolen from police officers, a rate 22 times higher than among civilians, or one gun per 60 officers.

Armed criminal attacks have become a daily occurrence. If privately owned weapons are not being used, where did all the guns come from? One possible source, which the ANC government is quick to ignore, is its own party structure. For years the ANC, in a joint effort with the South African Communist Party (SACP), engaged in an “armed struggle” to overthrow the apartheid government. During that period the armed wing of the ANC and SACP, Umkhonto we Sizwe, smuggled in tens of thousands of firearms—weapons that for obvious reasons were never licensed. A favorite weapon in the ANC underground was the Soviet built AK-47, which has been regularly used for bank robberies and cash-in-transit heists. Former Umkhonto guerrilla Colin Chauke turned out to be one of the kingpins in the heist gangs. He was also the ANC councilor for Winterveldt, Pretoria. When arrested he had 1.4 million Rand in cash. After his arrest he “walked” out of prison but was later seen at a birthday party for a member of the Cabinet.

Yet the government has implied that the rise in crime levels is somehow attributed to legal gun ownership. Contrary to government belief, massive increases in crime levels did not follow massive increases in gun ownership. No evidence has been presented showing gun ownership behind the crime wave. But there is plenty of other evidence that shows other causes: such as police corruption and inefficiency, and low conviction rates. Alex Holmes, NNF chairman, has pointed out: “By world standards South Africa has a relatively low ratio of firearm ownership. Lower than every major European country and far lower than countries such as Canada, Australia and New Zealand. Canada, for instance has five times as many firearms per capita as South Africa.”

Holmes points out that neighboring Swaziland has an almost complete ban on gun ownership yet the murder rate there is 20 percent higher than in South Africa. The fact is that legally owned firearms are almost never used in the commission of crime. Yet the new legislation only targets legal owners of guns. M.E. George, chairman of the Parliamentary Portfolio Committee, which held hearings on the Firearms Control Bill, admitted that there was no point in making laws for criminals. This despite denials by Minister of Safety and Security Steve Tschwete that the new law did not target licensed firearm owners.

Firearms Control Act

Under the Firearms Control Act legal gun owners are allowed to own only one handgun for self-defense. Firearms above that limit, unless dedicated for sporting purposes, have to be disposed of within 60 days or handed over to the state for destruction without compensation. Under the new law all current firearm licenses will remain valid for only five more years. After that anyone wishing to continue owning a firearm will be required to obtain a “competency certificate,” valid for five years only, from an accredited training organization. Competency will include firearms handling as well as knowledge of the law. A need for self-defense or sport must be shown. Self-defense licenses are valid for two years only, and sportsmen, hunters, and collectors must belong to an accredited club or organization. All accredited organizations will be required to forward details of members and their activities to the Central Firearms Registry.

Although the new Act provides for licensing for self-defense, implementation of the clause is left up to police officials. Already it is becoming clear that government is using its discretionary powers under the law to deny license applications. According to the opposition Democratic Party (DP), about one-third of all applications are turned down, many for illegal reasons. According to the DP, applicants were rejected on the basis of gender, age, marital status, and economic

circumstance. One applicant's refusal said: "The applicant mentioned that she is married and would therefore have a husband for protection who could be a firearm owner. Applicant mentioned that she is afraid of high crime rate, but it doesn't seem that she have [sic] experienced problems in the past, or was a victim of any crime." Another refusal said: "Applicant is illiterate . . . has no telephone number." And another: "Being single the applicant has no dependents to protect and no property for that matter. The life of this applicant is not at risk at any time and his motivation does not convince the decision officer."⁵

Even the government admitted that the new act was badly written and has ordered several rewrites. One criticism was that a gun owner would need a permit for his gun, but if he took the gun apart for cleaning he would need a permit for each separate piece and would not be permitted to make even minor repairs or improvements.

DP Member of Parliament Douglas Gibson has pointed out that guns currently legally owned will have to be disposed of or handed over to the state. Some estimates put the number of these "excess" firearms at 500,000 for the first year. Realistically the number is probably larger. There are approximately 1.9 million licensed gun owners in South Africa who currently hold licenses for 3.5 million firearms. Limiting ownership to one gun per license holder would mean that there are probably 1.6 million excess firearms.

Many legal gun owners, who are almost never involved in criminal activities, will get rid of their "excess" guns any way they can before the ban comes into effect, especially since confiscation by the state is without compensation. Gibson asks: "Will this not increase the pool of illegal firearms and flood the market with cheap weapons, making them more accessible and the victims of crime more vulnerable?"

The new law also states that any person would be "presumed guilty" of illegally possessing a firearm if he is in a vehicle with other people in which a firearm is found. A driver of a car is also in violation of the law

if any passenger in his car is carrying an unlicensed firearm. A similar fate awaits any property owner if even a single cartridge is found anywhere on his property. And even licensed firearms owners will face ten years in prison and loss without compensation of all their firearms for simply leaving their licenses at home.

Toward the end of July, the South African police orchestrated a series of raids on the homes of licensed firearms owners. Captain Ntabiseng Mazibuko said the raids were conducted to see if gun owners were adhering to the new "rules and regulations." The police claim that "Every gun owner has a responsibility to keep his or her gun in a safe, secure place." Captain Mazibuko says: "Police can actually confiscate your gun if they feel that it is kept in an unsafe place."⁶

In keeping with government policy, the new legislation also confers unspecified powers on the government. This bill says: "The Minister may by notice in the Gazette, from time to time, make regulations for all or any of the following purposes: —to provide for any other matter that the Minister may consider expedient to promote the purposes of this Act." In other words the new firearms act gives the South African government the power to do anything it wishes provided it helps promote gun control and confiscation. And unlike legislation, the new regulations will not have to be debated or open to public input.

Finally, the Firearms Control Bill creates "gun free" zones where weapon ownership would be illegal. Churches, schools, hospitals, bars, and shebeens (illegal bars) were proposed right away for this category. But now government officials are talking about adding entire neighborhoods to the list—particularly black townships with high crime rates.

The new legislation was drafted by a private nongovernmental organization, the Institute for Security Studies (ISS). The ISS drafted the legislation with funds supplied by the British government. According to Minister Tshwete additional funds for the drafting were supplied by the U.N. Office for Drug Control and Crime Prevention as well

as the U.N. Development Program.

The South African Law Commission has also recommended a victim-compensation policy that targets gun owners. Because of the high rape levels in the country, the commission first suggested 2,000 Rand in compensation to anyone reporting that she has been raped. The government naively assumes that reported rapes will remain steady and thus the compensation will cost some 98 million Rand. Any first-year economics student would tell you that reported rapes will, in fact, increase massively especially since, according to the last census, well over 2 million South Africans have incomes below 6,000 Rand per year. And since that census, unemployment has been rising by about 100,000 per year.

The compensation plan is to be financed by taxing ammunition and guns at higher rates. Yet studies in the United States, according to Douglas Laycock, show "That there is no evidence that hunters or gun enthusiasts are disproportionately prone to rape. One study found no correlation between reported incidents of rape and the number of hunting licenses issued in a jurisdiction; another study found statistically significant negative correlations after controlling for population. A third study found no correlation between rape and the number of subscriptions to gun and hunting magazines. A fourth study found no correlation between gun ownership and attitudes toward feminism. Guns are used in only 9 percent of all rapes and attempts, and it is a reasonable guess that nearly all of these are handguns."⁷ Under this compensation plan gun owners are being targeted to pay for crimes they are not likely to commit.

There is, in fact, reason to believe that making it more expensive to own guns, thus limiting gun ownership, will lead to higher rape rates as a consequence. One major rape study done by Brandeis University found that woman who forcibly resist rape are far less likely to be raped than women who use nonforceful responses. The authors of the study said: "Such nonforceful verbal, sex-stereotypical responses (e.g., begging, plead-

ing, and reasoning) following violent physical attacks might thus coincide with how many rapists want a woman to act."⁸

John Lott's study of crime, *More Guns, Less Crime*, shows that as states legalize the carrying of concealed weapons, crime rates, including that of rape, decreased significantly.⁹ In a study published in the *Journal of Legal Studies*, Lott and David Mustard looked at crime data from all 3,054 U.S. counties from 1977-92. When a county changed gun-control laws so that officials were required to issue gun licenses on request, thus making gun ownership much easier, all major crimes declined. Rape declined in these counties by 5.2 percent. The study showed that if less-restrictive gun laws had been passed in all the counties, there would have been 1,414 fewer murders, 4,177 fewer rapes, 11,898 fewer robberies and 60,363 fewer aggravated assaults.¹⁰

South Africa's assault on gun ownership is a boon to criminals. Gun owners are being penalized because the government has decided that legal and only legal gun ownership should be radically reduced. And all this is being done by the African National Congress, a party that came into power largely as the result of protracted armed struggle that it carried out against the previous government. □

1. All crime statistics come from various editions of "South Africa Survey," published yearly by the South African Institute of Race Relations. The "Survey" is the bible of statistics on all aspects of life in South Africa.

2. Jim Peron, *Die, the Beloved Country?* (Johannesburg: Amagi Books, 1999), pp. 95-112.

3. "South Africa Survey, 1997-1998," pp. 23-53.

4. Antony Altbeker, "Are South Africans Responsible Firearm Owners?" Policing Programme, Graduate School of Public and Development Management, University of Witwatersrand, commissioned by Gun-Free South Africa.

5. Hugo Hagen, "Broadside Fired at Gun License Abuse," *The Citizen*, August 1, 2001, p. 9.

6. Carol Hills, "Row as Police Raid Gun Owners," *The Citizen*, August 2, 2001, p. 1.

7. Quoted in Mary Zeiss Strange's "Arms and the Woman: A Feminist Reappraisal," in David Kopel, ed., *Guns: Who Should Have Them?* (Amherst, N.Y.: Prometheus Books, 1995), pp. 22-23.

8. Sarah E. Ullman and Raymond A. Knight, "Fighting Back: Women's Resistance to Rape," *Journal of Interpersonal Violence*, March 1992, p. 33, quoted by Strange.

9. John R. Lott, Jr., *More Guns, Less Crime* (Chicago: University of Chicago Press, 1998), p. 137.

10. John R. Lott, Jr., and David B. Mustard, "Crime, Deterrence and Right-to-Carry Concealed Handguns," *Journal of Legal Studies* 26 (1997), p.1.