

THE FIREARMS CONTROL AMENDMENT BILL AND THE REMOVAL OF CITIZENS' RIGHT TO DEFEND THEMSELVES

The FW de Klerk Foundation shares the alarm of many South Africans over the recently published Firearms Control Amendment Bill which, among other things, seeks to remove self-defence as a reason to own a firearm in South Africa.

The Constitution guarantees the right to life and the right to freedom and security of the person - which includes the right to be free from all forms of violence whether they are of a public or private nature. Indeed, the right to life may be regarded as the most fundamental right of all - because, axiomatically, without it none of the other constitutional rights can be enjoyed. The right to freedom and security of the person - not to be subject to violence or rape - is crucial for the enjoyment of the capstone right to human dignity.

For this reason, the protection of the lives and persons of citizens is generally regarded as the most fundamental function and duty of any state. Yet, in the case of South Africa, it is a duty that the state has lamentably failed to carry out.

South Africa's murder rate of 35,9 per 100 000 people (2019) is the second highest of any country in the world with a population over 4 million. The highest is Venezuela with 36,69/100K in 2018 - but with only about half South Africa's number of murders. And the situation is deteriorating. The Minister of Police, Mr Bheki Cele recently released the latest SAPS crime statistics for the first quarter of 2021 - indicating an increase in murder and attempted murder of 8,45% and 8.7% respectively. The shocking reality is that more than 500 000 people have been murdered in South Africa since 1994. That is about 100 000 more than the number of US servicemen who died in World War II.

South Africa also has the highest rape rate in the world with 132,4 rapes per 100 000 people. The second highest - Botswana - lags behind South Africa with 92,8/100K. (The EU average is 10,19/100K and that of the USA is 27,3/100K.)

South Africa is undisputedly one of the most violent countries in the world. The state is clearly incapable of carrying out its primary duty of protecting the lives and persons of its citizens. And so, unfortunately, for many South Africans, owning a firearm is often the only legitimate way of protecting themselves, their families and possessions. This is particularly true of the country's embattled farming community.

The Bill must also be viewed in the context of a number of related developments including -

- recent budget cuts to the South African Police Service (SAPS) that will leave millions of South Africans even more vulnerable to crime - (although the budget of the VIP Protection Unit has been increased to R1,7 billion);
- the complete disarray at the SAPS Central Firearms Registry in Pretoria with an estimated backlog of over 1 million cases;
- unacceptable backlogs (more than 208 000) in DNA and forensic case exhibits at the SAPS Forensic Science Laboratory - which Mr Cele has admitted to being "completely unacceptable"; and
- a rise in violent mob-justice incidents (as recently seen at Zandspruit near Johannesburg) where residents indicated that the reason the community took the law into their hands was a lack of police response to crimes in the area.

South Africa's astronomic crime statistics - particularly for violent crimes such as murder, rape, armed robbery and GBV - unfortunately confirm the institutional incapacity of the state to protect people and safeguard the lives and persons of its citizens - and especially of its most vulnerable populations.

The explanation given by the Minister Cele, for stripping South Africans of their right to use firearms to defend themselves is entirely unconvincing. He says that the reason "is to curb the rise in illegal firearm ownership."

He is evidently trying to create the impression that legal firearms - and not the state's incompetence - are the cause for increased crime rates in South Africa - intimating that "once these get stolen, they become illegal." Rather than disarming South Africans and removing the only option they may have to defend themselves, the Minister and SAPS should address their own institutional failures to carry out their most fundamental duty to protect their citizens.

A disturbing question remains: why - at this increasingly volatile time in the evolution of our post-1994 society - does the government actually want to disarm its citizens?

A copy of the Bill (published on 21 May 2021) can be found [here](#) and commentary must be submitted to the Civilian Secretariat for the Police Service within 45 days:

http://www.policeseecretariat.gov.za/downloads/FAC_Bill/GOVERNMENT_GAZETTE_PUBLICATION_FCA_BILL.pdf

<https://legal.sabinet.co.za/legislation/firearms-control-amendment-2021/>

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