

Commentary on ISACS 03.30 National regulation of civilian access to small arms and light weapons. ISACS 03.30:2015(E) – draft 3.1

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Thank you for the opportunity to provide my thoughts on Module 3.30 National regulation of civilian access to small arms and light weapons.

I find this module totally unacceptable and cannot support it. The proposed regulatory scheme is arbitrarily complex and makes exceptionally flattering assumptions about government that are simply inappropriate in the real world. If adopted, this module would not only be ineffective in fighting criminal violence, but at the same time would stimulate the growth of expensive bureaucracies. It is even likely that these proposals could facilitate corruption.

This module reveals CASA's profound misunderstanding of the natural rights of citizens and their relationship to government. I understand that the UN must, for procedural reasons, treat every country, whether democracy, kingdom, republic, tyranny, or even murderous dictatorship, with the same consideration, but that does not justify this module where the proposed regulations are more compatible with military occupation than with responsible policing. I also understand that this module is just one piece of the ISACS regulatory apparatus, focusing exclusively on civilian firearms, but the assumption underlying all ISACS modules is that armed citizens are inherent threats to public safety. Egregiously, this module ignores the basic principles of democratic government, that citizens are the ultimate arbiters of governmental legitimacy. Despite polite nods towards hunters and target shooters in the introduction, this module contains no provision for considering armed citizens as playing a large and effective role in conservation, nor for being responsible for protecting themselves, their families or their property, nor as resources in fighting crime or terrorism. Draft 3.0 did include self defence and this should be reinstated.

It is worth pointing out that self defence is a human right. (See Kopel's law review article). A concern with protecting oneself, one's family and property is not limited to Americans. Certainly Jews in Europe should consider arming themselves against attack. History suggests that trusting government for protection is less than optimal.

Despite claims in the introduction that, "ISACS modules were drafted in accordance with the rules set out in ISO/IEC Directives, Part 2, Rules for the structure and drafting of International Standards," the proposals in this module, like other ISACS modules, fail to meet the requirements of International Standards because the development process is a parody of consultation. Despite claims in the introduction, the proposed module does not represent standards or best-practice guidelines, but merely the wish list of internally favoured participants. There are widely accepted procedures for developing "standards, best practice guidelines" but, as has been pointed out earlier by another member of the Expert Reference Group, ISACS does not respect nor follow them. Instead of legitimate consultation, ISACS modules are based upon the

opinions and feelings of activists from a small number of predetermined NGOs. The words of an earlier critique are worth reiterating here: “By circumventing careful debate and by ignoring contrary points of view the drafters of the ISACS modules have either willfully or ignorantly embraced judgmental and factual errors that defeat the credibility of the end product and the role of those involved in its preparation.”

The recommendations in this module are unduly complex as well as arbitrary. At the very least it would be an expensive burden to taxpayers without improving public safety. Indeed, two countries (Canada and New Zealand) have found the approach proposed in this module to be impracticable and have scaled back universal registration among other pointless restrictions. At the worst, the proposed regulatory system would contribute to undermining democracy and encourage tyrants.

None of this critique is to deny that a nonpolitical and respected police service is indispensable for maintaining public safety. My point is simply that arbitrarily complex laws invite citizens to become scofflaws and encourage police to abuse their authority through capricious enforcement. Unfortunately, the proposed module violates the basic rules of policing in a democracy that were set out by Sir Robert Peel, the father of modern policing, in 1822 when he founded the London Bobbies. (See Table 1 at the end of the paper for Sir Robert’s rules.)

For countries in the developed world (e.g., France), the proposed gun control regime is at best an expensive burden to taxpayers. This remains true in France despite recent simplifications of the firearms rules in that country. The ineffectiveness of legislation, essentially identical to what is proposed in this module, was demonstrated in the murderous attack on Charlie Hebdo and the kosher market. Despite stringent European and French firearms laws, the murderers still managed to obtain military weapons, such as fully-automatic rifles, while the gun laws disarmed the victims and even their professional guards. The EU is to be commended for having recognized that the real problem remains illegal trafficking in military small arms.

For less well-developed countries, many of which lack the necessary cultural infrastructure to support a complex and effective bureaucracy (as demonstrated by Sierra Leone in the recent Ebola outbreak) these modules outline a regulatory regime that is far too complex to be even minimally functional. These modules do a disservice to poorer countries by encouraging them to ape Europe’s excesses. In countries such as the Republic of South Africa, these modules produce a Kafkaesque bureaucracy and invite corruption. Nor has Canada been immune to similar abuses of authority (viz. the Auditor General of Canada’s reports). If violent misuse of firearms is to be addressed in a cost-effective and realistic manner in developing countries, there should be long-term basic security programs to encourage safe handling and storage for civilians who own firearms or who wish to purchase them. Any firearms regulatory regime should be simple and subject to declaration rather than requiring prior authorization. This is particularly important in a conflict or post-conflict situation where the concern is primarily with arms already distributed among the population at large.

In conclusion, I cannot support the regulatory apparatus proposed in this module as it has been shown to be ineffective, overly complex and to facilitate corruption. In support of these claims I have appended a list of respectable research studies that examined the gun control systems in

Australia, Canada, Jamaica, the Republic of Ireland, the United Kingdom, the USA, and several European countries.

Respectfully submitted, February 2015

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Table 1
PEEL'S NINE PRINCIPLES OF POLICING:
Sir Robert Peel, England (1822)

1. To prevent crime and disorder, as an alternative to their repression by military force and by severity of legal punishment.
2. To recognize always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behavior, and on their ability to secure and maintain public respect.
3. To recognize always that to secure and maintain the respect and approval of the public means also the securing of willing cooperation of the public in the task of securing observance of laws.
4. To recognize always that the extent to which the cooperation of the public can be secured diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objectives.
5. To seek and to preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustices of the substance of individual laws; by ready offering

of individual service and friendship to all members of the public without regard to their wealth or social standing; by ready exercise of courtesy and friendly good humour; and by ready offering of individual sacrifice in protecting and preserving life.

6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public cooperation to an extent necessary to secure observance of law or to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interests of community welfare and existence.

8. To recognize always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the state, and of authoritatively judging guilt and punishing the guilty.

9. To recognize always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

Source: Charles Reith, *A Short History of the British Police*, (London: Oxford University Press, 1948).