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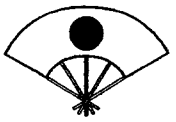

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Reply to Consultation Document: Tackling Knife Crime

Response from: Gavin S. Murray Threipland on behalf of the British Kendo Association

Introduction:-

The British Kendo Association (The BKA) is the National Governing Body in the UK for the Martial Arts of Kendo, Iaido and Jodo. The BKA is a founder member of the Sports Council (now devolved in Sport England, Sport Scotland, etc), the International Kendo Federation and the European Kendo Federation. The International Kendo Federation is the international arm of the All Japan Kendo Federation, which governs Kendo, Iaido and Jodo worldwide.

Members compete both domestically and internationally in all three arts, and we subsidise the British teams when they are competing in European and World championships.

We have approximately eighty clubs all over the UK, with seven in Scotland, based in Glasgow, Edinburgh, Aberdeen and St. Andrews. In 2003 we hosted the 12th World Kendo Championships at the Kelvin Hall in Glasgow, at which Her Majesty the Queen and His Highness the Duke of Edinburgh were gracious in granting a visit. In July 2004 and July this year we hosted international events in Edinburgh.

Kendo is Japanese fencing, where the practitioners use bamboo fencing staves to strike an opponent on various targets that are protected by padding and armour. Practitoners also perform *kata*, or set forms using *bokken*, or wooden swords, and sometimes metal swords. Kata are practiced with a partner, and there is no contact other than between blades.

Iaido is practised solo, and is the art of the drawing of the sword. Beginners use bokken, but the mostly *iaito* are used. These are Japanese swords where the blade is made of a non-ferrous alloy that can't hold an edge. They are specifically designed for Iaido practice, and are unsuitable for anything that involves blade to blade contact. Advanced practitioners use a properly forged steel sword, and these are normally termed *shinken.*

Jodo is the art of the short staff (about 128 cm) and is practiced with a partner, one of whom is using a bokken (wooden sword). There are set moves and sets of moves, and the contact is controlled. There are other subsidiary arts associated with Jodo, such as Tanjo (very short staff), Tessen (folding fan), Jitte (truncheon) and others.

Also associated with these arts is Kenjutsu, which are the classical Japanese sword arts, and from which kendo is derived. Some schools of Kenjutsu have great antiquity, and some are regarded in Japan as national treasures. Kenjutsu practitioners mostly use bokken, but there are also techniques where one or more of the practitioners are unarmed.

In all the above arts there is a strong emphasis on personal development as a human being, with a high moral standard being implicitly inculcated along with practice, culminating in the stage where the sword is *not* to be used in solving disputes. Most members who are active have cultivated friendships and contacts from all over the World, thus contributing ultimately to a more benevolent view of other peoples and cultures.

Tackling Knife Crime: the Consultation Document.

The BKA committee only recently became aware of the availability of this document, and some of the issues addressed therein have been discussed informally by some of the membership. It seems that the main area of concern is swords in general and so called "Samurai swords" in particular. Thus the BKA feels it must reply as any legislation applied indiscriminately could adversely affect the practice and development of Kendo, Iaido and Jodo in Scotland. Iaido in particular will be affected. The term "Samurai Sword" is one that has current use by the various media when reporting crimes, and the use of this term makes many of the more knowledgeable members cringe every time they hear it.

During the winter of 2004/2005, when this issue was aired in parliament, I personally heard and received comments from all over the world. These expressed surprise, alarm and even some ridicule.

Also it seems that in every outrage committed using "Samurai swords", the weapon used is a cheap, low quality replica, not even originating from Japan, and not a properly made Japanese sword.

The equipment used by members of the BKA who practise Iaido in particular is of high quality, and tends to be expensive. Yet such good quality equipment, used for quite legitimate purposes, would fall under the definition of "Samurai Sword" as set in the consultation document.
Also there are weapons covered under the definition under paragraph 22 which no-one under any circumstances would term a sword. For instance spears, halberds and the like.

Tackling Knife Crime: the Questionnaire.

Q1. Should a licence be needed to sell non-domestic knives?

While such a scheme may be desirable in which access is restricted to non-domestic knives, such a scheme will serve to make criminals obtain domestic knives or other implements commit crimes.

Q2. What types of knife should be covered by the definition of a non-domestic knife?

There are a huge variety of knives, all designed for various purposes in a myriad of activities. If someone is working in their own garden, does this come under a knife for domestic use or not? Some knives are readily identifiable as belonging to a specific trade, or a specific martial art. Perhaps non-domestic knives could be defined as a "bladed instrument not for use in the home or garden, trade, art or business, and which has no cultural or historical significance.

Q3. What conditions should be imposed on someone seeking a licence to sell non-domestic knives?

The conditions that are outlined in the consultation documents seem to be very onerous, what with CCTV, blacked out windows and checking buyers credentials. But if such a scheme were implemented, then obviously a minimum requirement of a clean record and checking buyers' credentials would be required.

Q4. What would be the costs for businesses of licensing the sale of knives?

As far as the BKA is concerned, most equipment is bought by mail-order, and very little in high-street shops, this being due to the fact that the equipment is specialised and expensive. If the shops in Scotland have to be licensed, then this would impose added expense, which will be passed on to customers, who may feel that it will be cheaper to buy from overseas or over the border. The cost to smaller businesses might be going out of business altogether.

Q5. Should it be a criminal offence to purchase a non-domestic knife from an unlicensed dealer?

This would put an unfair burden on the buyer, especially those who are buying a knife for quite legitimate purposes. Also if a buyer purchases via mail-order from an overseas supplier who does not fall under Scottish jurisdiction, would he be breaking the law?

Q6. Should shops require a licence to sell swords?

While such a scheme could be put in place, for it to be fair to legitimate users of knives and swords, there would be so many exceptions, sub clauses and extra paperwork that it

would be rendered invalid. The only category of swords that should be restricted by licensing are the cheap replica swords that have no artistic or collectible merit or no practical use to martial artists or performing artists.

Q7. Should the sale of swords by shops be restricted to require them to sell only to members of approved organisations.

Should the State (even local government) pronounce on the suitability of organisations carrying out legal activities? As far as the BKA is concerned, who outside the BKA is qualified to assess whether we should be approved or not? This would be very divisive, and cause much dispute within and among organisations. The legal squabbles that would result don't even bear thinking about.

Another concern is that individuals with malicious intent may join an approved organisation to legally obtain a weapon. This puts a tremendous burden on organisations and some could well fold under the pressure of keeping such individuals out, which is well nigh impossible.

Q8. Should the sale of swords be banned?

No. As outlined in Q6, such a ban would end up with so many loopholes and exceptions that it would not be a ban at all.

Also there does not seem to be a case for banning culturally or historically significant swords, so why burden everyone with the extra trouble and expense for no purpose?

Q9. If so, should there be any groups who are exempted from that ban (i.e. should there be any reasons/uses for which it remains legitimate to sell swords)?

Exceptions would include dealers in antiques, culturally significant swords, legitimate manufacturers of swords, modern swords that are significant or have ceremonial use (regimental, masonic, etc), dealers and manufacturers in bonafide martial arts and sporting equipment. Dealers in theatrical equipment. The list goes on.

Q10. Should the sale of only Samurai swords be banned?

No, unless the ban is on the cheaper replicas. Such replicas are often of inferior manufacture, with the blades often made of stainless steel. Most club leaders in the BKA do not allow them to be used in their clubs as they are dangerous to practice with.

Iaido practitioners use swords of various materials, depending on budget and level of expertise. Iaito, which are made from non-ferrous metal are specifically designed for practice, and are of good quality, and there is no manufacturer in the UK for these items.

Under the rules of the International Kendo Federation, advanced practitioners are obliged to use traditionally made Japanese swords for examinations. Such swords are expensive (minimum £2000).

Also individuals buy from other individuals. This is quite common in the BKA as often a practitioner sells a sword to finance the purchase of another.

Also some BKA members are collectors of Japanese swords, some of whom are consulted by insurance companies, museums as well as private individuals, and are of international repute. A ban on sales would hamper their collection of knowledge.

Q11. Should any groups of people be exempt from that ban?

Legitimate Martial Arts groups. Not just those who practice kendo. There are for instance, aikido, and judo and other martial arts groups who use Japanese swords for training.

Collectors, historians, performing artists, museums .

To reiterate, swords that are used for legitimate purposes don't seem to be the problem, so why restrict and hamper the groups and individuals that don't seem to cause any problems?

Q12. How should a Samurai Sword be defined?

The Samurai were the military class in feudal era Japan, so any sword carried by them could be called a Samurai sword. There were long ones, short ones, some straight, most curved. Some had two edges, most one. Some were specifically carried by women. So defining a "Samurai Sword" could be a major problem.

A Japanese sword could be defined as "a sword made in Japan, forged with one or more pieces of iron and steel and folded and shaped, differentially tempered to produce a hard edge and resilient core".

The problem with this is that some sword are now being made by qualified swordsmiths in the United States, China and elsewhere, and yet they are for all intents and purposes a properly made Japanese sword, but couldn't fit into the above definition.

Perhaps the best way to define a Samurai sword is to use the various Japanese definitions, of which there are many.

Perhaps the way to go for the purposes of legislation, is to use the term "Japanese style sword", and then qualify by adding "traditionally made" or "for martial arts practice" or "replica" or "mass produced".

Q13. Is there a case for the individual licences for the purchase of swords?

Historic, antique, culturally interesting swords do not seem to be the problem in street crime, so there does not seem to be a need. Also individual licensing would inevitably lead to covering swords already in possession, and to administer that would be a huge task. Would it cover only sharp swords, or practice swords as well? It would restrict the freedom of a large number of law-abiding individuals. Cheap replica swords that have

no useful or artistic merit can be dealt with by placing restrictions on the import of such items in the first place.

Concluding remarks

Any sort of ban, for it to work, either has to be total, or has to have the backing of society at large. Restrictions keep the law-abiding citizen restricted, while criminals often are not worried about them. A ban on non-domestic knives just means that a domestic knife or other instrument will be used instead. Surely it is the carrying of knives and swords that must be policed, not the possession or sale of them.

If I stuck a sword through my belt and walked down the street, I would, under current law be arrested and charged. If I was carrying a carving knife down the street, the same thing could happen, unless I had a good reason. Such laws are already in place. Restricting the use, sale and possession of legitimate swords will not reduce the level of street crime.

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