

Self Defence and the Law

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Taekwon-Do means "art of hand and foot fighting" as we have learnt through ITFNZ. It is more than this. It is the scientific use of the body in methods of self defence, this along with mental conditioning which separates the true Tae Kwon Do practitioner from the street brawler.

A true practitioner would never use his knowledge outside "dojang conditions", other than for his or her protection or the protection of others, i.e. in self defence.

This mental conditioning that is taught in Taekwon-Do, e.g. Tenets and the Students Oath, etc, which are continually reinforced to students from day one, mean that the student should at all times exercise self-control, etc., and not get involved in fights on the street except for their self defence, or use more force in those situations than is necessary.

However, it is important to understand what self defence means from the law's point of view in order to understand the protection you have under the law in situations when you are required to defend yourself, and where self defence stops and becomes an assault.

Self defence is defined in the Oxford Dictionary as "means to act in defence of one's self or reputation".

Self defence as defined in Section 48 of the Crimes Act 1961, "provides for self defence and defence of another", and states that everyone is justified in using in the defence of himself, herself or another, such force as is necessary in the circumstances as he or she believes it is reasonable to use.

What this piece of legislation is saying is that you have a defence in law that you can use to explain your actions where you have used force against another person. However, there is certain criteria that must be met. You may have to be able to justify your actions to a policeman, lawyer and more importantly, to a judge, that (1) in the circumstances as you believed them at the time, it was necessary to act as you did and (2), that what you did was reasonable.

For example:- a drunk person in a hotel being a nuisance and rude, etc, is hardly good circumstances or reason for you to knock him to the ground. However, if he has had a bottle in his hand and had it raised above his head as if to strike you with it, it would probably be reasonable to knock him down and out. If then once this threat has gone, ie: the drunk is on the ground holding his head with the bottle well out of harm's reach, you could hardly claim justification in continuing to attack the drunk. If you did, in effect self defence becomes assault.

Assault is defined in Section 2 of the Crimes Act 1961 and is identical to the definition of assault in the Summary Offences Act 1981 and says, "an assault is an act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or

causes the other person to believe on reasonable grounds that he has present ability to effect his purpose and to assault has corresponding meaning".

After reading this definition you can see as soon as you punch or kick someone you technically commit an offence of assault. However, if you are acting in self defence as with the previous drunk, you have a defence or protection under the law for your actions.

Under this definition you also commit an assault if you attempt to hit a person, even if you miss, as long as you intend to hit someone whether you hit him or not, as soon as you make the action you commit an assault.

Assault can be indirectly applied, e.g. in a situation when someone punches a woman holding a baby, causing the woman to drop the baby, that person has assaulted two people, (1) by hitting the woman and (2), by hitting the woman and thus causing her indirectly to drop the baby.

Another important consideration to assault is the act of threatening to hit someone by any act or gesture where the other person believes reasonably that you are capable of carrying out your threat, this is also an assault.

You may make the statement that then every time we spar we then commit an assault and all of us should be arrested, however, there is a proviso to this situation called, 'the Defence of Consent'. When you are sparring, boxing or wrestling, etc, you are consenting to the chance that you may be physically harmed.

Taekwon-Do as we practice it, means that it is extremely unlikely that we should come under the scrutiny of the law for the use of force, mainly because of the importance of the "mental conditioning" aspect of our training, i.e. the skilled use of physical and mental self defence. However, an understanding of assault and self defence in the eyes of the law is important because we are involved in a martial art utilising the application of force by one person onto that of another.