

# Preface

## History of the Gun Debate—Right or Privilege?

Gunpowder was discovered in China in the ninth century CE, as a byproduct of experiments by alchemists searching for substances that could extend human life. Their discovery, ironically, would give rise to a lineage of weapons that made it far easier to bring about the opposite result. Gunpowder and cannons, which were also invented in China, were passed along the Silk Road trade routes, replacing siege weapons as the tools of mass warfare. Then, in 1364, a new arms race began with the invention of the first handheld cannon, which gave rise to the matchlocks (devices that connect a wick to a store of gunpowder), the wheel locks, the revolvers, the automatic pistols, assault rifles, and all other firearm families that followed suit. The invention of personal, portable firearms changed the world in myriad ways, fueling the foundation of new civilizations and the fall of others. The legacy of guns is complex and alternately heroic and horrific. The great cultures of Africa, Indonesia, and the New World fell because the indigenous inhabitants couldn't compete with the technological tools that accompanied European invaders and so guns powered colonialism, slavery, and genocide. As the oppressed co-opted the tools of the oppressors, guns also empowered rebellions and revolutions.

In many ways, guns and the United States evolved side by side. Historians believe that the first gun in the United States was likely an arquebus, or “hook gun,” a long-barreled musket style weapon ignited by a matchlock. Spanish explorer Ponce de Leon's historic visit to the Florida peninsula in 1513 was most likely the first time anyone brought a firearm onto American soil, and the descendants of these early muskets would go on to play a major role in the foundation and expansion of the United States.<sup>1</sup> Guns were rare in the United States until the Civil War, but nevertheless played an important role in both the American revolution and the long genocidal struggle to wrest control of the land from its indigenous inhabitants.<sup>2</sup> From musket firing lines of the American Revolution to the iconic American gun makers—like the now famous Colt's Fire Arms Manufacturing Company or E. Remington and Sons—whose weapons became synonymous with the “Wild West” and American expansionism, guns were so essential to the foundation of the nation that the very idea of firearms, and public firearm ownership, has been conflated with American nationalism. This now venerable idea, that guns are emblematic of American identity, is the substrate of an equally old debate over the right of the state to limit access to dangerous technology in the interests of public welfare versus the right to own, carry, and collect weaponry for self-defense, hunting, entertainment, and to protect against governmental tyranny.

## Rights and Privileges

In many nations, gun ownership is a privilege available only to those who can demonstrate behavior responsible enough to warrant being allowed to own a dangerous



## x Preface

weapon. In the United States, gun ownership is a right, with the burden placed on the state to justify restricting weapon ownership, rather than on the individual to prove that he or she is qualified to own a weapon.

The right to own weapons is not unique to the United States. In the Roman Empire, free men (but notably not slaves) were given the right to own and carry swords for personal protection. Proponents of gun rights can find philosophical arguments to support their beliefs in the roots of Western culture, such as in the writings of British philosopher John Locke, who wrote that the "...right of self-defense is a fundamental law of nature."<sup>3</sup> The idea that the right to own weapons for self-defense is a God-given or natural law of humanity is one of the philosophical underpinnings of the gun-rights ideology. However, the argument that the proliferation of private weapons is an evil that governments and laws should seek to control is equally ancient. For instance, in number 15 in the 100 "principles of political wisdom," created in Ancient Greece states, "Let the laws rule alone. When weapons rule, they kill the law."<sup>4</sup> Western societies have a long, contentious history of weapons regulations and laws, with one of the earliest laws written in the English language being the English common law statute of 1328, which prohibited the carrying of dangerous or "unusual weapons" as a threat to the common peace.<sup>5</sup>

The idea of a "right to bear arms" was first codified in American law through the 1791 Second Amendment to the Bill of Rights. The Second Amendment was written less than a decade after the United States fought a war for independence with Britain in which citizen militias were an essential element in the American victory. At the time, Americans were fearful of foreign invasion and equally fearful of enabling the newly formed government to evolve into an organ of dictatorship, like the one colonists left Europe to escape. For some, especially in the American frontiers, they were also fearful of the hordes of "savage" tribes living in the rapidly expanding colonial territories and the allegedly dangerous wildlife that stalked American forests, deserts, and plains. From this phobic milieu, the founding aristocracy of the United States deemed it necessary to protect the right of the states to form and maintain militias and this right has been interpreted as the right for ordinary, US citizens, to purchase, keep, and carry firearms. In the defense of the Second Amendment, some display a tendency to treat the US Constitution with an almost fundamentalist fervor more typical of the approach towards spiritual scripture. Whether the rights of the constitution should be treated with this kind of absolutist approach is therefore a secondary subject within the gun-policy debate.

The oft-quoted and just as oft-debated phrase, "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed..." has been interpreted to mean that the architects of the Constitution expressly forbade the United States government from passing any law that would interfere with an American citizen's right to own firearms. However, the federal statute refers only to "militias," and some argue that the document's authors only intended to allow states to build citizen militias, as a safeguard against federal tyranny and dictatorship. It is sometimes argued, therefore, that all citizens compose part of a "general militia," as opposed to a state's "select militia," and





therefore that all citizens, as part of a public militia, are permitted to own and/or carry weapons under the Second Amendment. This interpretation is controversial, but has been favored by past iterations of the Supreme Court and so provides precedent for the legal gun debate in America.<sup>6</sup>

### Gun Control Legislation in the States

In 1837, the state of Georgia, attempted to ban handguns out of concern over the rising number of gun homicides and injuries in the state, and this law became the first of many state laws challenged in the courts. In the 1846 case of *Nunn v. State of Georgia*, the Georgia Supreme Court ruled that the proposed ban violated Second Amendment freedoms and thus established a tradition of using the Second Amendment as justification to prohibit state efforts to enact gun-control legislation.<sup>7</sup> For nearly a century, the pendulum remained firmly with the gun-rights position until the rise of organized crime in the 1920s and the large number of civilian deaths in gunfights, helped to build a stronger and more committed lobby for gun control.

The National Firearms Act of 1934, which placed federal controls on the interstate sale and transport of firearms and prohibited certain types of firearms deemed too dangerous for citizen ownership, was the first federal law to limit Second Amendment freedoms. This was followed by the 1938 Federal Firearms Act, which required all firearms vendors to obtain a federal firearms license, to keep records of their sales, and made it illegal to sell weapons to those convicted of violent felonies. The first judicial test of these laws came in 1939, when Jack Miller, of Arkansas was arrested for transporting an illegal sawed-off shotgun across state lines. He argued that the arrest was a violation of his Second Amendment rights and won his case in the US District Courts. However, the US Supreme Court ruled in the 1939 case of *United States v. Miller* that there was no reason to believe a sawed-off shotgun was necessary for the preservation of a well-regulated militia.<sup>8</sup> The *United States v. Miller* ruling established the idea that, while the Second Amendment gave citizens the right to keep weapons for hunting, self-defense, and to protect against tyranny, this freedom did not necessarily guarantee that all weapons should be equally protected.

Interest in gun control spiked again after the 1963 assassination of John F. Kennedy, and the revelation that assassin Lee Harvey Oswald killed Kennedy used a mail-order gun he obtained through an ad in the National Rifle Association's magazine, *American Rifleman*. The 1968 Gun Control Act was an effort to make it more difficult for individuals to obtain guns and included stronger laws regarding gun licensing. After the attempted assassination of Ronald Reagan, which resulted in the accidental shooting of former Press Secretary James Brady, there was another push for gun control, resulting in the 1993 Brady Handgun Violence Act, which established the National Instant Criminal Background Check System and required gun sellers to check the identity of all purchasers against the system before selling them a weapon. The law, signed by Bill Clinton with Reagan's support, was one of two major pieces of federal legislation passed during Clinton's two administrations. In 1994, Clinton's Violent Crime Control and Law Enforcement Act banned the manufacture, use, import, and possession of 19 different types of assault weapons.



Since the mid-90s, the pendulum has swung in the favor of gun rights. Clinton's assault weapons ban of 1994 expired in 2004, and President George W. Bush chose not to renew it. In 2008, the Supreme Court revisited the issue for the first time since 1939, striking down a Washington D.C. law banning handgun ownership. It was a major victory for gun-rights advocates and represented the first time that the Supreme Court sided with the personal liberties interpretation of the Second Amendment over the rights of states to control gun ownership.

### **Regulation of Dangerous Technology**

One of the widely repeated slogans of America's National Rifle Association—Guns don't kill people, people kill people—is intended to highlight the fact that banning the tools used in murders will not address the reasons that people want to, and do, murder each other. It is also meant to argue that a gun is just like any other tool or weapon, having no inherent moral value except in how the tool is used or misused. The “guns are just tools” argument is factually verifiable and logically defensible, but it is equally true that guns, unlike many other types of tools that are legal for citizen ownership, are inherently and intentionally deadly by design.

When the number of accidental gun deaths each year is combined with homicides, justifiable killings, and suicides, the number of individuals killed with guns each year is roughly similar to the number who die in motor vehicle accidents.<sup>9</sup> This statistic does not provide justification for the prohibition of all firearms, any more than it provides justification for the prohibition of motor vehicles, but it does show that guns, like motor vehicles, are dangerous devices.

Because motor vehicles are dangerous, governments place restrictions on the use of motor vehicles, requiring individuals who own or operate them to demonstrate—not just once, but periodically throughout their lives—that they are aware of motor vehicle laws and are physically and mentally capable of safely operating a vehicle. Furthermore, individuals who demonstrate an inability to follow the laws or who are discovered operating motor vehicles in an unsafe manner, may be temporarily or permanently banned from using or owning a vehicle and may have their vehicles, despite being private property, confiscated for the benefit of the general public. Such measures far from guarantee against motor vehicle misuse, death, or injury, but are deemed a necessary violation of personal freedoms in the interest of enhancing public safety. While it might therefore be correct to state that guns are simply tools and that the only danger from guns is in how they are used, it is equally correct to state that guns are inherently dangerous tools and that there is a justifiable right for citizens to demand that the states and the federal government be allowed to place restrictions on firearm ownership and use in the interest of public safety.

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# 1

## The Ideology of Guns



Nicholas Kamm/AFP/Getty Images

US Democratic Representative from Georgia John Lewis speaks as members and supporters of the US Congressional LGBT Equality Caucus hold pictures of victims of the Pulse nightclub attack, one month after a gunman killed 49 people at the club in Orlando, Florida, during a vigil in Washington, DC, on July 12, 2016.





## **Firearms in America: Personal Liberty Versus Collective Responsibility**

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Living with other people has tremendous advantages. Societies enable humans to achieve more than they could alone and to live lives that would be impossible for those forced to concentrate their daily efforts on subsistence. However, there are also necessary costs to living in societies. Building a community requires that individuals make sacrifices and the distinctly human process of establishing laws, necessarily involve balancing personal liberty with collective responsibility. For instance, on the issue of environmental management, laws represent a middle ground between the right of individuals to own property and to consume, pollute, or destroy natural resources found on their property and environmentally linked to their activities within their property, with the rights of the community to protect some natural resources or portions of the collective territory against environmental destruction. The gun-policy debate essentially covers this same ideological divide and, at the polar opposites of the debate, are the proposal that owning guns is a personal freedom afforded by the Constitution, reflecting the natural right of self-defense against violence and/or tyranny and the proposal that the community has the right to restrict certain freedoms in the public interest.

### **The Dangers of Tyranny**

The United States was founded by individuals seeking to escape the tyranny and religious persecution of the British aristocracy and grew to its current state by embracing political, religious, and ethnic exiles looking to escape economic and social stagnation and oppression in their native countries. Fear of government tyranny is central to the imagined American ethos and there are many in the gun-rights lobby who continue to tout the dangers of government oppression as one of the primary justifications for gun ownership. At the ideological extreme are members of America's more than 270 (as of 2015) militia organizations, like the Georgia Security Force, who train in the use of guns and collect arsenals of legal weapons for the purpose of defending against an imagined future war against a despotic American government. Some in these movements believe that the American government has already become deeply tyrannical and fear that big-government and Democratic candidates like Hillary Clinton are on the verge of abolishing the Second Amendment.<sup>1</sup> Such fears, which are factually unfounded and almost entirely the product of misinformation, surprisingly lead to vast increases in gun sales, as millions of Americans legitimately believe, despite a complete lack of evidence, that they are on the verge of losing the freedom to do so.







## 4 The Ideology of Guns

The militia movement tends to recruit through gun shows and gun-rights meetings and represents a small, extreme, and passionate part of the gun-rights movement. Gun-rights organizations like the National Rifle Association (NRA) do not disavow the militias and actively pander to conspiratorial and highly suspect justifications for gun ownership.<sup>2</sup> The threat of revolt against the government if and when the government tries to disarm citizens is not exclusively an extremist attitude. Former NRA president Charlton Heston popularized the slogan, “I’ll give you my gun when you pry it from my cold, dead hands,” which became a common phrase on NRA t-shirts, bumper stickers, and other merchandise into the twenty-first century.<sup>3</sup>

The idea that citizen arms are a deterrent against tyranny has become mainstream in the gun-rights lobby, and there are a series of widely shared quotes and memes claiming that despots like Hitler, Stalin, and Pol Pot used gun-control legislation to disarm the populace before transforming their societies into dictatorships. For instance, David Kopel, researcher for the pro-gun Independence Institute argued in a 2003 article that, “Simply put, if not for gun control, Hitler would not have been able to murder 21 million people.” Is this statement true? No. Prior to taking over Germany, Hitler’s Nazi movement campaigned against gun-control legislation under the Versailles Treaty, and supported laws that liberalized gun ownership. The 1938 law typically used to justify the propagandistic statement about tyranny and gun control actually liberalized gun ownership for most Germans, though it made it illegal for Jews, convicted felons, and other enemies of the state to own weapons. This law also came *after* Hitler had come to power and after his dictatorship was well underway.<sup>4</sup>

Contained within the claim that gun control is a tool of dictatorship is the implication that politicians supporting gun control have fascist, dictatorial, or tyrannical leanings or, at least, that they are unconsciously part of a governmental system that is insidiously leaving the nation more vulnerable to tyranny. While there are many legitimate arguments in favor of gun rights, the argument that gun control is inherently tyrannical or is a preamble for tyranny is fallacious and unfounded. All gun-control legislation in United States’ history has been motivated by the desire to prevent crime and enhance public safety and there is no legitimate evidence to support the belief that gun control is being purposefully used to erode the power of the people to resist governmental oppression.

### The War for Public Opinion

In 2013, for the first time since research organizations began recording public opinion on firearms ownership in 1978, more Americans favored gun rights (52%) than gun control (46%).<sup>5</sup> However, the American public overwhelmingly agrees that firearms are too easy to obtain and that not enough has been done to prevent dangerous individuals from obtaining guns. Across partisan lines in 2016, for instance, more than 83 percent of voters believed that background checks should be required for all gun sales, including those that take place at gun shows or through private transactions, which are sometimes exempt from federal background check requirements.<sup>6</sup>





Essentially then, a majority of Americans embrace private gun ownership, but a far larger majority believes that gun laws and regulations are insufficient to protect the public from the dangers of guns.

In the 1980s and '90s, a vast majority of Americans favored gun control and only a small minority advocated for more permissive gun rights. The subsequent shift away from gun control is therefore subject of significant interest to criminologists and social scientists. In 2015 and 2016, industry reports indicated that Americans were purchasing firearms at record rates and reports have also shown that gun purchases spike after media coverage of mass shootings, such as the Orlando nightclub shooting in 2016. Some have speculated that the rise of radical conservatism—with extremist organizations like Al-Shabaab, the Islamic State, and the US Militia Movement regularly appearing on television and in print media—has created the perception that any individual or community is potentially a target for an extremist attack and has therefore motivated increased interest in gun ownership for self-protection.

The gun-rights lobby, influenced heavily by the commercial gun industry, has passionately promoted the idea that legal gun ownership makes individuals, communities, and families safer from violent crime. An April 2016 poll from Rasmussen Reports found that 66 percent of Americans believed that self-defense was the primary reason for purchasing a firearm and, among gun owners, 63 percent felt safer having a gun in the household.<sup>7</sup> Concern over the threat of violent crime seems to have increased over the past two decades and yet, by any legitimate metric, crime rates have fallen by more than one-third over the same period, in what social scientists sometimes call the “Great American Crime Decline.”<sup>8</sup> Despite arguments from the gun-rights lobby that legal gun ownership is the *reason* that crime rates have declined, there is no compelling evidence for this belief and numerous well-researched studies providing evidence that the reduction in crime is related to factors that have no connection to legal gun ownership. A lack of evidence does not necessarily mean that legal guns are not useful for self-defense, but simply means that gun rights proponents cannot, given current evidence, legitimately claim that legal gun ownership has reduced crime.<sup>9,10</sup>

Numerous polls have found that Americans, as a whole, vastly overestimate the frequency of violent crimes and one of the reasons why American's perception fails to match reality might be found in media-marketing strategies. News outlets, especially television and Internet news sources, provide disproportionate coverage of violent crime because such coverage draws higher ratings and stronger interest. This phenomenon creates a “saliency bias” in the American public where Americans worry most about the top stories on the news, despite the fact that the top stories might not represent the most pressing threats or concerns facing the average citizen, inadvertently creating false perceptions about the state of American society.<sup>11</sup>

### Legitimacy of Information

As the debate over guns and self-defense shows, there are many facets of the gun debate for which current data is insufficient. In trying to learn about the issue,





interested individuals are often faced with information promoted by ideological lobbyist groups that too often use misinformation, poor scholarship, and biased interpretations of statistics to support their viewpoint. The most ardent advocates of gun control sometimes publish misleading studies on the prevalence of gun violence that fail to differentiate between gun crime, suicide, and justified shootings, thus exaggerating the scope of the gun-violence problem in America. Similarly, gun-rights advocates regularly publish articles rife with misinformation that underestimate the frequency of gun violence and overstate the positive effects (potential or realized) of legal gun ownership. Those interested in reliable data on the issue need to approach popular news items and especially items posted on social media or Internet news sites as potentially suspect, and take time to evaluate the statistics, quotes, and information provided in support of one argument or the other. Internet searches and patient evaluation can often help a reader to differentiate between a legitimate work of journalism or scholarship and one with far less grounding in legitimate data. Citizens should likewise encourage government and private studies on key issues, helping to arm those involved in the debate with better, more comprehensive information. Like many of America's most contentious issues, gun policy requires a compromise between personal liberty and collective responsibility and, though there may always be those unwilling to compromise, most Americans are willing to see the topic through a more moderate lens, preserving the right to weapons ownership while making responsible decisions to protect the public from a potentially dangerous technology.

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