

Overkill: The Deadly Illogical of Gun Rights

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When a disturbed teenager or adult commits mass murder it has nothing to do with liberty. Yet, since the weapon is usually a gun, many people in the US essentially respond that the freedom to be armed is more important than the right to be safe. In fact, millions claim that being armed is the only way to be safe. Like most arguments against gun control, it’s cruel and illogical.

For decades now, leaders of gun rights groups have made the same case. They claim, for example, that the only thing separating Americans from people living in dictatorships is their unrestricted access to weapons. If the government has all the guns, they say, attacks against defenseless citizens will become as common in the US as they are in oppressed countries. This is one of the reasons why gun owners oppose the banning of so-called assault rifles.

Does this sound familiar? It certainly should. The same argument is still being made today by those who say nothing can be done to stop mass shootings like the recent ones in Texas and upstate New York. They also warn that only way to prevent a police state here, which many people claim is on the verge of happening, is to allow the wide and unregulated distribution of all sorts of weapons.

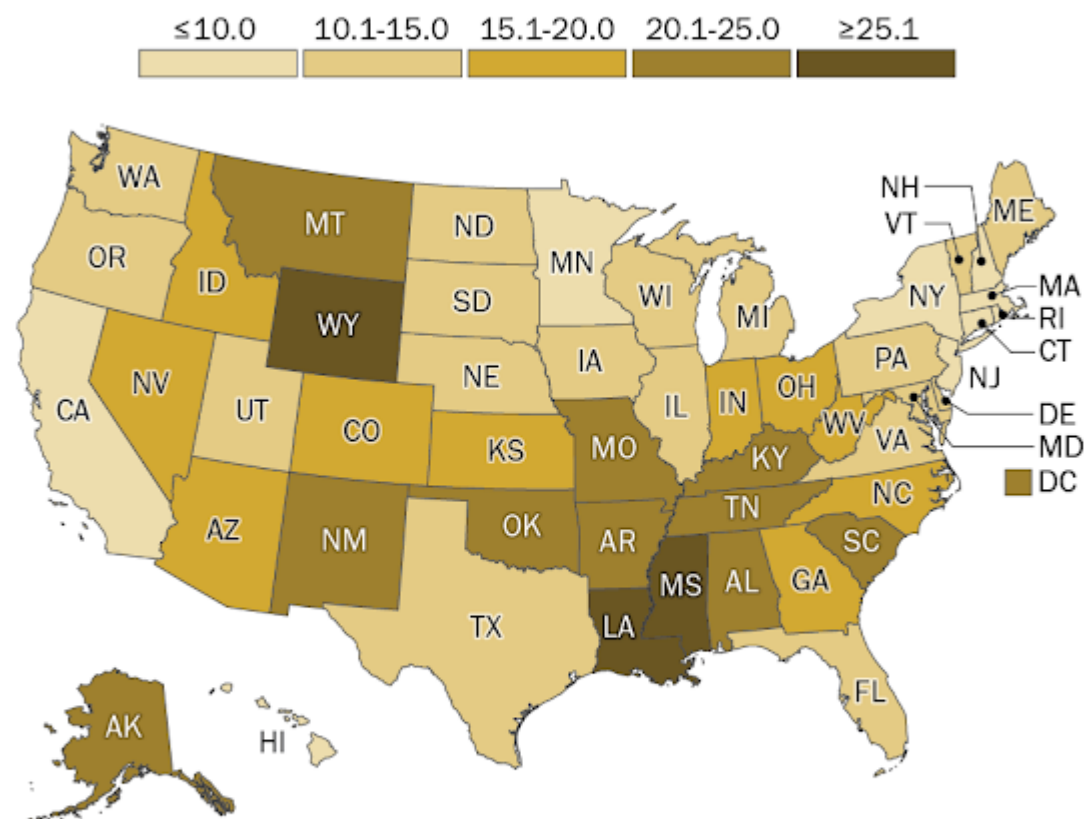
This idea, which assumes that any regulation is the first step toward confiscation, represents a paranoid and individualist mentality that for decades has dominated debate about gun violence in the US. We are free, the argument goes, only as long as we can defend ourselves with guns, not only against criminals but also against the law and the State.

A related argument is that the federal government should not be allowed to regulate guns; this is a matter best left to states. And if a state wants to do nothing, perhaps because the gun lobby can defeat candidates who back even modest reforms, or because the crime rate isn’t soaring or no mass shootings have recently occurred, people in neighboring states must simply spend more money to crack down on crime and violence. It’s just the price of freedom.

Such positions are based on the notion that government should not meddle in the affairs of individuals. Guns aren't the problem, opponents add, it's people — in other words, human nature. But most homicides in the US are committed with guns; in other words, people with guns kill more people than those without them.

U.S. gun death rates varied widely by state in 2020

Gun deaths per 100,000 people (age-adjusted), by state



Note: Includes gun murders, suicides and deaths that were unintentional, involved law enforcement or had undetermined circumstances.

Source: Centers for Disease Control and Prevention.

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There are 393 million privately owned firearms in this country — up almost 100 million in the last ten years. Use by children has also increased, as has the stockpiling of exotic weapons by extreme groups and criminal organizations. **Three-in-ten American adults say they currently own a gun,** and another 11 percent say they don't personally own a gun but live with someone who does.

Gun ownership is more common among men than women, and white men are particularly likely to be owners. Among those who live in rural areas, 46 percent say they are gun owners, compared with 28 percent of those who live in the suburbs and 19 percent in urban areas. There are also significant differences across parties, with Republican and Republican-leaning independents more than twice as likely as Democrats and those leaning Democratic to say they own a gun.

Considering all this, it seems fair to ask what is more threatening to freedom and security, unrestrained gun ownership or some government oversight?

The arguments against regulation tend to fall into three categories: 1) the right to bear arms is constitutionally protected, 2) gun control won't reduce violence in society, and 3) gun laws are a serious threat to freedom. But do these assertions hold up to scrutiny?

The roots of traditional US ideas about the relationship between weapons and society actually go back centuries to the Florentine political philosopher Niccolo Machiavelli, who noted that military service should be the responsibility of every citizen, but soldiering the professional of none. Basing his ideas on the Roman suspicion of professional soldiers, he concluded that military force should only be used to assure the common good.

This idea of citizens bearing arms in defense of the State, to avoid the potential tyranny of a standing army, was translated by the authors of the Bill of Rights into the Second Amendments and helps to explain its unusual wording:

“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.”

Many libertarians have interpreted this sentence to mean that individuals are guaranteed the right to possess firearms for their personal defense or for any other use they choose. What this fails to acknowledge is the meaning of citizenship as it was understood two and a half centuries ago. In the 18th century, citizenship directly involved militia service for men, which was part of the commitment to the greater public good. An armed citizenry did not mean an armed population. In fact, even then it was clearly understood that access to weapons was a communal rather than an individual right.

This dynamic was made clear in various declarations of rights predating the Bill of Rights. For example, Virginia's Declaration of Rights, adopted on June 12, 1776, said that a well-regulated militia, trained to arm, was the safe defense of a free State. That and subsequent variations adopted by other states made it clear that the idea was trained citizens, organized in militias, providing for a common defense. The word “people” refers to this collective role, contrasting a militia to a standing army.

Article 17 of Vermont's Declaration of Rights, adopted in 1777, followed this logic by proclaiming: “That the people have a right to bear arms for the defense of themselves and the State; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military ought to be kept under strict subordination to and governed by the civil power.”

Vermont's Article 9, which dealt with the matter of conscientious objection to military service, made it clear that “bearing arms” meant military service. It said that no one could be compelled to carry or use a gun, even though rights also involved personal service. The solution was that those who chose not to serve would pay an appropriate sum of money. Bearing arms was directly linked to the collective responsibility for defense.

Several states specifically said that criminals or people involved in rebellion could be disarmed. In other words, the security of society took precedence over an individual's right to have weapons. Thus, when early Americans spoke of an armed citizenry's role in preserving freedom, they were talking about a militia linked to the classical idea of

citizenship. There is no record of anyone arguing, during the passage of the Bill of Rights, that individuals had a right to bear arms outside the ranks of a militia. On the contrary, that provoked fear for the stability of the new Republic.

The great constitutional commentator of the period, Justice Joseph Story, noted that what the Second Amendment actually guaranteed was a “well-regulated militia.” The fear was that without one the country might be vulnerable to invasion, domestic insurrection, or a military takeover by some ruler. We needed a militia, Story said, because it was impractical to keep people armed without some organization.

The fear of a militarized society or a federal government monopoly on force is not, by definition, a form of paranoia. On the other hand, it is an overreach to claim that individuals have a fundamental right to protect themselves by stockpiling weapons. For those who want a counter-force to our national government, the direction to look is greater autonomy of organized local or state militias, not the right of people to become self-appointed guardians or vigilantes.

Despite the endless repetition of claims that individuals have a constitutional right to be armed, this is not consistent with the weight of legal opinion. In fact, several US Supreme Court cases have made the situation quite clear. In *U.S. v. Cruikshank* (1876), the Court ruled that the right “of bearing arms for a lawful purpose is not a right granted by the Constitution.” Ten years later, in *Presser v. Illinois*, the Court noted that although states have the right to form militias, they are also free to regulate the circumstances under which citizens can carry weapons. This view was upheld in an 1894 case, *Miller v. Texas*.

In 1939, federal gun regulations established by the National Firearms Act of 1934 were challenged. The decision in that case was unanimous. The federal government has the right, the Court ruled, to regulate the transportation and possession of firearms, and individuals only have a right to be armed in connection with military service. In 1980, Justice Harry Blackmun commented that this case represented the Courts’ basic thinking on gun control.

On June 8, 1981, the Village of Morton Grove, Illinois passed an ordinance banning the possession of handguns, except by police, prison officials, members of the military, recognized collectors and those who needed them for their work. Predictably, the National Rifle Association challenged the law. Both the Federal District Court and a Federal Appeals Court rejected their argument, saying that there is no individual right to bear arms, the ordinance was reasonable, and the right to have weapons applies only to well-regulated militias. The US Supreme Court refused to even hear the case.

Sentiment in favor on some form of gun control fluctuates, but has tended to grow for decades. In 1968, 71 percent were in favor, peaking at more than 90 percent in 1981. In one Gallop Poll the Brady Bill won 95 percent support. Most people obviously see some connection between the availability of firearms and the rate of crimes involving guns, and a variety of studies support these views. Nevertheless, opponents insist that stronger laws won’t have an impact.

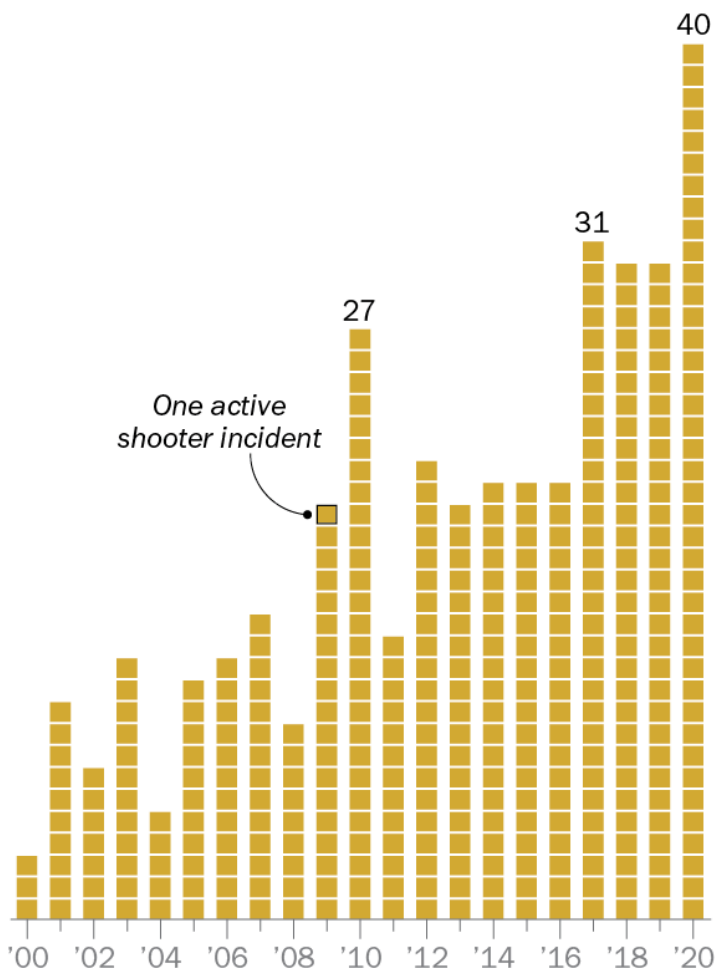
Interstate trafficking of weapons is an enormous problem, undercutting the argument sometimes heard that the only reason for gun control is a high murder rate in a specific state. This provincial argument ignores interdependence, our responsibility to our neighbors, and basic facts. The most effective way to control the black market for guns, through gun shows and private sales, is a national registry of purchasers, along with tracing and

prosecution of the interstate traffickers. This does not involve rounding up handguns. But it does mean acknowledging that the situation is out of control and that saving lives takes priority over protecting a form of free enterprise that has turned monstrous.

Leaving the matter in the hands of individual communities or states may sound appropriately populist. But it avoids the issue. Ten years ago guns were involved in more than 32,000 US deaths, 11,100 of them murders, as well as thousands of rapes, hundreds of thousands of robberies, and about a half million assaults. In 2020, 45,222 people died from gun-related injuries, according to the CDC.

Active shooter incidents have become more common in U.S. in recent years

Number of active shooter incidents, by year



Note: “Active shooter incidents” are defined by the FBI as “one or more individuals actively engaged in killing or attempting to kill people in a populated area.”

Source: Federal Bureau of Investigation.

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Most people convicted of violent crimes obtain their weapons either at a gun shows or on the black market. This suggests that background checks alone will not make a huge dent in

the problem. But a reduction of twenty percent would be significant: less children killed every day and fewer rapes and murders.

Many crimes involving guns are impulsive, suggesting that a waiting period helps. Of course, the underlying causes of violence and crime must also be addressed. But for those who might be saved by modest reforms that would be more meaningful than any statistic or slogan.

The NRA is fond of saying that “guns don’t kill people, people kill people.” It’s a tidy little argument but let’s get real: people with guns can kill people far more quickly and effortlessly than people with knives, deadly fighting skills or poison.

The FBI has assembled evidence on whether stricter laws make a difference. For example, after Massachusetts passed a law requiring a mandatory jail sentence for carrying a handgun without a license murders involving handguns dropped by almost 50 percent. Robberies went down 35 percent. After South Carolina tightened its handgun purchase requirement in the 1990s, the murder rate dropped 28 percent.

Registration and background checks alone will not solve the problem. However, they can keep weapons out of the hands of some criminals, addicts and kids. They can also reduce the number of murder and suicides that result from being able to buy a gun in state of rage or depression. Drivers licenses and automobile registration do not prevent all auto accidents – but they help. To drive a car, a potentially dangerous vehicle, we agree that people need to be properly trained and meet minimum standards. Similar requirements, in the form of gun safety programs and practical tests for the owners of lethal weapons, would be a step toward national sanity.

No freedom is absolute. Even in the most decentralized and self-managed society, people must accept some social responsibilities and limits in exchange for liberty. Ideally, in a free society citizens participate directly in making the rules governing their social contract. But even Michael Bakunin, an anarchist philosopher who took the practice of liberty to a place some might consider extreme, did not ignore the importance of social responsibility. Human beings can only fulfill their free individuality by complementing it through all the individuals around them, he argued. Bakunin was contemptuous of the type of individualism that asserts the well-being on one person or group to the detriment of others. “Total isolation is intellectual, moral and material death,” he wrote.

When a disturbed teenager or adult commits mass murder it has nothing to do with liberty. People obviously do not have the right to abuse or destroy the lives and liberties of others. Yet, since the weapon is usually a gun, many people respond by essentially arguing that the freedom to be armed is more important than the right to be safe. In fact, millions claim that being armed is the only way to be safe.

Allowing the government to take any step, argue the opponents of gun regulation, is the beginning of tyranny. From this vantage point government is the enemy. It would be naive to argue that the government always uses its power wisely. The political system cries out for change, if not transformation, if we are ever to have a society that promotes real equality, justice, respect for diversity, and self-management. Yet achieving this, empowering people and making step-by-step progress, requires an appeal to hope rather than fear. Arguing that the only way to be free is to oppose and resist government, in other words knee-jerk rejection, plays into the hands of the most reactionary forces in society.

Suspicion of centralized power was clearly a concern of those who created the country. It is still justified and relevant. But the form that most threatens freedom in the 21st century is the power of powerful, unaccountable groups and organizations, most of them private, that can influence elections and shaped government policies. Many of these same interests aggressively argue that freedom means “freedom from government.” Such appeals are a convenient way to prevent intrusions into the private “right” to profit and pollute at the expense of the general health and well-being — to exploit in the name of freedom.

The bottom line is this: Effective regulation, combined with a comprehensive national database and a serious training program for gun users, would establish over time that less access to guns leads to less violent crime. This has been the case in Europe and some US states. Success would also help shatter the myth that government is the problem, and that people are better off armed to the teeth and on their own.

The debate over guns is not about restricting rights. That’s the cover story, an assumption promoted by the gun lobby to shape public perceptions. It’s not even about “control.” The goal is security, freedom from the fear and anxiety sweeping across this over-armed society.

A well-regulated militia is a altruistic idea, certainly preferable to the military-industrial complex. But almost 400 million guns in private hands is — pardon the expression — overkill.

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