

Guns in America

Gun violence has become something of a national nightmare in the United States, the news story you do not want to wake up to and drink your morning coffee watching, as in the aftermath of the Jonesboro, Arkansas, shooting in 1998, or watch live on CNN, as was the case with the Columbine High School massacre in Littleton, Colorado in 1999. Repeatedly, Americans have watched shocked and sobbing students wander stunned around playgrounds while their classmates are brought out under white sheets on gurneys or in handcuffs. Now that gun violence or the threat of gun violence has come to be a part of the curriculum in American schools, that violence has begun to touch regularly on middle-class lives. Indeed, a poll taken in the wake of the incident at Columbine found that three out of ten Americans believed it was "very likely" that a shooting spree like the one at Columbine High could happen in a school in their own community.'

Gun violence has not been confined to schools, though. It has sent people scampering for their lives-or to their deaths-at places as diverse as the National Zoo in Washington, DC; a Jewish Community Center in North Valley in Los Angeles; or a brokerage firm in Atlanta, Georgia. The latter two were the sites of grisly acts perpetrated by "rampage killers." A study recently conducted by the *New York Times* found that during the 1990s, there was an average of 34 rampage killings each year. These sprees, while only a fraction of the murders committed annually, have become headline grabbers, a sociocultural Achilles heel that makes its impossible not to recognize the problem. Perhaps this is because the average rampage killer is white (and male), as were Eric Harris and Dylan Klebold, the teen gunmen at Columbine; Buford O. Furrow, Jr., who injured five people and later murdered a letter carrier in Los Angeles, and Mark Barton, who murdered nine people in Atlanta before committing suicide. Rampage killings get headlines but they are not the whole of the story on violent crime in the United States.

In fact, the rates of violent crime, including firearm homicide rates, have fallen to rates lower than any time since the late 1960s and early 1970s. According to the Bureau of Justice Statistics, the homicide rate in 1998 (6.3 per 100,000) was at its lowest level since 1967 (6.2 per 100,000). The FBI Uniform Crime Reports also reveal that in 1999, the number of crimes committed with a firearm had fallen below that of any year since 1972. Nonetheless, according to the Violence Policy Center,

drawing on statistics from the Federal Bureau of Investigation and *National Vital Statistics Reports*, over 32,000 Americans died as a result of gun violence in 1997 (13,522 were murder victims, 17,566 committed suicide). By typical European standards, the number of gun-related homicides (or the number of homicides, for that matter), the number of firearms in circulation in the United States today (between 190 and over 200 million, of which 65 million are handguns), and the ease with which guns can be purchased can be nothing other than cause for alarm.

The availability of guns has often prompted proponents of gun control to cite Anton Chekhov: "If there is a gun hanging on the wall in the first act, it must fire in the last." While Chekhov's aphorism was meant as advice to a budding writer, the analogy seems clear. In any case, it seems inately self-evident that the presence of a firearm will contribute more to a firearm death than the absence of a firearm, notwithstanding the influence of other factors such population density, poverty level, educational factors, and even climate on crime. The high percentage of handgun-related homicides and the lower homicide rates in countries with fewer handguns and stricter gun control laws suggests a correlation between the high presence and ease of availability of handguns and the high rate of homicide.

Yet, gun control opponents would argue that guns are not the only weapons used in violent crimes and they are right. The FBI, in its *Crime in the United States-1999*, reports that "personal weapons," a category that includes "hands, fists, and feet," were the weapon of choice in 32% of murders, robberies, and aggravated assaults in 1999, while firearms were used in only 25% (knives or similar cutting instruments were used in 15%).

Gun control opponents, who are often conservatives, usually reject the validity or usefulness of international comparisons concerning gun ownership, gun control laws, or violent crime rates (although, ironically, international comparisons of scholastic achievement in public schools that suggest that the American educational system is not as effective as those in other countries and which can be used to bolster conservative arguments for vouchers, for example, are frequently cited in debates over education). Gun control opponents blame either the lack of enforcement of existing laws or the laws themselves. A common tack is to offer statistical evidence that states without strict gun control laws, some of which feature concealed carry laws that make it legal for citizens to carry concealed handguns, have lower firearm-related violent crime rates than states with stricter laws. Such studies are highly complex,

offering convoluted parameters that suggest that gun control fosters crime rather than prohibits it.

The debate over gun control

Who are the players in this contentious field? Single-issue interest groups, corporations, and government officials. Gun control interest groups include the handgun Control, the Center to Prevent Handgun Violence, and the Violence Policy Center. The best known and most influential opponent of gun control is the National Rifle Association (NRA). The NRA represents three million gun enthusiasts and has an annual budget of \$137 million. It is one of the largest and wealthiest single-issue interest groups in the United States. The NRA argues that law-abiding citizens do not commit crimes and, more importantly, that they have a constitutional right to bear arms. A hard core minority within the NRA sees any form of gun control as totalitarian.

Despite opposition from the NRA, gun control proponents have managed to have ballot initiatives put on the state ballots in Colorado and Oregon. Voters in Oregon will decide the fate of Measure 5, which would require the sellers at gun shows to perform background checks on potential gun buyers. Republican Senator John McCain of Arizona has even lent his support to the bill, in a departure from his tradition gun rights stance. Gun control proponents have also initiated lawsuits against gun manufacturers, distributors, and sellers, and they have lobbied for more stringent gun control laws or greater enforcement of existing laws. This last point is one that is also supported by most opponents of gun control, who prefer enforcing the laws in place rather than passing new ones.

The firearms industry has much at stake in gun control legislation and perhaps an even greater stake in the outcome of various product liability lawsuits being filed against them around the country. Such suits are being filed by the survivors of victims of gun violence, such as Pamela Grunow, who has brought suit against gun distributor Valor Corporation and the Hypoluxo Pawn Shop, claiming that they should be held responsible for 13-year-old Nathaniel Brazill's access to the .25-caliber semiautomatic handgun with which he murdered her husband. Cities and states have also sued gun makers. Gun makers have retaliated by suing officials in various municipalities. On the legislative front, opponents of gun control have also succeeded in blocking lawsuits against gun makers; some state legislatures have passed laws

forbidding such suits. Gun rights enthusiasts see such suits as a clear infringement of their Second Amendment rights.

The Second Amendment can be interpreted collectively or individualistically (currently, any interpretation of the Second Amendment by the Supreme Court would probably reflect the conservative majority on the Court and be individualistic). Gun control proponents commonly read the Second Amendment collectively-protecting the right of states to have state-run militia. Gun control opponents read the Amendment individualistically-protecting the rights of both the individual to own guns and states to maintain militia. The individualistic interpretation is often labeled *republican*, placing as it does emphasis on the beliefs and values of the eighteenth-century republican tradition that helped shape the language of the amendment and ensure its passage through the first Congress and its ratification by the states. The republican notion of an anti-statist right to bear arms for collective self-protection by the people in case of despotism suggests that American conceptions of government and the state differ from the understanding, promoted by Max Weber, of the state as having a monopoly on legal force, as Stanford Levinson has argued in "The Embarrassing Second Amendment."⁷⁷² Given the traditional distrust of (especially) central government in the United States, this justification for arming citizens is no longer the sole possession of the militia fringe as academics such as Joyce Lee Malcolm have been busily revising the history of the Amendment. In this sense, the right to bear arms is the ultimate right-the ultimate limit on government power. Few Americans want to engage in armed confrontations with their government.

Indeed, most Americans do not even own guns. The National Opinion Research Center at the University of Chicago reported that while about half of adults in the United States lived in households that kept a firearm in the early 1970s, less than 40% did so in 1998.⁴ In a Gallup Poll taken in October 2000, around 39% of adults said they own guns. Furthermore, recent polls confirm that a substantial majority of Americans supports various gun control measures. For example, nearly 90% support the Brady Bill, nearly 80% would support the registration of all handguns, nearly 70% would ban all semi-automatic weapons, and even 36% would ban handguns altogether, according to a 1999 Gallup poll.⁶ Despite the consensus suggested by such numbers, few issues divide Americans more than that of gun control.

These divisions are often sharply drawn because they are not only policy debates between interest groups; they are also debates about the meaning of the United States.

Because of the Second Amendment, debates over gun control often occur in courtrooms. The American propensity for attempting to resolve policy and other issues through litigation also occurs because some aspect of a given policy is interpreted by some individual and/or group as a contest over the meaning of a fundamental constitutional right, on the one hand, and the power of the state, on the other. The American conception of constitutionalism, of which the rights revolution of the twentieth century represents the fermentation of nearly a century and a half of judicial review of numerous federal and state laws within a variety of legal domains, reflects the importance in the United States of the constitutional framework in defining national culture and identity. Gun control and gun rights put the interrelationship of constitutionalism and national identity in great relief. An issue that in many countries could be resolved by social policy cannot be so easily resolved in the United States as long as there is the matter of the Second Amendment.

Neither of the presidential candidates for the two major political parties is making any calls for amending the Constitution. The Democrat candidate, Vice President Al Gore, would support such gun control policies as requiring a state-issued photo licenses, background checks and safety tests, a three-day waiting period, and a one-a-month maximum on the number of handguns that can be purchased. Republican candidate George W. Bush would increase funding to enforce federal gun laws, expand the 'instant check' system, and encourage prosecutions of instant-check violation. The NRA supports Bush, while organizations that support gun control generally support Gore. The twin issues of gun violence and gun control have remained visible topics during this election, but they have been overshadowed by education, Social Security, and Medicare reform issues. Neither of these issues will go away, though, until guns disappear, and given the large number in circulation and the effective opposition of the NRA to gun control, that is not going to happen anytime soon.⁷

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¹ Saad, Lydia. "Public Views Littleton Tragedy as Sign of Deeper Problems in Country." (Gallup News Service, 1999).

2 Levinson, Sanford. "The Embarrassing 2nd Amendment," *Yale Law Journal* 99.3 (1989): 637-59.

3 Malcolm, To *Keep and Bear Arms: The Origins of an Anglo-American Right*, (Cambridge, MA: Harvard UP, 1994).

4 Smith, Tom. "1999 National Gun Policy Survey of the National Opinion Research Center: Research Findings." (Chicago: The National Opinion Research Center, University of Chicago, 2000).

5 Cohen, Michael D. "About Four in 10 Americans Report Owning a Gun." (Gallup News Service, 2000).

Gallup Organization. "Gallup Poll Topics: A-Z: Guns." (<http://www.gallup.com/poll/indicators/indGuns.asp>: 2000).

7 For more information about the candidates' positions on this and other issues, as well as links to gun control-related sites, visit the ASCA web site at <http://www.hum.au.dk/engelsk/asca/E2000/WWWpage.htm>.