

# Gun Control

The most logical and coherent argument against gun control seems to involve five premises:

- 1) Every person has a right to self-defense which is inalienable, natural, God-given or at the very least guaranteed implicitly by the Constitution.
- 2) Public law enforcement agencies are not capable of adequately defending citizens against criminals, often simply because the time it takes for them to respond effectively is too great.
- 3) Criminals are always going to be able to obtain illegal weapons.
- 4) Adequate self-defense requires possession of weapons commensurate with those against which one must defend oneself.
- 5) Individuals are threatened not only by criminals but also potentially by a tyrannical government.

The current debate is not about sporting guns. Any discussion of whether a deer hunter needs a semi-automatic rifle is a rhetorical distraction. The feelings being appealed to may be worth examining, but they should be explicitly addressed. The current debate is also a negotiation regarding the degree of regulation and not a debate of absolute principles. There may be some who would like to ban all guns just as there are some who would like to remove all restrictions on weapons, but they are on the fringes of the debate regardless of how vociferous they may be. Many military style weapons are already regulated in ways that make it illegal for most individuals to own them.

Each of the above premises is packed with assumptions and implications which need to be spelled out as much as possible if we want to discuss the real issues and not just rely on rhetoric and appeals to blind emotion. Ultimately we shall never be able to escape the fact that political choices like the ones at stake in the gun control debate are essentially emotional or rooted in a worldview which can never be rationally justified or perhaps even fully articulated. Nonetheless the more conscious we are of the roots of our ideas and emotions, the more likely we are to be able to achieve some kind of consensus about how we want to deal with guns.

## The Right To Self Defense

Whether or not rights can be “natural,” “inalienable” or “God-given” is debatable, but I think there is a very real consensus in our society that actions taken in self-defense are justifiable. I personally do not believe that there are natural or God-given rights, but I do not think we need to resolve a debate about the nature of rights in order to deal with gun control. We do need to understand clearly what is meant by “self-defense” and whether the right to defend oneself is absolute. We also need to be clear about the extent to which one can be pro-active or preemptive in measures taken to insure self-defense.

Within the context of the debate about gun control I think we can assume that self-defense is intended to connote defense against a life threatening attack where the danger is clear and immediate. It is also probably construed to involve defense of more than just oneself. A parent has a right to defend the life of his or her child. One may also

have a right to defend loved ones who are not relatives and some may claim that one has the right to defend those who just happen to live in the same neighborhood or even complete strangers who are being attacked. Stepping up to defend others is generally regarded as noble or heroic behavior.

The first place there may be an issue is in the evaluation of the danger. This is especially true in the case of intervention in defense of another where it is easy to imagine situations in which a rash misinterpretation of a situation could result in a completely inappropriate use of violence. Even defense of oneself against a threat involves a degree of interpretation of the threat. Overzealous neighborhood-watch vigilantes are an obvious example of the way in which self-defense can morph into criminally aggressive behavior against strangers who are simply perceived as threatening.

The element of interpretation involved in a perception of a threat is tied to the issue of how proactive or preemptive one may be in the name of self-defense. Whether or not one chooses to live in a state of eternal vigilance inside a fortified compound may be a matter of personal choice, but ultimately we shall have to address the question of whether individual defensive behavior has social consequences which must be weighed in some kind of balance. We shall return to this later but as a prelude it may suffice to point out that someone who walks into a Starbucks carrying a loaded weapon as a means of self-defense against possible attack is having an impact on the normal atmosphere of relaxed mutual trust or even simple indifference that one may be entitled to expect in a coffee shop. The armed individual may feel more secure, but most of the others probably feel less secure and may instinctively regard the armed person as a threat. To claim that each individual would feel more secure if everyone were armed simply ignores the fact that each individual would be acutely aware that he faced a potentially lethal threat from every corner of the shop. I think the vague idea of an "atmosphere of trust" may be more relevant to the gun control debate than it might seem initially, and we shall return to it after we have taken a preliminary look at the other premises.

### **Inadequacy of Police Protection**

No one will deny that there are often cases where the police are not able to respond to a threatening situation fast enough to prevent injury and loss of life. Many people may want to believe that such situations are the very rare exception, but I have led a fairly sheltered life, and I have known one person personally who was murdered and at least two others who had close relatives who were murdered. The circumstances under which the murders occurred were such that even if a policeman had been standing on the corner a half-block away he would not have been able to prevent it. Everyone would like to be able to reduce the likelihood of murders, but the means proposed for doing so are often viewed as more onerous than the risk of being attacked. Even gun-control advocates will balk at measures they associate with a "police state," while opponents of gun control think that any measure that limits an individual's ability to defend himself is a threat to his life and liberty.

To point out that many victims would not have survived an attack even if they had been armed does not refute the argument that being armed may enable one to fend off an attack better than one could unarmed. The opponent of gun control simply does not want to be denied the ability to defend himself as well as possible. He recognizes that many

others may not want to own guns as a means of self-defense, but he regards it as his right to do so if he chooses. In fact he may say that the job of the police is not to protect individuals but simply to catch criminals after the fact. It is up to the individual to defend himself as well as he can, and the state should not impose limitations on his ability to do so.

### **Illegal Weapons**

Another way in which the inadequacy of law enforcement may be relevant to the debate is the assumption that criminals will always be able to obtain illegal weapons. Machine guns have been illegal since 1934, but there seem to be plenty of them still in the hands of criminals. As long as they are manufactured anywhere in the world for military purposes, a certain number of them will probably end up in the hands of criminals. Gun ownership advocates like to point to the fact that the highest murder rates exist in countries where firearms are illegal. Obviously simply passing a law against gun ownership does not eliminate violence, and both Prohibition and the current war on drugs show that law enforcement is unable to prevent the manufacture and distribution of any product for which there is sufficient demand. The only way to keep guns out of the hands of criminals would be global regulations tightly controlling the manufacture and ownership of guns. It would also be necessary to confiscate all guns currently owned by individuals and the specter of confiscation is one of the obstacles to effective gun control. Confiscation of guns conjures up not only confiscation of private property in general but images of an authoritarian state disarming its citizens so that it may better manipulate them for nefarious purposes.

Again the real issue in the current debate is a matter of degree – the degree of regulation rather than absolute prohibition. Registration and background checks are means of controlling the distribution of weapons in the hope of keeping them out of the “wrong hands.” The fact that they are required for sales by commercial dealers but not in private exchanges means that they are doomed to be ineffective. There is plenty of anecdotal evidence about using surrogates to buy guns or transactions at “gun shows” to convince anyone that guns can all too easily get into the wrong hands. Advocates of gun control do not understand the resistance to registration and background checks and often invoke a comparison to the regulations surrounding the ownership and operation of motor vehicles.

Motor vehicle registration and driver’s licenses are justified because 1) registration taxes seem like a fair way to help pay for the expensive infrastructure of roads and traffic regulation required by widespread use of motor vehicles and 2) incompetent operation of a motor vehicle poses a danger to others. While inappropriate gun use clearly poses a danger to others, there may be some debate as to whether the registration of guns is comparable to the registration of motor vehicles. I have yet to hear a libertarian complain about the infringement of his liberty to travel by state regulation of the ownership and operation of a motor vehicle, even though there are probably large segments of the population whose economic survival hinges on their ability to drive. Widespread gun ownership may result in social costs, but the connection is a lot less obvious. It can be argued that a heavily armed populace requires and even more heavily armed police force. A billy stick no longer suffices, but the cost of arming the police seems small in comparison to the costs of roadways and traffic lights, signs and markings. A better argument could be made for compulsory testing or training required to own a gun as comparable to a driver’s license

test, but the issue in gun registration is not really about whether gun ownership is a justifiable criterion for defining a unique tax base. It is about fears that universal gun registration could be used by a tyrannical government as a first step in disarming the populace. The NRA would presumably love to have every gun owner on its own membership rolls, but it opposes as a matter of policy universal registration of guns by the government.

### **The Threat of Tyranny**

A lot of opposition to gun control is expressed in terms of the need for citizens to be able to defend themselves against a tyrannical government. This is where the appeal to the 2<sup>nd</sup> Amendment is strongest since it was written in the aftermath of a revolutionary struggle. Some gun control advocates try to dismiss this argument by saying that armed individuals can never resist the armed forces of a modern state and by implying that defense against a tyrannical government would require weapons comparable to those commanded by the armed forces. This of course ignores what much of the 20<sup>th</sup> century demonstrated and conflicts in the Middle East and Africa continue to demonstrate. A poorly equipped guerilla army can often bring down a powerful and oppressive regime. It Vietnam taught us anything it is that brute firepower cannot suffice to suppress a popular insurgency no matter how high the body count. On the other hand the Branch Davidians in Waco did not really stand much of a chance once the government decided to launch an attack on their compound.

This is not the place to review the entire debate on the meaning of the 2<sup>nd</sup> Amendment. The widely divergent interpretations of it probably stem from the same roots as the disagreements about gun ownership. I am more interested in the reasons for how we feel about guns now than I am in the thought process involved when the Founding Fathers drafted the 2<sup>nd</sup> Amendment or the evolution of its application in specific cases. To argue that we have a right to bear arms because the 2<sup>nd</sup> Amendment says so is really just to beg the question. Gun rights advocates will more likely feel that we have the 2<sup>nd</sup> Amendment because we have a right to bear arms. I do not mean to disparage debate about the Constitution or the judicial process of interpreting it. Both seem to me to be essential ingredients in the glue that holds together a pluralistic society in which there will always be evolving irreconcilable differences about how we ought to live together. Right now I am just more interested in another ingredient in that glue, namely the never-ending attempt to clarify exactly how we differ in our values.

Most liberal advocates of gun control are puzzled by a libertarian's fear of the government and are not persuaded by the "slippery slope" argument that ceding power to the government inevitably leads to totalitarian tyranny. Liberals will agree that the constitution was designed to prevent excessive concentrations of power, but they tend to feel that it works well enough and that the way to deal with corrupt public officials or unresponsive government is via elections rather than by arming oneself against a potential threat from the government. Individuals or groups who stockpile weapons for the purpose of combating governmental tyranny are likely to provoke the very response they fear.

What makes one person view the government as an instrument for achieving shared goals and another view it as a threat to his or her autonomy? The libertarian may argue

that he is only being realistic and cite an unending catalog of corruption and tyranny, but often the arguments seem to involve imputing suspect or even evil motives to virtually anyone in power. It is as though being in a position of power implies having a desire for power for its own sake, and there is no possibility that a politician may be a public servant motivated by a desire to make the world a better place. The root of this may be a Hobbesian view of human nature with its tendency towards war of all against all. I sometimes conclude that a libertarian view of human nature and society is based on a kind of individualism comparable to an 18<sup>th</sup> century mechanistic view of the physical universe in terms of a billiard ball metaphor. Free market economic theory tends to ground its analysis in a myth about primitive barter between autonomous individuals. This can seem to be a convincing rationale for more evolved economic institutions and relationships, but it is nonetheless a myth, which is often presented as though it were anthropology. I think the case can be made that the type of individualism so prevalent in American culture is a form of consciousness which is uniquely modern. The question then becomes whether it is a “more evolved” form of consciousness that is based on the “ultimate value” of the human individual. All this seems to be luring us away from the issue at hand, but we may find it necessary to return to it eventually.

Suppose the 2<sup>nd</sup> Amendment was designed to empower citizens to defend themselves against a tyrannical government. What would the implications of that be for contemporary America? Clearly no single individual can defend himself against the entire military force of the US. A single individual cannot defend himself against any reasonably large city’s police force. If he creates a situation that poses a threat to innocent bystanders such as a hostage or a bomb threat, he may get a stand-off in which he prolongs his life or conceivably negotiates an escape. If he is forced to escape, he has accomplished nothing that he could not have accomplished by leaving voluntarily before the conflict began. But what kind of conflict are we talking about? Presumably when the time comes to defend oneself against a tyrannical government it is already too late to escape peacefully or take a hostage. The Gestapo are breaking down the door to come get you. So you shoot the messenger and embark on a suicidal attempt to flee to greener pastures. The stuff of action movies.

The picture changes considerably if a group of armed individuals is resisting a tyrannical government, but now self-defense becomes revolution. This interpretation of the 2<sup>nd</sup> Amendment seems to imply that the Constitution was designed to inhibit tyranny by the constant threat of civil war. Perhaps this is a realistic interpretation of the intent of the Founding Fathers. If government is essentially coercion based on a sanctioned use of violence, the only effective constraint on government is the threat of “unsanctioned” violence. This does not sound like what I imagine is taught in high school civics classes, but it is probably a widely held belief. Any attempt to disarm the public is a step towards tyranny because it unleashes the government from any effective constraint. Therefore disarming the public is itself an act of tyranny.

Is government essentially coercion? Obviously law enforcement depends on some form of coercion with at least an implicit threat of violence. Break the law and you will be punished. Even the most dogmatic libertarian wants criminals to be brought to justice, but does it make sense to say that law enforcement is the essence of government? Government is not simply the exercise of power by a privileged elite in an effort to control the masses.

Governments also have a role in facilitating institutions and transactions that enhance the lives of everyone. A representative government is supposed to be an expression of some kind of consensus about the kind of society in which we want to live. Our own government was expressly established to “form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.” This sounds to me like a fairly broad mandate which is open to evolving interpretation.

I can certainly understand why an émigré who grew up in Nazi Germany and had to survive East German or Hungarian communism before coming to the US might be passionate about the threat posed by a tyrannical government. It is harder for me to understand why someone who grew up as part of the majority establishment in the US would latch onto libertarian concerns about the slippery slope to serfdom. Concerns about the threat of tyranny often seem to be fueled by anger at the government, and more often than not the anger these days seems to me to be rooted in economic hardship. This is perhaps a little like saying that Vietnam era protests were rooted in the draft and the fact there everyone was liable to be sent to war. Today’s concerns about “liberty” and “individual freedom” may be the equivalent of the moral righteousness of Vietnam protestors. Nonetheless there seems to be some kind of connection between opposition to gun regulation and ideas about taxation as a form of theft used to provide benefits to parasitical elements in society in order to bribe them into supporting those in power. I do not share this view of the welfare state, but it is easy to see how someone who felt that way about the government would be concerned that the government’s ultimate goal was to disarm him and render him helpless to resist.

The extent to which one should be leery of tyrannical tendencies in government is, like the extent to which one feels a need to be constantly on guard against criminal elements in society, ultimately a matter of faith. I am not sure whether or how it can be debated. The cynic always has “reason” on his side. One can never be certain of another person’s desires or intentions, and it is always better to be safe than sorry. The gun owner can claim that anyone who is not armed for self-defense is simply naïve. He prides himself on “reality-based thinking.” There can be no denying that criminals exist or that history is replete with examples of tyrannical governments oppressing the many for the benefit of the few.

### **Trust**

At the same time it seems clear to me that cynicism of this sort is self-defeating. In seeking to preserve the life of the individual it ends up defending him against life itself by isolating him from others and inhibiting his ability to experience the world as fully as possible. This is, of course, purely a matter of personal faith, even though I suspect that it is possible to demonstrate in extreme cases a kind of psychological damage associated with cynicism. Excessive trust may be pathological as well, but I have no hesitation in saying that I would rather be surrounded by people who were too trusting than by people who were extremely guarded and suspicious. Obviously we would all like for our fellows to be noble and generous human beings, and the question is how to deal with the fact that they are not.

Surely any form of social organization requires mutual trust. A family without trust is dysfunctional, and children raised without an atmosphere of trust are clearly traumatized in ways that may be impossible to overcome. On a larger scale it is trust which enables a society to be organized by something other than coercion. The alternative to the police state is a mutual endeavor based on trust. The basis for trust in ones fellow man is, I believe, as deeply rooted in human nature as any instinct for self-defense or preservation. We need each other not just to survive but to realize our potential and live as fully as possible.

This is why the image of the Starbucks customer who is “packing heat” is relevant to a discussion of gun regulation. The price that is paid for self-defense is the erosion of trust. When liberals characterize “gun nuts” as “obsessed” and “macho,” they are reacting to the fact that bearing arms signifies a relative absence of trust in others and a display of the power to do them harm as a way of forestalling aggression. Yes, there are some gun owners who are rightly characterized as “macho” and whose mode of self-expression seems to be largely posturing and projecting an image of power and aggression, but this is not why widespread gun-ownership may be detrimental to the social fabric.

Condoning the private ownership of weapons designed specifically to injure and kill other people can be viewed as an admission of defeat in the maintenance of the level of trust required for a civil society based on something other than coercion. To some extent the gun-owner’s argument that society is ultimately a matter of power relations and coercion is a self-fulfilling prophecy. The point of gun regulation is not simply to reduce the likelihood of mass shootings. It is to reassert a fundamental requirement for an evolved society. Whether this is possible in the United States is the real issue.

### **Practical Considerations**

Dan Baum, one of the most interesting commentators on the current debate about guns, recently said in an interview that any attempt by the government to confiscate guns would result in civil war. He is someone who has his finger on the pulse of the gun community while still being able to communicate with “liberals,” and he may be right. There certainly seem to be plenty of people contributing to discussions on the Internet who are prepared to fight the government in order to keep their guns. Most politicians seem to realize that confiscation of guns of any sort is not a viable option in the US, even though there are other countries which have been able to outlaw and buy back, if not confiscate, many types of weapons. (Australia is the most interesting case, even though the net effect of the ban is a subject for debate.) There are apparently an estimated 300 million privately owned guns in the US. They are not going away any time soon.

The more I think about it the more it seems to me that a ban on certain kinds of guns is a symbolic, ritualistic gesture which may have a negligible effect on the number of deaths caused by gunfire each year but which is necessary to resuscitate our faith in ourselves and our government. If there is the political will in Congress to outlaw the further sale of “assault weapons,” I don’t think there is a serious risk of civil disturbances in response, even though there will be further alienation of the segment of the population committed to the idea that they have an inalienable right to bear arms and to arm themselves with weapons equivalent to those which criminals may use against them. I

would like to think that some of the alienation could be defused by open discussion of what is really involved in the Constitutional right to bear arms, but I am skeptical about the efficacy of such debate.

I think the focus of the discussion should probably be on the responsibilities that come with gun ownership, and I do not think it should suffice to cite the 2<sup>nd</sup> Amendment and walk away from any serious discussion of the need for gun registration as a means of insuring responsibility. The first step is surely to require records of all sales of guns between individuals as well as sales from licensed dealers. It seems to me that the only reason “law-abiding gun owners” resist universal registration is that they are afraid of confiscation. While I do not deny that they may be genuinely afraid, it seems to me that such fear implies a rejection of the legitimacy of the government and is not a valid argument. If there is a group that rejects the legitimacy of the government (be it local, state or federal), they need to find a way to restore its legitimacy and, if armed insurrection is the only way, then they can hardly complain if the rest of the population supports a government suppression of their efforts.

There are plenty of places in the world where it is common to see people carrying guns in public. Normally we refer to such places as “war zones,” and I do not want to live in a war zone if I have a choice. What causes a place to degenerate into a war zone is not just the availability of weapons. It is a host of social, economic, political, cultural and moral factors which need to be constantly addressed in order to preserve and enhance a real community. Some people seem convinced that the United States is on its way to becoming a war zone and that the only reasonable response is to withdraw, arm oneself and seek out like-minded comrades with whom one can weather the storm. I do not think we should give up yet.

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