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Comparative Law

This is online Chapter 14 of the law school casebook Firearms Law and the Second Amendment: Regulation, Rights, and Policy, *by Nicholas J. Johnson, David B. Kopel, George A. Mocsary, and Michael P. O'Shea. The printed book, consisting of Chapters 1 through 11, is available at the website of Aspen Publishers. The printed book is also available from Amazon.com and Barnes & Noble (bn.com). The public website for this casebook contains the four online chapters (Chapters 12 through 15), plus podcasts on each chapter, resources for student research papers, and more.*

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Online Chapter 13 covered International Law — that is, law that applies among nations, such as treaties. Online Chapter 14 studies Comparative Law; comparing and contrasting the "domestic" (noninternational) gun laws of various nations and examining the possible effects of those different laws. Because international law is derived in part from the "norms" of civilized nations, the study of comparative law can yield useful insights for international law.

A. National Constitutions

1. Constitutional Rights to Arms

Besides the United States, three other nations have an express constitutional right to arms.

a. Mexico

Constitución Política de los Estados Unidos Mexicanos [C.P.], *as amended*, art. 10, Diario Oficial de la Federación [DO], 5 de Febrero de 1917 (Mex.):

> The inhabitants of the United States of Mexico have the right to possess arms in their domiciles, for security and legitimate defense, with the exception of the prohibitions by federal law and the reservations for exclusive use of the military, army, air force, and national guard. Federal law will determine the cases, conditions, requirements, and place under which the inhabitants will be authorized to carry arms.

b. Haiti

Constitution de la République d'Haïti art. 268-1 (1987):

> Every citizen has the right to armed self-defense, within the bounds of his domicile, but has no right to bear arms without express well-founded authorization from the Chief of Police.

c. Guatemala

Guatemala Constitution art. 38 (1986):

> Possession and carrying of arms. The right of possession of arms, not prohibited by law, for personal use is recognized, in the home. There will be no obligation to surrender them, save in cases that are ordered by a competent judge. The right of carrying of arms is recognized, and regulated by the law.

2. Constitutional Right of Self-Defense

Fifteen nations, all of whom have legal systems derivative of English law, use nearly identical language to constitutionalize self-defense: Antigua & Barbuda (art. 4), the Bahamas (art. 16.), Barbados (art. 12), Belize (art. 4), Cyprus (art. 7.), Grenada (art. 2), Guyana (art. 138), Jamaica (art. 14), Malta (§33), Nigeria (art. 33), Samoa (art. 5), St. Kitts & Nevis (art. 4), Saint Lucia (art. 2), Saint Vincent and the Grenadines (art. 2), and Zimbabwe (art. 12). Another country, Slovakia (art. 15), uses a variation of the formula.

The language in these 15 nations' constitutions is a more elaborate version of the provisions in the European Convention on Human Rights recognizing a right to life and self-defense. (*See* Chapter 13.A.) The language in these constitutions provides:

> (1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.
> (2) A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case

(a) for the defence of any person from violence or for the defence of property;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or

(d) in order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

Two other countries also constitutionally enumerate a right of self-defense. In Honduras, "the right of defense is inviolable" (art. 82). In Peru, "Every person has the right: . . . §23 To legitimate defense.").

3. Constitutional Self-Defense against Tyranny

In 13 nations, the constitution affirms a right and duty of citizens to resist or revolt against domestic or foreign tyranny. The most detailed of these is the Honduran Constitution:

> Nobody owes obedience to a usurping government nor to those who assume functions or public powers by the force of arms or by uses or procedures that violate or are unknown to this Constitution and the established laws. The acts proclaimed by such authorities are null. The people have the right to resort to insurrection in defense of the constitutional order.

Constitución Política de la República de Honduras de 1982, art. 13.

There are similar provisions in the constitutions of:

Argentina (§36): "This Constitution shall rule even when its observance is interrupted by acts of force against the institutional order and the democratic system. These acts shall be irreparably null. . . . Those who . . . were to assume the powers foreseen for the authorities of this Constitution . . . shall be punished . . . and shall be civilly and criminally liable for their acts. . . . All citizens shall have the right to oppose resistance to those committing the acts of force stated in this section. . . ."

Greece (art. 120(4)): "Observance of the Constitution is entrusted to the patriotism of the Greeks who shall have the right and the duty to resist by all possible means against anyone who attempts the violent abolition of the Constitution."

Hungary (art. 2(3)): "No activity of any person may be directed at the forcible acquisition or exercise of public power, nor at the exclusive possession of such power. Everyone has the right and obligation to resist such activities in such ways as permitted by law."

Portugal (art. 21): "Everyone has the right to resist any order that infringes his rights, freedoms, or safeguards and to repel by force any form of aggression when recourse to public authority is impossible. . . ."

Slovakia (art. 32): "The citizens shall have the right to resist anyone who would abolish the democratic order of human rights and freedoms set in this Constitution."

Provisions with wording similar to the Honduran Constitution have also been adopted by Congo (art. 17), Guatemala (art. 45), Lithuania (art. 3), and Peru (art. 46).

Three other nations' constitutions incorporate the Universal Declaration of Human Rights, which in turn affirms the right of resistance to tyranny (Chapter 13.A): Andorra (art. 5), Mauritania (pmbl.) (also incorporating African Charter of Human and Peoples' Rights), and Romania (art. 20).

Finally, in five countries, the constitution asserts an intention to assist the liberation of other nations from tyranny: Algeria (arts. 27 and 33), Angola (art. 16), Cuba (art. 12), Portugal (art. 7(3)), and Suriname (art. 7).

4. Constitutional Security against Home Invasion

National constitutions that include a Bill of Rights very frequently contain a provision protecting the right to security against home invasion. Sometimes — as in the United States' Fourth Amendment — the right is stated in terms that implicitly or explicitly apply only to home invasions committed by the government. Very frequently, however, the right is stated in terms that are not limited to government actors. For example, Afghanistan's constitution insists that "no one, including the state, is allowed to enter or inspect a private residence without prior permission of the resident or holding a court order." Constitution of Afghanistan art. 38.1-2. The Slovak constitution similarly combines protection against state action and non-government action:

> (1) A person's home is inviolable. It must not be entered without the resident's consent.
> (2) A house search is admissible only in connection with criminal proceedings and only on the basis of the judge's written and substantiated order. The method of carrying out a house search will be set out in a law.
> (3) Other infringements upon the inviolability of one's home can be permitted by law only if this is inevitable in a democratic society in order to protect people's lives, health, or property, to protect the rights and liberties of others, or to ward off a serious threat to public order. If the home is used also for business or to perform some other economic activity, such infringements can be permitted by law also when this is unavoidable in meeting the tasks of public administration.

Constitution of the Slovak Republic art. 21 (1992).

Other provisions protecting the home:

- Constitution of the Principality of Andorra art. 14: "No one shall enter a dwelling or any other premises against the will of the owner or without a warrant, except in case of flagrant delicto."
- Constitutional Law of the Republic of Angola art. 44: "The State shall guarantee the inviolability of the home. . . ."
- Constitution of Antigua and Barbuda ch. 2(3)(c): "protection for his family life, his personal privacy, the privacy of his home and other property. . . ."
- Constitution of the Republic of Armenia art. 21: "It is prohibited to enter a person's dwelling against his or her own will except under cases prescribed by law."

Constitution of the Azerbaijan Republic art. 33.1-2: "With the exception of cases specified by Law or Court no one shall be authorized to enter the Apartment against the will of the Resident."

Bahamas Constitution ch. 3.15(c): "protection for the privacy of his home and other property. . . ."

Constitution of the Republic of Belarus art. 29: "No person shall have the right, save in due course of law to enter the premises or other legal property of a citizen against one's will."

Belgium Constitution art. 15: "The domicile is inviolable; no visit to the individual's residence can take place except in the cases provided for by law and in the form prescribed by law."

Constitution of Belize art. II.9.1: "Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises."

Constitution de le République du Benin art. 20: "The domicile is inviolable. There may be no inspections or searches except according to the forms and conditions envisaged by the law."

Constitución Política de la República de Bolivia art. 21: "Every house is an inviolable asylum; at night, no one may enter without the consent of the inhabitants, and by day only by written authorization of a competent authority or in case of flagrante delicto."

Constituição Federal [C.F.] [Constitution] art. 5 (Brazil): "The home is the inviolable asylum of the individual; it is forbidden to enter except with the consent of those who live there, in case of a crime detected in the act, a disaster, or to give aid, according to a judicial determination."

Constitution of Bulgaria art. 33.2: "(2) Entering a residence or staying in it without the consent of its occupant or without the permission of the judicial authority may be allowed only for the purpose of preventing an imminent crime or a crime in progress, for the capture of a criminal, or in extreme necessity."

Constitution du Burkina Faso art. 6: "[T]he residence, the domicile, the private and family life, the secrecy of the correspondence of every person are inviolable."

Constitution de Burundi art. 23: "No one can be the subject of arbitrary interference [with] his private life, his family, his residence or his correspondence. . . . There may not be orders for searches or home inspections except by the forms and the conditions envisaged by the law."

Constitution of the Kingdom of Cambodia art. 40: "The rights to privacy of residence . . . shall be guaranteed."

Xianfa art. 39 (1982) (China): "Unlawful search of, or intrusion into, a citizen's home is prohibited."

Congo Constitution art. 29: "The home is inviolable. There may not be inspections or searches except according to the forms and conditions envisaged by the law."

Constitución Política de la República de Cuba de 1976 art. 56: "Nobody can enter the home of another against his will, except in those cases foreseen by law."

Constitución Política de la República Dominicana de 2002 art. 8.3: "Inviolability of the home. No domiciliary inspection can be legitimate but in the cases anticipated by the law and with the formalities that it prescribes."

Constitution of the Arab Republic of Egypt, 26 Dec. 2012 art. 39: "Private homes are inviolable. With the exception of cases of immediate danger and distress, they may not be entered, searched or monitored, except in cases defined by law, and by a causal judicial warrant which specifies place, timing and purpose. Those in a home shall be alerted before the home is entered or searched."

Constitución Política de la República de El Salvador de 1983 art. 20: "The dwelling is inviolable and it will only be able to be entered by consent of the person who inhabits it, by judicial mandate, in case of a flagrant crime or imminent danger of its perpetration, or of serious risk to the people."

Eritrea Constitution art. 18(2): "No person shall be subjected to unlawful search, including his home or other property."

Constitution of the Republic of Estonia art. 33: "No one's dwelling . . . shall be forcibly entered or searched, except in the cases and pursuant to procedure provided by law."

Constitution of the Federal Democratic Republic of Ethiopia art. 26.1: "Everyone has . . . the right not to be subjected to searches of his home, person or property."

Grundgesetz für die Bundesrepublik Deutschland (Basic Law) art. 13.1 (Germany): "The home is inviolable."

The Grenada Constitution Order 1973 ch. 1.7: "Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises."

Constitución Política (Guatemala) art. 23: "The home is inviolable. No one can enter another's dwelling without the permission of the inhabitants, except by written order of a competent judge, specifying the reason for the investigation, and never before 6:00 or after 18:00. Such investigation should be carried out in the presence of the person concerned, or his authorized representative."

Constitution of Guyana art. 40.1(c): "[P]rotection for the privacy of his home and other property and from deprivation of property without compensation."

Constitución Política de la República de Honduras de 1982 art. 99: "The domicile is inviolable. No entrance or search will be able to be authorized without consent of the person who inhabits it or approval of competent authority."

Xianggang Jiben Fa art. 29 (Hong Kong):"Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited."

Qanuni Assassi Jumhurii Islamai Iran [The Constitution of the Islamic Republic of Iran] art. 22 [1980]: "The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law."

Irish Constitution (Bunreacht na hÉireann), 1937, art. 40.5: "The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law."

Costituzione art. 14 (Italy): "(2) No one's domicile may be inspected, searched, or seized save in cases and in the manner laid down by law."

The Jamaica Order in Council 1962 [Constitution] art. 19.1: "Except with his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises."

Constitution of the Hashemite Kingdom of Jordan art. 10: "Dwelling houses shall be inviolable and shall not be entered except in the circumstances and in the manner prescribed by law."

Kuwait Constitution art. 38: "Places of residence shall be inviolable. They may not be entered without the permission of their occupants except in the circumstances and manner specified by law."

Constitution of the Republic of Latvia art. 96: "Everyone has the right to inviolability of a private life, place of residence and correspondence."

Lebanese Constitution art. 14: "The citizen's place of residence is inviolable. No one may enter it except in the circumstances and manners prescribed by law."

Constitution of the Republic of Liberia art. 16: "No person shall be subjected to interference with his privacy of person, family, home or correspondence except by order of a court of competent jurisdiction."

Libya Constitution art. 12: "The home is inviolable and shall not be entered or searched except under the circumstances and conditions defined by the law."[1]

Constitution of Luxembourg art. 15: "No domiciliary visit may be made except in cases and according to the procedure laid down by the law."

Constitution of the Republic of Macedonia art. 26.1: "The inviolability of the home is guaranteed."

Constitution of the Republic of Madagascar art. 13.1: "Everyone shall be assured of protection of his person, his residence, and his correspondence."

Mongolia Constitution art. 16.13: "Privacy of citizens, their families, correspondence, and homes are protected by law."

Constitution of the Kingdom of Nepal art. 22: "Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable."

Constitución Política de la República de Nicaragua [Cn.] art. 26: "Every person has the right: 1. To his private life and that of his family. 2. To the inviolability of his domicile, his correspondence and his communications of all types."

Constitution of Nigeria (1999) art. 37: "The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected."

The White Book I. The Basic Law of the Sultanate of Oman art. 27: "Dwellings are inviolable and it is not permitted to enter them without the permission . . . except in the circumstances specified by the Law."

Constitución Política de la República de Panamá art. 26: "The domicile or residence is inviolable."

Constitución Política (Paraguay) art. 33: "Personal and family privacy, as well as respect for privacy, are inviolable."; *id.* art. 34: "Every private enclosure is inviolable."

Constitución Política del Perú art. 2.9: Every person has a right "To the inviolability of the domicile."

Constituição de República Portuguesa art. 34: "The individual's home and the privacy of his correspondence and other means of private communication are inviolable. . . ."

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1. This is the relevant article from the Libyan constitution as it stood under Moamar Gaddafi's government. As of July 2014, the Libyan people are still drafting their new constitution. However, there is some debate as to which individuals should actually be drafting the new provisions. In the meantime, Article 11 of the constitution promulgated by The Interim Transitional National Council after Gaddafi's fall in 2011 reads as follows: "Dwelling houses and homes shall have their sanctity and they may not be entered or inspected except in cases prescribed by the law and according to the manner set forth therein."

Qatar Constitution art. 37: "The sanctity of human privacy shall be inviolable, and therefore interference into privacy of a person, family affairs, home of residence . . . may not be allowed save as limited by the provisions of the law stipulated therein."

Constitution of Romania art. 27.1: "No one shall enter or remain in the domicile or residence of a person without his consent."

Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution] art. 25 (Russia): "No one shall have the right to penetrate the home against the will of those residing in it unless in cases provided for by the federal law or upon the decision of the court."

Constitution of the Republic of Rwanda art. 22: "A person's home is inviolable."

Constitution of Saint Christopher and Nevis (St. Kitts & Nevis) art. 9.1: "Except with his own consent, a person shall not be subject to the search of his person or his property or the entry by others on his premises."

Constitution of Saint Lucia art. 7.1: (same as St. Kitts).

Saint Vincent Constitution Order 1979 art. 7.1: (same as St. Kitts).

Saudi Arabia Constitution art. 37: "The home is sacrosanct and shall not be entered without the permission of the owner or be searched except in cases specified by statutes."

Constitution of the Slovak Republic art. 21.1: "Entrance without consent of the person residing therein is not permitted."

Daehanminkuk Hunbeob [Constitution] art. 16 (S. Korea): "All citizens are free from intrusion into their place of residence."

Constitución Española art. 18.2, Dec. 29, 1978 (Spain): "The home is inviolable."

Constitution of Suriname art. 17.1: "Everyone has a right to respect of his privacy, his family life, his home."

Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 13.1 (Switzerland): "Every person has the right to receive respect for their private and family life, home, and secrecy of the mails and telecommunications."

Syria Constitution art. 31: "Homes are inviolable."

Constitution of the Kingdom of Thailand §35: "The entry into a dwelling place without consent of its possessor or the search thereof shall not be made except by virtue of the law."

Constitution of the Republic of Trinidad and Tobago art. 4(c): "[T]he right of the individual to respect for his private and family life."

Tunisia Constitution art. 23: "The state protects the right to a privacy and the sanctity of domiciles, and the confidentiality of correspondence and communications, and personal information. Every citizen has the right to choose a place of residence and to free movement within the country and the right to leave the country."

Constitution of the Republic of Turkey art. 21.1: "The domicile of an individual shall not be violated."

Constitución Política de la República (Uruguay) art. 11: "The home is an inviolable asylum. At night nobody may enter without consent of the head of the house, and by day, only by express order of a competent judge, in writing and according to cases determined by the law."

Constitución de la República Bolivariana de Venezuela art. 47: "The domestic home and all private personal enclosures are inviolable."

Constitution of the Socialist Republic of Vietnam art. 73.1-2: "No one is allowed to enter another person's home without the latter's consent, unless otherwise authorised by the law."

Constitution of Zambia of 1991 art. 17.1: "Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises."

Constitution of Zimbabwe art. 17.1: "Except with his own consent . . . no person shall be subjected to the search of his person or his property or the entry by others on his premises."

NOTES & QUESTIONS

1. *Right to arms provisions in other nations' constitutions.* As you have seen, express protections of the right to keep and bear arms are relatively uncommon in national constitutions, in comparison with other types of related rights provisions (e.g., right of self-defense, right to security of the home). Why do you think that is?

2. Why do you think that the three nations listed in Section A.1 above (and the United States) *do* expressly recognize a right to arms? Is it significant that all four nations are located in the Western Hemisphere?

3. Textually, how do the rights to arms recognized in the Guatemalan, Haitian, and Mexican Constitutions compare with the Second Amendment of the United States Constitution? With the Second Amendment as construed by *District of Columbia v. Heller* (Chapter 9) and *McDonald v. City of Chicago* (Chapter 9)? With U.S. state constitutional rights to arms provisions (Chapter 1)?

Note that the portions of the other nations' constitutions that correspond to the right to "bear arms" in the Second Amendment describe the right as "el derecho de portación de armas" (Spanish); "droit au port d'armes" (French). These phrases plainly refer to the personal carrying of weapons, distinct from the right to possess arms for self-defense in the home.

Do the usages in other North American constitutions shed any light on the debate about whether the Second Amendment right to "bear arms" means carrying weapons outside the home? On whether the right to carry can be more heavily regulated outside the home? Do differences in text, history, and/or language render such cross-national comparisons of no value in interpreting the Second Amendment?

4. *Derivative or penumbral rights.* Explicit constitutional rights to arms are less common internationally than rights to be secure against home invasion. But is it plausible that the right to be secure against home invasion should include some implicit, derivative rights to resist home invasion yielding, for example, a derivative right to door and window locks? Would a right to possess common firearms to resist home invaders be a fair extension of the idea? Would it be a violation of that right if the government outlawed reinforced glass? Window bars? Dogs trained to attack intruders? Dogs

trained to raise an alarm? Defensive weapons, such as chemical sprays? Contact weapons, such as clubs or bats? What about firearms?

5. The Castle Doctrine of English common law ("That the house of everyone is to him as his castle and fortress, as well for his defense against injury and violence as for his repose." *Semayne's Case*, 77 Eng. Rep. 194, 195 (K.B. 1603)) was discussed in Chapter 2. Is it analogous to the explicit home protection provisions of the national constitutions?

6. Is *District of Columbia v. Heller*'s (Chapter 9) strong protection of self-defense inside the home consistent with international norms?

7. The actual practices of many nations diverge considerably from what their written constitutions require. For example, although many constitutions strongly guarantee the inviolability of the home, warrantless intrusions by police may be common. Likewise, as detailed *infra*, Mexico's current laws on arms control are vastly more restrictive than what the Mexican Constitution seems to allow. Does this prove that constitutions are unimportant? Are certain human rights so universally respected that even oppressive governments at least pay lip service to them?

8. Tunisia's constitution was ratified in January 2014. Tunisia's previous constitution, which was in place under a kleptocratic regime, stated that "The inviolability of the home and the secrecy of correspondence are guaranteed, save in exceptional cases established by the law." Tunisian Const. of 1956, art. 9. As a purely textual matter, what is the difference between the two provisions? Does the type of regime under which the constitution exists influence your view as to which you would prefer?

B. Multinational Comparative Studies of the Effects of Private Gun Ownership on Crime and Violence

Arguments about American firearms policy often refer to the experiences of other countries. It is natural to assume that policies or practices that work in one nation will translate into another. What do we find when we compare American crime rates (and other social ills such as suicide), not with a few isolated examples of other countries, but with a broad range of jurisdictions that have varying levels of gun regulation and rates of gun ownership?

The comparative studies excerpted below try to assess the relationship between firearms policy and outcomes across nations. In reading them, pay attention to the correlations (and lack of correlations!) that each study claims. Consider the arguments that each study makes about whether the correlations are *caused* by the rate of gun ownership in each country.

All the studies examine gun density as a variable among nations. One of the difficulties of conducting such studies is estimating the actual number of

firearms in a nation. Many governments have gun registration data, but the data by definition include only the guns that have been registered with the government. Especially when the government makes it difficult or expensive for people to acquire firearms lawfully and register them, the number of firearms in a nation may vastly exceed the number of registered firearms. Mexico, *infra* Section C, is a case in point, in which unregistered guns comprise the vast majority of the gun stock. Professor Johnson's article, *infra*, provides a litany of other nations where unregistered guns far outnumber registered ones—based, of course, on rough estimates of the quantity of unregistered guns.

Some scholars, such those at the Small Arms Survey (a research institute in Geneva, Switzerland), start with registration data, and then use other sources to estimate the total gun supply in a nation. (The Kopel et al. article, *infra*, relies on the Small Arms Survey for national data.)

Another source for estimates is annual data about firearms manufacture, imports, and exports in a particular nation. Online Chapter 12 uses over half a century of U.S. data to estimate the U.S. gun supply. In most nations, however, the long-term data on manufacture, imports, and exports are not nearly so complete.

Some scholars, such as Professor Gary Kleck, dismiss the Small Arms Survey figures as near-worthless and prefer to use "Percentage Gun Suicide" (PGS) to estimate the firearms inventory. Under this approach a country where 18 percent of suicide victims use guns would presumably have nine times more guns per capita than a country where 2 percent of suicides were committed with guns. PGS is considered a reasonably valid indicator of gun availability in the general population.

Because suicide itself is far more prevalent among older males than among the general population, however, PGS might be more representative of gun possession within this group, rather than of the general population. In addition, one unexplored subject of research is whether, from country to country, there are different attitudes and influences affecting the use of guns as suicide instruments such that people in countries with relatively equal gun inventories would be differently inclined to use guns in suicide.

Martin Killias, lead author of the first study in this section, uses telephone surveys for his estimates of gun ownership. One advantage is that the survey can compile precise information about the number and type of guns in each household. The disadvantage is that many telephone respondents will refuse to disclose gun ownership to an unseen stranger. As Chapter 12 details, the nonresponse issue is a problem in estimating gun ownership in the United States. It may be an even greater problem in nations where gun ownership is less pervasive, less an accepted part of the nation's culture, or legally unprotected. For example, data indicate that in Great Britain, approximately half of the guns are owned illegally. David B. Kopel, The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies? 89-90 (1992). There is no empirical research on whether false denial rates vary significantly from one nation to another. Indeed, it would be all but impossible to assemble reliable empirical data on this question absent the use of forced searches and other methods that would be unconstitutional in the United States; after all, if a gun owner is willing to lie about owning a gun, he or she would presumably be willing to lie about having lied about owning a gun.

Keep these points of uncertainty in mind as you read the following studies. It may help you to appreciate how different researchers take different approaches to an oft-vexing challenge in social science and the challenge of assembling data worth analyzing.

Following are the definitions of some of the specialized terms you will encounter in the articles. You may also find this knowledge useful in other professional contexts. Although law schools rarely offer training in social science statistics, attorneys who practice in fields involving public policy often need to be able to understand social science articles, and to present the findings of such articles to a court.

Significance. In general usage, "significant" means about the same as "important" or "meaningful." Relatedly, the term "statistically significant" is widely misunderstood to mean something akin to "measurable" or "observable."

The statistical meaning is much more precise. When a social science study shows a correlation between two things (e.g., the rate of heart attacks on a given day, and whether the temperature that day was above 100 degrees Fahrenheit), the question arises whether it is due simply to chance. Statisticians use well-established formulas to estimate the probability that the correlation is random.

Usually, a result is said to be "significant" (or *statistically significant*) if the significance test's result is 0.05 or lower.[3] In other words, there is a 95 percent probability that the correlation of the two things is not explained by mere chance, *assuming that no* confounding factors — *unknown outside influences* — *are skewing the results.* As a matter of standard practice, a correlation that is not statistically significant is ignored — that is, it is treated as if it does not exist, as if there is no correlation.

Confounding factors can be eliminated fairly well in controlled laboratory experiments. But it is exceedingly difficult to eliminate the effect of outside variables in other contexts because it is impossible to compare real-world data — say, data obtained in a world where firearms exist — to equivalent data obtained from a counter-factual world — say, one in which firearms do not exist. That it is often difficult to estimate even those variables which the researcher intends to include in the study makes things even less certain.

It is important to remember that a mere finding of significance is not certain proof. There may be other factors that explain the relationship. For example, in the United States, Blacks have a much higher rate of being convicted for felonies than do Whites. The racial difference is statistically significant. However, this does *not* prove that race differences cause difference in crime rates. For example, it might be that other factors (e.g., poverty rates, education levels, unemployment levels, broken families, harsher treatment of Blacks by the criminal justice system, etc.) account for all or most of the Black/White differences.

In addition, the fact that a correlation is statistically significant does not mean that it is *practically significant.* Practical significance, unlike statistical significance, is a measure of how important or meaningful an effect is.

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3. Sometimes, a looser standard of 0.10, or a more stringent standard of 0.01, is used.

For example, there may be a statistically significant correlation between the number of letters in one's name and the number of sunny days in those people's neighborhoods, but, as common sense suggests, this finding has no practical significance.

Confidence interval. Statistical significance is sometimes expressed as a range of values, and the result of an experiment is said to be significant if it is *outside* the "95-percent confidence interval."

p-value. Often referred to simply as "*p*." The probability that the results are as extreme as those found — or more extreme (again, assuming no confounding variables). If *p* is less than 0.05 (in other words, the probability that the results are due to chance is less than 5 percent), then the results are considered significant.[4]

r. The *r* is the strength of the correlation of two variables. It is important to distinguish *r* (strength of correlation) from *p* (probability that the correlation is not due to random chance). A weak correlation can still be statistically significant. For example, even though drunk driving is very dangerous, the majority of drunk driving events do not result in accidents. Thus the *r* will be low (closer to 0 than to 1) for both sober and drunk driving. If drunk driving events always resulted in an accident, then *r* would be 1. But we also know that driving drunk markedly increases the chances of an accident relative to sober driving, so it is not surprising that the correlation between drunk driving and an increase in accident rates is statistically significant. That is, $p < 0.05$.

N. The sample size. If you perform a study of 150 people, or 150 nations, then $N = 150$.

Spearman's rho. The same as *Spearman's rank correlation coefficient*, and similar to *r*. Sometimes the shorthand *rho* is used. In a formula, the shorthand is r_s. This is a formula for calculating the correlation between two things. The result will be between -1 and 1. If the two things are closely correlated (e.g., the number of fans in a football stadium vs. the decibel level of crowd roars), then Spearman's rho will be close to 1. If the two things are inversely correlated (e.g., obeying all traffic laws while driving vs. auto accident injury), then Spearman's rho will be close to -1. If the two things have little correlation (e.g., sunspot activity vs. whether the National or American League wins the World Series), then Spearman's rho will be close to 0.

Pearson's r. Serves the same purpose as *Spearman's rho*, but the formula is different. *Pearson's r* is a formula for measuring the direction and the magnitude

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4. For example, suppose a population consists of 50% Republicans and 50% Democrats, but the statistician does not actually know this. A sample of 10 voters is drawn, and merely by luck, it contains 7 Republicans and 3 Democrats. The statistician's best guess is that the population is actually 70% Republican, but it is also possible that the population is really 90% Republicans or 10% Republicans or any other value, and the sample just happens by luck to differ from the population. A finding of statistical significance is a finding that results as extreme as those found — or more extreme — would be found less than 5% of the time, given some initial guess (the ***null hypothesis***, often referred to simply as the *hypothesis*) about the population from which a sample was drawn. If the initial guess about the population was that it was 10% Republican and 90% Democrat, then it would be quite unlikely to draw a random sample of 10 people consisting of 7 Republicans and 3 Democrats, and the precise probability that this would occur is *p*-value.

of the correlation between two variables. If increases in X are correlated with increases in Y, then the correlation of X and Y moves in the same direction. If a 50 percent increase in X is correlated with a 50 percent increase in Y, then the magnitude of the correlation is high. The *Pearson's r* formula produces a number between -1 and 1. If the number is positive, then the direction is the same. If the number is close to -1 or 1, and far from 0, then the magnitude of the correlation is high.

Variance* and *standard deviation. Ways of measuring the range over which a set of numbers is spread out. A higher value indicates that the numbers are more dispersed.

Type-I and Type-II errors. The probability of a Type-I error is the probability that a study's authors conclude that a correlation exists where in fact there is no correlation. Where the standard 0.05 significance level is used as the decision rule, the probability of a Type-I error is 5 percent. The probability of a Type-II error is the probability that a study's authors conclude that a correlation does not exist where in fact one does exist. The probabilities of Type-I and Type-II errors are inversely correlated — as one increases, the other decreases. Type-II errors can only be calculated for a given strength of correlation.

Martin Killias, John van Kesteren & Martin Rindlisbacher, Guns, Violent Crime, and Suicide in 21 Countries

43 Can. J. Criminology 429 (2001)

Research on the role of firearms in violence and fatal events has focused heavily on American data and research. This implies certain limitations, since the United States is one of the Western countries with exceptionally high homicide and gun ownership rates. Thus, the American context offers only limited variance in the most prominent independent as well as dependent variables.

International comparisons offer challenging new perspectives. This research is based on data on gun availability in private households, collected through the international victimization surveys of 1989, 1992, and 1996, and World Health Organization data on homicide and suicide from 21 countries. It updates and extends former research conducted on this issue, based on the surveys of 1989 and 1992. In addition, data from the International Crime Victimization Surveys were used on total and gun-related robbery and assault (including threats).

The results show very strong correlations between the presence of guns in the home and suicide committed with a gun, rates of gun-related homicide involving female victims, and gun-related assault. The picture is different for male homicide, total rates of assault, and generally, for robbery (committed with or without a gun). With the exception of robbery, most correlations are similar or stronger when all types of guns are considered, rather than handguns alone. Interestingly, no significant correlations with total suicide or homicide rates were found, leaving open the question of possible substitution effects. It is concluded that guns in the home are an important risk factor in suicide with guns, as well as a threat to women (especially female partners), whereas their role in homicide of male victims and street crime (such as robbery) may be much less prominent. Finally, the usual focus on handguns may lead to underestimate the role of other types of guns.

Background

Over many years, the role of guns has been debated, particularly within the United States (Wright, Rossi, and Daly 1983; Zimring and Hawkins 1987; Kleck 1991). Within a situational perspective, guns (just as other means to commit crime) should increase the likelihood of their criminal use in the same way as access to toxic gas or other means increases the frequency of other crimes (Clarke and Mayhew 1980) or suicide (Clarke and Lester 1989). As far as homicide and access to guns (or gun ownership) is concerned, most research has been based on cross-sectional comparisons of two cities, such as Seattle and Vancouver (Sloan, Kellermann, Reay, Ferris, Koepsell, Rivara, Rice, Gray and LoGerfo 1988), or on data from the United States where, however, the variation (across States, counties or regions) in relevant dependent and independent variables is relatively limited. Time-series analyses (such as Carrington and Moyer 1994, or Loftin, McDowell, Wiersema, and Cottey 1991) certainly allow to assess with some precision the effects of new gun control laws, although such laws may not necessarily affect the number of guns in circulation, or the percent households owning one or more guns. The effect of guns in the home on fatal events (homicide or suicide) and violent crime may be rather hard to assess without direct measures of gun ownership (as in many of the studies reviewed by Cook 1991), and without data from countries with highly variable prevalence rates of guns, homicide, gun-related violent crime, and suicide (Haen 2000). As former studies based on World Health Organization (WHO) data have shown, even industrialised nations vary dramatically with respect to homicide and suicide rates (Krug, Powell, and Dahlberg 1998). The same is true for gun ownership rates, since — in the present sample — the percent of households with one or more guns varies between 2.0 (in the Netherlands) and 49.1 percent (in the USA).

Using data from the 1989 and 1992 international crime surveys (van Dijk, Mayhew, Killias 1990) as well as WHO data on homicide and suicide, the first author has presented correlations between these variables in international perspective (Killias 1993a; 1993b). The results, based on data from 14 (1993a) and 18 countries (1993b), showed that gun-related suicide is highly correlated with gun ownership ($r = .858$, $N = 16$; $rho = .922$, $N = 18$), whereas the correlation was more moderate for homicide committed with a gun ($r = .476$, $N = 16$; $rho = .542$, $N = 18$). The correlation between gun ownership and total rates of suicide and homicide turned out to be rather weak (in the range, for r and rho, between .353 and .441), and the coefficients were (with one exception) not significant (at the .05 level). Between gun ownership and overall measures of violence, no consistent correlation was found (van Kesteren 2000).

Within these former studies, a certain number of issues could not be dealt with, given the lack of available data. First of all, the number of countries included in the study was relatively limited. Second, the data on gun ownership were collected in 1989 or in 1992, whereas the WHO data for homicide or suicide included, for 14 countries, the years 1983 to 1986. If gun ownership is considered as the independent variable, it would have been desirable to use data for the same year for which gun ownership has been measured, or eventually for the following years. Finally, some additional information on the circumstances of homicide might have been desirable.

The Present Study

In 1996, the International Crime Victimization Survey (ICVS) was repeated in a number of countries, and extended to additional nations where no such survey had ever taken place in the past. This allows to extend the present study to 21 countries overall, using data on gun ownership (i.e., households owning at least one gun) from three sweeps of the ICVS. For 18 countries, data were available also on the kind of gun owned, i.e., on whether it is a rifle (long gun) or a handgun. To the extent that data on gun ownership were available for the same country and several years, they usually showed remarkable stability, suggesting high validity of this measure. The fluctuations usually remained within the limits of confidence intervals and should, therefore, not necessarily be seen as an indication of any particular trend.

Data on homicide and suicide (total and gun-related) have been obtained from WHO sources. Unlike earlier studies, the present data differentiate for male and female victims. Data from the European Sourcebook of Crime and Criminal Justice Statistics (Council of Europe 1999:43) confirm that police and WHO measures of homicide are highly correlated: for the years at stake (1990 to 1995), the correlations (r) varying between .89 and .96 (at least 23 countries having provided relevant data). Thus, it is unlikely that results will change if, instead of data from health statistics, police data on homicide are used.

WHO data suffer, however, from a number of shortcomings. First, some countries indicate, only for a minority of cases, whether or not the homicide (or suicide) was committed by either a handgun or a rifle, putting the majority of cases into a residual category ("unidentified or other guns"). This makes it difficult to correlate handgun ownership with handgun-related incidents alone. Second, the WHO data base suffers, despite all efforts from WHO Headquarters, from delays due to slow processing of relevant data by a number of countries (including some within the Western hemisphere). The authors have tried to complete the data from national sources. For some countries, it was possible to use data which were provided to the first author in connection with the European Sourcebook on Crime and Criminal Justice Statistics project. Table 1 gives the list of countries included in the present study, with the details on what kind of data and sources have been used (and for what years). Wherever possible, the authors have computed the rates of suicide and homicide using data for three years, i.e., the year of the ICVS gun ownership rate used plus the following two years.

The data on gun-related and total assault and robbery have been taken from the ICVS database. Total rates of assault/threat and robbery refer to the years for which data on gun ownership have been used (Table 1). Data on gun-related robberies were gathered during all three ICVS sweeps, for incidents which occurred over the last year. Concerning assault, only the 1996 questionnaire contained a follow-up question on whether a weapon (gun or other) had been used. Since national ICVS samples were rather small (ranging from 1000 to 2000 respondents), and given the low absolute frequencies of such incidents, the rates concerning robberies committed with a gun are based on the average of all sweeps available. No distinction was made in the questionnaire between robberies and assaults committed with rifles or handguns.

TABLE 1
Data on gun ownership and homicides/suicides: list of countries years and sources

Country	*Rates of ownership of guns (%) (Source: ICVS)*	*Rates of total suicides and total homicides[1] (Source: UN Demographic Yearbook)*	*Rates of total suicides and total homicides by sex (average of the years used)[2] (Source: UN Demographic Yearbook)*	*Rates of suicide with guns (average of the years used)[3] (Source: WHO)*	*Population: Available Years (Source: U.S. Bureau of the Census, International Database)*
Australia	1992	1992-94	1994	1992-94	1995
Austria	1996	1996	1995	1996-97	1996-97
Belgium	1992	1992	1995	1992	1992
Canada	1992	1992-94	1995	1992-94	1992-94
		1994 (homicide)	1994 (homicide)	1994 (homicide)	
Czech Republic	1992	1992-94 (suicide)	1993-94 (suicide)	1993-94 (suicide)	1992-94
		1992-94 (homicide)	1992-94 (homicide)		
England & Wales	1992	1991 (suicide)	- (suicide)	1992-94	1992-94
Estonia	1992	1994-95	1995	1994-95	1994-95
		1994 (homicide)		1994 (homicide)	
Finland	1992	1996 (suicide)	1995	1996 (suicide)	-
France	1989	1989-91	1994	1989-91	1989-91
Italy	1992	1992-93	1993	1992-93	1992-93
Malta	1996	1992-94	1994	1992-94	1992-94
				1989-91 (homicide)	
Netherlands	1989	1989-91	1995	1989-90 (suicide)	1989-91
New Zealand	1992	1992-94	1994	1992-94	1992-94
Northern Ireland	1989	1989-91	1992-94	1989-91	1989-91
Norway	1989	1989-91	1994	1989-91	1989-92
Scotland	1989	1989-91	1992-94	1989-91	1990-91
Spain	1989	1989-91	1994	1989-91	1989-91

Country	*Rates of ownership of guns (%) (Source: ICVS)*	*Rates of total suicides and total homicides[1] (Source: UN Demographic Yearbook)*	*Rates of total suicides and total homicides by sex (average of the years used)[2] (Source: UN Demographic Yearbook)*	*Rates of suicide with guns (average of the years used)[3] (Source: WHO)*	*Population: Available Years (Source: U.S. Bureau of the Census, International Database)*
Sweden	1992	1992-94	1995	1992-94 1996 (suicide)	1992-94
Switzerland	1996	1995-96	1995-69	1995-96 (suicide)	1995-96
West Germany	1989	1989-90	-	1989-91	1990-91
USA	1989	1989-91	1994	1989-91	1989-91

Notes for table 1:

[1] Rates of total suicides and total homicide
-Czech Republic: For homicide no data available for 1992-93.
-England and Wales: For suicide no data available for 1992-1994; source for data on homicide: European Sourcebook 1999.
-Finland: See under 3 (below).
-West Germany: No data available for 1991.

[2] Rates of total suicides and total homicides by sex
All data according to the UN Demographic Yearbook of 1996 (special edition). Exception: Data of Czech Republic.

[3] Rates of suicides/homicides with guns
-Czech Republic: Homicide: No data available for 1992-93. Data by sex not available for this period.
Suicide: No data available for 1992.
-Estonia: Including homicides caused by explosives and bombs.
-Finland: Homicide: Source: UN International Study on Firearm Regulation (N.Y. 1998. Sales No. E.89.IV.2). No data available for 1992-93. Homicides caused by explosives and bombs are included.
Suicide: Source: [Centers] for Disease Control and Prevention (CDC) of 1996. No data available for 1992-94.
-Norway: Including homicides caused by explosives and bombs.
-W. Germany: Source for data on suicide: Statistisches Bundesamt.

The Analysis

In order to assess the effect of the presence of privately owned guns on the dependent variables, correlations have been computed using the data from all countries on which the necessary data could be located. Due to missing data, the number of countries included varies between 11 and 21.

Since suicide as well as homicide and violent crime will be considered, and given the explorative character of the present study, no control variables (other than gender) have been considered. As stated in the former study (Killias 1993b), the introduction of any third (control) variable is legitimate only if there is some theoretical plausibility that such a variable might affect the independent and the dependent variable; in the present case, such a variable would have to affect gun ownership as well as — simultaneously — homicide and suicide, as well as robbery and assault. Whereas violent cultures may promote gun ownership as well as high rates of violent crime, no variable came to our minds which might similarly explain high levels of gun ownership *and* suicide.

Correlational analysis has to face the problem of outlyers. The treatment of extreme cases has always been a matter of debate. In the present study, they have been included in the first place, and then excluded in a second step. Pearson's r as well as Spearman's rho (rank order correlation coefficient) have been computed. Tables 2 and 3 give all coefficients for the full sample of 21 countries (or those with complete data), as well as Pearson's r for the remaining countries once outlyers are removed.

Results

Suicide

Table 2 shows the correlations between gun ownership and suicide with guns and in general, as well as for men and women considered separately. Both variables vary widely among the 21 countries, with very low gun ownership rates in several European countries (Netherlands, England and Wales, Scotland, Czech Republic) and very high ones in the USA, Switzerland, and Norway.

TABLE 2
Correlations between gun ownership and suicide, homicide, assault, and robbery in the 21 countries

	R with outlyers	*R without outlyers*	*Spearman's rho*
Suicide	.0969	.3575	.2519
(total)	(N = 21)	(N = 20)	(N = 21)
	p = .676	p = .122	p = .271
Suicide women	-.0678	-.0678	-.0175
(total)	(N = 19)	(N = 19)	(N = 19)
	p = .783	p = .783	p = .943
Suicide men	-.0067	.2500	-.1044
(total)	(N = 19)	(N = 18)	(N = 19)
	p = .978	p = .317	p = .670

	R with outlyers	*R without outlyers*	*Spearman's rho*
Suicide with gun	.8481	.7823	.7922
	(N = 21)	(N = 20)	(N = 21)
	p = .000	p = .000	p = .000
Suicide with gun women	.8292	.7295	.7579
	(N = 20)	(N = 19)	(N = 20)
	p = .000	p = .000	p = .000
Suicide with gun men	.8422	.8422	.7353
	(N = 20)	(N = 20)	(N = 20)
	p = .000	p = .000	p = .000
Homicide (total)	.0123	.2443	.2753
	(N = 21)	(N = 18)	(N = 21)
	p = .958	p = .328	p = .227
Homicide women (total)	.1139	-.0959	.0134
	(N = 18)	(N = 17)	(N = 18)
	p = .653	p = .714	p = .958
Homicide men (total)	-.0538	-.2250	-.0684
	(N = 19)	(N = 17)	(N = 19)
	p = .827	p = .385	p = .781
Homicide with gun	.2320	.5439	.3300
	(N = 21)	(N = 16)	(N = 21)
	p = .312	p = .029	p = .144
Homicide with gun women	.6139	.7242	.5145
	(N = 19)	(N = 16)	(N = 19)
	p = .005	p = .002	p = .024
Homicide with gun men	.2055	.2356	.4351
	(N = 19)	(N = 16)	(N = 19)
	p = .399	p = .380	p = .063
Assault	.3247	.3247	.2105
	(N = 21)	(N = 21)	(N = 21)
	p = .151	p = .151	p = .360
Assault with gun	.7156	.5706	.4780
	(N = 13)	(N = U)	(N = 13)
	p = .006	p = .067	p = .098
Robbery	-.0299	-.0715	-.0339
	(N = 21)	(N = 18)	(N = 21)
	p = .898	p = .778	p = .884
Robbery with gun	.4783	.0643	.2581
	(N = 21)	(N = 19)	(N = 21)
	p = .028	p = .794	p = .259

The correlation between gun ownership (i.e., percent households with one or several guns) and gun suicide rates is very strong ($r = .85$, $rho = .79$, $p < .05$), as in the earlier study (Killias 1993b). If the United States (as an extreme case) is excluded, the correlation is only marginally weaker (.78). Therefore, the pattern is not contingent on the inclusion of this country.

If suicide with guns is considered for women and men separately, the picture is surprisingly similar. (Data on female and male victims of suicide with guns could not be located for Finland.) Although the correlation ($r = .83$, $p < .05$) is slightly inflated by the extreme score of the USA, it remains very high even if this country is removed ($r = .73$, $p < .05$). In the case of men, the

correlation is similarly strong (r = .84), with no extreme cases in the distribution. Therefore, we can conclude that gun-related suicides are highly correlated with gun ownership rates, even for women and despite the fact that shooting is not among the suicide methods favored by women.

If gun ownership is correlated with total suicide rates, i.e., including all cases where other means were used, the correlation is not significant (Table 1). The rather weak correlations (r = . 10, rho = .25, ns[5]) are probably due to the low proportion of suicides committed with guns. Since less than one suicide in five is committed with a gun in most countries, even a strong impact on the subcategory of gun-related suicide may only moderately influence total rates of such events. The effect of gun ownership on total female suicide is even negative (r = -.07, rho = -.02, ns), due [to] the very low percentage of female suicides committed with a gun (less than 10 percent in virtually all countries, with the exception of the USA).

The picture changes slightly if Estonia, an extreme outlyer, is removed from the analysis. For the 20 remaining countries, the correlation is more substantial, although not significant (r = .36, p <.122). Given the small size of this sample, it may, however, not be warranted to rule out any potential (slight) impact of gun-related suicide on overall suicide rates.

If suicide is correlated with ownership of handguns (Table 3), rather than guns in general, the correlations remain in the same order of magnitude, i.e., very high for gun-related suicide (r = .75, p <.05) and weak (r <.11, ns) for total rates of suicide. The rank order correlation (rho) is more substantial (rho = .49, p <.025), suggesting again some possible impact on overall suicide rates.

HOMICIDE

When the USA, Estonia, and Northern Ireland are included in the analysis, the correlation remains non-significant (r = .23, rho = .33, ns, *see* Table 2), pointing to a disproportionate effect of the few countries with extreme scores. If Estonia, the Czech Republic, and Italy (all with very high rates of gun-related homicides, often committed in connection with organised crime), Northern Ireland (with a civil war, during the years under consideration), and the USA (as an extreme case) are excluded, gun ownership is moderately but significantly correlated with homicide committed with a gun (r = .54, p <.05).

The real surprise comes when rates of homicide with guns are considered for men and women separately. See footnote 2 in Table 1, page 282. According to the correlations given in Table 2, homicide with a gun is substantially correlated with homicide of women (r = .61, p <.005), but only weakly in the case of men (r = .21, ns). If Estonia, the USA (with scores two to four times those of the highest scoring among the remaining countries) and Malta (with no female victim of shooting) are excluded, while Italy and Northern Ireland (with "normal" scores of female gun homicide) are included, the correlation for

5. [ns = not significant. — Eds.]

female gun homicides becomes as strong ($r = .72$, $p < .002$) as for suicide. For men alone, the correlation is far from being significant ($r = .24$, $p < .38$); this analysis includes Malta (with no female, but several male victims of shootings), but excludes Northern Ireland because of the civil war situation (which heavily affected male homicide rates), the USA and Estonia (as outlyers). The rank-order coefficient is stronger and nearly significant ($rho = .44$, $p < .06$), however. Given the small size of the sample, it would not be reasonable to conclude that guns are totally unrelated to rates of male homicide with guns, but this correlation is obviously much weaker than for females. Some reasons for this difference will be presented in the discussion.

For total homicide rates, the situation is similar to suicide, i.e., no significant correlation emerges ($r = .01$). This is true overall as well as for homicide of men and women considered separately (see the coefficients in Table 2). The fact that Spearman's rho is also not significant ($rho = .28$, $p < .23$) shows that this is not just a matter of the extreme scores of a few countries. The reason for the absence of any significant correlation may be similar to suicide, i.e., the proportion of shootings among all homicides is, with the exception of the USA, Estonia, and Northern Ireland, just too low to translate into any substantial increment in total homicide rates if shootings are increasing or decreasing. For female homicide victims, e.g., the proportion of shootings, is, on average of the countries considered, only 27 percent.

If rates of homicide actually committed with handguns (rather than guns in general) are correlated with handgun ownership, the correlations change only minimally (Table 3). Thus, it seems that the kind of guns has almost no impact on rates of gun-related homicide. Some possible reasons will be given in the discussion.

ASSAULT

Assault committed with a gun is strongly correlated with gun ownership ($r = .72$, $p < .01$. Table 2). Rates of assaults (including threats) committed with guns will be given per 1000 respondents (weighted according to the ICVS procedure, based on usual demographic variables). Since information on the weapon used was collected only in the 1996 ICVS, the following analysis is based only on those 13 nations which participated in that sweep.

In this distribution, the Pearson correlation ($r = .72$, $p < .05$. Table 2) is obviously inflated by the extreme position of the USA, as the more modest score of Spearman's rho ($.48$, $p < .10$) underlines. But even if the USA and Northern Ireland are excluded, a clear pattern emerges, with a substantial r ($.57$, $p < .07$). Given the small size of the samples, including only 13 and 11 countries, respectively, it seems reasonable to relax the requirement for statistical significance to the .10 level, in order to avoid excessive type-II errors.

When the rate of assaults and threats in general, i.e., committed with and without guns, is considered, the correlation is modest ($r = .32$, $rho = .21$) and not significant ($p < .15$). There are no outlyers in the distribution.

TABLE 3
Correlations between handgun ownership and homicide (incl. homicide with handguns), suicide, assault and robbery in the 21 countries

	R with outlyers	*R without outlyers*	*Spearman's rho*
Suicide	.1050	.1050	.4862
(total)	(N = 21)	(N = 21)	(N = 21)
	p = .651	p = .651	p = .025
Suicide women	.0314	.0314	.2621
(total)	(N = 19)	(N = 19)	(N = 19)
	p = .898	p = .898	p = .278
Suicide men	.0580	.0580	.3484
(total)	(N = 19)	(N = 19)	(N = 19)
	p = .813	p = .813	p = .144
Suicide with gun	.7454	.6710	.7380
	(N = 21)	(N = 20)	(N = 21)
	p = .000	p = .001	p = .000
Suicide with gun	.9187	.6735	.6325
women	(N = 20)	(N = 19)	(N = 20)
	p = .000	p = .002	p = .003
Suicide with gun	.7451	.7451	.7350
men	(N = 20)	(N = 20)	(N = 20)
	p = .000	p = .000	p = .000
Homicide	.1577	-.0331	.0377
(total)	(N = 21)	(N = 18)	(N = 21)
	p = .495	p = .896	p = .871
Homicide women	.3352	.0327	.0787
(total)	(N = 21)	(N = 16)	(N = 18)
	p = .174	p = .904	p = .756
Homicide men	.1437	-.0624	-.0712
(total)	(N = 19)	(N = 16)	(N = 19)
	p = .557	p = .818	p = .772
Homicide with gun	.4597	.1338	.2992
	(N = 21)	(N = 18)	(N = 21)
	p = .036	p = .596	p = .188
Homicide with gun	.8156	.6394	.6478
women	(N = 19)	(N = 17)	(N = 19)
	p = .000	p = .006	p = .003
Homicide with gun men	.4145	.4145	.3497
	(N = 19)	(N = 19)	(N = 19)
	p = .078	p = .078	p = .142
Homicide with handgun	.3253	.3573	.3118
	(N = 18)	(N = 14)	(N = 18)
	p = .188	p = .210	p = .208
Homicide with handgun	.6323	.5581	.4896
women	(N = 18)	(N = 16)	(N = 18)
	p = .005	p = .025	p = .039
Homicide with handgun	.2497	.0305	.2123
men	(N = 18)	(N = 14)	(N = 18)
	p = .318	p = .918	p = .398
Assault	.1928	-.2290	.0183
	(N = 21)	(N = 20)	(N = 21)
	p = .402	p = .331	p = .937

	R with outlyers	*R without outlyers*	*Spearman's rho*
Assault with gun	.8872	.4143	.4530
	(N = 13)	(N = 12)	(N = 13)
	p = .000	p = .182	p = .120
Robbery	.1176	.0235	.1005
	(N = 21)	(N = 18)	(N = 21)
	p = .612	p = .926	p = .665
Robbery with gun	.6658	-.0330	.1747
	(N = 21)	(N = 19)	(N = 21)
	p = .001	p = .893	p = .449

In sum, the picture resembles what has been shown for homicide, i.e., substantial correlations between gun ownership and gun-related assaults/threats (at least once outlyers are removed), and non significant, but not negligible positive correlations with overall homicide and assault rates, respectively. Some reasons for this similarity will be given below. Unfortunately, the small size of the national samples (with 1000 to 2000 respondents) and, concomitantly, the low absolute frequencies of gun-related and other assaults/threats do not allow to break down these rates for both sexes, as it has been done for homicide, or for place of occurrence (at home vs. elsewhere), although these data have been collected.

If assaults (including threats) are correlated with ownership of handguns (rather than guns in general), the correlation increases for gun-related incidents ($r = .89$, $p < .05$. Table 3), but mostly as a result of the unique position of the USA. Without this outlyer, the correlation is not significant ($r = .41$, $p < .18$) and comparable to Spearman's rho (.45, $p < .12$) for all the 13 countries on which the relevant data are available. As for homicide, the correlations are similar when all types of guns are included, rather than handguns alone (for details, see Table 3).

ROBBERY

The ICVS questionnaire included a follow-up question on the weapon an assailant had used in a reported robbery. No distinction was made between several types of guns, given the low absolute frequencies of reported incidents. All 21 countries collected the necessary data.

Obviously, the substantial correlation between robbery and handgun ownership rates ($r = .67$, $p < .05$) is due only to the extreme position of the USA, whereas the rank-order correlation ($rho = .17$) is far from being significant (Table 3). If the USA and Italy are removed from the analysis, the correlation drops to zero ($r = -.03$, Table 3). For total rates of robbery, the correlation is negligible ($r = .12$, $rho = .10$, ns), even if the USA are left in the analysis (due to "opposite" extreme positions of Estonia and Spain). If these two outlyers are excluded, along with the USA, the correlation remains zero ($r = .02$). Therefore, there is no correlation whatsoever between robbery and handgun ownership across the 18 remaining countries (Table 3).

Interestingly, rates of robbery (either committed with or without guns) are less correlated with gun ownership in general (Table 2), than with ownership of

handguns (Table 3). Thus, the trend differs from what has been shown in relation to assault and homicide. Some reasons will be seen in the following paragraph.

Discussion

The data have shown that gun ownership is highly correlated with suicide committed with a gun. It may be hard to think here of any "reversed" direction of causality. It does not make sense that a high frequency of gun-related suicides should motivate people to buy and keep guns in their homes, often years before any such act will — if ever — be planned or carried out.

Therefore, it is much safer to conclude that guns kept in the home are a risk factor, as suggested by research on the role played by guns in the home in suicide (Kellermann, Rivara, Somes, Reay, Francisco, Banton, Prodzinski, Fligner and Hackman 1992). Guns may be important in suicide because of the coincidence of the place where they are usually kept (i.e., at home), and where the act most of the time occurs. This interpretation is consistent with the routine-activities approach (Felson 1998).

From this viewpoint, it makes sense that homicide committed with guns is much more strongly correlated with gun ownership when female victims are considered separately. At least in those Western countries that are represented in our sample, women are almost exclusively killed in conflicts related to their personal life, and often by actual or former partners (Massonnet, Wagner, and Kuhn 1990). Since such conflicts tend to occur at home, it is feasible that the role of guns is nearly as prominent in female homicide as it is in connection with suicide. In many cases of female homicide, the offender will indeed subsequently commit suicide (Gabor 1994: 36, 76), or at least make an attempt. As for suicide, the decisive factor may be the coincidence of the location of the act and the place where the gun is usually stored. Again, a causal role of the gun in the home in such homicides seems much more plausible, than speculation on how media reports (or information from other sources) on shootings of female partners might push people (i.e., men, in most instances) to buy and keep guns in the home.

For male victims of homicide, the story may be different. Men tend to be killed much more often than women during the commission of other crimes, or in more "accidental" conflicts, which often take place in a public place or outdoors rather than at home (Maxfield 1989). Since such homicides are not always planned, offenders may not necessarily have the gun available at the critical moment. In events related to street crime, the use of guns may depend much more on the presence of guns among criminals, juvenile gangs, and those involved in illegal markets (Blumstein 1995) than on their prevalence in private homes. Thus, even if guns kept at home may occasionally be stolen and end in the hands of criminals, it may be fair to conclude that they affect the safety of women much more than that of men.

In this context, the results concerning assault and robbery offer further illustrations. It is a well-established fact that assault is, to a considerable extent, a "domestic" matter or involving acquaintances, whereas robbery typically occurs in the streets and hits unknown victims. Therefore, it is not surprising

that assault is related to guns in the home in a similar way as is homicide, whereas robbery depends much less on the presence of guns in private homes but on guns in the streets. Robbery also is the only violent act studied here where handguns seem to be more relevant than guns in general.

Thus, instrumental crimes, such as street robbery, may be committed with the best means available to those involved in such acts, whereas rifles and other long guns may be as dangerous as handguns in domestic violent acts. From this viewpoint, the current focus on handguns rather than guns in general may not be warranted.

Patterns in street crime, including the role of guns in such acts, may vary considerably across countries. As noted for homicide involving male victims, the prominence of criminal organisations, violent street gangs, and related "wars" over territory or market segments, may increase the frequency of shootings (fatal or not) far beyond what one might expect on the basis of a given country's gun ownership rate. Italy, with its Mafia wars in the South, or Northern Ireland, with its civil war (during the years included here), as well as Estonia, the Czech Republic and probably other Eastern European countries (with high prevalence of organised crime), all have rates of male victims of shootings which far exceed what one might expect on the basis of national gun ownership rates. In sum, it seems that in some countries, plagued by civil wars or violent organized crime, the homicide rate is largely independent of the availability of guns in private homes. This may largely explain why measures of household gun ownership in crime victim surveys are less correlated with homicide rates than those which, as Cook's (1991) index, use the prevalence of gun-related violent acts as an indicator of gun availability (Hemenway and Miller 2000).

Even if the correlations between gun suicide and gun homicide (of female victims) is very strong, certain substitution effects cannot be ruled out. Of course, it is consistent with a possible causal role of guns in violent acts that correlations involving suicide, homicide, and assault have turned out to be much stronger for gun-related incidents than for overall rates. But the absence of significant correlations between gun ownership and total homicide, assault, or suicide rates — even if partially explained by the relatively low proportion of victims of shootings — does certainly not plead against displacement effects. In sum, this research does not bring definitive answers to this question. Policy makers might be ill-advised to assume complete substitution of guns by other means if the former should become unavailable, particularly since other studies have shown, rather convincingly (Clarke and Mayhew 1989, Clarke and Lester 1989, Leenaars and Lester 1996, Clarke and Jones 1989), that suicidal candidates do not always by far turn to other means if the favored ones become suddenly unavailable.

Conclusions

The data presented here show that gun ownership is strongly correlated with suicide committed with a gun. Further, the role of guns is almost as strong in connection with homicide of women (including female partners). This

underlines the need to analyze the impact of guns not only globally, but more in connection with particular circumstances of homicide. On the other hand, the role of privately owned guns in connection with male victims of homicide is more complex and probably much less important. The same is true for assault when compared to robbery. Thus, reducing gun availability in the homes may affect mostly female homicide rates (Block and Christakos 1995).

Correlation does not necessarily imply causality. In this line, one might argue that high homicide or violent crime rates will motivate people to buy guns for self-protection (Skogan 1993). In connection with homicide of men and robbery, the correlations are either weak, or produced by the extreme scores of the USA alone. Low or unexistent correlations do not call for causal interpretations, however. In relation to homicide of women, assault, and suicide, a causal role of guns kept at home is more plausible than competing explanations. One could not think of any possible third variable which, simultaneously, might push people to buy guns to kill female partners (but not male opponents) and to commit assault or suicide, but which would dissuade from committing robbery.

It is not clear whether guns can be substituted by other means to commit suicide, to kill female partners, or in violent crime, since the results do not allow to confirm or rule out such a possibility. Finally, guns in general (including long guns) may be as dangerous as handguns in connection with domestic (self) destructive acts.

NOTES & QUESTIONS

1. *Suicide.* Killias et al. state at the beginning of their analysis that they cannot think of any variables that would affect both the rates of gun ownership and suicide. Can you? Japan, discussed *infra* in Section C.2, is an example of a nation with a very high suicide rate, and a very low rate of gun ownership. What are the best arguments for and against Killias et al.'s finding on suicide? For more data on guns and suicide, see Chapter 12.

2. *Femicide.* Chapter 8.B of the printed textbook presents U.S. data on firearms and domestic homicide. The data clearly indicate that a gun in the hands of an abuser who is living with the victim greatly increases the risk that a domestic abuse victim will be murdered. At the same time, a gun in the hands of an abuse victim who lives apart from the abuser does not increase risks to a statistically significant degree (Chapter 10.B). Are the U.S. findings consistent with Killias et al.'s findings?

3. How much should suicides, justified homicides, and criminal-on-criminal homicides be considered in making firearm policy?

4. What do you think of Killias et al.'s findings that gun density has no statistically significant effect on armed robbery rates, or on homicides among males? See Table 2 in their article for the statistical measures underlying each of these findings.

What about their statement that gun ownership is correlated with a *lower* suicide rate among females? See Table 2 and the following text in their article. Are you satisfied with their statement that a result is "not significant"?

5. Is it appropriate to draw policy conclusions from statistical correlations that fail to satisfy the formal measure of statistical significance? The usual measure of significance is $p < .05$; that is, to be "significant" it must be at least 95 percent likely that a given correlation is not due to mere chance. Is this standard too demanding for some complex questions about causation in social science?

Many plausible-seeming correlations in gun policy have some support, but do not satisfy $p < .05$. Which of the correlations from the Killias et al. article would fall into this category? Should they be given any weight by decision makers?

6. The Killias et al. article, like the Kates and Mauser article *infra*, concentrates on Europe and North America, in assessing the effect of firearms density. The geographical boundaries of these studies raise the question whether the effect of firearms density would be the same in other places, such as Latin America. The Altheimer and Boswell article (which follows Kates and Mauser) attempts to answer this question.

7. Evaluate the following statements in the Killias et al. article:

a. "If rates of homicide actually committed with handguns (rather than guns in general) are correlated with handgun ownership, the correlations change only minimally (Table 3). Thus, it seems that the kind of guns has almost no impact on rates of gun-related homicide."

b. "[T]he picture [for assault] resembles what has been shown for homicide, i.e., substantial correlations between gun ownership and gun-related assaults/threats (at least once outlyers are removed), and non significant, but not negligible positive correlations with overall homicide and assault rates, respectively."

c. "Obviously, the substantial correlation between robbery and handgun ownership rates ($r = .67$, $p < .05$) is due only to the extreme position of the USA, whereas the rank-order correlation ($rho = .17$) is far from being significant (Table 3). If the USA and Italy are removed from the analysis, the correlation drops to zero ($r = -.03$, Table 3). For total rates of robbery, the correlation is negligible ($r = .12$, $rho = .10$, ns), even if the USA are left in the analysis (due to "opposite" extreme positions of Estonia and Spain). If these two outlyers are excluded, along with the USA, the correlation remains zero ($r = .02$). Therefore, there is no correlation whatsoever between robbery and handgun ownership across the 18 remaining countries (Table 3)."

d. "The data presented here show that gun ownership is strongly correlated with suicide committed with a gun. Further, the role of guns is almost as strong in connection with homicide of women (including female partners)."

Don B. Kates & Gary Mauser, Would Banning Firearms Reduce Murder and Suicide? A Review of International and Some Domestic Evidence

30 Harv. J.L. & Pub. Pol'y 649 (2007)

Introduction

International evidence and comparisons have long been offered as proof of the mantra that more guns mean more deaths and that fewer guns, therefore, mean fewer deaths. Unfortunately, such discussions are all too often afflicted by misconceptions and factual error and focus on comparisons that are unrepresentative. It may be useful to begin with a few examples. There is a compound assertion that (a) guns are uniquely available in the United States compared with other modern developed nations, which is why (b) the United States has by far the highest murder rate. Though these assertions have been endlessly repeated, statement (b) is, in fact, false and statement (a) is substantially so.

Since at least 1965, the false assertion that the United States has the industrialized world's highest murder rate has been an artifact of politically motivated Soviet minimization designed to hide the true homicide rates. Since well before that date, the Soviet Union possessed extremely stringent gun controls that were effectuated by a police state apparatus providing stringent enforcement. So successful was that regime that few Russian civilians now have firearms and very few murders involve them. Yet, manifest success in keeping its people disarmed did not prevent the Soviet Union from having far and away the highest murder rate in the developed world. In the 1960s and early 1970s, the gunless Soviet Union's murder rates paralleled or generally exceeded those of gun-ridden America. While American rates stabilized and then steeply declined, however, Russian murder increased so drastically that by the early 1990s the Russian rate was three times higher than that of the United States. Between 1998-2004 (the latest figure available for Russia), Russian murder rates were nearly four times higher than American rates. Similar murder rates also characterize the Ukraine, Estonia, Latvia, Lithuania, and various other now-independent European nations of the former U.S.S.R. Thus, in the United States and the former Soviet Union transitioning into current-day Russia, "homicide results suggest that where guns are scarce other weapons are substituted in killings."[8] While American gun ownership is quite high, Table 1 shows many other developed nations (e.g., Norway, Finland, Germany, France, Denmark) with high rates of gun ownership. These countries, however, have murder rates as low or lower than many developed nations in which gun ownership is much rarer.

8. Gary Kleck, Targeting Guns: Firearms and Their Control 20 (1997).

Table 1: European Gun Ownership and Murder Rates
(rates given are per 100,000 people and in descending order)

Nation	*Murder Rate*	*Rate of Gun Ownership*
Russia	20.54 [2002]	4,000
Hungary	2.22 [2003]	2,000
Finland	1.98 [2004]	39,000
Sweden	1.87 [2001]	24,000
Poland	1.79 [2003]	1,500
France	1.65 [2003]	30,000
Denmark	1.21 [2003]	19,000
Greece	1.12 [2003]	11,000
Switzerland	0.99 [2003]	16,000
Germany	0.93 [2003]	30,000
Luxembourg	0.90[6] [2002]	c. 0
Norway	0.81 [2001]	36,000
Austria	0.80 [2002]	17,000

. . .

The same pattern appears when comparisons of violence to gun ownership are made within nations. Indeed, "data on firearms ownership by constabulary area in England," like data from the United States, show "a *negative* correlation,"[10] that is, "where firearms are most dense violent crime rates are lowest, and where guns are least dense violent crime rates are highest."[11] Many different data sets from various kinds of sources are summarized as follows by the leading text:

> [T]here is no consistent significant positive association between gun ownership levels and violence rates: across (1) time within the United States, (2) U.S. cities, (3) counties within Illinois, (4) country-sized areas like England, U.S. states, (5) regions of the United States, (6) nations, or (7) population subgroups. . . .[12]

A second misconception about the relationship between firearms and violence attributes Europe's generally low homicide rates to stringent gun control. That attribution cannot be accurate since murder in Europe was at an all-time low *before* the gun controls were introduced. For instance, virtually the only English gun control during the nineteenth and early twentieth centuries was the practice that police patrolled without guns. During this period gun control prevailed far less in England or Europe than in certain American states which nevertheless had — and continue to have — murder rates that were and are comparatively very high.

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6. [In the original article, the authors relied on a source that misstated the Luxembourg homicide rate as 9.01. They acknowledged the error as soon as it was brought to their attention, and their subsequent citations of the article mentioned the error. In this excerpt, we have inserted appropriate corrections. — EDS.]

10. Joyce Lee Malcolm, Guns and Violence: The English Experience 204 (2002).

11. Hans Toch & Alan J. Lizotte, Research and Policy: The Case for Gun Control, *in* Psychology & Social Policy 223, 232 (Peter Suedfeld & Philip E. Tetlock eds., 1992). . . .

12. Kleck, *supra* note 8, at 22-23.

In this connection, two recent studies are pertinent. In 2004, the U.S. National Academy of Sciences released its evaluation from a review of 253 journal articles, 99 books, 43 government publications, and some original empirical research. It failed to identify any gun control that had reduced violent crime, suicide, or gun accidents. The same conclusion was reached in 2003 by the U.S. Centers for Disease Control's review of then extant studies.[7]

Stringent gun controls were not adopted in England and Western Europe until after World War I. Consistent with the outcomes of the recent American studies just mentioned, these strict controls did not stem the general trend of ever-growing violent crime throughout the post-WWII industrialized world including the United States and Russia. Professor Malcolm's study of English gun law and violent crime summarizes that nation's nineteenth and twentieth century experience as follows:

> The peacefulness England used to enjoy was not the result of strict gun laws. When it had no firearms restrictions [nineteenth and early twentieth century] England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence or even the increase in armed violence.[17]
>
> Armed crime, never a problem in England, has now become one. Handguns are banned but the Kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957, the use of guns in serious crime increased a hundredfold.[18]

In the late 1990s, England moved from stringent controls to a complete ban of all handguns and many types of long guns. Hundreds of thousands of guns were confiscated from those owners law-abiding enough to turn them in to authorities. Without suggesting this caused violence, the ban's ineffectiveness was such that by the year 2000 violent crime had so increased that England and Wales had Europe's highest violent crime rate, far surpassing even the United States. Today, English news media headline violence in terms redolent of the doleful, melodramatic language that for so long characterized American news reports. One aspect of England's recent experience deserves note, given how often and favorably advocates have compared English gun policy to its American counterpart over the past 35 years. A generally unstated issue in this notoriously emotional debate was the effect of the Warren Court and later restrictions on police powers on American gun policy. Critics of these decisions pointed to soaring American crime rates and argued simplistically that such decisions caused, or at least hampered, police in suppressing crime. But to some supporters of these judicial decisions, the example of England argued that the solution to crime was to restrict guns, not civil liberties. To gun control advocates, England, the cradle of our liberties, was a nation made so peaceful by strict gun control that its police did not even need to carry guns. The United States, it was argued, could attain such a desirable situation by radically reducing gun ownership, preferably by banning and confiscating handguns.

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7. [The studies are discussed in online Chapter 12. — Eds.]
17. Malcolm, *supra* note 10, at 219.
18. *Id.* at 209.

The results discussed earlier contradict those expectations. On the one hand, despite constant and substantially increasing gun ownership, the United States saw progressive and dramatic reductions in criminal violence in the 1990s. On the other hand, the same time period in the United Kingdom saw a constant and dramatic increase in violent crime to which England's response was ever-more drastic gun control including, eventually, banning and confiscating all handguns and many types of long guns. Nevertheless, criminal violence rampantly increased so that by 2000 England surpassed the United States to become one of the developed world's most violence-ridden nations.

To conserve the resources of the inundated criminal justice system, English police no longer investigate burglary and "minor assaults." As of 2006, if the police catch a mugger, robber, or burglar, or other "minor" criminal in the act, the policy is to release them with a warning rather than to arrest and prosecute them. It used to be that English police vehemently opposed the idea of armed policing. Today, ever more police are being armed. Justifying the assignment of armed squads to block roads and carry out random car searches, a police commander asserts: "It is a massive deterrent to gunmen if they think that there are going to be armed police."[25] How far is that from the rationale on which 40 American states have enacted laws giving qualified, trained citizens the right to carry concealed guns? Indeed, news media editorials have appeared in England arguing that civilians should be allowed guns for defense. . . .

The divergence between the United States and the British Commonwealth became especially pronounced during the 1980s and 1990s. During these two decades, while Britain and the Commonwealth were making lawful firearm ownership increasingly difficult, more than 25 states in the United States passed laws allowing responsible citizens to carry concealed handguns. . . .

Although the reason is thus obscured, the undeniable result is that violent crime, and homicide in particular, has plummeted in the United States over the past 15 years. The fall in the American crime rate is even more impressive when compared with the rest of the world. In 18 of the 25 countries surveyed by the British Home Office, violent crime increased during the 1990s. . . . Perhaps the United States is doing something right in promoting firearms for law-abiding responsible adults. Or perhaps the United States' success in lowering its violent crime rate relates to increasing its prison population or its death sentences. Further research is required to identify more precisely which elements of the United States' approach are the most important, or whether all three elements acting in concert were necessary to reduce violent crimes.

I. Violence: The Decisiveness of Social Factors

One reason the extent of gun ownership in a society does not spur the murder rate is that murderers are not spread evenly throughout the population. Analysis of perpetrator studies shows that violent criminals — especially murderers — "*almost uniformly* have a long history of involvement in criminal

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25. Matthew Beard, *Armed Police to Man Checkpoints in London as Drug-Related Crime Soars*, Independent (London), Sept. 7, 2002, at 2.

behavior."[37] So it would not appreciably raise violence if all law-abiding, responsible people had firearms because they are not the ones who rape, rob, or murder. By the same token, violent crime would not fall if guns were totally banned to civilians. As the example of Russia suggests, individuals who commit violent crimes will either find guns despite severe controls or will find other weapons to use.

Startling as the foregoing may seem, it represents the cross-national norm, not some bizarre departure from it. If the mantra "more guns equal more death and fewer guns equal less death" were true, broad based cross-national comparisons should show that nations with higher gun ownership per capita consistently have more death. Nations with higher gun ownership rates, however, do not have higher murder or suicide rates than those with lower gun ownership. Indeed many high gun ownership nations have much lower murder rates. Consider, for example, the wide divergence in murder rates among Continental European nations with widely divergent gun ownership rates.

The non-correlation between gun ownership and murder is reinforced by examination of statistics from larger numbers of nations across the developed world. Comparison of "homicide and suicide mortality data for thirty-six nations (including the United States) for the period 1990-1995" to gun ownership levels showed "no significant (at the 5% level) association between gun ownership levels and the total homicide rate."[41] Consistent with this is a later European study of data from 21 nations in which "no significant correlations [of gun ownership levels] with total suicide or homicide rates were found."[42]

II. Asking the Wrong Question

However unintentionally, the irrelevance of focusing on weaponry is highlighted by the most common theme in the more guns equal more death argument. Epitomizing this theme is a World Health Organization (WHO) report asserting, "The easy availability of firearms has been associated with higher *firearm* mortality rates."[43] The authors, in noting that the presence of a gun in a home corresponds to a higher risk of suicide, apparently assume that if denied firearms, potential suicides will decide to live rather than turning to the numerous alternative suicide mechanisms. The evidence, however, indicates that denying one particular means to people who are motivated to commit suicide by social, economic, cultural, or other circumstances simply pushes them to some other means. Thus, it is not just the murder rate in gun-less Russia

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37. *See* Delbert S. Elliott, *Life-Threatening Violence is Primarily a Crime Problem: A Focus on Prevention*, 69 Colo. L. Rev. 1081, 1089 (1998) (emphasis added).

41. Kleck, *supra* note 8, at 254. The study also found no correlation to suicide rates. *Id.*

42. Martin Killias et al., *Guns, Violent Crime, and Suicide in 21 Countries*, 43 Can. J. Criminology & Crim. Just. 429, 430 (2001) [*supra, preceding this excerpt*]. . . . [T]he authors, who are deeply anti-gun, emphasize the "very strong correlations between the presence of guns in the home and suicide committed with a gun" — as if there were some import to the death being by gun rather than by hanging, poison, or some other means. . . .

43. World Health Organization, Small Arms And Global Health 11 (2001) (emphasis added).

that is four times higher than the American rate; the Russian suicide rate is also about four times higher than the American rate.

There is no social benefit in decreasing the availability of guns if the result is only to increase the use of other means of suicide and murder, resulting in more or less the same amount of death. Elementary as this point is, proponents of the more guns equal more death mantra seem oblivious to it. One study asserts that Americans are more likely to be shot to death than people in the world's other 35 wealthier nations. While this is literally true, it is irrelevant — except, perhaps to people terrified not of death per se but just death by gunshot. A fact that should be of greater concern — but which the study fails to mention — is that per capita murder *overall* is only half as frequent in the United States as in several other nations where *gun* murder is rarer, but murder by strangling, stabbing, or beating is much more frequent.

Of course, it may be speculated that murder rates around the world would be higher if guns were more available. But there is simply no evidence to support this. Like any speculation, it is not subject to conclusive disproof; but the European data in Table 1 and the studies across 36 and 21 nations already discussed show no correlation of high gun ownership nations and greater murder per capita or lower gun ownership nations and less murder per capita.

To reiterate, the determinants of murder and suicide are basic social, economic, and cultural factors, not the prevalence of some form of deadly mechanism. In this connection, recall that the American jurisdictions which have the highest violent crime rates are precisely those with the most stringent gun controls. This correlation does not necessarily prove gun advocates' assertion that gun controls actually encourage crime by depriving victims of the means of self-defense. The explanation of this correlation may be political rather than criminological: jurisdictions afflicted with violent crime tend to severely restrict gun ownership. This, however, does not suppress the crime, for banning guns cannot alleviate the socio-cultural and economic factors that are the real determinants of violence and crime rates.

Table 2: Murder Rates of European Nations that Ban Handguns as Compared to Their Neighbors that Allow Handguns
(rates are per 100,000 persons)

Nation	*Handgun Policy*	*Murder Rate*	*Year*
A. Belarus	**banned**	**10.40**	**late 1990s**
[Neighboring countries with gun law and murder rate data available]			
Poland	allowed	1.98	2003
Russia	banned	20.54	2002
B. Luxembourg	**banned**	**0.90**	**2002**
[Neighboring countries with gun law and murder rate data available]			
Belgium	allowed	1.70	late 1990s
France	allowed	1.65	2003
Germany	allowed	0.93	2003
C. Russia	**banned**	**20.54**	**2002**
[Neighboring countries with gun law and murder rate data available]			
Finland	allowed	1.98	2004
Norway	allowed	0.81	2001

. . .

Once again, we are not arguing that the data in Table 2 shows that gun control *causes* nations to have much higher murder rates than neighboring nations that permit handgun ownership. Rather, we assert a political causation for the observed correlation that nations with stringent gun controls tend to have much higher murder rates than nations that allow guns. The political causation is that nations that have violence problems tend to adopt severe gun controls, but these do not reduce violence, which is determined by basic socio-cultural and economic factors.

The point is exemplified by the conclusions of the premier study of English gun control. Done by a senior English police official as his thesis at the Cambridge University Institute of Criminology and later published as a book, it found (as of the early 1970s), "Half a century of strict controls . . . has ended, perversely, with a far greater use of [handguns] in crime than ever before."[51] The study also states that:

> No matter how one approaches the figures, one is forced to the rather startling conclusion that the use of firearms in crime was very much less [in England before 1920] when there were no controls of any sort and when anyone, convicted criminal or lunatic, could buy any type of firearm without restriction.[52]

Of course the point of this analysis is not that the law should allow lunatics and criminals to own guns. The point is that violence will be rare when the basic socio-cultural and economic determinants so dictate; and conversely, crime will rise in response to changes in those determinants — without much regard to the mere availability of some particular weaponry or the severity of laws against it.

IV. More Guns, Less Crime?

Anti-gun activists are not alone in their belief that widespread firearm ownership substantially affects violent crime rates. The same understanding also characterizes many pro-gun activists. Of course, pro-gun activists' belief leads them to the opposite conclusion: that widespread firearm ownership reduces violence by deterring criminals from confrontation crimes and making more attractive such nonconfrontation crimes as theft from unoccupied commercial or residential premises. Superficially, the evidence for this belief seems persuasive. Table 1, for instance, shows that Denmark has roughly half the gun ownership rate of Norway, but a 50% higher murder rate, while Russia has only one-ninth Norway's gun ownership rate but a murder rate 2500% higher. Looking at Tables 1-3, it is easy to find nations in which very high gun ownership rates correlate with very low murder rates, while other nations with very low gun ownership rates have much higher murder rates. Moreover, there is not insubstantial evidence that *in the United States* widespread gun availability has helped

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51. Colin Greenwood, Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales 243 (1972).

52. *Id.*

reduce murder and other violent crime rates. On closer analysis, however, this evidence appears uniquely applicable to the United States.

More than 100 million handguns are owned in the United States primarily for self-defense, and 3.5 million people have permits to carry concealed handguns for protection. Recent analysis reveals "a great deal of self-defensive use of firearms" in the United States, "in fact, more defensive gun uses [by victims] than crimes committed with firearms."[87] It is little wonder that the

> National Institute of Justice surveys [Chapter 12.K.2.] among prison inmates find that large percentages report that their fear that a victim might be armed deterred them from confrontation crimes. "[T]he felons most frightened 'about confronting an armed victim' were those from states with the greatest relative number of privately owned firearms." Conversely, robbery is highest in states that most restrict gun ownership.[88] . . .

Ironically, to detail the American evidence for widespread defensive gun ownership's deterrent value is also to raise questions about how applicable that evidence would be even to the other nations that have widespread gun ownership but low violence. There are no data for foreign nations comparable to the American data just discussed. Without such data, we cannot know whether millions of Norwegians own handguns and carry them for protection, thereby deterring Norwegian criminals from committing violent crimes. Nor can we know whether guns are commonly kept for defense in German homes and stores, thus preventing German criminals from robbing them.

Moreover, if the deterrent effect of gun ownership accounts for low violence rates in high gun ownership nations other than the United States, one wonders why that deterrent effect would be amplified there. . . . [T]he United States murder rate is still eight times higher than Norway's — even though the U.S. has an almost 300% higher rate of gun ownership. That is consistent with the points made above. Murder rates are determined by socio-economic and cultural factors.

In the United States, those factors include that the number of civilian-owned guns nearly equals the population — triple the ownership rate in even the highest European gun-ownership nations — and that vast numbers of guns are kept for personal defense. That is not a factor in other nations with comparatively high firearm ownership. . . .

In sum, though many nations with widespread gun ownership have much lower murder rates than nations that severely restrict gun ownership, it would be simplistic to assume that at all times and in all places widespread gun ownership depresses violence by deterring many criminals into nonconfrontation crime. There is evidence that it does so in the United States, where defensive gun ownership is a substantial socio-cultural phenomenon. But the more plausible explanation for many nations having widespread gun ownership with low violence is that these nations never had high murder and violence rates and so

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87. [James B. Jacobs, Can Gun Control Work? 14 (2002).]

88. [Don Kates, *The Limited Importance of Gun Control from a Criminological Perspective, in* Suing the Gun Industry: A Battle at the Crossroads of Gun Control and Mass Torts 70 (Timothy D. Lytton ed., 2005).]

never had occasion to enact severe anti-gun laws. On the other hand, in nations that have experienced high and rising violent crime rates, the legislative reaction has generally been to enact increasingly severe antigun laws. This is futile, for reducing gun ownership by the law-abiding citizenry — the only ones who obey gun laws — does not reduce violence or murder. The result is that high crime nations that ban guns to reduce crime end up having both high crime and stringent gun laws, while it appears that low crime nations that do not significantly restrict guns continue to have low violence rates.

Thus both sides of the gun prohibition debate are likely wrong in viewing the availability of guns as a major factor in the incidence of murder in any particular society. . . . Whether gun availability is viewed as a cause or as a mere coincidence, the long term macrocosmic evidence is that gun ownership spread widely throughout societies consistently correlates with stable or declining murder rates. Whether causative or not, the consistent international pattern is that more guns equal *less* murder and other violent crime. . . .

V. Geographic, Historical and Demographic Patterns

If more guns equal more death and fewer guns equal less death, it should follow, all things being equal, (1) that geographic areas with higher gun ownership should have more murder than those with less gun ownership; (2) that demographic groups with higher gun ownership should be more prone to murder than those with less ownership; and (3) that historical eras in which gun ownership is widespread should have more murder than those in which guns were fewer or less widespread. As discussed earlier, these effects are not present. Historical eras, demographic groups, and geographic areas with more guns do not have more murders than those with fewer guns. Indeed, those with more guns often, or even generally, have fewer murders.

Of course, all other things may not be equal. Obviously, many factors other than guns may promote or reduce the number of murders in any given place or time or among particular groups. And it may be impossible even to identify these factors, much less to take account of them all. Thus any conclusions drawn from the kinds of evidence presented earlier in this paper must necessarily be tentative.

Acknowledging this does not, however, blunt the force of two crucial points. The first regards the burden of proof. Those who assert the mantra, and urge that public policy be based on it, bear the burden of proving that more guns do equal more death and fewer guns equal less death. But they cannot bear that burden because there simply is no large number of cases in which the widespread prevalence of guns among the general population has led to more murder. By the same token, but even more importantly, it cannot be shown consistently that a reduction in the number of guns available to the general population has led to fewer deaths. Nor is the burden borne by *speculating* that the reason such cases do not appear is that other factors always intervene.

The second issue, allied to the burden of proof, regards plausibility. On their face, the following facts from Tables 1 and 2 suggest that gun ownership is irrelevant, or has little relevance, to murder: France and neighboring Germany have exactly the same, comparatively high rate of gun ownership, yet the French

Table 3: Eastern Europe Gun Ownership and Murder Rates
(rates given are per 100,000 people and in descending order)

Nation	*Murder Rate*	*Rate of Gun Ownership*
Russia	20.54 [2002]	4,000
Moldova	8.13 [2000]	1,000
Slovakia	2.65 [2000]	3,000
Romania	2.50 [2000]	300
Macedonia	2.31 [2000]	16,000
Hungary	2.22 [2003]	2,000
Finland	1.9 [2004]	39,000
Poland	1.79 [2003]	1,500
Slovenia	1.81 [2000]	5,000
Czech Repub.	1.69 [2000]	5,000
Greece	1.12 [2003]	11,000

murder rate is nearly twice the German . . . ; Germany has almost double the gun ownership rate of neighboring Austria yet a similarly very low murder rate; the Norwegian gun ownership rate is over twice the Austrian rate, yet the murder rates are almost identical.

And then there is Table 3, which shows Slovenia, with 66% more gun ownership than Slovakia, nevertheless has roughly one-third less murder per capita; Hungary has more than 6 times the gun ownership rate of neighboring Romania but a lower murder rate; the Czech Republic's gun ownership rate is more than 3 times that of neighboring Poland, but its murder rate is lower; Poland and neighboring Slovenia have exactly the same murder rate, though Slovenia has over triple the gun ownership per capita.

. . .

On their face, Tables 1, 2, and 3 and the comparisons gleaned from them suggest that gun ownership is irrelevant, or has little relevance, to murder. Historical and demographic comparisons offer further evidence. Again, all the data may be misleading. It is conceivable that more guns do equal more murder, but that this causation does not appear because some unidentifiable extraneous factor always intervenes. That is conceivable, but ultimately unlikely. As Hans Toch, a senior American criminologist who 35 years ago endorsed handgun prohibition and confiscation, but then recanted based on later research, argues "it is hard to explain that where firearms are most dense, violent crime rates are lowest and where guns are least dense, violent crime rates are highest."[90] . . .

B. MACRO-HISTORICAL EVIDENCE: FROM THE MIDDLE AGES TO THE 20TH CENTURY

The Middle Ages were a time of notoriously brutal and endemic warfare. They also experienced rates of ordinary murder almost double the highest

90. Toch & Lizotte, *supra* note 11, at 232.

recorded U.S. murder rate. But Middle Age homicide "cannot be explained in terms of the availability of firearms, which had not yet been invented."[101] The invention provides some test of the mantra. If it is true that more guns equal more murder and fewer guns equal less death, murder should have risen with the invention, increased efficiency, and greater availability of firearms across the population.

Yet, using England as an example, murder rates seem to have fallen sharply as guns became progressively more efficient and widely owned during the five centuries after the invention of firearms. During much of this period, because the entire adult male population of England was deemed to constitute a militia, every military age male was required to possess arms for use in militia training and service.

The same requirement was true in America during the period of colonial and post-colonial settlement. Indeed, the basic English militia laws were superceded by the colonies' even more specific and demanding legal requirements of *universal* gun ownership. Under those laws, virtually all colonists and every household were required to own guns. Depending on the colony's laws, male youths were deemed of military age at 16, 17, or 18, and every military age man, except for the insane, infirm, and criminals, had to possess arms. They were subject to being called for inspection, militia drill, or service, all of which legally required them to bring and present their guns. To arm those too poor to afford guns, the laws required that guns be purchased for them and that they make installment payments to pay back the cost.

It bears emphasis that these gun ownership requirements were not limited to those subject to militia service. Women, seamen, clergy, and some public officials were automatically exempt from militia call up, as were men over the upper military age, which varied from 45 to 60, depending on the colony. But every household was required to have a gun, even if all its occupants were otherwise exempt from militia service, to deter criminals and other attackers. Likewise, all respectable men were theoretically required to carry arms when out and abroad.[8]

These laws may not have been fully enforced (except in times of danger) in areas that had been long-settled and peaceful. Nevertheless, "by the eighteenth century, colonial Americans were the most heavily armed people in the world."[106] Yet, far from more guns equaling more death, murders in the New England colonies were "rare," and "few" murderers in all the colonies involved guns "despite their wide availability."[107]

America remained very well armed yet homicide remained quite low for over two hundred years, from the earliest settlements through the entire colonial period and early years of the United States. Homicide in more settled areas only began rising markedly in the two decades before the Civil War. By that

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101. [Roger Lane, Murder in America: A History 151 (1997).]

8. [The above two paragraphs are generally accurate, although not perfectly so. For the precise laws of Early America, see Chapter 3 of the textbook. — Eds.]

106. John Morgan Dederer, War in America to 1775, at 116 (1990)

107. Lane, *supra* note [101], at 48, 59-60.

time the universal militia was inoperative and the universality of American gun ownership had disappeared as many people in long-settled peaceful areas did not hunt and had no other need for a firearm.

The Civil War acquainted vast numbers of men with modern rapid-fire guns, and, in its aftermath, provided a unique opportunity to acquire them. Before the Civil War, reliable multi-shot rifles or shotguns did not exist and revolvers (though they had been invented in the 1830s) were so expensive they were effectively out of reach for most of the American populace. The Civil War changed all that. Officers on both sides had to buy their own revolvers, while sidearms were issued to noncommissioned officers generally, as well as those ordinary soldiers who were in the artillery, cavalry, and dragoons. The fact that over two million men served in the Union Army at various times while the Confederates had over half that number suggests the number of revolvers involved.

At war's end, the U.S. Army and Navy were left with vast numbers of surplus revolvers, both those they had purchased and those captured from Confederate forces. As the Army plummeted to slightly over 11,000 men, hundreds of thousands of military surplus revolvers were sold at very low prices. In addition, when their enlistments were up, or when they were mustered out at war's end, former officers and soldiers retained hundreds of thousands of both revolvers and rifles. These commandeered arms included many of the new repeating rifles the Union had bought (over the fervent objections of short-sighted military procurement officers) at the command of President Lincoln, who had tested the Spencer rifle himself. After his death the Army reverted to the single-shot rifle, disposing of all its multi-shots at surplus and thereby ruining Spencer by glutting the market.

Thus over the immediate post-Civil War years "the country was awash with military pistols" and rifles of the most modern design.[115] The final three decades of the century saw the introduction and marketing of the "two dollar pistol," which were very cheap handguns manufactured largely out of pot metal. In addition to being sold locally, such "suicide specials" were marketed nationwide through Montgomery Ward catalogs starting in 1872 and by Sears from 1886. They were priced as low as $1.69, and were marketed under names like the "Little Giant" and the "Tramp's Terror."

Thus, the period between 1866 and 1900 saw a vast diffusion of commercial and military surplus revolvers and lever action rifles throughout the American populace. Yet, far from rising, homicide seems to have fallen off sharply during these thirty years.

Whether or not guns were the cause, homicide steadily declined over a period of five centuries coincident with the invention of guns and their diffusion throughout the continent. In America, from the seventeenth century through the early nineteenth century, murder was rare and rarely involved guns, though

115. David T. Courtwright, Violent Land: Single Men and Social Disorder from the Frontier to the Inner City 42 (1996).

gun ownership was universal by law and "colonial Americans were the most heavily armed people in the world."[119] By the 1840s, gun ownership had declined but homicide began a spectacular rise through the early 1860s.[9] From the end of the Civil War to the turn of the twentieth century, however, America in general, and urban areas in particular, such as New York, experienced a tremendous spurt in ownership of higher capacity revolvers and rifles than had ever existed before, but the number of murders sharply declined.

In sum, the notion that more guns equal more death is not borne out by the historical evidence available for the period between the Middle Ages and the twentieth century. Yet this conclusion must be viewed with caution. While one may describe broad general trends in murder rates and in the availability of firearms, it is not possible to do so with exactitude. Not until the late 1800s in England, and the mid-1900s in the United States were there detailed data on homicide. Information about the distribution of firearms is even more sparse. For instance, Lane's generalizations about the rarity of gun murders and low American murder rates in general are subject to some dispute. Professor Randolph Roth, for example, has shown that early American murder rates and the extent to which guns were used in murder varied greatly between differing areas and time periods.

C. LATER AND MORE SPECIFIC MACRO-HISTORICAL EVIDENCE

Malcolm presents reliable trend data on both gun ownership and crime in England for the period between 1871 and 1964. Significantly, these trend data do not at all correlate as the mantra would predict: violent crime did not increase with increased gun ownership nor did it decline in periods in which gun ownership was lower.

In the United States, the murder rate doubled in the ten-year span between the mid-1960s and the mid-1970s. Since this rise coincided with vastly increasing gun sales, it was viewed by many as proof positive that more guns equal more death. That conclusion, however, does not follow. It is at least equally possible that the causation was reversed: that is, the decade's spectacular increases in murder, burglary, and all kinds of violent crimes caused fearful people to buy guns. The dubiousness of assuming that the gun sales caused the rise in murder rather than the reverse might have been clearer had it been known in this period that virtually the same murder rate increase was occurring in gun-less Russia. Clearly there is little basis to assume guns were the reason for the American murder rate rise when the Russian murder rate exhibited the same increase without a similar increase in the number of guns.

Reliable information on both gun ownership and murder rates in the United States is available only for the period commencing at the end of World War II. Significantly, the decade from the mid-1960s to the mid-1970s

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119. Dederer, *supra* note 106, at 116.

9. [For more on gun ownership in America, from colonial days through the antebellum period, see Clayton E. Cramer, Armed America: The Remarkable Story of How and Why Guns Became as American as Apple Pie (2007). Cramer differs from Kates and Mauser on some details. — Eds.]

is a unique exception to the general pattern that, decade-by-decade, the number of guns owned by civilians has risen steadily and dramatically but murder rates nevertheless have remained stable or even declined. As for the second half of the twentieth century, and especially its last quarter, a study comparing the number of guns to murder rates found that during the 25-year period from 1973 to 1997, the number of handguns owned by Americans increased 160% while the number of all firearms rose 103%. Yet over that period, the murder rate declined 27.7%. It continued to decline in the years 1998, 1999, and 2000, despite the addition in each year of two to three million handguns and approximately five million firearms of all kinds. By the end of 2000, the total American gunstock stood at well over 260 million — 951.1 guns for every 1,000 Americans — but the murder rate had returned to the comparatively low level prior to the increases of the mid-1960s to mid-1970s period.

In sum, the data for the decades since the end of World War II also fails to bear out the more guns equal more death mantra. The per capita accumulated stock of guns has increased, yet there has been no correspondingly consistent increase in either total violence or gun violence. The evidence is consistent with the hypothesis that gun possession levels have little impact on violence rates.

D. GEOGRAPHIC PATTERNS WITHIN NATIONS

Once again, if more guns equal more death and fewer guns equal less death, areas within nations with higher gun ownership should in general have more murders than those with less gun ownership in a similar area. But, in fact, the reverse pattern prevails in Canada, "England, America, and Switzerland, [where the areas] with the highest rates of gun ownership were in fact those with the lowest rates of violence."[129] A recent study of all counties in the United States has again demonstrated the lack of relationship between the prevalence of firearms and homicide.[130]

This inverse correlation is one of several that seems to contradict more guns equal more death. For decades the gun lobby has emphasized that, in general, the American jurisdictions where guns are most restricted have consistently had the highest violent crime rates, and those with the fewest restrictions have the lowest violent crime rates. For instance, robbery is highest in jurisdictions which are most restrictive of gun ownership. . . . Also of interest are the extensive opinion surveys of incarcerated felons, both juvenile and adult, in which large percentages of the felons replied that they often feared potential victims might be armed and aborted violent crimes because of that fear. The felons most frightened about confronting an armed victim were those "from states with the greatest relative number of privately owned firearms."[135]

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129. Malcolm, *supra* note 10, at 204.

130. Tomislav Kovandzic, Mark E. Schaffer, & Gary Kleck, Gun Prevalence, Homicide Rates and Causality: A GMM Approach to Endogeneity Bias 39-40 (Ctr. for Econ. Policy Research, Discussion Paper No. 5357, 2005).

135. [James D. Wright & Peter H. Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms 147, 150 (1986) (online Chapter 12.K.2).]

E. GEOGRAPHIC COMPARISONS: EUROPEAN GUN OWNERSHIP AND MURDER RATES

This topic has already been addressed at some length in connection with Tables 1-3, which contain the latest data available. Tables 4-6 contain further, and somewhat more comprehensive, data from the early and mid-1990s. These statistics reinforce the point that murder rates are determined by basic socio-cultural and economic factors rather than mere availability of some particular form of weaponry. Consider Norway and its neighbors Sweden, the Netherlands, and Denmark. Norway has far and away Western Europe's highest household gun ownership rate (32%), but also its lowest murder rate. The Netherlands has the lowest gun ownership rate in Western Europe (1.9%), and Sweden lies midway between (15.1%) the Netherlands and Norway. Yet the Dutch gun murder rate is higher than the Norwegian, and the Swedish rate is even higher, though only slightly.

Table 4: Intentional Deaths: United States vs. Continental Europe Rates
In order of highest combined rate; nations having higher rates than the United States are indicated by asterisk (suicide rate) or + sign (murder rate).

Nation	*Suicide*	*Murder*	*Combined rates*
Russia	41.2*	30.6+	71.8
Estonia	40.1*	22.2+	62.3
Latvia	40.7*	18.2+	58.9
Lithuania	45.6*	11.7+	57.3
Belarus	27.9*	10.4+	38.3
Hungary	32.9*	3.5	36.4
Ukraine	22.5*	11.3+	33.8
Slovenia	28.4*	2.4	30.4
Finland	27.2*	2.9	30.1
Denmark	22.3*	4.9	27.2
Croatia	22.8*	3.3	26.1
Austria	22.2*	1.0	23.2
Bulgaria	17.3*	5.1	22.4
France	20.8*	1.1	21.9
Switzerland	21.4*	1.1†	24.1
Belgium	18.7*	1.7	20.4
United States	11.6*	7.8	19.4
Poland	14.2*	2.8	17.0
Germany	15.8*	1.1	16.9
Romania	12.3*	4.1	16.4
Sweden	15.3*	1.0	16.3
Norway	12.3*	0.8	13.1
Holland	9.8	1.2	11.0
Italy	8.2	1.7	9.9
Portugal	8.2	1.7	9.9
Spain	8.1	0.9	9.0
Greece	3.3	1.3	4.6

. . .

† The Swiss homicide figure that Stolinsky reports is an error because it combines attempts with actual murders. We have computed the Swiss murder rate by averaging the 1994 and 1995 Swiss National Police figures for actual murders in those years given in Richard Munday & Jan A. Stevenson, Guns and Violence: The Debate Before Lord Cullen 268 (1996).

Table 5: European Gun/Handgun Violent Death

Nation	*Suicide with handgun (per 100,000 popul.)*	*Murder with handgun (per 100,000 popul.)*	*% of households with guns*	*% of households with handguns*
Belgium	18.7	1.7	16.6%	6.8%
France	20.8	1.1	22.6%	5.5%
West Germany	15.8	1.1	8.9%	6.7%
Holland	9.8	1.2	1.9%	1.2%
Italy	8.2	1.7	16.0%	5.5%
Norway	12.3	0.8	32.0%	3.8%
Sweden	15.3	1.3	15.1%	1.5%
Switzerland	20.8	1.1	27.2%	12.2%

Table 6: European Firearms-Violent Deaths
[All figures are per 100,000 population]

Nation	*Suicide*	*Suicide with gun*	*Murder*	*Murder with gun*	*Number of Guns . . .*
Austria	N/A	N/A	2.14	0.53	41.02
Belarus	27.26	N/A	9.86	N/A	16.5
Czech Rep.	9.88	1.01	2.80	0.92	27.58
Estonia	39.99	3.63	22.11	6.2	28.56
Finland	27.28	5.78	3.25	0.87	411.20
Germany	15.80	1.23	1.81	0.21	122.56
Greece	3.54	1.30	1.33	0.55	77.00
Hungary	33.34	0.88	4.07	0.47	15.54
Moldova	N/A	N/A	17.06	0.63	6.61
Poland	14.23	0.16	2.61	0.27	5.30
Romania	N/A	N/A	4.32	0.12	2.97
Slovakia	13.24	0.58	2.38	0.36	31.91
Spain	5.92	N/A	1.58	0.19	64.69
Sweden	15.65	1.95	1.35	0.31	246.65

. . .

These comparisons are reinforced by Table 6, which gives differently derived (and non-comparable) gun ownership rates, overall murder rates, and rates of gun murder, for a larger set of European nations. Table 6 reveals that even though Sweden has more than double the rate of gun ownership as neighboring Germany, as well as more gun murders, it has 25% less murder overall. In turn, Germany, with three times the gun ownership rate of neighboring Austria, has a substantially lower murder rate overall and a lower gun murder rate. Likewise, though Greece has over twice the per capita gun ownership rate of the Czech Republic, Greece has substantially less gun murder and less than half as much murder overall. Although Spain has over 12 times more gun ownership than Poland, the latter has almost a third more gun murder and more overall murder than the former. Finally, Finland has 14 times more gun ownership than neighboring Estonia, yet Estonia's gun murder and overall murder rates are about seven times higher than Finland's.

F. GEOGRAPHIC COMPARISONS: GUN OWNERSHIP AND SUICIDE RATES

The mantra more guns equal more death and fewer guns equal less death is also used to argue that "limiting access to firearms could prevent many suicides."[141] Once again, this assertion is directly contradicted by the studies of 36 and 21 nations (respectively) which find no statistical relationship. Overall suicide rates were no worse in nations with many firearms than in those where firearms were far less widespread.[142]

Consider the data about European nations in Tables 5 and 6. Sweden, with over twice as much gun ownership as neighboring Germany and a third more gun suicide, nevertheless has the lower overall suicide rate. Greece has nearly three times more gun ownership than the Czech Republic and somewhat more gun suicide, yet the overall Czech suicide rate is over 175% higher than the Greek rate. Spain has over 12 times more gun ownership than Poland, yet the latter's overall suicide rate is more than double the former's. Tragically, Finland has over 14 times more gun ownership than neighboring Estonia, and a great deal more gun-related suicide. Estonia, however, turns out to have a much higher suicide rate than Finland overall.

There is simply no relationship evident between the extent of suicide and the extent of gun ownership. People do not commit suicide because they have guns available. In the absence of firearms, people who are inclined to commit suicide kill themselves some other way. Two examples seem as pertinent as they are poignant. The first concerns the 1980s increase in suicide among young American males, an increase that, although relatively modest, inspired perfervid denunciations of gun ownership. What these denunciations failed to mention was that suicide of teenagers and young adults was increasing throughout the entire industrialized world, regardless of gun availability, and often much more rapidly than in the United States. The only unusual aspect of suicide in the United States was that it involved guns. The irrelevancy of guns to the increase in American suicide is evident because suicide among English youth actually increased 10 times more sharply, with "car exhaust poisoning [being] the method of suicide used most often."[145] By omitting such facts, the articles blaming guns for increasing American suicide evaded the inconvenience of having to explain exactly what social benefit nations with few guns received from having their youth suicides occur in other ways.

Even more poignant are the suicides of many young Indian women born and raised on the island of Fiji. In general, women are much less likely to commit suicide than are men. This statistic is true of Fijian women overall as well, but not of women in the large part of Fiji's population that is of Indian ancestry. As children, these Indian women are raised in more-or-less loving and supportive homes. But upon marriage they are dispersed across the island to remote areas where they live with their husbands' families, an often overtly hostile situation the husbands do little to mitigate. Indian women on Fiji have a suicide rate

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141. Arthur L. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, 327 New Eng. J. Med. 467, 467, 471-72 (1992). . . .

142. *See* Killias et al., *supra* note 42, at 430 (study of 21 nations) [*supra*, preceding this excerpt]; *see generally* Kleck, *supra* note 8.

145. Keith Hawton, *By Their Own Young Hand*, 304 Brit. Med. J. 1000 (1992). . . .

nearly as high as that of Indian men, a rate many times greater than that of non-Indian Fijian women. It also bears emphasis that the overall Fijian suicide rate far exceeds that of the United States.

The method of suicide is particularly significant. Fijian women of Indian ancestry commit suicide without using guns, perhaps because guns are unavailable. About three-quarters of these women hang themselves, while virtually all the rest die from consuming the agricultural pesticide paraquat. The recommendation of the author whose article chronicles all these suicides is so myopic as to almost caricature the more guns equal more death mindset: to reduce suicide by Indian women, she recommends that the Fijian state stringently control paraquat.[148] Apparently she believes decreased access to a means of death will reconcile these women to a life situation they regard as unendurable. At the risk of belaboring what should be all too obvious, restricting paraquat will not improve the lives of these poor women. It will only reorient them towards hanging, drowning, or some other means of suicide.

Guns are just one among numerous available deadly instruments. Thus, banning guns cannot reduce the amount of suicides. Such measures only reduce the number of suicides by firearms. Suicides committed in other ways increase to make up the difference. People do not commit suicide because they have guns available. They kill themselves for reasons they deem sufficient, and in the absence of firearms they just kill themselves in some other way.

Conclusion

This Article has reviewed a significant amount of evidence from a wide variety of international sources. Each individual portion of evidence is subject to cavil — at the very least the general objection that the persuasiveness of social scientific evidence cannot remotely approach the persuasiveness of conclusions in the physical sciences. Nevertheless, the burden of proof rests on the proponents of the more guns equal more death and fewer guns equal less death mantra, especially since they argue public policy ought to be based on that mantra. To bear that burden would at the very least require showing that a large number of nations with more guns have more death and that nations that have imposed stringent gun controls have achieved substantial reductions in criminal violence (or suicide). But those correlations are not observed when a large number of nations are compared across the world.

Over a decade ago, Professor Brandon Centerwall of the University of Washington undertook an extensive, statistically sophisticated study comparing areas in the United States and Canada to determine whether Canada's more restrictive policies had better contained criminal violence. When he published his results it was with the admonition:

> If you are surprised by [our] finding[s], so [are we]. [We] did not begin this research with any intent to "exonerate" handguns, but there it is — a negative

148. Ruth H. Haynes, *Suicide in Fiji: A Preliminary Study*, 145 Brit. J. Psychiatry 433 (1984).

finding, to be sure, but a negative finding is nevertheless a positive contribution. It directs us where not to aim public health resources.[150]

NOTES & QUESTIONS

1. Are you persuaded by Kates and Mauser's thesis that social and cultural factors are far more important than gun density in determining a nation's homicide rate?

2. What follows if Kates and Mauser are correct? What measures should citizens and governments pursue to reduce suicides and criminal homicides?

3. Rather than using formal statistical tests, Kates and Mauser produce a great deal of observational data, such as by comparing neighboring countries, or looking at changes over time in national homicide rates. Is this informal method useful for analyzing policy questions, or should any such analysis conform to formal statistical methods, including the use of significance tests? What are the advantages and disadvantages of the two approaches?

4. When should policy makers consider possible substitution effects? Killias et al. found that gun-related crimes and suicides were strongly correlated with gun ownership, but that crimes and suicides generally were relatively weakly correlated. Kates and Mauser report that circumstances push individuals to substitute other means for suicide and murder when firearms are not available. Based on these findings, what are arguments for and against more strict gun controls?

5. In the face of assessments suggesting that gun density does not drive homicide, might policy makers still rationally pass laws to reduce the gun supply on the logic that it can't hurt? What about the possibility that firearms have social benefits, as discussed in Chapter 12? Presumably the balance of costs and benefits from firearms will vary from country to country. What variables might affect the costs and benefits? The next study suggests that the variables might be cultural differences, as well as relationships not considered by the two studies above.

Irshad Altheimer & Matthew Boswell, Reassessing the Association between Gun Availability and Homicide at the Cross-National Level,

37 Am. J. Crim. Just. 682 (2012)

Introduction

The relationship between gun availability and homicide continues to be a source of debate among criminologists. Competing perspectives have emerged

150. Brandon S. Centerwall, *Author's Response to "Invited Commentary: Common Wisdom and Plain Truth,"* 134 Am. J. Epidemiology 1264, 1264 (1991).

that view guns as a cause of violent crime, a mechanism to reduce violent crime, and totally unrelated to violent crime. Macro-level research on this issue has yet to establish a consensus. For example, some studies have found a significant association between gun availability and homicide while others have not. As a result, the debate about the relationship between guns and violent crime at the macro-level continues. . . .

Recent research has documented the importance of considering socio-historical and cultural contexts when examining crime at the cross-national level. For example, research on Eastern European nations has found that age structure and economic inequality operate to influence homicide differently in Eastern European nations than in Western Developed nations. The authors of this research attributed these differences to the unique changes that have occurred in Eastern European nations in recent decades. Additionally, Ortega, Corzine, Burnett and Poyer found that the effects of modernity on homicide may vary by region, a proxy for culture. Further, Neopolitan found that cultural factors explained high rates of homicide in Latin American nations. There is also a body of research that suggests that the symbolism associated with guns in some cultures influences levels of homicide. Despite these findings, no research to date has examined if the manner that gun availability influences violence across nations is contingent upon socio-historical and cultural contexts.

These issues have important implications for international gun control policy. If gun availability levels positively influence homicide rates across nations, without regard to socio-historical or cultural factors, then measures to reduce the availability of guns within nations, as well as the transfer of weapons between nations, should lead to subsequent reductions in lethal violence. This would occur if the lower levels of gun availability decrease the likelihood that crime prone individuals use a gun during the commission of a crime. If, on the other hand, the effect of gun availability on homicide is found to be contingent upon socio-historical and cultural factors, the policy approaches will have to be more nuanced. For example, if gun availability is found to decrease rates of homicide in certain nations, then it would be prudent for policy makers to develop a policy that reduces gun availability among criminal aggressors, but still allows citizen[s] to utilize guns for self-defense.

The aim of this paper is to further clarify the nature of the relationship between gun availability and homicide at the cross-national level. Towards that end, this paper has two objectives. First, to examine the association between gun availability and homicide in a manner that better accounts for simultaneity than previous research. Second, to examine the manner that the relationship between gun availability and homicide is shaped by socio-historical and cultural context.

Theory

No dominant theoretical perspective exists that explains the relationship between gun ownership and homicide. The basis for such a perspective, however, has been proposed by Kleck and McElrath, who suggest that weapons are a source of power used instrumentally to achieve goals by inducing compliance with the user's demands. The goals of a potential gun user are numerous

and could include money, sexual gratification, respect, attention, or domination. Importantly, this perspective suggests that guns can confer power to both a potential aggressor and a potential victim seeking to resist aggression. When viewed in this manner, several hypotheses can be derived concerning the relationship between gun availability and homicide at the macro-level. Importantly, applying these hypotheses to the macro-level leads to analyses that are more concerned with aggregate social factors and statistical associations than direct causality. Macro-level analysis of the relationship between gun availability and violence is often misconstrued as supporting the contention that guns "cause" crime. In reality, this research is primarily driven by questions about the role that gun availability plays in facilitating choices and other behavior that may influence levels of criminal violence.

The facilitation, triggering, and weapon instrumentality hypotheses have been put forth to explain why gun availability and homicide should be positively associated. The facilitation hypothesis suggests that gun availability is positively associated with homicide because the availability of guns provides encouragement to potential attackers or to persons who normally would not commit an attack. This encouragement is derived from the fact that the possession of a gun can enhance the power of a potential aggressor; thereby increasing the chances that a violent crime will be successfully completed. Guns can also facilitate crime by emboldening an aggressor who would normally avoid coming into close contact with a victim or using a knife or blunt object to stab or bludgeon someone to death. This is particularly important in situations when the aggressor is smaller or weaker than the victim. In such cases, the aggressor's possession of a gun can neutralize the size and strength advantage of an opponent. The triggering hypothesis suggests that gun availability triggers aggression among potential offenders. This "weapons effect" is said to occur because angry people are likely to associate guns with aggressive behavior. Similarly, it has been suggested that the presence of a gun is likely to intensify negative emotions such as anger.

The weapon instrumentality hypothesis suggests that gun availability increases the lethality of violent crime. This occurs when increasing gun availability increases the likelihood that an aggressor substitutes a gun for another weapon or no weapon at all during the commission of a crime. The end result is often homicide. The basic premise of the weapon instrumentality perspective is that the use of a gun during the commission of an assault or robbery (1) increases the likelihood of death or serious injury; (2) provides aggressors with the opportunity to inflict injury at long distances; and (3) makes it easier to assault multiple victims than the use of other weapons that are commonly used to commit violent crime (i.e. knife or bat).

Another perspective on this issue suggests that the availability of guns is negatively associated with homicide. From this perspective, increased levels of gun availability empower the general public to disrupt or deter criminal aggression[, which] suggests that gun availability can disrupt criminal aggression in two ways. First, an armed victim can prevent the completion of a crime by neutralizing the power of an armed aggressor or by shifting the balance of power in favor of the victim when confronted by an unarmed aggressor. Second, an armed victim can use a weapon to resist offender aggression and avoid injury. Increased levels of gun availability may also reduce crime by deterring potential

aggressors. Aggressors may refrain from committing crime due to fear of violent retaliation from victims. This deterrence can be both specific and general. For instance, a criminal aggressor may refrain from committing future attacks because they were confronted with an armed victim during a previous experience. Alternatively, an aggressor may refrain from committing a criminal act if they believe that a large proportion of the pool of potential victims is armed. When applied to the macro-level, this perspective suggests that gun availability should be negatively associated with homicide. This is because in nations where citizens have greater access to guns, potential victims will be better able to deter or disrupt the acts of criminal aggressors.

The third perspective discussed here suggests that gun availability and homicide are unrelated. The absence of an effect can be the result of two things. First, gun availability simply may not influence homicide. From this perspective, the use of a gun simply may reflect an aggressor's greater motivation to seriously harm a victim. This suggests that factors other than gun availability motivate gun use and that a lack of access to a gun will simply cause an aggressor to substitute another weapon to achieve a desired outcome. Second, an effect between gun availability and crime may not be detected because defensive gun use may offset the effects of guns being used for criminal aggression.

Cross-national Research on Guns and Homicide

Cross-national research examining the relationship between gun availability and homicide has been small in number. With the exception of Hoskin, these studies have employed bivariate correlation analyses to examine the relationship between gun availability and homicide. On the surface, several of these studies seem to provide support for the proposition that gun availability and homicide are positively associated; thereby supporting the contention that increasing gun availability increases the likelihood of homicide. For example, Killias found a positive correlation between gun availability — measured using an aggregated survey measure of gun ownership — and national homicide rates in 14 Western Developed nations.[10] Additionally, Hemenway and Miller found a positive association between two indicators of gun availability — percentage of suicides committed with a gun and Cook's gun availability index — and homicide in a sample of 26 high income nations. It is important to note that the results from these studies are suggestive but not conclusive. As a result, critics of these studies have either rejected the findings or provided alternative explanations.

Criticisms of this research can be placed in two categories. The first category involves criticism of the overreliance of correlation coefficients in the examination of this relationship. The overreliance of correlation coefficients precludes the establishment of causality. For example, Kleck notes that a significant association between gun availability and homicide can be interpreted to represent the effect of violent crime on gun availability. The overreliance on correlation coefficients also makes it impossible to control for other important predictors of

10. [Killias, along with others, conducted a later, broader study, which produced different results. The later study appears in this chapter, *supra*. — Eds.]

homicide at the cross-national level. Due to this some researchers have concluded that "Cross national research holds little promise for assessing the impact of gun levels on violence levels". But the failure to establish causality and control for other variables does not mean that research performing bivariate analysis is worthless. Rather, this research serves an important exploratory step in examining the relationship between gun availability and homicide. The analyses performed in previous research may be viewed as one step in the career of a causal relationship. When viewed in this way, the finding of a significant association would suggest the need to explore the relationship with more rigorous statistical approaches in the future. Hoskin attempted to control for potential simultaneity between gun availability and homicide by using two-stage least squares regression to examine the gun/homicide relationship. His results suggest that gun availability levels influenced rates of homicide, but his failure to include proper instruments for gun availability [led] to serious questions about the veracity of his results.

The second category of criticism deals with the composition of the sample included in the analysis. There is evidence that the significant results detected are due to the inclusion of the United States in the analyses. For instance, Hemenway and Miller found that the association between gun availability and homicide dropped to insignificance when the United States was excluded from the analysis. Additionally, Hemenway found that firearm availability only influenced homicide rates when the United States was included in the analysis. Additionally, Kleck's reanalysis of the Killias data found that the results dropped to insignificance when the United States was excluded.

Critics of this research also point out that it has primarily focused on Western Developed nations. Importantly, in the one situation when non-Western or lower income nations were included in the analysis the relationship between gun availability and gun homicide dropped from significance. In the same study, gun availability was found to have no association with homicide when all nations were included. Hepburn and Hemenway argued that inconsistent results emerge when high income and non-high income nations are included in the same analysis because differences in socioeconomic status may affect levels of lethal violence in these nations. Although this assertion seems plausible, an alternative proposition is that gun availability and homicide only exhibit a significant association in certain cultural and socio-historical settings.

Expanding Existing Theory and Literature to Account for Socio-Historical and Cultural Factors

Macro-level criminological research can be divided into three categories. The first involves social-structural approaches to the study of homicide. This research views homicide rates as social facts that are distributed in patterned ways. Patterns of homicide are influenced by the social structure, which describes the positions or statuses that people occupy and the behavioral expectations attached to these statuses. From a social-structural perspective, gun availability can be viewed as a material social fact that operates somewhat independent of socio-historical and cultural factors to influence gun homicide

and homicide rates. A positive association between gun availability and homicide would be hypothesized to exist cross-nationally, in spite of socio-historical and cultural differences between nations.

The second approach involves research that examines how cultural processes influence rates of homicide. Proponents of this perspective argue that variation in homicide rates can be explained by values, norms, and beliefs held by members of a society. Although there are numerous cultural theories that attempt to explain crime, virtually all of these approaches to crime suggest that, at least in certain situations, some societies — or subgroups within society — are more accepting than others of the use of the violence in upholding certain values. In essence, it is culture that establishes how people within society interpret and respond to certain events and provocations. Thus, cultural processes may influence knowledge of weapons — including how to identify and use them — as well as situational definitions of when it is appropriate to use a weapon to injure or kill someone.

The third approach involves consideration of how socio-historical factors influence homicide. Socio-historical research is primarily concerned with how space and time shape structures of order and disorder across nations, and the implications that this has for cross-national variation in violence. Both political boundaries and geographic characteristics shape the social organization of societies. Consideration of time is important because social forces are temporally linked; and the occurrence and sequence of important historical events within specific political and geographic boundaries may influence the levels of violence within societies. From the socio-historical perspective, the manner that gun availability is associated with crime is influenced by the history and geography of a nation, as well as the occurrence of important temporal events. In nations where the gun historically has been viewed as a civilizing force against indigenous populations (i.e. cowboys and Native Americans); or in nations with vast and diverse geographic boundaries that make the development of gun sports possible; or in nations where the occurrence of certain temporal events lead[s] to the breakdown of collective security; citizens may come to view [ ] the use of guns as a viable option when responding to interpersonal disputes.

Although most cross-national research has been social-structural in nature, there is evidence in the criminological literature that both cultural and socio-historical processes influence cross-national variation in homicide. Results of this research suggest that important structural predictors of crime do not necessarily operate uniformly across nations. This notion is further supported by historical and ethnographic firearm research that documents the greater glorification and toleration of gun use and gun violence in some societies than in others. Taken together, this research suggests that an examination of the manner that socio-historical and cultural processes shape the nature [of the] gun/homicide relationship is warranted.

The Current Study

The current study has two objectives. First, to examine the association between gun availability and homicide in a manner that better accounts for simultaneity than previous research. Second, to examine the manner that the

relationship between gun availability and homicide is shaped by socio-historical and cultural context. To address these objectives, the analysis proceeds in the following manner. First, the relationship between gun availability, gun homicide, and homicide is examined for the entire sample of nations. Examining the effect of gun availability on gun homicide is necessary to determine if the greater availability of guns increases the likelihood that societal members will make a gun their weapon of choice when committing a violent assault. Importantly, a significant relationship between these two variables doesn't suggest weapon instrumentality. It is possible that citizens in these nations choose guns as their weapon of choice when they intend to seriously harm or kill their victim. A significant relationship between gun availability and homicide, however, would suggest greater weapon lethality.

The second objective will be met by examining the association between gun availability, gun homicide, and homicide across three groups of nations that are culturally and socio-historically distinct: Western nations, Latin American nations, and Eastern European nations. Examining Latin American nations is important because previous research has argued that these nations are characterized by a machismo culture that increases the use of weapons and the likelihood of violence. Examining Eastern European nations is important because previous research has found that the transition to market capitalism has led to the breakdown of collective security in many of these nations. Under these circumstances it is plausible that gun violence has become more likely in these nations.

Although it is recognized that the nations in each respective category are not entirely homogenous, it is assumed that nations are more similar to neighboring nations than nations in different cultural regions. Placing nations in categories, rather than looking at the effects of each nation separately, is necessary because data on the socio-historical and cultural processes of interest here are not available for a cross-national sample. This approach has been taken in previous cross-national research attempting to assess the effects of socio-historical and cultural processes on crime.

Data and Methods

This study provides a methodological improvement to existing cross-national work on guns and homicide. Specifically, we are able to model the effects of gun prevalence on homicide with special attention being paid to variation over both time and space.

DATA

To test these arguments we collected annual national-level data for the years 2000 to 2005 on gun homicide, characteristics of nations, and meaningful controls. The use of yearly data is a methodological improvement to cross-sectional studies of guns and homicide for several reasons. First, by using time-varying data effects can be estimated more efficiently. Second, variation from year-to-year can be captured. Finally, the time-series design allows for

claims of causality, which are stronger than analyses which cannot account for temporal ordering.

This full sample used in this study contains data on 43 nations measured over 6 years. An investigation of the data showed no systematic patterns to missing data. Regional subsamples varied in the number of nations. Table 5 in the Appendix shows the composition of both the baseline set of nations as well as the specific regional groupings. Our choices of nations to include were determined by data availability. We note that the total number of nations included in the analysis is similar in size to other work in cross-national criminology.

VARIABLES

INDEPENDENT VARIABLE

Gun availability was measured by the rate of gun suicides in each nation per 100,000 inhabitants for the years 2000 to 2005. These data were collected from the WHO ICD-10 raw data files. Suicide data were aggregated for each nation for the years 2000 through 2005. Each year of the suicide rate was operationalized by taking the number [of] gun suicides for that particular year, dividing it by the national population for the same period of time, and multiplying that number by 100,000. The gun suicide rate is considered the proxy of choice for examining gun availability levels across macro-level units. Confidence in the validity of this measure is further bolstered by the fact that it is highly correlated with Krug et al.'s cross-national indicator of the gun suicide rate. For the 21 nations that are included in both our dataset and Krug et al.'s dataset, the Pearson correlation is .93 and the Spearman's rho is .96.

DEPENDENT VARIABLES

Data for gun homicide were collected from the WHO ICD-10 raw data files. The gun homicide measure represents the proportion of homicides in each respective nation that involved the use of a firearm. It was operationalized as the number of gun homicides per 100,000 inhabitants for the years 2000 to 2005. Due to data limitations, no distinction could be made between hand guns and long guns. The homicide measure was operationalized as the rate of homicides per 100,000 population for the years 2000 to 2005, [respectively].

CONTROL VARIABLES

The control variables included in the analyses of this study were selected to isolate the effects of gun availability on homicide and gun homicide. The following control variables were included in these analyses: economic inequality, GDP/capita, male population between the ages of 15 to 34 (young males), social support, urbanization, sex ratio. For all of the control variables, data were taken for the years 2000-2005. Data for GDP/capita, social support, and urbanization

were taken from the World Development Indicators website. Economic inequality was operationalized using the Gini index. There are numerous sources for this variable. Because of the yearly observations used in this analysis, we chose the net Gini indicator[11] from the Standardized World Income Inequality Database (SWIID). This dataset standardizes the United Nations World Income Inequality Database while drawing from other sources and also providing yearly data. The net Gini indicator is a measure of inequality after all transfer payments are taken into consideration.

Controlling for this indicator is important because previous research has found economic inequality to be one of the most robust predictors of crime across nations. Gross Domestic Product was included as an indicator of the level of development within a nation. Previous research has found that Developed nations have lower levels of violence than developing and underdeveloped nations. Development was operationalized as GDP per capita[] in 1000s of U.S. dollars. This figure was then log transformed to correct for skewness. Social support was operationalized as the percentage of the nation's GDP spent on healthcare.

Urbanization was operationalized as the proportion of national citizens who live in urban areas. This indicator measures the population density within a nation. . . . Young males is an indicator of the proportion of male citizens between the ages of 15 to 34. Previous research has found that nations with larger young populations have higher rates of homicide. Sex ratio was operationalized as the ratio of men per 100 women in society. Sex ratio has been found to be an important predictor of violence both within and between nations (Pratt & Cullen, 2005). Table 6 in the Appendix presents descriptive statistics for the nations in the sample. Correlations are based on the pooled sample.[12] Means and standard deviations for all variables are presented. . . .

Results

Results for this study are reported in Tables 1 through 4. Table 1 reports the analysis of the effects of gun availability on gun homicide and homicide for all of the nations sampled. Model 1 in Table 1 presents a baseline model that examines the effects of the statistical controls on gun homicide. The model reveals that economic inequality, proportion young males, and urbanization all influence rates of gun homicide. Interestingly, the effects of economic inequality, proportion young males and urbanization are opposite of what might be expected. Model 2 shows the effects when lagged levels of gun availability are introduced in the model. Gun availability significantly influences levels of gun homicide. For every unit increase in gun availability, gun homicide decreases .145 units. Model 3 reports the baseline model that examines the effects of the statistical controls on homicide. The results reveal that economic inequality, proportion young males, sex ratio, urbanization, and social support significantly influence rates of homicide. As in the previous models, and contrary to what has

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11. [A measure of the distribution of income within a nation. A higher number corresponds to higher income inequality. — Eds.]

12. [A pooled sample is the combination, or pooling, of two or more smaller samples. — Eds.]

TABLE 1 Baseline models

	Gun Homicide		*Homicide*	
	Model 1	*Model 2*	*Model 3*	*Model 4*
Log GDP	-0.010	-0.010	-0.010	-0.011
	(0.025)	(0.025)	(0.009)	(0.009)
Inequality	-0.059**	-0.053**	-0.025**	-0.023**
	(0.014)	(0.014)	(0.005)	(0.005)
Young Males	-9.626**	-10.986**	-4.352**	-4.710**
	(2.804)	(2.791)	(0.982)	(1.063)
Sex Ratio	0.060*	0.062**	0.047*	0.047*
	(0.028)	(0.022)	(0.020)	(0.022)
Urbanization	-0.007**	-0.005	-0.008**	-0.008**
	(0.002)	(0.003)	(0.003)	(0.003)
Social Support	-0.014	-0.042	-0.087**	-0.086**
	(0.019)	(0.024)	(0.011)	(0.012)
Year	-0.028**	-0.030**	-0.021**	-0.021**
	(0.007)	(0.007)	(0.003)	(0.004)
Log Gun Homicide$_{t-1}$	0.033	0.040		
	(0.064)	(0.069)		
Log Gun Availability$_{t-1}$	-0.145**		0.016	
	(0.028)		(0.037)	
Log Homicide$_{t-1}$		-0.114	-0.055	
		(0.060)	(0.071)	
Observations	188	188	195	191

* $p < .05$, **$p < .01$

been found in previous research, economic inequality, young males, and urbanization exhibit effects opposite of what was expected. Gun availability is introduced in Model 4 and is found to have no effect on homicide.

Table 2 reports the effects of gun availability on gun homicide and homicide in Western nations only. The baseline model reports that economic inequality, sex ratio, and urbanization significantly influence gun homicide levels. Importantly, the effect of economic inequality is in the expected direction. In Model 2 lagged gun availability is introduced. The results suggest that higher levels of gun availability increase levels of gun homicide in Western developed nations. Model 3 examines the effects of the statistical controls on homicide. The model reveals that GDP/capita, economic inequality, and urbanization influence homicide. As reported in Table 1, the effect of economic inequality is opposite of what is expected. Lagged gun availability is introduced into Model 4. The results reveal that gun availability significantly influences rates of homicide in this sample of nations. Increases in gun availability are associated with subsequent decreases in homicide.

Table 3 reports the effects of gun availability on gun homicide and homicide for Eastern European nations. The baseline model of the effects of the statistical controls on gun homicide reveals that economic inequality, proportion young males, urbanization, and social support influence gun homicide levels. Importantly, all of these variables influence gun homicide in a manner opposite of what might be expected. Lagged gun availability is introduced in Model 2. Gun availability has a negative effect on gun homicide. This suggests

TABLE 2 Western nations

	Gun Homicide		*Homicide*	
	Model 1	*Model 2*	*Model 3*	*Model 4*
Log GDP	0.002	0.001	-0.010**	-0.007
	(0.033)	(0.030)	(0.005)	(0.007)
Inequality	0.232***	0.241***	-0.085**	-0.090**
	(0.070)	(0.069)	(0.033)	(0.039)
Young Males	4.566	8.964	-0.329	-1.221
	(7.604)	(7.120)	(3.724)	(4.367)
Sex Ratio	0.357**	0.258*	-0.040	0.064
	(0.149)	(0.148)	(0.057)	(0.079)
Urbanization	-0.038*	-0.038	0.029***	0.029**
	(0.023)	(0.027)	(0.010)	(0.013)
Social Support	-0.070	-0.072	-0.025	-0.034
	(0.069)	(0.073)	(0.023)	(0.030)
Year	-0.009	0.022	-0.025*	-0.040**
	(0.026)	(0.032)	(0.014)	(0.018)
Log Gun Homicide$_{t-1}$	-0.036	-0.023		
	(0.116)	(0.115)		
Log Gun Availability$_{t-1}$	0.906***		-0.225*	
	(0.270)		(0.116)	
Log Homicide$_{t-1}$			-0.294***	-0.260**
			(0.077)	(0.107)
Observations	59	59	65	61

*p < .05, **p < .01, ***p < .01

that, in Eastern European nations, increased levels of gun availability reduce rates of gun violence. Model 3 examines the effects of the statistical controls on homicide. GDP/capita, economic inequality, urbanization, and social support all significantly influence rates of homicide. Gun availability is introduced in Model 4. The results reveal that gun availability negatively influences rates of homicide in Eastern European nations ($p < .10$). Additionally, gun availability seems to mediate the effect of economic inequality on homicide.

Table 4 reports the effects of gun availability on gun homicide and homicide for Latin American nations. Model 1 reports the baseline model that regresses gun homicide on the important statistical controls. The findings reveal that GDP/capita, young males, sex ratio, and social support influence gun homicide levels. Lagged levels of gun availability were added in Model 2. Gun availability exhibits a significant positive effect on gun homicide. Additionally, when gun availability is added to the model economic inequality emerges as significant, thereby suggesting a suppression effect. Model 3 examines the effects of the statistical controls on homicide. Only social support is found to significantly influence homicide in these models. Gun availability is added in Model [4] and is found to significantly influence rates of homicide. This suggests that higher levels of gun availability lead to higher rates of homicide in Latin American nations. Interestingly, urbanization exhibits a significant negative effect once gun availability is introduced in the model. This suggests a suppression effect. The implications of these findings are discussed below.

TABLE 3 Eastern European nations

	Gun Homicide		*Homicide*	
	Model 1	*Model 2*	*Model 3*	*Model 4*
Log GDP	-0.103	-0.341	-0.357***	-0.338***
	(0.201)	(0.256)	(0.062)	(0.062)
Inequality	-0.068**	-0.091***	-0.862	0.007
	(0.032)	(0.032)	(1.266)	(0.006)
Young Males	-29.045***	-24.790***	-0.329	-1.164
	(6.039)	(6.027)	(3.724)	(1.224)
Sex Ratio	-0.224	-0.269	0.015	-0.026
	(0.222)	(0.209)	(0.025)	(0.031)
Urbanization	-0.018*	-0.016	-0.024***	-0.030***
	(0.010)	(0.012)	(0.003)	(0.004)
Social Support	0.157**	0.113	-0.099***	-0.094***
	(0.076)	(0.079)	(0.018)	(0.016)
Year	-0.043	-0.015	0.002	0.004**
	(0.027)	(0.031)	(0.001)	(0.002)
Log Gun Homicide$_{t-1}$	-0.056	0.016		
	(0.132)	(0.130)		
Log Gun Availability$_{t-1}$		-0.527***		-0.048**
		(0.178)		(0.022)
Log Homicide$_{t-1}$			0.201**	0.162*
			(0.096)	(0.094)
Observations	60	60	60	60

*p < .05, **p < .01, ***p < .01

TABLE 4 Latin American nations

	Gun Homicide		*Homicide*	
	Model 1	*Model 2*	*Model 3*	*Model 4*
Log GDP	-0.032**	-0.035***	-0.004	-0.027
	(0.013)	(0.014)	(0.051)	(0.060)
Inequality	-0.010	-0.016*	0.032	0.023
	(0.008)	(0.009)	(0.021)	(0.023)
Young Males	-8.213**	-7.308*	-7.203	-8.509
	(3.754)	(3.785)	(5.424)	(6.479)
Sex Ratio	0.076**	0.075**	0.079	0.101
	(0.036)	(0.036)	(0.053)	(0.063)
Urbanization	-0.001	-0.001	-0.001	-0.006*
	(0.001)	(0.001)	(0.003)	(0.004)
Social Support	-0.077***	-0.075***	-0.085***	-0.103***
	(0.017)	(0.019)	(0.021)	(0.027)
Year	0.014**	0.016***	0.014	0.018
	(0.006)	(0.006)	(0.012)	(0.013)
Log Gun Homicide$_{t-1}$	0.069	0.016		
	(0.125)	(0.127)		
Log Gun Availability$_{t-1}$		0.046*		0.237***
		(0.026)		(0.071)
Log Homicide$_{t-1}$			0.093	-0.085
			(0.135)	(0.144)
Observations	53	53	53	53

*p < .05, **p < .01, ***p < .01

Discussion . . .

Several of the results warrant discussion here. The first concerns the dynamic between gun availability, gun homicide, and homicide. As discussed above, gun availability exhibited a positive effect on gun homicide in Western Developed nations and Latin American nations, and a negative effect in Eastern European nations and in the baseline model. Similar patterns were found with the dynamic between gun availability and homicide. No effect was found in the baseline model, but positive significant effects were found in Latin American nations and negative significant effects were found in Western nations and Eastern European nations.

These results suggest that the extent that guns are considered the weapon of choice for the commission of violence is largely shaped by cultural and socio-historical factors. In Western nations citizens appear to be more likely to view guns as the weapon of choice when committing violence, but apparently this preference for guns does not increase overall levels of lethality. Rather, this preference for use of guns seems to decrease overall rates of homicide. Perhaps Western citizens view guns as a defense mechanism against the aggression of others, rather than a tool to be used with the intent of causing great bodily harm or death. In Latin American nations it appears that gun availability increases both the preference for guns and the lethality of violence. This suggests that citizens of Latin American nations have a preference for gun use, and the sheer availability of guns in these nations increases the likelihood that violent altercations result in death. It may also suggest that a greater use of guns in Latin American violence represents [the] greater likelihood that Latin American aggressors intend to greatly harm or kill their victims. An entirely different dynamic seems to be occurring in Eastern European nations. It seems that guns are primarily being used in these nations as a deterrent against potential aggression in an era characterized by weakened collective security.

In addition to the direct effects of gun availability exhibited here, gun availability was found to suppress the effects of urbanization on gun homicide in Latin American nations and to mediate the effects of economic inequality on homicide in Western Developed nations and Eastern European nations. The suppression effect suggests that the effects of gun availability on homicide may not be as pronounced in Latin American nations with high levels [of] urbanization. This finding is somewhat counter intuitive but may suggest that citizens are more likely to benefit from the guardianship of others in densely populated areas of Latin American nations. The mediation effects suggest that the extent that economic inequality influences homicide across Eastern European nations is contingent upon gun availability levels.

These findings also reveal that the causes of gun homicide and homicide diverge considerably. This was especially the case in the regional models. In some instances, a particular variable that influenced gun homicide was not found to influence homicide. In other instances, the effect was significant for both variables but the effect signs were in opposite directions. This suggests that criminologists must look to develop distinct explanations for the occurrence of weapon violence across nations.

Gun availability was not the only indicator to exhibit variable effects on violence across regions. Several of the control variables operated to influence violence in a similar ma[nn]er. For example, economic inequality — one of the most robust predictors of homicide at the cross-national level — exhibited strong positive effects on homicide in the models that included Eastern European

nations, negative effects in Western nations, and no effects in Latin American nations. This suggests that even the effects of robust predictors of violence, such as economic inequality, are influenced by socio-historical and cultural factors.

One question that emerges from these results concerns the anomalous findings related to our statistical controls and homicide. That is, in some models economic inequality, urbanization, and young males all exhibited effects contrary to what might be expected. It is not entirely clear why this occurred, but the following explanations are given here. First, one potential explanation for the negative effect of economic inequality on homicide is that the relationship is non-linear. A recent article by Jacobs and Richardson found that the relationship between economic inequality and homicide changes from positive to negative at extreme levels of inequality. The inclusion of Latin American and Eastern European nations in this analysis led to a higher proportion of nations with extreme levels of economic inequality being examined than what is normally the case in cross-national criminological research. Second, the negative relationship between urbanization and homicide that was found in the Eastern European models may suggest that urban areas provide greater protection for potential victims in these societies. This seems especially plausible if a considerable proportion of the homicides committed in these nations occur in rural areas. Third, the negative relationship between young males and violence in Latin American and Eastern European nations may suggest that older adults commit a higher proportion of homicides in these nations than the proportion committed by older adults in Western nations. Indeed, previous research has found evidence of higher rates of violence among older adults in Eastern Europe.

Taken together, these results point to the need for greater consideration of the role that cultural and socio-historical factors play in influencing the manner that structural predictors influence homicide. Indeed, one assumption implicit in much of the existing cross-national research is that the effects of important structural predictors such as gun availability and economic inequality are invariant across nations. These finding[s] suggest that this may not be the case. Instead, the unique cultural and socio-historical processes occurring across nations may be more important than many assume.

The results of this study have implications for theory and research on guns and violence. These results suggest that theoretical advancement of this relationship is contingent upon the ability of criminologists to address two issues. First, researchers must identify the macro-social processes that link gun availability to homicide at the cross-national level. Most of the macro-level research on guns and violence is reductionist in nature. Assuming that micro-social dynamics account for macro-level processes, however, limits our ability to address important questions that have emerged from cross-national research. For example, applying the weapon instrumentality hypothesis to the cross-national level leads one to assume that, under all circumstances, increasing gun availability will increase homicide. Such a straightforward application does not allow for consideration of the macro-level factors that may mediate or moderate the effects of gun availability on homicide. . . .

The utility of the approach proposed by Corzine et al. (1999) is further illustrated when it is applied to an explanation of why gun availability is more likely to lead to homicide in Latin American nations than Western Developed and Eastern European nations. Existing cultural explanations of violence in Latin America conceptualize these nations as having higher levels of machismo. This machismo is said to be characterized by aggressive masculinity, domination of

women, and the use of violence. The problem with such values based approaches is that they are difficult to empirically test because behavioral manifestations of values are often constrained by how culture organizes and patterns behavior. In other words, people in a certain nation may aspire to solve altercations peacefully, but the "strategies of action" outlined by the culture may encourage, or even require, the use of physical violence. A more fruitful approach may be to examine if the cultural toolkits in Latin American nations are more likely to legitimate the use of a firearm and sanction the commission of interpersonal violence than the toolkits of other nations. Applying this approach to Eastern European nations would lead one to ask if the unique socio-historical changes that have occurred in Eastern European nations in recent decades have led to the development of a cultural toolkit that legitimates the use of weapons for personal defense and to reduce the likelihood of interpersonal violence. . . .

Future research should also explore potential non-linear relationships between gun availability, gun homicide, and homicide. These examinations should consider non-linear relationships in cross-national samples and samples of specific cultural regions. Examinations of such relationships may be important because it is plausible that gun availability will only be associated with homicide after certain levels of gun availability are reached. It is equally plausible that once gun availability levels reach a saturation phase the strength of the association between gun availability and homicide may become attenuated.

Appendix

TABLE 5 Nations included in analyses

Baseline Models		*Western Models*	*East European Models*	*Latin American Models*
Argentina	Latvia	Australia	Croatia	Argentina
Australia	Lithuania	Austria	Czech Rep	Brazil
Austria	Luxembourg	Canada	Estonia	Chile
Brazil	Malta	Finland	Hungary	Costa Rica
Canada	Mexico	France	Kyrgyzstan	Dominican Republic
Chile	Moldova	Germany	Latvia	Ecuador
Costa Rica	Netherlands	Luxembourg	Lithuania	El Salvador
Croatia	New Zealand	Netherlands	Moldova	Mexico
Czech Republic	Nicaragua	New Zealand	Poland	Nicaragua
Dominican Republic	Norway	Norway	Romania	Panama
Ecuador	Panama	Spain	Slovakia	Paraguay
El Salvador	Paraguay	Sweden	Slovenia	Venezuela
Estonia	Poland	UK		
Finland	Romania	USA		
France	Slovakia			
Germany	Slovenia			
Hungary	Spain			
Israel	Sweden			
Japan	UK			
Korea	USA			
Kyrgyzstan	Venezuela			

TABLE 6 Correlations and descriptive statistics for nations included in analysis (N = 233)

	1.	*2.*	*3.*	*4.*	*5.*	*6.*	*7.*	*8.*	*9.*
Log Gun Homicide									
Log Homicide Rate	0.352**								
Log Gun Availability	0.506**	-0.001							
Log GDP	-0.072	-0.604**	0.274**						
Inequality	0.479**	0.740**	-0.140*	-0.475**					
Young Males	0.182**	0.774**	-0.336**	-0.678**	0.620**				
Sex Ratio	0.449**	0.033	-0.162*	-0.071	0.370**	0.215**			
Urbanization	0.111	-0.034	0.289**	0.372**	0.112	-0.246**	-0.095		
Social Support	0.289**	-0.365**	0.457**	0.448**	-0.202*	-0.530**	0.065	0.158*	
Mean	-1.547	1.193	-0.261	9.455	35.381	0.314	96.154	0.110	7.517
Standard Deviation	0.988	1.170	1.202	0.926	9.138	0.034	3.982	11.801	1.97

*p < .05, **p < .01

NOTES & QUESTIONS

1. After reading the preceding studies, what effects on crime and suicide rates would you expect to see if the rate of private gun ownership in a given nation increases substantially? What effects if gun ownership decreases?

2. How do the findings by Altheimer and Boswell affect the conclusions of the two earlier articles (Killias et al., and Kates and Mauser)? Do the conclusions reached in the two earlier studies need to be revised or qualified in light of this one? How could you harmonize them all?

3. The previous three studies considered the variable of the per capita number of guns or handguns in a nation. An additional variable, which was not explored, is how the firearms were acquired. Consider Altheimer and Boswell's finding that more guns are correlated with decreased homicide in Eastern Europe, and with increased homicide in Latin America. During the period from the late 1940s through 1989, when Eastern Europe was under the neo-colonial hegemony of the Soviet Union, gun laws there were extremely repressive. *See* David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Firearms Possession by "Non-State Actors": The Question of Sovereignty*, 8 Tex. Rev. L. & Pol. 373, 435 (2004). After the fall of the Berlin Wall, firearm laws in Eastern Europe were greatly liberalized, allowing many people to acquire firearms legally. In much of Latin America, government corruption and distrust of the public may make it nearly impossible for a citizen to acquire a firearm lawfully. For example, in 2012, the Hugo Chavez regime in Venezuela banned all firearms purchases. Accordingly, gun acquisition in some parts of Latin America may operate primarily through the black market. Could the differences in firearms acquisition patterns be one cause of the contrasting results that Altheimer and Boswell found between Latin America and Eastern Europe? Nearly a quarter century after scholars first began serious research on comparative gun control law, a great deal remains unknown.

4. Consider a roughly parallel phenomenon in the United States, where shall-issue concealed-carry laws adopted in the last quarter-century have dramatically increased the number of people carrying and permitted to carry guns in public. These people all have gone through a screening process to determine that they are not criminals or otherwise disqualified from possessing and carrying a firearm. As discussed in Chapters 8 and online Chapter 12, the effect of the shall-issue laws has been neutral at worst and some argue it has generated substantial social benefits. Do you think that the results would be the same if there were a similar increase in gun carrying by people who were legally prohibited from possessing or carrying firearms? Where obtaining a license to carry was impossible? As a policy maker, would you most want to control the distribution of firearms across segments of the population or the overall gun inventory?

5. What do you think of the Killias et al., and Altheimer and Boswell, studies removing extreme results with no obvious causes (called "outlyers" by Killias

et al.) in an attempt to prevent the effects of confounding factors from upsetting the studies' results? What about Killias et al.'s exclusion of Northern Ireland from homicide results because there is a civil war there? Which, if either, of these methods for identifying and correcting for skewed data are you comfortable with? What might be some confounding variables that are more difficult to detect than, say, a civil war? What are the best ways to go about looking for these variables?

6. A review of even the most basic statistics test will reveal that all statistical models are laden with assumptions. These assumptions can be very basic and mathematically oriented — for example, that the relationship between guns and crime or suicide can be explained using a linear model — or more complex and involve important value judgments — for example, not differentiating between justified and unjustified homicides. What are some assumptions that underlie each of the three studies discussed in this section so far? What are some factors that were not mentioned by the studies' authors that may explain their conclusions? What is the role of what some scholars call "ordinary reasoning" in *both* setting up *and* interpreting statistical studies? For example, how much credence would you lend to a study that "showed with data taken literally from a telephone book that telephone numbers are 'significantly associated' with psychometric variables"? Stephen T. Ziliak & Deidre N. McCloskey, The Cult of Statistical Significance: How the Standard Error Costs Us Jobs, Justice, and Lives 47 (2007). When is it acceptable to infer causation from correlation?

7. Evaluate and compare the following statements in the Altheimer and Boswell article:
   a. "The model reveals that economic inequality, proportion young males, and urbanization all influence rates of gun homicide."
   b. "[T]he effects of economic inequality, proportion young males and urbanization are opposite of what might be expected."
   c. "Increases in unavailability are associated with subsequent decreases in homicide."
   d. "Gun availability has a negative effect on gun homicide."
   e. "Gun availability was not the only indicator to exhibit variable effects on violence across regions. Several of the control variables operated to influence violence in a similar ma[nn]er."

Kates and Mauser argue that social factors, not gun laws, drive violent crime and gun crime. Altheimer and Boswell argue that the effects of increased guns vary by society: more guns lead to less homicide in Eastern Europe, but to more violent crime in Latin America. Meanwhile, Killias et al., focusing on North America and Europe, argue that some types of violent crime and/or suicide may be increased by the increased presence of privately owned guns in society. In the excerpt below, Professor Johnson considers a separate question. Even if one concludes that private gun ownership invariably leads to social harm, could government ever effectively impose a program of legal

prohibitions on gun ownership in a society like the United States? Assume, arguendo, that the United States would be much better off with very low rates of gun ownership in the range of countries like the Netherlands, or even the moderate (but still high by global standards) rates of France, Germany, or Italy. Johnson suggests that conditions in the United States render the more stringent gun control policies of other countries nontransferable to the United States.

Nicholas J. Johnson, Imagining Gun Control in America: Understanding the Remainder Problem

43 Wake Forest L. Rev. 837 (2008)

I. . . . The Supply-Side Ideal

The conclusion that some horrible gun crime would not have happened if we had prevented the scoundrel from getting a firearm is straightforward and quite natural. This calculation is the foundation for views that advance supply-side gun regulation as a recipe for crime control. It conforms to simple tests of logic. Consider two scenarios. In the first, we are sitting in a room with a gun in the middle. In the second, our room is gun free and sealed — the supply-side ideal. The risk of gun violence is obviously higher in the first scenario. Indeed, absent creative cheating, it is zero in the second. Projecting this dynamic to society generally allows the claim that laws limiting the supply of guns in private hands will dramatically reduce gun crime. . . .

The supply-side ideal remains the philosophical foundation of the modern quest for restrictions on access to firearms sufficient to thwart gun crime. But there is a problem. In our political skirmishes over new, more aggressive supply regulation, the supply-side ideal has receded into the background. We have not talked candidly about what is necessary for the supply-side formula to work. We have not confronted the reality that the existing inventory of guns is vast.

As a consequence, supply-side controls, often implemented prospectively, without explicit commitment to disarming ordinary Americans, have affected only a tiny fraction of the inventory. It is as if we are in the sealed room, but now everybody has a gun or two tucked away, there are piles of them in the corners, and we are debating reducing gun violence with laws that allow only one more gun a month or no more guns with high capacity magazines. Our results have been disappointing because supply-side rules depend, ultimately, on cutting the inventory close to zero. And that, in America, is a problem.

II. Challenges to the Supply-Side Ideal

Erring on the high side, there are around 13,000 gun homicides in the United States each year. Suicides with a firearm add another 17,000 deaths. If there were only 30,000 private guns in America, and we knew where they were, it would be easy to imagine mustering the political will to confiscate those guns and ban new ones. If our borders were reasonably secure against illegal imports

and contraband guns could not be manufactured domestically, we would expect dramatic reductions in gun crimes, accidents, and suicides.

But our problem is different. The guns used in our roughly 30,000 annual gun deaths are drawn from an inventory approaching 300 million. This is far more guns than the countries in any of the cross-cultural comparisons — far more private guns than any other country ever. Americans own close to half the private firearms on the planet. Plus, our borders are permeable, and guns and ammunition are relatively easy to manufacture. So achieving the supply-side ideal is not just a matter of channeling enough outrage to finally get the right words enacted into law.

1. POROUS BORDERS

We modeled the supply-side ideal on the gun-free sealed room. The single qualification was the assumption that no one in the room was cheating. And cheat they might, if the incentives were sufficient and the boundaries of the room permeable. Effective supply-side restrictions at the societal level have to account for this.

So what about this cheating? If we managed to enact supply-side restrictions with real bite, would cheating be pervasive? Could it be controlled? Perhaps the level of cheating would be small. A black market fueled just by this cheating might make guns prohibitively expensive for many people with bad intentions. With fewer bad people able to afford the higher prices caused by restricted supply, there should be a reduction in gun crime.

One worry, however, is the argument that the most dangerous among us have an inelastic demand for guns. Criminal penalties for gun possession or use will not matter much to people whose primary activities are already illegal. Daniel Polsby contends that their static demand will be supplied through the same channels that distribute other contraband. . . .

[S]ome contraband imported guns will be more lethal than the ones they replaced. In Britain, after further tightening of already stringent gun laws, the black market began supplying previously unseen and more lethal guns. Ireland banned handguns in the early 1970s and a large group of rifles and repeating shotguns in 1976.[13] "Despite these measures, in the early 2000s the Irish police . . . were reporting steep increases in gun crime."[29] The most serious concern being "an invasion of handguns and automatics smuggled in from Europe," many of them "semi-automatic pistols and sub-machine guns, previously unknown in public hands."[30] Swedish police report a similar phenomenon: "Before, there were a lot of shotguns — now it's all automatic weapons."[31]

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13. [1973, the police collected all registered handguns, ostensibly for ballistics testing, and then refused to return the handguns to their owners. In 2004, Irish courts ruled the de facto ban illegal, and ordered the police to resume issuing handgun permits. *See* David B. Kopel, *Ireland on the Brink*, America's 1st Freedom (Apr. 2011). — EDS.]

29. [Small Arms Survey, Graduate Inst. of Int'l Studies, Small Arms Survey 2007: Guns and the City 44 (2007).]

30. *Id.* (citation omitted).

31. *Id.* at 56 (internal quotation marks omitted) (citation omitted).

Even without sweeping supply restrictions, the United States has encountered this phenomenon. In 1996, authorities intercepted a shipment of two thousand AK-47s from China. Unlike the semi-automatic rifles that were prohibited under the expired 1994 Assault Weapons Ban, these black-market imports really were fully automatic machine guns. In 2005, federal authorities broke up a network of arms suppliers who illegally imported fully automatic rifles from Russia and had arranged to sell anti-tank guns to an undercover officer. . . .

2. DEFIANCE IN PRACTICE

Data tracking defiance of registration and prohibition internationally, and similar domestic experiments, provide a basis for projecting how people will react to aggressive supply-side rules. The most notable domestic experiment with prohibition was in Washington, D.C. Until the challenge culminating in *Heller* [Chapter 9], the District of Columbia banned handguns and required long guns to be kept disassembled and locked away from their ammunition. Overall, this was the most aggressive set of supply restrictions in the country. There is no dispute that handgun prohibition failed to stop gun crime in D.C. The District has been perennially at or close to the top of the list for gun crime in American jurisdictions.[14]

The efforts of other restrictive U.S. jurisdictions tell more about the defiance impulse and the character of the remainder problem. New York City imposes stringent requirements on purchase and ownership of handguns. Still, handgun crime persists. New York City Mayor Michael Bloomberg's straw purchase "stings" confirm that tough municipal laws alone are not enough. The source of some of the contraband guns in Bloomberg's sights come from scofflaw dealers from other states. But this is literally only a basketful of guns. The number of illegal guns in New York City is in the range of two million.[67] This is in a region where the overall rate of gun ownership is lower than average and gun culture is less robust. The roughly two million guns [illegally] owned by the residents of New York City are from sources much more disparate than rogue dealers. Some of these guns are new, but an inventory this large suggests that many New Yorkers have had guns, have been acquiring guns, and deciding to keep guns illegally for a long time. This type of defiance should be stronger in most other parts of the country, where gun culture runs deeper.

The city of Chicago also has very restrictive gun laws. Still, between 1999 and 2003, Chicago averaged about 10,000 illegal gun confiscations per year. In one particular high-crime neighborhood studied by Cook et al., there was

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14. [*See* Chapter 10.C, Notes & Questions. — EDS.]

67. It is estimated that as many as two million illegal guns were in circulation in New York City in 1993. Ninety percent of the guns seized in New York City that year were originally purchased in other states. There are no precise measurements of what proportion of New York's total contraband inventory are recent imports versus classic remainders. *See* U.S. Dep't of Justice, Office of Juvenile Justice & Delinquency Programs, Getting Guns Off the Streets (1994-2008), http://ojjdp.ncjrs.org/pubs/gun_violence/profile19.html. . . .

approximately one illegal gun sale per thirty people each year.[73] Stripping out children from the count, this rate seems sufficient to achieve saturation in less than a generation.

The rates of non-compliance with state assault weapons bans tell a similar story. James Jacobs and Kimberly Potter report:

> In recent years, several states and municipalities passed laws mandating the registration [and subsequent prohibition] of assault rifles. These laws failed miserably, primarily due to owner resistance. In Boston and Cleveland, the rate of compliance with the ban on assault rifles is estimated at 1%. In California, nearly 90% of the approximately 300,000 assault weapons owners did not register their weapons. Out of the 100,000-300,000 assault rifles estimated to be in private hands in New Jersey, 947 were registered, an additional 888 were rendered inoperable, and four were turned over to the authorities.[76]

Data from international experiments with gun prohibition and registration illustrates a powerful and nearly universal individual impulse to defy gun bans. With data from seventy-seven countries, the International Small Arms Survey reports massive illegal parallel holdings with an average defiance ratio of 2.6 illegal guns for every legal one. This average is pulled down by rare cases like Japan. But even the Japanese, whose society David Kopel casts as the polar opposite of our gun culture, experience "unregistered [gun] holdings . . . one-quarter to one-half as large as registered holdings."[15] . . .

This level of defiance cannot be explained by the observation that criminals have an inelastic demand curve. A large slice of the ordinary citizenry seems to be operating under the same curve. Across the board, for countries large and small, developed and emerging, a strong defiance impulse is evident.

In England and Wales there were 1.7 million legally registered firearms in 2005; illegal, unregistered guns were estimated as high as 4 million. The Chinese reported 680,000 legal guns in 2005, with estimates of nearly 40 million illegal guns. The German police union estimates that Germany has "about 45 million civilian guns: about 10 million registered firearms; 20 million that should be registered, but apparently are not; and 15 million firearms such as antiques . . . and black-powder weapons . . . that do not have to be registered."

The German experience also tells us something about the staying power of defiance. Registration was introduced in Germany in 1972 "when the nation's civilian holdings reportedly totaled 7-20 million firearms." Only 3.2 million of these guns were registered. "In the thirty-five years since then, roughly 8 million additional firearms were legally acquired, accounting for the rest of the registered guns thought to exist today."

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73. [Philip J. Cook et al., *Underground Gun Markets* 6 (Nat'l Bureau of Econ. Research, Working Paper No. 11737, 2005).]

76. [James Jacobs & Kimberly Potter, *Comprehensive Handgun Licensing & Registration: An Analysis and Critique of Brady II, Gun Control's Next (and Last?) Step*, 89 J. Crim. L. & Criminology 81, 106 (1998).]

15. [The estimates of legal and illegal guns starting in this and the next three paragraphs are from the Small Arms Survey, *supra* note 29, at 46-55. — Eds.]

With close to 7 million registered guns, Canada is estimated to have about 10 million unregistered guns.[16] Brazil reports nearly 7 million registered guns and estimates 15 million unregistered. India reports fewer than 6 million registered guns against an estimated 45 million illegal ones. France has less than 3 million guns registered and estimates nearly 20 million unregistered. Mexico reports fewer than 5 million registered with about 15 million unregistered guns. Jordan has 126,000 registered guns and an estimated 500,000 illegal ones. Sudan reports about 7,000 registered and 2.2 to 3.6 million illegal ones.

While there are exceptions like Japan, where illegal guns are a fraction of those legally registered, nearly every country surveyed produced estimates of illegal guns that are a multiple of legal guns. Extrapolation from these rates of defiance to projections about the United States also must account for our unparalleled gun culture. Extrapolating ninety to ninety-nine percent defiance from state or municipal assault weapons bans seems too aggressive. But, conservatively, the international data show that we should expect three or more people to defy confiscation for every one who complies.

Nothing else in our experience contradicts these signals. Many people evidently believe guns protect against things they fear more than criminal sanctions. The risk-reward calculation that pushes ordinary people to obey a wide array of criminal laws seems different here.

The American attachment to the gun is exceptional. We own close to half the world's private firearms and buy half the world's output of new civilian guns each year. This demand and cultural attachment highlight an obstacle to the supply-side ideal that may be unique to the United States. Whatever courts say about the Second Amendment, a majority of Americans believe they have a right to own a gun. This belief, as much as any court pronouncement, will drive defiance of confiscation. Even if *Heller* [Chapter 9] is ultimately nullified, the opinion itself, along with the powerfully reasoned circuit court opinions in *Parker v. District of Columbia* and *United States v. Emerson* [Chapter 8], are more than sufficient to rationalize civil disobedience by people who ultimately would have defied confiscation anyway. If the Supreme Court [simply reversed *McDonald v. City of Chicago* (Chapter 9), eliminating the Second and Fourteenth Amendments][17] as a limitation on state lawmaking, the capacity of individual states to implement confiscation laws still seems near zero, with the defiance impulse of gun-owning citizens validated by recognition of a federal right, and few people bothering with the federalist details.

The risk of noncompliance in this context is different from the run-of-the-mill cheating that might afflict any prohibition legislation. This means we must expand our thinking about noncompliance beyond the idea that criminals will resist confiscation. What does it mean that otherwise law-abiding people will hold back some portion of the gun inventory in defiance of sweeping supply-side restrictions? What consequences should we anticipate? . . .

Pure supply-side rules are fatally compromised by the remainder problem. . . . Some proposals are hybrids, however, and thus are affected by

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16. [Canadian gun registration is detailed later in this chapter. — Eds.]

17. [The original text, written before *McDonald v. City of Chicago* (Chapter 9) was handed down, read ". . . fails to incorporate an individual right. . . ." — Eds.]

the remainder problem in more limited and unique ways. Other proposals detach from supply-side theory almost entirely and are not snared by the remainder problem. . . . It is best to acknowledge the blocking power of the remainder problem and adjust our gun control regulations and goals to that reality.

NOTES & QUESTIONS

1. *Ammunition control?* Do Professor Johnson's arguments that "supply side" control of guns is impracticable in America apply equally well to controls on ammunition? Guns are easily hidden and can be used for generations with minimal maintenance. Quality ammunition will also last for decades, but unlike firearms, ammunition is depleted by usage. Could prohibitory ammunition controls eventually render guns useless and undermine the strong shooting culture in a society like America? Or is supply of ammunition held by citizens sufficient to supply a black market for the foreseeable future? Note that some components of ammunition, such as brass cases and lead bullets, are fairly easy to replicate at home, but chemical primers and smokeless gunpowder are not (though the older,"black powder" gunpowder can be made at home).

2. *Recent temporary shortages of ammunition and primers.* During the run-up to the 2008 election, and for quite a while afterwards, many gun owners were concerned that the new President would be as aggressively anti-gun as President Clinton, or even more so. As a U.S. Senator and Illinois State Senator, Barack Obama had a long record of voting for prohibitory and confiscatory legislation. *See* David B. Kopel, *FactCheck Flubs Obama Gun Fact Check*, Volokh Conspiracy (Sept. 23, 2008, 11:39 A.M.), http://www.volokh.com/posts/1097077179.shtml. The same was true when a recently reelected President Obama began a major compaign for firearm restrictions in December 2012, after the Newtown, CT, murders. There was a massive increase in gun sales, and an even larger increase in ammunition sales, which resulted in many stores' running out of popular calibers of ammunition.

During these periods the worst shortage of all, from the ordinary buyer's viewpoint, was the acute shortage of *primers*, which were apparently being bought up in tremendous quantities for keeping as long-term reserves. As discussed in Chapter 15, home manufacture of ammunition ("reloading" or "handloading") is very common, and not particularly difficult. But the primer caps used in modern metallic cartridges cannot easily be made at home.

3. Would prohibition of firearms be easier or harder to accomplish than drug or alcohol prohibition? If we accept the many secondary harms of drug prohibition, why not gun prohibition?

4. Consider the following moral questions (perhaps only in private): What would you do if new, severe gun control laws were enacted in your jurisdiction, and you then learned that a friend and/or family member was keeping a secret cache of prohibited weapons and ammunition? What actions would

you be willing to take to help him or her? Or would you take actions to ensure that he or she were apprehended and punished? Or would you just keep quiet about the whole thing? Would your answer vary depending on *why* your friend or family member had chosen to keep the illegal weapons?

5. If there were a magical way to get rid of all guns, would the world be better off? Would all the world then be more like low-crime Japan? (Discussed in Section C of this chapter.) Or would we then live in a world where, as in the Dark Ages, the physically strong could always have their way with the weak? *See* David B. Kopel, Paul Gallant, & Joanne D. Eisen, *A World Without Guns*, Nat'l Rev. Online (Dec. 5, 2001), http://davekopel.org/NRO/2001/A-World-Without-Guns.htm.

6. Does the statistic in the U.S. Department of Justice's report in note 67 of Professor Johnson's article that there are 2 million illegal guns in New York City seem reasonable given that New York City has a population of about 8.25 million?

Professor Johnson argues above that features of the American gun culture would make confiscatory gun controls difficult to implement effectively in the United States. In the following excerpt, authors Kopel, Moody, and Nemerov argue that widespread civilian gun ownership may itself shape the national culture and be shaped by it.

David Kopel, Carlisle Moody & Howard Nemerov, Is There a Relationship between Guns and Freedom? Comparative Results from 59 Nations

13 Tex. Rev. L. & Pol. 1 (2008)

. . . Using data on per capita firearm ownership from the Small Arms Survey, this Article examines the relationship between per capita firearm rates and several measures of freedom. These measures are:

- Freedom House's ratings of political rights (such as free elections) and civil liberty (such as freedom of religion).
- Transparency International's ratings of government corruption levels.
- Heritage Foundation's ratings of economic freedom. . . .

III. Results

The data for each country are presented in Table 7, found in the Appendix. The fifty-nine nations with per capita firearms estimates are listed in order, from those with the lowest to those with the highest. The list begins with low-firearms countries of Romania, Japan, Moldova, and Poland. It ends with high-firearms

countries such as Switzerland, Finland, Yemen, and the United States. The ratings from *Freedom in the World*, *Corruption Perceptions Index*, *Index of Economic Freedom*, and the World Bank PPP[18] are also listed for each country.

Next, we divided the nations into quartiles based on their gun ownership rates. For each quartile, we averaged the nations' ratings for political and civil liberty from Freedom in the World, for corruption from Corruption Perceptions Index, and for economic freedom from the Index of Economic Freedom. Results are presented in Table 1.

The most notable difference between the quartiles involves corruption. The top quartile has an average of 7.09 in the Corruption Perceptions Index, which means this quartile could be called "mostly clean." All the other quartiles score between 4.31 and 4.75, scores that indicate moderate corruption.

The differences in Freedom in the World rating are not as large. One reason is that Freedom in the World has a 1-7 scale with only 7 steps, whereas the Corruption Perceptions Index has a 0-10 scale with 11 steps. But even taking into account the relative compression of the scale used by Freedom in the World, the differences between the top quartile and the rest are relatively smaller. Still, the average of the countries in the first quartile is "free," according to the Freedom House definition, while the average for all other quartiles is "partly free."

On the Index of Economic Freedom, all quartiles averaged a "moderately free" rating. Nevertheless, the first quartile had the highest average, but not quite 70, which is the threshold for "mostly free."

For all three indices of liberty, the top firearms quartile rates higher than every other quartile.

This is not to say that every country in a certain quartile is better than countries in lower quartiles. For example, the top firearms quartile has the highest average rating in Freedom in the World, but it includes Angola, rated "not free," Saudi Arabia, also rated "not free," and Yemen, rated "partly free." On the Index of Economic Freedom, Angola is "repressed," while Saudi Arabia and Yemen are rated "mostly unfree." Conversely, the bottom firearms quartile includes Japan and the Netherlands, who both have low levels of government corruption, and high levels of political, civil, and economic liberty.

Table 1: Firearms Ownership Quartiles Compared with Liberty Indices

Quartile	*Firearms Per 1,000 Population*	*Freedom in the World (1-7, lower is better)*	*Corruption Perceptions Index (0-10, higher is better)*	*Index of Economic Freedom (0-100, higher is better)*
1	388	1.93	7.09	69.79
2	145	2.80	4.35	63.59
3	81	2.53	4.75	62.57
4	24	2.32	4.31	63.03
Average 2-4	84	2.56	4.47	63.06

18. [Purchasing Power Parity (PPP) rates the relative strength of the currencies of different countries. Currency exchange strength is not a perfect measure of a nation's economic success. Nevertheless, prosperous countries tend to have much stronger currencies than do poor countries, so PPP is usually valid as a rough measure of national economic success, at least for currencies that are allowed to rise and fall freely. — Eds.]

The similarity in ratings among the three lower quartiles is interesting. For example, their Corruption Perceptions Index ratings averaged between 4.31 and 4.75 and their Index of Economic Freedom ratings are nearly identical, falling between 62.57 and 63.59.

While the top firearms quartile rates highest in all categories, the relationship between firearms and liberty is inconsistent among the lower three quartiles. For example, among the lower three quartiles, the second quartile rates slightly higher on the Index of Economic Freedom, while the third quartile has the best rating on the Corruption Perceptions Index, and the fourth quartile has the best Freedom in the World rating.

Next, we looked at the data by quintiles based on firearms per capita. The results are in Table 2.

When sorted by quintiles, the top firearms quintile averaged "mostly free" on the Index of Economic Freedom, while the lower quintiles averaged "moderately free." The first and second quintiles rate notably better in the Corruption Perceptions Index than do the first and second quartiles. There is a large gap between the first and second quintiles, although not quite [as] large as between the first and second quartiles. The top quintile's success in Freedom in the World is even more pronounced than the top quartile's success.

As with the quartile analysis, the lower quintiles do not rank on the other indices in accordance with their firearms per capita. The second quintile's average ratings on the Corruption Perceptions Index and the Index of Economic Freedom are better than all lower quintiles, but the lowest quintile's average Freedom in the World rating is better than that of quintiles 2-4.

When we looked at the countries with the most guns, we saw that they had the most freedom as measured by the liberty indices, but the relationship was only pronounced for high-gun countries. There was no difference between medium-gun and low-gun countries. Suppose we look at the relationship the other way and ask, "Do countries with the most freedom have the most guns?" Table 3 provides the results.

When sorted by the Freedom in the World rating, the freest countries (scores of 1 for both political rights and civil liberties) had the highest density of civilian firearms, and averaged the best Corruption Perceptions Index and Index of Economic Freedom of any group. Countries rated "free" but having

Table 2: Firearms Ownership versus Liberty Indices, by quintile

Quintile	*Firearms Per 1,000 Population*	*Freedom in the World (1-7, lower is better)*	*Corruption Perceptions Index (0-10, higher is better)*	*Index of Economic Freedom (0-100, higher is better)*
Top Quintile	448	1.36	7.44	71.37
Quintile 2	180	2.83	5.33	66.73
Quintile 3	121	2.50	4.21	60.86
Quintile 4	64	2.96	4.37	61.35
Quintile 5	20	2.25	4.54	64.12
Quintiles 2-5	96	2.64	4.61	63.26

Table 3: Freedom Rating versus Firearms and Other Indices

Freedom Rating	*Freedom in the World (1-7, lower is better)*	*Firearms Per 1,000 Population*	*Corruption Perceptions Index (0-10, higher is better)*	*Index of Economic Freedom (0-100, higher is better)*
Free (1)	1.00	225	7.39	73.06
Free (>1)	2.04	81	3.99	61.29
All Free [above two categories combined]	1.33	180	6.32	69.34
Partly Free	3.57	129	3.09	57.80
Not Free	5.86	132	2.83	53.93

imperfect scores (above 1 on either political or civil freedom) had a lower firearms ownership rate than any other group. They also had a worse Corruption Perceptions Index and a lower Index of Economic Freedom than the freest countries. "Partly free" countries had much lower ratings in all indices than all "free" countries. "Not free" countries had the poorest scores.

We also looked at differences within the freest countries. Of the 59 countries, 26 scored a Freedom in the World 1 on political freedom and in civil liberty. These countries included some countries with very low levels of firearms ownership (e.g., Poland, Hungary, Estonia) as well as countries with much higher levels (e.g., Norway, Uruguay). Since there were only 26 countries in this data subset, we sorted these freest countries into thirds, by per-capita firearms ownership. The results are in Table 4.

In the Index of Economic Freedom, the thirds have very close scores. For PPP (economic success) the bottom third of gun ownership is significantly less wealthy. In corruption, the top two thirds are separated by only a third of a point, but they are both notably better than the bottom third. The data suggest that among the freest countries, higher levels of corruption and lower levels of wealth may have a significant inhibiting effect on gun ownership.

The results are similar if we divide the 26 freest nations into quartiles, and rank them by firearms ownership. The lowest ownership group has the worst scores on everything. The best scores for non-corruption are in the second highest quartile. In other respects, the top three quartiles are similar, except that the third quartile is weaker on PPP.

Table 4: Firearms Ownership versus Indices among the Freest Countries in the World

Third	*Firearms Per 1,000 Population*	*Corruption Perceptions Index*	*PPP (lower is better)*	*Index of Economic Freedom*
1	463	7.84	23.38	72.39
2	197	8.16	26.44	75.40
3	42	6.23	48.56	71.31
Average 2-3	119	7.19	37.50	73.36

Table 5: Firearms Ownership versus Indices among the Freest Countries in the World, by quartiles

Quartile	*Firearms per 1,000 Population*	*Corruption Perceptions Index*	*PPP*	*Index of Economic Freedom*
1	484	7.64	24.14	72.36
2	255	8.9	20.83	75.88
3	120	7.52	37.50	75.97
4	31	5.74	49.00	68.84

Finally, we tested the data for statistical significance. We found three statistically significant[19] relationships:

- more guns, less corruption;
- more guns, more economic freedom; and
- more guns, more economic success.

These statistically significant associations do not indicate the cause-and-effect relationships — such as whether guns are a cause or a consequence of prosperity, or whether the relationship runs both ways. That topic is discussed in the next Part of this Article. . . .

IV. Cause and Effect

In Part IV, we sketch out some causal mechanisms and suggest some ways in which guns and freedom can have positive or negative relationships. We define "freedom" broadly to include each of the following measures: political and civil freedom (Freedom in the World), freedom from corrupt government (Corruption Perceptions Index), economic freedom (Index of Economic Freedom), and economic success (PPP). We argue that high levels of prosperity can provide a person with the means to exercise lifestyle and other personal choices. The various causal mechanisms are by no means mutually exclusive. Some of them may reinforce each other. Although only some of the relationships between guns and freedom are statistically significant, we discuss all possible relationships, both positive and negative. Even though a particular relationship might not be statistically significant in general, the relationship might be important in a particular country.

A. FREEDOM CAUSES GUNS

One set of relationships to examine is whether increased levels of freedom tend to lead to increased levels of gun ownership. For example, greater

19. [This term is here used in the technical sense, as described toward the beginning of this section. — Eds.]

economic freedom and economic success lead to greater prosperity, which in turn gives people more money to buy all sorts of consumer goods, including firearms. This explanation is supported by evidence from the last half-century in the United States. Although business regulation has grown over the last half-century, economic freedom has also increased in the United States. Federal tax rates are far lower: the top rate was 92% in 1952, and 35% in 2007. Free trade agreements have greatly reduced international trade barriers. The abolition of Jim Crow laws has allowed much greater participation by Black people in the economy. Thus, it is not surprising that per capita gun ownership in the U.S. has risen by 158% over the last half-century. America formerly had about one gun for every three people. Now, there is nearly one gun for every American.

Non-corruption could also increase gun ownership. If two nations have very similar statutory gun laws, but the first nation is much less corrupt than the second, then citizens in the first nation will have an easier time getting permits or licenses, completing purchases that need government approval, and so on. As noted above, there is a statistically significant relationship between higher per capita gun ownership and freedom from corruption, economic freedom, and economic success. Even within the countries with perfect scores for political and civil freedom, the third with the lowest gun ownership rates had a notably worse Corruption Perceptions Index than the other two.

Germany has a very extensive set of gun regulations (as it does for many other activities). Yet despite high regulation, Germany is eleventh out of the fifty-nine nations in per-capita ownership rates. The explanation may be that Germany is non-corrupt and prosperous: the German gun licensing system is generally administered according to objective criteria, and there is no expectation that a prospective gun owner might have to bribe a police officer to get a license. Further, Germany's PPP is better than 41 of the 48 countries it outranks in per capita ownership. As shown in Table 4, even within the countries with excellent economic and political-civil freedom, the lowest third for firearms per capita were much lower in PPP than the other two thirds.

Another possibility is that political liberty and/or civil liberty help cause gun ownership. Political systems that are more open may allow people who own guns, who want to own guns, or who want other people to have the choice, to participate more effectively in the political system, and to have their concerns addressed. In Canada, for example, firearms rights advocates played an important role in the 2006 election of Stephen Harper's Conservative party. The Harper government created an amnesty period for people who disobeyed the previous Liberal government's gun registration deadline, waived fees for certain gun licenses, and also deferred a regulation that would have raised the price of all new guns imported into or manufactured in Canada by about 200 Canadian Dollars. [Later, the Harper government abolished long gun registration, as detailed later in this chapter.]

Civil liberty, such as freedom of religion and speech, could also be a factor in higher gun ownership. Civil liberty can foster a culture of individual self-actualization, in which a person feels that he can control the course of his life

by choosing his religion (or choosing not to be religious), freely saying what he thinks and reading whatever he wants. Such a culture may also encourage people to exercise personal responsibility in other ways, such as by choosing to own a tool to protect themselves and their families rather than entirely relying on the state, or by providing some food for the family by hunting rather than having to buy all of one's food from supermarkets.

B. GUNS CAUSE FREEDOM

One way that guns cause freedom is by facilitating revolutions or wars of independence that replace one regime, often a colonial one, with a freer government. Examples of successful revolutions or wars of independence in which privately-owned arms played an important role are the American revolution against Britain, the Greek revolution against the Ottoman Empire, the Israeli revolution against Britain, the Irish revolution against Britain, and the Swiss revolution against the Austrian Empire. Long after the new nation has secured its freedom, high levels of gun ownership may persist or grow even higher, partly as a result of the collective positive memory of the freedom enhancing benefits of arms.

Guns in citizen hands may also help protect an already free nation by contributing to the defeat of a foreign invader, or by helping to deter a foreign invasion. An example of the former is the American victory at the Battle of New Orleans [Chapter 5.A.4] in 1815. An example of the latter is Swiss deterrence of Nazi invasion during World War II[, *infra*].

Firearms can also promote freedom in more localized ways. During the 1950s and 1960s, American civil rights workers were able to protect themselves from the Ku Klux Klan because so many civil rights workers had guns. The father of U.S. Secretary of State Condoleezza Rice carried a shotgun as part of a neighborhood civil rights safety patrol, which is why Secretary Rice opposes the government having a registration list of guns and their owners, Condolezza Rice, Extraordinary Ordinary People: A Memoir of Family 93 (2012) (Chapter 8.c.2). Similarly, former First Lady Eleanor Roosevelt carried a handgun for protection against Klansmen during her civil rights travels in the South in the 1950s.

More broadly, the exercise of one right may, for some persons, foster more positive attitudes about rights in general. This is one reason why American gun organizations such as the National Rifle Association and Gun Owners of America are strong supporters of First Amendment free speech rights, Fourth Amendment freedom from unreasonable or warrantless searches, Fifth Amendment property rights, and Tenth Amendment federalism.

C. FREEDOM REDUCES GUNS

Under certain conditions, increased freedom can lead to decreases in gun ownership. Under U.N. auspices, governments in nations such as Mali have

attempted to entice formerly oppressed tribal groups to surrender their guns. The promise is that the government will treat the tribal groups better, be less corrupt, be more respectful of due process, and so on, once the guns are surrendered.

For several years, the Mali disarmament program was successful. More recently, the government has not been keeping its promises, and the Tuareg tribes in northern Mali have been re-arming.[20] Even so, Mali shows that there can be circumstances in which greater freedom leads to fewer guns. In other nations, such as the Netherlands, a long history of democracy, respect for the rule of law, and clean government may result in people believing that they have no need for guns as a safeguard against tyranny.

D. GUNS REDUCE FREEDOM

There are many modern nations where it is easy to see how the widespread presence of guns in the wrong hands reduces freedom. Guns in the hands of warlords in the Ivory Coast, the Democratic Republic of Congo, and in Sudan/Uganda (the Lord's Resistance Army) wreak havoc on civilian populations, making it nearly impossible for civil society and its attendant freedoms to exist.[21] Guns in the hands of terrorists and extremists in places such as Lebanon, Gaza, the West Bank, and other places in the Middle East or South Asia are used to assassinate moderates for exercising their right of free speech, to murder women for not submitting to rigid gender restrictions, and to kill people for exercising their freedom to choose their own religion.

E. GUN CULTURES AND FREEDOM

One thing we know from the data is that the relationship between guns and freedom is often indirect. For example, Norway has high levels of guns and of religious freedom, but that is not because gun owners constantly protect churches from government attacks.

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20. [For more on Mali, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Micro-disarmament: The Consequences for Public Safety and Human Rights*, 73 UMKC L. Rev. 969 (2005) (examining UN-sponsored programs to disarm people in Cambodia, Bougainville, Albania, Panama, Guatemala, and Mali). — EDS.]

21. [For more on Uganda, see David B. Kopel, Paul Gallant, & Joanne D. Eisen, *Human Rights and Gun Confiscation*, 26 Quinnipiac L. Rev. 383 (2008) (examining gun confiscation programs in Kenya and Uganda, and South Africa's quasi-confiscatory licensing law). — EDS.]

Accordingly, it may be helpful to consider the effect of gun culture, rather than direct uses of guns, as a partial explanation for this Article's findings. We should first explain what we mean by gun culture. To a firearms prohibition advocate in Great Britain, gun culture is an epithet, and it conjures images of dangerous gangs in downtrodden cities such as Manchester, dubbed "Gunchester" by some police, carrying illegal handguns for criminal purposes.

It is easy to see how a destructive gun culture, such as that of the British gangs, can harm a country's freedom ratings. For example, higher crime rates will reduce a nation's prosperity, and may lead to repressive government actions that reduce civil freedom. Great Britain, for example, has drastically weakened its centuries-old rule against double jeopardy, eliminated jury trials in many civil cases, and given the police the power to issue on-the-spot fines without due process.[22]

"Gun culture" in America, however, has a benign connotation. People who use the term tend to be thinking about images such as father taking his son on a hunting trip, or of young people practicing target shooting with .22 smallbore rifles, under the supervision of expert marksmen at a gun club. Rather tellingly, in America, even elected officials who are the strongest proponents of much stricter anti-gun laws almost never criticize "the gun culture," but instead insist on their devotion to the Second Amendment. It seems reasonable to assume that countries that have relatively more guns per capita (e.g., the United States, France, Switzerland) will have a much stronger gun culture of the benign type, than will countries such as the Netherlands, Japan, or Bolivia, where lawful gun ownership is rare. A full explanation for why citizens in some nations are more rights-conscious than in other nations is beyond the scope of this Article. However, we suggest that one important factor in rights-consciousness may be the presence of a thriving benign gun culture.

Almost every legitimate purpose for which a person might own a gun can strengthen the person's feelings of competence and self-control. The hunter thinks, "I am a capable outdoorsman. I can put food on my family's table, and don't have to rely entirely on the supermarket." The defensive gun owner thinks, "I am ready to protect my family, because I know that the police may not come in time." The target shooter thinks, "I am skilled at a precise, challenging sport." Many gun owners may think, "If, God forbid, my country ever succumbed to tyranny, I could help my community resist." Almost all gun owners have made the decision, "Even though some people claim that guns are too dangerous, I am capable of handling a powerful tool safely."

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22. [*See* David B. Kopel, Gun Control in Great Britain: Saving Lives or Constricting Liberty? (1992); David B. Kopel, The Security Theatre Programme (forthcoming Cato Institute). — EDS.]

For the countries in the top quintile for gun ownership (at least one gun per three persons), it is reasonable to assume that . . . many people in those countries have personal experience with a benign, individual-affirming gun culture. Participation in a benign gun culture is hardly the only way in which a person can have personal experiences that affirm and strengthen the individual's beliefs in his or her own competence. But when a country has a benign, thriving gun culture, it is certain that there are [a] great many persons who do have such experiences, and who do so in a context (successful, safe handling of potentially deadly tools) that is especially likely to induce and strengthen feelings of personal competence. The effect of a gun culture in promoting greater levels of individual competence and personal responsibility may be one reason for the statistically significant association between higher rates of gun ownership and higher rates of freedom from corruption, of economic freedom, and of economic success.

Conclusion

There are many causal mechanisms by which guns and freedom can advance or inhibit each other. The mechanisms that are most influential at a given point in time can vary widely from nation to nation. Historically and today, we can find ways in which freedom has increased guns, guns have increased freedom, freedom has reduced guns, and guns have reduced freedom. International firearms scholars, except those based in North America, have tended to focus their research only on the latter two relationships, while ignoring the first two. Some of the more enthusiastic proponents of gun prohibition have asserted that the relationship between freedom and guns is always negative.

The data in this Article reveal a more complex picture. As [a] general (but not invariable rule), countries with more guns have more economic freedom, less corruption, and more economic success. The broad international data, for any of the measures of freedom, do not support theories that more guns [mean] less freedom. The data provide reason for caution about embracing a global agenda of reducing civilian gun ownership. There may be particular countries where reductions might enhance freedom, but the data raise serious doubts about whether the gun-reducing agenda makes sense as a categorical imperative, at least if freedom ranks highly in one's hierarchy of values.

When we acknowledge that guns can have a positive and a negative relationship with freedom, then we can begin to look for more sophisticated, carefully tailored approaches to gun policy, that attempt to address the negative effects, and that are careful not to reduce the apparently significant positive effects. Such an approach offers a better possibility of enhancing freedom than does a simplistic program that only considers negative effects.

Appendix[23]

TABLE 6: All UN member-states, ratings in all available categories

UN Members	*FH 2007*				*TI*	*Economic Ratings*			
Year(s) covered	*2006*				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
Afghanistan	5	5	5	PF					
Albania	3	3	3	PF	2.6	127	61.4	ModF	0.160
Algeria	6	5	6	NF		112	52.2	MU	
Andorra	1	1	1	F					
Angola	6	5	6	NF	2.2	166	43.5	R	0.205
Antigua and Barbuda	2	2	2	F		72			
Argentina	2	2	2	F	2.9	64	57.5	MU	0.127
Armenia	5	4	5	PF	2.9	126	69.4	ModF	
Australia	1	1	1	F	8.7	24	82.7	F	0.155
Austria	1	1	1	F	8.6	15	71.3	MF	0.170
Azerbaijan	6	5	6	NF	2.4	124	55.4	MU	
Bahamas	1	1	1	F			71.4	MF	
Bahrain	5	5	5	PF	5.7	50	68.4	ModF	
Bangladesh	4	4	4	PF	2.0	167	47.8	R	
Barbados	1	1	1	F	6.7		70.5	MF	
Belarus	7	6	7	NF	2.1	90	47.4	R	
Belgium	1	1	1	F	7.3	20	74.5	MF	0.160
Belize	1	2	2	F	3.5	113	63.7	ModF	
Benin	2	2	2	F	2.5	191	54.8	MU	
Bhutan	6	5	6	NF	6.0				
Bolivia	3	3	3	PF	2.7	153	55.0	MU	0.022
Bosnia-Herzegovina	3	3	3	PF	2.9		54.7	MU	
Botswana	2	2	2	F	5.6	75	68.4	ModF	
Brazil	2	2	2	F	3.3	91	60.9	ModF	0.088
Brunei Darussalam	6	5	6	NF					
Bulgaria	1	2	2	F	4.0	85	62.2	ModF	
Burkina Faso	5	3	4	PF	3.2	184	55.0	MU	
Burundi	5	5	5	PF	2.4	209	46.8	R	
Cambodia	6	5	6	NF	2.1	152	56.5	MU	

23. [In the following tables, the column headings and ratings have the following meanings:
PR–Political Rights (lower is better)
CL–Civil Liberties (lower is better)
AVE–Average of PR and CL (lower is better)
CI–Corruption Index (higher is better)
PPP–Purchasing Power Parity (lower is better)
EI–Economic freedom (higher is better)
F–Free
PF–Partly Free
NF–Not Free
MF, ModF–Moderately Free
MU, ModU–Moderately Unfree
R–Repressed
—Eds.]

UN Members	*FH 2007*				*TI*	*Economic Ratings*			
Year(s) covered	*2006*				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
Cameroon	6	6	6	NF	2.3	165	54.4	MU	
Canada	1	1	1	F	8.5	19	78.7	MF	0.315
Cape Verde	1	1	1	F		122	58.4	MU	
Central Afr. Rep.	5	4	5	PF	2.4	186	50.3	MU	
Chad	6	5	6	NF	2.0	188	46.4	R	
Chile	1	1	1	F	7.3	81	78.3	MF	0.108
China	7	6	7	NF	3.3	102	54.0	MU	0.031
Colombia	3	3	3	PF	3.9	105	60.5	ModF	0.073
Comoros	3	4	4	PF		173			
Congo (D.R.)	5	6	6	NF	2.0	207			
Congo (Rep.)	6	5	6	NF	2.2	197	43.0	R	
Costa Rica	1	1	1	F	4.1	83	65.1	ModF	
Cote d'Ivorie	6	6	6	NF	2.1	179	55.5	MU	
Croatia	2	2	2	F	3.4	70	55.3	MU	0.115
Cuba	7	7	7	NF	3.5		29.7	R	
Cyprus	1	1	1	F	5.6	45	73.1	MF	
Czech Republic	1	1	1	F	4.8	48	69.7	ModF	0.050
Denmark	1	1	1	F	9.5	9	77.6	MF	0.180
Djibouti	5	5	5	PF		160	52.6	MU	
Dominica	1	1	1	F	4.5	114			
Dominican Republic	2	2	2	F	2.8	95	56.7	MU	
Ecuador	3	3	3	PF	2.3	138	55.3	MU	0.027
Egypt	7	6	7	NF	3.3	136	53.2	MU	
El Salvador	2	3	3	F	4.0	129	70.3	MF	
Equatorial Guinea	7	6	7	NF	2.1	84	53.2	MU	
Eritrea	7	6	7	NF	2.9	194			
Estonia	1	1	1	F	6.7	57	78.1	MF	0.030
Ethiopia	5	5	5	PF	2.4	190	54.4	MU	
Fiji	6	4	5	PF		119	59.8	MU	
Finland	1	1	1	F	9.6	17	76.5	MF	0.550
France	1	1	1	F	7.4	23	66.1	ModF	0.320
Gabon	6	4	5	PF	3.0	130	53.0	MU	
Gambia (The)	4	4	4	PF	2.5	176	57.6	MU	
Georgia	3	3	3	PF	2.8	147	68.7	ModF	
Germany	1	1	1	F	8.0	28	73.5	MF	0.300
Ghana	1	2	2	F	3.3	157	58.1	MU	
Greece	1	2	2	F	4.4	42	57.6	MU	0.110
Grenada	1	2	2	F	3.5	99			
Guatemala	3	4	4	PF	2.6	135	61.2	ModF	
Guinea	6	5	6	NF	1.9	163	55.1	MU	
Guinea-Bissau	4	4	4	PF		203	45.7	R	
Guyana	2	3	3	F	2.5	136	58.2	MU	
Haiti	4	5	5	PF	1.8	180	52.2	MU	
Honduras	3	3	3	PF	2.5	148	60.3	ModF	
Hungary	1	1	1	F	5.2	56	66.2	ModF	0.020
Iceland	1	1	1	F	9.6	10	77.1	MF	

UN Members	*FH 2007*				*TI*	*Economic Ratings*			
Year(s) covered	*2006*				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
India	2	3	3	F	3.3	145	55.6	MU	0.043
Indonesia	2	3	3	F	2.4	143	55.1	MU	
Iran	6	6	6	NF	2.7	94	43.1	R	0.053
Iraq	6	6	6	NF	1.9				0.390
Ireland	1	1	1	F	7.4	14	81.3	F	
Israel	1	2	2	F	5.9	37	68.4	ModF	0.081
Italy	1	1	1	F	4.9	31	63.4	ModF	0.432
Jamaica	2	3	3	F	3.7	141	66.1	ModF	
Japan	1	2	2	F	7.6	21	73.6	MF	0.003
Jordan	5	4	5	PF	5.3	120	64.0	ModF	0.087
Kazakhstan	6	5	6	NF	2.6	101	60.4	ModF	
Kenya	3	3	3	PF	2.2	185	59.4	MU	
Kiribati	1	1	1	F		89			
Korea (North)	7	7	7	NF			3.0	R	
Korea (South)	1	2	2	F	5.1	44	68.6	ModF	
Kuwait	4	5	5	PF	4.8	30	63.7	ModF	
Kyrgyzstan	5	4	5	PF	2.2	175	59.9	MU	
Lao P. D.R.	7	6	7	NF	2.6	172	49.1	R	
Latvia	1	1	1	F	4.7	65	68.2	ModF	
Lebanon	4	4	4	PF	3.6	128	60.3	ModF	0.139
Lesotho	2	3	3	F	3.2	139	54.1	MU	
Liberia	3	4	4	PF					
Libya	7	7	7	NF	2.7		34.5	R	
Liechtenstein	1	1	1	F		3			
Lithuania	1	1	1	F	4.8	67	72.0	MF	
Luxembourg	1	1	1	F	8.6	1	79.3	MF	
Macedonia	3	3	3	PF	2.7	106	60.8	ModF	0.160
Madagascar	3	3	3	PF	3.1	198	61.4	ModF	
Malawi	4	3	4	PF	2.7	207	55.5	MU	
Malaysia	4	4	4	PF	5.0	80	65.8	ModF	
Maldives	6	5	6	NF					
Mali	2	2	2	F	2.8	193	53.7	MU	
Malta	1	1	1	F	6.4	54	67.8	ModF	0.130
Marshall Islands	1	1	1	F					
Mauritania	5	4	5	PF	3.1	158	53.2	MU	
Mauritius	1	2	2	F	5.1	71	69.0	ModF	
Mexico	2	2	2	F	3.3	79	65.8	ModF	0.150
Micronesia	1	1	1	F		98			
Moldova	3	4	4	PF	3.2	154	59.5	MU	0.010
Monaco	2	1	2	F					
Mongolia	2	2	2	F	2.8	168	60.1	ModF	
Montenegro	3	3	3	PF					
Morocco	5	4	5	PF	3.2	132	57.4	MU	0.050
Mozambique	3	4	4	PF	2.8	189	56.6	MU	
Myanmar (Burma)	7	7	7	NF	1.9		40.1	R	
Namibia	2	2	2	F	4.1	97	63.8	ModF	
Nauru	1	1	1	F					
Nepal	5	4	5	PF	2.5	178	54.0	MU	

UN Members	*FH 2007*				*TI*	*Economic Ratings*			
Year(s) covered	*2006*				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
Netherlands	1	1	1	F	8.7	12	77.1	MF	0.020
New Zealand	1	1	1	F	9.6	36	81.6	F	0.250
Nicaragua	3	3	3	PF	2.6	142	62.7	ModF	
Niger	3	3	3	PF	2.3	203	53.5	MU	
Nigeria	4	4	4	PF	2.2	195	52.6	MU	
Norway	1	1	1	F	8.8	5	70.1	MF	0.360
Oman	6	5	6	NF	5.4	63	63.9	ModF	
Pakistan	6	5	6	NF	2.2	161	58.2	MU	0.120
Palau	1	1	1	F				R	
Panama	1	2	2	F	3.1	103	65.9	ModF	
Papua New Guinea	3	3	3	PF	2.4	164			
Paraguay	3	3	3	PF	2.6	132	56.8	MU	0.144
Peru	2	3	3	F	3.3	121	62.1	ModF	0.028
Philippines	3	3	3	PF	2.5	122	57.4	MU	0.048
Poland	1	1	1	F	3.7	68	58.8	MU	0.015
Portugal	1	1	1	F	6.6	49	66.7	ModF	
Qatar	6	5	6	NF	6.0	16	60.7	ModF	
Romania	2	2	2	F	3.1	86	61.3	ModF	0.003
Russian Federation	6	5	6	NF	2.5	78	54.0	MU	0.090
Rwanda	6	5	6	NF	2.5	187	52.1	MU	
Saint Kitts and Nevis	1	1	1	F		74			
Saint Lucia	1	1	1	F		111			
Saint Vincent & Grenadines	2	1	2	F		110			
Samoa	2	2	2	F		116			
San Marino	1	1	1	F		11			
Sao Tome & Principe	2	2	2	F					
Saudi Arabia	7	6	7	NF	3.3	58	59.1	MU	0.263
Senegal	2	3	3	F	3.3	177	58.8	MU	
Serbia	3	2	3	F	3.0				0.375
Seychelles	3	3	3	PF	3.6	60			
Sierra Leone	4	3	4	PF	2.2	200	48.4	R	
Singapore	5	4	5	PF	9.4	26	85.7	F	
Slovakia	1	1	1	F	4.7	59	68.4	ModF	0.030
Slovenia	1	1	1	F	6.4	43	63.6	ModF	0.050
Solomon Islands	4	3	4	PF		170			
Somalia	7	7	7	NF					
South Africa	2	2	2	F	4.6	77	64.1	ModF	0.132
Spain	1	1	1	F	6.8	33	70.9	MF	0.110
Sri Lanka	4	4	4	PF	3.1	134	59.3	MU	
Sudan	7	6	7	NF	2.0	171			
Suriname	2	2	2	F	3.0	96	52.6	MU	
Swaziland	7	5	6	NF	2.5	131	61.6	ModF	
Sweden	1	1	1	F	9.2	18	72.6	MF	0.315
Switzerland	1	1	1	F	9.1	7	79.1	MF	0.460

UN Members	*FH 2007*				*TI*	*Economic Ratings*			
Year(s) covered	*2006*				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
Syria	7	7	7	NF	2.9	144	48.2	R	
Tajikistan	6	5	6	NF	2.2	183	56.9	MU	
Tanzania	4	3	4	PF	2.9	205	56.4	MU	
Thailand	7	4	6	NF	3.6	87	65.6	ModF	0.161
Timor-Leste (East Timor)	3	4	4	PF	2.6				
Togo	6	5	6	NF	2.4	181	49.8	R	
Tonga	5	2	4	PF		92			
Trinidad and Tobago	2	2	2	F	3.2	62	71.4	MF	
Tunisia	6	5	6	NF	4.6	93	61.0	ModF	
Turkey	3	3	3	PF	3.8	88	59.3	MU	0.130
Turkmenistan	7	7	7	NF	2.2		42.5	R	
Tuvalu	1	1	1	F					
Uganda	5	4	5	PF	2.7	181	63.4	ModF	
Ukraine	3	2	3	F	2.8	107	53.3	MU	0.090
United Arab Emirates	6	5	6	NF	6.2	35	60.4	ModF	
United Kingdom	1	1	1	F	8.6	13	81.6	F	0.056
United States	1	1	1	F	7.3	4	82.0	F	0.900
Uruguay	1	1	1	F	6.4	82	69.3	ModF	0.368
Uzbekistan	7	7	7	NF	2.1	169	52.6	MU	
Vanuatu	2	2	2	F		151			
Venezuela	4	4	4	PF	2.3	108	47.7	R	0.140
Vietnam	7	5	6	NF	2.6	150	50.0	MU	
Yemen	5	5	5	PF	2.6	199	53.8	MU	0.610
Zambia	4	4	4	PF	2.6	196	57.9	MU	
Zimbabwe	7	6	7	NF	2.4	173	35.8	R	

TABLE 7: All ratings for countries for which there are per capita firearms data

Ranking by firearms per capita	*FH 2007*				*TI*	*Economic Ratings*			
	2006				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
Romania	2	2	2	F	3.1	86	61.3	ModF	0.003
Japan	1	2	1.5	F	7.6	21	73.6	MF	0.003
Moldova	3	4	3.5	PF	3.2	154	59.5	MU	0.010
Poland	1	1	1	F	3.7	68	58.8	MU	0.015
Hungary	1	1	1	F	5.2	56	66.2	ModF	0.020
Netherlands	1	1	1	F	8.7	12	77.1	MF	0.020
Bolivia	3	3	3	PF	2.7	153	55.0	MU	0.022
Ecuador	3	3	3	PF	2.3	138	55.3	MU	0.027
Peru	2	3	2.5	F	3.3	121	62.1	ModF	0.028
Estonia	1	1	1	F	6.7	57	78.1	MF	0.030
Slovakia	1	1	1	F	4.7	59	68.4	ModF	0.030

Ranking by firearms per capita	*FH 2007*				*TI*	*Economic Ratings*			
	2006				*2006*	*2006*	*2007*		*Firearms per capita*
Country	*PR*	*CL*	*AVE*	*Rating*	*CI*	*PPP*	*EI*	*Rating*	
China	7	6	6.5	NF	3.3	102	54.0	MU	0.031
India	2	3	2.5	F	3.3	145	55.6	MU	0.043
Philippines	3	3	3	PF	2.5	122	57.4	MU	0.048
Czech Republic	1	1	1	F	4.8	48	69.7	ModF	0.050
Morocco	5	4	4.5	PF	3.2	132	57.4	MU	0.050
Slovenia	1	1	1	F	6.4	43	63.6	ModF	0.050
Iran	6	6	6	NF	2.7	94	43.1	R	0.053
United Kingdom	1	1	1	F	8.6	13	81.6	F	0.056
Colombia	3	3	3	PF	3.9	105	60.5	ModF	0.073
Israel	1	2	1.5	F	5.9	37	68.4	ModF	0.081
Jordan	5	4	4.5	PF	5.3	120	64.0	ModF	0.087
Brazil	2	2	2	F	3.3	91	60.9	ModF	0.088
Russian Fed.	6	5	5.5	NF	2.5	78	54.0	MU	0.090
Ukraine	3	2	2.5	F	2.8	107	53.3	MU	0.090
Chile	1	1	1	F	7.3	81	78.3	MF	0.108
Greece	1	2	1.5	F	4.4	42	57.6	MU	0.110
Spain	1	1	1	F	6.8	33	70.9	MF	0.110
Croatia	2	2	2	F	3.4	70	55.3	MU	0.115
Pakistan	6	5	5.5	NF	2.2	161	58.2	MU	0.120
Argentina	2	2	2	F	2.9	64	57.5	MU	0.127
Malta	1	1	1	F	6.4	54	67.8	ModF	0.130
Turkey	3	3	3	PF	3.8	88	59.3	MU	0.130
South Africa	2	2	2	F	4.6	77	64.1	ModF	0.132
Lebanon	4	4	4	PF	3.6	128	60.3	ModF	0.139
Venezuela	4	4	4	PF	2.3	108	47.7	R	0.140
Paraguay	3	3	3	PF	2.6	132	56.8	MU	0.144
Mexico	2	3	2.5	F	3.3	79	65.8	ModF	0.150
Australia	1	1	1	F	8.7	24	82.7	F	0.155
Albania	3	3	3	PF	2.6	127	61.4	ModF	0.160
Belgium	1	1	1	F	7.3	20	74.5	MF	0.160
Macedonia	3	3	3	PF	2.7	106	60.8	ModF	0.160
Thailand	7	4	5.5	NF	3.6	87	65.6	ModF	0.161
Austria	1	1	1	F	8.6	15	71.3	MF	0.170
Denmark	1	1	1	F	9.5	9	77.6	MF	0.180
Angola	6	5	5.5	NF	2.2	166	43.5	R	0.205
New Zealand	1	1	1	F	9.6	36	81.6	F	0.250
Saudi Arabia	7	6	6.5	NF	3.3	58	59.1	MU	0.263
Germany	1	1	1	F	8.0	28	73.5	MF	0.300
Canada	1	1	1	F	8.5	19	78.7	MF	0.315
Sweden	1	1	1	F	9.2	18	72.6	MF	0.315
France	1	1	1	F	7.4	23	66.1	ModF	0.320
Norway	1	1	1	F	8.8	5	70.1	MF	0.360
Uruguay	1	1	1	F	6.4	82	69.3	ModF	0.368
Italy	1	1	1	F	4.9	31	63.4	ModF	0.432
Switzerland	1	1	1	F	9.1	7	79.1	MF	0.460
Finland	1	1	1	F	9.6	17	76.5	MF	0.550
Yemen	5	5	5	PF	2.6	199	53.8	MU	0.610
United States	1	1	1	F	7.3	4	82.0	F	0.900

[Firearms per capita were taken based on the following annual editions of the Small Arms Survey:
2007 Table 2.3, page 47 & Table 2.9, page 59: China, India, Philippines, Morocco, Iran, U.K., Colombia, Brazil, Russian Federation, Ukraine, Spain, Pakistan, Argentina, Turkey, South Africa, Australia, Thailand, Angola, Saudi Arabia, Germany, Canada, Sweden, France, Italy, Switzerland, Finland, Yemen, United States
2005 Table 3.3, page 78: Japan
2005 Table 3.9, page 91: Israel, Jordan, Lebanon
2004 Table 2.3, page 51: Bolivia, Ecuador, Peru, Chile, Venezuela, Paraguay, Mexico, Uruguay
2004 Table 2.3, page 45: New Zealand
2003 Tables 2.2 & 2.3, pp. 64-65: Romania, Moldova, Poland, Hungary, Netherlands, Estonia, Slovakia, Czech Republic, Slovenia, Croatia, Malta, Albania, Belgium, Macedonia, Austria, Denmark, Norway.]

TABLE 8: Relationship between firearms, corruption, purchasing power, and economic freedom

Dependent Variable	*Firearms Coefficient*	*T-Ratio*
Corruption	4.362**	2.42
PPP	81.662**	2.18
Economic Freedom	18.421**	2.63
Dropping the US:		
Corruption	4.950**	2.26
PPP	74.986	1.62
Economic Freedom	15.903*	1.76

Notes: The number of observations is 59. PPP is rescaled so that higher purchasing power is reflected by higher values of PPP. ** indicates significant at the .05 level, two-tailed. * indicates significant at the .10 level, two-tailed.[24]

NOTES & QUESTIONS

1. *Correlation or causation.* Kopel et al. identify significant correlations between gun ownership and economic freedom, purchasing power, and lower levels of government corruption. They also propose causal arguments that might explain the correlations; that is, ways in which gun ownership might directly or indirectly generate the three social goods with which they find it correlated. Another possibility is that gun ownership is *correlated* with these social goods but does not *cause* them; rather, the same things that tend to create economic freedom, clean government, etc., also tend to facilitate higher rates of gun ownership. Which kind of explanation do you think is more

24. [A two-tailed test looks at statistical significance in both directions. Were changes in one variable (e.g., guns per capita) correlated with positive or negative changes in another variable (e.g., the homicide rate)? So the two-tailed test would examine whether more guns led to a statistically significant increase *or* a statistically significant decrease in the homicide rate. A one-tailed test looks for an effect in only one direction. For example, a one-tailed test might examine whether more guns were correlated with a statistically significant increase in the homicide rate, but would not consider whether more guns were correlated with less homicide. — EDS.]

likely? Are you persuaded by Kopel et al.'s causal arguments? If so, which ones? In the end, what causes the different levels of freedom enjoyed by different nations?

2. Cross-cultural comparisons like Kopel et al.'s are illuminating, but on close examination also raise new questions. Comparing overall rates of gun ownership between high and low-freedom countries tempts a monolithic view of gun ownership in each country. On the other hand, we know from online Chapter 12 that, in the United States, rates of gun ownership vary substantially by region. Reported rates of gun ownership are notably higher in the South and the West than in the Northeast. If the rate of gun ownership in other countries also varies by region, should that be incorporated into the cross-cultural comparisons? How?

3. Carrying forward Kopel et al.'s assessment, would you say that the regions of the United States with lower rates of gun ownership rank lower on the freedom scale? Do large population centers naturally require a different balance between liberty and order? If so, is it accurate to say that New York City (with a high population density and low gun density) has fewer guns because it is less free than, say, Cody, Wyoming?

EXERCISE: DEVELOPING FIREARMS POLICY

In cooperation with your classmates, and drawing on the four excerpts above, predict the likely effects (on crime, gun deaths, civic freedom, and other important variables) of some or all of the following proposals for new laws or regulations in the United States:

- A national ban of semi-automatic handguns.
- A ban of semi-automatic rifles that look like military guns.
- A ban of magazines holding more than 10 rounds of ammunition.
- A policy that limits firearms purchasers to one gun per month.
- Limiting ammunitions purchasers to 500 rounds of ammunition per month.
- A ban of *all* semi-automatic firearms.
- Universal registration of firearms.

After you have developed and debated these specific issues, try to develop a comprehensive federal firearms policy agenda, based on the lessons from other countries and the limitations that you believe constrain policy in the United States.

C. Gun Control and Gun Rights in Selected Nations

The remainder of this chapter examines firearms law and policy issues in several nations. Our analysis is not comprehensive; a thorough examination of any particular country would require its own chapter. For readers interested in particular countries, we provide a list of leading books and articles for further reading.

1. United Kingdom

David B. Kopel, United Kingdom — History of Gun Laws since 1900, *in* 3 Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law 842 (Gregg Lee Carter ed., 2d ed. 2012) (revised for this work)

Gun laws in the United Kingdom are among the most severe in the democratic world. From having essentially no gun controls at the start of the twentieth century, the United Kingdom had moved to near prohibition by the end of the twentieth century.

In 1900, the official attitude about guns was summed up by Prime Minister Robert Gascoyne-Cecil, the Marquess of Salisbury, who said he would "laud the day when there is a rifle in every cottage in England." Led by the Duke of Norfolk and the mayors of London and of Liverpool, a number of gentlemen formed a cooperative association that year to promote the creation of rifle clubs for working men. The Prime Minister and the rest of the aristocracy viewed the widespread ownership of rifles by the working classes as an asset to national security.

Although Great Britain entered the twentieth century with essentially no gun laws, pressure began to build for change. As revolvers were becoming less expensive and better, concern arose regarding the increase in firepower available to the public. Low-cost guns were, in some eyes, associated with hated minority groups, particularly Irish supporters of independence.

The Pistols Act of 1903 forbade pistol sales to minors and felons and dictated that sales be made only to buyers with a gun license; the license itself could be obtained at the post office, the only requirement being payment of a fee. Firearms suicides fell, but the decline was more than matched by an increase in suicide by poisons and knives. The bill defined pistols as guns having a barrel of nine inches or less, and thus pistols with nine-and-a-half inch barrels were soon popular.

The early years of the twentieth century saw an increasingly bitter series of confrontations between capital and labor throughout the English-speaking world. Tensions were especially high around the 1910 coronation of George V. After the 1911 "Siege of Sidney Street" — the culmination of a confrontation with three anarchists — Parliament voted on, but rejected new gun controls.

After "The Great War" broke out in August 1914, the British government began assuming "emergency" powers for itself. "Defense of the Realm Regulations" were enacted which required a license to buy pistols, rifles, or ammunition at retail.

When the war ended in November 1918, the government worried about what would happen when gun controls expired. A secret government committee on arms traffic warned of danger from two sources: the "savage or semi-civilized tribesmen in outlying parts of the British Empire" who might obtain surplus war arms, and "the anarchist or 'intellectual' malcontent of the great cities, whose weapon is the bomb and the automatic pistol."

At a Cabinet meeting on January 17, 1919, the Chief of the Imperial General Staff raised the threat of "Red Revolution and blood and war at home and abroad." The Minister of Transport, Sir Eric Geddes, predicted "a revolutionary outbreak in Glasgow, Liverpool or London in the early spring, when a definite attempt may be made to seize the reins of government." "It is not inconceivable," Geddes warned, "that a dramatic and successful coup d'etat in some large center of population might win the support of the unthinking mass of labour." Using the Irish gun licensing system as a model,[25] the Cabinet made plans to disarm enemies of the state and to prepare arms for distribution "to friends of the Government."

However, the Home Secretary presented the government's 1920 Firearms Act to Parliament as strictly a measure "to prevent criminals and persons of that description from being able to have revolvers and to use them." In fact, the problem of criminal, non-political misuse of firearms remained minuscule.

The Firearms Act banned CS[26] self-defense spray canisters and allowed Britons to possess pistols and rifles only if they could show a "good reason" for obtaining a police permit. Shotguns and airguns, which were perceived as "sporting" weapons, remained exempt from control.

Britons who had formerly enjoyed a *right* to have arms [*see* Chapter 2.D.2.d.] were now allowed to possess pistols and rifles only if they proved they had "good reason." In the early years of the Firearms Act, the law was not enforced with particular stringency, except in Ireland, where revolutionary agitators were demanding independence from British rule. Within Great Britain,[27] a Firearms Certificate for possession of rifles or handguns was readily obtainable. Wanting to possess a firearm for self-defense was considered a "good reason." Ordinary firearms crime in Britain — the pretext for the Firearms Act — remained minimal.

In 1934, short-barreled shotguns and fully automatic firearms were outlawed. Although no one could cite a single instance of a machine gun being misused in Britain, the government pointed to misuse of such guns in the

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25. [English rule in Ireland had always been concerned with disarming the majority Catholic population. During the nineteenth century, the "Penal Laws," which explicitly disarmed Catholics, were replaced with a facially neutral licensing system aimed at allowing only politically correct persons to possess arms, David B. Kopel, *Ireland on the Brink*, Ameria's 1st Freedom (Apr. 2011). Kopel, *supra*, note 20. — Eds.]

26. [The most common form of "tear gas" used for riot control. — Eds.]

27. [England, Wales, and Scotland. "Great Britain" does not comprise any part of Ireland. The "United Kingdom" comprised Great Britain plus Ireland (before 1923) and today comprises Great Britain plus Northern Ireland. — Eds.]

United States, and also argued that there was no need for anyone (other than the government) to have such guns.

Before the war, British authorities had refused to allow domestic manufacture of the Thompson submachine gun because it was "a gangster gun." When the war broke out, large numbers of American-made Thompsons were shipped to Britain, where they were dubbed "tommie guns," since "Tommie" is a nickname for a British soldier.

As World War II ended, guns that had been donated by American civilians were collected from the Home Guard and destroyed by the British government. Troop ships returning to England were searched for souvenir or captured rifles, and men caught attempting to bring firearms home were punished. Even so, large quantities of firearms slipped into Britain, where many of them remain to this day in attics and under floor boards.

In 1946 the Home Secretary[28] announced that self-defense would no longer be considered a good reason for being granted a Firearms Certificate.

Following the murder of three policemen with illegal handguns at Shepherd's Bush in 1966, Home Secretary Roy Jenkins, an ardent opponent of capital punishment, diverted public enthusiasm for the death penalty by initiating shotgun control legislation. Heretofore, the gun control laws had only applied to rifles and handguns (which had a military connotation) but not to shotguns (which were seen as bird-hunting tools). A few weeks before Shepherd's Bush, Jenkins had told Parliament that after consulting with the Chief Constables and the Home Office, he had concluded that shotgun controls were not worth the trouble.

Jenkins' new proposals, embodied in the 1967 Criminal Justice Act, established a permissive licensing system for shotguns. To possess a shotgun, an individual needed a Shotgun Certificate. A person could only be denied a Certificate if there were evidence that his "possession of a shotgun would endanger public safety." In contrast, a Firearms Certificate (for rifles and pistols) had always operated on the presumption that the owner had to prove need.

A Shotgun Certificate allowed unlimited acquisition of shotguns, with no registration. Firearms Certificates had to be amended every time a new rifle or pistol was acquired — if the police decided to grant permission for the new acquisition. An applicant for a Shotgun Certificate was required to supply a countersignatory, a person who would attest to the accuracy of the information in the application. During an investigation period, which might last several weeks, the police might visit the applicant's home. In the first decades of the system, about 98 percent of all applications were granted.

The Criminal Justice Act also abolished the requirement of unanimous jury verdicts in criminal trials, and imposed various restrictions on the press and on trial procedures.

Prime Minister Edward Heath's government considered sweeping new controls in a 1973 Green Paper,[29] but the proposal was rejected due to a strong

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28. [A Cabinet Minister with responsibility for a wide range of domestic issues. — Eds.]

29. [A preliminary research report on government policy. A White Paper is a more formal and final statement of policy. — Eds.]

political response against it. Over the next several decades, however, almost all of the Green Paper agenda became law.

On the morning of August 19, 1987, a licensed gun owner named Michael Ryan dressed up like Rambo and shot 16 people and himself in the market town of Hungerford. Among his weapons was a Chinese self-loading rifle.[30]

Parliament moved to restrict all types of firearms. Self-loading centerfire rifles and shotguns were confiscated. Pump-action rifles are banned as well, since it was argued that these guns could be substituted for semi-automatics.

The 1988 Firearms Act made Shotgun Certificates much more difficult to obtain, allowing denial of the Certificate if the applicant did not have "a good reason." Police practice immediately enforced this standard by requiring applicants to prove that they did have a good reason. Wanting to retain a family heirloom was not considered a good reason. In practice, only active participation in the shooting sports, or pest control for farming would satisfy the police; the number of Shotgun Certificate holders plunged.

In addition, shotguns that can hold more than two shells at once now require a Firearms Certificate, the same as rifles and handguns. All shotguns must now be registered. Shotgun sales between private parties must be reported to the police. (Still, police permission is not required for additional acquisitions.) Buyers of shot shells must produce a Shotgun Certificate.

Home Secretary Douglas Hurd later admitted that the government prepared the provisions of the 1988 Firearms Act long before Hungerford, and had been waiting for the right moment to introduce them.

In March 1996, Thomas Hamilton, a licensed handgun owner who retained his license even though the police had investigated him seven times as a pederast and knew him to be mentally unstable, used handguns to murder 17 teachers and children at a preschool in Dunblane, Scotland.

The Tory government, headed by John Major, convened a Dunblane Enquiry Commission. The Commission advised various forms of tightening the gun laws, but did not recommend banning all handguns. Prime Minister John Major, though, insisted on a handgun ban. He allowed an exception for single-shot .22 handguns that were stored at licensed shooting ranges. The new gun laws went into effect in February 1997.

A few months later, Labour Party leader Tony Blair was swept into office in a landslide. One of his first acts was to complete the handgun ban, by removing the exemption for single-shot .22s. Since 1921, all lawfully-owned handguns in Great Britain have been registered with the government, so handgun owners had little choice but to surrender their guns, in exchange for payment according to a government schedule.

Today, the main focus of gun prohibition advocates, such as the Gun Control Network, is to bring replica guns, shotguns, and air guns under the restrictive licensing system currently applied to rifles.

The most important gun controls in the U.K., however, are not the statutes enacted by Parliament. Rather, the gun controls which have helped reduce the nation's rate of lawful gun ownership to extremely low levels are the controls which are invented and enforced by the British police. The fact that gun owners

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30. ["Self-loading" is a synonym for "semi-automatic." — EDS.]

need to obtain a license from the police has given the police enormous opportunities to make their own gun controls.

For example, starting in 1936, the British police began adding a requirement to Firearms Certificates requiring that the guns be stored securely. As shotguns were not licensed, there was no such requirement for them. Today, British statutory law merely mandates that guns be stored in "a secure place."

But when a person seeks to obtain or renew a gun license, in most jurisdictions the British police send a pair of inspectors to the person's home, to inspect the form of storage. Often, a pair of expensive safes (one for the guns, one for the ammunition) is considered the only acceptable form of storage. Police standards change from time to time, regarding what kinds of safes and supplementary electronic security systems are mandated. In many districts, an acceptable safe is now one that can withstand a half-hour attack by a burglar who arrives with a full set of safe-opening tools, and who even has time to take a short rest if his first efforts to pry open the safe do not succeed. The police have no legal authority to require such home inspections, nor does the law specify that a hardened safe is the only acceptable form of storage. But if a homeowner refuses the police entry or refuses to buy the types of safe demanded by the police, the certificate application or renewal will be denied.

One effect of the heavy security costs is to reduce the ability of middle-income or poor people to legally own guns. Of course, the requirement that guns be locked in safes makes it nearly impossible for the gun to be used for home protection.

The police have invented many other conditions that they impose on gun license applicants. A certificate for rifle possession often includes "territorial conditions" specifying exactly where the person may hunt. While it is not legally necessary for shooters to have written permission to hunt on a particular piece of land, police have been stopping shooters, demanding written proof, and threatening to confiscate guns from persons who cannot produce the proof. The police also have, without legal authority, required applicants for shotguns capable of holding more than two shells to prove a special need for the gun. Without legal authority, some police have begun to phase out firearms collections by refusing new applications.

If a policeman has a personal interest in the shooting sports, that interest will generally disqualify him from being assigned to any role in the police gun licensing program. Applicants may appeal police denials of permit applications, but the courts are generally deferential to police decisions. Hearsay evidence is admissible against the applicant. An appellant does not have a right to present evidence on his own behalf.

By police estimates, the stockpile of illegal guns in the U.K. is over three million. Gun crime rates have risen steadily, and some police now call lower-class Manchester "Gunchester." A black market supplies young criminals with Beretta sub-machine guns, Luger pistols, and many other weapons.

One of the most important differences between American and British law is in regards to self-defense. Britain's 1967 Criminal Justice Act made it illegal to use a firearm against a violent home intruder — whereas firearms are used (usually with only a threat) against American burglars and other home invaders many thousands of times a year. In a highly-publicized case in 2000, an older man named Tony Martin, who had been repeatedly burglarized, and had received no

meaningful assistance from the police, shot a pair of career burglars who had broken into his home. The man was sentenced to life in prison, although paroled after serving part of the sentence.

Less-than-lethal defensive weapons have been outlawed. These include chemical defense sprays, electric stun devices, and martial arts gear. Knife carrying was made presumptively illegal in 1996. Before that, carrying even a penknife had been illegal if it were intended for use in self-defense, which legally made the knife into an "offensive weapon."

Currently, violent and armed crime in Great Britain is at its highest level in centuries. According to a joint report of the U.S. Department of Justice and the U.K. Home Office, Crime and Justice in the United States and in England and Wales, 1981-96, the English rate of robbery was 1.4 times the U.S. rate, assault was 2.3 times the U.S. rate, and burglary was 1.7 times the U.S. rate.

"Hot" burglaries (against an occupied home) comprise only about a quarter of American burglaries, but over half of British burglaries. The *Daily Telegraph* (June 29, 2000) argues that "the main reason for a much lower burglary rate in America is householders' propensity to shoot intruders. They do so without fear of being dragged before courts and jailed for life."

Gun crime rates, however, remain substantially lower in the U.K. than in the United States, even though they are much higher than they were in the nineteenth century or most of the twentieth.

Following years of public pressure, the government of the U.K. in July 2008 amended the self-defense law to clarify and protect some self-defense rights for the victims of home invasions. Criminal Justice and Immigration Act, 2008, c. 4, §76(7) (U.K.). Reasonable use of the force is to be judged according to the circumstances as the defender perceived them; and must consider:

> (a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and
> (b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

NOTES & QUESTIONS

1. *"Carrying an offensive weapon."* Britain's 1953 Prevention of Crime Act criminalizes the carrying of an "offensive weapon" in any public place unless the defendant can show that he had "lawful authority or excuse." "Offensive weapon" is broadly defined to include not only "any article made or adapted for use in causing injury to the person," but also "any article . . . intended by the person having it with him for such use." Thus any item designed as a weapon is illegal to carry, as is any nonweapon if the person carrying it intends to use it as a weapon. Note, too, that despite its name, the statute does not distinguish between weapons carried for self-defense, and those carried for offensive use.

In contrast, many American jurisdictions criminalize carrying weapons with unlawful intent, but do not deem carrying for *self-defense* unlawful, even though defensive use often does "caus[e] injury" to another.

For example, Oklahoma prohibits "carr[ying] or wear[ing] any deadly weapons or dangerous instrument whatsoever with the intent or for the avowed purpose of *unlawfully* injuring another person. . . ." 21 Okla. Stat. 1278 (2012) (emphasis added). The Oklahoma statute adds that "[t]he mere possession of . . . a weapon or dangerous instrument, without more, . . . shall not be sufficient to establish intent as required by this section." *Id.*

Is this approach better or worse than the British approach? Should the legality of carrying weapons (or items usable as weapons) turn on the carrier's intent? Is this too subjective or difficult to discern? Do intent-based prohibitions on carrying open the door to invidious discrimination by the law enforcement officials that must apply them?

Similarly, can one even distinguish between "offensive" and "defensive" weapons? If so, should objective traits be used to distinguish them, or should intent play a role?

2. *Home storage.* How much control should government impose on the ways people store lawfully owned guns at home? Under *Heller* (Chapter 9), government cannot require guns in the homes to be locked up at all times, but some safe storage requirements are likely to be held constitutional. *See* Chapter 11.G. Which aspects, if any, of the British system of extensive government supervision of home storage do you think would make sense to adopt in your jurisdiction?

3. *Which is worse: rare lethal violence or frequent nonlethal violence?* By most measures, the United Kingdom today has a much higher rate of violent crime than the United States. *See, e.g.*, James Slack, *The Most Violent Country in Europe: Britain Is Also Worse than South Africa and U.S.*, Daily Mail, July 2, 2009 (U.K.) (British annual violent crime rate of over 2,000 per 100,000 inhabitants is more than four times greater than United States). On the other hand, the homicide rate in the United Kingdom is lower than that in the United States; the official U.S. rate is around 4-5 per 100,000 population per year, whereas the U.K. rate is around 1-2 per 100,000 population.

The gap is smaller, however, than the official numbers suggest. The U.S. rate is based on initial reports of homicides, and includes lawful self-defense killings (about 10-15 percent of the total); the England and Wales rate is based only on final dispositions, so that an unsolved murder, or a murder which is pleaded down to a lesser offense, is not counted as a homicide. In addition, multiple murders by one murderer are counted as only a single homicide for Scottish statistics.

Even so, it would be fair to say that the actual U.K. homicide rate is lower than in the United States. Many different factors can contribute to such a difference. But it is at least plausible that a higher rate of ownership of lethal weapons among citizens will tend to make violent encounters more costly (because more lethal), but therefore also rarer. If going from a low-gun to a high-gun owning society does involve a trade-off of this kind, is it a worthwhile trade? To put it somewhat crudely, if increasing the number of lawfully owned guns means a few more murders a year, but many fewer "ordinary" assaults and muggings, is that a worthwhile trade?

4. *The slippery slope in action?* For an extended account of the rise of British gun control in the twentieth century, see Joseph E. Olson & David B. Kopel, *All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America*, 22 Hamline L. Rev. 399 (1999). Professors Olson and Kopel argue that the near-elimination of the right to arms in Britain is an instructive example that "slippery slopes" — claims that allowing small increases in regulation will tend to lead to greater and greater infringements until the right is abrogated — are sometimes a realistic fear.

5. For more on the British gun debate, see the following print and Internet resources:

- Colin Greenwood, Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales (1971).
- David B. Kopel, Gun Control in Great Britain: Saving Lives or Constricting Liberty? (1992).
- David B. Kopel, The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies? (1992). (Chapter 3 in this Kopel book is a slightly shorter version of the material contained in the Kopel book *Gun Control in Great Britain.*)
- Joseph Olson & David B. Kopel, *All the Way Down the Slippery Slope: Gun Prohibition in England and Some Lessons for Civil Liberties in America*, 22 Hamline L. Rev. 399 (1999).
- Peter Squires, Gun Culture or Gun Control: Firearms, Violence and Society (2001).
- Joyce Malcolm, Guns and Violence: The English Experience (2004).
- British Shooting Sports Council, http://www.bssc.org.uk/.
- Home Office, United Kingdom, Guidance: Firearms licensing, http://www.homeoffice.gov.uk/police/police-use-firearms.
- Her Majesty's Stationery Office (text of laws of recent decades), http://www.legislation.gov.uk.

2. Japan

David B. Kopel, Japan, Gun Laws, *in* 2 Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law 449 (Gregg Lee Carter ed., 2d ed. 2012) (revised for this work)

Japanese law prohibits the ownership of rifles and pistols, while imposing a very strict licensing system on shotguns and air guns. The firearms law appears to be both a cause and a consequence of the relatively authoritarian nature of Japanese society. Starting in the 1990s, Japan has begun to work to impose its firearms policies on other nations.

Japanese gun law (like New Jersey gun law) starts with prohibition as the norm: "No-one shall possess a fire-arm or fire-arms or a sword or swords." From there, some exceptions are created.

Japanese sportsmen are permitted to possess shotguns for hunting and for skeet and trap shooting, but only after submitting to a lengthy licensing procedure. Air rifles (but not air pistols) are also allowed for sporting purposes.

A prospective gun owner must first attend classes and pass a written test. Shooting range classes and a shooting test follow; 95 percent pass. After the safety exam, the applicant takes a simple "mental test" at a local hospital, to ensure that the applicant is not suffering from a readily detectable mental illness. The applicant then produces for the police a medical certificate attesting that he or she is mentally healthy and not addicted to drugs. The police investigate the applicant's background and relatives, ensuring that both are crime-free. Membership in "aggressive" political or activist groups disqualifies an applicant. The police have unlimited discretion to deny licenses to any person for whom "there is reasonable cause to suspect may be dangerous to other persons' lives or properties or to the public peace."

Gun owners must store their weapons in a locker, and give the police a map of the apartment showing the location of the locker. Ammunition must be kept in a separate locked safe. The licenses also allow the holder to buy a few thousand rounds of ammunition, with each transaction being registered.

Civilians can never own handguns. Small caliber rifles were once legal, but in 1971, the Government forbade all transfers of rifles. Current rifle license holders may continue to own them, but their heirs must turn them into the police when the license-holder dies.

The severe controls on gun ownership in Japan are consistent with Japanese practices regarding other matters which are guaranteed by the Bill of Rights in America, but which are subject to extensive control in Japan. For example, Japan has no meaningful limits on police search and seizure. A person who is arrested may be held incommunicado for long periods of time, and, according to the Tokyo Bar Association, police torture of suspects is routine. Criminal trial procedures are, compared to the trials in the U.S., much more heavily tilted towards the government, and acquittals are extremely rare. Trial by jury has been abolished. Restrictions on speech and the press are much broader than in the U.S.

Guns first arrived in Japan along with the first trading ships from Portugal in 1542 or 1543. The Portuguese had landed on Tanegashima Island, outside Kyushu. One day the Portuguese trader Mendez Pinto took Totitaka, Lord of Tanegashima for a walk; the trader shot a duck. The Lord of Tanegashima made immediate arrangements to take shooting lessons, and within a month he bought both Portuguese guns, or *Tanegashima* as the Japanese soon called them.

The *Tanegashima* caught on quickly among Japan's feuding warlords. The novelty of the guns was the main reason that the Portuguese were treated well. The Japanese rapidly improved firearms technology. They invented a device to make matchlocks[31] fire in the rain (the Europeans never figured out how to do this), refined the matchlock trigger and spring, developed a serial firing technique, and increased the matchlock's caliber. The Arabs, the Indians, and the Chinese had all acquired firearms long before the Japanese, but only the Japanese mastered large-scale domestic manufacture.

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31. [The standard firearm of the time. The shooter would light a match, then use the match to inflame a wick, and the burning wick would ignite the gunpowder. — EDS.]

By 1560, firearms were being used effectively in large battles. In 1567, Lord Takeda Harunobu declared, "Hereafter, guns will be the most important arms." Less than three decades after Japan saw its first gun, there were more guns in Japan than any other nation on the planet. Several Japanese feudal lords had more guns than the whole British army.

It was Lord Oda Nobunaga whose army truly mastered the new firearms technology. At Nagashino in 1575, three thousand of Nobunaga's conscript peasants with muskets hid behind wooden posts and devastated the enemy's cavalry charge. Feudal wars between armies of samurai knights had ravaged Japan for centuries. Nobunaga and his peasant army, equipped with matchlocks, conquered most of Japan, and helped bring the feudal wars to an end.

Guns dramatically changed the nature of war. In earlier times, after the introductions, fighters would pair off, to go at each other in single combat — a method of fighting apt to let individual heroism shine. Armored, highly trained samurai had the advantage. But with guns, the unskilled could be deployed *en masse*, and could destroy the armored knights with ease. Understandably, the noble *bushi* class thought firearms undignified.

Starting out as a groom for Lord Nobunaga, a peasant named Hidéyoshi rose through the ranks to take control of Nobunaga's army after Nobunaga died. A brilliant strategist, Hidéyoshi finished the job that Nobunaga began, and reunified Japan's feudal states under a strong central government. On August 29, 1588, Hidéyoshi announced "the Sword Hunt" (*taiko no katanagari*) and banned possession of swords and firearms by the non-noble classes. He decreed:

> The people in the various provinces are strictly forbidden to have in their possession any swords, short swords, bows, spears, firearms or other arms. *The possession of unnecessary implements makes difficult the collection of taxes and tends to foment uprisings*. . . . Therefore the heads of provinces, official agents and deputies are ordered to collect all the weapons mentioned above and turn them over to the Government.

(emphasis added).

Although the intent of Hidéyoshi's decree was plain, the Sword Hunt was presented to the masses under the pretext that all the swords would be melted down to supply nails and bolts for a temple containing a huge statue of the Buddha. The Western missionaries' *Jesuit Annual Letter* reported that Hidéyoshi "is depriving the people of their arms under the pretext of devotion to religion." Once the swords and guns were collected, Hidéyoshi had them melted into a statue of himself.

According to historian Stephen Turnbull: "Hidéyoshi's resources were such that the edict was carried out to the letter. The growing social mobility of peasants was thus flung suddenly into reverse. . . . Hidéyoshi had deprived the peasants of their weapons. Iéyasu [the next ruler] now began to deprive them of their self respect. If a peasant offended a samurai he might be cut down on the spot by the samurai's sword."

The inferior status of the peasantry having been affirmed by civil disarmament, the Samurai enjoyed *kiri-sute gomen*, permission to kill and depart. Any disrespectful member of the lower class could be executed by a Samurai's sword. Hidéyoshi forbade peasants to leave their land without their superior's permission and required that warriors, peasants, and merchants all remain in their current post.

After Hidéyoshi died, Iéyasu founded the Tokugawa Shogunate, which would rule Japan for the next two-and-a-half centuries. Peasants were assigned to a "five-man group," headed by landholders who were responsible for the group's behavior. The groups arranged marriages, resolved disputes, maintained religious orthodoxy, and enforced the rules against peasants possessing firearms or swords. The weapons laws clarified and stabilized class distinctions. Samurai had swords; peasants did not.

The Japanese experience was consistent with the belief of Aristotle and Plato that deprivation of a role in the armed defense of a society would lead to deprivation of any role in governing that society. [Chapter 2.B.1.b.] Berkeley professor Mary Elizabeth Berry explains: "The mounted magistrates who rounded up everything from muskets to daggers changed men's thoughts about themselves. Farmers had borne arms for centuries and taken part in the contests that helped fix the rights of lordship. Their military role brought political influence and obscured class boundaries. A pivotal member of his community by the warring-states era, the armed peasant symbolized opportunity. The confiscation of his weapons, far more than a 'hardship,' altered a condition of life." Mary Elizabeth Berry, Hideyoshi (1982).

Historian Noel Perrin offers five reasons why Japan was able to renounce the gun while Europe was not, despite the fierce resistance to guns by the European aristocracy. First, the Samurai warrior nobility, who hated guns, amounted to 6-10 percent of the population, unlike in Europe, where the noble class never exceeded 1 percent. Second, island Japan was so hard to invade, and the Japanese were such formidable fighters, that swords and bows sufficed for national defense. Third, writes Perrin, swords were what the Japanese truly valued. Guns depreciated the importance of swords, so a policy of protecting swords by eliminating guns was bound to be popular, at least with the classes who carried swords. Fourth, the elimination of guns was part of a xenophobic reaction against outside influences, particularly Christianity. Finally, writes Perrin, in a society where aesthetics were prized, swords were valued because they were graceful to use in combat. Noel Perrin, Giving Up the Gun: Japan's Reversion to the Sword 1543-1879 (1979).

During the early twentieth century, the gun controls were slightly relaxed. Tokyo and other major ports were allowed to have five gun shops each, other prefectures, three. Revolver sales were allowed with a police permit, and registration of every transaction was required.

In the 1920s and 1930s, the military came increasingly to control civilian life. Historian Hidehiro Sonoda explains: "The army and the navy were vast organizations with a monopoly on physical violence. There was no force in Japan that could offer any resistance." Seventy-Seven Keys to the Civilization of Japan (Tadao Umesai ed., 1985).

Although the Japanese devastated much of the U.S. Navy's Pacific Fleet with the Pearl Harbor attack, seized some islands in Alaska, and conducted a few raids on the West Coast, the Japanese Imperial Navy and Army never seriously contemplated a full-scale invasion of the American mainland — in part because they believed that the American population was well-armed and was well-practiced in firearms use.

After World War II ended with Japan in ruins, the military was reviled by the Japanese people, and abolished by General MacArthur's occupation

government. The MacArthur government also dismantled centralized national control of the police. In 1946, MacArthur's government ordered the Japanese police to begin carrying guns; finding out that this edict was still being ignored in 1948, the American occupation forces distributed revolvers to the Japanese police.

Today, the police have reverted to central national control, and many of the American-style restrictions on police power which the occupation government wrote into the new Japanese Constitution are ignored. The American-imposed policy of police armament remains in place, though.

But unlike in America, police regulations and culture do not glorify police gun ownership and use (and therefore, unlike in America, do not promote a broader gun culture by example). Japanese police carry only .38 special revolvers, not the higher-capacity 9mm handguns often toted by the American police. No officer would ever carry a second, smaller handgun as a backup, as many American police do. Policeman may not add individual touches, such as pearl handles or unusual holster, to dress up their gun. While American police are often required to carry guns while off-duty, and almost always granted the privilege if they wish (even when retired), Japanese police must always leave their guns at the station. Unlike in the United States, desk-bound police administrators, traffic police, most plainclothes detectives, and even the riot police do not carry guns.

One poster on Japanese police walls ordered: "Don't take it out of the holster, don't put your finger on the trigger, don't point it at people." Shooting at a fleeing felon is unlawful under any circumstance, whereas American police and civilians are both allowed to use deadly force to stop certain types of escaping felons. Japanese police and civilians can both be punished for any act of self-defense in which the harm caused was greater than the harm averted. In an average year, the entire Tokyo police force only fires a few shots.

The Japanese gun suicide rate is one-fiftieth of America's, but the overall suicide rate is nearly twice as high as America's. Teenage suicide is much more frequent in Japan. Japan also suffers from double or multiple suicides, *shinju*. Parents bent on suicide often take their children with them, in *oyako-shinju*.

Of the many reasons suggested by researchers for the high Japanese suicide rate, one of the most startling is weapons control. Japanese scholars Mamon Iga and Kichinosuke Tatai argue that one reason Japan has a suicide problem is that people have little sympathy for suicide victims. Iga and Tatai suggest that the lack of sympathy (and hence the lack of social will to deal with a high suicide rate) is based on Japanese feelings of insecurity and consequent lack of empathy. They trace the lack of empathy to a "dread of power." That dread is caused in part by the awareness that a person cannot count on others for help against violence or against authority. In addition, say Iga and Tatai, the dread of power stems from the people being forbidden to possess swords or firearms for self-defense. Mamon Iga & Kichinosuke Tatai, *Characteristics of Suicide and Attitudes toward Suicides in Japan, in* Suicide in Different Cultures 255-80 (Norman Faberow ed., 1975).

In 1999, there were 1,265 murders reported to the police — not counting cases of parents killing children, which are often classified as suicide, rather than murder. That same year, 4,237 robberies were reported. Some scholars argue that Japanese crime reporting rates are unusually low, because victims fear

retaliation from the organized criminal gangs (Yakuza) who perpetrate much of the crime. Even so, gun crime is rare, and violent crime is much lower than in the United States.

To gun prohibition advocates, Japan represents the ideal, with near-prohibitory controls, and nearly no gun crime.

Skeptics argue that Japan's low crime rates are mainly due to cultural factors. Skeptics also point out that the crime rate of Japanese-Americans (who have just as much access to guns as do other Americans) is actually lower than the crime rate of Japanese in Japan.

It is also argued that Japanese-style gun laws, whatever their efficacy, are particularly unsuited to the United States, since American ownership of guns is deeply tied to American concepts of individualism, self-protection, and freedom from oppressive government. To many in Japan, where the focus is on the group rather than the individual, the American attitude seems absurd and barbaric.

On the evening of October 17, 1992, in Baton Rouge, Louisiana, a Japanese exchange student named Yoshihiro Hattori and a teenager from his host family, Webb Haymaker, entered a carport, mistakenly thinking that the home was hosting a Halloween party. The teenagers had the wrong address. Frightened by the rapidly approaching young males, Bonnie Peairs screamed for help and her husband Rodney came running with .44 Smith & Wesson revolver. He yelled "freeze!" Haymaker retreated and tried to get Hattori to stop, but Hattori, apparently not understanding the American idiom that "freeze!" can mean "Don't move or I'll shoot," advanced towards Mr. Peairs, who pulled the trigger and shot him dead.

Rodney Peairs was acquitted of manslaughter in a criminal trial, partly because Haymaker testified that, in the dark, Hattori's camera might have looked like a gun, and that Hattori waved his arms at Peairs.

While the incident initially attracted only brief attention in the national American press, the shooting horrified Japan, where television networks devoted massive coverage to "the freeze case." In July 1993, President Clinton apologized to Hattori's parents Masaichi and Mieko. At Yoshi's funeral, the parents stated, "The thing we must really despise, more than the criminal, is the American law that permits people to own guns."

Over the next several months, 1.7 million Japanese and 150,000 Americans signed Mrs. Hattori's "Petition for Removing Guns from Households in the United States." Working with the Coalition to Stop Gun Violence, the Hattoris delivered the petitions to President Clinton personally on November 16, 1993, a few days before final Senate passage of the Brady Bill. President Clinton told the Hattoris that he believed that only police and the military should have handguns.

Mrs. Hattori tells Japanese audiences that the petitions led to the passage of the Brady Bill. Mr. and Mrs. Hattori filed a civil suit against Peairs, won $653,000, and used part of the money to set up foundations which award money to anti-gun groups in the U.S., and which bring an American student to Japan each year, to experience gun-free life.

Spurred in part by the Hattori tragedy, in the 1990s Japan began funding gun surrender programs in South Africa, pushing the United Nations to act against private gun ownership, and supporting gun prohibition around the world.

Although the core of the gun prohibition campaign is a belief that Japan's policy is culturally superior, another basis is the fact that, according to the Japanese National Policy Agency (NPA), handguns are smuggled into Japan from the United States, China, the Philippines, Thailand, Russia, Brazil, Peru and South Africa. The NPA reports that the main techniques are "(1) spot-welding of guns to a car imported from overseas to Japan, (2) smuggled aboard fishing boats, (3) concealment in sea or air cargo and (4) concealment in hand carrying luggage inside items such as electric appliance."

Ironically, Japan has a large firearms manufacturing industry, geared towards the export market. Browning firearms are manufactured there, as are several other well-respected brands of shotguns.

NOTES & QUESTIONS

1. *International transmission of cultural norms.* The Hattori tragedy brought to light the sharply different attitudes toward private gun ownership in Japanese society and in most parts of America. What weight should Americans give to Japanese criticisms of America's gun culture? More generally, should Americans view widespread criticism from other nations toward an American practice as presumptive evidence that the criticized practice is unwise? When are such cross-national (and cross-cultural) criticisms persuasive?

2. Compare the Japanese approach to eliminating privately owned rifles to the United States' 1994 "assault weapons" ban (now expired). In 1971, the Japanese government forbade all transfers of rifles, allowing license holders to keep them but requiring heirs to turn over the guns when the license-holder died. The U.S. "assault weapons" ban grandfathered existing guns, which remained freely transferable. In 2013, Senator Dianne Feinstein, sponsor of the 1994-2004 ban, introduced a bill for a new permanent ban, S.150, 113th Congress (2013); under an early draft of the bill (although not the bill as introduced), current owners could keep their guns if they paid a $200 per gun tax and got local police permission. The guns could never be transferred, and upon the owner's death, they would be confiscated. If you were designing a new ban, which approach would you favor? Why? Can you identify any constitutional problems with a law that prohibited owners from selling these guns or passing them on to heirs?

3. The United States and Japan have many cultural differences, including dramatically different experiences with firearms ownership and regulation. One consequence of this is vast differences in the number of private firearms, rate of firearms homicide, and rate of firearms crime in the two countries. Constitutional questions aside, what is the likelihood that the United States could pass and effectively implement Japanese style gun laws?

4. Would effective implementation of Japanese style firearms regulation in the United States require cultural change in the United States? If so, would you recommend a gradual process or a quick drastic change? Is that gradual process similar to the slippery slope fear that seems to drive some objections

to gun control? Is legislation sufficient to facilitate the necessary cultural change? Can you think of other areas of policy where law and culture collided in a dramatic way? Do those examples offer any lessons for the gun question? Aside from legislation, what other tools are available to push cultural change?

3. Mexico

Ernesto Villanueva & Karla Valenzuela, Security, Firearms and Transparency: Myths and reality of the right to own and bear firearms in Mexico (ebook excerpt)

First: The starting point that must remain clear is that the People's prerogative of owning and possessing firearms for their self-defense and security is a fundamental human right foreseen in the 10th article of the current Constitution, and has been part of the text of our Supreme Law since its 1857 predecessor. It did not appear as an addition or constitutional reform by what is denominated the Power of Constitutional Reform or the Permanent Constituent; rather, it has been part of the initial text of both constitutions, so there is no doubt about the will of the Constitutional Power (i.e., the original, sovereign political will that is not subject to a prior Constitution). This translates into a group of fundamental legal norms that give life to the Mexican State, both in its liberal 19th century version and in its 20th century social-liberal form or its dogmatic or teleological intentions (i.e., the ends or purposes it seeks) from the Constitution to the present day.

This right has not been imposed, but self-legislated by the Constitutional Power's own will. . . .

At the Constituent Congress of 1856-1857, after deliberations for and against the right to own and possess firearms, the proposal was approved with 67 votes in favor and 21 against in its first part and 50 votes in favor and 21 against in its second part. During the debates of the Constituent Congress of 1916-1917, the proposed Article 10 presented by the Chief of the Constitutionalist Army, Venustiano Carranza, by way of General Francisco J. Mujica was approved unanimously and without discussion. . . .

Second: The right to own and carry firearms has become perceived in a negative way possibly because of the convenience this represents to the Mexican political regime, and the conceptions it has of political stability and the freedoms of the governed.

. . . We must also dismantle the encompassing social stigma using information that will allow us to confront each of the supposed ''dangers'' the exercise of this constitutional right would allegedly bring. It is important to point out that these claims are not the result of empirical investigations into the subject-matter to substantiate at least a majority of these contentions/perceptions. At least, none based on data available to the public.

The process of progressive debilitation affecting the ability of the institutions charged with providing security and procuring justice to fulfill their constitutionally and legally-mandated duties has brought about a redefinition of different concepts and values within Mexican society. It is necessary to determine the proper scope and limits of the right to own and carry firearms . . . .

Day by day, not only is the number of public spaces which assure citizens the fundamental right to freedom of transit and the most-fundamental right to life increasingly constricted, but so too is the number of those private spaces that in principle demand even greater protection.

It is not, however, through the restriction of the fundamental rights of the People that public security and social confidence in our public institutions may be restored. To the contrary, an opportunity presents itself to make effective the fundamental rights consecrated in the Constitution, including, of course, the right provided by the Article 10, by reforming the secondary legislations to potentiate its normative efficacy in order to guard the legal values it protects: life and property. The right to own and carry arms is not, in principle, an end unto itself; it is a prerogative that enables the governed to defend against any potential action that places them in real, immediate or imminent danger. The underlying principle is self-evident: It is preferable to have a firearm and never need it, than it is to need a firearm and not have one. In any case, as indicated by its very name, it is the People's right, their prerogative; it is not their obligation.

Third: To enforce the right to own and carry firearms, there must be a series of reforms to the current legislation and, in particular but not exclusively, to the Federal Firearms and Explosives Law (LFAFE). . . .

. . . The following is a list of some, but not all, of the ways the secondary law goes against the nucleus of the fundamental right in question:

a) It restricts the possibilities of gun ownership and possession to a series of firearms whose calibers and characteristic, in most cases, lack the capacity and potency to effectively stop an aggressor;
b) It stems from the absurd supposition that the citizenship is schooled and trained in the correct use of firearms. As is well known, practically no one, save the people who are or once were part of one of the many different security forces, and the people who utilize firearms for hunting or sport, and alleged criminals, has any sort of instruction on the use of firearms. This possibility does exist in the comparative experience of other countries however. This fact, paradoxically, makes the regulatory law an obstacle for the citizenship to own and carry firearms for their defense and security;
c) It limits the task of firearms control to the military authorities, revealing lingering notes of authoritarianism that is not present in other contemporary democracies, where these chores have been assigned to the civilian authorities, as is the case in, say, the United States.
d) It establishes a wide margin for bureaucratic discretion in the issuance of the various permits for the ownership and possession of firearms, in addition to creating a greater waiting period and more requirements than is perceived in the compared experience with other countries.

This also represents an obstacle for the adequate exercise of the fundamental right enshrined in the 10th article of the Constitution.

e) It creates a monopoly favoring the military authorities regarding the production and sale of firearms. These measures limit the possibilities and potential of the public to lawfully participate in this activity without providing society any legal argumentation or justification as to how they honor the right established by Article 10 of the Constitution. This is part of the legacy of authoritarianism in our country and runs contrary to international best practices; and

f) The concept of ''home'' established by the Law is restrictive. . . . The penumbra of the concept does not allow us to determine if certain places such as commercial establishments or other places [are place where] the right to self-protection and self-defense may be exercised.

Fourth: One should remember that fundamental rights lack entity if they do not have normative guarantees allowing them to be exercised. . . . Such is the case with the Federal Firearms Law which, instead of protecting the rights granted by Article 10, in fact restricts them by overextending the legal powers of the secondary law by altering and modifying the sense of the law it was meant to regulate.

Fifth: In the passing of years, particularly recent years, one can perceive how the area dominated by the Rule of Law has been reduced, allowing for greater prevalence of ever-widening islands of insecurity, corruption and impunity throughout the national territory. There are fact-based analyses supporting this observation.

. . . Worse still, the recent assassinations of public servants, candidates to public office and well-known political leaders have brought to light a disquieting question: How can the Mexican State defend the security of its citizens, when it cannot defend the physical integrity of a growing number of men and women charged with enforcing the Law? It is not our position that allowing the population to exercise their right to own and carry firearms is ''the'' solution to the violence and generalized insecurity throughout the country. It is, however, part of a long list of pending tasks that will be necessary for the people on foot, almost the totality of the population, to be able to carry an instrument for their self-defense in the framework of the Constitution. It would be futile to recount all of the human rights, from the first to the most recent generation, if the most basic requirements for their exercise are not met: the existence of physical and spiritual life. Without a human life to enjoy them, all rights become moot. It is improbable that the immobility of the community and the government's bet on silently waiting will be enough to recover the tranquility we have lost. . . . The expansive exercise of the right to own and carry arms must be accompanied by a process of evaluation and reformation of the educative system. Education is a vehicle for transmitting the consciousness that give people the cognitive elements allowing them to exercise the sociological notion of citizenship. The right to own and carry firearms in terms of what the regulatory law has developed is inversely proportional to its due exercise. In effect, the Mexican intellectual and technical diet regarding the use of firearms has historically been found lacking, nurtured instead by moral judgments, and deprived of the elements present in relative international best practices.

Sixth: The recovery of the normative effectuality pertaining to this right on behalf of the People implies a substantial reform or perhaps even the abrogation of the current LFAFE and the implementation of a new legal framework, derived from the best practices concluded from past experience.

. . . Among the many changes required we can include those relative to civic education. . . .

Today, the references available to society are not sympathetic to elements drawn from empirical research . . . ; elementary and middle school textbooks do not cover this fundamental right; and the vacuums of information that should be filled by the right to knowledge granted by Article 6 of the Constitution, are substituted with discourse and news media imagery that perpetuate the myths and prejudices surrounding firearms. Paradoxically, this only serves to generate a vicious circle of social disinformation.

It would be redundant to say that personal responsibility is not out of the scope of civic education. . . . In other words, formal and informal educational programs must emphasize the use of firearms in a manner that is rational, responsible, limited and focused on self-defense and personal security.

Seventh: Simultaneously, a future regulatory law must take into account, at least, the following considerations:

a) The subordination of the authorization of permits for the ownership and possession of firearms to the successful completion of technical instruction courses on the use of firearms, for their ideal use in personal security and self-defense situations. Today, existing firearms-related courses, certifications and technical studies are available only to law enforcement agents, leaving the civilian population in a state of defenselessness. It is evident that the lack of instruction in this matter could potentially facilitate the fundamental right in question becoming a danger to society instead of a complimentary tool for the action of the State, within the bounds of the Constitution. For this reason, police academies, military command zones and especially private firearms-instruction centers should provide the widest array of instruction courses on the subject. The presence of private firearms-instruction centers throughout the country should be encouraged, but their self-defense curricula should be subject to previously established, objective criteria.
b) The establishment of clear criteria regarding the authorization of weapons-carry permits that allow for a reasonable degree of predictability, something which today does not exist.
c) The creation of mechanisms to dissuade people from carrying firearms in public without the proper license, in order to incentivize the registration of the greatest possible number of firearms. This will allow for a degree of control that will disincentive people from participating in the black market, which today fills the void caused by the restrictions in the current legislation.
d) Indicating, in a restrictive manner, the firearms destined for the exclusive use of the Armed Forces, so that citizens may have access to firearms with an adequate capacity for safeguarding their lives,

physical integrity and their property. In other words, doing the exact opposite of what the legislation dictates today.

e) The monopoly on the sale and fabrication of firearms on behalf of the SEDENA [the national army] should be eliminated, allowing the participation of the private sector in this quadrant of the economy, subject, of course, to supervision by the competent authorities. This decision would not only expand supply, but also reduce the costs of acquiring a firearm while fighting illegal arms traffic (by establishing tariffs for the importation of firearms by private persons, with the restriction that they obtain a letter of naturalization in customs practices through the so-called tax-exempt franchises) and creating employment opportunities in the industry, as comparative experience has demonstrated.

f) The specific and personal information contained in firearms registrations should be kept confidential, under the premise that knowledge of the names of gun owners and the type of firearm registered would eliminate the elements of surprise and preventive dissuasion that are coupled with the ownership and possession of firearms.

g) Mechanisms guaranteeing transparency must be put into place throughout the entire process to allow the community to follow and verify the emergence of this legal institution in Mexican society.

h) All indirect measures designed to constrain gun rights (such as high permit costs, prolonged waiting periods, among others) should be eliminated.

Eighth: It is no secret that the Mexican state is currently going through a period of weakness or the Rule of Law is fragile in ample segments of the country. A simplistic pseudo-solution in this context would be to wait for a better moment to give life to our civil rights, which include the human right to the possession and ownership of firearms.

This stance, which may appear attractive in its simplicity, does bring with it certain risks, not just to the spread and survival of democracy, but to the permanence of a national identity and the survival of common citizens, particularly the vast majority of the population who does not have access to bodyguards and protection details, to privileged and guarded areas for recreation and socialization, to securely guarded schools and neighborhoods; in sum, all of the things that help to make life more livable.

There are no rational reasons to allow the weakening of society's efforts to restore the physical and psychological security that has been lost, opting to merely hope that a miracle (and it would certainly be a miracle), or transient administrative measures such as constantly replacing public servants, will restore them on their own.

The citizens of Mexico can wait for someone or something to provide them with reforms that would, in the long term, allow these times to be looked back upon as a dark but transient time in our nation's history; or they can seize this historic moment and use the current institutional crisis as an opportunity to initiate a normative reformation and a process of change in the various pernicious social and cultural practices that plague us today, without leaving aside this human right that would serve, at the very least, to halt the increasing areas of

insecurity, particularly for those in society who are the least fortunate. The once untouched areas of comfort held by middle income sectors have not been immune to erosion or intrusion in these last few years. This alone justifies that deciding to look the other way is no longer an option.

NOTES & QUESTIONS

1. For the current text of Mexico's constitutional right to arms, see Part A.1.a. of this chapter. For the text of Mexico's national gun control statute, and for prior versions of the constitutional guarantee, see David B. Kopel, *Mexico's Gun Control Laws: A Model for the United States?*, 18 Tex. Rev. L. & Politics (2014). The article also provides data about gun ownership in Mexico, the practical operation of Mexican gun laws operate, and current controversies, such as the smuggling of U.S. guns into Mexico.
2. Villanueva and Valenzuela argue that violent crime is destroying the fabric of life in Mexico, and that the Mexican gun control statute should be changed so that Mexican citizens can purchase, possess and carry effective arms for self-defense, and receive training in doing so. If you were a member of the Mexican Senate or the Chamber of Deputies, which, if any, of Villanueva's and Valenzuela's specific proposals would you vote for?

4. Switzerland

American Founding Fathers such as John Adams and Patrick Henry greatly admired the Swiss militia, which helped inspire the Second Amendment to the U.S. Constitution — the preference for a "well regulated militia" as "necessary for the security of a free state," and the guarantee of "the right of the people to keep and bear arms." Late in the nineteenth century, the American military sent observers to Switzerland in hopes of emulating the Swiss shooting culture.

Under the Swiss militia system, every male, when he turns 20, is issued a fully automatic military rifle and required to keep it at home along with 50 rounds. Universal service in the Militia Army is required. When a Swiss is no longer required to serve (age 50 for officers, 45 for others), he may keep his rifle (converted from automatic to semi-automatic) or his pistol (if he served as an officer).

The American Founders also admired Switzerland's decentralized system of government. Switzerland is a confederation in which the federal government has strictly defined and limited powers, and the cantons, even more so than American states, have the main powers to legislate. The citizens often exercise direct democracy, in the form of the initiative and the referendum. The late political scientist Gianfranco Miglio said the Swiss enjoyed the "last, real federalism in the world," as opposed to the "false and/or deteriorated" federalism of Germany or America.

For centuries, the Swiss cantons had no restrictions on keeping and bearing arms, though every male was required to provide himself with arms for militia service. By the latter part of the twentieth century, some cantons required licenses to carry pistols, imposed fees for the acquisition of certain firearms (which could be

evaded by buying them in other cantons), and imposed other restrictions — albeit never interfering with the ever-present shooting matches.

In other cantons — usually those with the lowest crime rates — one did not need a police permit for carrying a pistol or for buying a semi-automatic, look-alike Kalashnikov rifle. A permit was necessary only for a nonmilitia machine gun. "Silencers" (noise suppressors) were unrestricted. Indeed, the Swiss federal government sold to civilian collectors all manner of military surplus, including anti-aircraft guns, cannons, and machine guns.

In 1996, the Swiss people voted to allow the federal government to legislate concerning firearms, and to prohibit the cantons from regulating firearms. Some who favored more restrictions (as in other European countries) saw this as a way to pass gun-control laws at the federal level; those who objected to restrictions in some cantons saw it as a way to preempt cantonal regulation, such as the former requirement in Geneva of a permit for an air gun.

The result is a federal firearms law that imposes certain restrictions but leaves virtually untouched the ability of citizens to possess Swiss military firearms and to participate in competitions all over the country.

The Federal Weapons Law of 1998 regulates the import, export, manufacture, trade, and certain types of possession of firearms. The right of buying, possessing, and carrying arms is guaranteed with certain restrictions. It does not apply to the police or to the Militia Army — of which most adult males are members.

The law forbids fully automatic arms and certain semi-automatics "derived" therefrom; but Swiss military rifles are excluded from this prohibition. (The exclusion makes the prohibition nearly meaningless.) Further, collectors may obtain special permits for the "banned" arms, such as submachine guns and machine guns.

In purchasing a firearm from a licensed dealer, a permit is required for handguns and some long guns, but not for single-shot rifles, multi-barrel rifles, Swiss bolt-action military rifles, target rifles, or hunting rifles. Permits must be granted provided the applicant is at least 18 years old and has no disqualifying criminal record. Authorities may not keep any registry of firearms owners. Private persons may freely buy and sell firearms without restriction, provided that they retain a written agreement, and that the seller believes the purchaser is not criminally disqualified.

A permit was already required for manufacturing and dealing in firearms, but now there are more regulations. Storage regulations exist for both shops and individuals. During the Cold War, the government required every house to include a bomb shelter, which today often provide safe storage for large collections of firearms (and double as wine cellars).

Criminal penalties depend on intent. Willfully committing an offense may be punishable by incarceration for up to five years, but failure to comply through neglect, or without intent, may result in a fine or no punishment at all.

Before 1998, about half the cantons allowed all law-abiding citizens to carry handguns for protection in public; in some cases, an easily obtainable permit was needed. The new federal law makes permits necessary everywhere, and permits are issued restrictively. (Still, one can freely carry a handgun or rifle to a shooting range, and they are common.)

Any proposed new restrictions on peaceable firearm possession and use are opposed by the Militia Army; by shooting organizations, such as the Swiss Shooting Federation; and by the gun-rights group ProTell, named after national hero

William Tell. Their allies are the political parties that support free trade, federalism, limited government, noninterventionism, and remaining independent from international organizations such as the European Union or United Nations.

Supporters of firearm restrictions tend to be socialists and Leftists — including those who wish to abolish the Militia Army, to strengthen the central government to be more like Germany, and to join the European Union. Ironically, the Swiss Socialist Party went through a similar period at the beginning of Hitler's rise. But the Swiss socialists soon recognized the danger, and in 1942 — when Switzerland was completely surrounded by Axis dictatorships — the Socialist Party resolved that "the Swiss should never disarm, even in peacetime."

Based on telephone surveys, the Swiss household gun-ownership rate is 27 percent, not counting militia weapons. Contrast this with the household gun-ownership rates (at least for households willing to divulge gun ownership to a government-affiliated telephone pollster) of 16 percent for Italians, 23 percent for French, and 9 percent for Germans.

In 1994, the homicide rate in Switzerland was 1.32 per 100,000 in the population. Of those, 0.58 (44 percent) involved firearms. Compare this to Italy 2.25 (1.66 by firearms), France 1.12 (0.44), and Germany 1.17 (0.22).

Stephen P. Halbrook, Remarks at the introduction of his book, Target Switzerland: Swiss Armed Neutrality in World War II

University Club, New York, N.Y. (July 16, 1998), and Mayflower Hotel, Washington, D.C. (July 21, 1998)

Americans have been known to confuse the Swiss flag — white cross, red background — with the Red Cross banner, which is the opposite. In World War II, Swiss fighter planes, painted with the Swiss flag, attempted to intercept all foreign planes in Swiss air space and to order them to land. An American pilot, asked whether he thought about firing on the fighters which instructed him to land, responded: "I would never fire on a Red Cross plane!"

Almost 1700 American pilots found refuge in Switzerland after their planes were damaged in bombing raids over Germany. However, the Nazis were not amused by Switzerland's armed neutrality. Hitler was livid that the Swiss used fighters bought from Germany to shoot down 11 German Luftwaffe planes; the saboteurs he sent to blow up Swiss airfields were captured (they aroused suspicion because they were all dressed in the same odd outfits!).

It is a pleasure to have Sarpedon, a first-rate military publisher, fill the void in World War II history by publishing my book on the Nazi plans to eradicate the Swiss democracy and the Swiss plans to resist to the end. Over 200 years ago, America's Founding Fathers like Patrick Henry and John Adams were inspired by the example of Switzerland — a democracy in a sea of monarchial despotism. Having devoted much of my career to American constitutional law, publishing books and arguing in the Supreme Court, I was intrigued to know how the Swiss institutions which influenced our Constitution proved their worthiness in the darkest years of European history: Hitler's Third Reich, 1933-45.

In 1940, after the rest of central Europe collapsed before the German army, Swiss Commander in Chief Henri Guisan assembled his officers at the Rotli meadow near the Lake of Lucerne. He reminded them that, at this sacred spot, in the year 1291, the Swiss Confederation was born as an alliance against

despotism. Guisan admonished that the Swiss would always stand up to any invader. One has only to recall the medieval battle of Morgarten, where 1400 Swiss peasants ambushed and defeated 20,000 Austrian knights.

In World War II, the Swiss had defenses no other country had. Let's begin with the rifle in every home combined with the Alpine terrain. When the German Kaiser asked in 1912 what the quarter of a million Swiss militiamen would do if invaded by a half million German soldiers, a Swiss replied: shoot twice and go home. Switzerland also had a decentralized, direct democracy which could not be surrendered to a foreign enemy by a political élite. Some governments surrendered to Hitler without resistance based on the decision of a king or dictator; this was institutionally impossible in Switzerland. If an ordinary Swiss citizen was told that the Federal President — a relatively powerless official — had surrendered the country, the citizen might not even know the president's name, and would have held any "surrender" order in contempt.

When Hitler came to power in 1933, the Swiss feared an invasion and began military preparations like no other European nation. On Hitler's 1938 *Anchluss* or annexation of Austria, the Swiss Parliament declared that the Swiss were prepared to defend themselves "to the last drop of their blood."

When the Fuehrer attacked Poland in 1939, General Guisan ordered the citizen army to resist any attack to the last cartridge. After Denmark and Norway fell in 1940, Guisan and the Federal Council gave the order to the populace: Aggressively attack invaders; act on your own initiative; regard any surrender broadcast or announcement as enemy propaganda; resist to the end. This was published as a message to the Swiss and a warning to the Germans; surrender was impossible, even if ordered by the government, for the prior order mandated that it be treated as an enemy lie.

When the Germany army, the Wehrmacht, attacked Belgium and Holland, it feigned preparations for attack through Switzerland. Like a giant movie set, divisions moved toward the Swiss border by day, only to sneak back again by night and repeat the ruse the next day. Both the Swiss and the French were tricked into thinking that concentrations of troops were massing to attack through Switzerland and into France. Swiss border troops nervously awaited an assault each time the clock approached the hour, for the Germans were punctual in launching attacks on the hour.

When France collapsed, detailed Nazi invasion plans with names like "Case Switzerland" and "Operation Tannenbaum" were prepared for the German General Staff. They only awaited the Fuehrer's nod.

Threatened with attack from German and Italian forces from all sides, General Guisan devised the strategy of a delaying stand at the border, and a concentration of Swiss forces in the rugged and impassable Alps. This chosen place of engagement was called the *Réduit national*, meaning a national fort within a fort. German tanks and planes, Panzers and Luftwaffe, would be ineffective there.

A fifth of the Swiss people, 850,000 out of the 4.2 million population, was under arms and mobilized. Most men were in the citizens army, and boys and old men with rifles constituted the Home Guard. Many women served in the civil defense and the anti-aircraft defense.

Nazi invasion plans for 1941 were postponed to devote all forces to Operation Barbarossa, the attack on Russia. The Swiss would have their turn in due time, Hitler said. Hitler banned the play *William Tell*. He called the Swiss "the most despicable and wretched people, mortal enemies of the new Germany";

in the same breath he fumed that all Jews must be expelled from Europe. His plan to annihilate the Jews would have faced a special obstacle in Switzerland, where every Swiss Jew (like every other citizen) had a rifle in his home. In the heroic Warsaw ghetto uprising of 1943, Jews demonstrated how genocide could be resisted with only a few pistols and rifles.[32] Hitler boasted that he would liquidate "the rubbish of small nations" and would be "the Butcher of the Swiss." But the dictator was more comfortable with liquidating unarmed peoples and was dissuaded from invading Switzerland. There was no Holocaust on Swiss soil.

As a neutral, the Swiss represented American interests before the Axis powers, such as by inspecting German prison camps holding American POWs. When Vichy France was occupied, German soldiers with submachine-guns took over the American embassy. The Swiss minister, brandishing his Swiss army knife, drove them out.

A Nazi SS invasion plan, recommended for execution in 1944, warned the German general staff that the Swiss fighting spirit was high and shooting instruction good; German losses would be heavy, and a conquered Switzerland would require a strong occupation force. D-Day put the plan on hold, but new dangers threatened Switzerland as the Allies pushed the Nazis back. In 1944, the Wehrmacht's counter-offensive in the Ardennes, leading to the Battle of the Bulge, proved that the Nazi Beast was still strong and full of surprises. The Swiss prepared for an attack from Germans retreating from Italy. The Swiss resolve remained high, for, as the US State Department declared, "no people in Europe are more profoundly attached to democratic principles than the Swiss."

Switzerland saved a half million refugees who came there in the war. Restrictive policies by government officials, often secret, were ignored by Swiss who helped refugees. Let it be remembered that Switzerland took in more Jewish refugees than the United States took in refugees of all kinds.

America's great journalist Walter Lippmann wrote that the Swiss proved their honor by surviving the dark days of 1940-41, they proved that diverse peoples and language groups can live peacefully together, they repudiated Nazism. "It must never be forgotten," he wrote, "how the Swiss served the cause of freedom."

In the American Revolution, a Swiss leader wrote to Benjamin Franklin calling America and Switzerland the "Sister Republics." After two centuries of mutual respect, today a media frenzy falsely depicts the Swiss as Nazi collaborators. It was the opposite. Nazi Propaganda Minister Goebbels called Switzerland "this stinking little state" and ranted that the Swiss press was "either bought or Jewish." The Swiss bashing seen in the *New York Times* today could use a reality check by reference to the *Times* issues of the war period—such as a 1939 issue with a map showing Switzerland as a possible invasion route, or a 1942 issue calling Switzerland an "Oasis of Democracy." Our new "Ugly Americanism" will never have the credibility of Winston Churchill, who observed near the end of the war: "Of all the neutrals Switzerland has the greatest right to distinction. . . . She has been a democratic State, standing for freedom in self-defence among her mountains, and in thought, in spite of race, largely on our side."

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32. [For more on the Warsaw ghetto, see David B. Kopel, *Armed Resistance to the Holocaust*, 19 J. on Firearms & Pub. Pol'y 144 (2007), *available at* http://www.davekopel.com/2a/foreign/Armed-Resistance-to-the-Holocaust.pdf. —Eds.]

NOTES & QUESTIONS

1. Compare Halbrook's summary of the Swiss experience during WWII with the objection that individuals bearing their private arms could offer little resistance to tyranny against states wielding advanced military technology. Has military technology advanced so much since WWII that the Swiss lesson (suggesting that private arms can have a substantial deterrent effect on outside state aggressors) is no longer applicable? Does your assessment change depending on whether people are resisting an outside force or their own domestic government gone rogue? *See* Chapter 11.K.
2. As a practical political matter, how much advanced military technology can "domestic tyrants" intent on preserving a functioning state really use against their own populations? Do private arms give citizens more flexibility within this dynamic, or do they just impose more risk that the state will use higher levels of violence?

5. Canada

In 2012, the Canadian Parliament passed Bill C-19, which repealed Canada's mandatory federal registry of all privately owned long guns, by a vote of 159-130 in the House of Commons and 50-27 in the Senate. What follows is excerpted from the debate on the bill in the House of Commons. In Canada, as in the United Kingdom, "government" is often used to mean the party that currently has the majority in Parliament.

Parliament of Canada, 41st Parliament, 1st Session, Ending the Long-gun Registry Act (Feb. 13, 2012)

Hon. Diane Finley [of the Conservative Party of Canada] (for the Minister of Public Safety) moved that Bill C-19, An Act to amend the Criminal Code and the Firearms Act, be read the third time and passed.

Mr. Garry Breitkreuz (Yorkton — Melville, [Saskatchewan,] CPC [Conservative Party of Canada]):

Mr. Speaker, I am pleased and honoured to have the opportunity to begin the third reading debate on Bill C-19, ending the long-gun registry act. I thank the public safety minister and the parliamentary secretary for allowing me the honour to lead off on this debate.

The legislation before us today fulfills a long-standing commitment of our government to stand up for law-abiding Canadians while ensuring effective measures to crack down on crime and make our streets and communities safer for all Canadians. The bill before us today is quite simple. It would put

an end to the need for law-abiding hunters, farmers and sports shooters to register their non-restricted hunting rifles and shotguns. It is nothing more and nothing less.

For those who are not familiar with this issue, there were two requirements to gun ownership in Canada. One was registration and the other was licensing. I am sure by now that my hon. colleagues on both sides of the House are very familiar with my position on Bill C-19. I feel that laying a piece of paper beside a firearm, which is called registration, does nothing to improve public safety.

Instead of explaining my position over again, I have decided to simply highlight testimony from several expert witnesses who appeared before the public safety committee as it studied Bill C-19 last November. There is a recurring theme in all of their remarks and the four elements of that theme are: First, the long gun registry has been a colossal waste of money; second, it has targeted law-abiding gun owners, not the criminal use of firearms; third, it has done nothing to enhance public safety; and fourth, the data is so horribly flawed that it must be destroyed.

For the rest of my remarks, I will read into the record witnesses' testimony. The first person I will quote is Mr. Greg Farrant of the Ontario Federation of Anglers and Hunters who had this to say about Bill C-19:

> A paper trail of trained, legal, licensed firearm owners does not address the real problem. Even a well-run registry, which this is not, will not prevent random violent crime. Believing in that ignores the glaring reality that the vast majority of criminals don't register firearms; and in the rare case when they do, a piece of paper and the creation of a system where possibly 50% of the firearms in Canada are not included[33] does nothing to anticipate the actions of an individual, nor do anything to prevent such actions in the first place.
>
> In the case of the long-gun registry, there's a glaring absence of fact-based evidence to support its existence. Suggestions that gun crime in Canada has declined since the introduction of the long-gun registry under Bill C-68 ignores the fact that gun crime, particularly gun crime using long guns, has been on the decline in this country since the 1970s, two decades before this registry ever came into being. Crimes committed with long guns have fallen steadily since 1981. Bill C-68 was not introduced until 1985 [*sic*, 1995] and wasn't mandatory until 2005.
>
> The present system focuses all of its efforts on law-abiding firearms owners and includes no provisions for tracking prohibited offenders, who are most likely to commit gun crimes.
>
> This should be about who should not have guns rather than about who does.
>
> Another prominent argument we've already heard here today is how many times per day the system is used by police. . . . We've recently heard 14,000 and 17,000. . . . The vast majority of so-called hits on the registry have little or nothing to do with gun crime. The majority of these are cases of an officer maybe stopping a vehicle for a plate identification or an address identification, which automatically touches all databases, including the long-gun registry, despite the fact that the check has nothing to do with firearms in the first place.

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33. [Presumably due to massive noncompliance by Canadians. — Eds.]

The next quote I will read is from Solomon Friedman, who is a criminal defence lawyer. He stated:

> You will no doubt hear in the coming days and weeks from various interest groups about how the long-gun registry is a minor inconvenience, merely a matter of paperwork. We register our dogs, our cats, and our cars, they say. Why not register our shotguns and rifles, as well? As you know, the registration scheme for non-restricted long guns, and for prohibited and restricted firearms as well, is enacted as federal legislation under the Criminal Code and under the Firearms Act.
>
> With the criminal law power comes criminal law procedure and, most importantly, for the nearly two million law-abiding licensed gun owners in Canada, criminal law penalties. Unlike a failure to register a pet or a motor vehicle, any violation of the firearms registration scheme, even the mislaying of paperwork, carries with it the most severe consequences: a criminal charge, a potential criminal record, detention, and sometimes incarceration. This is hardly comparable to the ticket under the Provincial Offences Act or the Highway Traffic Act. . . .
>
> In addition, registry violations are often grounds for colourable attempts on the part of police, the crown, and the chief firearms officer to confiscate firearms and revoke lawfully obtained gun licences. . . . [L]ong-gun registry violations [are] used as a pretext to detain individuals, search their belongings and their homes, and secure evidence to lay additional charges.
>
> Parliament ought not to be in the business of transforming licensed, law-abiding, responsible citizens into criminals, especially not for paper crimes.
>
> There are millions of Canadian gun owners who will be glad to know that in the halls of Parliament Hill, hysteria and hyperbole no longer trump reason, facts, and empirical evidence.
>
> . . . [T]he registration of firearms, aside from having no discernible impact on crime or public safety, has merely alienated law-abiding firearms owners and driven a deep wedge between gun owners and law enforcement.

The next quotation is from Sergeant Murray Grismer of the Saskatoon [, Saskatchewan] police service. He said:

> . . . [T]he registry for non-restricted rifles and shotguns . . . should be abolished. Thousands of police officers across Canada, who are in my opinion the silent or silenced majority, also share this position.
>
> . . . [T]he Canadian Police Association . . . adopted their position without ever formally having polled their membership.
>
> The Saskatchewan federation is the only provincial police association that polled its entire membership on the issue of the registration of firearms. When polled, the Saskatoon Police Association was 99.46% against the registry, while our compatriots in many of the other Saskatchewan police forces were 100% in opposition to the registry.
>
> . . . [T]he registry can do nothing to prevent criminals from obtaining or using firearms. École Polytechnique, Mayerthorpe, Spiritwood and Dawson College are synonymous with tragic events involving firearms. However, the firearms registry for long guns would not, could not, and did not stop these tragic events. The retention of the firearms registry or records will do nothing to prevent any further such occurrences. . . . [E]ven Canada's strict licensing regime and firearms registry cannot prevent random acts of violence.
>
> For the officers using the registry, trusting in the inaccurate, unverified information contained therein, tragedy looms at the next door. . . . Knowing what I do

about the registry, I cannot use any of the information contained in it to square with a search warrant. To do so would be a criminal act.

Projections from within the Canadian Firearms Centre privately state that it will take 70 years of attrition to eliminate all of the errors in the registry and to have all of the firearms currently in Canada registered. This level of inaccuracy is unacceptable for any industry, let alone law enforcement. . . .

I would like to now quote from Linda Thom, the Canadian Olympic gold medal winning shooter, who said:

—I'm accorded fewer legal rights than a criminal. Measures enacted by Bill C-68 allow police to enter my home at any time without a search warrant because I own registered firearms, yet the same police must have a search warrant to enter the home of a criminal. I'm not arguing that criminals should not have this right—they should. I'm arguing that this right should be restored to me and all Canadian firearms owners.

My next quotation comes from Ms. Diana Cabrera of the Canadian Shooting Sports Association. She had this to say:

—I'm an international competitor shooter. Although I'm Canadian, I currently compete for the Uruguay national team. . . . The challenge of obtaining the public safety goals of the firearms . . . are major concerns . . . the fear of confiscation, the perceived social stigma of firearm ownership and demonization, and the many costs and burdensome processes involved. . . . There is no question that the long-gun registry has deterred individuals from entering their shooting sports. . . . The main issue for competitive participants is the fear of imminent criminality. They may easily find themselves afoul of uniformed law enforcement or [Canadian Border Services Agency] officers, even if all the paperwork is in order. Any paperwork error may lead to temporary detention, missed flights, missed shooting matches, and confiscation of property. . . . Law enforcement and media coverage of firearm issues have made this situation even worse. Firearm owners are subject to spectacular press coverage in which reporters tirelessly describe small and very ordinary collections of firearms as an "arsenal". . . . Will I be targeted at a traffic checkpoint if a CPIC verification says I possess firearms?

Tony Bernardo, executive director of the Canadian Shooting Sports Association, talked about the number of firearms owners of guns in Canada. He said:

Based upon the Canada Firearms Centre's polling figures, in 1998 there were 3.3 million firearms owners in Canada. On January 1, 2001, 40% of Canadian gun owners—over 1 million people—became instant criminals.

Fewer than half the guns in Canada are actually in the registry. . . . Getting the ones that are out there to actually come into the system would be like pulling teeth. . . . To get those people to come forward now, you would have to go right back to the very basics of the act and change the very premise of the act; the first sentence says that it's a criminal offence to possess a firearm without a licence.

Mr. Garry Breitkreuz: . . .

I would like to point out to the member something that was said at committee. I have to lay this on the public record here. During the eight years from

2003 to 2010, there were 4,811 homicides, and of these, 1,408 involved firearms. The data Statistics Canada gathered revealed that only 135 of the guns were registered. In just 73 cases, fewer than 5% of all firearms homicides, was the gun registered to the accused, and some of them of course may be innocent. Only 45 of the 73 cases involved long guns, fewer than 1% of homicides. One hundred and twenty-three police have been shot and killed. Only one of these murders involved a registered long gun and it did not belong to the murderer.

We are focusing on the wrong thing. All the statistics I have heard, and the member referred to some of them, are completely irrelevant in the way they are being cited.

We really need to dig to the bottom of this. I have done that. I had to change my mind on this issue after I had dealt with it for one year. I had to do a 180 and tell myself after I had looked at the evidence that the firearms registry is not working. I thought one could not be opposed to gun control, but many people confuse gun control with the firearms registry. It is not, and that is what we need to remember.

Ms. Françoise Boivin (Gatineau, [Québec,] NDP [New Democratic Party]): . . .

From the outset, I have been in favour of maintaining the firearms registry. In fact, I was in favour of creating it. Unfortunately, we have a tendency to quickly forget history, and that is why we keep making the same damn mistakes all the time. We are forgetting why the registry was created. The firearms registry was created under Bill C-68. I would like to give a short history lesson. I would like to tell you what really happened, since the Conservatives like to reinvent history.

This bill was introduced because, in 1989, a deranged man entered the École Polytechnique with the expressed intention of shooting the young women who were going to school there. He had mental health problems, but whatever the reasons, this crazed gunman entered the school, targeted people and killed them. We must remember this. My heart bleeds for these victims.

Yet since that time, the Conservatives have been constantly using the issue of abolishing the firearms registry to gain political advantage. They have turned it into their pet issue, as though Canada would crumble if we kept the firearms registry. . . .

The goal was for our society, our country, to have a record of who owns guns and how many they own in order to ensure that the individuals have the right to own those guns, that they are storing the weapons safely, and that they do not intend to use them for criminal purposes. Is it a threat to public safety for a society to seek that assurance? If so, what a terrible society. This is not a perfect system, but if we have to choose between scrapping it entirely and improving it, I think we would be better off improving it.

. . . You do not, however, throw the baby out with the bathwater just because the Liberals did not know how to do their job. You try to improve things.

That is what we strove to do, on our side of the House. We listened to people with completely opposing points of view. We listened to those who said that the registry must not be touched. That is what we do in the NDP: we listen to what people have to say. We do not listen only to one category of individuals in society, as the members opposite have done on this issue. We listened to the concerns of

hunters, aboriginal people, first nations and police chiefs. We listened to the concerns of almost all stakeholders so that we could attempt to eliminate the irritants.

Obviously, if you are a hunter, you do not want to be labeled a criminal for forgetting to register a weapon. However, what our colleagues opposite do not admit is that the irritants have been largely removed. There are now fewer complaints because of the armistice [an amnesty allowing registration by people who had missed the original deadline] and the fact that there are incredibly generous time frames for the registration of firearms. . . .

The Conservatives are speaking on behalf of a minority of people and the National Rifle Association. There is perhaps no hard evidence that this is the case, but there is something fundamentally bizarre. As a lawyer, I know that when something factual seems to point to but one conclusion, even if not by direct association, there is a good chance that it will be fact. Given that the witnesses who appeared before us in committee are the same people who travel around the United States advocating that every American citizen should carry a weapon in their pocket, I can put two and two together and work out what truly motivates them.

When I talk to hunters — and there are many in my neck of the woods — I ask them what is the matter with the gun registry. They have told me that, at first, it was cumbersome, and that they did not know how it worked. They do not seem to really understand how it works. They also told me that, with time, they have gotten used to it, have registered their guns and do not talk about it.

In a similar vein, I can just imagine the debate that took place when the lawmakers introduced automobile licensing. People travelled by horse and buggy, and I am sure that there was not much registration. How did we establish the registration system when we began driving cars? I am trying to imagine the debates that took place in the early days of Confederation.

That said, we do not have to get rid of something just because it irritates people. After conducting studies and having discussions with various people who were for or against the registry, we presented some very reasonable proposals to remove the irritants.

From the outset, I have tried to understand why our friends opposite have mounted such a visceral attack on the registry. Thinking of the victims does elicit great emotions in me and I do feel very sad. But I can still take Bill C-19, read it and ask myself, what complaints do our Conservative friends have? First, they say that it does not save lives. No one here can confirm this.

When I asked the question in committee, it made the government's witnesses uncomfortable. It bothered them when I asked them whether they could tell me with certainty and with evidence to back their claims, that not one life had been saved thanks to the firearms registry. Chiefs of police came to tell us that they were using the registry. People in suicide prevention came to tell us that since the registry was established, suicide rates had dropped. Generally speaking, long guns are used for suicide. A smart person can put two and two together and realize that the number of suicides with a long gun goes down when there is a registry. The problem was that no one was able to tell me that the registry had not saved at least one life. Saving a single life is certainly worth $1 million or $2 million a year. If we can save a few lives a year, then so much the better.

Whether some people like it or not, the registry is that and more. I would not base my entire argument on the fact that the registry saves lives because often, people will counter the argument by saying that the registry did not prevent a man from gunning down women at the Polytechnique. That is the type of debate we are having. No one on this side of the House is claiming that the registry is going to prevent a mentally ill person from walking around with a legally obtained gun and doing whatever he wants with it. That is one of the Conservatives' arguments. However, evidence shows that the police have used the data in the registry in their investigations in order to find out how many guns a person possesses, and so forth. . . .

Quebec wants to have the data transferred to it. How does transferring the data to Quebec hurt anyone? The province does not want to use the data to criminalize people. It has no jurisdiction when it comes to the Criminal Code. The friends of the members opposite who are hunters will not have a problem. If Quebec wants to legislate in this area and ensure that people with long guns are registered and wants to know how many weapons the registrants have, then the data will be useful.

Clause 11 of Bill C-19 includes a shocking loophole: I could own a legally obtained weapon and transfer ownership to my colleague on my right, and the only question I would be asked would be whether I had reason to believe that my colleague should not have a weapon.

Some people might contradict me on this, but honestly, I do not really get the sense that he should not have a weapon, so I transfer ownership of the weapon because I do not feel like having it anymore and I need the $300. So I give the weapon to my friend. If the Conservatives cannot see the loophole in that, then there is a problem. It is not safe.

Let us turn to the Commissioner of Firearms' report. From what I know, the commissioner is not a hysterical person or someone who is out of touch. The commissioner's report includes facts and is based on factual data collected year after year demonstrating how the registry works and how it is useful. I would encourage hon. members to read this report, because having read it, members cannot in all decency rise in this House and vote in favour of Bill C-19 because we know what steps have been taken to address all the irritants. And that is all the hunters, aboriginal peoples, first nations, gun collectors and the rest were asking us for: to have a way of registering a weapon without it being more worrisome and damaging than necessary. Everything is there, everything is permitted and registration hardly takes 15 minutes. Hold on. We may want to prevent the proliferation of weapons in circulation, but we will no longer be complying with our international treaties. . . .

In closing, there are so many things that need to be said. People write to me about this every day to share data with me. The public health authorities in Quebec are calling unanimously for the registry to be kept. This is important, and it has been proven that the registry has had an impact when [it] comes to long guns. . . .

Mr. Ryan Leef (Yukon, CPC):

Mr. Speaker, it is important that we clear up the record on one thing. It is not something the opposition has done throughout this debate, much of which I have been privy to.

I heard the hon. member say that we had heard testimony at the committee about a reduction in suicide rates. That is absolutely not the case. In fact, the expert testimony and evidence we heard at committee was that suicide rates had no correlation whatsoever with the long gun registry and had more in fact to do with the introduction of medications, the SSRIs.[34]

For the member to stand up in the House and say that the long gun registry is correlated in any way with the prevention of suicide is just wrong. However, that is consistent with all of the other messages by the opposition.

I would like my hon. colleague to reiterate the testimony she heard directly linking declining suicide rates and the long gun registry. That is not what I heard and not what other members of the public safety committee heard. . . .

Ms. Françoise Boivin:

Mr. Speaker, I will cite two sources. The first one would be the people from the Association québécoise de prévention du suicide. They spoke in French, but I imagine that the hon. member was listening to the interpretation. They said very clearly that the registry had an impact. Directors of Quebec's public health said that making it more difficult to access long guns had an impact. Statistics show that long guns had been used in most suicides. The registry makes it more difficult to access long guns. . . .

Mr. Francis Scarpaleggia (Lac-Saint-Louis, [Quebec,] Liberal): . . .

The government has been very shrewd in presenting this issue in very simplistic black and white terms, namely that the problem of guns in cities is a problem of handguns and that when we talk about long guns, we are talking about rural populations who need the long guns either to protect their agricultural operations or to pursue their traditional culture of hunting, as the hon. member across the way mentioned before. However, as I mentioned in my speech on second reading, this is a false dichotomy because more and more urban dwellers are buying long guns and replicas of guns they see in movies and video games. In fact, in the metropolis of Toronto alone, not a rural region but the great metropolis of Toronto, there are 287,000 non-restricted firearms registered. To say it is just a rural versus urban issue is a false argument.

The second myth or false argument is that all of these inquiries to the gun registry, some estimated to be as high as 17,000 per day, are a function of routine or perfunctory inquiries, for example, of a driver of a car who is receiving a parking ticket. In other words, all of these queries are said to be automatic and secondary to the rather routine and mundane primary queries. However, that is not what the committee heard from Mr. Mario Harel, chief of police of the Gatineau police service and vice-president of the Canadian Association of Chiefs of Police, who told the committee:

> There is truth to the fact that a number of these are what has been referred to as "auto-queries". However these cases are rare, which we believe is an endorsement of the fact that law enforcement views this information as a valuable tool, a bit of

34. [Selective serotonin reuptake inhibitors — the class of drugs that includes Prozac and Zoloft and is commonly prescribed to fight depression and other disorders. — Eds.]

information that, when combined with other information, assists in assessing a situation an officer may face.

The third myth or false argument is the idea that the registry has not been proven to save lives. There was a study presented to the committee by Étienne Blais, Ph.D., and Marie-Pier Gagné, M.Sc., and Isabelle Linteau showing that the registry does save lives. Let us put that aside for a moment, because we can get into a battle of studies and the hon. member for Yukon will bring up Dr. Gary Mauser's study and others. We can get into these battles between studies, but let us look at this from a logical, practical or common sense point of view. I know the party opposite likes to focus on practical, common sense arguments.

It is very hard to prove that the registry saves a life. Theoretically, it makes sense. Practically, it is very hard to prove. For example, it is impossible to prove that I made it to Ottawa via the highway today and remained alive because of the 100 kilometre an hour speed limit, which, by the way, I respect. It is very hard to prove that is why I am here speaking to the House today. In fact, there will be no headline tomorrow saying that the life of the member for Lac-Saint-Louis was saved because of the 100 kilometre per hour speed limit. I will not be a statistic, but we know that this speed limit saves lives. It is something that makes sense and it is very hard to prove that someone is alive because of either this speed limit or the registry.

A fourth myth or false argument is the idea that people are still killed with long guns even though we have a registry. I would stress that there is no policy instrument that can fully prevent that which it aims to prevent. It can only control that which is socially undesirable.

This is what I would call an ironclad law of public policy. Public policy is almost always based on the findings and recommendations of social science which itself by definition comes with associated margins of error.

I can boldly predict based on this ironclad law of public policy that dog bites will continue into the foreseeable future even by dogs that have been registered with city hall. I can put my money on that. I will also predict that car theft will continue into the future even though cars are registered with the province.

Unfortunately, it is clear to all of us that gun crimes will not disappear even should the registry by some miracle survive. There will be, unfortunately, future gun crimes, some of which will be quite heinous. It is unfortunate and this will happen even if the registry were to survive.

It is interesting that members opposite will say that registering guns just does not work because criminals do not register guns. I can see that point. Criminals do not register their guns. Therefore, that means criminals do not register their handguns. The only people registering handguns would be law-abiding citizens, as the members across the way like to invoke. As I said in my speech at second reading, the people in my riding [district for electing members of a legislature] who are gun owners are sterling citizens. They are the most active volunteers, conscientious and responsible, but that is not the point.

The point I am trying to make with respect to the handgun registry is that if the Conservatives were logical, they would say that registries do not work because criminals do not register firearms; therefore, they are getting rid of the long gun registry and they are getting rid of the handgun registry. Thankfully, they are not getting rid of the handgun registry. That points out the fundamental contradiction in their thinking on gun control.

The fifth myth or false argument is that the registry is wasteful and useless. I have heard that many times. We hear that from the Minister of Public Safety on a continual basis. We have evidence from the police, including the [Royal Canadian Mounted Police (RCMP)]. If the government does not buy the RCMP's evidence, then there is a problem between the government and the RCMP. There is a lack of faith in the RCMP by the government. There is concrete evidence that the registry helps with police investigations.

I will quote Mr. Mario Harel, the chief of the Gatineau police service and vice-president of the Canadian Association of Chiefs of Police, who said that the elimination of the gun registry will add significant costs to their investigations, costs which will be downloaded to police services and lead to crucial delays in gaining investigative information.

The word "downloading" seems to come up a lot with the government. It downloads costs of the prison agenda and all kinds of other things to the provinces. Here is an example where again the government will be downloading costs, in this case to provincial and municipal police forces.

One does not have to take Mr. Harel's word for it. One just has to listen to what Matt Torigian, the chief of Waterloo Regional Police, has said about the long gun registry's usefulness in police investigations. He has given a couple of concrete examples. One is real and the other is more hypothetical, but based on typical cases that the police are involved with. He said:

> We came across a crime scene recently with a man who was obviously deceased by gunshot and a long gun was at the scene. Because of the registry, we were able to trace the weapon to the person who had just sold it to the man who was deceased. We determined it was a suicide and the investigation stopped there.
>
> We know from this example that if there had been no registry the police would have thought that maybe it was a crime and would have had to open up an investigation. Many hours of valuable police time would have been wasted looking for a perpetrator of a crime that was really a suicide.

Another example given by Chief Torigian is more hypothetical but no doubt commonplace. Say a group of thieves break into a farmhouse near Montreal and steal a shotgun. They saw it off to conceal it better under their clothes. They drive to Windsor, Ontario, where in the course of committing a bank robbery they drop the gun and flee the scene. Because of the registry, the police find out that the gun is owned by a Montreal man, a victim of theft. This might give the force a lot more leads to go on. For example, there might be witnesses to the break-in in Montreal. The registry would thus allow coordination of efforts between police departments in order to efficiently resolve the case and move on to something else.

There is more anecdotal evidence. The following example is from the 2010 RCMP firearms report, the one that was ready a while back but was only released on January 19 after the committee had finished its hearings on the bill:

> A large municipal police force contacted CFP NWEST for assistance in recovering obliterated serial numbers on two firearms seized in a robbery and kidnapping investigation. After the serial number of one of the guns was restored, NWEST used the CFP's Registry database to determine that the gun was registered to one of the suspects and had not been reported lost or stolen.

In another example the registry helped police link a grandfather's gun to his grandson who had perpetrated a gun crime. Again, I quote from the RCMP report:

> CFP NWEST was asked to assist in a shooting investigation. They confirmed, through the Canadian Firearms Information System, the firearm was one of seven registered to the same individual, and it had not been reported lost, missing or stolen.
>
> RCMP investigators met with the registered owner who was able to account for only four of his seven firearms. The subject was interviewed in order to establish a possible link between him and the shooting suspects.
>
> As a result of the interview, the owner's grandson was identified as one of the accused in the shooting, and all seven firearms were accounted for in the follow-up interview of the accused. Numerous firearms-related charges were laid in relation to this incident.
>
> The police caught the grandson. If the police had not caught the grandson by using the registry, the grandson might still be wandering around with a gun. Who knows what might have happened.

This is another point I would like to make about those who want to dismantle the registry. They will not admit to possibilities, and this is a fundamental error when it comes to social science. It is all about probabilities and possibilities.

Dr. Gary Mauser made a fine presentation at committee. It was quite rigorous and he was a very agreeable witness. This is not an attack on Dr. Mauser. After I gave him some examples of how it was plausible the registry might have saved lives, I asked him, in his opinion, in the 10 years the registry has existed is it not possible that one life may have been saved. I was not even asking Dr. Mauser was one life saved; I was asking him if it is not possible in this universe of probabilities that one life may have been saved. His answer was a categorical, "It's impossible".

This is what we are dealing with. We are not dealing with open-minded thinking on this issue. We are dealing with categorical statements that actually are nonsensical when we really think about it. Ending the registry would be a mistake.

The Liberal Party in the last election campaign was quite cognizant of the fact that some legitimate law-abiding firearms owners feel criminalized by the system, that first-time failure to register not be a criminal offence, thereby compromising with one of the points the government is making. There was some movement on the issue. It would have solved the problem and it could have kept the registry. People would not have felt criminalized and Canada would be safer.

Mr. Ryan Leef (Yukon, CPC):

Mr. Speaker, I have spoken to this bill a number of times. I would say to my hon. colleague that I certainly have never separated rural and urban Canadians' concerns around the long gun registry nor rural and urban Canadians' use of long guns. In fact, we are well aware that both rural and urban Canadians utilize long guns.

A good portion of what the member is saying makes sense, but I will tell him what the people in my riding and I have a hard time with. We never hear concerns that this legislation that has been brought in has criminalized Canadians. It is not for want or need of registering these long guns. A lot of times it boils down to errors made in the system which cause registrants, law-abiding Canadian citizens, to be not necessarily targeted but subjected to these crazy search and seizure provisions and criminal sanctions because of it. We are making Canadians into criminals because of paper errors. Nobody thinks that is an effective use of government legislation, Canadian taxpayer dollars, or police resources and time. . . .

Mr. Dan Albas (Okanagan—Coquihalla, [British Columbia,] CPC): . . .

I believe it is important to share with the House the frustration that I hear from the rural residents in my riding. They are law-abiding citizens and they are taxpayers, and yet they are forced to comply with a system created out of Ottawa that does nothing but inconvenience the lifestyle they work hard to enjoy.

Everyone in the House knows that criminals do not register their guns. It is often a repeated point in this debate but it is the truth. However, more important, we need to recognize that there are times when a registered gun is used to take a life. Recently, in my riding, a family lost a loved one as a result of domestic violence. Did the registered gun stop the alleged murderer from pulling the trigger? Sadly, it did not. For those people in society who are capable of taking a life, the fact that a gun may or may not be registered means nothing to them. The simple fact of the matter is that the long gun registry has not stopped crime, nor is it saving lives.

I have also listened to the opposition arguments in favour of the long gun registry. The opposition suggests that its greatest contribution is that it provides law enforcement with a record of where guns are, and not just where they are but what kinds of guns they are.

Those who followed the committee hearings for Bill C-391 last year will know that members heard testimony from numerous respected and experienced police officers. Those experienced officers told us that the information provided by the long gun registry was not reliable. I have met with many front-line officers who have made it very clear that they cannot rely on the registry to confirm if a gun may or may not be at that address. In fact, if officers were to rely solely on the long gun registry, they would be putting their life and the life of their colleagues at risk.

We also know that there are long guns that have never been registered and those that have not been registered properly, and situations where model numbers or catalogue numbers were used instead of serial numbers.

The long gun registry has been in place for over a decade. What are the results? The registry has not stopped crime, nor has it saved lives. Millions of dollars were spent on the registry and what are the results for the taxpayers? We have a database that front-line officers tell us that they cannot depend on. . . .

One of the challenges that many communities in my region are facing is an overpopulation of deer. On the surface it may not seem like a problem, however, deer destroy small gardens and can be aggressive to small animals and even adults. They also present a real danger to motorists. The reality is that fewer people are hunting these days, in part because of the burden and costs of

dealing with issues like the long gun registry. In my riding, many residents have told me that they feel the quality of life in rural Canada is threatened. That is why I believe it is important we take action on their issue. . . .

I am proud to say that our government is now investing $7 million a year to make the screening process for people applying for a firearm's licence stronger. Bill C-19 would not change any of those requirements. In fact, no one would be able to buy a firearm of any kind without passing the Canadian firearms safety course, the background check and without having a proper licence.

I support the bill because it would eliminate a law that places an unnecessary burden on law-abiding Canadians. The bill would also free up resources that could be better spent on anti-crime initiatives to help make our streets safer.

We need to be honest with ourselves about the real gun problem in Canada. It is not just the legally acquired shotguns and rifles in the hands of our farmers and hunters that is the problem. While we continue to penalize them, it may seem like a solution to some members opposite, but doing so does not stop crime. A failed registry and a flawed database is not an answer.

Between 2005 and 2009, police in Canada recovered 253 firearms that had been used in the commission of a homicide. Some of those guns were registered, most were not. However, we need recognize that the registry failed 253 times to prevent crime, much as it failed in my riding last year. As a result, I cannot support a process that requires law-abiding, tax paying citizens to continue to dump money into a system that offers no tangible results. . . .

Mr. Dean Del Mastro (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): . . .

I have had a number of constituents in my riding office over the last number of years who have come in, World War II veterans, for example, who have had their firearms confiscated for no reason other than forgetting to renew their registration. They had been registered. I have seen these people come into my office absolutely stricken, feeling that they were treated like criminals by a registry that was created by the former Liberal government.

Has the member heard of any of these people coming in, talking about how they were treated by officials who subjected them to these laws? . . .

Mr. Bob Zimmer (Prince George—Peace River, [British Columbia,] CPC): . . .

The long gun registry has been expensive. This is an indisputable fact. The [Canadian Broadcasting Corporation], not known for its Conservative bias, has estimated a total cost of over $2 billion over the 17 years of the registry. Let me remind members that the former Liberal justice minister, Allan Rock promised it would not cost a cent more than $2 million. That is a hefty price to pay for an inferior product, as we can all agree. The $2 billion could have gone a long way in other safety initiatives, including preventive action or rehabilitative programs.

Across this country, Canadians are working hard to provide for their families. They do not throw money away on items or services that are not beneficial or practical for them or for their families. It is time that we follow their lead and do away with the needless spending on the registry.

The long gun registry does a fine job of collecting the names of those using their long guns for sport and protecting their livestock. It does an awful job at stopping illegal activity, using guns that were never legally purchased or

registered in the first place. That is because the people listed in the registry are individuals who have acquired and wish to use their long guns in legal ways.

They have followed their government's requirements. They comply because they wish to abide by the law. These people are not the ones committing gun crimes in Canada. This is the key reason that the long gun registry is an ineffective piece of legislation.

This is not a surprise to me, yet I suspect it will come as one to the opposition. Most criminal activity naturally operates outside of the law, hence its criminality. Guns used in crime are generally not legally purchased or registered. More often than not, they have been brought into Canada for criminal use and for that reason are never registered. This renders the registry useless in both tracking down criminals and protecting Canadians from harm. . . .

We are looking forward to the day that law-abiding Canadians can relax and know that their information has been completely destroyed. That is why Bill C-19 also includes a provision to destroy all data collected by the registry in the last 17 years. This aspect is extremely important, as it is necessary to protect innocent citizens from ever being targeted by their government again.

Canadians gave their support for the abolition of the registry last May. Our government stands by our promise to remove it from the federal level forever. . . .

Mr. Bob Zimmer:

Mr. Speaker, the hon. member across the way brought up one of the most misunderstood facts about the registry. She brought up questions about licensing. That is one thing this government would not change. It would be just as hard to purchase a weapon now as it has been in the past. That all has to do with licensing of firearms as opposed to the registration of law-abiding farmers and gun owners. It is an apples and oranges argument. We would not change licensing, it would be just as difficult as it was before. We would continue to provide safety for Canadians. . . .

NOTES & QUESTIONS

1. *Non-restricted, restricted, and prohibited firearms.* Bill C-19 only repealed the federal registration requirements that applied to "*non-restricted*" firearms, such as most traditional rifles and shotguns. Canadian law divides guns into three categories:

   - *Non-restricted* firearms. This includes rifles and shotguns that are not restricted or prohibited.
   - *Restricted* firearms. This includes handguns that have a barrel longer than 105 mm (about 4.1") in length and a caliber other than .25 or .32. It also includes long guns that can be folded or telescoped down to less than 660 mm (about 26") in length. All AR-15 pattern semi-automatic rifles are designated as restricted firearms by federal regulation. Restricted firearms may be lawfully owned with a special permit, but are subject to stricter regulations on transportation, storage, and use than non-restricted firearms.
   - *Prohibited* firearms. This includes all handguns in .25 or .32 caliber or with barrels of 105 mm or less (except for certain Olympic target pistols). By regulation, it also includes most semi-automatic rifles and carbines of

military appearance such as AK-47-, FN-FAL-, and Uzi-patterned rifles. Prohibited firearms may be lawfully owned only under limited circumstances.

In addition, semi-automatic rifle magazines are limited to five-round capacity and handguns are generally limited to ten-round magazines. Notwithstanding the repeal of the long gun registry, Canadian law still requires all gun owners to obtain a gun-owner's license.

2. *Provincial differences.* Opposition to the effort to repeal the long gun registry was centered in the province of Quebec. After the passage of the repeal, Quebec unsuccessfully sued to prevent the destruction of the registry data for Quebec gun owners' long guns. Quebec stated that it wanted to maintain its own, provincial registry. *See* Québec v. Canada, 2013 QCCA 1138 (Québ. Ct. of App.) The case has been appealed to Canada's Supreme Court. Québec (procurer général) v. Canada (procurer général), no. 35448 2013 carswell Que 11266 (Nov. 21, 2013).
3. If you were a Canadian MP or Senator, and your party allowed you to vote your conscience, on the registration repeal, how would you have voted? Why? If you thought that the pro/con arguments were about equal, would you have voted in accord with the majority view in your riding (district)?
4. Is the repeal of Canadian long-gun registration a possible sign of a growing global consciousness of a right to arms? (Discussed at the end of Chapter 13.)
5. If you were a strategist for Canada's Liberal Party, which enacted the gun registration law, how much political capital would you have spent in trying to defend the law? As things turned out, long gun registration helped cost the Liberals control of government in the 2006 election, partly because of a scandal involving the discovery that millions of dollars in government funds that were given to an advertising agency to encourage gun owners to comply with the registration law were instead diverted into a slush fund for Liberal politicians. Out of power, the Liberals continued to fight to defend registration, and lost the 2008 federal election and then the 2011 federal election. This last election gave the Conservative Party a majority (rather than just a plurality) in Canada's multi-party Parliament, thus enabling the repeal of registration in 2012. According to Bill Clinton, in 1996, New Jersey Governor James Florio lost his 1995 re-election bid because of Florio's defense of the state's ban on "assault weapons," and Clinton declared his own willingness to lose re-election in 1996 over the federal ban. If you were an elected official, what gun control or gun rights measures would you defend at the cost of your own reelection?
6. For more on Canadian firearms laws, see Caillin Langmann, *Canadian Firearms Legislation and Effects on Homicide* 1974 to 2008, 27 J. Interpersonal Violence 2303 (2012) (several different time series analysis find no beneficial impact of on homicide or spousal homicide from any Canadian gun control laws enacted in 1977 or later; homicide rates were associated with factors such as unemployment, percentage of population in low-income brackets, police officers per capita, and incarceration rates).

6. Kenya

David B. Kopel, Paul Gallant & Joanne D. Eisen, Human Rights and Gun Confiscation
26 Quinnipiac L. Rev. 385 (2008)

. . . When Kenya attained independence from Great Britain in 1963, it was a land rich in natural resources. From the outset, its first president, Jomo Kenyatta, ruled in a brutal and repressive manner. He abused the power of his office, rewarded his political and ethnic cronies, and eliminated political rivals. Although central state planning was implemented under a pretext of fairness and efficiency, it became the mechanism for kleptocracy. A similar pattern of corruption and ethnic rivalry persists today.

Some disarmament activists contend that cultural deficiencies of the pastoralist lifestyle, coupled with the presence of modern weapons, cause poverty and violence in Kenya. However, Kilfemarian Gebre-Wold, former director of a German-sponsored disarmament program in East Africa, acknowledged that "though many pastoralist households have small arms, the rate of crime and violent incidents is not high in their community. . . . [T]he density of weapons does not mean automatically the rise of gun-related violence." The Kenyan government has promoted violence by denying access to land and water. It is no secret that tribalism lies at the heart of Kenyan politics, with devastating effects on the disfavored tribes.

In 2005, the governments of Kenya and Uganda began a coordinated campaign to prevent their shared border from becoming a haven of safety for civilians with weapons. Estimates of the civilian gun stock, as of August 2005, ranged from a very conservative 50,000 up to 200,000 in Kenya. On the other side of the border, in Uganda, estimates ranged from 50,000 to 150,000.

The populace is aware that government does not honor its promises of security in exchange for voluntary disarmament. As in Uganda, new classes of disarmed victims were created — not just victims of those who remained armed, but also victims of complicit government agents colluding in crimes against people who had been disarmed.

The populace is further aware that government has not kept its promises to develop the area, or even to provide basic goods and services. At the present time, with government corruption out of control, and the recent downward slide in Kenya's economy, it is unlikely that the promises could be kept, even if the political will to do so were present.

Once the Kenyan pastoralists are disarmed and their herds stolen, and their own bodies physically injured, the pastoralists, who were already living at a subsistence level (with survival dependent on the next water hole), become destitute. No rational person, having seen her neighbors in such dire circumstances, would gamble her family's survival on empty government promises. Although, as the disarmament community recognizes, women are often interested in peace through disarmament, they are not willing to remain passive while their families suffer and die. Thus, "[t]here are anecdotal reports of women defending themselves with guns. . . . Women often request ownership of their man's gun if he is killed. . . ."

The Kenyan government will resort to any means to collect firearms. According to West Pokot District Commissioner Stephen Ikua, "[w]e shall use force to get them." In March 2006, Internal Security minister John Michuki issued a shoot-to-kill directive for the entire country of Kenya, giving the police free rein against the populace.

The existence of a gun licensing program creates the legal fiction that ordinary citizens can possess a firearm, a fiction which bolsters the claim that the government will follow the proper legal procedures. Yet according to Peter Mwaura of the United Nations Environmental Programme, "[i]n practice, however, only the rich and the socially or politically correct or well connected manage to obtain firearms certificates and keep them. . . . Thus the gun law can be pretty arbitrary and subjective in its application." Likewise, Taya Weiss of South Africa's pro-disarmament Institute for Security Studies stated, "[v]ery few Kenyan citizens, especially those living in remote areas, meet the criteria for a gun license and can afford to pay the associated fees."

Ordinary Kenyans are not even allowed to possess bows and arrows, and the bow laws, too, are applied discriminately. Government security agents can therefore safely assume that every ordinary person with a bow or gun lacks a license, and thus the police can shoot to kill with impunity.

If the Kenyan government had paid some attention to the needs of the people, rather than discriminating against selected tribes, conditions might not have degenerated to the point where factional fighting has become the last survival mechanism available to many pastoralists. If government would first attend to the basic life necessities of northern Kenya, survival would not necessitate weapons possession. Yet, some NGOs share the Kenyan government's fixation with arms confiscation above all else. For example, Oxfam (which is a major supporter of two international gun confiscation NGOs — ControlArms, and the International Action Network on Small Arms) declares that what Kenya really needs is "community arms collection and voluntary arms surrender activities."

The pastoralists of Kenya, however, have remained armed, despite almost-continuous disarmament programs for over a century. Some of the disarmament programs were accompanied by a great deal of brutality, a fact remembered by many tribal leaders. One operation conducted by the military in 1950 caused the deaths of fifty people. In addition, the government confiscated 10,000 head of cattle.

In 1961, then-Lieutenant Colonel Idi Amin of the Uganda's King's African Rifles crossed the border into Kenya and tortured and terrorized civilians who refused to give up their weapons. Although at least 127 men were castrated and left to die, the operation failed to disarm the Turkana people of northwest Kenya.

The unsuccessful 1984 "Operation NYUNDO" (Operation Hammer) was a brutal example of the difficulty of disarming civilians who would rather die than disarm. "Operation NYUNDO" was a collaborative effort of the Kenyan and Ugandan armies, similar to the joint campaign against civilian gun owners that began in 2005. Krop Muroto, a political activist, recalled:

> No one knows to date how many people were killed in that operation that lasted three months. The community was further devastated by mass killing of their cattle.

> 20,000 head of cattle were confiscated, rounded up in sheds and starved to death. Among other atrocities, . . . the army used helicopter gunships, killed people and destroyed a lot of property.

Reuters reported:

> Lopokoy Kolimuk, an elder in the dusty and dry village of Kanyarkwat in the West Pokot district, said the soldiers who carried out that mission were wild, beyond humanity. He said many shot Pokots [a people of western Kenya and eastern Uganda] on sight, or forced men to lie on the ground in a line as they ran across their backs. Other men had their testicles tied together and were then made to run away from each other, he said. Women were raped in front of their husbands, sometimes with empty beer bottles.

In April 2006, Security Minister John Michuki told Parliament, "[t]he Government has decided to disarm the Pokot by force. If they want an experience of 1984 when the Government used force to disarm them, then this is precisely what is going to happen. . . ."

Tapangole Lokeno, another elder, stated: "It is so fresh in our minds, so when Michuki says this operation will be worse, we just wish this world would bring us down first." Stephen Ikua, a government spokesman, said that threats were necessary in order to get civilians to peacefully surrender their firearms. He said, "As a government, you should talk from a position of strength. You cannot come in saying you are going to respect human rights."

In early May 2006, the BBC described the latest military operation in Kenya, code-named "Okota" [Collect], utilizing tanks, trucks, and helicopters, and taking over a local school building as a barracks for the army. In the village of about 2000 people, eight weapons were recovered. Fearing a repeat of the 1984 atrocities, 15,000 panicked people fled to Uganda with their cattle and their guns, leaving behind the aged, the infirm, and the children. In West Pokot alone, 120,000 people needed food aid, but only 68,000 received rations. Schooling was disrupted, and farmsteads were neglected.

Five weeks after the forced disarmament began, only seventy illegally possessed firearms had been recovered. Collecting a few dozen firearms seems to be reason enough for the Kenyan government to go to war against its own citizens. Apparently, confiscating a few dozen firearms is, and for decades has been, a government priority that eclipses the digging of wells, the construction of more schools, or the establishment of medical clinics. And many Kenyans seem to have the same sentiment as Charlton Heston, the former President of the National Rifle Association, who declared that the only way anyone would ever get his guns was to take them "from my cold, dead hands."

At about the same time in mid-2006 that the United Nations Development Programme withdrew its support for the Ugandan side of the joint disarmament, the Kenyan government backed away from its own forcible disarmament program, Operation Okota. While the government is still intent on disarming civilians in the region, there have not been reports of additional violence perpetrated by the government.

Instead, Internal Security Minister John Michuki launched Kenya's Action Plan for Arms Control and Management (KNAP) on July 14, 2006, giving civil

society and local NGOs, in lieu of government forces, greater responsibility for further disarmament. Rather than repeating his previous violent threats (which turned out to be accurate), Michuki merely stated, "[t]he Government remains steadfast in its war against illicit small arms." Although the government of Kenya has discontinued the joint forcible disarmament exercise with Uganda, the government of Uganda continues to send its own soldiers into Kenya, where they pillage and steal cattle, while recovering small quantities of weapons.

NOTES & QUESTIONS

1. The Kenyan government at one point proposed execution by hanging as the punishment for the illegal possession of semi-automatic weapons. *See* NRA News, *Kenya Proposes Execution of Gun Owners,* YouTube (Oct. 7, 2009), http://www.youtube.com/watch?v=ZknGvkySxMk (updated Nov. 15, 2009). Assuming that one has no qualms about the death penalty, or about imposing it for crimes other than murder or treason, is the Kenyan proposal reasonable?
2. *Effects of civilian disarmament.* Based on the preceding passage (and what you have read in online Chapters 12 through 14), what effects do you predict would occur in Kenya if the government were to succeed in disarming the Kenyan population?
3. *International intervention?* Is it sometimes morally legitimate for Nation A to assist the government of Nation B in disarming Nation B's people? Under what circumstances? Is assisting in such disarmament ever morally obligatory?

   Now consider the converse. Is it sometimes morally legitimate for Nation A to seek to arm the people of Nation B, contrary to the wishes of Nation B's government? Is it ever morally *obligatory* to help another nation's citizens prevent disarmament efforts by their own government?
4. Assuming one favors citizen disarmament as a general matter, is there some level of state dysfunction where the argument for disarmament fails? What are the characteristics of that dysfunction? Based on the excerpt above does Kenya exhibit those characteristics?
5. Is allowing individual (especially in failing or dysfunctional states) access to private firearms a reasonable policy? Are private arms a component of a long-term strategy for building stable and just relationships between government and citizenry? Or are private arms just a tool allowing citizens a chance to survive in emergencies caused by failed or malevolent states? For more on Kenya; See chapter 13. A. 2
6. Online Chapter 14, on Comparative Law, describes the situation in Kenya, where many pastoral tribes have been resisting government gun confiscation efforts for decades. An article in Kenya's leading newspaper urges the government to abandon the confiscation campaigns, and instead to follow the Second Amendment model:

> "How can the Government ask us to surrender our guns when we know very well that there is no security for us? If we give out our firearms, say today, who will

> protect us when the neighbouring tribes strike? How about our stolen livestock? Who is going to return them to us?'' Mr. Lengilikwai talks with bitterness.
>
> In the past, critics of liberalising access to firearms have argued that they would put ordinary people's lives in peril because even squabbles in the streets or the bedroom would be resolved by bullets. Incidentally, such incidents are few and far between in the Kerio Valley despite the easy accessibility of AK-47s as well as the relatively low levels of education and social sophistication. . . . If Kenya is to achieve long-lasting stability, it ought to borrow a leaf from the US, whose constitution gives the people the right to bear arms and form militias for their own defence should the armed forces fail them, as happened in Kenya after the December elections.

Paul Letiwa, Why Herders Won't Surrender Their Firearms Just Yet, Daily Nation, Apr. 30, 2008. See also Ng'ang'a Mbugua, Law Should Be Changed to Free Guns, Daily Nation, Apr. 25, 2008 (noting success of armed defense program of the people of the Kerio Valley).

Suppose that the idea of a fundamental human right to keep and bear arms becomes as popular globally as it is in the United States. What consequences might ensue?