

## The Second Amendment Interpretation

The Second Amendment of the U.S. Constitution holds the attention of many American citizens and receives thorough examination because of its significance to the right to bear arms and to Government interest. The former argument often takes advantage of the second half of the amendment and simultaneously ignores the context given by the framers as to why the protection of the right to bear arms carried importance in that time period. Although interpretation of the original intent varies depending on the person, the reasoning surrounding the Second Amendment's formation as well as how it fits among other guaranteed rights proves its ability to be reformed through a more generalized scope for the betterment of America's domestic tranquility.

When created, the Second Amendment concentrated on the concern of maintaining State's rights and on preventing an authoritarian government from forming. As phrased in the Amendment, "a well regulated Militia, being necessary to the security of a free State" (U.S. Const. Amend. II). In the late 1700s a militia consisted of "able-bodied men who protected their towns, colonies, and eventually states" (Willingham), who, in this time period, were equipped with relatively primitive firearms in comparison to those of the current day. Because states organized the militia, the structure of this institution fell under the authority of state governments. The goal of the state at this time, as recorded at The General Assembly of Virginia in 1785, was to have "its citizens properly armed and taught the knowledge of military duty" (U.S. Reports: *U.S. v. Miller*). Although specific regulations were not stated, the insinuation toward requiring an education on some level acted as a regulatory effort in itself, hence the current requirement for a DNR Firearms Safety Certification at the purchase of a hunting license. This training is not mandatory for the ownership of a firearm; instead, a prospective firearm

buyer must apply for a permit which requires no further education. Furthermore, semi-automatic and automatic firearms were not yet invented during the creation of the Second Amendment, meaning rapid mass firing was not a safety concern. With this in mind, as well as the fact that any armed or violent force in supplement of the U.S. army is nonexistent, the Second Amendment can be ruled as an outdated form of regulation for current day circumstances.

In reference to America's problem with gun violence, the Second Amendment guarantees a right that currently infringes on a citizen's right to life in numerous situations. The right to life is guaranteed in the fifth amendment when it affirms that "no person shall . . . be deprived of life, liberty, or property, without due process of law . . . ." (U.S. Const. Amend. V). Situations where citizens die at the hand of another person's firearm place the offender's right to own a firearm above the victim's right to life. An argument to this claims that when firearms are not used in a way that endangers another person, no reason exists to take away the right of the firearm owner; however, the legislature's failure to create and enforce a system that ensures the safety of a citizen's right to life while also enabling the right to own a firearm proves the inability to maintain both to the extent that exists currently. Supportingly, an excerpt from the Fourteenth Amendment to the United States Constitution reads, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" (U.S. Const. Amend. XIV). The Nation's current firearm regulation system infringes on other rights guaranteed by the U.S. Constitution, but instead of banning firearms completely, further regulation may prevent "carrying for a "wicked purpose" with a "mischievous result . . . [which] constitute[s] a crime" (Supreme Court of the United States). This would protect the general public and communities that are disproportionately affected by gun violence.

Limiting firearm use and banning certain types of firearms has resulted in an almost complete elimination of mass shootings when implemented on a nation's population. In 1996 Australia passed the National Firearms Agreement (NFA) which placed regulations on the type of firearms a citizen could own and set stricter requirements for obtaining a shooting license. The Australian government then bought back any of the banned firearms from the owners. The results indicated that when defining "*mass shootings* as those in which five or more people, excluding the shooter, were killed by gunshot . . . 13 mass shooting incidents in Australia between 1979 and the NFA's implementation in 1996 [occurred] but none between 1997 and May 2016" (Ramchand & Saunders). By banning or regulating firearms mass shooting virtually disappeared, and, if applied to the U.S., the same result would likely arise. Not only would mass shootings decline, but so would homicides and suicides caused by firearms, all of which greatly affect students and more generally the youth of today.

Currently, those excessively impacted by gun violence include the youth in America's schools as well as people in disadvantaged communities. Former Supreme Court Justice Stephen Breyer disclosed his dissenting judgment of the Court's recent decision to rule a New York firearm restriction as unconstitutional and noted that "when courts interpret the Second Amendment, it is constitutionally proper, indeed often necessary, for them to consider the serious dangers and consequences of gun violence that lead States to regulate firearms" (Supreme Court of the United States). Historical context plays a role in every court decision, and regarding the current circumstances surrounding violence in America, further questioning and revisions of firearm protocol appear to be an obvious solution. When "in 2020, there were 45,222 firearm-related deaths in the United States" and "more than 4 out of every 10 were firearm homicides" ("Fast Facts"), some type of prevention is necessary for the Nation's safety,

especially for groups that experience higher levels of gun violence. Race affects the rate at which people are injured or killed, reflecting the inadequate attention and resources given to communities of color. According to the CDC, the homicide rate greatly differs between races because black Americans account for 27 deaths per 100,000 people whereas white Americans represent 2 of every 100,000 (“Firearm Deaths”). Firearm violence in disadvantaged communities as well as in schools across America should qualify as sufficient grounds for determining firearm violence as a matter of government interest, and the fact that it is not reveals the low level of importance given to children and especially underprivileged communities in America.

A correct and just interpretation of the Second Amendment relies on the surrounding components of the Constitution as well as historical context. When comparing past reasoning to present day, issues of safety among the Nation’s children and the general population overpower any mere individual desire for firearms. After all, the original intent centered around the safety of the people and a free government, but now that the right to owning a firearm infringes on a citizen’s right to life, changes to guide the Second Amendment back to its original purpose in the form of regulating firearms are imperative for the entirety of America.

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