

## The Second Amendment: A Fundamental Right of the Individual

As eloquently stated in the Declaration of Independence, the United States of America was founded upon the idea “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness” (US 1776). These rights are independent of any power, government, or era; they are god-given, and can never truly be taken away. The Bill of Rights was written in order to protect the rights of the American people, and to restrain the power of the government. Thomas Jefferson, a principal contributor to the Constitution, defines the Bill of Rights to be “what the people are entitled to against every government on earth, general or particular; and what no just government should refuse” (*The Writings of Thomas Jefferson*). The Second Amendment of the Bill of Right states: “A well regulated Militia, being necessary for the security of a free State, the right of the people to keep and bear arms shall not be infringed” (US Const. amend. II). In times that are characterized by violent, horrific mass shootings, the interpretation and regulation of the Second Amendment is subject to much debate. From the Second Amendment's inception, it was intended to secure the right of the people—as individuals—to arm themselves for the defense of their state, lives, and property. This right defined by the Second Amendment was essential at the time of its ratification, and remains so to this day. The amendment makes no exclusion of any specific “Arms,” so neither the federal nor state governments shall make limitations on this right. Such limitations would violate the people’s fundamental Second Amendment right, and jeopardize “the security of a free state” (US Const. amend. II).

Since the infancy of the American nation, an individual’s right to life was qualified as “unalienable.” By definition, a right to life implies the right to self preservation and defense. If

this basic human right is to be protected by the United States Constitution, it must permit its citizens to defend themselves—which is one of the main purposes of the Second Amendment. Prior to the ratification of the Bill of Rights in 1791, many state constitutions included provisions similar to what would become the Second Amendment (Grant 2018). For example, the 1776 Constitution of Pennsylvania specifies “That the people have a right to bear arms for the defence of themselves and the state . . .” (PA Const. sec. XIII). As shown by this, and many other state Constitutions, the right to bear arms was justified by the defense of the self and of the state (Grant 2018). These State Constitutions served as the precursors to the United States Constitution, and helped to shape the Second Amendment. The individual right to bear arms was supported by the 2008 Supreme Court case *District of Columbia v. Heller*: “The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home” (“District of Columbia v. Heller (2008)”). This extremely important ruling established the Second Amendment as a right granted to individuals, and identified self-defense as a justification for this right. The individual right to bear arms is a provision necessary for the security of the people’s natural right to life. To deny the right to self-armament would at the same time deny this natural right, consequently undermining a major foundational principle of the United States of America.

Opponents to the “individual right” interpretation focus primarily on the first section of the amendment. While some argue that the right to bear arms is restricted to those associated with a militia, the phrase “well regulated Militia” simply functions as an explanation of the right rather than a limitation thereon; it is not a right granted exclusively to the militia, but also the

American people as individuals. In a lecture, Deputy Assistant Attorney General Eric Grant explains this dichotomy, stating that: “The operation of the Second Amendment might at the same time be broader than its stated justification. The first clause refers to the militia only, while the second protects the right of the people” (Grant 2018). Supporters of the “collective right” interpretation often point to the phrase “well regulated” as a justification for gun regulation at the state level, arguing that the Bill of Rights acts as a restraining power only on the federal government. However, this idea conflicts with the ruling in the 2010 Supreme Court case *McDonald v. City of Chicago*. In this case it was found that the individual right to “keep and bear arms” is applicable to the states via the Due Process Clause of the Fourteenth Amendment (“McDonald v. Chicago (2010)”). This clause states that “nor shall *any State* deprive any person of life liberty, or property, without due process of law” (US Const. amend. XIV, sec. 1). The Supreme Court concluded that the Second Amendment right was applicable to the states through the Fourteenth Amendment because it was both “fundamental to the Nation’s scheme of ordered liberty,” and “deeply rooted in this Nation’s history and tradition” (“McDonald v. Chicago (2010)”). Because this right is considered a fundamental liberty, it is incorporated against the States by the Fourteenth Amendment.

The Second Amendment is the essential safeguard against tyranny. In modern times tyranny is often considered an obsolete threat, yet Thomas Jefferson said: “Experience hath shewn, that even under the best forms [of government], those entrusted with power have, in time, and by slow operations, perverted it into tyranny” (“Preamble to the Bill”). The people’s right to be governed fairly is expressed in the Declaration of Independence: “whenever any Form of government becomes destructive . . . it is the Right of the People to alter or to abolish it, and to

institute new Government” (US 1776). Professor Glenn Reynolds explains that “The purpose of the right to bear arms is twofold: to allow individuals to protect themselves and their families, and to ensure a body of armed citizenry from which a militia could be drawn” (Reynolds 7). The Second Amendment allows for the individual right to arms, and through this it also permits the existence of a militia. “A well regulated Militia” must not be regulated by the state or federal government. Such regulation would undermine the power of the militia and disregard its primary purpose. Because a potential enemy of a militia is the American government, it cannot be reliably or fairly regulated by that entity itself. Militias must not be controlled by the government; they must include all people and be self regulated in order to effectively fulfill their purpose.

The Second Amendment makes no limitations on what “Arms” entails. According to the Merriam-Webster Dictionary, “arms” is simply defined as “a means (such as a weapon) of offense or defense” (“Arms”). This leads to the logical conclusion that the Second Amendment secures the right of the people to own any weapon of any type for legal purposes, and that no limits shall be placed upon this right by the federal or state government. Regulations and limitations on the public’s ability to obtain weaponry severely hinders the usefulness of potential militias. Without access to weapons comparable to those of the military, the ability of the people to resist the government is effectively diminished, which endangers the “security of a free State.”

In light of the innumerable mass shootings that have occurred in recent time, many Americans are calling for more gun control or regulation. However, these laws fail to fulfil their true purpose of reducing violence, and only limit the ability of law abiding citizens to obtain firearms. While these laws may sound promising, they have negative effects on the general

welfare of the people by limiting their natural right to self defense and preservation. Proposed forms of regulation convolute the process for law abiding citizens to obtain firearms with waiting periods and arbitrary restrictions on gun features. These laws will have little to no effect on those already determined to commit crimes, as they are willing to obtain weapons illegally. Thomas Jefferson wisely notes that, "Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man" (*The Writings of Thomas Jefferson*).

While overly strict laws and regulations would negatively affect the country, some rules are necessary in order to prevent as much violence as possible. Citizens must be at least 18 years of age to purchase any firearm. It should be required that citizens pass an extensive background check before they can legally purchase a gun. Those who have a violent criminal history or are determined to be mentally unstable should not be allowed to purchase any firearm. This vetting process would help prevent potentially violent individuals from obtaining weapons. A thorough gun safety training course should be required of all those intending to purchase a firearm. As long as a person has no violent criminal record or history of serious mental health issues, and they have received the proper training, they should be permitted to purchase any firearm or weapon.

The Second Amendment was written to restrain the power of the government and to secure the people's right to arm themselves. The rulings of the Supreme Court have determined that the Second Amendment is applicable to the states, thus neither the federal nor state governments can constitutionally limit the right to bear arms to any degree. This right is secured for individuals, not just those who are part of a militia. Because it makes no exclusions of any

specific weapons, the right must be extended to all weapons of any type or style. A militia's access to weaponry is crucial to its ability to fight tyranny; this right to keep, carry, and utilize arms must not be limited. The Second Amendment right is a basic and necessary freedom that must be protected from any government. Action taken to undermine and infringe upon this right is unconstitutional, and threatens the free State of America.

Works Cited

“Arms.” Merriam-Webster, Merriam Webster, Web. Accessed 8 Oct. 2018.

<[www.merriam-webster.com/dictionary/arms](http://www.merriam-webster.com/dictionary/arms)>.

“District of Columbia v. Heller, 554 U.S. 570 (2008).” *Justia Law*, Web. Accessed 8 Oct. 2018.

<[supreme.justia.com/cases/federal/us/554/570/](http://supreme.justia.com/cases/federal/us/554/570/)>.

Grant, Eric. “2018 American Heritage Scholarship Program.” Lecture. 2018 American Heritage Scholarship Program. Beyer High School, Modesto. Web. Accessed 2 Oct. 2018.

<[https://www.youtube.com/watch?v=Oq2k7t0ci\\_A](https://www.youtube.com/watch?v=Oq2k7t0ci_A)>.

Jefferson, Thomas, Andrew A. Lipscomb, and Albert Ellery Bergh. *The Writings of Thomas Jefferson*. Washington, D.C.: Issued under the Auspices of the Thomas Jefferson Memorial Association of the United States, 1903. Print.

Jefferson, Thomas. “Preamble to the Bill for the More General Diffusion of Knowledge.” *The Papers of Thomas Jefferson*, edited by Julian P. Boyd, Princeton University Press, 1950, p. 526.

“McDonald v. Chicago, 561 U.S. 742 (2010).” *Justia Law*, Web. Accessed 8 Oct. 2018.

<[supreme.justia.com/cases/federal/us/561/742/](http://supreme.justia.com/cases/federal/us/561/742/)>.

Reynolds, Glenn Harlan. “A Critical Guide to the Second Amendment.” 2007, PDF.

*PA Constitution*. Section XIII.

*U.S. Constitution*. Amend. II & XIV