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Letter from Washington

Instead of recounting the latest in the ongoing depressing story of the United States' descent into third-world ungovernability, this letter will attempt to shed light on a facet of American life that many outside observers find baffling --- guns.

Guns are inarguably a part of the culture, and have been since the first European colonists in the early 17th century used them to subdue the natives and claim the territory. As the frontier pushed westward through the 17th and 18th centuries, conflict with the Indians was a constant factor, and guns were necessary for self-preservation as well as for providing food for the table.

As the young colony matured, European conflicts spilled over into North America, and in the French and Indian War, French Canada allied with the displaced Indians to harass the frontier.

Ultimately, the American Revolution was fought against the British crown for independence by citizen-soldiers who largely brought their own firearms to the fight. This fact was not lost on the founding fathers who later wrote into the Constitution that the possession of firearms was a fundamental right, and believed that an armed population was a hedge against the reinstatement of a despotic government.

The US Civil War, fought in the mid-19th century was the manifestation of that fear, as the Confederacy took up arms against the perceived tyranny of the federal government, and more than half a million Americans died at the hands of their fellow countrymen.

After the Civil War, the next half century saw the frontier disappear, as the western states were populated and the United States filled in from coast to coast. In this process the final Indian conflict took place, and in 1890 the last major massacre of Native Americans took place at Wounded Knee, South Dakota. The Indians were finally corralled in reservations and no longer capable of posing a large-scale threat to the white occupiers of the land.

In the desert southwest, the last remnant of the frontier saw periodic raids by Mexican banditos, until the US Army was sent south of the border to deal with the problem shortly before America's entry into World War I.

The first 300 years of the American narrative then is a story of survival and conquest, war and violence, in which individual possession of firearms was a necessity and became an integral part of the culture.

Fast-forward to the present day and guns are still a part of the culture, although the rationale for possessing them has changed, and gun violence has become more frequent in some areas than in frontier days.

The framers of the US Constitution were explicit in the language of the document that gun ownership is not a privilege to be granted by the government but a fundamental right of citizenship. That right is conferred in the Second Amendment to the Constitution in the Bill of Rights, preceded only by the rights of free speech, religion and assembly in the First Amendment. The language is unambiguous: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed".

Gun control advocates have focused on the introductory clause regarding the "well-regulated militia" to claim that the right to bear arms belongs to the state, and that citizens only have the right when they are acting as part of an organized and sanctioned force. The founders' intent, however, can be seen plainly in their own writings. In Federalist 28 and 29 Alexander Hamilton explains in detail that the right to bear arms is not granted by the Constitution but affirmed as an existing right of free men to self-defense. James Madison in Federalist 48 further expounds on the rights of citizens to protect themselves from their own government if the Constitution, which had not yet been ratified at the time of his writing, should be subverted in the future.

As a country we find ourselves today with about five different opinions on guns that span the spectrum of thought from left to right:

1. Guns have no place in civil society, are the cause of much misery, and should only be allowed for some governmental use such as police or national defense. No individual right to gun ownership should be allowed.
2. Guns are not inherently evil but are not necessary to normal life in the 21st century. Others may choose to keep firearms if they wish, but only through a careful process of vetting and licensing.
3. Guns are rightfully owned for hunting, recreational purposes and for self-defense.
4. Gun ownership is a right conferred by the Constitution, and whether an individual chooses to own a firearm, his right to do so shall not be challenged or restricted.
5. There should be no restrictions on gun possession, no requirement for registration or licensing, and no prohibition on open or concealed carry of weapons in public.

Probably 80% or more of the country fall between two through four.

In reality, there are top level restrictions to private ownership of some types of military hardware, as well as a prohibition on private ownership of fully automatic weapons.

Law abiding citizens who believe that gun ownership is an absolute right have several powerful voices in the system. The National Rifle Association in particular is well-funded, politically powerful and absolutely opposed to any further restrictions as the first steps down the slippery slope to confiscation.

America may not have a gun problem so much as it has a gun violence problem. In reality there are two separate gun violence issues, but they are treated as symptoms of the same disease and therefore subject to the same cure.

- The first gun violence problem is the Sandy Hook or Aurora model in which disaffected young men, usually decked out in military-style kit and equipped with military grade firepower, try to kill as many innocent bystanders as possible. Whether they do it for fame and notoriety or for some other reason, they are sociopaths who can't make the distinction between making a head explode in a video game and in real life.
- The second gun violence problem is the big city urban model, in which gangs fight over turf and control of the drug trade, killing each other and anyone else that happens to be in the line of fire.

Advocates of extreme gun control measures believe that there is really only one problem and that it can be solved with legislation. If guns were just made illegal the problem would solve itself. This would appear to be simplistically naïve since the only practical effect would be to disarm the law abiding citizens, leaving them as prey for the criminals and the sociopaths who are not necessarily deterred by regulations.

The US government estimates that there are 310 million firearms in private hands today, or roughly one per person. Making future gun sales illegal would do nothing about the weapons already in the system, unless there were a confiscation program also enacted. Reducing the number of weapons loose in society through voluntary surrender or buy-back programs may be possible, but outright confiscation goes to the heart of the Second Amendment issue. The United States still is a center-right country despite recent elections, and the idea that the government would even attempt to walk back a right so fundamental is a non-starter. Gun ownership and possession is an incendiary issue for many, more so than speech or religion, and a confiscation scheme would result in a fully-armed mutiny.

The current discussion in the Congress concerns the possibility of an assault weapons ban, outlawing specific types of weapons more for their appearance than their capability. Assault weapons are defined as those semi-automatic rifles having military characteristics, such as pistol-grip stocks, flash suppressors and extended capacity magazines. That type of weapon was used at the Sandy Hook school and the Aurora movie theater, so the focus of the gun control effort is in outlawing the sale of these weapons.

Those efforts ignore two inconvenient facts:

- There are over 4 million of these assault-style rifles in circulation today, with brisk sales of new weapons anticipating some restriction impending. Restricting future sales does nothing about the weapons already out there which can be legally traded and sold among individuals.
- Under the proposed restrictions there are perfectly legal non-military versions of the same weapons that can fire the same amount of ammo in the same period of time. Additionally, there are high-capacity handguns that can do the same amount of lethal damage just as quickly, but are not considered.

Despite the great emotional reaction that a school shooting of young innocents arouses, the political realities are such that the most likely result may be only an effort to close the loopholes that exist regarding pre-purchase background checks. Ideally, there should be a national database that would include criminals and people mentally unfit for gun ownership, so that they could be excluded at the point of sale. The civil liberty issues involved in specifying how someone is declared mentally unfit and by whom make that effort a non-starter as well.

The biggest fallacy in the attempted regulation of firearms is the so-called "gun show loophole". The Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) estimates that 5,000 gun shows take place annually in the US. These are events that usually take place over a weekend, and licensed dealers and private individuals sell and trade firearms. The licensed dealers are required to carry out background checks on prospective buyers, but the private individual sales are unmonitored. Gun shows are a ready source of firearms for those who would be otherwise prohibited based on mental illness or criminal records.

Maybe the solution to the big city crime model can be found in the different approaches at work in New York City and Chicago. Both cities have strict ordinances regarding the possession of handguns. Gun ownership is legal, but there is an onerous licensing process from which convicted felons are obviously excluded. The key difference is that New York has an aggressive "stop and frisk" policy, in which the police are empowered to stop and search people that they believe to be violating the gun laws. Besides confiscation of

the firearm, the friskee is subject to serious jail time. Chicago does not have a stop and frisk program, and the gun possession laws are not seriously enforced. Since the targets of most stop and frisk actions are black and Hispanic, civil libertarians tie themselves in a knot over the discriminatory aspects of racial profiling. The fact that the great majority of the victims of gun violence are also black and Hispanic doesn't seem to register. As a result the murder rate in Chicago is orders of magnitude higher than New York, even though both cities have the similar socio-economic issues and populations.

Even with the impetus of a school massacre or the shooting of a Congresswoman, it is unlikely that any significant changes will be made, other than possibly closing the gun show loophole and requiring background checks for all sales. There is a fear on the part of the Second Amendment-trumps-everything school that the records from the background checks are to be retained by the federal government to compile a database of gun owners, to be used later as the means to disarm the public.

More than any other economic or social issue in America, guns are the most emotional and therefore the most difficult to deal with rationally.