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**INTERNATIONAL JOURNAL OF  
 ADVANCED RESEARCH (IJAR)**

Article DOI:10.21474/IJAR01/15472  
 DOI URL: <http://dx.doi.org/10.21474/IJAR01/15472>



**RESEARCH ARTICLE**

**GUN LAWS IN CONTEMPORARY AMERICA**

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**Manuscript Info**

**Manuscript History**

Received: 05 August 2022

Final Accepted: 09 September 2022

Published: October 2022

**Abstract**

This article will provide a critical analysis of the causes and impacts of gun violence and the contemporary mass killings in the USA, assessing the effectiveness of federal firearm laws such as stand-your-ground, open carry, and permit laws in tackling the issue. This article places emphasis on the factors responsible for these incidents and how they were shaped, along with their immediate and long-term impacts. The significance of the Second Amendment will also be explored, along with how it is interpreted. Therefore, it will explore whether existing gun laws in the USA make it all the more difficult to bring about a sense of peace and justice in the country. After all, given the current political climate and soaring rates of gun violence in the USA, the impacts of gun laws on crime rates are important to explore. To further the investigation, this statement will be evaluated via the examination of gun laws and recent incidents.

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**Introduction:-**

Gun control in America is now a far more pressing issue than it was a decade ago, with the rates of firearm violence only soaring with time. According to a 2021 report by Amnesty International, there were more than 137,000 individuals who were injured by firearms, with an estimated 39,000 yearly deaths as of 2017 (“Gun Violence”). There have been many causes cited for the gun violence prevalent in America, with the main one being cited as the weak regulation and poor implementation of gun laws and the increasing availability of firearms. Due to the resulting casualties, gun violence is seen as a violation of the right to life, which, according to Article Three of the United Nations Declaration of Human Rights, “is a right every individual holds along with liberty and security of person” (“Human Rights”). Gun laws have also resulted in the violation of several important human rights, such as the right to education (a fundamental right under article 26 of the Declaration). In neighbourhoods that suffer frequent gun violence, it is more difficult to recruit and retain teaching staff and have students enrolled. With these statistics, it is imperative that the issue of gun violence is still paid attention to and how gun violence rates can be reduced by examining the factors responsible for it and how they have manifested in prominent incidents of gun violence.

**Objective:-**

The main aim of this article is to provide a critical analysis of the causes and impacts of gun violence and the contemporary mass killings in the USA. This article places emphasis on the factors responsible for these incidents and how they were shaped, along with their immediate and long-term impacts. The roles of federal firearm laws such as stand-your-ground, open carry, and permit laws will also be touched upon.

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**Hypothesis:**

Existing gun laws in the USA make it all the more difficult to bring about a sense of peace and justice in the country. Given the current political climate and soaring rates of gun violence in the USA, the impacts of gun laws on crime rates are important to explore. This statement will be evaluated via the examination of gun laws and recent incidents.

**Methodology:-**

The type of research conducted is analytical and descriptive, along with the extensive referencing and synthesising of literature and resources over a period of two months.

**Factors responsible for gun violence**

According to a research conducted by the ESFGV (The Educational Fund to Stop Gun Violence), the root causes of gun violence include easy access to firearms by high-risk individuals, income inequality, and under-resourced public services (“The Root Causes”).

**Income inequality and poverty**

It is often argued that income inequality creates hostile social environments due to the changes in the socio-economic climate. According to a study in the 2019 issue of the BMC Public Health Journal, the number of annual incidents of gun violence increased from eight in the 1970s to 115 by the end of 2015. During this period of time, the bifurcation of income became particularly drastic, with the top 0.1% 's income increasing by 4.0% annually between 1980 to 2011, whilst the bottom 99% only experienced a 0.6% annual increase from 1976 to 2011 (Kwon and Cabrera). Thus, the directly proportional relationship between the rise in gun violence rates and increase in income inequality is indicative of gun violence becoming even more of an issue as income inequality becomes the norm.

However, this is but a correlation - and correlation is not equivalent to causation as it only displays the relationship between the rates of occurrence and does not explore what causes these relationships. Many say that income - or the lack of it - is a key factor that influences how likely one is to incite or participate in gun violence. For instance, neighbourhoods with a high poverty rate may lack quality educational opportunities, stable and secure housing, and awareness regarding the dangers of gun violence. In turn, the lack of safety only leads to continued violence, with heavy reliance on firearms for self-defence being a common effect.

**Federal firearm laws and their impacts on gun violence rates**

The act of carrying firearms is defined in two ways in the United States - it can either be a concealed carry or an open carry weapon. Concealed carry weapons are not visible to those nearby, whilst open carry weapons are fully out in the open, with ownership being evident without the need to disclose possession.

There are not many states that explicitly deny citizens the right to bear arms as it would technically be illegal due to the American constitution’s Second Amendment, which states that “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”. Hence, forty out of the fifty states in the USA have regulations protecting the citizens’ right to bear arms. For instance, the manner in which the meaning behind its contents has been decoded presents the ownership of arms as a necessity (Nra-Ila). The term “militia” in the Amendment’s first line refers to the American people - as George Mason quoted, “I ask, sir, what is the militia? It is the whole people, except for few public officials”. The final line (“the right... to keep and bear Arms, shall not be infringed”) states that citizens have the right to own firearms for lawful and defensive purposes without the interference of the government or other external forces (“What Is The Second Amendment”).

The Second Amendment was adopted as part of the Bill of Rights, which consists of the first ten articles of the American Constitution guaranteeing essential rights and civil liberties - for instance, the freedom of religion, the right to free speech, the right to bear arms, trial by jury, and more. The constitution was drafted just a few years after the end of the American Revolutionary War, a period of great instability brought on by the changes post the war (“After the Revolution”). Although the states were united politically under the Articles of Confederation in 1777, they still retained their own sovereignty and operated under their own constitutions, which is why Congress struggled to hold the states together. To defend themselves and build a strong military, the people required the right to bear arms, which was given to them via the Second Amendment. However, the technological advancements, which has only led to the development of deadlier weapons, and the rise in crime were not considered.

However, one way to regulate this is through mandating the requirements of permits that are obtained after a process that includes training, providing proof of residency, background checks, and fingerprinting. Firearms are also required to be registered in many states, which involves them recording their ownership of a firearm with a registered law enforcement agency.

The stand-your-ground laws, also known as “shoot first” laws, are laws that legally allow an individual to use lethal force in acts of self-defence when they deem it objectively necessary without attempting to retreat from the danger first (“WHAT ARE ‘STAND YOUR GROUND LAWS?’”). The latter is known as the duty to retreat, which states that a person who is in imminent danger must first retreat from the threat to the greatest extent possible before responding with lethal force. Nearly half of all US states - including New York, Iowa, and Hawaii - adhere to this. It is also important to note that New York and Hawaii are two US states with the lowest rates of gun deaths - 3.9 and 4.4 per 100,000 respectively (Gun Deaths by State 2022).

Stand-your-ground laws have been criticised as encouraging violence, with critics claiming that they lead to a “shoot first, ask later” attitude resulting in an even greater number of injuries and deaths. The death of seventeen-year-old Trayvon Martin in 2012 was an event that had led to the widespread criticism of stand-your-ground laws. According to research published in the journal JAMA open network, it was found that the law was associated with as many as 700 more firearm deaths per year and a national increase of up to 11% in homicides per month between 1999 and 2017 (Anderson and Whitehurst). The law had been in effect for more than six years in Florida when Martin was fatally shot by George Zimmerman. Zimmerman had called authorities to report Martin’s supposedly suspicious behaviour but was advised against following him to monitor his actions by them - however, he continued to do so, which eventually led to an altercation resulting in Martin’s death (Anderson and Whitehurst). When questioned, he had told authorities that he had been attacked and had acted purely in self-defence.

Anderson and Whitehurst further stated that Zimmerman’s lawyers opted not to pursue a “stand-your-ground” claim prior to trial as it would have resulted in the dismissal of murder charges against him and immunity from prosecution, thus making the trial an unjust one. However, the law was used as his self-defence argument during the trial, resulting in his eventual acquittal. Martin’s murder was not the only one that was justified upon the grounds of this law - the killings of Jasmine McAfee and Jordan Davis had also resulted in the shooters being acquitted.

The Second Amendment could be something that makes it all the more difficult to implement gun control as it makes the right to possess firearms a constitutional one. Whilst its true meaning was up for debate since its ratification in 1791, there have been court cases to set precedent for the interpretation of the Second Amendment.

District of Columbia v. Heller (2008) was one such case. The District of Columbia had banned handgun possession and made it a criminal offence to carry an unregistered firearm and criminalised the registration of handguns. However, one-year licences could be issued by the chief of police and residents could keep lawfully obtained firearms unloaded or disassembled or bound by trigger locks (“DISTRICT OF COLUMBIA”).

According to research from District of Columbia V. Heller (2008), Respondent Heller, a D.C. policeman, filed the suit seeking Second Amendment grounds after the District refused to register a handgun for him - there was also a claim that the handgun ban and the trigger-locking requirements violate the Second Amendment as the total ban on handgun possession amounts to a prohibition on an entire class of “arms”, not to mention that it will be impossible to make use of a disassembled or trigger-locked weapon in emergency situations (“District of Columbia V. Heller (2008)”). However, the district had argued that the opening phrase (“a well-regulated militia”) limited this right to the possession of arms only pertaining to militia service.

The city also pointed out that the law did not ban all firearms entirely and thus did not violate the Amendment, also being a reasonable means of reducing crime. Hence, the ruling read that the 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-defence within the home**” (“District of Columbia V. Heller (2008)”). Hence, it would be a violation to withdraw the citizens’ right to own firearms individually. The Heller decision ruled that self-defence is the core of the Amendment, with having a firearm in “case of confrontation” as the core lawful purpose for its possession.

However, law professor Adam Winkler stated that the Second Amendment is losing its legal relevance when it comes to distinguishing lawful policies from unlawful ones. According to Winkler, the Amendment is “interpreted and applied differently in court and in political discussions in support of gun ownership” (Cathey and DiMartino). The Heller decision had struck down the handgun ban and allowed for the ownership of guns for the purpose of self-defence. Yet the court had also carved out limitations with a broad range of possible gun regulation, such as allowing for restriction in schools, polling places, and government areas. But many state legislatures have decided not to utilise this authority.

It is also thought that states with stronger firearm legislation - with the requirements for permits to carry and purchase guns being mandated, and openly carrying firearms strictly regulated - have lower rates of gun deaths. As of 2022, five states with the highest gun death rates (per 100,000) include:

1. Alaska (23)
2. Alabama (21.4)
3. Louisiana (21.2)
4. Mississippi (19.8)
5. Oklahoma (19.6)

Meanwhile, five with the lowest gun death rates (per 100,000) include:

1. Massachusetts (3.4)
2. New York (3.9)
3. New Jersey (4.1)
4. Hawaii (4.4)
5. Rhode Island (4.6)

(“Gun Deaths by State 2022”)<sup>1</sup>

Open carrying of handguns and long guns is allowed in Alaska, Louisiana, Oklahoma, and Mississippi. However, openly carrying handguns is restricted in Alabama - although not prohibited - whilst it is permitted to publicly carry handguns (“Open Carry”).

Massachusetts only permits openly carrying a firearm in public if one is in possession of a licence. As of 2021, Hawaii allows for the open carrying of handguns with a permit or licence, and the open carrying of long guns while hunting with a licence.

### **Attitudes towards gun violence**

According to the Gun Violence Archive, there have already been 248 mass shootings as of June 2022, with there being 258 in 2021 and 173 in 2020. With the increasing number of shootings, it is only expected that more Americans are now voicing their concern regarding the issue. Of the 1,691 adults who responded to a 2022 FiveThirtyEight poll, 42% named gun violence as one of the most important issues plaguing the country, a whole nineteen points up from the previous poll in early May. The poll was conducted from May 26 - two days after the Uvalde massacre - to June 6 (Skelley and Fuong).

The Uvalde Massacre was one that raised concerns about lax gun laws and systemic failures regarding the enforcement of gun laws (Despart). A surveillance video from the time of the incident showed that officers had made the decision to retreat from gunfire and wait an hour to confront the shooter, with nineteen children and two teachers losing their lives in the aftermath.

Attitudes towards gun violence are indeed shifting after recent incidents, especially the Fourth of July massacre in Illinois, Chicago, proved to be one that served as a bleak reminder of the recent rise in shootings. Even in a nation familiar with reports of such incidents, many were left wondering how safe they truly were whilst celebrating the

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<sup>1</sup>*Gun Deaths by State 2022*. [worldpopulationreview.com/state-rankings/gun-deaths-by-state](https://worldpopulationreview.com/state-rankings/gun-deaths-by-state). Accessed 3 July 2022.

holiday (Keierleber). Illinois is a state that allows open carry - and the shooting occurred in the open during a parade. Consequently, awareness regarding gun violence has increased yet again, as shown by the findings above.

### Conclusion:-

Thus, through these findings, it can be concluded that American gun laws indeed make it difficult to maintain law and order in the United States of America. Their interpretations can vary, as seen in the case of how the Second Amendment has been interpreted and how stand-your-ground laws have been implemented. However, how should the laws be reinterpreted to bring about the change required? How should awareness be raised about the importance of gun control in America to take steps for law and order to be ensured? Why is it that certain laws ultimately lead to the opposite effect to what was intended? These are all questions that cannot be answered by the research conducted alone. However, the research touches upon important correlations and causal effects of factors such as gun laws by state, their interpretations, and how they have been implemented when it comes to gun violence rates - and these are of the utmost importance when it comes to understanding the crux of the issue.

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