

The Right to Bear Arms

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Recently in the very peaceful, picturesque, education centred town of Santa Barbara in California a twenty-two years old youth opened fire on innocent passersby from his car, killing six people, including women and children. He was ultimately shot dead by the police, who recovered from him a 141-page manifesto and a DVD. The youth claimed that girls would not look at him romantically and this so troubled him that he would take revenge against society. Earlier he had been reported to the police by his father for being of a violent nature who was capable of causing harm. The question is whether such a person should ever have been allowed to possess automatic weapons. In the United States over the years there have been many incidents of lethal violence involving the use of fire arms in streets, markets, offices and educational institutions throughout the country. Obviously there is a streak of violence which goes back to Lincoln's assassination, in which indiscriminate use of fire arms by persons mentally unfit to possess them has figured prominently. Despite this in almost every part of the United States one can purchase a gun, even an assault rifle, almost as easily as buying a tin of baked beans. After the Kennedy assassination the State of New Jersey did legislate for a system of gun control, but by and large even today in large parts of the country one can buy a weapon across the counter. In some ways America is one of the most dangerous places on earth because of the large number of weapons owned by the citizens.

The United States has an ultra conservative organisation called the National Rifle Association (NRA). NRA has so far effectively blocked every attempt at legislating for gun control and it bases its stand on two arguments. The first argument is that as per the Second Amendment of the Constitution every American citizen has the right to keep and bear arms. The wordings of the Constitution are "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". Well, in Switzerland it is the duty of every citizen to report for military duty for six weeks every year. The average Swiss citizen, being a part time conscript, is allowed to keep his uniform and his personal weapon at home because he is liable to call out at very short notice. However, the militia is considered a part of the standing army and is trained and organised accordingly. During the Second World War Belgium, Norway and Switzerland were all neutral. This did not prevent Germany from overrunning Belgium and Norway which were militarily weak. In the case of Switzerland, because of the mountainous terrain and the fact that every single Swiss citizen was a part time soldier liable to be called out for long term service, the German Army calculated that it would need at least thirty divisions to occupy Switzerland, a price too heavy to pay. Therefore, Germany continued to respect Switzerland's neutrality. That is the strength of a disciplined militia.

Despite the second amendment of the Constitution America does not maintain a militia of the Swiss pattern. It has the concept of conscription, which is used at the time of war. It also has the State National Guard, which is the American form of a militia, but this is organised like a regular unit of the armed forces. Under Article 1, section 8 of the American Constitution the U.S. Congress can legislate for directly raising the armed forces of the Union and to make the rules and regulations therefor. It further has the right to prescribe legislation and discipline for the State militia, governing its embodiment for the purpose of executing the laws of the Union,

suppressing insurrection and repelling invasions and, for this purpose, legislate for the organisation of the National Guard, its arming and disciplining, the appointment of its officers and its training and deployment. The Second Amendment of the Constitution, therefore, must be read in the light of Article 1, section 8. The right of a citizen to keep and bear arms, therefore, has to be read in the context of a well regulated militia of which he is deemed to be a member. Since Congress constitutionally is competent to legislate on the militia, one fails to understand why NRA insists that under the Second Amendment Congress is not competent to regulate the possession of arms by an individual.

The second argument of NRA is that it is not the weapon which kills but rather the man behind the gun. Accepting this argument is it not obvious that a system of licensing is aimed at ensuring that a weapon does not fall into wrong hands? Should a murderer be allowed to keep a weapon? Should a psychopath be given free access to an automatic weapon? Should a young man frustrated because women would not make love to him be allowed to go out shooting people because the American Government feels it is helpless in the matter of gun licensing? Has no one in NRA read the Preamble to the Constitution which states, "We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity do ordain and establish this Constitution for the United States of America". If domestic tranquility demands reasonable restrictions on the right to bear arms, then the U.S. Congress is competent to legislate in this behalf. That is the spirit of the U.S. Constitution. Such reasonable restriction has to be imposed if the kind of senseless violence that one only too often witnesses at the hands of irresponsible gunmen, is to be contained and stopped. That is why, regardless of what NRA says, the U.S. Congress must legislate on a sensible policy of possession of lethal weapons.

President Obama is by no means the first President to call for arms control. Unfortunately there is a strong conservative, almost primitive, lobby which resists any legislation in this behalf. Perhaps the ultimate outrage which might persuade the conservatives to accept arms control would be for an Afzal Guru to attack the Congress, facilitated in this behalf by the fact that he can buy guns off the shelf, only to turn them on to Congress itself.
