HOW TO THINK ABOUT THE GUN CONTROL DEBATE

Timothy Hsiao

Many on both sides of the gun control debate are under the impression that the best way to settle it is by weighing outcomes in the context of a utilitarian cost-benefit analysis. This article suggests that this way of thinking about the gun control debate is fundamentally mistaken. What matters is not the risk *(or lack thereof) that guns pose to society, but simply whether guns are a* reasonable means of self-defence *when used to resist crimes. What this means is that even if we were to grant the claim that gun ownership decreases average safety, it wouldn't follow that restrictive gun control measures would be justified.*

How should we debate guns? Many on both sides of the gun control debate are under the impression that the best way to settle it is by weighing outcomes in the context of a utilitarian cost-benefit analysis. As a result, both sides constantly squabble over the findings of this or that empirical study in this or that country. Those who support permissive gun ownership cite studies supporting their side, while gun control supporters cite studies purporting to show the opposite.

While I happen to think that the best evidence suggests that gun ownership does not increase crime, I want to suggest that this whole way of thinking about the gun debate is fundamentally mistaken.[1] What matters is not the *risk* (or lack thereof) that guns pose to society, but simply whether guns are a *reasonable means of self-defence* when used to resist crimes.[2] This isn't to say that empirical findings aren't at all important, but rather that studies

doi:10.1017/S1477175619000113 © The Royal Institute of Philosophy, 2019
Think 52, Vol. 18 (Summer 2019)

https://doi.org/10.1017/S1477175619000113 Published online by Cambridge University Press

detailing the positive or negative effects of gun ownership or right-to-carry laws are in fact mostly irrelevant to what's actually at stake. The relevant empirical studies are those dealing with the defensive efficacy of firearms in self-defence situations.

The Right to Life as Fundamental

Let's begin by considering this fact: your right to life isn't dependent on whether respecting your life would yield the best set of consequences. It is absolute and unrelenting, even if it would be more beneficial that it be violated. For example, it would be wrong for me to override your right to life in order harvest your organs to save five people, even if in doing so I produce a more beneficial outcome overall. Your life has *fundamental weight* that is not dependent on the outcome of a simple cost-benefit analysis. The same goes for other rights that are derived from the right to life, such as the right to bodily integrity: it would be wrong to rape someone even if doing so would save ten lives. Our moral rights function as 'trump cards' that ordinarily override appeals to utility.

This isn't to say that it is always wrong to take a life, for the right to life can be *forfeited* in cases of wrongdoing. The claim here is simply that every innocent person has a right to life that is supremely weighty. It cannot be overridden for the sake of the greater good.

Fundamental Rights Derived from Life

We can think of the right of self-defence in similar terms. Since our right to life cannot be overridden in the name of social utility, and since the goal of self-defence is to protect one's life, it stands to reason that our right of self-defence also cannot be overridden in the name of social utility. For the right of self-defence to be meaningful at all, it must fully

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extend to all cases in which our lives are worth protecting. Our right of self-defence must therefore have *equivalent strength and scope* to the right to life. Like the right to life, the right to defend ourselves also has fundamental weight that can't be defeated just because it would produce a net benefit. We don't run a cost-benefit analysis before we allow individuals to defend themselves.

Now, possession of a right entails the possession of a corresponding right to pursue, exercise, or obtain that which you have a right to. A right would not be a right if it did not also provide its bearer with some means to obtain that to which he is entitled. For example, the right to assemble must presuppose the right to freedom of movement, for one cannot assemble if one is not free to move about. Likewise, if we have the right to self-defence, we must also have the right to a *reasonable means* of our defence. In other words, we have *a right to bear arms*, where 'arms' broadly refers to a variety of ways in which we may reasonably mount a defence of our lives. And like the right of self-defence from which it is derived, the right to bear arms must also have equivalent strength to the right to life, meaning that it isn't subject to a cost-benefit analysis.

Since the goal of the right to bear arms is to facilitate the exercise of self-defence, the pertinent question we must ask in determining what falls under this right is whether something qualifies as a *reasonable means of self-defence*, and *not* whether it increases or decreases average safety. Average safety has to do with the risk (or lack thereof) that something has in general, while being a reasonable means of self-defence pertains to the effectiveness of some object when it is used in an actual self-defence situation. Whether some weapon increases or decreases average safety is distinct from its effectiveness as a self-defence tool. A burglar alarm, for example, may increase average safety, but it is near useless as a weapon. What matters as far as *self-defence* is concerned is simply whether the tool in question improves the

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chances of resisting an unjust attack, not its broader risks in general. This is a subtle but crucial point overlooked by many on both sides of the debate. Since guns are valued precisely for their self-defence benefits, the empirical debate over gun ownership ought to centre mainly on their effectiveness at resisting criminal victimization, not their broader effects at deterring crime. Hence, the key question at stake in the debate over guns should be about whether they are reasonable means of self-defence, i.e. whether guns are in fact good at warding off unjust attacks.

Another way to see this point is to distinguish between the *deterrent* and *disruptive* effects of a self-defence weapon. Deterrent effects refer to the effects a weapon may have in preventing crime, while disruptive effects refer to a weapon's effectiveness in forcibly resisting a crime. When talking about self-defence, it is the disruptive effects that matter, since engaging in self-defence requires that the defender engage in some kind of self-protective action against his assailant. Deterrence, by contrast, does not involve initiation of force. A reasonable means of self-defence, therefore, refers to a weapon that does a good job at forcibly disrupting crime.

More precisely, a reasonable means of self-defence is one that is able to reliably, effectively, and practically deliver a proportionate amount of force in response to a threat of harm. Guns clearly satisfy this description. They do not require great skill to handle and can be effectively used by all sorts of individuals to equalize disparities that are commonly exploited in violent crimes. This isn't just armchair theorizing either: there is *overwhelming agreement* within the empirical literature that guns are extremely effective in self-defence. Consider the following:

- Out of eight different forms of robbery resistance, 'victim gun use was the resistance strategy most strongly and consistently associated with successful outcomes for robbery victims'.[3]

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- 'The most effective form of self-protection is use of a gun', and 'there does not appear to be any increase in injury risk due to defensive gun use'.[4] Victims who resisted robberies and burglaries with guns were less likely to lose property than those who resisted with other means.
- Men and women who resisted with a gun were less likely to be injured or lose property than those who resisted using some other means or who did not resist at all. In the case of women, 'having a gun really does result in equalizing a woman with a man'.[5]
- Out of sixteen different forms of victim self-protection, 'a variety of mostly forceful tactics, including resistance with a gun, appeared to have the strongest effects in reducing the risk of injury'.[6]
- Defensive gun use 'is most often effective at helping the victim rather than hurting them'.[7]
- Resistance with a gun decreased the odds of robbery and rape completion by 93% and 91%, respectively.[8]

Taking stock of these points, the Institute of Medicine and National Research Council concluded in a 2013 review of the literature that 'studies that directly assessed the effect of actual defensive uses of guns (i.e. incidents in which a gun was "used" by the crime victim in the sense of attacking or threatening an offender) have found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies'.[9]

Additionally, the findings of at least *nineteen* different surveys show that guns are used quite often in self-defence.[10] While these surveys differ in their exact findings, all confirm the thesis that defensive gun uses are very common, or at the very least more common than criminal

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uses.[11] Estimates range from around 760,000 to 3 million defensive uses of guns each year, compared to around 414,000 criminal uses of guns in 2011. The methodologically strongest survey, conducted by criminologists Gary Kleck and Marc Gertz, found that guns are used in self-defence up to 2.5 million times each year.[12] A later survey, conducted by the Police Foundation and sponsored by the Department of Justice, confirmed these findings.[13]

Critics of Kleck and Gertz sometimes argue that these numbers are inconsistent with the findings of the National Crime Victimization Survey (NCVS), which suggests only around 70,000 total civilian defensive gun uses each year. However, the NCVS was never designed to measure defensive gun use to begin with. Respondents to the NCVS are not asked about defensive gun use at all. They merely are provided with the option to volunteer this information if they indicated that they were the victim of a crime.[14] Among surveys that *are* designed to measure defensive gun use, there is near unanimity that defensive gun uses are very frequent.

When it comes to the use of studies and statistics, both sides tend to focus on the impact of gun ownership and right-to-carry laws on causing or deterring violence. These are certainly interesting issues to tackle, but deterrence (or lack thereof) isn't actually relevant to the key question in the gun debate, which is whether guns are effective at self-defence. Rather, the kinds of studies we should be paying attention to are those dealing with the defensive efficacy of guns when used in self-defence, i.e. the literature on the disruptive effects of firearms.

Assessing Consequences

I've argued that the right to life, as well as its derivative rights, ordinarily resist appeals to social utility. That is to say, it would be wrong to override my right to life even if it were to yield a greater good – say, by harvesting my

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organs to save five people. Still, one might wonder how far this goes. Suppose that in killing one innocent person, we thereby save the lives of 10 million others. Would that be justified? Perhaps it would. At the very least, our intuitions aren't as strong. Without getting into a long discussion about whether there are any absolute moral norms, I'm willing to grant that there will be some point at which the amount of harm becomes sufficient to outweigh the right to life or its derivatives. But how much harm would there have to be? It's hard to say, but if the organ donation and rape examples given earlier work, it would have to be *at least* several times greater than the benefits.

Suppose then that we adopt the lowest estimates for civilian defensive gun uses in the United States, which are around 70,000 per year.[15] Compared to the number of criminal uses of guns each year, which number around 400,000 in the United States, this is nearly a 6:1 ratio of harms to benefits. For every defensive gun use, there are six criminal uses. Would this be sufficient to outweigh the right to own a gun? Again, if the examples given earlier work, then it is doubtful. If it would be immoral intentionally to kill or rape one innocent person to save ten lives, then it would be wrong to do so for six. The harms would have to be many more times greater for the right to own guns to be overridden.

Conclusion

I've argued that even if we were to grant the claim that gun ownership decreases average safety, it wouldn't immediately follow that restrictive gun control measures would be justified, because the gun control debate isn't primarily about average safety. The heart of the gun control debate concerns the effectiveness of guns when used in self-defence situations. And on that question, there is virtually no debate. Although it is overwhelmingly supported by empirical studies, one hardly even needs a study to

https://doi.org/10.1017/S1477175619000113 Published online by Cambridge University Press

confirm the seemingly common-sense claim that guns do a good job of stopping an attack. For that reason, restrictive gun control laws, insofar as they restrict one's access to a reasonable means of self-defence, violate the right of self-defence.

Timothy Hsiao is Instructor of Philosophy and Humanities at Grantham University in Lexnas, Kansas. His articles have appeared in a number of journals, including Public Affairs Quarterly, Philosophia, *and the* Journal of Agricultural and Environmental Ethics. *thsiao@grantham.edu. His website is timhsiao.org*

Notes

[1] A review of the literature analysed 90 findings across 41 different studies and found that all of the methodologically strongest studies do not support the thesis that gun ownership causes more crime. See Gary Kleck, 'The Impact of Gun Ownership Rates on Crime Rates: A Methodological Review of the Evidence', *Journal of Criminal Justice* 43(1) (2015): 40–8.

[2] This point is also made in Deane-Peter Baker, *Citizen Killings: Liberalism, State Policy, and Moral Risk* (New York, NY: Bloomsbury, 2016).

[3] Gary Kleck and Miriam Delone, 'Victim Resistance and Offender Weapon Effects in Robbery', *Journal of Quantitative Criminology* 9(1) (1993): 55–81.

[4] Gary Kleck and Don B. Kates, *Armed: New Perspectives on Gun Control* (Amherst, NY: Prometheus, 2001), 288–93.

[5] Lawrence Southwick Jr., 'Self-Defense with Guns: The Consequences', *Journal of Criminal Justice* 28 (2000): 351–70.

[6] Jongyeon Tark and Gary Kleck, 'Resisting Crime: The Effect of Victim Action on the Outcomes of Crimes', *Criminology* 42(4) (2004): 861–909.

[7] Timothy Hart and Terance Miethe, 'Self-Defensive Gun Use by Crime Victims: A Conjunctive Analysis of its Situational Contexts', *Journal of Contemporary Criminal Justice* 25(1) (2009): 6–19.

[8] Rob Guerette and Shannon Santana, 'Explaining Victim Self-Protective Behavior Effects on Crime Incident Outcomes:

https://doi.org/10.1017/S1477175619000113 Published online by Cambridge University Press

A Test of Opportunity Theory', *Crime and Delinquency* 56 (2010): 198–226.

[9] Alan I. Leshner, Bruce M. Altevogt, Arlene F. Lee, Margaret A. McCoy, and Patrick W. Kelley (eds) *Priorities for Research to Reduce the Threat of Firearm-Related Violence* (National Academies Press, 2013), 15–16.

[10] See the discussion in Kleck and Kates, *Armed*. Also see Gary Kleck, *Targeting Guns: Firearms and their Control* (New Brunswick, NJ: Transaction, 1997), 147–59.

[11] Leshner et al., *Priorities for Research*, 15.

[12] Gary Kleck and Marc Gertz, 'Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun', *Journal of Criminal Law and Criminology* 86(1) (1995): 150–87.

[13] Philip Cook and Jens Ludwig, 'Guns in America: National Survey on Private Ownership and Use of Firearms', *National Institute of Justice Research Brief* (May 1997). Also see Cook and Ludwig, 'Defensive Gun Uses: New Evidence from a National Survey', *Journal of Quantitative Criminology* 14(2) (1998): 111–31. See Kleck and Kates, *Armed*, 213–83, for a discussion of their results.

[14] Kleck and Kates, *Armed*, 229–35. There are at least two other problems with the NCVS that would lead to undercounting of defensive gun uses. First, research has found that the NCVS underestimates crime frequency, which means that it would also underestimate defensive gun uses in response to crime. Second, respondents to the NCVS often fail to give positive answers to cases in which a crime happened but where no harm was dealt. Since most defensive gun uses result in neither property loss nor injury, the crimes for which they are a response are often never reported as crimes to begin with.

[15] For reasons explained earlier, this number is very probably a gross underestimation, but I am granting it for the sake of argument.

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