

# The New York Times

## The Gun Challenge

### *Reason to Hope After the Newtown Rampage*

This is a country that has a history of facing tragedy and becoming better for it. It is a country that recoiled in horror at the Triangle shirtwaist factory and took steps to protect the lives of factory workers. It is a country able to rethink deeply seated beliefs — as it did with discrimination against blacks and women and is now doing with anti-gay discrimination.

Americans are ready to shoulder burdens — as we did after the Sept. 11, 2001, attacks by accepting increased security when we travel and military actions we might previously have avoided. The current atmosphere in Washington — where lawmakers looked at the challenge of a struggling economy and dissolved into partisan bickering — is not the old normal, and there is no reason we should settle for it as the new normal.

So we have found real reason to find hope in the determination to effect change that followed the murders of 20 children and seven adults in Newtown, Conn., last Friday. President Obama said it unequivocally on Sunday — the enormity of controlling the culture of guns and the epidemic of gun violence “can’t be an excuse for inaction.”

Yes, Mr. Obama has said that before, after two previous mass killings during his tenure, and did nothing. The hurdles are just as big as they were before, but there are signs that people are willing to rethink their views.

Senators Joe Manchin of West Virginia and Mark Warner of Virginia, Democrats with “A” ratings from the National Rifle Association, have both said it is time to talk about restrictions on gun sales and ownership. Joe Scarborough, the former Republican congressman and now morning host on MSNBC, said Monday that the Newtown killings had changed his mind about gun control.

And some lawmakers are already preparing to take action, like Senator Dianne Feinstein, the California Democrat who plans to submit a bill in the next Congress that would update and tighten the loophole-riddled 1994 as-

sault weapons bill that she wrote and that remained law until it expired in 2004.

In that spirit, we are devoting this page to the gun epidemic, and the violence it has caused, and plan to return to the subject frequently, analyzing the challenge but mostly looking at solutions — all of which start with the hard truth that it is past time for both sides of the gun debate to be less inflexible on the issue of a Constitutionally mandated right to bear arms.

Those who believe, as we do, that the Second Amendment does not provide each American with an absolute right to own guns, must recognize that this position can alienate sympathetic listeners and is not likely to prevail any time soon. We must respect the legitimate concerns of law-abiding, safety conscious gun owners, in order to find common ground against unyielding ideologues.

The challenge for the antigun-control side was put well by Mr. Scarborough, who said Monday that he had changed his view of the gun debate as a question of individual rights versus government control, and now sees it as an issue of public safety. There are no rights granted by the Constitution that are so absolute that they erase concerns about public safety and welfare.

There is reason, this time around, to hope that both parties can shake off the N.R.A. Mayor Michael Bloomberg of New York pointed out on Sunday that the lobby had failed to defeat Mr. Obama this year. And Representative John Yarmuth, a moderate Democrat from Kentucky, said: “The National Rifle Association has spent untold millions of dollars instilling fear in our citizens and our politicians. I believe it is more rational to fear guns far more than the illusory political power of the N.R.A.”

In fact, poll after poll has shown that N.R.A. members themselves are not opposed to measures like criminal background checks on gun sellers and gun buyers.

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# *Personal Guns and the Second Amendment*

When the Supreme Court struck down a ban on handguns by the District of Columbia in 2008, ruling that there is a constitutional right to keep a loaded handgun at home for self-defense, the decision was enormously controversial in the legal world. But the court's conclusion has generally been accepted in the real world because the ruling was in tune with popular opinion — favoring Americans' rights to own guns but also control of gun ownership.

The text of the Second Amendment creates no right to private possession of guns, but Justice Antonin Scalia found one in legal history for himself and the other four conservatives. He said the right is not outmoded even “in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem.”

It is not just liberals who have lambasted the ruling, but some prominent conservatives like Judge J. Harvie Wilkinson III of the United States Court of Appeals for the Fourth Circuit. The majority, he wrote, “read an ambiguous constitutional provision as creating a substantive right that the Court had never acknowledged in the more than two hundred years since the amendment's enactment. The majority then used that same right to strike down a law passed by elected officials acting, rightly or wrongly, to preserve the safety of the citizenry.” He said the court undermined “conservative jurisprudence.”

In the real world, however, criticism has abated in part because the majority opinion was strikingly respectful of commonplace gun regulations. “Like most rights,” Justice Scalia said, “the right secured by the Second

Amendment is not unlimited.”

And: “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. We also recognize another important limitation on the right to keep and carry arms” — “prohibiting the carrying of ‘dangerous and unusual weapons.’ ”

Justice Scalia does not say how federal courts should evaluate such regulations and the Supreme Court may need to return to this issue soon, to resolve a substantial disagreement that has arisen in federal appeals courts.

Does the court's 4-year-old ruling imply “a right to carry a loaded gun outside the home”? That is what the Seventh Circuit appellate court concluded last week in striking down an Illinois law that prohibited most people from carrying a loaded weapon in public.

Or does the Supreme Court's ruling on handguns support the view that public interest in safety outweighs an individual's interest in self-defense because gun rights are more limited outside the home? That is what the Second Circuit found last month in upholding a New York State law limiting handgun possession in public to people who can show a threat to their own safety.

Where “gun violence is a serious problem,” as Justice Scalia said it is in the United States, the courts must be very cautious about extending the individual right to own a gun. The justice's opinion made that clear.

## *In Other Countries, Laws Are Strict and Work*

Like other shootings before it, the Newtown tragedy has reawakened America to its national fixation with firearms. No country in the world has more guns per capita, with about 300 million civilian firearms now in circulation.

Experts from the Harvard School of Public Health, using data from 26 developed countries, have shown that wherever there are more firearms, there are more homicides. In the case of the United States, exponentially more: the American murder rate is roughly 15 times that of other wealthy countries, which have much tougher laws controlling private ownership of guns.

There's another important difference between this country and the rest of the world. Other nations have suffered similar rampages but they have reacted quickly to impose new and stricter gun laws.

Australia is an excellent example. In 1996, a “pathetic social misfit,” as a judge described the lone gunman, killed 35 people with a spray of bullets from semi-automatic weapons. Within weeks, the Australian government was working on gun reform laws that banned assault weapons and shotguns, tightened licensing and financed gun amnesty and buyback programs.

At the time, the Prime Minister John Howard said,

“we do not want the American disease imported into Australia.” The laws have worked. The American Journal of Law and Economics reported in 2010 that firearm homicides in Australia dropped 59 percent between 1995 and 2006. In the 18 years before the 1996 laws there were 13 gun massacres resulting in 102 deaths, according to Harvard researchers, with none in that category since.

Similarly, after 16 children and their teacher were killed by a gunman in Dunblane Scotland in 1996, the British government banned all private ownership of automatic weapons and virtually all handguns. Those changes gave Britain some of the toughest gun control laws in the developed world on top of already-strict rules. Hours of exhaustive paperwork are required if anyone wants to own even a shotgun or rifle for hunting. The result has been a decline in murders involving firearms.

In Japan, which has very strict laws, only 11 people killed with guns in 2008, compared to 12,000 deaths by firearms that year in the United States — a huge disparity even accounting for the difference in population. As Mayor Michael Bloomberg stressed on Monday while ratcheting up his national anti-gun campaign, “We are the only industrialized country that has this problem. The *only*.” Americans do not have to settle for that.