



Untangling the Gun Lobby's Web of Self-Defense and Human Rights

Peddling False Rights, Profiting Off Fear

By Rukmani Bhatia August 12, 2020

Every human life has inherent value and dignity, and every person has the right to life, liberty, and personal security.¹ These truths are codified in the 1948 Universal Declaration of Human Rights (UDHR).² The UDHR was historic, with nations coming together to explicitly recognize the need to protect and preserve these fundamental rights, structuring constitutions to explicitly defend their citizens' human rights, and particularly their rights to life, freedom, and security. The protection of human rights continues to be a defining pillar to secure a stable, peaceful liberal world order. But in the United States, some groups—such as the gun lobby—are seizing upon this rights-based narrative to justify, dangerously, the right to bear, carry, and use firearms.

The United States was built on a shared set of values and principles, with a focus on protecting and preserving inalienable human rights to life and liberty. In spite of the rhetorical principles on which the United States was founded, the nation has been the site of countless egregious human rights violations, including the eradication of Indigenous populations, the enslavement of people of African descent, and the continued disenfranchisement of communities of color.³ Over time, systemically disenfranchised and persecuted communities have fought for the rights granted in the original founding doctrines.⁴ These exceptional, prolonged grassroots advocacy and coalition-building efforts continue today, as evidenced in the recent protests against police brutality targeting Black Americans.⁵

Today, alongside this rights-based narrative, a parallel narrative exists that is perpetuated by the U.S. gun industry as part of a multifaceted effort to increase gun sales. This so-called gun-rights narrative manipulates the ideals of human rights to establish not only an inalienable right to life but also an unfettered right to armed self-defense to protect oneself from any perceived threat of harm. This narrative hinges on fear and the need to defend oneself and loved ones from unknown but ever-present threats through whatever means necessary and without regard to the rights of others. It is grounded by the false claim that the most effective means of self-preservation involves using a firearm.

This argument is destructive. It undermines an equitable and just democratic society's role to preserve its citizens' rights and lives. It undercuts the fundamental right to life of countless persons at the hands of an armed civilian whose subjective fear of harm can, in some states, serve as justification for pulling a trigger. This dangerous narrative is also pervasive. Large swaths of the U.S. population continue to believe that firearms are the ultimate means of self-defense, in spite of the strong evidence to the contrary. In the worst of instances, armed civilians motivated by bias use their gun lobby-empowered positions to serve as judge, jury, and executioner against people they deem as a threat. Within the United States, the increased connection between firearms and personal safety, coupled with the militarization of civilians through "stand your ground" laws has resulted in a human rights crisis.

Gun rights are not human rights

In 1948, the Universal Declaration of Human Rights (UDHR) laid out, on a global scale, a set of rights guaranteed to every human being and explicitly called on member states to observe, promote, and protect these rights.⁶ The principles enshrined in the UDHR include the "right to life, liberty and security of person,"⁷ with an important caveat: "These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations."⁸ That is to say, these fundamental rights and freedoms are not unlimited but part of a social contract in which all persons must respect the rights and dignity of other people as well.

While the right to security of person is often misconstrued as a broad right to self-defense against any perceived threat,⁹ it actually enshrines the right for someone to have security and safety over their body, protecting them from attack. In order to justly protect one's personal right to security, a person is able to use force only insofar as the situation requires it and when there exists no other means of protecting themselves from attack. The use of force falls under the right of security only when the force is proportional to the impending attack.¹⁰

As U.N. Human Rights Officer Jan Arno Hessbruegge noted:

International human rights law establishes boundaries on how broadly domestic laws on personal self-defense between private persons may be drawn. States may not prohibit self-defense altogether, but in protecting the right to life they must also be sure that self-defense rights do not exceed reasonable boundaries. Certain initiatives to broaden self-defense laws raise serious concerns from a human rights perspective, notably "stand your ground" laws that permit the use of lethal force despite the existence of safe retreat options. Contrary to what has been asserted by some gun rights advocates, international law does not establish a right to firearms as a means of self-defense.¹¹

The linkage between the right to self-defense and the right to be armed is a fallacy perpetuated not by human rights scholars but by lobbyists for the firearms industry.

What does the Second Amendment say about gun rights?

In 2008, the Supreme Court heard the case of the *District of Columbia v. Heller*. A gun owner, Dick Heller, sued the District of Columbia, claiming the district's ban on possessing handguns, including in one's home, was a violation of the Second Amendment. The case was heard by the Supreme Court, with the court finding that the Second Amendment provided an individual right to possess firearms in the home for self-defense purposes.¹² However, the court's decision explicitly stated that the Second Amendment did not grant an individual the unlimited right to own and use firearms in the United States. Instead, the majority opinion, authored by Justice Antonin Scalia, stated "Like most rights, the right secured by the Second Amendment is not unlimited. [It is] not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose."¹³

Following the landmark decision, cases challenging gun safety legislation such as assault weapons restrictions or bans on high-capacity magazines were brought in numerous states. The majority of courts found that the *Heller* decision in no way infringes on the constitutionality of laws that address the significant gaps in legislation around gun ownership within the United States such as laws requiring background checks on all firearm sales or restricting civilian access to military-style firearms and ammunition magazines.¹⁴

How the gun lobby and industry fan the flames and rake in profits

Individual gun ownership is a deeply entrenched cultural tradition in parts of the United States. Through strategic lobbying efforts launched primarily by the National Rifle Association (NRA) in the late 20th century, the gun industry has sought to exploit the intersection of gun ownership and cultural tradition by developing an insidious narrative portraying any regulation of firearms as an attack on freedom. Their efforts have given rise to the so-called gun rights movement.¹⁵ By deploying strategic propaganda campaigns, discussing impending hypothetical attacks from terrorist organizations, or using singular acts of violence perpetrated by undocumented immigrants to suggest a population-level threat,¹⁶ the gun lobby has been able to seize on fear and insecurities across the United States. Many people now rely on firearm ownership as a reaction to a gun industry-constructed doomsday scenario.¹⁷ The industry has created a false narrative that people are always at risk of violent attack and offers up a simple yet deeply flawed solution: Buy a firearm to protect yourself and your family.¹⁸

This messaging runs in stark contrast to the bulk of the evidence-based research that has been conducted on the topic, which finds that firearms are not an effective means of self-defense. In fact, academic studies show that having firearms in the home correlate with an increase in unintentional shootings, often involving children, as well as higher rates of firearm suicides.¹⁹ Research also indicates that firearms used to perpetrate school shootings most often come from the shooter’s home, where they are stored under the pretense of self-defense.²⁰ The idea that civilians need to be armed to ward off bad actors—the “good guy with a gun” concept painted by the gun lobby—does not represent reality. FBI data show that armed civilians rarely stop armed assailants and instead only make it harder for law enforcement to secure the scene of a shooting.²¹

While the gun lobby was establishing a narrative creating an environment of fear and constant risk, the gun industry was launching marketing campaigns to sell their deadly products. To complement the fear-based narrative pushed by the gun lobby, the industry marketed certain weapons specifically as self-defense products. Glock, for example, has a search filter for their website specifically for firearms designed for home defense,²² and Remington sells a series of guns marked as “Home Defense Models.”²³ The principle marketing tool to sell hollow-tip ammunition—which is designed to expand on impact, increasing damage to the person shot and reducing the risk of overpenetration—is to brand them as self-defense ammo or personal-defense ammo.²⁴

The gun lobby’s efforts extend beyond the commercial market; some of the gun lobby’s most pernicious pieces of propaganda are seized upon and perpetuated organically by members of the so-called gun rights community. Gun rights advocates convene regularly online to discuss different aspects of firearms and accessories in addition to regularly using forums to spread gun lobby myths and propaganda.²⁵ The idea of needing a gun to protect against home invasions is perpetuated across self-described gun enthusiast websites such as The Truth About Guns, which has a daily posting called “Defensive Gun Use of the Day.”²⁶ The posts detail incidents where a gun owner was attacked, most often in their home, and how their ability to seize a firearm and act swiftly in self-defense prevented them from being harmed by the attackers. Another popular site, The Carry Academy, features information about carrying firearms for self-defense, including reviews of firearms deemed to be most effective against intruders.²⁷

‘Stand your ground’: The deadly effect of a perverted rights framework

The common thread running through gun advocates’ claims of rights violations is the belief that people have a fundamental right to use lethal force to ensure their own self-preservation. Put bluntly by Marion Hammer, NRA lobbyist and former NRA president, “We don’t shoot to kill, we shoot to live.”²⁸ This problematic justification for using firearms is the impetus for a self-defense policy called “stand your ground.”

In 2005, the gun lobby, through efforts of the NRA's chief Florida lobbyist, manipulated the idea that a right to life meant an unfettered right to bear and carry guns, using this false interpretation to develop “stand your ground”—a policy that has had a severely negative impact on the rights and safety of communities and resulted in numerous deaths within the United States.²⁹ Following the landmark adoption of the policy in Florida, the gun lobby partnered with the American Legislative Exchange Council (ALEC)—an organization that develops policy and legislative proposals for lawmakers within the United States³⁰—to expand the law across the nation.³¹ ALEC seized on the Florida law, which became part of ALEC's “model legislation” portfolio; the result was widespread efforts for state legislatures across the nation to enact these laws.³² Today, 27 states have enacted a version of “stand your ground” laws.³³

This gun lobby flagship law is designed to look like it is simply focused on protecting people's rights to self-defense. In reality, “stand your ground” laws are deadly, pervert the concept of self-defense, and undermine human dignity. Simply put, they undermine the fundamental human rights of people living in a state where this policy exists.

“Stand your ground” laws grossly expand the traditional legal principles of self-defense. They allow a person to use deadly force in any situation where they have a subjective belief that they face an imminent threat of harm, without first making any effort to deescalate the situation or retreat, as is required in traditional legal defenses to justify the use of force in self-defense scenarios.³⁴ Contrary to this established concept of self-defense, “stand your ground” laws can actually encourage people to escalate situations, using lethal force as the primary mechanism for self-preservation rather than as a last resort.³⁵

This law warps people's understanding about their rights to security and, in the worst cases, empowers them to take away another person's right to life. The right to shoot first is built on a belief that not all human life is equal, stripping people—often people of color—of their basic rights to life and dignity.³⁶ It enables people to serve as judge and jury in an adrenaline-filled instant—a value judgment on the other person's life.

“Stand your ground” laws have consistently been invoked as a defense for killing Black people. For example, the destructive scope of this policy garnered national attention in February 2012, after 17-year-old Trayvon Martin was gunned down in Sanford, Florida, while simply walking in a gated community.³⁷ While the shooter did not formally invoke a “stand your ground” defense, the jury was instructed to consider the law when deliberating the shooter's case; the shooter was acquitted.³⁸ In November 2012, the state's “stand your ground” law again made national headlines after a shooter claimed he felt threatened by the loud music being played in a car of Black teenagers in a gas station in Jacksonville, Florida; the shooter fired multiple

rounds into the car, killing 17-year-old Jordan Davis.³⁹ The shooter maintained through the legal proceedings he fired his firearm as an act of self-defense; he was found guilty by the jury and sentenced to life in prison.⁴⁰ The law was raised on the national level most recently in February 2020 following the murder of 25-year-old Ahmaud Arbery, who was shot to death while jogging in his own neighborhood in Glynn County, Georgia. The three men involved avoided arrest for several weeks after telling local authorities they were standing their ground and shot the unarmed jogger in self-defense.⁴¹ Following indictment by a grand jury, the men pled not guilty of murdering Arbery; the legal proceedings are expected to continue over several months.⁴²

These tragic deaths are not outliers. Researchers at American University found that approximately 30 people die each month in a “stand your ground”-related incident in states with these laws enacted.⁴³ Data show that states with a version of “stand your ground” laws see increased rates of homicides and injuries related to gun violence. A study focused on the impacts of “stand your ground” in Florida found that the law was associated with increased homicides overall as well as an increase in gun homicides; the researchers found that the state’s monthly gun homicide rate increased 31 percent, with the overall homicide rate in the state increasing 24 percent in the 10 years following the law’s enactment.⁴⁴ The evidence is clear: “Stand your ground” laws do not protect people from violence; instead, this policy results in more injuries and more fatalities.

Studies on “stand your ground” laws also show they are unevenly enforced, with clear racial bias implications. A study analyzing “stand your ground” policies found that in nearly 36 percent of shootings of Black victims by white perpetrators, the perpetrators successfully argued that the defendant was “standing their ground”; however, only 3.4 percent of Black defendants were able to avoid criminal liability under the same law when the victim was white.⁴⁵ Focusing only on Florida, researchers found that after examining “stand your ground” cases from 2005 through 2013, the racial identity of the victim was a significant factor in the defense’s success: In incidents where the victim was not white, the “stand your ground” defense was more likely to succeed.⁴⁶

“Stand your ground” policies exist in stark contrast to that basic tenet of human rights: that every human life has dignity and value. These policies empower people to act impulsively and violently, often driven by hatred, bias, or fear. It is a policy designed not out of a desire to protect the principles of self-defense or preservation of human life, but to further entrench the belief that firearms protect people. The right to personal security was protected prior to the creation of this odious policy, with significant precedent on balancing the use of force for self-defense with respect for the fundamental rights of others. This policy directly opposes fundamental human rights, placing the life of the shooter at higher value than the life of another person.

Conclusion

Fear is a powerful emotion. It evokes a need to survive and protect and drives instinctive, visceral actions. The gun lobby has, for decades, seized on the power of this basic human emotion and manipulated it to sell firearms. By exacerbating feelings of insecurity, they have linked firearms with self-defense. By manipulating the concept of human rights, they have embedded in the minds of far too many people the idea that they have a fundamental right to self-defense, even if it comes at the cost of others' right to life.

The manipulation of fear, perversion of the idea of self-defense, and easy access to firearms has had devastating results. Too many lives have been lost at the hands of someone emboldened by the concept of "standing their ground." No law should enable people to shoot first and ask questions later. The existence of these laws leaves communities, particularly communities of color, at risk of violence.

All humans have the fundamental right to life, but in the United States, that right too often is cut short by a gun. The United States was founded on principles that unequivocally protect the right to life. Its laws should reflect those promises. It is past time that U.S. policymakers stop kowtowing to the gun industry and its lobbyists and instead respect the principles enshrined in both the U.S. Constitution and international law.

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