Overcoming Delusions About the Second Amendment

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The 2008 Supreme Court case District of Columbia v. Heller shows definitively that the Second Amendment is about an archaic issue relevant to 1790, not to 2012. The Second Amendment reads as follows:

"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."

The purpose of the Second Amendment was to prevent the new Federal Government established in 1789 from disarming the state militias and replacing them with a Federal standing army. It was a concern that was relevant perhaps for a few years around the birth of the country. It is irrelevant today. Americans do not rely on state militias in 2012 for our freedom from the federal government.

Though Justice Antonin Scalia tried in the majority opinion to use the Second Amendment to defend gun rights, the many sources that he cited are clear that the purpose of the amendment was to protect state militias. One source, for example, declares, that the purpose of the Second Amendment is "to secure a well-armed militia..." Another source Scalia cited indicates that the amendment covers only arms that "have some reasonable relationship to the preservation or efficiency of a well regulated militia."

Therefore, Scalia acknowledges that the Second Amendment -- even in his pro-gun interpretation -- only protects arms that would be used in a militia, not the weapons of a formal army. He makes clear that "M-16 rifles and the like" have no Second Amendment protection and may be banned.

There is thus no constitutional protection whatsoever for the semiautomatic rifle that killed the kids in Newtown. Even Scalia is explicit on that point.

The Second Amendment is a relic of the founding era more than two centuries ago. Its purpose is long past. As Justice John Paul Stevens argues persuasively, the amendment should not block the ability of society to keep itself safe through gun control legislation. That was never its intent. This amendment was about militias in the 1790s, and the fear of the anti-federalists of a federal army. Since that issue is long moot, we need not be governed in our national life by doctrines on now-extinct militias from the 18th century.

More basically, the idea that unregulated private gun ownership and trade protects us against tyranny, or that gun controls would threaten tyranny to us all, is baseless. Democracies around the world regulate guns, preserve their freedoms, and achieve firearm murder rates that are a tiny fraction of the rates suffered in the United States. Other countries, like Australia, have made themselves much safer from gun massacres. Only the U.S. has a political class, on the take from gun manufacturers owned by Wall Street, that stands by while the nation's children are slaughtered. Yet perhaps the stench is getting even too great for some on Wall Street.

In the name of the children, let us wake from the trap of ancient history and the gun-manufacturers.

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