

Guns Kill People, and Tyrants with Gun Monopolies Kill the Most

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ABSTRACT

What are the relative risks of a nation having too many guns compared to the risks of the nation having too few guns? Comparing and contrasting Europe and the United States during the twentieth century, the article finds that the United States might have suffered up to three-quarters of million excess firearms homicide over the course of the century—based on certain assumptions made to maximize the highest possible figure. In contrast, during the twentieth century Europe suffered 87 million excess homicides against civilians by mass-murdering tyrannical governments. The article suggests that Americans should not be complacent that they have some perpetual immunity to being subjected to tyranny. The historical record shows that governments planning mass murder work assiduously to disarm their intended victims. While victim resistance cannot necessarily overthrow a tyrannical regime, resistance does save many lives.

This Article compares the relative dangers of excessive gun ownership and of excessive gun control based on the historical record of the twentieth century. Part I describes tensions in some treaties, declarations, and other legal documents from the United Nations and the European Union. On the one hand, they recognize the legitimacy of resistance to tyranny and genocide; on the other hand, the UN and EU gun control programs seem to make armed resistance nearly impossible.

Part II contrasts homicide data for the United States and Europe during the twentieth century. First, data about homicides from ordinary crimes are examined. Based on certain assumptions that bias the figure upward, if the U.S. had the same gun homicide rate as Europe's, there might have been three-quarters of a million fewer deaths in America during the twentieth century. The figure is a data point for the dangers of insufficient gun control.

Next, Part II looks more broadly at homicide, to include homicides perpetrated by governments, such as the Hitler or Stalin regimes. In Europe in the twentieth century, states murdered about 87.1 million people. Globally, governments murdered well over 200 million people. The figure does not include combat deaths from wars.

As Part III explains, totalitarian governments are the most likely to perpetrate mass murder. The Part argues against the complacent belief that any nation,

including the United States, is immune from the dangers of being taken over by a murderous government. The historical record indicates that risks are very broad.

Part IV shows that governments intent on mass murder prioritize victim disarmament because they consider it to be a serious impediment to mass murder and tyrannical rule.

Finally, Part V examines the efficacy of citizen arms against mass murdering governments. Citizen arms are most effective as deterrents. However, even without changing the regime, armed resistance can accomplish much and save many lives, as the twentieth century shows. The Conclusion suggests that the UN and EU should adopt a more balanced gun control policy, recognizing the value of citizen arms in protecting the public from tyranny and mass murder.

I. CONTRADICTIONS IN UN AND EU POLICIES

A. *Human Rights and Anti-Genocide Treaties and Declarations*

The United Nations and the European Union have formally recognized that people must defend themselves, including against tyrannical or genocidal governments. In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights, which states:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law¹

The UN's declaration was not a novelty. According to France's 1789 Declaration of the Rights of Man and of the Citizen: "The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression."²

Shortly before adopting the Universal Declaration of Human Rights, the General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide.³ While the Universal Declaration is a statement of principles, the Genocide Convention is binding international law among nations that adopt it. The Genocide Convention established two distinct legal duties: to *prevent* genocide, and to *punish* genocide.⁴ Because genocide is illegal, a person or group who is being targeted for genocide has no legal obligation to cooperate with illegal acts and may resist. Or so I have argued.⁵

¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, at pmbl., U.N. GAOR, 3d Sess., 183rd plen. mtg., U.N. Doc A/810 (Dec. 10, 1948).

² Déclaration des droits de l'homme et du citoyen [Declaration of the Rights of Man and of the Citizen] Aug. 26, 1789, art. 2 [Nat'l. Assemb. of Fr.].

³ See Convention on the Prevention and Punishment of the Crime of Genocide art. 1, Dec. 9, 1948, 102 Stat. 3045, 78 U.N.T.S. 277 [hereinafter Genocide Convention].

⁴ See, e.g., *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosn. & Herz. v. Yugo. (Serb. & Mont.)), Order, 1993 I.C.J. 325, 443-44 (Sept. 13) (separate opinion of Judge Lauterpacht).

⁵ See David B. Kopel, Paul Gallant & Joanne D. Eisen, *Is Resisting Genocide a Human Right?* 81 NOTRE DAME L. REV. 1275 (2006).

All the nations that belong to the European Union have ratified the Genocide Convention, as has the United States.⁶ The European Convention on Human Rights (ECHR) recognizes the legitimacy of lethal force in defense of oneself or another person against unlawful violence:

Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.⁷

The ECHR's language is not limited to defense against attempted homicide. Lethal force may be used against "unlawful violence"—such as attempted rape, mayhem, or robbery. The ECHR does not limit *who* defensive force may be used against. The language applies equally to a rapist in a parking garage or to government official herding people onto trains to send them to a slave labor camp.⁸

B. UN and European Gun Control

Twenty-three UN entities are now involved in gun control.⁹ One pillar of the UN's gun control work is the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects ("PoA"), adopted at a July 2001 conference.¹⁰ Nothing in the PoA acknowledges any legitimacy for firearms possession by citizens.¹¹ The PoA is not legally binding, even among signatories.¹²

In 2013 the UN General Assembly adopted the Arms Trade Treaty ("ATT").¹³ The ATT preamble declares the ATT to be "mindful of" the legitimate use of firearms for "recreational, cultural, historical, and sporting activities, where . . . permitted or protected by law."¹⁴ Defensive

⁶ See United Nations Treaty Collection, *Convention on the Prevention and Punishment of the Crime of Genocide*, for the U.N.'s official list of nations ratifying Genocide Convention, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-1&chapter=4&clang=_en (last visited Nov. 19, 2021).

⁷ European Convention on Human Rights art. 2, Nov. 4, 1950, 213 U.N.T.S. 222.

⁸ See T. MARKUS FUNK, RETHINKING SELF-DEFENCE: THE 'ANCIENT RIGHTS' RATIONALE DISENTANGLED 120-23 (2021), for case law and scholarship on ECHR art. 2.

⁹ They are coordinated by the U.N.'s Coordinating Action on Small Arms (CASA). See Press Release, Office for Disarmament Affairs, *UN launches International Small Arms Control Standards with Aim of Boosting Implementation of Action Programme*, U.N. Press Release DC/3387 (Aug. 30, 2012).

¹⁰ See U.N. Conference after the adoption of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, *Report of the U.N. Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, A/CONF.192/15 (July 20, 2001) [hereinafter *Programme of Action*], [https://www.un.org/events/smallarms2006/pdf/192.15%20\(E\).pdf](https://www.un.org/events/smallarms2006/pdf/192.15%20(E).pdf).

¹¹ *Id.*

¹² *UN Conference on Illicit Trade in Small Arms*, 95 AM. J. INT'L L. 901, 903 (Sean D. Murphy ed., 2001).

¹³ Arms Trade Treaty, Sept. 25, 2013, 3012 U.N.T.S. 52373 [hereinafter ATT].

¹⁴ *Id.* at pmb1.

gun ownership is not acknowledged.¹⁵ As a treaty, the ATT is legally binding for nations that have ratified.¹⁶

The PoA titles itself to be about “Illicit Trade.”¹⁷ The “Arms Trade Treaty” sets conditions for lawful trade.¹⁸ Based on the names, one might think that neither would have much to do with possession of firearms by citizens wholly within a nation. The texts of the PoA and ATT have much ambiguous language that can be interpreted in favor of domestic gun control, but the documents set no specific standards.¹⁹

The UN, however, has created model rules for domestic gun control: the International Small Arms Control Standards (“ISACS”).²⁰ Although ISACS do not in themselves have the force of law, the UN states that they are how the ATT and PoA should be implemented.²¹ In Europe, ISACS is implemented by European Firearms Directives, which are issued by the European Council and European Parliament.²² The directives require EU national governments to enact many specific restrictive laws. Among them:

- “Firearms and their ammunition shall not be readily accessible together.”²³
- “Member States shall ensure that all firearms may be linked to their owner at any moment.”²⁴

The above provisions impair self-defense in two ways. First, by making home defense impossible in a sudden emergency, with gun and ammunition stored separately.

Second, by making it easy for a dictatorial government to confiscate guns, so as to prevent resistance to tyranny or genocide.

According to the Universal Declaration of Human Rights and the Genocide Convention, tyranny and genocide must be prevented and resisted.²⁵ The two documents proclaim high principles. Gun control initiatives such as ISACS also aim for a high principle: saving lives.²⁶ As

¹⁵ See *id.*

¹⁶ *Id.* art. 22.

¹⁷ Programme of Action, *supra* note 10, at 23.

¹⁸ ATT, *supra* note 13, arts. 7-8.

¹⁹ See Ted R. Bromund, *The U.N. Arms Trade Treaty: A Process, Not an Event*, 25 J. FIREARMS & PUB. POL’Y 30, 43-45, 48-49 (2014) (describing ATT’s intentional ambiguity on gun registration and the extent of the ATT’s application to arms possession or transfers entirely within a single nation), <https://www.saf.org/wp-content/uploads/2014/01/Bromund-JFPP-251.pdf>.

²⁰ See Coordinating Action on Small Arms (CASA), Int’l Small Arms Control Standard (ISACS) 3.30: *National regulation of civilian access to small arms and light weapons* (June 11, 2015) [hereinafter *National regulation of civilian access*],

https://www.ohchr.org/Documents/Issues/RuleOfLaw/CivilianAcquisition/UNAgencies_IO/International%20Small%20Arms%20Control%20Standards%20Inter-Agency%20Support%20Unit.pdf.

²¹ *About ISACS, INT’L SMALL ARMS CONTROL STANDARDS*, <https://web.archive.org/web/20190408124741/http://www.smallarmsstandards.org/about-isacs.html> (last visited Jan. 1, 2021).

²² Council Directive 2017/853, 2017 O.J. (L 137) (EU). The order also applies to the non-EU states of Switzerland, Norway, Iceland, and Liechtenstein because they are part of the Schengen Area, a zone that allows international travel within Europe without border checks. *Id.* at pmb1. (35)-(37).

²³ *Id.* art. 5a.

²⁴ *Id.* art 4, para. 5.

²⁵ Genocide Convention, *supra* note 3. (“The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”).

²⁶ *National regulation of civilian access*, *supra* note 20, at v, (“A small proportion of civilians misuse small arms to unlawfully kill, injure or intimidate; including in organized and petty crime, intimate partner and family-related

gun control advocates point out, gun homicide rates in the United States are higher than in Europe.²⁷ Gun control laws in the United States are and long have been less restrictive than in Europe.²⁸

What are the relative dangers of having too many guns (as arguably in America) compared to having too little armed self-defense (as arguably in Europe)? The next Part of this Article considers data over the course of the twentieth century.

II. THE SCOPE OF THE HOMICIDE PROBLEM

One way to compare the different risks of different policies is to consider long-term homicide totals. What if U.S. gun homicide rates in the twentieth century had been as low as European gun homicide rates in that century? The largest global dataset for firearms homicide was published by the Journal of the American Medical Association (*JAMA*) in 2018.²⁹ The relevant data, for 1990 to 2016, are online in supplemental [eTable9](#).³⁰ Using the twentieth-century data, 1990 to 2000, the average adjusted U.S. homicide rate was 5.06 per 100,000 population. The average in Western Europe was 0.46, and in Eastern Europe 2.24, yielding a European average of 1.35. The difference between 5.06 and 1.35 is 3.71. In other words there were 3.71 more gun homicides annually in the United States, per 100,000 population.³¹ If instead of using 1990-2000, we use only the data year with highest U.S. gun homicide rate, the year 1990, the U.S.-Europe difference is 4.65.³² Stated another way, in 1990 there were 465 more gun homicides per ten million population than in Europe. Extrapolate the 1990 rate for the U.S. population from 1901 to 2000: over the century, there were 745,162 more gun homicides in American than there would have been if the U.S. had the European rate of gun homicide.³³

violence, gang violence, terrorism and other illegal acts of aggression. The impact of such misuse is devastating to victims, their families and their communities.”)

https://www.ohchr.org/Documents/Issues/RuleOfLaw/CivilianAcquisition/UNAgencies_IO/International%20Small%20Arms%20Control%20Standards%20Inter-Agency%20Support%20Unit.pdf.

²⁷ See generally, The Editorial Board, *End the Gun Epidemic in America*, N.Y. TIMES, Dec. 4, 2015 (the Times’ first front page editorial in 75 years),

<https://www.nytimes.com/2015/12/05/opinion/end-the-gun-epidemic-in-america.html>.

²⁸ See, e.g., THE FEDERALIST NO. 46 (James Madison) (“Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.”).

²⁹ See generally, M. Naghavi et al., *Global Mortality from Firearms, 1990-2016*, 320 JAMA 792 (2018), <https://jamanetwork.com/journals/jama/fullarticle/2698492>.

³⁰ M. Naghavi et al., *Global Mortality from Firearms, 1990-2016* Appx, eTable 9, 320 JAMA 792, at 146-161 (2018). <https://jamanetwork.com/journals/jama/fullarticle/2698492>.

³¹ *Id.* Table E9 presents the age-adjusted data in five-year intervals. For the U.S.: 5.57 in 1990, 5.27 in 1995, 4.33 in 2000. Average is 5.06. The Western Europe figures for the same years are 0.53, 0.46, and 0.38; average is 0.46. The Eastern European figures are 1.31, 3, and 2.44; average is 2.24. Decade average of Western and Eastern Europe (weighting each equally) is 1.35. Thus, the 1990 to 2000 decade-long annual average difference between the U.S. and Europe is 5.06 minus 1.35 = 4.71.

³² See *supra* note 31.

³³ Of course, it would be ideal if the *JAMA* data started in 1901, rather than in 1990. For simplicity, the calculations assume a straight linear increase for U.S. population between one decennial census and the next.

It could be pointed out that some firearms homicides are justifiable. For example, a citizen or a police officer shoots someone who is about to kill them. But assume there were no justifiable homicides. It could also be pointed out that if a firearm were not available, the criminal might have used another means to kill. For example, in a domestic homicide, there are many ways for a big man to kill a small woman, including knives or hands. Assume that the substitution rate would have been zero. In other words, assume that every one of the 745,000 excess U.S. gun homicides would not have been a homicide if the United States had adopted European-style gun control.

An objection to the 745,000 figure is that it ignores the crime-preventive effect of firearms ownership. About three-quarters of defensive gun uses (DGUs) do not even involve a shot being fired; the mere display of a defensive firearm is sufficient for the criminal to decide to desist.³⁴ Substantial research indicates that the number of DGUs in the United States annually is at least several hundred thousand, and perhaps over a million.³⁵ On the other hand, data from a federal survey that does not ask respondents about defensive gun use, but does allow them to voluntarily bring it up, yields a DGU figure around a hundred thousand.³⁶ Assume that the number of DGUs is zero.

By making the above assumptions, we keep the 745,000 figure intact. It is a number that is certainly too high, and therefore it is not an underestimate. So with certain (inaccurate) assumptions, the failure of the United States to adopt European gun control was responsible for about three-quarters of a million excess deaths in the United States in the twentieth century.

Seven hundred and forty-five thousand is a very large number. It is, however, a much smaller number, by more than two orders of magnitude, than the number of Europeans killed by their governments in the twentieth century, which is 87.1 million, as detailed below. The *JAMA* homicide statistics discussed above do not

³⁴ See Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 J. CRIM. L. & CRIMINOLOGY 151, 175 (1995) (76 percent).

³⁵ The Kleck & Gertz survey found 2.2 to 2.5 million annually. *Id.* at 162. Replication, with some modifications, by Philip Cook and Jen Ludwig yielded a figure of 1.46 million. Philip Cook & Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey of Firearms Ownership and Use* 62-63 (1996). Cook and Ludwig argued that their own study produced implausibly high numbers, and they adopted the novel (for them) position that it was impossible to accurately measure DGUs. *Id.* at 68-75. For a response, see Gary Kleck, *Has the Gun Deterrence Hypothesis Been Discredited?*, 10 J. FIREARMS & PUB. POL'Y 65 (1998). Unbeknownst to almost everyone in the late 1990s, the Centers for Disease Control gathered its own DGU data in several states. Extrapolated nationally, the results indicated likely more than one million DGUs annually. The information was never released and was kept secret until decades later, when someone leaked it. The CDC denied that it had suppressed its own research; rather CDC said that it was still working the data analysis. See Brian Doherty, *A Second Look at a Controversial Study About Defensive Gun Use*, Reason.com (Sept. 4, 2018). As of 2022, that internal review apparently remains a low priority. Since all three studies were conducted in the 1990s, when crime was higher than today, estimates for current DGUs should be adjusted proportionately; if crime is about 50 percent less in a particular year than it was in the early 1990s, then annual DGUs would also presumably be about 50 percent lower. The most recent study is, William English, *2021 National Firearms Survey*, Georgetown McDonough Sch. of Bus. Res. Paper No. 3887145 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3887145. It indicates 1.67 million DGUs annually. *Id.* at 9-10.

³⁶ See Jacob Sullum, *A Survey Not Designed to Measure Defensive Gun Use Finds Little of It*, REASON.COM (Sept. 7, 2015), <https://reason.com/2018/09/04/what-the-cdcs-mid-90s-surveys-on-defensi/>.

include murders by governments.³⁷ Serial killers or mass shooters may murder several dozen people. Arsonists or bombers, even more. Yet in the aggregate, individual criminals, small gangs, or organized crime syndicates—all combined—perpetrate vastly less homicide than do criminal governments.

After all, government exists because it is a means to organize large numbers of people for collective action. Government can take on huge projects, such as building thousands of miles of interstate highways, or operating schools for millions of students. The same ability to operate at large scale means that when a government decides to murder millions of people, it can. An individual or a group of individuals who would like to murder millions has no practical means to do so. But a national ruler who decides to murder millions often does have the means. If you are counting murders, and you don't count murder by government, you have missed most of the murders. An intentional killing of a human being with malice aforethought is murder, whether the murderer is an individual or a large organization, such as a government.

What is the size of murder by government? Comprehensive data were assembled by University of Hawaii political science professor Rudolph J. Rummel. He wrote one book on each of the three most lethal regimes of the twentieth century: Communist China, the Soviet Union, and National Socialist Germany.³⁸ Then he wrote another book covering the 15 most lethal regimes.³⁹ Finally, he gathered data from all other nations, combined them with the nations he had already studied, and published *Statistics of Democide* in 1998.⁴⁰ He continued to refine the data on his University of Hawaii website, *Power Kills*.⁴¹ Although Professor Rummel has passed away, the website is still available to the public.⁴²

Before examining the data, some caveats should be mentioned. First, Professor Rummel only gathered data for 1900 to 1987. As he acknowledges, “post-1987 democides by Iraq, Iran, Burundi, Serbian and Bosnian Serbs, Bosnia, Croatia, Sudan, Somalia, the Khmer Rouge guerrillas, Armenia, Azerbaijan, and others” are not included in his data.⁴³

Second, Rummel's data undercount death by government because they do not include battlefield deaths. So for example, the death figure for the Nazi regime in Germany does not include the millions of soldiers who died on battlefields all over Europe in a war started by that regime. Rummel does include military killings in

³⁷ M. Naghavi et al., *Global Mortality from Firearms, 1990-2016* App'x, eTable 8, 320 JAMA 792 at 132-145 (2018), <https://jamanetwork.com/journals/jama/fullarticle/2698492>. For example, the article's eTable 8, “Aggregate firearm death rate” reports a rate of 1.6 for Bosnia & Herzegovina in 1990, and a rate of 1.7 in 1995—even though in 1995 over 7,000 Bosnians were murdered by the Serbian government in ethnic cleansing around Srebrenica, Bosnia. *Id.* at 793. Almost all the deceased Bosnians were shot. As the JAMA article explains, “Deaths from conflict and terrorism (conflict hereafter) and deaths attributed to executions and police conflict included deaths from nonfirearm causes and were estimated separately...” *Id.*

³⁸ R.J. RUMMEL, *CHINA'S BLOODY CENTURY: GENOCIDE AND MASS MURDER SINCE 1900* (Transaction Publishers 2nd ed. 2017); R.J. RUMMEL, *LETHAL POLITICS: SOVIET GENOCIDE AND MASS MURDER SINCE 1917* (Routledge 2nd ed. 1990); R.J. RUMMEL, *DEMOICIDE: NAZI GENOCIDE AND MASS MURDER* (Transaction Publishers 1991).

³⁹ R.J. RUMMEL, *DEATH BY GOVERNMENT: GENOCIDE AND MASS MURDER SINCE 1900* (Transaction Publishers 1994).

⁴⁰ R.J. RUMMEL, *STATISTICS OF DEMOCIDE: GENOCIDE AND MASS MURDER SINCE 1900* (Transaction Publishers 1998).

⁴¹ POWER KILLS, <https://hawaii.edu/powerkills/PERSONAL.HTM>.

⁴² *Id.*

⁴³ RUMMEL, *DEATH BY GOVERNMENT*, *supra* note 39, at xxi.

violation of the Geneva Conventions, such as “the intentional bombing of a hospital, shooting of captured POWs, using civilians for target practice, shelling a refugee column, indiscriminate bombing of a village, and the like.”⁴⁴

Third, Rummel’s figures are not about “genocide,” as defined in the Genocide Convention, but rather about what he calls “democide.”⁴⁵ Not all of mass murders by government are “genocide” in the narrowest legal sense. At the insistence of the Soviet Union, the Genocide Convention only addressed “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”⁴⁶ Thus, mass killings of economic classes or political dissenters are not “genocide,” according to the Genocide Convention.⁴⁷ The definition omits many mass killings by government, including by Stalin’s regime. He killed millions of Ukrainian farmers not because of their ethnicity but because they wanted to own small plots of land rather than laboring as modern serfs on state farms.⁴⁸

Accordingly, Professor Rummel coined the word “democide” to denote all mass murder by government, regardless of whether the victims were selected for ethnicity, politics, economics, or other reasons.⁴⁹ This Article uses “democide” and “mass murder” as equivalent terms.

For each nation, Professor Rummel described the sources that have estimated particular killings. He then offered his own “prudent or conservative mid-range estimate, which is based on my reading of the events involved, the nature of the different estimates, and the estimates of professionals who have long studied the country or government involved.”⁵⁰ He cautioned that his estimates should “be viewed as rough approximations—as suggestive of an order of magnitude.”⁵¹ He expected that future scholars would arrive at new estimates based on further research.⁵²

Tables 1 through 3 present some of Rummel’s data.⁵³ Table 1 lists the 15 deadliest regimes of the century. Table 2 covers some major European democides that were not large enough to be listed in the global top 15. Table 3 lists some other 1900-87 democides on other continents.

TABLE 1 Mega-Murders—Over 1 Million Victims

⁴⁴ RUMMEL, *POWER KILLS: DEMOCRACY AS A METHOD OF NONVIOLENCE* (Routledge 2nd ed. 2017).

⁴⁵ RUMMEL, *DEATH BY GOVERNMENT*, *supra* note 39, at 31.

⁴⁶ Convention on the Prevention and Punishment of the Crime of Genocide, art. 2, Dec. 9, 1949, UNGA.

⁴⁷ *Id.*

⁴⁸ *See, e.g.*, ROBERT CONQUEST, *THE HARVEST OF SORROW: SOVIET COLLECTIVIZATION AND THE TERROR-FAMINE* (Oxford University Press 1986).

⁴⁹ RUMMEL, *DEATH BY GOVERNMENT*, *supra* note 39, at 31.

⁵⁰ *Id.* at xx.

⁵¹ *Id.* at xix.

⁵² *See id.* at xviii.

⁵³ Except as indicated *infra*, note 54, the figures in Tables 1 through 3 are from R.J. Rummel, *Death by Government: Genocide and Mass Murder Since 1900* (2017) (1994) and R.J. Rummel, *Statistics of Democide: Genocide and Mass Murder Since 1900* (1998). The data are also on Professor Rummel’s [University of Hawaii website, Power Kills](https://www.hawaii.edu/powerkills/), which in some cases adjusts the estimates slightly.

<i>Regime</i>	<i>Years</i>	<i>Democide (000,000s)</i>	<i>Summary</i>
Dekamurders (over 10 million victims)			
People's Republic of China	1949-87	87.6	Mao et al. communist regime. Does not include 3.5 million murders by Chinese communists during the 1927-49 civil war.
Union of Soviet Socialist Republics	1917-87	61.9	Communist regime. Includes 54.8 million within the Soviet Union, plus 6.9 million in areas conquered by the USSR. Josef Stalin's rule (1929-53) accounts for 43 million. On an annualized basis, the pre-Stalin regime founded by Lenin was more murderous than the post-Stalin one.
Germany	1933-45	20.9	National Socialist German Workers Party (Nazi). Includes Hitler regime's murders throughout occupied Europe. Does not include WWII battle deaths.
China	1928-49	10.1	Kuomintang party.
Megamurders ⁵⁴ (over 1 million victims)			
Japan	1936-45	6.0	Military dictatorship. Principally, war crimes perpetrated by the Japanese army against civilians in occupied nations, such as China or the Philippines.
China	1923-49	3.5	Communist revolutionary army before victory in 1949.
Cambodia	1975-79	1.5	Khmer Rouge communist regime. Per capita, the largest democide against a domestic population. Includes murders of ethnic minorities, intellectuals, and dissidents, plus deaths from slave labor.
Turkey	1909-18	1.9	Young Turks regime. Military dictatorship killings of Armenians and other Christians.
Vietnam	1945-87	1.7	Communist regime. Includes 1.1 million in Vietnam and 0.6 million in Laos and

⁵⁴ The figures differ from Rummel for two nations. For Cambodia (Table 1: Megamurders), Rummel estimated 2 million deaths. Later research suggests 1.5 million. *See* Ben Kiernan, *CAMBODIA UNDER THE KHMER ROUGE, 1975-79*, at 456-65 (3d ed. 2008). The Communist China (Table 1: Megamurders) total is detailed in David B. Kopel, *The Party Commands the Gun: Mao Zedong's Arms Policies and Mass Killing*, in chapter 19.C of NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE A. MOCSARY, AND E. GREGORY WALLACE, *FIREARMS LAW AND THE SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY* (3d ed. 2021), http://firearmsregulation.org/www/FRRP3d_Ch19.pdf.

			Cambodia. Does not include battle deaths.
Poland	1945-48	1.6	Communist regime, post-WWII. Ethnic cleansing of German population, including in former German areas given to Poland after the war. Deaths mainly from subhuman conditions of deportation.
Pakistan	1970-71	1.5	Islamist military dictatorship. A 267-day military attack by West Pakistan on East Pakistan (which is now the independent nation of Bangladesh). The attacks were ended by Indian military intervention. The figure does not include battle deaths.
Yugoslavia	1944-63	1.1	Josip Broz Tito communist dictatorship. Mass killings of ethnic groups and non-communists in 1944-46, plus deaths in slave labor camps through 1963.
Suspected megamurders (Data are less certain, so estimates are rougher.)			
North Korea	1948-87	1.7	Sung family's communist absolute monarchy. Includes killings of prisoners of war and civilian South Koreans during the Korean War (1950-53).
Mexico	1900-20	1.4	Porfirio Díaz authoritarian regime till 1911; revolutionary regimes and warlords thereafter. Deaths of Indians and peons on slave labor haciendas, plus massacres of civilians and conscription into slave labor by various forces in the civil wars of 1911-20.
Russia	1900-17	1.1	Czarist regime. Includes about 0.5 million from Russian Empire Armenian irregulars slaughtering Kurds in Turkey in WWI, in reprisal for genocide of Armenians in Turkey. Most of the rest from deaths of prisoners of war in WWI. Some from Jewish pogroms.
Total:		203.5 million	

TABLE 2
Next-Largest European Domestic Mass Murders

Regime *Years* *Democide (Os)* *Summary*

Albania	1944-87	100,000	Communist. Ultra-totalitarian regime of Enver Hoxha.
Balkan Christians	1912-13	10,000	Targeted by various governments.
Bulgaria	1944-87	222,000	Communist.
Czechoslovakia	1945-48	197,000	Coalition government including democrats and communists. Primarily reprisals and ethnic cleansing of German-speaking population.
East Germany	1945-87	70,000	Communist.
Hungary	1919-44	138,000	Authoritarian. Includes 79,000 in Yugoslavia in areas temporarily annexed by Hungary in WWII.
Rumania	1941-87	919,000	Fascist then communist after 1944.
Spain	1936-75	452,000	Fascist Francisco Franco dictatorship. Mutual democide of 202,000 by Fascists and Republicans during Civil War. 250,000 by Franco thereafter.
Total:		2,108,000	

TABLE 3
Selected Centi-Kilomurders (over 100,000)

<i>Regime</i>	<i>Years</i>	<i>Democide</i>	<i>Summary</i>
Afghanistan	1978-87	483,000	Does not include battle deaths. Includes democides by pre-1979 regime, by the regime installed in 1979 by Soviet coup, by Soviet Union, and by other forces.
Angola	1975-87	125,000	By communist regime following independence from Portugal.
Burundi	1964-87	175,000	Tutsis vs. Hutus.
China ⁵⁵	1917-49	910,000	Warlords. Independent warlord regimes not under the control of the Republic of China or of the communist revolutionaries.
Ethiopia	1941-74	148,000	Haile Selassie monarchy.
Ethiopia	1974-87	725,000	Communist.
Guatemala	1956-87	122,000	Military.

⁵⁵ Estimate from RUMMEL, DEATH BY GOVERNMENT, *supra* note 39, at 94; higher than the estimate in his earlier book CHINA'S BLOODY CENTURY, *supra* note 38, at 73.

Indonesia	1965-66	509,000	Killings of communists by the military, the select militia, and others following a failed communist coup attempt.
Indonesia	1965-87	729,000	Against East Timor secessionists.
Iraq	1968-87	187,000	Ba'ath party.
Mongolia	1916-87	100,000	Communist.
Mozambique	1975-87	323,000	198,000 by communist regime after 1975 independence from Portugal. Remainder by opposition RENAMO forces (Resistência Nacional Moçambicana).
Nigeria	1967-70	777,000	By government and Biafran forces during Biafra's failed war of independence.
Sudan	1956-87	627,000	Islamist military dictatorship. Against various ethnic or racial minorities.
Turkey	1919-23	878,000	Atatürk regime. Post-WWI attacks on Armenians and other minorities.
Uganda	1971-79	300,000	Idi Amin military regime. Mainly against minority tribes and Ugandans of Asian descent.
Uganda	1979-87	255,000	Post-Amin regimes.
Total:		7,373,000	

The democide figures in Table 1 showed about 203.5 million total democides by the 15 regimes that each killed over a million people. The other democides listed in Tables 2 and 3 bring the global total to around 213 million, for 1900 to 1987. How many of those were killed in Europe? (Again, not including battlefield deaths). Just adding up the total for each European country would produce a figure that is too high, since the Soviet Union and Turkey include European *and* Asian territory. All the Turkish mass murder is omitted from the European total, since only a small part of Turkish territory is European, and since most of the Turkish mass murder was perpetrated against Armenians and other Christians in Asian Turkey.

As for the Union of Soviet Socialist Republics, the regime murdered about 5.6 million Eastern Europeans. The rest of its mass murders were within the USSR. Based on population distribution as of 1940, about 73 percent of the Soviet population lived in Europe, and so 73% of the Soviet regime's murders are attributed to the European regions of the USSR.⁵⁶

⁵⁶ The population of the Soviet Union was 194 million. Of that total, about 25.2 million lived in "republics" in Asia (Uzbek, Kazakh, Georgian, Azerbaijan, Kirghiz, Tadzhik, Armenian, and Turkmen Soviet Socialist Republics). The Russian Soviet Federated Socialist Republic was by far the largest in area and population (110 million as of 1940), and spanned Europe and Asia. See *Population (USSR)*, THE GREAT SOVIET ENCYCLOPEDIA WIKI, [https://greatsovietencyclopedia.fandom.com/wiki/Population_\(USSR\)](https://greatsovietencyclopedia.fandom.com/wiki/Population_(USSR)). Based on the common figure that about three-quarters of the Russian SFSR population was in Europe, about 27.5 million of the Russian SFSR population was Asian. So, of the USSR's 194 million population, about 52.7 million was Asian. Therefore, about 73 percent of the

The Soviet European democide is thus 41.1 million internally plus 5.6 million in Eastern Europe. The preceding Russian Empire regime of the czars perpetrated about 1.1 murders in 1900-17; half a million are known to have taken place in Asian Turkey; the remainder (mostly deaths of prisoners of war in WWI) are assigned to Europe.

Thus, the total European democide is: USSR 61.9 million + Russian Czars .6 million + Nazis 20.9 million + Poland post-WWII ethnic cleansing 1.6 million + other lesser European democides (Table 2) 2.1 million = 87.1 million.

The European twentieth-century democide of 87.1 million is over a hundred times larger than the highest possible estimate of American twentieth-century excess gun homicides of 745,000. Over the long run, the risk of being murdered is much lower in the United States than in Europe. No wonder that migration between Europe and the United States has always been very heavily in one direction.

I am alive to write this Article because my Jewish German and Lithuanian ancestors migrated to the United States in the nineteenth century. By moving to the United States, they significantly increased their risk of being shot by an individual criminal and drastically reduced their risk of being murdered by criminal governments. The risks did, in fact, materialize in Germany under the Nazis and the Communists, and in Lithuania under the Czars, the Nazis, and the Communists. Because governments are so much more effective at killing than are individual criminals (even the aggregate of all individual criminals), the United States was much safer than Europe in the twentieth century.

As noted above, the democide figures do not include battle deaths. As Rummel shows, democracies almost never start wars with each other.⁵⁷ Conversely, the less democratic a regime, the greater the foreign violence, although individual exceptions can be found.⁵⁸ The next Part of this Article examines what types of regimes are most likely to perpetrate democide, and how much confidence people can have that their particular nation will never fall under the power of such a regime.

III. THE RELATIONSHIP BETWEEN FREEDOM AND MASS MURDER BY GOVERNMENT

The likelihood that a government will perpetrate mass murder is very dependent on the type of government. Totalitarian regimes, especially communist ones, perpetrate by far the most; also deadly are highly authoritarian regimes.⁵⁹ Mildly authoritarian regimes or democracies perpetrate much fewer, especially against their own people.⁶⁰ Indeed, no democratic government has committed democide against an

USSR population was European. Accordingly, of the 56.3 million Soviet murders within the USSR, 73 percent are assigned to Europe.

⁵⁷ RUMMEL, POWER KILLS, *supra* note 44, at 59–80.

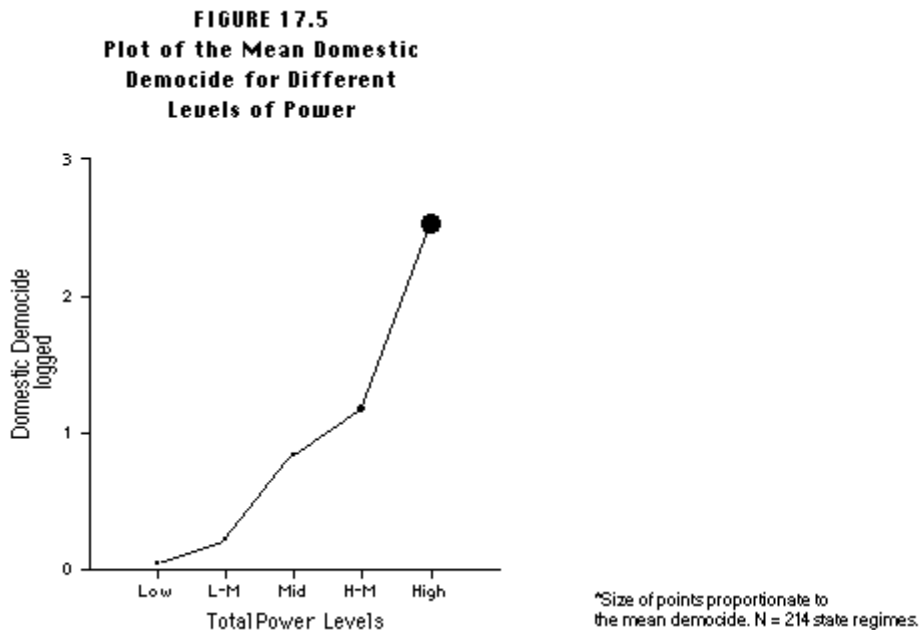
⁵⁸ *Id.*

⁵⁹ *Id.* at 91-98.

⁶⁰ *Id.*

enfranchised population.⁶¹ As long as true elections are allowed, governments do not mass murder voters.⁶²

Professor Rummel's data analysis found a very strong relationship between total regime power and domestic democide; the findings were not changed by variables such as diversity, culture, or society.⁶³ In the figure below, the X axis is regime power. The Y axis is democide. Bigger data points indicate greater democide. The Y axis is compressed because it is logarithmic scale. If the Y axis were simply raw figures for democide, the upward slope of the line would be much steeper.⁶⁴



Source: Rummel, *Statistics of Democide*, at 381 [fig. 17.5](#).

As long as you are sure your government will always be free and democratic, then you don't have to worry about your government perpetrating democide (at least not domestically against people who can vote). With the assurance that democide will never take place in a given nation, then the government can implement stringent gun control. Guns will never be needed to resist tyranny, while gun control might, arguably, reduce ordinary homicide rates—as suggested by the figure of 745,000 excess firearms homicides from ordinary crime in the U.S. during the twentieth century.

Unfortunately, the simple answer is too simplistic. In well-functioning democracies, it is possible to say with high confidence, “a year from now, this country will still be a democracy.” But what about 15 or 50 years from now? A century?

Will the United States always have a republican form of government? In the last presidential election, the losing candidate—Donald Trump—attempted to steal the

⁶¹ Rudolph J. Rummel, *Democracy, Power, Genocide and Mass Murder*, 39 J. CONFLICT RESOL. 3 (1995).

⁶² *Id.*

⁶³ RUMMEL, *STATISTICS OF DEMOCIDE*, *supra*, at 419.

⁶⁴ Logarithmic scales are used to present data graphs where there is a very wide range of numbers. So, in logarithmic scale using base 10, the distance from 1,000 to 10,000 is the same as the distance from 1,000,000 to 10,000,000.

election, by making factually unsupportable claims of fraud that were supposedly broad enough to have changed the results in several states.⁶⁵ On January 6, two hundred or more of Trump's supporters violently attacked the United States Capitol.⁶⁶ Some of them threatened to kill the vice president for his refusal to assist in the attempted election theft.⁶⁷ While the violent mob was in the Capitol—preventing Congress from carrying out its constitutional duty of recording the electoral votes from the States—House Republican Minority Leader Kevin McCarthy telephoned the president to urge him to tell the violent mob to desist.⁶⁸ The president refused, and responded, “Well, Kevin, I guess these people are more upset about the election than you are.”⁶⁹

The events following the last presidential election were an escalation of what followed the 2016 presidential election. There, the losing candidate and her supporters made utterly false claims that the election had been stolen.⁷⁰ Theories were circulated based on claims that Russia might have hacked voting machines.⁷¹ Later, lies about a supposedly stolen election fraud were supported by the Speaker of the U.S. House of Representatives,⁷² and by Joseph Biden.⁷³ Sadly, opinion polls indicate that a large share of Republicans believe the lies about the supposedly stolen 2020 election,⁷⁴ and about half or more Democrats believe the lies about 2016.⁷⁵ All

⁶⁵ See, e.g., Rowan Scarborough, *Trump “Stop the Steal” election claims rebutted point by point by state officials*, WASH. TIMES, Feb. 7, 2021.

⁶⁶ See Paul P. Murphy, Katelyn Polantz & Marshall Cohen, *More than 200 people now charged in connection with Capitol riot*, CNN (Feb. 9, 2021), <https://www.cnn.com/2021/02/09/politics/capitol-riot-200-people-charged/index.html>.

⁶⁷ See Dan Evon, *Was ‘Hang Mike Pence’ Chanted at Capitol Riot?* SNOPE (Jan. 9, 2021), <https://www.snopes.com/fact-check/hang-mike-pence-chant-capitol-riot/>.

⁶⁸ See Andrew Solender, *Trump Reportedly Told McCarthy Rioters Were ‘More Upset About The Election’ Than He Was During Attack*, FORBES (Feb. 12, 2021), <https://www.forbes.com/sites/andrewsolender/2021/02/12/trump-reportedly-told-mccarthy-rioters-were-more-upset-about-the-election-than-he-was-during-attack>.

⁶⁹ *Id.*

⁷⁰ See, e.g., William Cummings, *‘You can have the election stolen from you,’ Hillary Clinton warns 2020 Democrats*, USA TODAY (May 6, 2019), <https://www.usatoday.com/story/news/politics/onpolitics/2019/05/06/hillary-clinton-warns-2020-democratic-candidates-stolen-election>.

⁷¹ See, e.g., Gabriel Sherman, *Experts Urge Clinton Campaign to Challenge Election Results in 3 Swing States*, NEW YORK (Nov. 22, 2016), <https://nymag.com/intelligencer/2016/11/activists-urge-hillary-clinton-to-challenge-election-results.html>.

⁷² “Our election was hijacked. There is no question. Congress has a duty to #ProtectOurDemocracy & #FollowTheFacts.” @SpeakerPelosi, TWITTER (May 16, 2017), <https://twitter.com/SpeakerPelosi/status/864522009048494080>.

⁷³ See, e.g., Diana Stancy Correll, *Biden agrees with woman who says Trump is ‘an illegitimate president’*, WASH. EXAMINER (May 14, 2019), <https://www.washingtonexaminer.com/tag/donald-trump>.

⁷⁴ See *Most GOP Voters Still Don’t Think Biden Was Elected Fairly*, RASMUSSEN REPORTS (Feb. 12, 2021), https://www.rasmussenreports.com/public_content/politics/elections/election_2020/most_gop_voters_still_don_t_think_biden_was_elected_fairly, (61% of Republicans said “no” to the question, “Did Joe Biden win the 2020 presidential election fairly?”). The figure may overstate the percentage of belief that fraud altered the vote count; the question wording is broad enough to include, for example, voters who thought the election was unfair because of other reasons, such as media censorship of news about corruption involving Joe Biden’s son Hunter. Cf. Jonathan Turley, *Censoring the Biden story: How social media becomes state media*, THE HILL (Oct. 17, 2020).

⁷⁵ See, e.g., Kathy Frankovic, *Belief in conspiracy theories depends largely on which side of the spectrum you fall on*, YOUNGOVAMERICA (Dec. 27, 2016), <https://today.yougov.com/topics/politics/articles-reports/2016/12/27/belief-conspiracies-largely-depends-political-iden> (50 percent of Clinton voters believe “Russia tampered with vote tallies

the above are signs of a gravely ill democracy, not a healthy one. When neither side is willing to acknowledge defeat in elections, then the future of elections is in peril.

Globally, the idea that it is easy for nations to maintain independence (e.g., not being conquered by a foreign dictatorship) *and* a free government is incorrect. Of the 196 nations in the world, only 8 were both independent and free for the entire twentieth century: Australia, Canada, Iceland, New Zealand, Sweden, Switzerland, the United Kingdom, and the United States.⁷⁶

If we add in nations that were once colonies but attained independence during the twentieth century, we can add a few nations that maintained independence and free government for their entire post-colonial period. Three such nations are Israel (1948), Ireland (1921), and Botswana (1966). Twenty-one other nations, all but one of them islands, have kept free governments throughout their independence.⁷⁷

Of the eight countries that did manage to stay independent and free for the whole century, five are in the Anglosphere. One is the United Kingdom itself, and the others (U.S., Canada, Australia, New Zealand) were originally British colonies and were, initially, mainly settled by immigrants from the United Kingdom. Is there some sort of permanent immunity from domestic dictatorship in highly developed nations of the Anglosphere?

As in Germany in the 1920s, anti-Semitism is out of the closet in today's Anglosphere. Until recently, the Labour Party, one of the two largest parties in the United Kingdom, was led by Jeremy Corbyn, a long-time supporter of Soviet totalitarianism and of Hamas and other similar entities devoted to exterminating Jews.⁷⁸ A polity that is well vaccinated against supporters of mass murder would never elevate such a person to major party leadership. And Corbyn's leadership of the party was very much the result of his support from grassroots activists.⁷⁹

As detailed by the Canary Mission, Jew-hating student leaders are common on American college campuses.⁸⁰ Like their national socialist German ancestors of the 1920s, they use violence and intimidation to suppress speech in favor of Jews or by

to help Donald Trump"), *Most Democrats Still Say Trump Didn't Win*, RASMUSSEN REPORTS (Apr. 12, 2017), https://www.rasmussenreports.com/public_content/politics/trump_administration/april_2017/most_democrats_still_say_trump_didn_t_win.

⁷⁶ The number of nations is based on the number of U.N. members, plus Taiwan, which has been independent of China since 1949, but over which China continues to make claims. And also counting Palestine and the Holy See, which the United Nations treats as non-member observer states. *Non-Member-States*, U.N. (Nov. 28, 2021, 7:14 p.m.), un.org/en/about-us/non-member-states.

⁷⁷ Antigua and Barbuda (1981), Bahamas (1973), Barbados (1966), Belize (1981), Cape Verde (Cabo Verde, 1975), Dominica (1978), Jamaica (1962), Kiribati (1979), Marshall Islands (1990), Mauritius (1968), Micronesia (1986), Namibia (1990), Nauru (1968), Saint Kitts and Nevis (1983), Saint Lucia (1979), Saint Vincent and the Grenadines (1979), Samoa (1962), Trinidad and Tobago (1976), Tuvalu (1978), and Vanuatu (1980). See *ENCYCLOPEDIA BRITANNICA*, Britannica.com (individual country entries).

⁷⁸ See, e.g., Robin Simcox, *Jeremy Corbyn Has a Soft Spot for Extremists*, FOR. POL'Y, Oct. 3, 2018; Daniel Finkelstein, *Jeremy Corbyn's feelings for Soviets are not a secret*, THE SUNDAY TIMES (London), Feb. 20, 2018.

⁷⁹ Ewen MacAskill, *How Jeremy Corbyn went from the no-hope candidate to the brink of victory*, THE GUARDIAN (U.K.), Sept. 14, 2015, at 2 ("He has come from the fringes of Labour politics, where people still proudly describe themselves as socialists and refer to one another as comrade, to lead one of the biggest grassroots political uprisings in the UK in recent times, a movement that has taken him to the verge of becoming party leader.").

⁸⁰ See <https://canarymission.org/>.

Jews. Although there are no Hitlerist professors in Anglosphere higher education, there are many Marxists.⁸¹ As applied, the difference between Hitlerism and Marxism is slight—other than the higher murder count of the latter.⁸²

When the ancient Hebrews had grown weary of governing themselves in a tribal confederation, they said, “We want a king over us. Then we will be like all the other nations...”⁸³ The American people are not presently asking for a hereditary monarchy, but they increasingly ask for one-person rule, and the trend is not new.⁸⁴ Today in America, many people are openly hostile to the Constitution and freedom of speech.⁸⁵ Political fights concentrate on a President who will rule by Executive Order and by regulation. The Executive, not Congress, has become the most powerful lawmaking branch.⁸⁶ Throughout the Anglosphere there is growing disrespect for the rule of law; hostility to constitutional restraints on power; legislative abdication of responsibility to govern, ceding decisions to a hyperexecutive; growing hostility toward freedom of speech and religion; growing tolerance for political riots and violence against people based on political opinions; and acceptance of anti-Semites and other haters as legitimate political actors and their election to high offices. Constitutions and a republican form of government endure only so long as they are cherished in the hearts and minds of the people. Persons of any political persuasion can easily point to political opponents who embrace malignity, hatred, and authoritarianism. The finger-pointing is accurate. The problem is not just one side of the political spectrum; civil society as a whole is deteriorating.⁸⁷

⁸¹ See, e.g., Neil Gross & Solon Simmons, *The Social and Political Views of American Professors* 40-41 (Working Paper, Sept. 24, 2007), <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.147.6141&rep=rep1&type=pdf> (self-identified Marxists are 17.6% of social science professors, 25.5% of sociology, 5.0% of humanities, and 12.0% at liberal arts colleges).

⁸² Cf. ARTHUR M. SCHLESINGER, JR., *THE VITAL CENTER* (1949) (observing that the communist far left and the fascist far right are the same in practice).

⁸³ 1 Samuel 8:19–20 (N.I.V.). Secular sources, such as archeological artifacts, cannot of course supply information about early Hebrew politics in sufficient detail to confirm direct quotes in the Hebrew Bible. For modern scholarship on the creation of the Hebrew monarchy, see WALTER DIETRICH, *THE EARLY MONARCHY IN ISRAEL: THE TENTH CENTURY B.C.E.* (Joachim Vette trans., 2007).

⁸⁴ See, e.g., GENE HEALY, *THE CULT OF THE PRESIDENCY, UPDATED: AMERICA'S DANGEROUS DEVOTION TO EXECUTIVE POWER* (2009); GENE HEALY, *FALSE IDOL: BARACK OBAMA AND THE CONTINUING CULT OF THE PRESIDENCY* (2012); ARTHUR M. SCHLESINGER, JR., *THE IMPERIAL PRESIDENCY: THE AMERICAN PRESIDENCY IN CRISIS* (1973).

⁸⁵ A 2020 survey of American college students found only 52% who believe that the U.S. Constitution “still needs to be followed and respected,” while 36% said it was “outdated,” and 13% were not sure. Paul Bedard, *Kids today: 4 in 10 call Constitution ‘outdated,’ OK with silencing speech*, WASH. EXAMINER (Oct. 28, 2020) (referencing McLaughlin & Associates, National Undergraduate Study, 800 undergraduates Sept. 2020). Thirty-nine percent agreed that “physical violence” is “justified” against someone “using hate speech or racially charged comments.” *Id.* The full report is embedded in the webpage containing the Bedard article, <https://www.washingtonexaminer.com/washington-secrets/kids-today-4-in-10-call-constitution-outdated-ok-with-silencing-speech>. The Constitution results and wording are at page 8, and the violence results on page 18.

⁸⁶ See William J. Olson & Alan Woll, *Executive Orders and National Emergencies: How Presidents Have Come to “Run the Country” by Usurping Legislative Power*, CATO INSTITUTE, Pol’y Analysis No. 358, October 28, 1999; Abner S. Greene, *Checks and Balances in an Era of Presidential Lawmaking*, 61 U. CHI. L. REV. 123 (1994).

⁸⁷ See, e.g., DAVID A. FRENCH, *DIVIDED WE FALL: AMERICA’S SECESSION THREAT AND HOW TO RESTORE OUR NATION* (2020); JONAH GOLDBERG, *THE SUICIDE OF THE WEST: HOW THE REBIRTH OF TRIBALISM, POPULISM, NATIONALISM, AND IDENTITY POLITICS IS DESTROYING AMERICAN DEMOCRACY* (2018).

The deterioration and the executive authoritarianism were exacerbated by the COVID-19 pandemic.⁸⁸ Around the world, people have become used to—and mostly submissive to—a single person ordering them not to leave their home except in limited circumstances, not to operate their small business or work at a big business, not to visit their relatives, and so on.⁸⁹ It would be naïve to assume that the precedents set by the COVID lockdowns will never be exploited by future executives.

The Roman Republic lasted for almost five hundred years, which is longer than any Anglosphere nation has been democratic. While historians have always debated about why the Roman Republic fell, we know that the republic was established in 509 B.C. and breathed its last gasp in 27 B.C., after a long period of decline.⁹⁰ The fall of a republic hundreds of years old, holding immense territory and global power, should caution Americans who fantasize that a republic established in 1776 is guaranteed perpetual existence. The same can be said for the other currently free nations of the Anglosphere and elsewhere.

No one knows the future of the United States. Over past decades, the party in power has alternated, but the overall trend has been centralization of executive power. Where today's hyper-partisan centralization will lead in a decade or a half-century is unknown. Perhaps the constitutional order will prevent the worst from happening. Perhaps not. Germany in 1900 was a progressive democracy and one of the most tolerant places in the world for Jews; in any country, things can change a lot in a few decades.

IV. THE PERPETRATORS' VIEWPOINTS IN TYRANNY AND MASS MURDER

Part III argued that no nation should consider itself permanently immune to having a criminal government that perpetrates democide. Part II argued that the danger of too many guns (745,000 excess gun homicides in the twentieth century U.S.) is about two orders of magnitude smaller than the dangers of mass murder by government (87,100,000 by European governments in the twentieth century). Part II also pointed out that mass murders are overwhelmingly perpetrated by totalitarian or severely authoritarian governments. But does citizen gun ownership have any role in deterring dictatorships, or in mitigating their damage? Some persons argue a futility thesis: armed citizens with guns can accomplish nothing against the power of a central government and its army. This Part IV considers the futility thesis in light of what tyrants throughout history have said and done.

⁸⁸ See, e.g., Sarah Repucci & Amy Slipowitz, *Democracy under Lockdown: The Impact of COVID-19 on the Global Struggle for Freedom*, FREEDOM HOUSE (Oct. 2020), https://freedomhouse.org/sites/default/files/2020-10/COVID-19_Special_Report_Final_.pdf.

⁸⁹ See generally TIMOTHY SNYDER, *OUR MALADY: LESSONS IN LIBERTY FROM A HOSPITAL DIARY* (2020); JAY W. RICHARDS, WILLIAM M. BRIGGS & DOUGLAS AXE, *THE PRICE OF PANIC: HOW THE TYRANNY OF EXPERTS TURNED A PANDEMIC INTO A CATASTROPHE* (2020).

⁹⁰ EDWARD J. WATTS, *MORTAL REPUBLIC: HOW ROME FELL INTO TYRANNY* (2018) (centralization, inequality, venal politicians, public's neglect in protecting republican institutions); MIKE DUNCAN, *THE STORM BEFORE THE STORM: THE BEGINNING OF THE END OF THE ROMAN REPUBLIC* (2018) (covering 146 B.C. to 78 B.C.; breakdown of the "unwritten rules, traditions, and mutual expectations collectively known as *mos maiorum*, which means 'the way of the elders'").

The idea that one cannot rule people without consent unless they are disarmed is not novel. When the Philistines conquered the Hebrews, they disarmed them.⁹¹ The tyrant Peisistratus of ancient Athens seized political power by disarming the people.⁹² When King James II of England was trying to assume despotic powers, he worked to disarm the English people, other than his reliable political supporters.⁹³

Adolf Hitler explained the necessity of disarmament:

The most foolish mistake we could possibly make would be to allow the subjugated races to possess arms. History shows that all conquerors who have allowed their subjugated races to carry arms have prepared their own downfall by so doing. Indeed, I would go so far as to say that the supply of arms to the underdogs is a sine qua non for the overthrow of any sovereignty. So let's not have any native militia or native police.⁹⁴

When the Chinese Communist Party—which would soon become the deadliest mass killer in all of human history—seized power in 1949, one of their first acts was national gun confiscation.⁹⁵ When they invaded Tibet a few years later, they first demanded universal gun registration, which the Tibetans accurately understood as a prelude to gun confiscation and genocide.⁹⁶ Before the Turkish Ottoman government began the Armenian genocide during World War I, it first attempted to disarm the Armenians.⁹⁷ The Castro regime confiscated Cubans' guns as soon as it seized power.⁹⁸ The same by the Khmer Rouge in Cambodia, who would perpetrate the largest per capita national genocide ever.⁹⁹ Governments aiming to mass murder a

⁹¹ “Not a blacksmith could be found in the whole land of Israel, because the Philistines had said, ‘Otherwise the Hebrews will make swords or spears!’ So all Israel went down to the Philistines to have their plow points, mattocks, axes and sickles sharpened.” 1 Samuel 13:19-20 (N.I.V.). For modern scholarly analysis of this passage, see A. GRAEME AULD, I & II SAMUEL: A COMMENTARY 147 (2011).

⁹² ARISTOTLE, CONSTITUTION OF ATHENS, ch. XV (Thomas J. Dymes trans., 1891) (after he “took away the arms of the people,” he told them to “attend to their own affairs, adding that all public matters would now be his concern.”).

⁹³ See, e.g., JOYCE LEE MALCOLM, TO KEEP AND BEAR ARMS: THE ORIGINS OF AN ANGLO-AMERICAN RIGHT (1996).

⁹⁴ HITLER'S TABLE TALK, 1941-1944, 321 (H.R. Trevor-Roper ed., Gerhard L. Weinberg trans., 2nd ed. 2007) (statement from between February and September 1942).

⁹⁵ See JUNG CHANG & JON HALLIDAY, MAO: THE UNKNOWN STORY 424 (2005).

⁹⁶ See MIKEL DUNHAM, BUDDHA'S WARRIORS: THE STORY OF THE CIA-BACKED TIBETAN FREEDOM FIGHTERS, THE CHINESE INVASION, AND THE ULTIMATE FALL OF TIBET 148 (2004).

⁹⁷ HENRY MORGENTHAU, AMBASSADOR MORGENTHAU'S STORY: A PERSONAL ACCOUNT OF THE ARMENIAN GENOCIDE 301-02 (1919). As U.S. Ambassador Henry Morgenthau later reported, “If this plan of murdering a race were to succeed, two preliminary steps would therefore have to be taken: it would be necessary to render all Armenian soldiers powerless and to deprive of their arms the Armenians in every city and town. Before Armenia could be slaughtered, Armenia must be made defenseless.” *Id.*

⁹⁸ See MIGUEL A. FARIA, AMERICA, GUNS, AND FREEDOM: A JOURNEY INTO POLITICS AND THE PUBLIC HEALTH & GUN CONTROL MOVEMENTS 258-62, 267, 318-319 (2019); MIGUEL A. FARIA, CUBA IN REVOLUTION: ESCAPE FROM A LOST PARADISE 62-64, 415-18 (2002).

⁹⁹ Eang [a woman] watched soldiers stride onto the porches of the houses and knock on the doors and ask the people who answered if they had any weapons. “We are here now to protect you,” the soldiers said, “and no one has a need for a weapon any more.” People who said that they kept no weapons were forced to stand aside and allow the soldiers to look for themselves. . . . The round-up of weapons took nine or ten days, and once the soldiers had concluded the villagers were no longer armed, they dropped their pretense of friendliness. . . . The soldiers said everyone would have to

population try to disarm that population, such as in Darfur, Sudan, in the twenty-first century;¹⁰⁰ in Indonesia's ethnic cleansing of East Timor in the 1970s;¹⁰¹ in Srebrenica, Bosnia, in the 1990s;¹⁰² in Kenya and Uganda from the 1960s onward;¹⁰³ and on the Pacific Island of Bougainville.¹⁰⁴

Sometimes, gun registration lists compiled by democratic governments are later used for confiscation by dictatorships that take over the government. That was what happened to the German Weimer Republic's gun registration lists after the Nazis came in first in the 1933 elections.¹⁰⁵ The same occurred with French gun registration records, after Nazi Germany conquered France in 1940.¹⁰⁶

As dictators seem to recognize, people who have no hope of overthrowing a regime can still make work more difficult for the secret police. Aleksandr Solzhenitsyn, the Russian author of the most influential exposé of the communist slave labor camps under Lenin and Stalin, recalled the prisoners' feelings:

And how we burned in the camps later, thinking: What would things have been like if every Security operative, when he went out at night to make an arrest, had been uncertain whether he would return alive and had to say good-bye to his family? Or if, during periods of mass arrests, as for example in Leningrad, when they arrested a quarter of the entire city, people had not simply sat there in their lairs, paling with terror at every bang of the downstairs door and at every step on the staircase, but had understood they had nothing left to lose and had boldly set up in the downstairs hall an ambush of half a dozen people with axes, hammers, pokers, or whatever else was at hand? ... The Organs [of the state] would very quickly have suffered a shortage of officers and transport and, notwithstanding all of Stalin's thirst, the cursed machine would have ground to a halt! If ... if ... We didn't love freedom enough. And even more—we had no awareness of the real situation.... We purely and simply deserved everything that happened afterward.¹⁰⁷

leave the village for a while, so that the troops could search for weapons; when the search was finished, they could return.

Alec Wilkinson, *A Changed Vision of God*, NEW YORKER, Jan. 24, 1994, at 54-55. Rather than being allowed to return, the people were marched to rural slave labor camps. See, e.g., KIERNAN, *supra*.

¹⁰⁰ See Kopel et al., *Resisting Genocide*, *supra* note 5, at 1316-19.

¹⁰¹ See David B. Kopel, Paul Gallant & Joanne D. Eisen, *Guns Ownership and Human Rights*, 9 BROWN J. WORLD AFFAIRS 1, at 9-10 (2003).

¹⁰² See David B. Kopel, Paul Gallant & Joanne D. Eisen, *Firearms Possession by "Non-State Actors": the Question of Sovereignty*, 8 TEX. REV. LAW & POL. 373, at 426, 429, 431 (2004).

¹⁰³ See David B. Kopel, Paul Gallant & Joanne D. Eisen, *Human Rights and Gun Confiscation*, 26 QUINN. L. REV. 383, at 388-90, 395, 400, 402-04, 409 (2008).

¹⁰⁴ See Kopel et al., *Guns Ownership*, *supra* note 5, at 5-6.

¹⁰⁵ See STEPHEN P. HALBROOK, GUN CONTROL IN THE THIRD REICH: DISARMING THE JEWS AND "ENEMIES OF THE STATE" (2014).

¹⁰⁶ See STEPHEN P. HALBROOK, GUN CONTROL IN NAZI OCCUPIED-FRANCE: TYRANNY AND RESISTANCE (2018).

¹⁰⁷ 1 ALEKSANDR I. SOLZHENITSYN, THE GULAG ARCHIPELAGO 1918-1956: AN EXPERIMENT IN LITERARY INVESTIGATION 13 n.5 (Thomas P. Whitney trans. 1974) (brackets added) (ellipses in original) (1973).

In extermination camps, slave labor camps, and other persecution camps, the prisoners are not allowed to be armed. The obvious reason is that armed prisoners would be harder to execute or to work to death. For example, during the Holocaust, the Sobibor and Treblinka extermination camps were permanently shut down by prisoner revolts, when the prisoners managed to steal some weapons from the guards, and then use those weapons to take some more. Few prisoners survived the revolts, but they were all going to die anyway; their heroism saved many by putting those death camps out of business permanently.¹⁰⁸

As Ronald Reagan observed,

When dictators come to power, the first thing they do is take away the people's weapons. It makes it so much easier for the secret police to operate, it makes it so much easier to force the will of the ruler upon the ruled. . . . The gun has been called the great equalizer, meaning that a small person with a gun is equal to a large person, but it is a great equalizer in another way, too. It insures that the people are the equal of their government whenever that government forgets that it is servant and not master of the governed.¹⁰⁹

All tyrants seek to make their government stronger than the people.

Murderous regimes kill in many different ways, from primitive famine to industrial gas chambers. Mass shootings are common. For example, in the first year of the Nazi holocaust in conquered areas of the Soviet Union, special killing crews, *Einsatzgruppen*, rounded up all the Jews and Roma (Gypsies) in a village and machine gunned them.¹¹⁰ About a million were killed.¹¹¹ During Chinese Communist Party Chairman Mao's 1949-51 Great Terror, about 1.5 to 2 million were executed by gunfire, many in mass public events with mandatory attendance.¹¹²

While tyrants disarm victims, disarmament does *not* always lead to tyranny. Since being liberated in 1945 from Nazi occupation, Luxembourg and the Netherlands have remained free nations.¹¹³ Over time, the governments of both nations have almost completely disarmed the public. In the past 100 years, they were ruled by a genocidal totalitarian dictatorship for only 5. The disarmament in the two nations seems to presume that the next 100 years are guaranteed to be like the last 65.

¹⁰⁸ See DAVID B. KOPEL, THE MORALITY OF SELF-DEFENSE AND MILITARY ACTION: THE JUDEO-CHRISTIAN PERSPECTIVE 108-11 (2017).

¹⁰⁹ Ronald Reagan, *The Gun Owners' Champion*, GUNS & AMMO, Sept. 1975.

¹¹⁰ See Yehuda Bauer, *Jewish Resistance in the Ukraine and Belarus During the Holocaust*, in JEWISH RESISTANCE AGAINST THE NAZIS 485-93 (Patrick Henry ed., 2014).

¹¹¹ HILARY EARL, THE NUREMBERG SS-EINSAZGRUPPEN TRIAL, 1945-1958: ATROCITY, LAW, AND HISTORY 4-8 (2009); REUBEN AINSZTEIN, JEWISH RESISTANCE IN NAZI-OCCUPIED EASTERN EUROPE 222-25 (1974).

¹¹² See FRANK DIKÖTTER, THE TRAGEDY OF LIBERATION: A HISTORY OF THE CHINESE REVOLUTION 1945-1957 at 86, 91-99 (2013); RUMMEL, *supra* note 38, at 224-251.

¹¹³ Luxembourg was invaded by the German Army on May 10, 1940; German forces were expelled for good by February 1945. The Netherlands was invaded the same day. The last German occupation forces surrendered on May 5, 1945. See WALTER B. MAAS, THE NETHERLANDS AT WAR: 1940-1945 (1970).

V. EFFICACY OF CITIZEN ARMS IN PREVENTING MASS MURDER

A. Deterrence

Regime change is difficult once a tyrant has taken power.¹¹⁴ So as an anti-tyranny tool, widespread citizen arms ownership works most effectively when it functions as a deterrent. “The power of the people is not when they strike, but when they keep in awe: it is when they can overthrow every thing, that they never need to move.”¹¹⁵ In England, the very existence of a well-armed population during the reign of Henry VIII deterred the despotically-inclined king from pushing things so far as to cause a national uprising.¹¹⁶ During World War II, one reason there was no Holocaust in Switzerland was because the Swiss people were heavily armed in a very well-regulated militia.¹¹⁷ The very strong deterrent effect of armed victims is demonstrated by the consistent behavior of tyrants in waiting to start mass murder until the victims have been disarmed.

B. Saving Lives Without Changing the Regime

Sometimes people find themselves in a position where the possibility of deterrence is long past. Even after genocides and other mass murders have already begun, when victims obtain arms, they can save lives. As noted *supra*, the Nazi extermination camps of Sobibor and Treblinka were shut down forever because Jewish prisoners stole guns from the guards and led mass revolts.¹¹⁸ Persons who use arms against concentration camp guards or secret police are unlikely to survive, but they may save others—sometimes many others.

Although rebels usually lose, on occasion they prevail even under desperate circumstances. The Sudanese government’s genocide campaign in the Nuba Mountains failed because well-trained defenders were better fighters than the government’s militias.

Throughout the early 1990s, the Nuba SPLA [Sudan People’s Liberation Army] was cut off from the world. There was no resupply: they had no vehicles, had no heavy weapons, and sometimes only had a handful of bullets each. There was no humanitarian presence in the SPLA-held areas at all. There was no news coverage. Facing collective

¹¹⁴ JOHNSON ET AL., *supra* note *, at 1833-34.

¹¹⁵ J.L. DE LOLME, THE CONSTITUTION OF ENGLAND 219 (John MacGregor ed., J. Cuthell 1853) (1775).

¹¹⁶ See CHARLES OMAN, A HISTORY OF THE ART OF WAR IN THE SIXTEENTH CENTURY 288 (Greenhill 1999) (1937) (“More than once he had to restrain himself, when he discovered the general feelings of his subjects was against him. As the Pilgrimage of Grace showed, great bodies of malcontents might flare up in arms, and he had no sufficient military force to oppose them....”).

¹¹⁷ See STEPHEN P. HALBROOK, TARGET SWITZERLAND: SWISS ARMED NEUTRALITY IN WORLD WAR II (2003).

¹¹⁸ See KOPEL, *supra* note 106, and accompanying text.

annihilation and with nothing but themselves to rely on, the Nuba people found the necessary determination and reserves of energy.¹¹⁹

Even though the Nuba lost territory, “a mountainous base area remained impregnable.”¹²⁰

To the Sudanese example may be added several others, none of which had the capacity to effectuate regime change:

During World War I, the Ottoman Empire perpetrated genocide against Armenians, Assyrians, and other Christians in Turkey. Armed resistance made it possible for over 200,000 potential victims to escape to Russia. In fortified towns, monasteries, and other defensible positions, the besieged Christians often were starved out and killed. But sometimes the attackers retreated, and a village survived.¹²¹

During World War II in Eastern Europe, a single Jewish partisan unit, the Bielski Brothers, saved over a thousand Jews.¹²² Armed revolts in the cities, most famously the Warsaw Ghetto Uprising, didn’t save the lives of the fighters. But they did show the world that the Jews were not just victims; they were allies fighting in the common cause against Hitler, and they deserved a share of the post-war settlement.¹²³ There is a direct line between the Warsaw revolt and the 1948 establishment of the State of Israel—a state where the Jewish people are well-armed. From 1948 onward, Israel has defeated wars of Jewish extermination launched by nearby tyrants.

Tibet, after many years of self-government, was invaded and conquered by Communist China in 1951.¹²⁴ Armed resistance began almost immediately, and greatly intensified after the communists announced a gun registration program, which was universally understood as a prelude to confiscation.¹²⁵ By mid-1956, most of the land of Tibet had been liberated.¹²⁶ Ultimately, China’s overwhelming numerical superiority finally defeated the Tibetans.¹²⁷ But in the meantime, tens of thousands of Tibetans escaped.¹²⁸ Among them was the Dalai Lama.¹²⁹ As refugees

¹¹⁹ Alex de Waal, *Sudan: Patterns of Violence and Imperfect Endings*, in *HOW MASS ATROCITIES END: STUDIES FROM GUATEMALA, BURUNDI, INDONESIA, THE SUDANS, BOSNIA-HERZEGOVINA, AND IRAQ* 121, at 129-32 (Bridget Conley-Zilkic ed. 2017).

¹²⁰ *Id.*

¹²¹ JOHNSON ET AL, *supra* note *, at 1835-58.

¹²² See PETER DUFFY, *THE BIELSKI BROTHERS: THE TRUE STORY OF THREE MEN WHO DEFIED THE NAZIS, BUILT A VILLAGE IN THE FOREST, AND SAVED 1,200 JEWS* 259, 265, 282 (2004).

¹²³ See ABRAM L. SACHAR, *THE REDEMPTION OF THE UNWANTED: FROM THE LIBERATION OF THE DEATH CAMPS TO THE FOUNDING OF ISRAEL* 54 (1983); William Zukerman, *The Revolt in the Warsaw Ghetto*, *HARPER’S MAG.*, Sept. 1943 (“As the British press was the first to admit, the Jews now have a new and different claim for consideration, a claim not of passive victims, but of active allies and partners who have fought the common enemy.”).

¹²⁴ David B. Kopel, *The Party Commands the Gun: Mao Zedong’s Arms Policies and Mass Killing*, in JOHNSON ET AL., *supra* note *, at 1893-94.

¹²⁵ *Id.* at 1893-95.

¹²⁶ *Id.* at 1895-96.

¹²⁷ *Id.* at 1910-11.

¹²⁸ *Id.* at 1914.

¹²⁹ *Id.* at 1909.

in India, the Tibetans kept their religion and culture alive, and have brought global attention to Tibet's rights of self-government against Chinese imperialism.¹³⁰

VI. CONCLUSION

It is agreed by the United Nations and the European Union that genocide must be thwarted and prevented, and tyranny resisted. Yet the UN and EU gun control programs fail to account for life-saving benefits of arms in preventing or resisting tyranny and genocide. Further, the EU and UN gun control programs create central registration lists, which facilitate gun confiscation by tyrants and genocidaires. The historical record shows that no nation should imagine itself permanently immune from the dangers of totalitarianism. Because the death toll inflicted on disarmed populations is vastly greater than deaths from (allegedly) insufficient gun control, as in the United States, the EU and the UN should adopt a more balanced approach. While working to keep guns out of the hands of criminals, the UN and EU should also recognize the long-term public safety benefits—namely, reducing mass murder by government—of widespread citizen arms possession.

¹³⁰ *Id.* at 1914-16.