

Stricter and Permissive Gun Laws

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In the United States, gun laws regulate how firearms are manufactured, sold, possessed, modified, and used by civilians. A strict gun law policy restricts access to firearms by citizens, and allows only certain types of firearms to be permissible to few categories of persons is necessary. People regulated by such laws can only have access to certain categories of firearms after being granted firearm licenses by the government (U.S. Department of Justice, 2014). Laws of states and those of the Washington DC and U.S. territories are independent and vary considerably. State gun laws can be either more limited or broader compared to federal laws. Interstate laws can vary according to their contents, forms, and levels of restrictions (Carter, 2017). Whilst forty four states have enacted provisions that are similar to those of Second Amendment of the US constitution, others like Iowa, California, New York, Minnesota, Maryland, and New Jersey have not. In this regard, the constitutions of New Jersey and the aforementioned states do not have provisions that protect the right to keep and bear arms. The states have been motivated by gun-related violence that has resulted in over 30,000 deaths every year. Different levels of state efforts of filling gaps in the federal law have resulted in some states having stricter gun control policy whilst others having permissive gun control policy (Briggs, 2017).

#### **Stricter Gun Laws**

Together with California, Massachusetts, Hawaii, Illinois, New York, Florida, Rhode Island, and Maryland, New Jersey implements a stricter gun law policy. Stricter gun control policy is considered more restrictive than the federal gun policy (Briggs, 2017). Such a policy bans weapons with high magazine capacities and restricts the way assault pistol ammunition and other weapons of high capacity magazines are manufactured, imported, and sold. Weapons with high capacity magazine have capacities of holding a large amount of ammunition to allow a gun to be fired many times and successively without pausing for reloading. New Jersey together with New York, California, Connecticut, Maryland, Maine, Colorado, and the Washington DC have laws that prohibit weapons with high magazine capacities (Legal Community against Violence, 2017). In the state of New Jersey, magazine capacity is restricted to 15 rounds only for semi-automatic rifles used by average

citizens. Police are only allowed to possess weapons with standard magazines (see N.J.S.A 2C:39-1) (New Jersey, 2017).

States with stricter gun laws have banned sale and importation of assault weapons. Although the US Congress had banned those kinds of weapons nationally in 2004, the ban expired in 2004. New Jersey together with New York, California, Connecticut, Maryland, Maine, and the Washington DC is implementing these laws (Legal Community against Violence, 2017). The definition of military style weapons has varied depending on the state, but the general meaning has been put as semi-automatic guns that have attachments or features for military or criminal applications (Carter, 2017). In the state of New Jersey, a weapon is considered an assault weapon if it has features that distinguishes it as a semi-automatic rifles, semi-automatic pistol and semi-automatic shotguns. The state limits ownership and possession of such arms and their assemblable features to police officers on duty only. Possession of NFA weapons requires license granted by the Supreme Court (see N.J.S.A 2C:39-3(a-c); N.J.S.A 2C:58-5; N.J.S.A 2C:39-1) (New Jersey, 2017).

Stricter guns laws prohibit high-risk individuals to possess and own guns. High risk individuals are individuals convicted of terror, violent misdemeanor, felony, histories of drug and alcohol issues and mental health. Except Idaho, New Hampshire, Vermont, Indiana, Louisiana, and Massachusetts, all states seem to have enacted this law (Legal Community against Violence, 2017). Related to this note is the prohibition of individuals convicted of domestic violence and those put on terror watch list (see *State v. Robinson, N.J.*) (New Jersey, 2017). Many states including New Jersey implement this law (see N.J. Admin. Code 13:54). Individuals convicted with histories of stalking and restraining are not allowed to bear arms in states like Texas, Louisiana, Florida, New Jersey, and New York.

States with stricter gun control policies conduct mandatory universal background checks before one purchases or is permitted to own, sale or deal with weapons. New Jersey, Oklahoma, Nevada, California, Hawaii, Illinois, among others require background checks for one to buy, sell, or deal with weapons (Briggs, 2017; Carter, 2017). In New Jersey, the N.J.S.A 2C:58-3 statute requires a person to have a permit to purchase a handgun. For the purchase of a long gun, one has to

have a firearm purchaser identification card. Private purchase and sale of long gun does not require background checks. However, it is not explicitly guaranteed in the Constitution that anybody can keep and bear arms. Nationally, this is also noted in the Supreme Court's decision in *Heller*, where it was re-affirmed that nobody had absolute right to bear or keep arms (New Jersey, 2017).

It has to be noted that despite the consequences of strict gun laws, state laws are usually upheld by the Supreme Court (see *MacDonald v. Chicago*) (Supreme Court (US), 2013). The state and its political divisions are not obliged to enforce federal gun laws on de jure basis, as seen in *Printz v. United States* (Supreme Court (US), 2013). In fact, the Supreme Court has set a trend of rejecting appeals and letting local jurisdiction set limits of firearm regulations. Some states such as the New Jersey have placed additional restrictions on the *Firearm Owners Protection Act of 1984* and the *National Firearms Act of 1934* (New Jersey, 2017).

### **Permissive Gun Laws**

Although New Jersey is not among states that have permissive gun laws, there are many states that have weak laws to regulate fire arm bearing and keeping. States with weak guns laws such as Arkansas, Vermont, and Arizona allow concealed carry with no permits. 35 states are noted to allow open carry of guns with no permits. States such as Indiana, Georgia, Arkansas, Arizona, Indiana, Kentucky, Nevada, Oklahoma, Utah, and Maine guarantee visitors to carry guns within other people's premises (Legal Community against Violence, 2017). 33 states allow loaded fire arms in establishments that serve alcohol. This is contrary to gun laws in New Jersey: In *Hisashi Pompey vs. State of New Jersey*, despite being in a club where alcohol is served, the defendant was jailed for carrying a hand gun that had not been licensed in New Jersey (Supreme Court (US), 2013). States like Arizona, Arkansas, Idaho, Tennessee, Utah, Wyoming, and South Dakota declare strict federal laws inapplicable to weapons made within the state. Some 42 states have prohibited their local authorities from regulating firearms (Legal Community against Violence, 2017).

States such as Maine, Massachusetts, Idaho, Arizona, and Arkansas are considered to have the least regulation (Legal Community against Violence, 2017). The states impose virtually no restriction on firearms. Residents in them are freely allowed to bear and keep military-style

weapons. These states seem to adhere to the Supreme Court's ruling of the case *United States v. Verdugo-Urquidez* 494 U.S. 259 (1990), which declared that since the term "people" impliedly refers to people protected by both the Ninth Amendment and the Tenth Amendment, anybody who belongs to the national community or who has sufficient connection with the country should be considered part of the state. Moreover, firearm and ammunition dealers are not regulated in the aforementioned states; there are no required safety measures, waiting periods, locking devices, background checks and licensing procedures. These states have done almost nothing to tailor national laws. It is possible that Maine, Massachusetts, Idaho, Arizona, and Arkansas are adhering to or concurring with rulings in *Farmer v. Higgins* (11th Cir. 1990) and *The United States v. Stewart* (348 F.3d 1132 (2003) (Supreme Court (US), 2013). In *Farmer v. Higgins* (11th Cir. 1990), the US Court of Appeal ruled that under exception of 18 USC 922(o)(A)(1) one could not register for a new machine gun that is meant for private ownership. In *The United States v. Stewart* (348 F.3d 1132 (2003), the US Court of Appeals struck down the conviction that had been levelled against Stewart for possession of unregistered machinegun (Supreme Court (US), 2013).

From the discussion, it is believed that a strict gun control policy is adopted to enable the state and the United States to improve public safety by limiting the number of guns available to the public. Moreover, a strict gun control policy can dictate the right category of weapon that can be acquired by the corresponding category of people (McClenathan, Pahn, & Siegel, 2016). Indeed this means that universal background checks are enacted to provide direction on categories of weapons and their possession by specified categories of people. The strict gun control laws are motivated with horrors of gun massacres; increased gun acquisitions by the public is not seen as solution to gun violence, but as an active motivator.

## References

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