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Guns, Democracy, and the Insurrectionist Idea

Horwitz, Joshua, Anderson, Casey

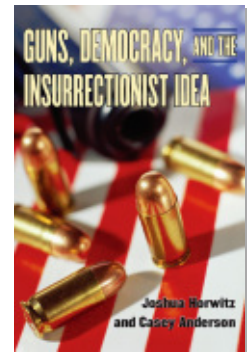
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CHAPTER EIGHT

ONE GUN, ONE VOTE?

As we have said, the essence of any democratic system is the idea that each person is an equal citizen. This equality extends to, among other things, political and civil rights. This does not necessarily mean that equality in the distribution of wealth or condition is required for a successful democracy—although some scholars have argued that drastic economic inequality makes democracy difficult or impossible to sustain—but democracy requires, at a minimum, that all citizens enjoy the same rights. In many ways, equality is the founding value of our republic, and while equality was not always universally honored in practice, the principle was recognized from the founding as a basic element of the American system's claim to legitimacy.

Not coincidentally, equality is the first principle enshrined in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal." This assertion was truly revolutionary in a world where the vast majority of people were serfs, vassals, and slaves. Eric Foner notes, "In rejecting the crown, as well as the principle of hereditary aristocracy, many Americans also rejected the very idea of human inequality and the society of privilege, patronage, and fixed status that these venerable traditions embodied."¹ But once equality was accepted as the basis of governance, it changed everything, because the forms of governments that existed at the time were ill suited for true

equality. The ongoing experiment in American democracy is an attempt to create a state that is actually governed by the equal—in other words, by all of us.

The Constitution never explicitly mentions equality. The need to accommodate the southern states and the institution of slavery undercut the commitment to equality articulated in the Declaration of Independence. The document itself, however, was ratified not by the state legislatures but by the people acting through convention assuring that “Americans from all walks of life would be drawn into a wide-ranging public debate about its merits.”² As Bernard Schwartz points out, “Nowhere in the basic document is there any guarantee of equality or even any mention of that concept. Yet, whatever may have been the Framers’ intent, their work disseminated the ideals of Liberty and Equality throughout the world.”³ And of course, the implications of these ideals were not lost on those excluded from such equality.

The Civil War, the defining struggle of American history, was not merely about ending slavery but was also about the broader ideal of political equality. Prior to the war, Abraham Lincoln, adding his voice to that of the abolitionists, made it clear that expanding our founding principle to include all men was necessary to realize the founders’ aspirations. During an 1858 debate, Lincoln condemned Stephen A. Douglas’s view that the founders meant the phrase “all men are created equal” only to equate British subjects born in the colonies with British subjects born in Great Britain. The founders, Lincoln argued,

intended to include *all* men. . . . They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.⁴

Immediately after the Civil War, political equality became enshrined first in the Civil Rights Act of 1866, which clarified that all persons born in the United States were entitled to equal rights as national citizens, and then in the Fourteenth Amendment, ratified in 1868,

which elevated the equal protection of the law to a constitutional guarantee. "What is Liberty without Equality?" Charles Sumner asked in 1866, answering, "One is the complement of the other. . . . They are the two vital principles of republican government."⁵ The authors of these documents knew the importance of equality to the health of our democracy. The hard-fought struggles for equal rights by the disenfranchised in the twentieth century—African Americans, women, immigrants, and others—offers a continuing testament to America's most important idea.

Even with a history replete with successful struggles to expand the scope of political rights, Americans still tend to view political rights narrowly, in terms of the ability to vote in elections. The fact is, however, that equality in the political process requires more than the right to vote once every two or four years. Academics who study democratic government have identified the elements necessary to make political equality a reality. These elements include effective means of participation, enlightened understanding, the ability to control the agenda, and a franchise that is broad enough to avoid excluding significant interest groups.⁶

In a consolidated democracy such as the United States, some of these elements must be preserved through representation. In a country with three hundred million people, not all citizens will have an opportunity directly to shape the congressional agenda. Democracy requires, however, that citizens have the opportunity to vote for officials on a regular and timely basis; petition their elected representatives on the same footing as other citizens (something to think about in these days of well-funded lobbyists and fifty-million-dollar campaigns for the U.S. Senate); and obtain enough information about the issues being debated to make informed decisions.

The seminal struggles for equality in our history, including those for enfranchisement of African Americans and women, were not simply about voting but also about equal inclusion in the larger political process. During Reconstruction, for example, the former slaves were quite aware that to protect their rights, they needed to do more than simply vote. Thousands ran for office, participated in public life, and demanded their civil and legal rights. As Robert A. Dahl points out,

If you are deprived of an equal voice in the government of a state, the chances are quite high that your interests will not be given the same attention as the interests of those who do have a voice. If you have no voice, who will speak for you? Who will defend your interests if you cannot? And not just your interests as an individual. If you happen to be a member of an entire group excluded from participation, how will the fundamental interests of that group be protected?⁷

Equality forms the backbone of any democracy and confers legitimacy on the products of democratic decision making. Those with an equal opportunity to participate, whether directly as elected officials or as indirectly as voters, may grumble about their point of view not being accepted by the majority of other equally participating citizens, but they have no legitimate grounds to challenge the system as unfair or unjust as long as countermajoritarian institutions and values provide respect for pluralism and legal protection for minorities' rights.⁸

So what does all of this have to do with guns? The fundamental premise of the Insurrectionist idea conflicts with the conception of political equality we have just outlined. In a democracy where all citizens are equal, elections—not insurrections—are the means by which the people select or reject political programs and the officials who carry them out. The decision of a group of private individuals to take up arms against a government elected by the people is in effect an attempt to veto the decision of the majority (as expressed through elections) with violence. By definition, a veto by violence implies an assertion that the individuals resorting to the use of force against the government are entitled to impose their political preferences in place of the majority. In other words, a political theory that posits the legitimacy of armed violence as a tool of dissent in a democracy necessarily legitimizes the idea that the choices of the people as a whole sometimes should yield to the choices of the people with guns who are willing to use them to get their way.

For this reason, the popularization of the Insurrectionist idea is corrosive to respect for democratic means to achieve political ends. After all, democracy depends not only on the formal recognition of the political equality of all citizens by the state but also on a broadly shared be-

lief in equal citizenship by Americans across social, geographic, and economic groups. A strong state does not become a threat when the people have a strong cultural commitment to political equality and the police and military have a deeply ingrained tradition of deference to and respect for civilian authority.⁹ "Liberalism demands that people without guns be able to tell people with guns what to do," wrote researcher Stephen Holmes.¹⁰ If armed citizens, whether military or civilian, start to believe they have special rights or are entitled to vindicate their interests at the expense of others with the use of force, then political equality based on citizenship is impossible.

Countries with a long history of sectarian violence or with armed citizens willing to use force to get their way have a difficult time establishing and maintaining democracy. If one group strongly believes its claim to political power to be morally superior to another's, a commitment to political equality and its enforcement is likely to be elusive. Disagreement in a democracy is to be expected, but effective guarantees of political equality provide a legal and moral basis for accepting decisions with which we may disagree. Without a consensus on the importance of political equality and the values that underpin it—pluralism and tolerance—the seeds of democracy are unlikely to grow.

Iraq is an excellent example of this point. The concepts of political equality and pluralism are unfamiliar to the combatants in the ongoing civil war. Sunnis under Saddam Hussein's reign had extra rights and privileges that the Shia majority wanted. After forty years as subcitizens treated with brutality, the Shia impulse toward vengeance is understandable. But a diverse country cannot become a modern state unless all become equal citizens, not just by law but, more important, by belief. The current conventional wisdom among analysts of the situation in Iraq that there will be no security unless a political solution is reached is just another way of saying that if Shia and Sunni do not respect each other as political equals, they cannot work together to find practical compromises to their competing claims on power and resources.

Insurrectionists mock liberals for invoking values such as tolerance and pluralism (along with the conservative *bête noir*, multiculturalism), but a commitment to these ideas lies at the core of what makes democ-

racy work in the real world.¹¹ Countries whose citizens and military have internalized these values are more likely to be both democratic and free; countries that lack these values cannot be democracies. In denigrating the ideas of mutual responsibility and community and the corollary values of pluralism and tolerance, respect for the values that support democracy is eroded.

Insurrectionists are not content to disagree with others on policy matters. The Insurrectionists seek to win by portraying those who disagree with them not just as incorrect but as traitors—that is, as unworthy of respect as political equals. Gun control advocates are portrayed not as misguided fellow citizens but as one-world government conspirators whose values and political goals are alien to what it means to be an American. In the Insurrectionist ideology, those who support the power of the state to protect its citizens are seeking to enslave the rest of the population. The National Rifle Association's (NRA) *Freedom in Peril* brochure conjures a far-flung cabal running from the New Orleans police department through the United Nations that seeks to undermine our nation:

Second Amendment freedom today stands naked in the path of a marching axis of adversaries far darker and more dangerous than gun owners have ever known. Acting alone and in shadowy coalitions, these enemies of freedom are preparing for a profound and foreboding confrontation in which they will not make the same mistakes of their predecessors. We'd better be ready.¹²

The goal here is not just to change policy but to debase civic discourse. Not satisfied with critiquing policy prescriptions they dislike, the Insurrectionists have drawn an elaborate caricature that says if you are against us, you cannot be a patriot. You are an enemy of freedom, and you certainly are not as American as we are. In short, they identify acceptance of their conception of gun rights as the essential litmus test of every individual's patriotism and commitment to democracy.

As we observed in the discussion about the NRA and its allied gun groups, Insurrectionist rhetoric is often hostile to pluralism, consensus, and tolerance. The Insurrectionists frequently try to marginalize their

opponents with personal attacks or by suggesting that gun control advocates are enemies of freedom itself. When Charlton Heston famously warns that gun control advocates will have to pry his gun out of his “cold, dead hands”¹³ or when David Kopel describes guns as “the tools of political dissent,”¹⁴ they mean that whenever they strongly disagree with a decision produced by democratic means, they feel no obligation to respect or abide by it. The overwrought, pseudopopulist rhetoric employed by the Insurrectionists is more than divisive. It attacks the idea that holds us together—the idea that in a democracy, everyone is entitled to political equality.

As a mature democracy, America can handle the occasional lapse into “us versus them” rhetoric in our political dialogue. Still, the idea that certain people in a democracy are the true patriots (and thus have special insight as to when force may be appropriately deployed to back their ideals) is the same idea that gave us the Civil War, allowed Nazism to flourish in Germany, and still fuels the fires of sectarian and ethnic conflict in Iraq. Lamenting the decline of liberal democracy, especially constitutionalism in the former communist states of Eastern and Central Europe, Professor Jacques Rupnick wrote in 2007, “The common pattern here is one of acute polarization: Eastern Europe’s populists do not act as if they face a political opponent (or ethnic, religious, or sexual minority) with whom they can negotiate but rather an enemy whom they must destroy.” He cites the example of Slovakia, where the leader of a member of the governing coalition, the Slovak National Party, “has said he would not mind sending the leader of the Hungarian minority to Mars ‘with a one-way ticket.’”¹⁵

It is easy to dismiss this type of statement—whether from a gun rights group in the United States or a political party in the Balkans—as no more than an example of overheated rhetoric in the midst of a political struggle, not to be taken too seriously, but, as Rupnick points out, this kind of attitude is a sign of an unhealthy democracy. The Insurrectionists are so committed to their belief that unfettered access to firearms is the magic key to freedom that they seem to have forgotten that treating one’s political opponents (or even friends who disagree) as human beings entitled to a basic level of respect is the essence of a healthy democracy.

Insurrectionists suggest that if peaceful political activism fails to head off proposals to regulate firearms, armed confrontation would be an appropriate response. This sentiment is fundamentally antidemocratic, because it assumes that individuals can claim political power outside of government and decide which rules they will follow. Individual sovereignty is easy to romanticize as part of the grand tradition of Washington and Jefferson, but that would be a historical error. As chapter 4 explains, the founders did not decide for themselves when it was time to opt out of the British empire. They put it to a vote and acted in accordance with legal process.