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Gun Ownership and Racial Caste in the United States

In the fall of 1970, black power activist and leftist social theorist Angela Davis was placed on the FBI's "10 Most Wanted List". Both the government and the press played upon white Americans' fears to brand Davis as a dangerous radical, bent on the destruction of the American way of life. In actual fact, Davis was an academic with ties to both the blossoming black power movement, and the Communist party. The center of the prosecution's case against Davis was predicated upon her purchase of a gun.

While white men were encouraged and even required to own guns in early America, enslaved blacks were routinely denied the legal right, and practical availability of gun ownership. From the very beginning of American governance, racial caste systems have been constructed to maintain the subordination of the black population. From slavery, to Jim Crow, and even the mass incarceration regime of contemporary America, white Americans have always used guns as a tool of intimidation and power for white Americans to wield against black Americans. The Civil Rights movement of the 1950s and 1960s created a space for later Black Power movements to claim their constitutional right of gun ownership in an attempt to transform a tool of white power and domination into a shield against abuse.

Literature Review:

Scholarship on American gun ownership has been intensively focused around two primary themes. One area of study is focused on the interpretation of the Second Amendment,

use of federal, state and local gun laws, and debates over the merits and dangers on guns within modern American society. The other major area of scholastic interest is a discourse around America's racial caste systems: how they were initially created, how they function, and how they have evolved. In my research I have not found a significant amount of discussion linking these two bodies of literature in a way that explores the interaction between American gun ownership and systems of racial control and white supremacist, capitalist hierarchy.

A groundbreaking text on the connections between the American judicial system and white supremacy is Michele Alexander's *The New Jim Crow*. In her analysis, Alexander provides a broad survey of the way that the police and judiciary were crafted to produce racially unequal outcomes that systematically disenfranchised and pathologized black people in the United States. Alexander identified slavery, Jim Crow, and racialized mass incarceration as the three predominate forms of "racialized systems of control" or "racial caste" adopted in the United States.¹

Another scholar who explored similar themes of Michele Alexander's analysis of the criminal system and racial control is Cheryl Hicks. In her book, *Talk With You Like a Woman*, Hicks used an in-depth reading of court records, personal testimony, and newspaper articles to generate a rich (and often conflicting) picture of African American women in New York City from 1890 to 1935. Hicks discusses a variety of issues ranging from progressive reform programs, to the criminalization of black bodies, and even the New York City "Race Riot" of 1900. Buried within her description of the 1900 "riot" is an example of how the judicial system criminalized black self-defense, especially within the context of white mob violence. Hicks writes about how the death of a plain-clothed white police officer who had been harassing a

¹ Michelle Alexander, *The New Jim Crow*, 1st ed. (New York, The New Press, 2010), 14.

black women lead to a days-long riot in which white mobs flooded black neighborhoods of New York City, violently assaulting hundreds of black residents as the police stood-by and did nothing.² Hicks then describes how, in anticipation of the second night of rioting, many black residents chose to buy firearms and ammunition in order to protect themselves from white mobs who were operating free from police interference.³ Police responded to the prospect of black armament and self-defense by staking-out gun stores and searching and arresting any black citizen who came out of the store, utilizing rarely applied gun laws to further criminalize black New Yorkers and render them helpless in the face of white violence.⁴ In her analysis of black women and the racialized systems of control in New York, Hicks hinted at the racial detentions of unequal application of gun laws but does not go further than discussing the example of 1901.

Another major area of academic interest is in the historical legacy and contemporary interpretation and application of the Second Amendment. Scholarship on the issue of gun ownership and racial caste has failed to examine their historical legacies in an intersectional way. By placing bodies of evidence in conversation with one another and analyzing the history behind them, I hope to bring new insight into racialized policing practices and the inherently unequal and oppressive legacy of gun ownership in the United States.

Primary Source Analysis:

White America's obsession with gun ownership has its roots in the fear of a rebellion of black slaves. From the very beginning of the Republic in 1776 to the end of the Civil War in 1865, America was a slave society. The early American economy was entirely dependent upon the forced labor of black slaves. America's founding fathers accumulated their fortunes on the

² Cheryl D. Hicks, *Talk with You Like a Woman*, 1st ed. (Chapel Hill: The University of North Carolina Press, 2010), 69-81.

³ Hicks, 78.

⁴ Hicks, 79

exploitation of slaves. Thomas Jefferson and George Washington both owned extensive plantations with hundreds of slaves. Merchants and bankers in the North had extensive business ties with Southern farmers; merchants bought agricultural products that were artificially lowered by the “free” labor of African slaves, and Northern bankers facilitated the expansion of the slave system by providing financing with which poorer whites could open more farms. The profits of tobacco and cotton grown on Southern plantations lined the pockets of the very men who wrote the Declaration of Independence and the Constitution.

Beginning in 1791 and continuing until 1804, the Haitian Revolution had a massive impact on the way that the white leaders of the New American Republic viewed their slave population. Haiti had been a French sugar colony with large plantations and close to half a million African slaves. That formally enslaved population then rose against their former white masters, seized the economic and political centers on the island, and formed an independent black republic. This rebellion terrified American whites as it illustrated the very real possibility of black revolt, especially within the American context as there were many parallels to the slave society of Haiti and the American slavery system. White male elites in George Washington’s presidential administration provided significant aid (\$725,000) to white Haitians due to their fear that a successful slave rebellion in one area of the Americas would lead to further rebellion across the slave system globally.⁵

One way to approach the racialized nature of gun ownership in the United States is to analyze the use of the phrase “the People”. The framework for the new government of the United States, the Constitution, begins with the phrase “We the People,” so it is important to ask who constituted “the People”. Every single attendee of the 1789 Constitutional Convention in

⁵ Timothy, M. Mathewson, “George Washington’s Policy Toward the Haitian Revolt”, *Oxford Journal of Diplomatic History*, Vol. 3, no. 3, (1979).

Philadelphia was a wealthy white man. This is made clear by the Constitution's infamous "three-fifths clause" which explicitly stated that for the purposes of the allocation of House Representatives, black slaves would be counted as three-fifths of a human being. The dehumanizing nature of slavery and the racial caste system is found at the very roots of American government, giving new understanding to the Constitution's inclusion of a "right to keep and bear arms".

After the Civil War, black male Americans were formally emancipated and soon granted the right to vote. White Americans feared the prospect of black revenge for the atrocities of slavery and held racist ideas about "uppity" blacks in need of being put "in their place". Out of this fear and racism grew a regime of fear and intimidation in which white mobs used force of arms to murder and steal from black communities.

Lynchings constituted source of violence following the post-war period known as Reconstruction. Lynchings were vigilante actions in which a heavily armed white mob would illegally "arrest" a black person for a suspected crime. The mob would often hold fake "lynch trials" in which an all-white, racist jury would quickly convict the mob's victim and "judge lynch" would then impose a death sentence.⁶ The lynching of black people without evidence was so commonplace in the Southern United States that the illegal actions would be publicized in local newspapers, and townsfolk would often attend the hangings and burnings of the mob's victim.⁷ Mobs of white men would use their guns to intimidate blacks into capitulating in everything from political campaigns to business rivalries. One instance of lynch violence being used to keep black Americans from gaining economic clout was in Memphis in which the black

⁶ Ida, B. Wells, "Southern Horrors," in *Southern Horrors and Other Writings*, ed. Jacqueline, Jones Royster, (Boston: St. Martin's, 1997), 123.

⁷ Wells, 105.

owner of a prospering grocery store was targeted by whites who saw his enterprise as a threat to their economic supremacy.⁸

When examining white American anxieties over slave rebellions and black retribution, it is important to view much of their racial anxieties through the lens of economics. At the root of American slavery was a desire on the part of whites to translate their political and military power over African slaves into massive profits. Through efficient and brutal exploitation of the population of enslaved persons, wealthy whites reaped obscene wealth, improving the lives of those select few and reinforcing the power of a select few white male landowners. The plantation owners and political officials who made their wealth off of the forced labor of black Americans saw events like the black slave revolution in Haiti not only as a threat to their political and social power, but also as a threat to their economic power.

The economic concerns of America's wealthy ruling class were addressed within the Constitution's assurances of a "well-regulated" militia of invariably white men who would be called upon in times of crisis to enforce the white supremacist status quo and put fear in the minds of members of subordinate groups. The institutionalization of an armed and constitutionally deputized white male citizenry was a vital factor in the creation of the racial caste system of the United States. Debates on the meaning of the Second Amendment have often relied upon questions of who is and is not included in the right.

In the past, the federal courts have generally interpreted the guarantee to "keep and bear arms" as a limited right that extended only to the interests of the "free State" in establishing a system of localized militia groups. These militias were made up of members of the white community who would be called upon to uphold "law and order" in their town. Militias were used against the British during the Revolutionary war, and were often deputized to pursue and

⁸ Wells, 126.

arrest suspected criminals; however the militia was also used to track down escaped slaves and return them to their white masters.

Recently, a landmark Supreme Court case titled *Heller v. District of Columbia* (2008) has dramatically reinterpreted this historic understanding of the second amendment. In his decision, Justice Antonin Scalia, writing for the majority, asserted a much broader interpretation of the gun ownership protection by relying upon the phrase “the people”. Scalia ignored the historic precedent of second amendment protections applying only to militia activities and establishes a universal right for all citizens to own basic firearms such as handguns.⁹ Scalia’s analysis was predicated upon a broad and ahistorical interpretation of who “the people” have been.

Scalia’s apparently color-blind gun rights decision also failed to take into account current realities of a discourse of black criminality and the unequal outcomes of the judicial system. Michael Alexander’s critique of contemporary America’s legal system reveals the ways that a claim to officially race-neutral policy is inherently exposed to the prejudices of judges and attorneys who exist in a racist society.¹⁰ Black people have been historically criminalized for gun ownership while whites have been encouraged or even required to own and carry guns in defense of the white supremacist status quo. By ignoring the history of gun ownership in the United States, Scalia created new interpretations from the extremely fraught term of “the people”.

The Black Power movement of the 1960s and 1970s responded to the historic lack of police protection and the systemic nature of white intimidation and violence against black communities by calling upon black Americans to arm themselves. Black Power activist and social theorist Malcolm X was one of the first nationally recognized black leaders to assert that black people’s only protection from violence was gun ownership. In a 1964 speech titled, “The

⁹ “Of Guns, Abortions, and the Unraveling Rule of Law,” *The Second Amendment on Trial*, ed. Saul, Cornell, Nathan Kozuskanich, (Amherst, University of Massachusetts Press, 2013), 216.

¹⁰ Alexander, 155.

Ballot or the Bullet”, Malcolm points out the hypocrisies of America’s claims to equality and open democracy by asserting that the racism of America’s institutions robs black Americans of any meaningful chance at change through voting. Malcolm asserted, “in areas where the government has proven itself either unwilling or unable to defend the lives and property of Negroes, it’s time for Negroes to defend themselves”.¹¹ When discussing the role of the criminal and judicial systems in maintaining the status quo of black subordination, Malcolm states that in regard to segregation and the Jim Crow system “the law is on your side”, “the Supreme Court is on your side” but that it is the police who oppose the law, using illegal acts of violence and intimidation to prevent blacks from exercising their rights. Malcolm X’s theories on the rule of law and American government show a growing understanding on the part of black Americans that unless they protected themselves from the illegal (yet allowed) actions of white lynch mobs and racist police, they would never be able to reach anything close to social or economic equality.

After Malcolm X laid out his vision for the use of guns as a tool of racial preservation, Black Power leaders such as the Black Panther leader Huey Newton began to echo the calls for black armament. The Black Panther Party platform included a claim to a constitutional right to bear arms and asserted “all Black people should arm themselves for self-defense”.¹² Black Americans began to see it as a black person’s right and duty to own a gun and learn how to operate it efficiently in defense of the family and the black community. Black gun ownership organizations began to form around the country as groups of armed African Americans started to patrol their communities, in order to visibly showcase their determination to defend themselves

¹¹ Malcolm, X, “The Ballot or the Bullet”, April 3rd 1964

¹² Newton, 77.

and their property. Conversely, many white Americans recoiled from images of armed black men and women.

In 1966, Huey P. Newton expressed the economic aspect of racial oppression when he delivered the Black Panther Party's "10 Point Program" for racial justice. The Panther's were a political party that advocated for a dismantling of the interconnected systems of white supremacy and capitalism. The 10 Point Program called for various economic reforms such as "full employment" for black Americans, "an end to the robbery by the capitalists of our black community", and "decent housing" of black people who had been forced into substandard housing operated by "white landlords". The 10 Point Plan ultimately demanded a radical change in the distribution of resources in the form of "land, bread, housing, education and clothing."¹³ The Black Panther's platform reflected their understanding of the racial caste system in America as something intricately interwoven with both the judicial system and the uneven distribution of economic resources; this focus on wealth redistribution struck at the heart of white supremacy in the United States and, therefore, many white Americans viewed the Black Panther Party with fear by many white Americans who fear losing their property (and therefore their power) to black Americans.

Another way that the Black Panther Party (BPP) framed their struggle for black empowerment was through the lens of the judicial system and violence against black communities. In his statement on their party platform, Huey P. Newton discusses police brutality and its role in preying upon black communities with "oppression and brutality".¹⁴ Through their articulation of a connection between a lack of black gun ownership and widespread police and

¹³ Huey, P. Newton, *War Against the Panthers*, (University Microfilms, 1980), 68.

¹⁴ Newton, 80.

mob violence, Black Power activists such as the BPP began to argue for black armament and public displays of the black community's weaponry.

Conservative activist and gun rights supporter Charleston Heston embodies the deep contradictions between white American's support for gun ownership and their simultaneous criminalization of black bodies. When speaking to the Weyrich's Free Congress Foundation as vice president of the National Rifle Association (NRA) in 1996, Heston painted a stark picture of the American "culture war" which pitted "the God-fearing, law-abiding, Caucasian, middle-class" against the "homosexual coalition" and "blacks who raise a militant fist" against white America.¹⁵ Heston comment's reflect the way that gun ownership was and is, viewed a tool of control with which a supposedly vilified and marginalized majority seeks to defend itself against minority groups who demand their piece of the pie. Heston's statements exemplify how contemporary discourses on the supposedly race-neutral topic of gun rights are often framed in highly racialized ways that code white Americans with a gun as respectable citizens and armed black citizens as criminal and "militant".

Drawing upon historically racialized imagery of black men as dangerous rapists and black women as inherently criminal and promiscuous, whites attempted to regain control of their favorite tool by criminalizing black gun ownership. In 1967 then governor of California, conservative Ronald Reagan, supported new gun control legislation in response to the expansion of gun ownership among the state's black population.¹⁶ While white Americans were happy to live in an environment with easy access to guns before the legal changes triggered by the Civil

¹⁵ Reva, Siegel, "Dead or Alive: Originalism as Popular Constitutionalism in Heller," *The Second Amendment on Trial*, (Amherst, University of Massachusetts Press, 2013) Saul, Cornell, Nathan Kozuskanich, 108-109.

¹⁶ Jim, Giza, "Another overlooked legacy of Reagan: Gun control", *The Baltimore Sun*, February, 10, 2012.

Rights movement, the prospect of black gun ownership agitated deep-rooted fears of black retribution and strength that dated back to the founding of the American State.

Conclusion:

Racial control and the continued exploitation of African Americans motivated the creation of the Second Amendment. Through the legalized establishment of armed white militias, the privileged, white, male, landowning class constructed a regime of gun ownership that was predicated upon notions of white supremacy and the generation of fear. Fear was both the motivation for the glorification of white gun ownership and the emotion produced by the white lynch mobs and militias who routinely harassed, robbed from, and murdered black Americans in order to reinforce black marginalization.

This complex understanding of American gun ownership has the potential to enlighten both the discourse around racial caste systems and conversations on the interpretation of the Second Amendment. The United States cannot hope to achieve the goal of racial justice until it addresses the white supremacist legacy of guns. While legal scholars can debate whether gun ownership as a Constitutional right is applicable to everyone or simply government-run militias, a truly race-neutral society (although highly improbable) would apply gun ownership laws equally.

As an understanding of the connection between the judicial system and racial control is a new and quickly evolving field, there is a lot of potential for gun ownership scholarship to add to our understanding. Scholars should integrate a nuanced understanding of guns into their analysis and honor both the white supremacist legacy of guns and their emancipatory use by Black Power groups in today's context. Unanswered questions such as how the landmark *Heller v. District of*

Columbia Supreme Court decision will affect gun laws and levels of gun ownership should be closely studied with issues of race always being taken into consideration.

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