

NATIONAL REVIEW

Does Hillary Believe in an Individual Right to Bear Arms or Not?

How can Clinton possibly reject Heller but believe in an ‘individual right to bear arms’?

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In last night’s third and final presidential debate, Hillary Clinton made two seemingly conflicting assertions about the Second Amendment: that she supports an individual right to bear arms and that the *Heller* case was wrongly decided.

Here’s the problem for Secretary Clinton: The Supreme Court held in *District of Columbia v. Heller* that the Second Amendment protects an individual right to own a handgun for self-defense in the home. There were two dissents to the case. One by Justice Stephens, which rejected a self-defense justification for the Second Amendment, and another by Justice Breyer arguing that even if there is a right to self-defense, it does not include the right to keep a handgun or immediately operable long gun in the home. Each dissent received votes from the same four justices.

So what does Secretary Clinton mean when she says that *Heller* was wrongly decided? Both dissents in *Heller* would have upheld a law that effectively banned handguns. Both dissents would have upheld a law that rejects the ability to defend yourself from criminals in your own home as a fundamental right. Or would Secretary Clinton reject both dissents in favor of some fourth view of the case?

Her position is vague and ambiguous. To say that you accept an individual right to bear arms but also believe that the government can ban individuals from owning handguns or operable long guns in the home raises the question of exactly what this individual right does protect.

This ambiguity is unfortunately a common phenomenon in the gun debate. Gun-control advocates and supporters of gun rights often seem to be speaking entirely different languages.

The trenches of the gun-control debate are littered with examples.

The discussion around so-called assault weapons is instructive. To the gun-rights advocate, the mere term causes the eyes to roll. Virtually every gun owner recognizes the term “assault rifle.” It refers to a medium-powered rifle with select-fire capability (i.e., the ability to switch between at least two modes of fire, such as single shot and automatic or single shot and burst). The M16 rifle is a popular example of an assault rifle. Its civilian equivalent, the popular AR15, is not an assault rifle because it only has one mode of fire: single shot.

The term “assault weapons,” on the other hand, has no concrete meaning. It refers to a process by which legislators simply label certain weapons or features as “assault weapons.” In short, assault weapons are whatever the people writing the law say they are. When such laws have been written by people who lack experience with firearms, the results have occasionally been ridiculous, as the banned features are often cosmetic and bear no relation to the lethality of the weapon.

Assault rifles are heavily regulated in the United States and have been for generations, so much so that calling it a “ban” would be fair. But when Senator Ron Johnson of Wisconsin said exactly that, PolitiFact rated his statement mostly false. I spoke to the author of that “fact check” and he insisted repeatedly that while Senator Johnson might be “technically correct,” the average person on the street conflates the terms assault rifle and assault weapon. The irony of a respected media outlet continuing to perpetuate that confusion was lost.

Occasionally it’s the policy, rather than the principle, advocated by gun-control supporters that is overly vague. Control advocates such as President Obama often insist that they support the right to bear arms and oppose confiscation. But President Obama also has a habit of invoking as exemplar countries such as Australia and Great Britain where there is no individual right to bear arms and confiscation is a fact of life.

The incoherence can also be found in the federal government’s incomprehensible ban on suppressors. For recreational shooters, a suppressor is a device that lowers the risk of serious hearing damage from extended shooting. For gun-control advocates who’ve seen too many movies and played too many video games, a suppressor turns an otherwise detectable gunshot into a silent killing device. The reality is much different.

Before we can have a coherent discussion about gun policy in America, let alone a compromise or policy solution, it’s vital to first agree about the meaning of the terms and be clear about our positions. Unfortunately, Secretary Clinton’s comments last night, along with her surging in the polls, suggests that it may yet be years before the national discourse on gun rights becomes any more mutually intelligible.

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