

Gun control and historical thinking essay



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District of Columbia v Heller was a landmark case based on possession of firearms as it is in the Second Amendment of the United States Constitution. The main issue was the interpretation of the Second Amendment; something that had never been handled at court level in previous years. In the case, the court put it that registration of handguns should be barred and licenses acquired for pistols and all the legal firearms to be kept unloaded or trigger locked. The question at hand was “ what was spelled in the Second Amendment regarding possession of firearms?” The court clarified that the Second Amendment only applied to militias and not to private ownership of firearms (Samaha, 2010). Petitioners wanted the court to review the case so that they could clarify the relationship between federal gun control laws and the Second Amendment. This is under the debate on new federal restrictions on firearms, which has become one of the most common debates in institutions of different levels. They also wanted to know what would be the rule for those who keep arms for their safety and security purposes at home. There are also others who argued that they used weapons for hunting.

The court brought some sense when they put it that the right to keep weapons did not mean using them in any manner or for whatsoever purpose. Although the possession is personal, it has to remain under the law, which is why we have laws such as the ones that prohibit possession of firearm by the mentally ill and felons. In addition, firearm possession is forbidden in sensitive places such as government buildings and schools. In the case, another theme that came up was the firearms that should be possessed (Samaha, 2010). The Second Amendment spells that possession of dangerous and unusual weapons is illegal. In the case of Heller, this needed

more interpretation since a gun that shoots one bullet at a time is not an unusual weapon. Therefore, there is a need logically to classify the usual and unusual weapons as they put it in the case. In the case, there are some questions that were left unanswered and one of them is whether or not the Second Amendment should be restricted to state and local governments (Samaha, 2010). The main challenge is to the small courts since they will always experience problems when the issue is not clarified and clear laws tabled in the Second Amendment.

Clio and the Court: A Reassessment of the Supreme Court's Uses of History

The use of historical thinking in policy making has been of considerable concern in the past. It results to the question, " how is historical thinking crucial when it comes to policy making?" Most academicians including Neil argue that the criticism in the past becomes crucial in making better policies that will overcome challenges that have been evident in the past (Richards, 1997). Other scholars including politicians and diplomats also draw inferences from the past. The Supreme Court as Neil puts it, has frequently inferred to history in decision making. This is something that has been criticized by different scholars. However, this is a practice that the court has been using over the last decades and has been highly recognized in efficient decision making. In other cases, the results have, however, tended to favor only a few (Richards, 1997). When the Warren court was transforming the American constitutional law, they were accused of relying much on the history so that they could come up with results that were politically desired. It is Alfred Kelly who charged the court with manipulation of history in his article Clio and the Court: An illicit love affair. One problem that came up is <https://assignbuster.com/gun-control-and-historical-thinking-essay/>

what would be determined as history when it comes to the court system. In addition, what would happen if two contradicting evidences are found?

In the modern world, law and history have become exceedingly closely related to extent that they cannot operate singly on whichever grounds. This means that in law making law makers have to make significant use of history. The constitution is also interpreted from a historical background since the constitution is a historical document that has just been changed over the years as more research and evidence is brought on table (Richards, 1997). A problem that arises is, however, on which grounds history should be inferred to ensure that it serves for the good of all rather than the good of the politician. History should be a tool to make people more secure and free as citizens. One element that can never be left out in historical thinking is evidence. When there is evidence, the law makers will be in a position to convince people why they have reached for such decisions. Chaos will, therefore, be reduced to ensure that all are comfortable with the decisions made.

Stand Your Ground: Florida's Castle Law for the 21st Century

Florida has been termed as one of the most violent states, which probably made them codify a doctrine of self-defense into a group of statutes that they called the " Stand Your Ground" law. The law aims at securing an individual's right to secure himself and family as a whole. Some academicians have criticized that the law may turn the state to one of the most wild and modernized states (Catalfamo, 2007). The law is embodied on the Southern understanding of need of honor, chivalry, and respect of each

citizen's right to freedom. During times of the English Common Law, the feudal maxim "a man's home is his castle" developed to what is termed as the modern castle doctrine. The 'defense of habitation' doctrine was also part of what developed to modern castle doctrine. Therefore, the modern castle doctrine combined taking note of personal security and home defense. Use of deadly force in self defense and defense of the family or the castle was, therefore, right accordance to the castle doctrine. An issue that emerges is what will be meant by the right to defend and the right to kill (Catalfamo, 2007). Does it mean that because of the right to defend people will have the right to kill? In the 20th century, the clarification that was made on the issue is that people defending themselves from assailants would kill only if this would mean reasonably saving their life. This led to the debate on the situations under which an individual who is under attack may kill the assailant and how justification for the killing would be established.

The "Stand Your Ground" law brought more changes to the original English Common Law by adding that people had the right to defend themselves in all means possible, even if it means killing so long as they have a lawful right to be in that place. If the assailant also has the right to be in that place, then the individual who kills has to face the law. The law also stands that officers who are on duty even if it is not in their castle they should not be killed. The castle doctrine has, therefore, led to the development of the new law that has taken consideration of the challenges that have been experienced in the past. The key elements in the statutory scheme are proportionality and necessity (Catalfamo, 2007). The law, therefore, better protects more so the people in urban areas.