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# Correlation of the Right to Keep and Bear Arms with Ensuring the Right to Life and its Protection

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## Abstract

The right to keep and bear arms can be considered a means of self-defence and can become a major threat to public safety if the purpose of the use of weapons is not to protect the right to life. The aim of the article is to establish the relationship between the number of weapons in civilian possession and the right to life and protection. The objective involved the following methods: statistical analysis, correlation analysis, generalization and analogy, hypothetical-deductive model. Countries in which the right to keep and bear arms is enshrined at the constitutional level are identified. They also identified the countries with the highest number of weapons stored and born by the population, their indicators were taken as a basis in the study. As a conclusion, it has been found that the correlation between the number of legal and illegal weapons in civilian possession, including per 100,000 inhabitants, the number of weapons kept by law enforcement officers and the number of people killed with weapons has a low level of negative correlation. It was found that the right to keep and bear arms is effective in guaranteeing the right to life and its protection, but not exclusive.

**Keywords:** weapons; homicide; self-defense; violence; right to life.

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## Correlación del Derecho a Poseer y Portar Armas con la Garantía del Derecho a la Vida y su Protección

### Resumen

El derecho a poseer y portar armas puede considerarse un medio de autodefensa y puede convertirse en una gran amenaza para la seguridad pública si el propósito del uso de armas no es proteger el derecho a la vida. El objetivo del artículo es establecer la relación entre el número de armas en posesión civil y el derecho a la vida y la protección. El objetivo involucró los siguientes métodos: análisis estadístico, análisis de correlación, generalización y analogía, modelo hipotético-deductivo. Se identifican los países en los que el derecho a poseer y portar armas está consagrado a nivel constitucional. También se identificaron los países con mayor número de armas guardadas y nacidas por la población, sus indicadores se tomaron como base en el estudio. Como conclusión se ha descubierto que la correlación entre el número de armas legales e ilegales en posesión civil, incluido por cada 100.000 habitantes, el número de armas guardadas por agentes del orden y el número de personas muertas con armas tiene un bajo nivel de correlación negativa. Se comprobó que el derecho a poseer y portar armas es efectivo para garantizar el derecho a la vida y su protección, pero no excluyente.

**Palabras clave:** armas; homicidio; autodefensa; violencia; derecho a la vida.

### Introduction

All democracies in the world are guided by the rule of law, which recognizes the most important value of human life and health. Therefore, the state must ensure the right to life and its protection. Violence with the use of arms is a current global human rights problem (Amnesty International, n. d.). All over the world, the issue of illicit trafficking in arms is acute as a threat to life on the one hand, and a means of protection and self-defence at the time of encroachment on life on the other.

In a developed democratic society, every citizen has the maximum opportunity to protect and defend their own violated rights and freedoms and those of family members, relatives, and others. The state shall create an appropriate legislative mechanism that would properly enshrine, ensure, and protect it. Sometimes the inability of public authorities to take real measures to protect life or health creates favourable conditions for illegal encroachments on the life, health of citizens and their property.

Arms are used far more often around the world to violate than to protect the human right to life. The right to keep and bear arms is not a human right,

but a kind of privilege. International regulations enshrine the human right to life. However, arms are rarely used to protect this right, as evidenced by statistics. In 2017, about 2,000 firearms were used for self-defence in the United States. This should be compared to 60,000 cases of the use of arms for other purposes than defence. This means that there are 30 people who are abused for every person who defends himself/herself with arms (Dancy, 2018).

Therefore, the correlation between the right to keep and bear arms and the guarantee of the right to life and its protection are closely interrelated institutions that require detailed study.

The aim of the research paper is to establish the correlation between the number of arms in civilian possession and guaranteeing the right to life and its protection. Research objectives of the article:

1. Identify the countries with the largest number of arms in civilian possession.
2. Analyse statistical indicators of the number of arms in legal or illegal civilian possession, the number of arms kept by law enforcement agencies, the number of homicides with arms.
3. Establish a correlation between the number of arms in civilian possession and the guarantee of the right to life and its protection.
4. Prove or disprove assumptions about the effectiveness of the use of arms in self-defence.

## **1. Literature Review**

Research is characterized by two approaches to the correlation of the right to keep and bear arms with the right to life and its protection. The first is the right to keep and bear arms as a necessary means of self-defence. The state shall control the processes of legalization of keeping and bearing arms. The second is that the right to keep and bear arms for self-defence is unjustified and therefore poses a greater threat to the life and health of the population.

The state shall ensure the right to life, which provides a set of substantive and procedural obligations of the state: 1) negative — refrain from intentional and illegal taking life; 2) positive — take measures to ensure the safety of persons under its jurisdiction: a) the obligation to ensure the availability of regulations; b) the obligation to take preventive measures; 3) procedural — ensure effective investigation of violations of substantive aspects of the right to life (European Court of Human Rights, 2021).

Romanov O. positions that the right to keep and bear arms (as an integral part of the human right to protection) is at the same time a guarantee of other human rights (primarily the right to life and health). This conclusion is confirmed by the position that the right of a citizen to acquire, possess, carry, and use arms is one of the main ways to protect their own lives (Romanov, 2005).

Straight (2021) holds a similar position, justified the right to self-defence as the main one, which provides for the right to bear arms. The right to bear arms is a means of ensuring a person's fundamental right to self-defence. A person has the right to self-defence against all others. Therefore, persons have the right to self-defence against other individuals; civil servants who have the right to keep and bear arms are no different from individuals; individuals have the right to self-defence against the government.

The issue of firearms as a means of self-protection of citizens from criminal encroachment is reduced to two opposing views: the first one — to legalize short-barrelled firearms, the second — to prevent keeping and bearing such arms by civilians (Chystokletov and Pastryulina, 2011).

In general, enshrinement of the right to keep and bear arms for self-defence at the constitutional level is quite rare. Only 15 constitutions have ever included the right to bear firearms (Butkevych and Hembach, 2016). No international human rights law protects the right to keep and bear arms. This is justified by two reasons: first, self-defence is the only exception to the use of force; second, representative democracy is an integral part of every international human rights treaty, which provides that people have the right to rise and overthrow an undemocratic form of government (Schmidt, 2007).

There is no common European experience in legalizing keeping and bearing arms by the civilian population. Legislation governing the possession of arms by civilians for the purpose of protection varies considerably from country to country, but the common denominator is that the constitutions of the European Union do not enshrine citizens' rights to keep and bear arms. The vast majority of countries have a fairly liberal legislation that enshrines the right to use arms to protect one's own lives and other people's lives (Hudz and Maltsev, 2018).

Baldwin (n. d.) is a supporter of the second approach and notes that traditional self-defence does not justify any violent action simply because the other person has struck the first blow or threatened to commit acts dangerous to life and health. Traditional self-defence laws require a person who is attacked or threatened with imminent attack to: act wisely; retreat, if possible, without any physical action; use only reasonably necessary force to repel the attacker.

The regulation of the right to keep and bear arms should include the following aspects: determining the subjects to whom the right to hold and bear arms is granted for the purpose of self-defence; conditions for the use of arms for self-defence and protection of other rights; arms legislation should provide for a trial in case of homicide from arms at the time of self-defence; control over the storage of arms for self-defence as a matter of public safety; legislatures must ensure that no person who keeps arms has power over others in society (Samraj, 2020).

## 2. Materials and Methods of Research

The main approach in the study of the correlation between the right to keep and bear arms and the right to life and its protection was to establish the countries with the largest number of arms being legally and illegally in civilian possession. We believe that the analysis of the indicators studied in these countries best reflects the correlation between the right to keep and bear arms and the right to life and its protection.

The correlation between the right to keep and bear arms and the right to life and its protection was studied using the method of statistical analysis of the number of arms being legally and illegally in civilian possession, the number of arms kept by law enforcement agencies, the number of homicides with arms.

The correlation analysis was used to establish the correlation between the estimate of firearms in civilian possession, estimate of civilian firearms per 100 persons, registered firearms, unregistered firearms for 2017 in the US, India, China, Pakistan, Russia, Brazil, Mexico, Germany, Iran, Saudi Arabia, South Africa, Colombia, Ukraine, Afghanistan, Egypt, the Philippines and homicide rate from firearms, measured as the number of deaths per 100,000 in 2017 in these countries; between the estimate of firearms in civilian possession and the Global Firearms Holdings Law enforcement firearms in 2017 in the countries under study; homicide rate from firearms, measured as the number of deaths per 100,000 in 2017 in these countries and Global Firearms Holdings Law enforcement firearms.

The study used the formula of correlation analysis (Equation 1):

$$r = \frac{\sum(x_2 - \bar{x}_1) \times (x_2 - \bar{x}_2)}{\sqrt{\sum(x_1 - \bar{x}_1)^2} \times \sqrt{\sum(x_2 - \bar{x}_2)^2}} \quad (1)$$

where  $x_1$  — estimate of firearms in civilian possession and  $x_2$  — homicide rate from firearms, measured as the number of deaths per 100 000,  $r$  — linear correlation coefficient.

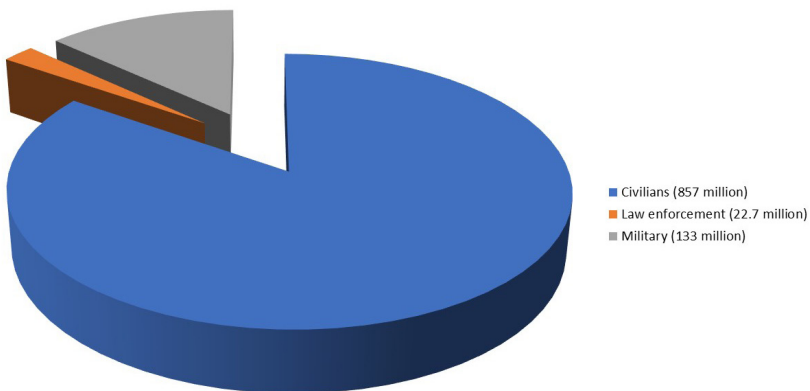
The hypothetico-deductive method, the method of generalization and analogy helped to prove the assumptions about the effectiveness of the use of arms in self-defence. The study used the most significant scientific works that reflect the development of scientific thought in the field of the right to keep and bear arms and its effectiveness in self-defence for the period of 2005 to 2021. The paper analyses the following indicators:

- Global Firearms Holdings Civilian-held firearms in the 25 top ranked countries and territories y 2017 year reflected in Small Arms Survey.
- Homicide rate from firearms, measured as the number of deaths per 100 000 in 2017 reflected in Our World in Data (2018).
- Global Firearms Holdings Law enforcement firearms in 2017 reflected in Small Arms Survey.

### 3. Research Results

If we consider the right to keep and bear arms through the prism of ensuring the right to life and its protection, the right to keep and bear arms is a derivative right. Ensuring the right to life covers the right to self-defence, which may or may not (depending on the legislative regulation) be exercised with the use of arms.

In the world, civilian population hold the largest number of arms, while law enforcement agencies — the smallest (Figure 1).



**Figure 1: Global firearms holding estimates, 2017.**

Source: Small Arms Survey, 2018.

The right to keep and bear arms is enshrined at the constitutional level in only three countries: the United States, Guatemala, and Mexico. There is no such practice in Europe.

Accordingly, the United States is the country with the largest number of arms in the world in civilian possession in 2017 (Table 1). However, despite the First and Second Amendments to the Constitution, most weapons are held illegally. Other countries that were in the top 25 countries with the largest number of arms in civilian possession in 2017 are: India, China, Pakistan, Russia, Brazil, Mexico, Germany, Iran, Saudi Arabia, South Africa, Colombia, Ukraine, Afghanistan, Egypt, Philippines.

**Table 1. Global Firearms Holdings Civilian-held firearms in the 25 top ranked countries and territories, 2017.**

State	Estimate of firearms in civilian possession	Estimate of civilian firearms per 100 persons	Registered firearms	Unregistered firearms
United States	393,347,000	120.48	1,073,743	392,273,257
India	71,101,000	5.30	9,700,000	61,401,000
China	49,735,000	3.58	680,000	49,055,000
Pakistan	43,917,000	22.32	6,000,000	37,917,000
Russian Federation	17,620,000	12.29	6,600,000	11,020,000
Brazil	17,510,000	8.29	8,080,295	9,429,705
Mexico	16,809,000	12.91	3,118,592	13,690,408
Germany	15,822,000	19.62	5,830,000	9,992,000
Iran	5,890,000	7.28	-	-
Saudi Arabia	5,468,000	16.70	-	-
South Africa	5,351,000	9.65	3,000,000	2,351,000
Colombia	4,971,000	10.13	706,210	4,264,790
Ukraine	4,396,000	9.90	800,000	3,596,000
Afghanistan	4,270,000	12.50	-	-
Egypt	3,931,000	4.13	250,000	3,681,000
Philippines	3,776,000	3.64	1,739,000	2,037,000

Source: Small Arms Survey (2018).



At the same time, in 2017, the leader among the studied countries in the number of people killed with weapons is Colombia, followed by Brazil, Mexico, the Philippines, the United States, Afghanistan, South Africa and others with less than 1 per 100,000 population (Table 2).

**Table 2. Homicide rates from firearms (Homicide rate from firearms, measured as the number of deaths per 100 000), 2017.**

United States	4.63	Iran	0.59
India	0,74	Saudi Arabia	0.15
China	0.04	South Africa	4.30
Pakistan	0,58	Colombia	21.70
Russian Federation	0.84	Ukraine	0.65
Brazil	20.41	Afghanistan	4.55
Mexico	11.49	Egypt	0.25
Germany	0.10	Philippines	9.54

Source: Our World in Data (2018).

To establish the correlation between the number of weapons and those killed with the use of weapons, it is necessary to correlate between the data in Table 1 and Table 2.

Thus, the linear correlation index between the number of arms in civilian possession in 2017 and those killed with weapons in 2017 is -0.064, which indicates a negative correlation between these data.

The linear correlation index between the number of arms in civilian possession in 2017 per 100,000 population and those killed with arms in 2017 is -0.042, which indicates a negative correlation between these data.

The linear correlation index between the number of legalized arms in civilian possession in 2017 and those killed with arms in 2017 is -0.019, which indicates a negative correlation between these data.

The linear correlation index between the number of illegal arms in civilian possession in 2017 and those killed with arms in 2017 is -0.111, indicating a negative correlation between these data.

It has been established that the number of arms that are legally or illegally in civilian possession has a negative correlation with the number of homicides with arms. That is, the more arms, the fewer homicides with arms.

The right to keep and bear arms in each country is legally enshrined by law enforcement officials. They are authorized to prevent and fight crime, as well as to protect the rights and interests of people. Law enforcement agencies, among other things, ensure the right to life and its protection.

In 2017, the leader among the surveyed countries in the number of law enforcement officers holding arms is the Russian Federation, followed by China, India, Egypt, the United States and others with the number of arms less than 1,000,000 (Table 3).

**Table 3. Global Firearms Holdings Law enforcement firearms, 2017**

United States	1,016,000	Iran	98,000
India	1,700,000	Saudi Arabia	214,000
China	1,971,000	South Africa	250,481
Pakistan	944,000	Colombia	283,000
Russian Federation	2,432,000	Ukraine	289,000
Brazil	803,000	Afghanistan	239,000
Mexico	591,000	Egypt	1,530,000
Germany	466,000	Philippines	139,043

Source: Small Arms Survey (2018).

The linear correlation index between the number of arms held by law enforcement officials in 2017 and those killed with arms in 2017 is -0.295, which indicates a negative correlation between these data.

This figure suggests that more law enforcement arms do little to prevent homicide from arms. Thus, it can be argued that the armed law enforcement agencies are more effective in ensuring the protection of the right to life and its protection.

The linear correlation index between the number of arms in civilian possession in 2017 and the number of arms held by law enforcement agencies in 2017 in the studied countries is 0.199, indicating a low level of positive correlation between these data.

So, the number of arms held by law enforcement agencies depends on the number of arms in civilians' possession. Such correlation is due to the greater threat to the life of the population and the need to protect it.

#### 4. Discussion

Many arms in the world, including illegal ones, have created a ground for the study of the purpose of their use, the reasonability of enshrining the right to possess it at the constitutional level, as well as the effectiveness of its use in self-defence. Thus, the positions of scholars divided into two. The first group of scholars argues that one of the main ways to protect one's life is the right of a person to acquire, keep, bear, and use arms (Romanov, 2005). That is, the main purpose for the acquisition, keeping, bearing, and using arms by individuals is the direct realisation of the individual's right to self-defence (Didenko, 2016).

Possession of arms creates equal conditions between the weakest and the strongest, therefore it is an additional guarantee of protection of life. There are no alternative means of effective self-defence other than arms possession (Gingrich, 2012).

The use of gun control measures violates the right to self-defence or to prevent an attack. If a particular arms control measure has generally positive results, it primarily violates the rights of those who are killed or severely harmed by their inability to defend themselves (Crummett and Swenson, 2020).

Gun control (Boothby, 2021) can make people safer on average, but it does not make everyone safer, and those who violate their rights are less secure (Huemer, 2016). McMahan (2012) holds the opposite position, who proved that gun control makes everyone safer and therefore contributes to everyone's ability to prevent physical injury. Accordingly, no one's right to physical security is violated. Wright *et al.* (2017) argue that the more arms a population possesses, the more homicides.

Proponents of legalization of arms for self-defence provide the following arguments: first, criminals can still carry illegal arms, second, law enforcement officers are not always effective and timely to protect citizens from criminals, and third, possession of arms is rather a preventive measure to prevent criminal acts, because in this case the attacker may be wary of protective actions of the victim of the attack.

The study found that the relationship between the number of legal and illegal arms in civilian possession, the number of arms in civilian possession per 100,000 population, and the number of people killed using arms was low. This suggests that in countries with more arms there are fewer homicides using arms. Such correlation is low, so it is impractical to state unequivocally its exclusive role. However, this justifies the position of scholars who argue for the need to enshrine the right to possess arms as a means of self-defence and a guarantee of the right to life.

In addition to the civilian population, law enforcement agencies have the right to keep and bear arms, however, given the fact that the police may not always be present in all places to ensure public safety, citizens may use arms for self-defence (Simpson, 2019). The effectiveness of violence prevention and self-defence depends on the form of arms possession, so open bearing of arms is more effective than covert one (Roberts, 2018).

The right of the population to keep and bear arms has two main reasons: the first is to provide citizens with the means to resist a tyrannical government; the second is to provide citizens with the means to protect themselves, their loved ones from violence and their property from criminal encroachment (Bernstein, 2020).

This position is not accidental, as any changes in legislation, including the enshrinement of additional rights, are due to the emergence of new social relations or changes in existing ones. Protective factors, such as victimization and personal security concerns, are important in enshrinement of the right to keep and bear arms, but they outweigh criminogenic factors such as violence, disorder, and lack of trust in the police (Brennan, 2018).

The police violence against citizens has led to mass protests and an increased number of applications for firearms (McGinnis, 2020), as has been the case in the United States, leading to the adoption of the Second Amendment to the US Constitution as a guarantee of the right to keep and bear arms for self-defence (Blocher, 2012). The study proved that the linear correlation index between the number of weapons held by law enforcement agencies in 2017 and those killed with arms in 2017 is -0.295.

This suggests that in countries where law enforcement agencies have more arms, there are fewer cases of gun homicides. Therefore, it is no coincidence that the interdependence between the number of arms possessed by law enforcement agencies in 2017 and the number of arms in civilian possession in 2017 is positive at a low level. That is, more arms in civilian possession correspond to more arms held by law enforcement agencies.

Proponents of the second approach argue that although the right to self-defence is a human right, the right to keep and bear arms cannot be a human right — it should be understood as a derivative legal option, right and privilege (Samraj, 2020).

The position on the need to enshrine the right to keep and bear arms manipulates the ideals of human rights, in particular the inalienable right to life, in order to establish an unimpeded right to armed self-defence. This statement is based on the need to protect oneself and the loved ones from violence without regard to the rights of others. The claim that the most effective means of self-preservation is the use of firearms is false. This undermines the role of a democratic society in preserving the rights and lives of its citizens.

The right to keep and bear arms undermines the fundamental right to life of countless people by an armed civilian whose subjective fear may cause harm. Fundamental rights and freedoms are not unlimited but are part of a social contract in which all persons must also respect the rights and dignity of others. The right to personal security is often misinterpreted as a broad right to self-defence against any perceived threat.

To fairly protect one's personal right to security, a person may use force only to the extent required by the situation and when there are no other means of protection against attack. The use of force falls under the law of security only when the force is proportional to the threat (Bhatia, 2020).

We deny this position, given that the right to keep and bear arms is not always accompanied by its use, therefore it can be used for preventive purposes. At the same time, the right to keep and bear arms is not exclusive and must meet the need to provide it to the relevant subjects.

### **Conclusions**

The legislative definition of the right to keep and bear arms has a fine line between guaranteeing of the right to life, protecting the person being encroached upon and ensuring public order and security in general. It is established that only three countries have enshrined the right to keep and bear arms at the constitutional level: the United States, Guatemala, and Mexico.

The countries with the highest number of arms in civilian possession are the United States, India, China, Pakistan, the Russian Federation, Brazil, Mexico, Germany, Iran, Saudi Arabia, South Africa, Colombia, Ukraine, Afghanistan, Egypt, and the Philippines. The indicators of these countries were taken as a basis in the study.

The interdependence between the number of legal and illegal arms in civil possession, the number of arms in civil possession per 100,000 population, and the number of people killed using arms has been found to have a low level of negative correlation. This suggests that there are fewer homicides using arms in countries with more arms. The level of this correlation is low, so it is impractical to state unequivocally about its exclusive role.

The subjects who have the right to hold arms are law enforcement agencies to ensure law and order in society, while guaranteeing the right to life and protection of people. It was found that the correlation between the number of arms held by law enforcement agencies in 2017 and those killed with arms in 2017 is reflected in the linear correlation index, which is -0.295. Thus, in those countries where law enforcement agencies have more arms, there are fewer cases of homicides with the use of arms.

The indicator of the interdependence between the number of arms held by law enforcement officers in 2017 and the number of arms in civilian possession in 2017 is positive at a low level. That is, more arms in civilian possession correspond to more arms held by law enforcement officers.

Therefore, the right to keep and bear arms by civilians and law enforcement agencies is effective in guaranteeing the right to life and protection, but it is impractical to regard the right to keep and bear arms as the only effective right to self-defence, as the interdependence between these categories is low.

The prospect of further research is to study the conditions of legal use of arms by individuals at the time of encroachment on their right to life and health.

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