

130 S.Ct. 3020 (2010)

Otis McDONALD, et al., Petitioners,
v.
CITY OF CHICAGO, ILLINOIS, et al.

No. 08-1521.

Supreme Court of United States.

Argued March 2, 2010.

Decided June 28, 2010.

3026*3026 Justice ALITO announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II-A, II-B, II-D, III-A, and III-B, in which THE CHIEF JUSTICE, Justice SCALIA, Justice KENNEDY, and Justice THOMAS join, and an opinion with respect to Parts II-C, IV, and V, in which THE CHIEF JUSTICE, Justice SCALIA, and Justice KENNEDY join.

Two years ago, in [*District of Columbia v. Heller*, 554 U.S. _____, 128 S.Ct. 2783, 171 L.Ed.2d 637 \(2008\)](#), we held that the Second Amendment protects the right to keep and bear arms for the purpose of self-defense, and we struck down a District of Columbia law that banned the possession of handguns in the home. The city of Chicago (City) and the village of Oak Park, a Chicago suburb, have laws that are similar to the District of Columbia's, but Chicago and Oak Park argue that their laws are constitutional because the Second Amendment has no application to the States. We have previously held that most of the provisions of the Bill of Rights apply with full force to both the Federal Government and the States. Applying the standard that is well established in our case law, we hold that the Second Amendment right is fully applicable to the States.

I

Otis McDonald, Adam Orlov, Colleen Lawson, and David Lawson (Chicago petitioners) are Chicago residents who would like to keep handguns in their homes for self-defense but are prohibited from doing so by Chicago's firearms laws. A City ordinance provides that "[n]o person shall... possess ... any firearm unless such person is the holder of a valid registration certificate for such firearm." Chicago, Ill., Municipal Code § 8-20-040(a) (2009). The Code then prohibits registration of most handguns, thus effectively banning handgun possession by almost all private citizens who reside in the City. § 8-20-050(c). Like Chicago, Oak Park makes it "unlawful for any person to possess ... any firearm," a term that includes "pistols, revolvers, guns and small arms ... commonly known as handguns." Oak Park, Ill., Municipal Code §§ 27-2-1 (2007), 27-1-1 (2009).

Chicago enacted its handgun ban to protect its residents "from the loss of property and injury or death from firearms." See Chicago, Ill., Journal of Proceedings of the City Council, p. 10049

(Mar. 19, 1982). The Chicago petitioners and their *amici*, however, argue that the handgun ban has left them vulnerable to criminals. Chicago Police Department statistics, we are told, reveal that the City's handgun murder rate has actually increased since the ban was enacted^[1] and that Chicago residents now face one of the highest murder rates in the country and rates of other violent crimes that exceed the average in comparable cities.^[2]

Several of the Chicago petitioners have been the targets of threats and violence. For instance, Otis McDonald, who is in his 3027*3027 late seventies, lives in a high-crime neighborhood. He is a community activist involved with alternative policing strategies, and his efforts to improve his neighborhood have subjected him to violent threats from drug dealers. App. 16-17; Brief for State Firearm Associations as *Amici Curiae* 20-21; Brief for State of Texas et al. as *Amici Curiae* 7-8. Colleen Lawson is a Chicago resident whose home has been targeted by burglars. "In Mrs. Lawson's judgment, possessing a handgun in Chicago would decrease her chances of suffering serious injury or death should she ever be threatened again in her home."^[3] McDonald, Lawson, and the other Chicago petitioners own handguns that they store outside of the city limits, but they would like to keep their handguns in their homes for protection. See App. 16-19, 43-44 (McDonald), 20-24 (C. Lawson), 19, 36 (Orlov), 20-21, 40 (D.Lawson).

After our decision in *Heller*, the Chicago petitioners and two groups^[4] filed suit against the City in the United States District Court for the Northern District of Illinois. They sought a declaration that the handgun ban and several related Chicago ordinances violate the Second and Fourteenth Amendments to the United States Constitution. Another action challenging the Oak Park law was filed in the same District Court by the National Rifle Association (NRA) and two Oak Park residents. In addition, the NRA and others filed a third action challenging the Chicago ordinances. All three cases were assigned to the same District Judge.

The District Court rejected plaintiffs' argument that the Chicago and Oak Park laws are unconstitutional. See App. 83-84; [NRA, Inc. v. Oak Park, 617 F.Supp.2d 752, 754 \(N.D.Ill.2008\)](#). The court noted that the Seventh Circuit had "squarely upheld the constitutionality of a ban on handguns a quarter century ago," *id.*, at 753 (citing [Quilici v. Morton Grove, 695 F.2d 261 \(C.A.7 1982\)](#)), and that *Heller* had explicitly refrained from "opin[ing] on the subject of incorporation vel non of the Second Amendment," [NRA, 617 F.Supp.2d, at 754](#). The court observed that a district judge has a "duty to follow established precedent in the Court of Appeals to which he or she is beholden, even though the logic of more recent caselaw may point in a different direction." *Id.*, at 753.

The Seventh Circuit affirmed, relying on three 19th-century cases—[United States v. Cruikshank, 92 U.S. 542, 23 L.Ed. 588 \(1876\)](#), [Presser v. Illinois, 116 U.S. 252, 6 S.Ct. 580, 29 L.Ed. 615 \(1886\)](#), and [Miller v. Texas, 153 U.S. 535, 14 S.Ct. 874, 38 L.Ed. 812 \(1894\)](#)—that were decided in the wake of this Court's interpretation of the Privileges or Immunities Clause of the Fourteenth Amendment in the [Slaughter-House Cases, 16 Wall. 36, 21 L.Ed. 394 \(1873\)](#). The Seventh Circuit described the rationale of those cases as "defunct" and recognized that they did not consider the question whether the Fourteenth Amendment's Due Process Clause incorporates the Second Amendment right to keep and bear arms. [NRA, Inc. v. Chicago, 567 F.3d 856, 857, 858 \(2009\)](#). Nevertheless, the Seventh Circuit observed that it was obligated to follow Supreme Court precedents that have "direct application," and it declined to predict how the Second Amendment

would fare under this Court's modern "selective incorporation" approach. *Id.*, at 857-858 (internal quotation marks omitted).

3028*3028 We granted certiorari. 557 U.S. ___, 130 S.Ct. 48, 174 L.Ed.2d 632 (2009).

II

A

Petitioners argue that the Chicago and Oak Park laws violate the right to keep and bear arms for two reasons. Petitioners' primary submission is that this right is among the "privileges or immunities of citizens of the United States" and that the narrow interpretation of the Privileges or Immunities Clause adopted in the [Slaughter-House Cases, supra](#), should now be rejected. As a secondary argument, petitioners contend that the Fourteenth Amendment's Due Process Clause "incorporates" the Second Amendment right.

Chicago and Oak Park (municipal respondents) maintain that a right set out in the Bill of Rights applies to the States only if that right is an indispensable attribute of *any* "civilized" legal system. Brief for Municipal Respondents 9. If it is possible to imagine a civilized country that does not recognize the right, the municipal respondents tell us, then that right is not protected by due process. *Ibid.* And since there are civilized countries that ban or strictly regulate the private possession of handguns, the municipal respondents maintain that due process does not preclude such measures. *Id.*, at 21-23. In light of the parties' far-reaching arguments, we begin by recounting this Court's analysis over the years of the relationship between the provisions of the Bill of Rights and the States.

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The Bill of Rights, including the Second Amendment, originally applied only to the Federal Government. In [Barron ex rel. Tiernan v. Mayor of Baltimore, 7 Pet. 243, 8 L.Ed. 672 \(1833\)](#), the Court, in an opinion by Chief Justice Marshall, explained that this question was "of great importance" but "not of much difficulty." *Id.*, at 247. In less than four pages, the Court firmly rejected the proposition that the first eight Amendments operate as limitations on the States, holding that they apply only to the Federal Government. See also [Lessee of Livingston v. Moore, 7 Pet. 469, 551-552, 8 L.Ed. 751 \(1833\)](#) ("[I]t is now settled that those amendments [in the Bill of Rights] do not extend to the states").

The constitutional Amendments adopted in the aftermath of the Civil War fundamentally altered our country's federal system. The provision at issue in this case, § 1 of the Fourteenth Amendment, provides, among other things, that a State may not abridge "the privileges or immunities of citizens of the United States" or deprive "any person of life, liberty, or property, without due process of law."

Four years after the adoption of the Fourteenth Amendment, this Court was asked to interpret the Amendment's reference to "the privileges or immunities of citizens of the United States." The

[Slaughter-House Cases, supra](#), involved challenges to a Louisiana law permitting the creation of a state-sanctioned monopoly on the butchering of animals within the city of New Orleans. Justice Samuel Miller's opinion for the Court concluded that the Privileges or Immunities Clause protects only those rights "which owe their existence to the Federal government, its National character, its Constitution, or its laws." *Id.*, at 79. The Court held that other fundamental rights—rights that predated the creation of the Federal Government and that "the State governments were created to establish and secure"—were not protected by the Clause. *Id.*, at 76.

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We see no need to reconsider that interpretation here. For many decades, the question of the rights protected by the 3031*3031 Fourteenth Amendment against state infringement has been analyzed under the Due Process Clause of that Amendment and not under the Privileges or Immunities Clause. We therefore decline to disturb the *Slaughter-House* holding.

At the same time, however, this Court's decisions in *Cruikshank*, *Presser*, and *Miller* do not preclude us from considering whether the Due Process Clause of the Fourteenth Amendment makes the Second Amendment right binding on the States. See *Heller*, 554 U.S., at ____, n. 23, [128 S.Ct., at 2813 n. 23](#). None of those cases "engage[d] in the sort of Fourteenth Amendment inquiry required by our later cases." *Ibid.* As explained more fully below, *Cruikshank*, *Presser*, and *Miller* all preceded the era in which the Court began the process of "selective incorporation" under the Due Process Clause, and we have never previously addressed the question whether the right to keep and bear arms applies to the States under that theory.

Indeed, *Cruikshank* has not prevented us from holding that other rights that were at issue in that case are binding on the States through the Due Process Clause. In *Cruikshank*, the Court held that the general "right of the people peaceably to assemble for lawful purposes," which is protected by the First Amendment, applied only against the Federal Government and not against the States. See [92 U.S., at 551-552](#). Nonetheless, over 60 years later the Court held that the right of peaceful assembly was a "fundamental righ[t] ... safeguarded by the due process clause of the Fourteenth Amendment." [De Jonge v. Oregon, 299 U.S. 353, 364, 57 S.Ct. 255, 81 L.Ed. 278 \(1937\)](#). We follow the same path here and thus consider whether the right to keep and bear arms applies to the States under the Due Process Clause.

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III

With this framework in mind, we now turn directly to the question whether the Second Amendment right to keep and bear arms is incorporated in the concept of due process. In answering that question, as just explained, we must decide whether the right to keep and bear arms is fundamental to *our* scheme of ordered liberty, [Duncan, 391 U.S., at 149, 88 S.Ct. 1444](#), or as we have said in a related context, whether this right is "deeply rooted in this Nation's

history and tradition," [Washington v. Glucksberg](#), 521 U.S. 702, 721, 117 S.Ct. 2302, 138 L.Ed.2d 772 (1997) (internal quotation marks omitted).

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Our decision in *Heller* points unmistakably to the answer. Self-defense is a basic right, recognized by many legal systems from ancient times to the present day,^[15] and in *Heller*, we held that individual self-defense is "the *central component*" of the Second Amendment right. 554 U.S., at ___, [128 S.Ct., at 2801-2802](#); see also *id.*, at ___, [128 S.Ct., at 2817](#) (stating that the "inherent right of self-defense has been central to the Second Amendment right"). Explaining that "the need for defense of self, family, and property is most acute" in the home, *ibid.*, we found that this right applies to handguns because they are "the most preferred firearm in the nation to 'keep' and use for protection of one's home and family," *id.*, at ___, 128 S.Ct., at 2818 (some internal quotation marks omitted); see also *id.*, at ___, [128 S.Ct., at 2817](#) (noting that handguns are "overwhelmingly chosen by American society for [the] lawful purpose" of self-defense); *id.*, at ___, 128 S.Ct., at 2818 ("[T]he American people have considered the handgun to be the quintessential self-defense weapon"). Thus, we concluded, citizens must be permitted "to use [handguns] for the core lawful purpose of self-defense." *Id.*, at ___, 128 S.Ct., at 2818.

Heller makes it clear that this right is "deeply rooted in this Nation's history and tradition." [Glucksberg, supra, at 721, 117 S.Ct. 2302](#) (internal quotation marks omitted). *Heller* explored the right's origins, noting that the 1689 English Bill of Rights explicitly protected a right to keep arms for self-defense, 554 U.S., at ___ - ___, [128 S.Ct., at 2797-2798](#), and that by 1765, Blackstone was able to assert that the right to keep and bear arms was "one of the fundamental rights of Englishmen," *id.*, at ___, 128 S.Ct., at 2798.

3037*3037 Blackstone's assessment was shared by the American colonists. As we noted in *Heller*, King George III's attempt to disarm the colonists in the 1760's and 1770's "provoked polemical reactions by Americans invoking their rights as Englishmen to keep arms."^[16] *Id.*, at ___, [128 S.Ct., at 2799](#); see also L. Levy, *Origins of the Bill of Rights* 137-143 (1999) (hereinafter Levy).

The right to keep and bear arms was considered no less fundamental by those who drafted and ratified the Bill of Rights. "During the 1788 ratification debates, the fear that the federal government would disarm the people in order to impose rule through a standing army or select militia was pervasive in Antifederalist rhetoric." [Heller, supra, at ___, 128 S.Ct., at 2801](#) (citing Letters from the Federal Farmer III (Oct. 10, 1787), in 2 *The Complete Anti-Federalist* 234, 242 (H. Storing ed.1981)); see also Federal Farmer: An Additional Number of Letters to the Republican, Letter XVIII (Jan. 25, 1788), in 17 *Documentary History of the Ratification of the Constitution* 360, 362-363 (J. Kaminski & G. Saladino eds.1995); S. Halbrook, *The Founders' Second Amendment* 171-278 (2008). Federalists responded, not by arguing that the right was insufficiently important to warrant protection but by contending that the right was adequately protected by the Constitution's assignment of only limited powers to the Federal Government. [Heller, supra, at ___, 128 S.Ct., at 2801-2802](#); cf. *The Federalist* No. 46, p. 296 (C. Rossiter ed. 1961) (J. Madison). Thus, Antifederalists and Federalists alike agreed that the right to bear arms was fundamental to the newly formed system of government. See Levy 143-149; J. Malcolm, *To*

Keep and Bear Arms: The Origins of an Anglo-American Right 155-164 (1994). But those who were fearful that the new Federal Government would infringe traditional rights such as the right to keep and bear arms insisted on the adoption of the Bill of Rights as a condition for ratification of the Constitution. See 1 J. Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* 327-331 (2d ed. 1854); 3 *id.*, at 657-661; 4 *id.*, at 242-246, 248-249; see also Levy 26-34; A. Kelly & W. Harbison, *The American Constitution: Its Origins and Development* 110, 118 (7th ed.1991). This is surely powerful evidence that the right was regarded as fundamental in the sense relevant here.

This understanding persisted in the years immediately following the ratification of the Bill of Rights. In addition to the four States that had adopted Second Amendment analogues before ratification, nine more States adopted state constitutional provisions protecting an individual right to keep and bear arms between 1789 and 1820. [*Heller, supra*, at _____, 128 S.Ct., at 2802-2804](#). Founding-era legal commentators confirmed the importance of the right to early Americans. St. George Tucker, for example, described the right to keep and bear arms as "the true palladium of liberty" and explained that prohibitions on the right would place liberty "on the brink of destruction." 1 Blackstone's Commentaries, Editor's App. 300 (S. Tucker ed. 1803); see also W. Rawle, *A View of the Constitution of the United States of America*, 125-126 (2d ed. 1829) (reprint 3038*3038 2009); 3 J. Story, *Commentaries on the Constitution of the United States* § 1890, p. 746 (1833) ("The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them").

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In sum, it is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.

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IV

Municipal respondents' remaining arguments are at war with our central holding in *Heller*: that the Second Amendment protects a personal right to keep and bear arms for lawful purposes, most notably for self-defense within the home. Municipal respondents, in effect, ask us to treat the right recognized in *Heller* as a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees that we have held to be incorporated into the Due Process Clause.

Municipal respondents' main argument is nothing less than a plea to disregard 50 years of incorporation precedent and return (presumably for this case only) to a bygone era. Municipal respondents submit that the Due Process Clause protects only those rights "recognized by all temperate and civilized governments, from a deep and universal sense of [their] justice." Brief for Municipal Respondents 9 (quoting [Chicago, B. & O.R. Co., 166 U.S., at 238, 17 S.Ct. 581](#)). According to municipal respondents, if it is possible to imagine *any* civilized legal system that does not recognize a particular right, then the Due Process Clause does not make that right binding on the States. Brief for Municipal Respondents 9. Therefore, the municipal respondents continue, because such countries as England, Canada, Australia, Japan, Denmark, Finland, Luxembourg, and New Zealand either ban or severely limit handgun ownership, it must follow that no right to possess such weapons is protected by the Fourteenth Amendment. *Id.*, at 21-23.

This line of argument is, of course, inconsistent with the long-established standard we apply in incorporation cases. See [Duncan, 391 U.S., at 149](#), and n. 14, [88 S.Ct. 1444](#). And the present-day implications of municipal respondents' argument are stunning. For example, many of the rights that our Bill of Rights provides for persons accused of criminal offenses are virtually unique to this country.^[28] If *our* understanding of the right to a jury trial, the right against self-incrimination, and the right to counsel were necessary attributes of *any* civilized country, it would follow that the United States is the only civilized Nation in the world.

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We likewise reject municipal respondents' argument that we should depart from our established incorporation methodology on the ground that making the 3046*3046 Second Amendment binding on the States and their subdivisions is inconsistent with principles of federalism and will stifle experimentation. Municipal respondents point out—quite correctly—that conditions and problems differ from locality to locality and that citizens in different jurisdictions have divergent views on the issue of gun control. Municipal respondents therefore urge us to allow state and local governments to enact any gun control law that they deem to be reasonable, including a complete ban on the possession of handguns in the home for self-defense. Brief for Municipal Respondents 18-20, 23.

There is nothing new in the argument that, in order to respect federalism and allow useful state experimentation, a federal constitutional right should not be fully binding on the States. This argument was made repeatedly and eloquently by Members of this Court who rejected the concept of incorporation and urged retention of the two-track approach to incorporation. Throughout the era of "selective incorporation," Justice Harlan in particular, invoking the values of federalism and state experimentation, fought a determined rearguard action to preserve the two-track approach. See, *e.g.*, [Roth v. United States, 354 U.S. 476, 500-503, 77 S.Ct. 1304, 1 L.Ed.2d 1498 \(1957\)](#) (Harlan, J., concurring in result in part and dissenting in part); [Mapp, supra](#), at 678-680, 81 S.Ct. 1684 (Harlan, J., dissenting); [Gideon, 372 U.S., at 352, 83 S.Ct. 792](#) (Harlan, J., concurring); [Malloy, 378 U.S., at 14-33, 84 S.Ct. 1489](#) (Harlan, J., dissenting); [Pointer, 380 U.S., at 408-409, 85 S.Ct. 1065](#) (Harlan, J., concurring in result); [Washington, 388 U.S., at 23-24, 87 S.Ct. 1920](#) (Harlan, J., concurring in result); [Duncan, 391 U.S., at 171-193, 88](#)

[S.Ct. 1444 \(Harlan, J., dissenting\)](#); [Benton](#), 395 U.S., at 808-809, 89 S.Ct. 2056 (Harlan, J., dissenting); [Williams v. Florida](#), 399 U.S. 78, 117, 90 S.Ct. 1893, 26 L.Ed.2d 446 (1970) (Harlan, J., dissenting in part and concurring in result in part).

Time and again, however, those pleas failed. Unless we turn back the clock or adopt a special incorporation test applicable only to the Second Amendment, municipal respondents' argument must be rejected. Under our precedents, if a Bill of Rights guarantee is fundamental from an American perspective, then, unless *stare decisis* counsels otherwise,^[30] that guarantee is fully binding on the States and thus *limits* (but by no means eliminates) their ability to devise solutions to social problems that suit local needs and values. As noted by the 38 States that have appeared in this case as *amici* supporting petitioners, "[s]tate and local experimentation with reasonable firearms regulations will continue under the Second Amendment." Brief for State of Texas et al. as *Amici Curiae* 23.

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V

A

We turn, finally, to the two dissenting opinions. Justice STEVENS' eloquent opinion covers ground already addressed, and therefore little need be added in response. Justice STEVENS would "ground the prohibitions against state action squarely on due process, without intermediate reliance on any of the first eight Amendments." *Post*, at 3092 (quoting [Malloy](#), 378 U.S., at 24, 84 S.Ct. 1489 (Harlan, J., dissenting)). The question presented in this case, in his view, "is whether the particular right asserted by petitioners applies to the States because of the Fourteenth Amendment itself, standing on its own bottom." *Post*, at 3103. He would hold that "[t]he rights protected against state infringement by the Fourteenth Amendment's Due Process Clause need not be identical in shape or scope to the rights protected against Federal Government infringement by the various provisions of the Bill of Rights." *Post*, at 3093.

As we have explained, the Court, for the past half-century, has moved away from the two-track approach. If we were now to accept Justice STEVENS' theory across the board, decades of decisions would be undermined. We assume that this is not what is proposed. What is urged instead, it appears, is that this theory be revived solely for the individual right that *Heller* recognized, over vigorous dissents.

The relationship between the Bill of Rights' guarantees and the States must be governed by a single, neutral principle. It is far too late to exhume what Justice Brennan, writing for the Court 46 years ago, derided as "the notion that the Fourteenth Amendment applies to the States only a watered-down, subjective version of the individual guarantees of the Bill of Rights." [Malloy](#), *supra*, at 10-11, 84 S.Ct. 1489 (internal quotation marks omitted).

B

Justice BREYER's dissent makes several points to which we briefly respond. To begin, while there is certainly room for disagreement about *Heller's* analysis of the history of the right to keep and bear arms, nothing written since *Heller* persuades us to reopen the question there decided. Few other questions of original meaning have been as thoroughly explored.

Justice BREYER's conclusion that the Fourteenth Amendment does not incorporate 3049*3049 the right to keep and bear arms appears to rest primarily on four factors: First, "there is no popular consensus" that the right is fundamental, *post*, at 3124; second, the right does not protect minorities or persons neglected by those holding political power, *post*, at 3125; third, incorporation of the Second Amendment right would "amount to a significant incursion on a traditional and important area of state concern, altering the constitutional relationship between the States and the Federal Government" and preventing local variations, *post*, at 3125; and fourth, determining the scope of the Second Amendment right in cases involving state and local laws will force judges to answer difficult empirical questions regarding matters that are outside their area of expertise, *post*, at 3126-3128. Even if we believed that these factors were relevant to the incorporation inquiry, none of these factors undermines the case for incorporation of the right to keep and bear arms for self-defense.

First, we have never held that a provision of the Bill of Rights applies to the States only if there is a "popular consensus" that the right is fundamental, and we see no basis for such a rule. But in this case, as it turns out, there is evidence of such a consensus. An *amicus* brief submitted by 58 Members of the Senate and 251 Members of the House of Representatives urges us to hold that the right to keep and bear arms is fundamental. See Brief for Senator Kay Bailey Hutchison et al. as *Amici Curiae* 4. Another brief submitted by 38 States takes the same position. Brief for State of Texas et al. as *Amici Curiae* 6.

Second, petitioners and many others who live in high-crime areas dispute the proposition that the Second Amendment right does not protect minorities and those lacking political clout. The plight of Chicagoans living in high-crime areas was recently highlighted when two Illinois legislators representing Chicago districts called on the Governor to deploy the Illinois National Guard to patrol the City's streets.^[31] The legislators noted that the number of Chicago homicide victims during the current year equaled the number of American soldiers killed during that same period in Afghanistan and Iraq and that 80% of the Chicago victims were black.^[32] *Amici* supporting incorporation of the right to keep and bear arms contend that the right is especially important for women and members of other groups that may be especially vulnerable to violent crime.^[33] If, as petitioners believe, their safety and the safety of other law-abiding members of the community would be enhanced by the possession of handguns in the home for self-defense, then the Second Amendment right protects the rights of minorities and other residents of high-crime areas whose needs are not being met by elected public officials.

3050*3050 Third, Justice BREYER is correct that incorporation of the Second Amendment right will to some extent limit the legislative freedom of the States, but this is always true when a Bill of Rights provision is incorporated. Incorporation always restricts experimentation and local variations, but that has not stopped the Court from incorporating virtually every other provision

of the Bill of Rights. "[T]he enshrinement of constitutional rights necessarily takes certain policy choices off the table." [Heller, 554 U.S., at ____](#), 128 S.Ct., at 2822. This conclusion is no more remarkable with respect to the Second Amendment than it is with respect to all the other limitations on state power found in the Constitution.

Finally, Justice BREYER is incorrect that incorporation will require judges to assess the costs and benefits of firearms restrictions and thus to make difficult empirical judgments in an area in which they lack expertise. As we have noted, while his opinion in *Heller* recommended an interest-balancing test, the Court specifically rejected that suggestion. See *supra*, at 3046-3047. "The very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is *really worth* insisting upon." [Heller, supra, at ____](#), 128 S.Ct., at 2821.

* * *

In *Heller*, we held that the Second Amendment protects the right to possess a handgun in the home for the purpose of self-defense. Unless considerations of *stare decisis* counsel otherwise, a provision of the Bill of Rights that protects a right that is fundamental from an American perspective applies equally to the Federal Government and the States. See [Duncan, 391 U.S., at 149](#), and n. 14, [88 S.Ct. 1444](#). We therefore hold that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in *Heller*. The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings.

It is so ordered.