

No. 20-843

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**In the Supreme Court of the United States**

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NEW YORK STATE RIFLE AND PISTOL ASSOCIATION  
INC., et al.,

*Petitioners,*

*v.*

KEVIN P. BRUEN, in His Official Capacity as  
Superintendent of New York State Police, et al.,

*Respondents.*

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*ON WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT*

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**BRIEF OF AMNESTY INTERNATIONAL USA AND  
THE GUN VIOLENCE AND HUMAN RIGHTS  
INITIATIVE OF THE WHITNEY R. HARRIS  
WORLD LAW INSTITUTE AS *AMICI CURIAE*  
IN SUPPORT OF RESPONDENTS**

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INITIATIVE OF THE WHITNEY R. HARRIS WORLD  
LAW INSTITUTE AS *AMICI CURIAE* IN SUPPORT  
OF RESPONDENTS**

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**INTEREST STATEMENT OF *AMICI CURIAE*<sup>1</sup>**

*Amicus* Amnesty International USA (AIUSA) is a nongovernmental, nonprofit organization with more

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<sup>1</sup> Pursuant to this Court's Rule 37.6, no counsel for a party authored this brief in whole or part, and no person or entity made any monetary contribution to the preparation or submission of the brief. The petitioners in this case have filed a letter giving blanket consent to the filing of *amicus* briefs in this case. Respondents gave specific consent to the filing of this *amicus* brief on September 14, 2021.



than one million members and activists. Amnesty International USA's mission is to advocate for U.S. and global compliance with international human rights law, the development of human rights norms, and the effective enjoyment of human rights by all persons. It monitors State compliance with international human rights law and standards, and engages in advocacy, litigation and education to prevent and end human rights violations and to demand justice for those whose rights have been violated. Its interests are specifically implicated in the case at bar, because the outcome is likely to affect the human rights of individuals and communities in the United States substantially.

*Amicus* Gun Violence and Human Rights Initiative of the Whitney R. Harris World Law Institute is part of Washington University in St. Louis School of Law. The Harris Institute sponsors research and education relating to international and comparative law. The Institute's mission includes promoting compliance with international law, both globally and in the United States. The Harris Institute's Gun Violence and Human Rights Initiative in particular focuses on researching and remedying human rights violations caused by firearm violence.

## SUMMARY OF ARGUMENT

Under Article VI of the Constitution and Supreme Court precedent, U.S. courts must enforce customary international law binding on the United States, and they must construe federal law consistently with the United States' obligations under customary international law and treaties ratified by the United States. This Court should accordingly decide the appeal, and its interpretation of the Second Amendment to the Constitution, in a manner consistent with U.S. obligations under international law in general, and international human rights law in particular.

The United States has accepted obligations under international human rights treaties to protect the rights of those within its jurisdiction to live free from firearm and other violence caused by private individuals. These include the human right to life and the human right to security of person, both of which are violated when States fail to act with diligence to protect persons within their jurisdiction from private violence.

The adoption of legislation and other government measures to minimize gun violence are fundamental to the fulfillment of this obligation. Evidence indicates that the reasonable regulation of private firearm transportation is likely to reduce gun violence rates, whereas "right to carry" laws correlate to increases in violent crimes using firearms.

Most such legislation protecting U.S. citizens and residents from gun violence in this country is enacted and enforced at the U.S. state level rather than the federal level. The United States thus presently relies primarily on state legislation and regulation to comply with the nation's obligations under international

law. U.S. states that have chosen, based on their particular situations, to enact reasonable and effective gun legislation, are contributing to the reduction in firearm violence that threatens human rights. To ensure U.S. compliance with its obligations under international human rights law, then, this Court should uphold New York's gun control legislation, which is consistent with the Second Amendment to the Constitution.

The United States has also accepted the obligation in two binding treaties to prevent discrimination based on race, including discrimination from both public and private sources. This international legal obligation requires the United States to protect all persons within its jurisdiction from threats to life and security of person that have a significantly disparate impact based on race or sex, regardless of whether the disparate impact is intentional.

Government data shows that the homicides caused by insufficient federal and state regulation of firearms cause a striking racially discriminatory effect. In order for the United States to comply with its nondiscrimination obligations under international law, it is therefore necessary to control gun violence through legislative and other measures. As noted, in the United States, such regulation is primarily adopted by U.S. states rather than the federal government. New York's gun control measures mitigate the effects of discriminatory gun violence and therefore help promote U.S. compliance with its human rights obligations under international law. If this Court were to interpret the Constitution's Second Amendment to invalidate such legislation, both private gun violence generally and disproportionate violence against Black Americans and other racial minorities will predictably

increase, putting the United States in violation of international law. Therefore, the Court should hold that the legislation challenged in this case is consistent with the Second Amendment.

## ARGUMENT

### **I. U.S. courts should interpret U.S. law, including the Constitution, as consistent with U.S. obligations under international law.**

Under the Constitution’s Supremacy Clause, treaties “shall be the supreme Law of the Land . . . .” U.S. CONST. art. VI, cl. 2. Judicial decisions inconsistent with treaty obligations put the United States in breach of its international law obligations.<sup>2</sup>

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<sup>2</sup> Although the treaties applicable to this appeal may not be “self-executing,” meaning that they do not provide a private right of action in domestic courts absent enabling legislation, RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 111(4) cmt. c (AM. LAW INST. 1987), they nonetheless “bind the United States as a matter of international law.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 735 (2004); *see also* RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 111 cmt. h; RESTATEMENT (FOURTH) OF FOREIGN RELATIONS LAW § 310(1) (Am. Law Inst. 2018) (non-self-executing treaties enforceable in courts through “judicial application of preexisting or newly enacted law”). Accordingly, they are a source of binding obligations when construing a federal law. *See Chew Heong v. United States*, 112 U.S. 536, 548-50 (1884); *Ma v. Ashcroft*, 257 F.3d 1095, 1114-15 (9th Cir. 2001) (construing 8 U.S.C. § 1231(a)(6) as requiring a reasonable time limitation on immigration detention to avoid conflict with International Covenant on Civil and Political Rights).

RESTATEMENT (FOURTH) OF FOREIGN RELATIONS LAW  
§ 301(3) (Am. Law Inst. 2018).

Under longstanding Supreme Court precedent, customary international law<sup>3</sup> obligations defined with adequate specificity are also enforced by U.S. courts, regardless of whether the assumption of the obligation is followed by an independent legislative enactment. *See Sosa v. Alvarez-Machain*, 542 U.S. at 737-38; *The Paquete Habana*, 175 U.S. 677, 700 (1900); RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 111(3) (AM. LAW INST. 1987).

Further, for over two hundred years, the Supreme Court has admonished that “an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains.” *Murray v. The Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804); *accord Talbot v. Seeman*, 5 U.S. (1 Cranch) 1, 43 (1801). This doctrine has been consistently and recently reaffirmed by this Court. *See, e.g., Hamdan v.*

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In addition, a treaty that is not self-executing may provide evidence of customary international law, making it independently operative in U.S. courts. *Filartiga v. Pena-Irala*, 630 F.2d 876, 882 n.9 (2d Cir. 1980); *cf. Sosa v. Alvarez-Machain*, 542 U.S. at 738 n.29 (a rule based on aspirational principles that is far from full realization is evidence against its status as binding law, the corollary of which is that recognized rules of international law are indeed binding on U.S. courts).

<sup>3</sup> Customary international law results from a general and consistent practice of states followed by them from a sense of legal obligation. *See* RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 102.

*Rumsfeld*, 548 U.S. 557, 561-63 (2006); *F. Hoffmann-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155, 164 (2004); *INS v. Cardoza-Fonseca*, 480 U.S. 421, 432-41 (1987).

This principle applies with the same force to judicial interpretations of the U.S. Constitution, because the same arguments that justify the *Charming Betsy* doctrine are equally persuasive in the constitutional context. Just as Congress cannot be presumed to intend to violate international law without a clear showing, 6 U.S. at 118, the Framers of the Constitution cannot have intended to violate international law in drafting its text. States are not merely creatures of popular will; they exist through a community of mutual recognition by operation of international law, and the Founding Generation understood international law to form part of the received common law. See Stewart Jay, *The Status of the Law of Nations in Early American Law*, 42 VAND. L. REV. 819, 821-29 (1989). The Constitution was therefore drafted with international law as a set of background norms, and this Court should construe the Constitution accordingly. Cf. *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 318 (1936) (noting that U.S. powers do “not depend upon the affirmative grants of the Constitution” because they are vested in the United States as “a member of the family of nations” by operation of international law).

In addition, an interpretation of the Constitution that unnecessarily puts the United States at odds with international law has the same potential to embarrass the political branches, and thereby to undermine the separation of powers, as an interpretation of a statute to the same effect. See generally Curtis A.

Bradley, *The Charming Betsy Canon and Separation of Powers: Rethinking the Interpretive Role of International Law*, 86 GEO. L.J. 479, 524-29 (1998) (explaining the separation of powers rationale for the *Charming Betsy* canon). This Court has accordingly consulted international law in its interpretation of numerous amendments to the Constitution. See, e.g., *Trop v. Dulles*, 356 U.S. 86, 101-03 (1958) (Eighth Amendment); *Roper v. Simmons*, 543 U.S. 551 (2005) (same); *Robertson v. Baldwin*, 165 U.S. 275, 283-86 (1897) (Thirteenth Amendment); *Lawrence v. Texas*, 539 U.S. 558 (2003) (Fourteenth Amendment); *Cunard S.S. v. Mellon*, 262 U.S. 100, 122-24 (1923) (Eighteenth Amendment).

In its governing case on the Second Amendment, *District of Columbia v. Heller*, this Court explicitly stated that the right to bear arms is not without limitations. It is not a right “to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” 554 U.S. 570, 626 (2008). States may therefore put reasonable limitations on firearm purchase, possession, storage, and the carrying of firearms in public, consistent with the Second Amendment. Indeed, as noted above, the absence of such limitations would put the United States in violation of its obligations under IHRL to protect human rights to life, security of person, and health.

Accordingly, when this Court evaluates whether restrictions on private firearms imposed by U.S. states comport with U.S. law, including the Constitution, it should do so in light of fundamental U.S. obligations under binding treaties and customary international law. These include treaties directly applicable to the dispute in this case. Most prominently, the United

States is bound by the International Covenant on Civil and Political Rights, Treaty Doc. 95-20, 95th Cong. (Apr. 2, 1992) (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination, Treaty Doc. 95-18, 95th Cong. (June 24, 1994) (CERD). As explained below, these treaties obligate the United States to protect individuals against private firearm violence and to prevent the disproportionate impact of firearm violence against racial minorities.

**II. The United States is obligated by international human rights law to protect those under its jurisdiction from violence by private firearms.**

Gun violence in the United States is a human rights crisis. The United States has both the highest absolute and highest *per capita* rates of gun ownership in the world, with guns easily accessible by those most likely to misuse them. While the percentage of the U.S. population owning firearms has decreased in recent years, the number of privately owned firearms in the United States has exploded. The United States has an estimated 20% more guns than citizens. Americans own nearly 46% of the world's privately-owned guns but comprise only 4.3% of its population. A staggering number of people are killed or injured by gun violence every year. According to the U.S. Centers for Disease Control and Prevention (CDC), in 2019 nearly 40,000 people died as a result of gun violence, including in over 400 mass shootings. Gun violence, which kills on average 109 people each day, is the third leading cause of death among U.S. youth ages 15-24 and the fourth leading cause of death for children ages 10-



14. See Leila Nadya Sadat & Madaline M. George, *Gun Violence and Human Rights*, 60 WASH. U.J.L. & POL'Y 1 (2019).

Private gun violence includes homicides, suicides, accidental deaths, and mass shootings, including school shootings. Youth, women and girls, poor and marginalized communities, and individuals of color are disproportionately affected. This violence creates negative psychological and emotional stress and harm, including post-traumatic stress disorder (PTSD) and depression, for direct and indirect victims, particularly in the case of mass shootings. The violence also results in life-changing physical injuries that can have a devastating impact on individuals and their families and careers for years or decades. Amnesty International USA, *Scars of Survival: Gun Violence and Barriers to Reparations in the USA* (July 2019), <https://www.amnestyusa.org/wp-content/uploads/2019/07/Scars-of-survival.pdf>. It has fostered a general climate of fear that interferes with the enjoyment of human rights even of those not killed or physically maimed by gun violence.

A right to own or bear firearms does not exist in international human rights law (IHRL), but every individual does have a human right to protection by his or her country from firearm violence, whether private or public. Consequently, the United States is obligated by both binding treaties and customary IHRL to take reasonable and effective measures to protect a set of human rights that are continually under threat in the United States by inadequate regulation of private gun ownership. These rights include the right to life (ICCPR art. 6), the right to security of person (ICCPR art. 9), the right of children to special measures of protection (ICCPR art. 24), and the rights to

nondiscrimination and to equal protection of the laws on the basis of race and sex (ICCPR art. 2(1) and 26; CERD art. 2(1) and 5(b)).

These human rights obligations are explicitly framed as positive as well as negative (ICCPR art. 2.2; CERD art. 2.1.d), meaning that States must act with reasonable diligence to take effective measures protecting human rights from violation by the State itself or by private actors. These rights have long been so understood by the international community and the treaty-monitoring authorities: the U.N. Human Rights Committee (for the ICCPR) and the Committee on the Elimination of Racial Discrimination (for the CERD). *See* AARON FELLMETH, *PARADIGMS OF INTERNATIONAL HUMAN RIGHTS LAW* 221-25 (2016).

According to the Human Rights Committee, every State must “exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State.” Human Rights Committee, General Comment No. 36, para. 7, U.N. Doc. CCPR/C/GC/36 (2019). This includes an obligation to “take appropriate measures to address the general conditions in society that may give rise to direct threats to life,” such as “high levels of criminal and gun violence . . .” *Id.* para. 26. States must accordingly “protect their populations . . . against the risks posed by excessive availability of firearms.” Human Rights Committee, General Comment No. 35, para. 9, U.N. Doc. CCPR/C/GC/35 (2014).

The United States has therefore committed itself not only to protecting the human rights of those under its jurisdiction from violation by government agency, but also to taking diligent measures to protect these rights from violation by private actors. The due diligence obligations of the United States under IHR

include prevention of foreseeable violence posing a threat to life or security of person. The United States can comply with its obligations under IHRL through federal legislation, state legislation, or both, but the failure to protect human rights altogether places the United States in violation of international law. Consequently, when Congress does not enact effective federal legislation to protect human rights adequately, U.S. compliance with IHRL can be assured only by legislation at the U.S. state level. This is precisely what the State of New York has done in enacting the legislation challenged here.

Gun control legislation is essential to protecting the human rights to life and personal security. *See* Barbara Frey, Prevention of human rights violations committed with small arms and light weapons, U.N. Doc. A/HRC/Sub.1/58/27, para 4. Evidence indicates that the reasonable regulation of private firearm transportation is likely to reduce gun violence rates, whereas “right to carry” laws correlate to increases in violent crimes using firearms. Daniel Webster, *Concealed Carry of Firearms: Fact vs. Fiction*, Johns Hopkins School of Pub. Health Center for Gun Policy & Research (Nov. 16, 2017), [https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-violence-prevention-and-policy/\\_archive-2019/\\_pdfs/concealed-carry-of-firearms.pdf](https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-violence-prevention-and-policy/_archive-2019/_pdfs/concealed-carry-of-firearms.pdf).

Some forms of firearm violence are thus substantially predictable and preventable by appropriate government measures. In some circumstances, high levels of firearm violence, often in poor neighborhoods that lack public services and are subject to criminal violence, can be persistent; firearm possession in the home is a well-documented risk factor for all forms of firearm violence, including intimate partner

homicide. *See, e.g.*, Douglas J. Wiebe, *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 ACCIDENT ANALYSIS & PREVENTION 711 (2003).

The evidence indicates that U.S. state regulation of private firearms through licensing and similar measures is necessary for the United States to protect human rights as required by international law. A study of two states, Missouri and Connecticut, which had opposite policy changes in firearm access during similar periods, shows that licensing laws can be critical in reducing gun violence. After Missouri repealed its licensing law in 2007, the state saw a 25% increase in firearm homicides. In contrast, following Connecticut's implementation of a licensing law, the state's firearm homicide rate declined 40%. Cassandra K. Crifasi et al., *Effects of changes in permit-to-purchase handgun laws in Connecticut and Missouri on suicide rates*, 79 PREVENTIVE MED. 43 (2015); Kara E. Rudolph et al., *Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides*, 105 AM. J. PUB. HEALTH 49 (2015); Daniel Webster et al., *Effects of the repeal of Missouri's handgun purchaser licensing law on homicides*, 91 J. URBAN HEALTH 293 (2014).

Other research, as well as the experience of U.S. states and other countries, provides further evidence that gun violence deaths in the United States are preventable through the adoption of reasonable gun safety laws. REDUCING GUN VIOLENCE IN AMERICA: INFORMING POLICY WITH EVIDENCE AND ANALYSIS (Daniel W. Webster & Jon S. Vernick eds., 2013); Julian Santaella-Tenorio et al., *What Do We Know About the Association Between Firearm Legislation and Firearm-Related Injuries?*, 38 EPIDEMIOLOGIC REVS. 140 (2016). These include provisions such as New York's

“proper cause” requirement for obtaining and carrying a firearm. Research by AIUSA has noted that tighter regulations on the acquisition, possession and use of firearms by private individuals often correlates with reduced gun violence. Amnesty International USA, *In the Line of Fire: Human Rights and the U.S. Gun Violence Crisis* (2018), [https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full\\_16.pdf](https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full_16.pdf).

The New York state handgun licensing regime is thus a reasonable attempt by a state government to enact safeguards and regulations to prohibit private behavior that poses a foreseeable risk to the human rights identified above. If the Court were to invalidate the Respondents’ measures by declaring them incompatible with the Second Amendment to the Constitution, the foreseeable result will be more private persons carrying unregulated firearms in public, with a consequent increase in private firearm violence in violation of U.S. obligations under IHRL to protect individuals from threats to life and bodily integrity.

**III. Inadequate State regulation of firearms has a discriminatory effect on African Americans and other minorities and violates U.S. nondiscrimination obligations under international human rights law.**

Gun violence in the United States also disproportionately affects racial minorities nationwide. According to the CDC, there were 39,707 gun-related deaths in 2019, and the Gun Violence Archive recently published data in May 2021, indicating that the number of gun-related deaths for 2020 had risen to 43,553. More than half of all gun homicide victims in the United States in 2019 were Black men. Despite

making up just 14.7% of the U.S. population, Black Americans represented almost 60% of all gun homicide victims that year. Black men in the United States are thus much more likely to be the victims of gun homicides than white men. Gun homicides are the leading cause of death among Black men ages 15–34, and the third-leading cause of death for Hispanic men in the same age range. Centers for Disease Control & Prevention, Gun Violence Archive Past Tolls 2020 Summary, *accessible at* <https://www.gunviolencearchive.org/past-tolls>.

ICCPR article 2 obligates the United States “to respect and to ensure to individuals within its territory and subject to its jurisdiction the rights recognized the present Covenant, without distinction of any kind,” including race, color or sex. ICCPR article 26 obligates the United States to guarantee to all persons the equal protection of the law regardless of race, color, sex, or other status. In addition, CERD article 5 obligates the United States:

to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

. . .

(b) This obligation expressly includes the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution . . . .

Article 2.2 of the CERD calls on parties to adopt “special and concrete measures” to ensure that vulnerable racial groups and individuals have “the full and

equal enjoyment of human rights and fundamental freedoms,” including the right to protection from violence. The nondiscrimination obligations of IHRL apply both to discriminatory purposes and effects. This means that the fact that a State’s act or omission causes a discriminatory effect may suffice to put the State in violation of international law regardless of its nondiscriminatory intent. *See* Human Rights Committee, General Comment No. 18: Non-Discrimination, para. 7, Nov. 10, 1989; Committee on the Elimination of Racial Discrimination, General recommendation XIV on article 1, paragraph 1, of the Convention, 42nd sess. (1993), para. 1, U.N. Doc. INT/CERD/GEC/7486/E. *See generally* FELLMETH, *supra*, at 160-62.

In addition, the Human Rights Committee has explicitly emphasized that the right to personal security places an obligation on States to protect individuals from foreseeable threats to life or bodily integrity from private actors. This includes responding appropriately to “patterns of violence against categories of victims” including women and girls experiencing domestic or other gender-based violence, and adults and children suffering violence on the basis of their sexual orientation or gender identity. UN Human Rights Committee, General Comment No. 35, para. 9, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014).

Discriminatory patterns of firearm violence in the United States result not only in wildly disproportionate homicides of Black and Hispanic Americans, they also cause comparably disproportionate serious injuries and disabilities, as well as mental health problems in the short and long term, including anxiety, depression, and PTSD. Persistent firearm violence also has a strongly disparate impact on all aspects of life

in minority communities and marginalized groups. Fear of firearm violence can prevent people from accessing critical health care and other services; leave children without safe spaces for play or even safe routes to school; and leave local businesses unable to thrive, resulting in economic marginalization. *See, e.g.*, Carol Reese et al., *Screening for traumatic stress among survivors of urban trauma*, 73 J. TRAUMA ACUTE CARE SURGERY 462 (2012); Sarah R. Lowe & Sandro Galea, *The Mental Health Consequences of Mass Shootings*, 18 TRAUMA, VIOLENCE & ABUSE 62 (2017); James M. Shultz et al., *Multiple Vantage Points on the Mental Health Effects of Mass Shootings*, 16 CURRENT PSYCHIATRY REP. 469 (2014).

The disparate impact of gun violence on minority communities violates the human rights to freedom from discrimination and to equal protection of the law. The U.N. Working Group of Experts on People of African Descent has specifically expressed concern over the lack of regulation of firearms in the U.S. and its impact on Black communities in the United States. Statement to the Media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to the USA, 19-29 Jan. 2016, <http://www.ohchr.org/en/newsevents>. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination both highlighted the issue of gun violence in their most recent reports on U.S. human rights compliance with its obligations under IHRL. Human Rights Committee, Concluding Observations on the Fourth Periodic Report of the United States of America 5-6, UN. Doc. CCPR/C/USA/CO/4, Apr. 23, 2014; Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States, Committee on the



Elimination of Racial Discrimination, UN. Doc. CERD/C/USA/CO/7-9, Sept. 25, 2014. They remain concerned at the increasing numbers of gun-related deaths and injuries in the United States and the highly disparate impact on racial and ethnic minorities. Both committees noted that the U.S. government's failure to curb gun violence constitutes a violation of the rights to life and to nondiscrimination under international law.

In order for the United States to meet its human rights obligations, it must take all reasonable measures to ensure that gun violence does not significantly and disproportionately affect minority communities. As explained above, in the absence of comprehensive federal legislation, the United States relies primarily on U.S. states to regulate private arms and thereby ensure that it meets its human rights obligations. Measures such as the New York regulations challenged in this case reduce the discriminatory impact of firearm violence by reducing firearm violence itself. It is therefore essential to U.S. compliance with its obligations under IHRL that the Second Amendment be interpreted to permit such reasonable state regulations of firearm ownership and transportation.

## CONCLUSION

For the foregoing reasons, this Court should interpret the U.S. Constitution and U.S. law in a manner consistent with U.S. obligations under international law binding on the United States, and international human rights law in particular. These obligations include taking reasonable and effective measures to protect the human rights of all persons in U.S. jurisdiction to life and security of person, and to protect Black

and other minority communities from the discriminatory impact of the under-regulated circulation of private firearms in the United States. Because the federal government has not effectively protected these human rights through federal law, U.S. states such as New York have filled the gap by passing legislation regulating private firearm ownership and transportation. If this Court rules that the State of New York's licensing regime is unconstitutional, its ruling will impede or prevent U.S. states that seek to pass legislation protecting their citizens and residents from private gun violence, and call into question reasonable licensing requirements enacted by other U.S. states to prevent private firearm violence. This, in turn, will put the United States in violation of its obligations under international human rights law, including the obligation to protect the rights to life, physical security, and freedom from discrimination based on race. The Second Amendment of the Constitution should accordingly be interpreted to allow such states to protect these human rights and to avoid the violation of U.S. treaty obligations.

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