

Nos. 25-238, 25-566

IN THE
Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL.,
Petitioners,

v.

COOK COUNTY, ILLINOIS, ET AL.,
Respondents.

EDDIE GRANT, JR., ET AL.,
Petitioners,

v.

RONNELL HIGGINS, IN HIS OFFICIAL CAPACITY AS
COMMISSIONER OF THE CONNECTICUT DEPARTMENT OF
EMERGENCY SERVICES AND PUBLIC TRANSPORTATION,
ET AL.,
Respondents.

ON WRITS OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH AND SECOND CIRCUITS

**BRIEF FOR AMICUS CURIAE THE UNITED STATES
CONFERENCE OF CATHOLIC BISHOPS
IN SUPPORT OF NEITHER PARTY**

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INTEREST OF AMICUS CURIAE¹

The United States Conference of Catholic Bishops (USCCB) is a nonprofit corporation whose members are the active Catholic Bishops in the United States. The USCCB provides a framework and a forum for the Bishops to teach Catholic doctrine, set pastoral directions, and develop policy positions on contemporary social issues. The USCCB advocates and promotes the pastoral teaching of the Bishops in such diverse areas of the Nation's life as the free expression of ideas, fair employment and equal opportunity for the underprivileged, immigration, protection of the rights of parents and children, the sanctity of life, and the importance of education. Values of particular importance to the USCCB include the protection of the dignity and wellbeing of vulnerable and disadvantaged persons who live under threat of violence, and the proper development of this Court's jurisprudence in that regard.

SUMMARY OF ARGUMENT

Under *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024), a firearm regulation is constitutional if it is consistent with the principles that underpin the Nation's historical tradition of firearm regulation; it need not have a historical twin. That principle-based inquiry mirrors the method by which the Catholic Church has long distinguished faithful development of doctrine from rupture—continuity of principle rather than

¹ No counsel for a party authored this brief in whole or in part, and no entity or person, other than amicus curiae, its members, and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

identity of application. Three principles embedded in our constitutional tradition, and independently affirmed in Catholic teaching, bear on this case: the right of self-defense, which is genuine but not unlimited; the government’s authority to promote the common good and public safety; and the autonomy of local communities—federalism, which the Church knows as subsidiarity—to calibrate regulation to local conditions. Applying those principles, this Court should reject the view that gun ownership figures alone can place a category of weapons constitutionally and irrevocably beyond all regulation.

Amicus takes no position on the facial constitutionality of the specific state statute and county ordinance at issue here. Amicus urges, however, that the Court decide this case in a manner that preserves the traditional authority of political communities to regulate weapons capable of exceptional violence and that threaten the public peace.

ARGUMENT

I. THIS COURT’S DECISIONS IN *BRUEN* AND *RAHIMI* REQUIRE COURTS TO APPLY THE PRINCIPLES REFLECTED IN THE NATION’S HISTORICAL TRADITION OF FIREARM REGULATION

The constitutionality of a legal restriction on the possession of firearms turns on whether “the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022). Constitutionality thus turns on consistency with tradition, and history is evidence of tradition.

However, as this Court recently affirmed, “[t]he Second Amendment permits more than just those regulations identical to ones that could be found in 1791.”

United States v. Rahimi, 602 U.S. 680, 691-692 (2024). Rather, “the appropriate analysis involves considering whether the challenged regulation is consistent with *principles* that underpin our regulatory tradition.” *Id.* at 692 (emphasis added); *see also id.* at 717 (Kavanaugh, J., concurring) (“[T]he historical approach examines the laws, practices, and understandings from before and after ratification that may help the interpreter discern the meaning of the constitutional text and the *principles* embodied in that text.” (emphasis added)); *id.* at 740 (Barrett, J. concurring) (“‘Analogical reasoning’ under *Bruen* demands a wider lens: Historical regulations reveal a *principle*, not a mold.” (emphasis added)). As the Court stated in *Rahimi*, “[t]he law must comport with the *principles* underlying the Second Amendment, but it need not be a ‘dead ringer’ or a ‘historical twin’” of a prior regulation. *Id.* at 692 (emphasis added).

Accordingly, historical analysis helps determine whether historical precedent “evinces a comparable tradition of regulation.” *Bruen*, 597 U.S. at 26-29. For example, “when a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” *Id.* at 26. But “cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach,” because “[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868.” *Id.* at 27.

The constitutional analysis thus requires careful historical and analogical reasoning. As the Court stated in

Bruen, “[a]nalogical reasoning requires judges to apply faithfully the balance struck by the founding generation to modern circumstances.” 597 U.S. at 29 n.7. Courts must avoid imposing “a regulatory straightjacket” that precludes any regulation beyond what existed in 1791 or 1868, *id.* at 30, while also being “careful not to read a principle at such a high level of generality that it waters down the right,” *Rahimi*, 602 U.S. at 740 (Barrett, J., concurring); *see also id.* at 691-692 (“[T]he Second Amendment permits more than just those regulations identical to ones that could be found in 1791. Holding otherwise would be as mistaken as applying the protections of the right only to muskets and sabers.”).

This task of “[p]ulling principle from precedent ... is a standard feature of legal reasoning,” *Rahimi*, 602 U.S. at 740 (Barrett, J., concurring), but it is also a standard feature in the Catholic Church’s two-thousand-year tradition of doctrinal and theological reasoning. In the same way that this Court has undertaken the task of assessing whether a modern firearm regulation is consistent with historical tradition, the Church is no stranger to assessing whether contemporary principles and practices accord with its doctrine and established tradition. Catholic teaching has long distinguished fidelity to enduring principles from the contingent ways in which those principles were applied in different historical circumstances.

The Church has a longstanding dual commitment “to transmit the doctrine, pure and integral, without any attenuation or distortion” and “to dedicate ourselves with an earnest will and without fear to that work which our era demands of us.” Pope Benedict XVI, *Address of His Holiness to the Roman Curia* (Dec. 22, 2005) (quoting Pope St. John XXIII, *Address on the Occasion of the*

Solemn Opening of the Most Holy Council (Oct. 11, 1962), in *The Documents of Vatican II* 715 (Walter M. Abbott ed., 1966)). For the Church, consistency with tradition as it engages with the modern world has been predicated on fidelity to its fundamental principles, not simply on the context-specific applications of those principles in distinct historical circumstances. This approach demands differentiating between, on the one hand, “genuine developments” of doctrine or legitimate “reform,” which nonetheless reflect the traditional fundamental principles and foundation of the Catholic faith, and, on the other hand, “corruptions” or “rupture” detached from the Church’s fundamental principles. *Id.*; see also St. John Henry Newman, *An Essay on the Development of Christian Doctrine* 169 (14th imp. 1909). According to Newman, genuine developments of doctrine reflect “continuity of principles” rather than “contradict and reverse the course of doctrine which has been developed before them.” *An Essay on the Development of Christian Doctrine* at 199. Even “considerable alteration of proportion or relation, as time goes on, in the parts or aspects of an idea” is not inconsistent with faithful development, *id.* at 173, particularly where there is continuity of fundamental principles.

Thus, while the Church must “stand firm and hold fast to the traditions” articulated to its faithful, 2 Thess. 2:15 (New Am. Bible (Revised Edition)), it has also recognized that, in the words of Pope Benedict XVI, “the Church’s decisions on contingent matters ... should necessarily be contingent themselves, precisely because they refer to a specific reality that is changeable in itself.” Pope Benedict XVI, *Address*. “[I]n these decisions it is only the *principles* that express the permanent aspect, since they remain as an undercurrent, motivating decisions from within.” *Id.* (emphasis added).

To be clear, the Church’s doctrine does not determine the meaning of the Second Amendment. But the Church’s experience in evaluating whether modern practices accord with doctrine that is centuries old may provide this Court with a useful model for how to determine whether a modern regulation remains consistent with this Nation’s historical and legal tradition. The Church’s experience also reinforces the methodological point this Court made in *Rahimi*: a modern law remains faithful to tradition when it carries forward the *principles* that animated earlier regulation, even if no past regulation matches it point for point.

II. THE NATION’S HISTORICAL TRADITION AND CATHOLIC SOCIAL TEACHING BOTH SUPPORT ALLOWING DEMOCRATICALLY ELECTED AUTHORITIES TO ENACT FOCUSED REGULATION OF WEAPONS THAT CREATE EXCEPTIONAL DANGERS TO INNOCENT LIFE AND THE PUBLIC PEACE

The governing constitutional principles and Catholic teaching are congruent in their application to this case. Catholic teaching obviously does not define the scope of the Second Amendment. But it does illuminate why self-defense and focused firearm regulation are not inherently contradictory and instead share a common moral foundation: the protection of human dignity and innocent human life. The Church thus recognizes legitimate defense as a right and, in some circumstances, a grave duty. But it also teaches that force must remain ordered to the protection of life and accompanied by responsibility toward innocent persons. Amicus therefore affirms the right of self-defense while rejecting the premise that protection of that right disables political communities from regulating any weapon capable of defensive use.

The Church has identified four “permanent principles of the Church’s social doctrine”: “[1] the dignity of the human person ... which is the foundation of all the other principles and content of the Church’s social doctrine; [2] the common good; [3] subsidiarity; and [4] solidarity.” Pontifical Council for Justice & Peace, *Compendium of the Social Doctrine of the Church* ¶ 160 (2004) (“*Compendium*”).² The Church has articulated these principles “to respond coherently to the demands of the times and to the continuous developments of social life.” *Id.* As explained below, these principles are aligned with the Second Amendment principles that control this case and support allowing democratically elected authorities to enact focused regulation of weapons that create exceptional dangers to innocent life and the public peace.

A. Protecting Innocent Human Life And Respecting Local Authority Are Established Constitutional And Catholic Principles

To determine whether firearms restrictions are consistent with the Nation’s historical tradition (as required by *Bruen*), this Court should consider the principles that underlie the historical regulation of firearms, including the basic principles of human flourishing and social order that are embodied in the Constitution and Catholic social doctrine—*e.g.*, the protection of human dignity and innocent human life (especially the weak and vulnerable), the right to self-defense, preservation of the common good, and respect for local autonomy and authority. Both the Constitution and the United States’ other foundational documents, as well as Catholic tradition, recognize these

² Available at https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

same principles as fundamental to social and governmental order.

1. Self-defense is a traditional principle well established in the Nation's law and the Church's doctrine. U.S. law has long recognized a traditional right to self-defense, and "the inherent right of self-defense has been central to the Second Amendment right." *District of Columbia v. Heller*, 554 U.S. 570, 628 (2008); *see also McDonald v. City of Chicago*, 561 U.S. 742, 749-750 (2010) ("[T]he Second Amendment protects the right to keep and bear arms for the purpose of self-defense.").

The Church likewise recognizes that "[l]egitimate defense can be not only a right but a *grave duty for someone responsible for another's life*." *Catechism of the Catholic Church* § 2265 (Liberia Editrice Vaticana eds., 2d ed. 1997) (emphasis added) ("*Catechism*"). Indeed, the defense of "the common good *requires* rendering [an] unjust aggressor unable to inflict harm." *Id.*; *see also Compendium* ¶ 504 ("The right to use force for purposes of legitimate defence is associated with the duty to protect and help innocent victims who are not able to defend themselves from acts of aggression.").

This right to self-defense and duty to defend the innocent arises from the Catholic Church's core belief in human dignity—i.e., the fact that "[t]he Church sees in men and women, in every person, the living image of God himself." *Compendium* ¶ 105. Indeed, "[t]he whole of the Church's social doctrine ... develops from the principle that affirms the inviolable dignity of the human person." *Id.* ¶ 107. This teaching is consistent with the Nation's founding principle, announced in the Declaration of Independence, that "all men are created equal" and are "endowed by their Creator with certain unalienable

Rights.” *The Declaration of Independence* para. 2 (U.S. 1776).

2. The Church’s teaching regarding human dignity, however, also supports limitations on individual rights, precisely to protect innocent human life and promote social order and the common good. Pope Benedict XVI, for example, explained that “individual rights, when detached from a framework of duties which grants them their full meaning, can run wild, leading to an escalation of demands which is effectively unlimited and indiscriminate.” Pope Benedict XVI, *Caritas in Veritate* § 43 (2009). Duties, according to the Church, “set a limit on rights because they point to the anthropological and ethical framework of which rights are a part, in this way ensuring that they do not become licence.” *Id.*; see also Pope St. John XXIII, *Pacem in Terris* § 30 (1963) (“*Pacem in Terris*”) (“Every basic human right draws its authoritative force from the natural law, which confers it and attaches to it its respective duty. Hence, to claim one’s rights and ignore one’s duties, or only half fulfill them, is like building a house with one hand and tearing it down with the other.”). Even the right to self-defense is not absolute. *Catechism* § 2264 (“If a man in self-defense uses more than necessary violence, it will be unlawful” (quoting St. Thomas Aquinas, *The Summa Theologiae*, II-II, q. 64, a. 7, ad. 5)).

Accordingly, the Church teaches that “[p]olitical authority must guarantee an ordered and upright community life” by “orienting” human freedom “for the attainment of the common good.” *Compendium* ¶ 394. The Church teaches that “the common good is the reason that the political authority exists.” *Compendium* ¶ 168. The common good is understood as “the sum total of social conditions which allow people, either as groups or as

individuals, to reach their fulfillment more fully and easily.” *Catechism* § 1906 (citation omitted). It encompasses “respect for and promotion of the fundamental rights of the person; prosperity, or the development of the spiritual and temporal goods of society; [and] *the peace and security of the group and of its members.*” *Id.* § 1925 (emphasis added); *see also id.* § 1909 (“[T]he common good requires peace, that is, the stability and security of a just order. It presupposes that authority should ensure by morally acceptable means the security of society and its members. It is the basis of the right to legitimate personal and collective defense.”).

Civil authorities are thus entrusted with the responsibility to exercise prudential judgment in safeguarding human life and safety, in the pursuit of the common good. “[I]n the democratic State, where decisions are usually made by the majority of representatives elected by the people, those responsible for government are required to interpret the common good of their country not only according to the guidelines of the majority but also according to the effective good of all the members of the community, including the minority.” *Compendium* ¶ 169; *see also Pacem in Terris* ¶ 56 (“[E]very civil authority must strive to promote the common good in the interest of all, without favoring any individual citizen or category of citizen.”).

Constitutional and Catholic principles are again in broad alignment on these points. The Court has expressly recognized that Second Amendment rights are not absolute. *See WOLFORD v. LOPEZ*, 146 S. Ct. 2032, 2042 (2026) (“[W]hile the founding generation cherished the Second Amendment right, they did not think it was absolute.”); *Rahimi*, 602 U.S. at 716 (Kavanaugh, J., concurring) (“Read literally, [the First and Second]

Amendments might seem to grant *absolute* protection, meaning that the government could never regulate speech or guns in any way. But American law has long recognized, as a matter of original understanding and original meaning, that constitutional rights generally come with exceptions.”); *id.* at 737 (Barrett, J., concurring) (“Despite its unqualified text, the Second Amendment is not absolute. It codified a pre-existing right, and preexisting limits on that right are part and parcel of it.”).

Concerns relating to what Catholic teaching calls the common good are an inherent part of the Second Amendment analysis. The “promot[ion of] the general Welfare” is one of the grounds upon which the Constitution was explicitly “ordain[ed] and establish[ed],” U.S. Const., preamble, reflecting the settled understanding that government exists to secure the common good of the governed. Moreover, as the Court has repeatedly recognized, the tradition of U.S. firearm regulation has included various regulations (*e.g.*, laws against going armed to the terror of the people, affrays, and dangerous modes of carrying weapons) that reflected judgments about consequences for the social order (*e.g.*, intimidation, violence, disruption of civic life, and harm to innocent persons). *See, e.g., Rahimi*, 602 U.S. at 693. The historical tradition has therefore always been concerned with what Catholic social teaching would call aspects of the common good. *Cf. Caetano v. Massachusetts*, 577 U.S. 411, 421 (2016) (Alito, J., concurring in the judgment) (“A State’s most basic responsibility is to keep its people safe.”).

To be clear, the common good is not an interest to be balanced against an enumerated constitutional right. But the discussion above makes clear that the historical-

tradition inquiry is not a mechanical exercise divorced from real-world effects. The regulations that form the tradition were enacted because political authorities perceived concrete threats to public peace and innocent life. And the “why”/“how” analysis that the Court has established for evaluating modern regulations necessarily considers concrete consequences for public peace and innocent life—not as an unmoored “interest-balancing inquiry” based on public policy preferences, *Heller*, 554 U.S. at 634, but as part of understanding the principles embodied in the tradition itself. *See, e.g., WOLFORD*, 146 S. Ct. at 2044 (“[A] court must also consider ‘why’ the analogue restricted the keeping or bearing of arms—that is, whether its rationale was similar to that of the new law.”).

3. Yet another pertinent principle is respect for the autonomy of local authority, which underlies both America’s historical tradition of federalism and the Church’s principle of subsidiarity. The Constitution provides for a federated form of government, whereby authority and autonomy are divided among both the national and state governments. *See* U.S. Const., amend. X (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”); *see also* Madison, *Federalist* No. 39 (Clinton Rossiter ed., 1961) (“[T]he local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority, than the general authority is subject to them, within its own sphere. ... [Federal] jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.”). Indeed, the Second Amendment—while protecting an individual right to

possess and carry weapons, *see Heller*, 554 U.S. at 592—was enacted to protect the militia from the federal government, *id.* at 599 (“[T]he Second Amendment’s prefatory clause announces the purpose for which the right was codified: to prevent elimination of the militia. ... [T]he threat that the new Federal Government would destroy the citizens’ militia by taking away their arms was the reason that right—unlike some other English rights—was codified in a written Constitution.”); *cf.* U.S. Const. art. I, § 8, cl. 16 (expressly “reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress”).

Similarly fundamental is the Catholic principle of subsidiarity, which is “among the most constant and characteristic directives of the Church’s social doctrine.” *Compendium* ¶ 185. Under the principle of subsidiarity, “the role of individuals, families, local communities and intermediary organizations should not be supplanted by higher-level authorities.” Pope Leo XIV, *Magnifica Humanitas* ¶ 68 (2026) (“*Magnifica Humanitas*”). Moreover, “higher-level institutions must recognize, protect and promote the freedom and creativity of lower-level entities, coordinating their contributions so that they can cooperate effectively for the common good.” *Id.* As Pope St. John Paul II explained, this traditional principle of the Catholic Church instructs that “a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.” Pope St. John Paul II, *Centesimus Annus* § 48 (1991); *see also Compendium* ¶ 186 (“[A]ll societies of a superior order must adopt attitudes of help

(“subsidiium”)—therefore, of support, promotion, development—with respect to lower-order societies.”); Pope Pius XI, *Quadragesimo Anno* ¶ 79 (1931). Thus, as Pope Leo XIV recently explained, “[t]o speak of subsidiarity calls for protecting the ability of communities to make choices and corrections, rather than confining their role to mere oversight after the standards have been set elsewhere.” *Magnifica Humanitas* ¶ 109.

For the avoidance of doubt, amicus does not contend that federalism permits States or localities to redefine the scope of the Second Amendment. Nor does the Catholic principle of subsidiarity determine the constitutional allocation of regulatory authority. But a uniform constitutional standard need not require uniform firearm policy. And both principles—federalism and subsidiarity—counsel caution in cases such as this one, in order to avoid constitutionalizing one national answer to every weapon-regulation question. As explained below, the history of gun regulation in the United States includes substantial variation among state and local firearm laws (*see infra* Section II.B), and the Constitution does not require every community to exercise (or not exercise) its authority to regulate weapons identically, *see McDonald*, 561 U.S. at 785 (Second Amendment “*limits* (but by no means eliminates) [local authorities’] ability to devise solutions to social problems that suit local needs and values. . . . ‘State and local experimentation with reasonable firearms regulations will continue under the Second Amendment.’”).

Accordingly, provided that states and communities protect the constitutional floor guaranteed by the Second Amendment—i.e., provided that they protect “the [Second] Amendment’s ‘central’ concern: securing the fundamental right of self-defense,” *Wolford*, 146 S. Ct. at

2042, by ensuring that individuals have access to the adequate means to engage in armed self-defense—federalism and subsidiarity support allowing states and communities some room and authority to regulate particular types of weapons capable of exceptional violence and that threaten the peace and security of the affected community. As Pope Leo XIV has explained, the Church urges that decisions be “made at the closest level possible to the persons involved, thereby fostering community life and avoiding people being presented with decisions that have already been taken” so that “people can participate in the decision-making process.” *Magnifica Humanitas* ¶ 70.

B. The Regulation Of Exceptionally Lethal Firearms By Local Communities To Protect Innocent Life Is Consistent With Traditional Principles

It is undisputed that the Second Amendment right “[i]s not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 626. Rather, this Court’s jurisprudence recognizes that regulations limiting the possession and use of certain types of firearms are legitimate where consistent with traditional principles, including the protection of the self and of the innocent, promotion of the common good, and due respect for local autonomy and authority.

As an initial matter, the Court’s historical analysis in this case should be nuanced and careful to consider the exceptional capability of violence that the prohibited weapons allow a single person to inflict—a capability unimaginable at the time of the Founding. The Court made clear in *Bruen* that “when a challenged regulation addresses a general societal problem that has persisted

since the 18th century,” then the absence of “a distinctly similar historical regulation addressing that problem” would be “evidence that the challenged regulation is inconsistent with the Second Amendment.” 597 U.S. at 26. But the Court also recognized that “[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868.” *Id.* at 27. Accordingly, the Court stated that in “cases implicating unprecedented societal concerns or dramatic technological changes,” “a more nuanced approach” may be required. *Id.*

Assault weapons today are fundamentally dissimilar—in terms of their technological, lethal capacity—from any weapon available at the Founding. Flintlock muzzle-loaders available in the 1780s “generally held just one round at a time (and often had to be pre-loaded); had a maximum accurate range of 55 yards; had a muzzle velocity of roughly 1,000 feet per second; required at least thirty seconds for the shooter to manually reload a single shot; and were frequently liable to misfire.” *National Ass’n for Gun Rights v. Lamont*, 153 F.4th 213, 238 (2d Cir. 2025). By contrast, an AR-15 “can hold 30 rounds; is accurate within 400 yards; has a muzzle velocity of approximately 3,251 feet per second; can be reloaded with full magazines in as little as three seconds; and can empty a thirty-round magazine in five seconds.” *Id.*; see also *Bianchi v. Brown*, 111 F.4th 438, 454-456 (4th Cir. 2024) (en banc) (Wilkinson, J.) (explaining the common origin of civilian AR-15 rifles and military M16 rifles and comparing their capabilities; “The primary difference between the M16 and AR-15 ... pales in significance compared to the plethora of combat-functional features that makes the two weapons so similar.”).

Thus, whereas “in the 1770 Boston Massacre, seven British soldiers firing flintlock muskets into a crowd managed to take only five lives,” *Lamont*, 153 F.4th at 238, a single person with an AR-15 and 100-round magazines was able in 2019 to “fire 41 shots in just 32 seconds, killing nine people and wounding 17 others,” *id.*³ Indeed, mass shootings were unknown at the time of the Founding. “[T]here is no known occurrence of a mass shooting resulting in double-digit fatalities from the Nation’s founding in 1776 until ... 1949.” *Oregon Firearms Fed’n, Inc. v. Brown*, 644 F. Supp. 3d 782, 803 (D. Or. 2022). In short, mass shootings and modern assault weapons are, respectively, the types of “unprecedented societal concerns” and “dramatic technological changes” that the Court stated require a careful nuanced analysis. *Bruen*, 597 U.S. at 27.

The Court therefore should be especially careful not to “impos[e] a test that demands overly specific analogues.” *Rahimi*, 602 U.S. at 739 (Barrett, J., concurring). Such an approach “assumes that founding-era legislatures maximally exercised their power to regulate, thereby adopting a ‘use it or lose it’ view of legislative authority. Such assumptions are flawed, and originalism does not require them.” *Id.* at 739-740. Indeed, as this Court has recognized, the absence of a regulation may stem from any number of reasons—*e.g.*, the lack of an urgent societal problem, practical obstacles to

³ See also USCCB Letter to Congress on Gun Violence (June 3, 2022) (in the wake of Uvalde, Texas shooting in which “an eighteen-year-old carrying an AR-15 entered an elementary school and murdered nineteen children and two teachers,” citing data in support of a total ban on assault weapons and limitations on civilian access to high-capacity weapons and ammunition magazines), https://www.usccb.org/resources/Letter%20to%20Congress%20on%20Gun%20Violence,%20June%203,%202022_0.pdf.

implementation, a legislative determination that the problem was more appropriately addressed through other means—and does not necessarily reflect a judgment that such a regulation would have been unconstitutional. *See, e.g., Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 217 (2022) (“[T]he fact that many States in the late 18th and early 19th century did not criminalize pre-quickening abortions does not mean that anyone thought the States lacked the authority to do so.”); *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 913 (1995) (Thomas, J., dissenting) (“[T]he fact that more States did not adopt congressional property qualifications does not mean that the Qualifications Clauses were commonly understood to be exclusive; there are a host of other explanations for the relative liberality of state election laws.”). As Justice Scalia explained in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), where the government regulation at issue “was *not* engaged in at the time of adoption,” an inference of unconstitutionality is permitted *if* “there is ample evidence that the *reason* it was not engaged in is that it was thought to violate the right embodied in the constitutional guarantee.” *Id.* at 372 (Scalia, J., dissenting). But where the nonexistence of a government regulation cannot “clearly be attributed to constitutional objections,” then “constitutional adjudication necessarily involves not just history but judgment.” *Id.* at 375.

This Court’s analysis should begin with a proposition it has repeatedly affirmed—that the Second Amendment right “extends only to certain types of weapons” and is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 623, 627. More specifically, the Court should apply the principle—which it also has affirmed on multiple occasions—that there is

a “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Id.* at 627; *see also Bruen*, 597 U.S. at 47. As the Court noted most recently in *Rahimi*, at the Founding, “[s]ome jurisdictions banned the carrying of dangerous and unusual weapons.” *Rahimi*, 602 U.S. at 691 (citing *Heller*) (quotation marks omitted). And while the types of weapons subject to regulation will vary with developments in technology, “if laws at the founding regulated firearm use to address particular problems, that will be a strong indicator that contemporary laws imposing similar restrictions for similar reasons fall within a permissible category of regulations.” *Id.* at 692.

The regulation of dangerous weapons is consistent with the principles discussed above in Section II.A. This Court has affirmed “that the Second Amendment does *not* protect those weapons not typically possessed by law-abiding citizens for lawful purposes.” *Heller*, 554 U.S. at 625. The regulation of dangerous and unusual weapons, in other words, does not interfere with “the core lawful purpose of self-defense,” *id.* at 630, provided that other weapons—such as the handgun, which “the American people have considered ... to be the quintessential self-defense weapon,” *id.* at 629—remain reasonably available for that purpose. Indeed, such regulation is also consistent with the principles of defending innocent human life and promoting the common good, by limiting the ability of malevolent individuals to threaten the public peace and murder multiple innocent people in a matter of seconds using weapons of exceptional lethality. Nothing in the Second Amendment or this Court’s jurisprudence suggests that the right of self-defense requires access to weapons of maximal lethality. And the Catholic Church has its own experience on this issue. While never denying the right to self-defense, the

Church at the Second Lateran Council in 1139 A.D. (convened by Pope Innocent II) prohibited as “anathema” the use against Christians of what it described as the “murderous art of crossbowmen and archers, which is hateful to God.” *Second Lateran Council 1139 A.D.*, Canon 29, Papal Encyclicals Online. Although the canon addressed a specific historical context, it illustrates the Church’s longstanding willingness to distinguish between legitimate self-defense and the use of weapons viewed as posing extraordinary dangers to human life and social order.

The Court should also be careful not to give gun ownership statistics dispositive weight in its constitutional analysis, displacing the historical analysis required by this Court’s jurisprudence. This Court has never held that raw ownership figures, standing alone, place a class of weapons beyond the reach of any regulation. To the contrary, the Court’s “common use” analysis is simply the corollary of “the historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Heller*, 554 U.S. at 627. It is therefore a reflection of that tradition, not a freestanding numerical test that displaces the tradition or the principles discussed above in Section II.A. Indeed, allowing gun ownership figures to have dispositive weight would create serious circularity problems in Second Amendment doctrine—making the question whether governments may regulate particular weapons depend on whether governments are already regulating those weapons. But governments should not be allowed to defeat the Second Amendment right by prohibiting weapons before they become common. See *Friedman v. City of Highland Park*, 784 F.3d 406, 409 (7th Cir. 2015) (Easterbrook, J.) (“[I]t would be absurd to say that the reason why a particular weapon can be banned is that there is a statute banning it, so that

it isn't commonly owned.”). And by the same token, the commercial proliferation of a weapon before it is regulated should not constitute an automatic constitutional immunization from regulation in the future.

Moreover, allowing ownership figures for assault weapons to dictate the outcome in this case would be particularly unwarranted, where polling data indicates that only 6 percent of Americans own such weapons. *See* Guskin et al, *Why Do Americans Own AR-15s?*, Wash. Post (Mar. 27, 2023).⁴ The decision of a single-digit percentage of Americans to purchase a particular type of weapon should not, by itself, irrevocably disable all Americans and political communities (federal, state, and local) from regulating the possession of those weapons, regardless of whether the weapons are necessary for self-defense and how they impact the common good. In short, gun ownership statistics should not be allowed to control or replace the careful constitutional and historical analysis that *Bruen* and *Rahimi* require.

Finally, the adoption of firearm regulations by local authorities—be they municipal or state authorities—is consistent with both traditional principles of federalism and the Church’s principle of subsidiarity. There is a historical tradition of locality-specific firearm regulations, *see e.g.*, Act of Feb. 17, 1831, § 6, 1831 Ohio Laws 161, 162 (prohibiting the use of firearms “within the limits of any recorded town plat in th[e] state”); Act of Jan. 30, 1847, ch. 79, 1846-1847 Va. Acts 67 (prohibiting shooting “in any public square, street, lane or alley, or other place of public resort in any city, town or borough”); as well as deference to localities to regulate firearms as deemed

⁴ Available at <https://www.washingtonpost.com/nation/interactive/2023/american-ar-15-gun-owners/>.

appropriate and consistent with their concerns and needs, *see, e.g.*, Act of Dec. 3, 1825, ch. CCXCII, 1825 Tenn. Priv. Acts 307 (incorporating the towns of Winchester and Reynoldsburgh and granting them the “power and authority to ... restrain and punish ... shooting and carrying guns”). Indeed, “the three largest cities in America” at the time of the Founding all imposed city-specific restrictions on firearms. *Heller*, 554 U.S. at 683 (Breyer, J., dissenting). Local experimentation with, and calibration of, regulations is consistent with the principles and purposes of federalism, and this Court has explained that those principles survive even in connection with fundamental rights. *See McDonald*, 561 U.S. at 784-785 (“[I]f a Bill of Rights guarantee is fundamental from an American perspective, then, unless *stare decisis* counsels otherwise, 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.”). Moreover, such experimentation and localized calibration is consistent with the doctrine of subsidiarity recognized by the Church.

Applying these principles of federalism and subsidiarity, the Court should be cautious before upsetting the judgments of local political communities regarding the regulation of the most lethal weapons. That is particularly true where there is evidence that such regulation has fostered outcomes that promote the common good and public safety, at least in those communities. Despite “the challenges of isolating the effects of individual policies” in this area, *see* Murphy & Morral, *Challenges and Prospects for Estimating Joint Effects of Gun Policies*,

RAND Corp. (Mar. 9, 2026),⁵ the empirical data, while not conclusive, provides meaningful evidence that state restrictions on assault weapons and high-capacity magazines are associated with fewer deaths and injuries. *See generally* Siegel et al., *The Relation Between State Gun Laws and the Incidence and Severity of Mass Public Shootings in the United States, 1976-2018*, 44 Law & Hum. Behav. 347 (2020) (state firearm regulation of high-capacity magazines was associated with 38 percent fewer fatalities and 77 percent fewer injuries when a mass shooting occurred); RAND Corp., *Effects of Assault Weapon and High-Capacity Magazine Bans on Mass Shootings* (Jan. 29, 2026) (finding evidence, though limited, that “high-capacity magazine bans reduce mass shootings” and “assault weapon bans reduce school shooting injuries”);⁶ RAND Corp., *Effects of Assault Weapon and High-Capacity Magazine Bans on Violent Crime* (Jan. 29, 2026) (discussing four studies estimating effect of assault weapon bans on firearm or total homicides—three of which found suggestive or significant effects consistent with assault weapon bans decreasing such homicides—while cautiously characterizing overall evidence as inconclusive).⁷ Of course, a democratically

⁵ Available at <https://www.rand.org/research/gun-policy/analysis/essays/estimating-joint-effects.html>.

⁶ Available at <https://www.rand.org/research/gun-policy/analysis/ban-assault-weapons/mass-shootings.html>.

⁷ Available at <https://www.rand.org/research/gun-policy/analysis/ban-assault-weapons/violent-crime.html>; *see also* Klarevas et al., *The Effect of Large Capacity Magazine Bans on High-Fatality Mass Shootings, 1990-2017*, 12 Am. J. Pub. Health 1754 (2019) (finding that large-capacity magazine bans “appear to reduce both the incidence of, and number of people killed in, high-fatality mass shootings”).

elected legislature should not have to wait for scientific certainty before acting to protect innocent life, and the Second Amendment does not demand that legislatures defer action on regulating the deadliest weapons until their proliferation and associated harm have reached the point of no return. These types of judgments regarding the common good are precisely the kind of prudential, life-protecting judgments that both our federal tradition and the Catholic principle of subsidiarity commit, at least in the first instance, to the community closest to the harm.

Amicus expresses no view on the ultimate disposition of these cases or on the facial validity of the challenged provisions. However, the Court should evaluate them against the Nation's historical tradition of respecting local authorities' autonomy in determining whether, in the context of a particular community, possession of particular weapons should be regulated in order to preserve innocent human life in a manner consistent with the right to self-defense. This mode of analysis, which echoes the approach the Church takes to applying millennia of doctrine to the modern day, is faithful to the founding principles enshrined in the Constitution.

CONCLUSION

This Court should resolve the present case in accordance with the principles set forth above.

Respectfully submitted.

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