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Institute of Germanic, Romance and Slavonic Languages and Literatures, Faculty of Philosophy, University of Tartu, Estonia

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TABLE OF CONTENTS

1. INTRODUCTION

The present dissertation explores the notions of space and positioning in media discourse in the context of the United States society. Specifically at focus are United States Supreme Court precedents on the meaning and scope of the Second Amendment to the US Constitution and the representation of these precedents in *The New York Times*. The Second Amendment pertains to the right to keep and bear arms and has been the object of intense debate due to its ambiguous wording. The analysis below aims to investigate how social circumstances and traditions of discourse production have shaped the discussion of gun rights and how this is translated into media texts that come to represent and, in so doing, recreate social hierarchies and relationships. This representation and recreation occurs in spatial terms, as discourse produced in specific contexts constructs a discourse space and fills it with participants. Discourse establishes specific relationships between the participants and assigns them specific positions in the discourse space which is a selective and subjective representation of complex social reality. As such, the space set up is changeable and dynamic. In order to explore such spaces, the analysis looks at three different moments in time: the media representations of *United States v. Miller* (1939), *District of Columbia v. Heller* (2008) and *McDonald v. Chicago* (2010), three Supreme Court cases that deal with the Second Amendment. This lets the analysis trace changes in positioning as elements become redefined in the society and in the discourse produced in that society.

The method used to analyse the media coverage is based on tools provided in the framework of Critical Discourse Analysis (CDA). This is an approach to discourse analysis that strives to uncover, detail and, through that, remedy inequality as it exists in society and is represented and reproduced through the use of language. There are numerous approaches within CDA which have focused on various aspects of discourse. These include, among others, genre analysis, the analysis of power hierarchies and ideologies, socio-historical context, recontextualisation and cognitive models. The dissertation at hand is interested in positioning as it occurs in and through discourse, that is, in how society is conceptualised of as a discourse space. The analysis is conducted within the CDA framework with the aim on investigating connections between text and social traditions and spaces (Maingueneau 2006: 230) in a manner that "is not only scientific, but also social and political" (van Dijk 1997: 23). A set of tools mainly from Fairclough (1989), Chilton (2004) and Blommaert (2005) are combined to analyse the media representation of constitutional debates in the United States.

Discourse is an elusive term, applicable to both written and spoken language use as well as to social practices and traditions. Gee (2003, 2012) suggests that the term should be spelt in two different ways to underline the different layers on which language use can be conceptualised of in a society. For Gee (2003: 7), discourse spelt with a small "d" denotes language as it is used in a specific instance, while Discourse with a big "D" refers to the fact that such language-

in-use is always guided by the non-linguistic and actually constitutes "a theory about the world" (Gee 2012: 215). Gee (2012: 3) considers Discourses "ways of behaving, interacting, valuing, thinking, believing, speaking, and often reading and writing". In other words, discourse may just point to a piece of text or a portion of dialogue, whereas Discourse points to how broad social structures organise language use. This echoes Fairclough's (2003) distinction between discourse as an abstract noun and discourse as a count noun, which is based on Foucault's (2005) discussion of the term. Discourse, when used as an abstract noun, refers to "the domain of statements" and, when used as a count noun, refers to a "group of statements or the 'regulated practice' (the rules) which govern such a group of statements" (Fairclough 2003: 124). This set of definitions in Foucault's discussion is also taken up by Mills (2004: 90) who comments that in discourse analysis, these separate notions are often used interchangeably and without significant distinction. This is so, since it is highly unlikely that the rules of engagement in discourse could be separated from the actual discourse, nor could the two be completely viewed outside the logic of broad social structures.

Following this, the use of the term "discourse" in this dissertation is inclusive and multilayered, as both the textual and the social are explored, involving a dual understanding of the term: discourse as a specific piece of text and discourse as systematic use of language which sets rules of production on a variety of texts, joining them through, for instance, the traditions of a genre or the rules of participation in specific contexts. In other words, discourse is understood as the manner in which language is used to achieve certain goals and to perform actions in specific contexts and situations. At the same time, it also denotes the broad traditions of communication that have evolved over time. These traditions and patterns exceed the limits and scope of one situation and context and are more expressive of the society as a whole, allowing one to map social changes and developments in language use. Including these traditions and patterns is a necessity in discourse analysis. Fairclough (2000: 143) insists that analysis "which does not place [discourses or texts] /.../ with respect to the political field and its wider social frame is of limited value". Since "studies of language can, and should, be studies of society" (Blommaert 2005: 6), it is only in specific contexts that discourse has effects and becomes meaningful and, thus, worthy of investigation.

1.1. Space and Positioning in Discourse

The starting point for the analysis below is the notion that thinking and communication are largely spatial. This perhaps, first and foremost, recalls Lakoff and Johnson's (1980, 1999) work from the 1980s. According to them, people use metaphors to set boundaries on and assign shapes to abstract concepts. Such metaphors are often based on spatial orientation. Chilton (2004: 57) relies on this in claiming that people lexicalise and conceptualise social relation-

ships by using spatial metaphors. This notion of spatiality is extended to also include spatial time, as people's understanding of time is a metaphorical representation of movement in space (see Lakoff and Johnson (1999: 143–146) on the three central time metaphors). Lakoff and Johnson's theories are among the founding texts of cognitive linguistics which is mostly concerned with "contextualised, dynamically constructed meanings" and foregrounding language "in cognitive and social-interactional processes" (Janssen and Redeker 1999: 1). Yet, they were not the first to discuss the spatial nature of human thought: Merleau-Ponty (2002) suggested in the 1940s that there is a link between bodily experience and understanding the world. This dissertation does not offer a cognitive analysis but remains firmly focused on text. Still, the knowledge from cognitive linguistics is important primarily in realising that meaning is not found in the linguistic form but is born in context and, as such, depends on the cognitive processes that operate on the background (Fauconnier 1999). What is also important is the realisation that thinking in metaphors is not a linguistic but a conceptual process (Grady et al. 1999: para. 2). One such cognitive process is the formation of spatial representations of abstract phenomena.

Blommaert (2005: 221) stresses the relevance of "space and spatial references as organising motifs in narratives, emphasising how space provides a framework in which meaningful social relationships and events can be anchored and against which a sense of community can be developed". Further, according to Chilton (2004: 56), discourse analysis has demonstrated that "such anchoring depends on cognitive frames that embody conventional shared understandings about the structure of society". Frame for Chilton (2004: 51) means "'an area of experience' in a particular culture" (a notion borrowed from Werth (1999: 197)) which is associated with the storing of long-term knowledge as "'schemata', or 'plans', 'scenarios', 'scenes', 'conceptual models'" (Chilton 2004: 51). Thus, people's production and understanding of discourse has to do with their prior knowledge and experience. This dissertation argues that setting such scenes and models occurs in spatial terms, as "space interacts with cognitive, moral, and emotive frames within which people situate themselves and from and to which they speak" (Blommaert 2005: 224). Thus, as people situate themselves and speak from within specific frames, a discourse space is established. In this space, social relationships are represented and reproduced. Bourdieu (1997: 232) suggests that "[w]hat exists is a space of relations which is just as real as a geographical space in which movements have to be paid for by labour, by effort and especially time (to move upwards is to raise oneself, to climb and to bear the traces or the stigmata of that effort)".

We do much of our mental work in spatial terms, either by processing incoming information spatially or by forming talk with spatially motivated expressions. Mental spaces are set up for discourse processing and production and these spaces are sites of positioning; that is, once these spaces are established, parts of them will be occupied by discourse elements which have complex connections between them. With linguistic spatial references, for instance, one can indicate what is important, that is, central, and what is less

relevant, that is, peripheral. This is crucial, since "place defines people, both in their own eyes and in the eyes of others" (Blommaert 2005: 222–223). In addition, such expressions indicate and reaffirm social hierarchies: the "up-down" division, for example, is used to position people and institutions either higher or lower on the social power scale. Thus, "value is attributed to space" (Blommaert 2005: 223) and this is the phenomenon tackled below both on the textual and social level. Next to space itself, elements occupying the space are equally important, as the relationships between the elements reflect and shape people's perception of the world. It is vital to investigate the principles and processes according to which elements enter discourse spaces, as positioning is not a neutral process but upholds social order and hierarchies. This also means that the elements found in a discourse space are a selection of all the possible elements. This suggests that space cannot be taken for granted or considered independent of other discourse processes; and one needs further tools to move from the textual to the social and vice versa. Essentially, the question pertains to the context of discourse and to how the (broad social) context affects discourse production and perception.

1.2. Context in (Critical) Discourse Analysis

Within CDA and discourse analysis in general, considerable attention has been paid to the role and nature of context. Context is also an elusive yet crucial term in any analysis of discourse that aims to account for the complexities involved in its production and reception. Context is likewise closely connected to the idea of positioning, as discourse produced is always discourse positioned in socio-cultural context and in relation to other discourses and texts. Various approaches have been developed to analyse context, including, for example, the discourse-historical approach (van Leeuwen and Wodak 1999, Weiss and Wodak 2003, Wodak et al. 2009), the cognitive approach (van Dijk 2006b, 2008, 2009) and the analysis of recontextualisation (van Leeuwen 1996, 2008). Another approach, developed mainly by Norman Fairclough (1989, 1995a, 2003, 2005) and greatly applied in the present dissertation, has focused on investigating the role of power and ideology in discourse production and in social change. All these approaches proceed from the realisation that texts do not exist in isolation and that it is possible (e.g., through looking at both diachronic and synchronic data) to analyse discourse in a manner that connects texts with other texts and discourses with other discourses (Blackledge 2005, Fairclough 2000).

In the 1980s, Brown and Yule (1988: 25) observed that text analysis requires the discussion of context which they understood as the immediate surroundings of a text. According to them, the role of context was that of "limiting the range of possible interpretations and /.../ supporting the intended interpretation" (Brown and Yule 1988: 37). In the 1990s, Fairclough (1995b: 128) stressed that discourse can be interpreted in various ways depending on the contexts in which

texts are understood and in close connection with the notion of power. There are other aspects of social and communicative situations next to power that systematically influence text and talk (van Dijk 1997: 3) and that can be included within the concept of context. For instance, Supreme Court debates in the US include traditional participants from the justices to the two sides of a court case. The discussion of the debates and their representation in the media has to account for the fact that the circle of participants is predetermined and that the participants tend to follow certain rules when speaking from the positions they have. This means that context not only has to do with the interpretations that could be formed of discourse but also with its production. This leads to the need for an analysis of discourse production and of how one discourse is connected to others (Blackledge 2005).

One approach to analysing context is the triangulation method or the discourse-historical approach (Weiss and Wodak 2003, Wodak et al. 2009). Triangulation suggests that analysis should include the historical, political, sociological and/or psychological aspects (Weiss and Wodak 2003: 22). It is based on an understanding of context that involves four levels, the first being descriptive and others representing a theoretical approach. The analysis begins with the immediate language or text-internal co-text which is followed by the intertextual and interdiscursive relationship between genres and discourses; the extra-linguistic sociological variables and specific situational contexts; and the broad socio-political and historical contexts (ibid.). In short, the discourse-historical approach conducts an analysis that spans spatio-temporal terms by taking into account both diachronic and synchronic aspects of discourse. The analysis below takes a similar approach, combining a detailed look at texts with societal factors. However, as the aim is to specifically deal with space and positioning, other tools have been given priority.

The last decade has also seen a debate over the role that cognitive science could play in CDA by helping to explore context. Van Dijk (2006a: 5) points to a problematic "rift between 'social' or 'interactional' approaches, on the one hand, and 'cognitive' approaches, on the other hand" which seem to neglect the fact that there is a process mediating the inner and outer worlds. To remedy this, van Dijk (2006a: 6) proposes a combined socio-cognitive approach within the framework of interdisciplinary discourse studies. This is based on context models – models constructed by the participants that operate between social structures and discourse (van Dijk 2006b: 163, 2010). These models are based on mental models adopted from psychology (van Dijk 2006b, 2008) and are "the missing link between discourse and society, between the personal and the social, and between agency and structure" (van Dijk 2008: xi). Van Dijk (2008: 16) defines context models as a special type of mental models which "represent the relevant properties of the communicative environment /.../ and ongoingly control the process of discourse production and comprehension". Context models are like mental models as "in the same way as more general models of experience or interaction organize how we adapt our actions to the social situation or environment, context models organise the ways our discourse is

strategically structured and adapted to the whole communicative situation" (van Dijk 2008: 71). As adaptable constructs, context models are personal, dynamic, unique and subjective; represent specific communicative situations and are ongoingly updated; and control interaction, adapting to the social environment (van Dijk (2008: 71) offers a detailed list of the characteristics).

Two central concepts in the context model theory are relevance and knowledge. Van Dijk (2008: 78) assumes that "context models represent what is relevant for the participants in a communicative situation". He does not consider relevance to be something that necessarily has an effect, gain or consequences in discourse as do, for example, Sperber and Wilson (2005: vii, 265) for whom the act of communication indicates that what is being communicated is relevant and that for something to be relevant in communication, it must lead to cognitive gains. Instead, van Dijk (ibid.) views relevance in terms of conditions, allowing for weaker connections between discourse and what can be considered relevant. Contextual relevance, thus, can be viewed in terms of "what is now-relevant-for-the-participants" (van Dijk 2006b: 162). Knowledge, especially shared socio-cultural knowledge, is "a crucial condition for the production and understanding of discourse" (van Dijk 2008: 83). It is assumed that people, next to having knowledge of situations themselves, also have knowledge (or assumptions) about other participants' knowledge (ibid.). Van Dijk (2006b: 172, 2008: 83) suggests that a special knowledge-device called the K-device operates on the speaker's knowledge and calculates the knowledge the audience is likely to have. Knowledge can be personal or (specifically or generally) socio-cultural (van Dijk 2008: 84–87), but it inevitably proceeds from people's understanding and assumptions of common ground and affects discourse production. Both relevance and knowledge exist in the participants' minds, not in discourse or society, and the importance of this cognitive link between discourse and society has been recognised (Wodak 2006, Koller 2005), since it helps achieve one goal of CDA: to explain "the mediation between the social and the linguistic" (Chouliaraki and Fairclough 1999: 16).

Another approach to the analysis of context is the use of the concept of recontextualisation (Caldas-Coulthard 2003, Hodges 2008, van Leeuwen 2008) which focuses on the transition of texts form one context to others. The concept as it is used in CDA has been adopted from Bernstein (1996, Fairclough 2006) as a resource for "the detailed specification of time-space disembedding and re-embedding" (Chouliaraki and Fairclough 1999: 110). Bernstein (1996: 32) states that "as the discourse moves from its original site to its new positioning /.../, a transformation takes place. The transformation takes place because every time a discourse moves from one position to another, there is space in which ideology can play". With this transition, recontextualisation chains are formed and these function as filters (van Leeuwen 2008, Fairclough 2005, 2006), adding or subtracting from the original discourse. Recontextualisation becomes a process of (selective) appropriation and colonisation (Fairclough 2006, Chouliaraki and Fairclough 1999) and a factor in social transformations which, for Fairclough (2006: 27), "are extensively 'discourse-led' in the sense that it is

discourses which change first", and only then is it possible to enact, inculcate or materialise them in social practices.

Since recontextualisation can lead to preferred enactments and materialisations, it is vital to investigate its effect on discourse production. In looking at the social frameworks that guide recontextualisation, Ehrlich (2007) observes that overarching cultural frames shape people's understanding of discourse on a metadiscursive level and, depending on the frames they have, people can arrive at very different interpretations of the same situation. Ehrlich (2007: 453) argues that in the course of recontextualisation, initial texts are interpreted and certain interpretations by certain (authoritative) participants come to dominate, potentially forming the official interpretation of an event. This means that recontextualisation is a vital notion in tracing the emergence of preferred understandings of texts. In the struggle over who gets to establish preferred interpretations, discourse becomes a central concept, as "it is through discursive interaction that we can come to ascribe meanings" (Hodges 2008: 485). Shenhav (2005: 316) points to "how references to day-to-day politics are framed by historical perspectives in a way that creates ideological political narratives". The term narrative here points to the same process of incorporating previous discourse in a selective manner and, thus, arriving at constructions that project ideological perceptions and values (Shenhav 2005: 320). Hodges (2008: 500) concludes that by analysing recontextualisation it is possible to "gain a glimpse of the way socio-political reality is negotiated on the micro-level of social interaction".

Such negotiation occurs in specific settings which means that the investigation of social setting and traditions needs to account for the complex nature of context: what it is, how it affects the production and reception of discourse and how it can be analysed. Blommaert (2005) suggests that discourse analysis should begin before anything is written or said. This dictates a broad approach to context; an approach that would accord equal attention to the textual and the social. The analysis below understands context in the broadest sense: it comprises all social and historical factors that might have an impact on discourse production. This makes context a dynamic phenomenon in that one can never hope to definitively determine "the" context of any event. In its broadest sense, context also includes the audience of a piece of discourse which further makes it a highly subjective phenomenon, since people (including the discourse analyst) approach text and discourse on the basis of their existing knowledge. What is more, context as a term only acquires relevance and meaning on the basis of a specific portion of discourse, making text and context almost inevitably linked. Text as a term is used in the present dissertation to refer to a specific piece of written text, such as a news article. In such a text, context finds expression in several levels, from the reasons of producing the text to its structure and content, from the historical setting out of which the text is born to the assumptions present in the text in terms of the knowledge the audience presumably has.

This makes the analysis of context and its impact on discourse an almost impossible task, yet points to the need to take both a synchronic and diachronic approach to the analysis of context. Thus, context, as it is understood here, means the social factors and traditions that set constraints on discourse production as well as the circumstances, backgrounds, expectations and knowledge that guide participants in interpreting discourse. Context can be both the cognitive models people have of specific events as well as the texts produced in a society, since both of these affect the creation of new discourse in the chain of recontextualisation and the continuous process of meaning making. Text, as the other key term in this relationship, often denotes written, spoken, audio and visual material produced in specific social settings, but the present analysis of the relationship between text and context focuses on written language.

1.3. The Context of the Present Research: Constitutional Debates in the United States

The context in which space and positioning are investigated in this dissertation is the Second Amendment to the Constitution of the United States and the debates over its meaning in the Supreme Court (SC) and in the media. Ratified in 1791, the Second Amendment (SA) has been a linguistic conundrum and a source of judicial controversy ever since, despite being made up of a single sentence. This has led to a situation in which it was, for years, largely ignored by the courts, including the Supreme Court (Shalhope 1982). The confusing wording of the SA has opened the way to contradictory interpretations which has made its history and interpretations an excellent example of how meanings are created and negotiated within a society. The debate has focused on two contradictory readings of the amendment's brief text: gun rights advocates, who endorse the individual right reading, rely on the discourse of idealism and freedom, whereas gun control advocates, who claim that the SA has to do with state rights, appeal to safety and sensibility (Põiklik 2011) (with the alleged original communal/civic meaning being lost altogether). This opposition between stressing the supposed historical truth and focusing on the changed circumstances of today's society is not easily assuaged.

Gun rights are an important topic in the US, related to the very foundations of national identity and the image of self as a free and democratic nation (Shalhope 1982). The gun debate is an arena where ideas over individualism and the increased role of the government come into conflict. Before the landmark ruling in *District of Columbia v. Heller* in 2008, the debate had centred on the basic question whether individuals or the states had the right to keep and bear arms under the SA and the focus was largely on the SA's possible (linguistic) interpretations. After the 2008 decision, which endorsed the individual right reading, the debate shifted to the practical issues related to gun rights and to the judicial uncertainty created by the decision (although, claims that the SA does not really enlist an individual right have not entirely disappeared). The *Heller*

decision was so vague that it created more questions than it answered. For one, although it was an affirmation of a fundamental individual right, the Supreme Court stressed that this did not make gun regulation unconstitutional (without being too specific about the nature of allowed regulation). This led to numerous challenges of gun laws and, only two years after *Heller*, to another SC precedent that incorporated the SA against the states.

The media representation of constitutional debates concerning gun rights and the discussion of the SA in the SC constitutes a complex web of social factors and constraints that have led to the texts adhering to social expectations of what such media texts and debates should include and look like. The array of participants has been largely predetermined, following, for example, the prominent status and authority of the SC, the specific qualifications of experts, the basic conceptualisations on the two sides of the debate, and the role and relevance of the Constitution and the SA. It is essential that the predetermined aspects of the debate be considered and analysed next to specific discourse features. The context of the material studied is important not only as it provides the researcher with a key to understanding the data but also because the context has guided the creation of the material, from the reason why some topics become relevant at a certain time to who are considered legitimate participants and authorities in a given debate.

1.4. The Present Research

In exploring space and positioning in the context of the SA debates, the present dissertation seeks answers to the following questions. On the macro level, the analysis investigates: (a) how the text and history of the SA have shaped the contemporary gun debate in the US society; (b) how the ideologies of different groups have shaped the debate by providing participants with different sets of values and, thus, different reasons for action; (c) how power hierarchies and access to authoritative discourse spaces have led to the redefinition of the SA in the early 21st century; and (d) how the constraints of text and context, language and inequality, choice and determination and history and process have shaped the media coverage in *The New York Times*. On the micro level, the analysis investigates the effect of the macro level factors on discourse production by taking apart the news articles in the corpus and exploring how the discourse space of the articles is set up. More specifically, the micro level analysis investigates: (a) which participants are mapped in the discourse space and which processes they are involved in; (b) which modal relationships are established between the participants; (c) which spatial relationships are established between the participants; and (d) which temporal relationships are established between the participants. Through these aspects, the analysis aims to answer the central question: whose perspectives (that is, whose deictic centres) dominate the media representation and the overall debate over the meaning and

scope of the Second Amendment at different times and which factors contribute to changes in discourse spaces that map the debate.

The dissertation is divided into seven chapters. The introduction elaborates on the notions of space and positioning in discourse and on the concept of context in discourse analysis. It also outlines the aims and context of the present research. The ideology chapter offers insights into connections between ideology, discourse and power and the (re)production of social hierarchies. A subchapter provides a brief overview of media and its role in the society as a site of meaning making and reconstruction of social order. The methodology chapter details the set of tools combined to explore space and positioning in discourse. It also elaborates on the discourse constraints borrowed from Blommaert (2005). This offers an analytical framework in which the socio-historical context of the gun rights debate is explored. Following this, the chapter lists the micro level tools for analysing positioning in news articles. The chapter on the socio-historical background of the SC, the SA and its previous history in the SC contextualises the analysis with a focus on the text of the amendment, its drafting and its interpretations by the high court. The SC history as the highest judicial institution in the US is also vital, especially the roles of its individual members who can significantly impact the legal landscape.

The analysis itself is divided into macro and micro levels. The macro level analysis is organised on the basis of the discourse constraints adopted from Blommaert (text and context, language and inequality, choice and determination, and history and process). A subchapter focuses on recontextualisation, tracing the entextualisation of the SA and the SC opinions in the corpus. The micro level analysis focuses on the 28 articles in the corpus: 27 articles collected from *The New York Times* online site between April 2007 and August 2010 and an added article from 1939 which covers a previous SC precedent. The analysis identifies the participants in the coverage, the processes they are involved in and the way in which these could be mapped on the axes of the coordinate system proposed by Chilton (2004). The system maps social distance and hierarchies (spatial dimension), history/memory and expectations (temporal dimension), and attitudes and beliefs (modal dimension) and, as such, offers a glance into how social order is reflected and reproduced in discourse. The discussion in chapter six brings together the results of the analysis of the three precedents. The conclusion looks back to the dissertation, commenting on the method, analysis and the results, and answers the questions posed.

2. IDEOLOGY AND DISCOURSE

It is often at the nexus of ideology, power and discourse that meaning and discourse are constructed in a manner that leads to significant enactments and materialisations in the society. In order to explore the relationship between these elements, this chapter discusses the (re)production of ideologies and the competitive struggle this often engages in. The final subchapter discusses the relationship between ideology and media as a site in which social hierarchies and perceptions of news combine.

Discourse spaces and the positioning of participants and processes in them are not value free which means that discourse is always structured on the basis of someone's point of view. This makes positioning a motivated process by which participants aim to represent the social reality in accordance to their values and beliefs and to convince other participants to accept their positions and the spaces they construct. Elaborating on the notions of ideology and power provides vital insight into social power structures and into questions of access to authoritative discourse spaces. The production of discourse is connected to power relations that are, in turn, present in the formation and perpetuation of ideologies. Power as a social and discursive notion underlines the way people communicate, defining their access to communicative situations, their ability to voice their opinions in these situations and the authority and legitimacy of their opinions. Power relations are changeable and dynamic – positions differ from situation to situation as does participants' ability to achieve desired goals through discourse. This means that power can take various forms, from political to religious, from military to economic and academic. Some of these are visible and tangible like military power which can be displayed to stress the ability of a country to defend itself or attack others. Other forms are less tangible, such as the power of opinion leaders or the power of tradition that guides how people lead their lives.

Social power structures need not always be visible to people as they have become naturalized, influencing people who need not be aware of the fact that hierarchies are constructed, not natural. This makes power an elusive object of study. Yet, as something that permeates all levels of social life, it is an element that discourse analysis must address. Its analysis proceeds from the realisation that it is distributed unevenly which means that some participants have more control over processes than others. Such inequalities have evolved over time and this translates into a need to account for the historical perspective. In time, certain groups and institutions become and remain powerful which leads to issues of authority, legitimacy and ideology. These concepts are involved in establishing common ground and common sense. In this paper, ideology is understood as a system of values and beliefs held by (groups of) people that reflects their view of the world, organises and guides their experiences in the world and attitudes towards other people and events.

Different theories have addressed the nature and role of ideology. Blommaert (2005: 158) outlines two main approaches: on the one hand, there

are scholars who view ideology as "a *specific* set of representations /…/ serving a *specific* purpose, and operated by *specific* groups or actors"; on the other, there are those who "define ideology as a *general* phenomenon characterising the *totality* of a particular social or political system, and operated by every member or actor in that system". These theories are reminiscent of Althusser's (1984: 33) distinction between "particular ideolog*ies*, which, whatever their form (religious, ethical, legal, political), always express *class positions*" and "a theory of ideology *in general*" which pertains to an overarching ideology that is always present in history (Althusser 1984: 35–36). Blommaert (2005: 158–159) distinguishes between ideology as different "-isms" known in history and as the "naturalized patterns of thought and behaviour" that comprise common sense. The two categories are not opposites but form different levels of ideology. This leads Blommaert ((2005: 160), following Barthes) to call for "a view in which ideology is *layered*, stratified, something that has varying dimensions and scopes of operation as well as varying degrees of accessibility to consciousness and agency". This means that people can be aware of the many "-isms" in the society and they can accept or reject them, although this often causes debate and opposition as they attempt to establish their ideology as the general ideology that serves as the organising motif for the entire society.

Neither power nor ideology is limited to the dominant groups (although power can be distributed unequally), which is why both the ideologies of the dominant and the dominated merit attention. It is relevant to explore the dynamics between groups and analyse how contacts between them affect the formulation and reproduction of ideologies. A minority group might have less influence than the majority as their opinions might be marginalised and not viewed as legitimate. They might also lack full access to the established forms of communication. This means that the group's voice is weaker and it is unable to operate on an equal footing with others. This is essentially what Williams (2001) notes on the modes of domination. He suggests that "in any society, in a particular period, there is a central system of practices, meanings and values, which we can properly call dominant and effective" (Williams 2001: 157). Also, there is "the *selective tradition*: that which, within the terms of an effective dominant culture, is always passed off as '*the* tradition', '*the* significant past'" (Williams 2001: 158). This selection is made from "the full range of actual and possible human practice" and the elements which are not selected are excluded (Williams 2001: 161). The practices excluded from the dominant mode are allowed to exist, but that existence is dependent on the nature of the dominant mode. How a dominant mode reacts to specific dissidents, alternatives or opposition is something that can be established case-by-case by looking at the precise relationship between the dominant and the alternative and the context in which the relationship exists.

2.1. The (Re)production of Ideology and the Competitive Struggle

As a term stereotypically connected to (political) domination, ideology has had a negative connotation and has been viewed as something that helps (dominant) groups maintain their control over other groups. This has changed in time: van Dijk (2000: 3) states that "it is only /…/ in the second part of the 20th century that more inclusive and less pejorative notions of ideologies developed". In this new perspective, ideologies are "social belief systems" (van Dijk 2000: 29) which are based on shared "social, economic, political or cultural interests" (van Dijk 2000: 69). These interests exist as much for the dominated as they do for those who dominate. "More neutrally and more generally, then, ideologies serve groups and their members in the organization and management of their goals, social practices and their whole daily social life" (van Dijk 2000: 138). Different groups develop ideologies that may not only vary considerably but may conflict and form hierarchies.

The relationship between dominant and alternative ideologies takes the form of a competitive struggle, as proponents of different ideologies seek to expand their point of view and establish it as the right one. The term "competitive struggle" is borrowed from Bourdieu (1997: 64) who uses it primarily to talk about linguistic strategies, but the concept is expanded here to discuss the different strategies groups use in competing for dominance. Motivation for this struggle lies in the fact that at the core of group identity is the desire to shape the society according to the views, values and hopes of the group's ideology. In Williams's terms, the struggle happens over the status of the dominant mode that has the chance to select preferred traditions and practices from the full range of human activities. It could be conceptualised as "a struggle for symbolic power in which what /…/ [is at stake is] the formation and re-formation of mental structures" (Bourdieu 1997: 48).

For a group to have a shared ideology means for them to have a set of values and beliefs that shapes and predetermines the manner in which they perceive and categorise social phenomena. A group does not exist unless the members feel part of a collectivity that shares these beliefs and values, that is, unless they have an ideology they identify with. That is not to say that individuals cannot be considered representatives of an ideology or a group without specifically acknowledging belonging to it. Still, the assumption here is that participants introduced into discourse space operate on the basis of values and beliefs that they more or less acknowledge and associate with certain ideologies. In that space, there is interaction between ideologies which is a further constitutive level in the formation of (group) identities, as they are produced and maintained in relation to groups with different values (van Dijk 2000: 141). Communication between groups leads to the formation of a social order which is dynamic, since groups come into contact with new groups and need to revise their ideology.

Williams (2001) suggests that there are dominant modes in every society which are often the "disguised" ideologies of common sense, that is, the values and opinions that are viewed as more legitimate, right, justified and reasonable than others. However, these values and opinions are not free of ideology. Instead, "common sense is just another term for the set of social beliefs" (van Dijk 2000: 103). Althusser (1984: 46) writes that "it is indeed a peculiarity of ideology that it imposes (without appearing to do so, since these are 'obviuosnesses') obviousnesses as obviousnesses, which we cannot fail to recognize". But even though there is the central dominant mode that has been instilled so as to seem (and often be received as) non-ideological, there is room for opposition and formation of new ideologies that might challenge it. It is between these ideologies (not within the Althusserian general ideology) that competitive struggle occurs.

Some groups more than others are able to establish their beliefs and values as the default ones. Next to brute force, which is not a common strategy in today's Western world, this is accomplished through systems based on hegemony: "the dominance of particular ideologies or sets of ideologies in a particular social environment" (Blommaert 2005: 252), that is, "something which thoroughly saturates consciousness in such a way as to reduce ideology to the 'normal state of affairs'" (Blommaert 2005: 127). This resonates in van Dijk's (2000: 3) discussion of Gramsci's hegemony as the process of "persuasively constructing a consensus about the social order", although this consensus is not beneficial to all who have been included in the process of its creation and reproduction. Williams (2001: 156–157) likewise underlines the importance of hegemony which is something so inherent in the society that it "constitutes the substance and limit of common sense for most people under its sway". What is crucial about hegemony, however, is its "non singular" nature, as it actually allows a difference of opinions and potential conflicts to occur between ideologies (Williams 2001: 157). Such a view of hegemony and ideology makes for a complex analysis but leads to a more nuanced understanding of how societies work. It helps underline that ideology is not so much a matter of straightforward suppression as of a struggle between world views which are still connected in a basic understanding of the world. This requires a look at the groups themselves: their origins, membership, values and beliefs, communication with other groups, position in the society, ability to achieve their goals and so on. Group, of course, is a complex term as well. One could even go as far as to ask whether groups really exist or are continuously created in the act of labelling which leads to deceptively tangible formations. For one, nations are social constructs that exist in people's mind according to their understanding of the term: a "real American" would be difficult to find as the nation is a group of varied people, yet there is a set of values and beliefs that seem to define being American for a lot of people.

The formation of ideology requires the existence of people who have enough in common (or believe to have) to develop shared interests and goals. Van Dijk (2000: 141) suggests that "one criterion for groupness may be that collectivities

of people must have some *continuity* beyond one event". This might be based on different characteristics such as similar views (feminism, conservatism) or a shared background (ethnic, cultural). "In other words, sets of people constitute groups if and only if, as a collectivity, they share *social representations*" (ibid.). For van Dijk (2000: 146), group formation means that a group "must be more or less permanent, more or less organized or institutionalized, and reproduced by recruiting members on the basis of identification on a specific, more or less permanent set of properties /…/, shared activities and/or goals, norms and values, resources, and a specific position" in relation to other groups. If these criteria are met, a group is likely to develop an ideology (ibid.) which means that it is not personal or individual but develops for a group and represents its shared beliefs. It should be added that not all of an individual's values need fit into a specific group ideology and that an individual can be part of many (ideological) groups depending on their interests in different contexts.

The relationship between groups, their members and ideologies or between groups and their social representations is multifaceted. The relationships are reflected and created in the ongoing communication between groups on different levels. For the communication to occur, a member or members need to speak for the group. The representatives express what they believe to be the views of the group and negotiate their statements with those made by the representatives of other groups. The representatives are found through delegation; through endowing a person with the right to speak for the group. "Delegation is the act by which a group undertakes to constitute itself by endowing itself with that set of things which create groups" (Bourdieu 1997: 205). Bourdieu (1997: 204) terms this relationship between the representative and the group a "circular relationship", as the members "dispossess themselves in favour of a spokesperson" and are, therefore, able to function not as a vague collection of people but as "a fictitious person, a *corporatio*, a body, a mystical body incarnated in a social body" (Bourdieu 1997: 208).

In finding a delegate and endowing that person with the right to act as the spokesperson, individual members lose some of their power and control which is "usurped" by the representative who (intentionally or not, consciously or not) replaces the group's interests with theirs (Bourdieu 1997). But the members retain some control over both the group identity and ideology and the representative. For example, of the nine Supreme Court members, the Chief Justice might be viewed as "the secretary" of the group. Yet, they cannot express opinions in the name of the whole court without majority support; and there are often dissenting voices. The power of a group is not entirely transferred to the representative and ways of expressing dissent are still available to members. In other words, although a spokesperson might reshape and transform the group, the group is still the source and basis of their power and they are still accepted as the representative of the groups' interests not those of their own. A similar circular relationship exists between the representation of a group and the group itself. In essence, "the established ideological systems /…/ are crystallizations of behavioural ideology, and these crystallizations, in turn, exert a powerful

influence back upon behavioural ideology, normally setting its tone" (Voloshinov 1986: 91). Ideologies grow from a moment in time and become formalized, that is, crystallized in a system of values and beliefs. From there on, an ideological system endeavours to establish a stable social order that would match its understanding of the world.

2.2. Ideology and Discourse

The roots of viewing ideology as closely associated with the use of language go back to the early 20th century. In the 1920s, Voloshinov (1986: 93) wrote of language use as being closely connected to the social situation. Most importantly, he suggests that it "is not experience that organizes expression, but the other way around – expression organizes experience" (Voloshinov 1986: 85). Of more recent authors, van Dijk (2000: 234) argues that instead of always involving conscious and sustained effort, "ideological representation may more indirectly and unintentionally take place through the routine and taken-for-granted process of discourse production". Ideologies are impossible without discourse to express and formulate them, making the analysis of language use crucial in understanding how ideologies function. As Blommaert (2005: 158) suggests, it is the combination of power and discourse that is the basis of ideology. Van Dijk (2000: 228) adds that "ideologies are (re)produced as well as (re)constructed by social practices", but such practices are inevitably formulated and maintained through discourse in the form of speech, written texts, photographs, videos, traditional actions and so forth.

The impact of ideology on the use of language means that choices are made before anything is said or written. Choices are there on every level and in every situation – what is said could always have been said with another tone, word, syntactic structure. The fact that some forms and tones are chosen over others suggests that the choices made are meaningful and say something about how the speaker views the world. Certain discourse forms and uses have also become connected to certain positions and roles that participants have. Language use is one means of judging the class, position and role of the speaker which means that participants need to be able to use certain linguistic forms in order to be perceived as legitimate agents in certain contexts. Bourdieu (1997: 82) suggests that "[t]he sense of the value of one's own linguistic products is a fundamental dimension of the sense of knowing the place which one occupies in the social space". Through experiencing language use and using language themselves, people develop a "linguistic 'sense of place'" (ibid.). Thus, people speak from certain positions and roles in the social space and the manner in which they use language or other means of communication reflects this. People have come to expect certain language use from certain people and associate styles and linguistic strategies with certain social or political roles and positions. Such associations become established over time and "incline agents to accept the

social world as it is, to take it for granted, rather to rebel against it, to put forward opposed and even antagonistic possibilities" (Bourdieu 1997: 235).

Analysis of text is not enough – one cannot assume a correlation between texts and the society. Instead, texts have to be interpreted as contextualised productions that adhere to an array of social constraints. In short, the relationship between text and society "is mediated /…/ by the social context of the discourse" (Fairclough 1989: 140). Bourdieu (1997: 233) underlines the connection between social representations and their circumstances, stating that "to speak of a social space means that one cannot group together just anyone with anyone else while ignoring the fundamental differences, particularly economic and cultural differences, between them". This suggests the existence of an order, a hierarchy of classifications that guides how people make sense of the world. Blommaert (2005) points to the effects of traditions and social realities on discourse production and communication. These traditions and circumstances, to a significant degree, determine people's ability to perform appropriately in certain social situations and are a major factor in whether a person is accepted as a legitimate member of a group.

One way to conceptualise these norms and guiding traditions has been proposed by frame analysts. Erving Goffman was the first to popularise this concept and give it substantial treatment (Kitzinger 2007: 135, Tannen 1993: 3) in an attempt to "isolate some of the basic frameworks of understanding available in our society for making sense of events" (Goffman 1986: 10). Goffman addresses the principles that govern people's perception of events and, especially, contemplates "our subjective involvement in them" (ibid.). Tannen (1993: 4) points to the mutually beneficial relationship frame analysis and discourse analysis can have, the former strengthening the theoretical basis for the discursive investigation of interaction and discourse analysis contributing to the understanding of how frames are born in interaction. Entman (1993: 55–56) also makes a specific link to discourse by suggesting that "the concept of framing directs our attention to the detail of just how a communicated text exerts its power". Entman (1993: 52) further elaborates on how framing, at its core, involves selection and salience which are processes that shape the texts that are produced, making some elements more noticeable and, through that, relevant for the public. Entman (1993: 55) further claims that "the frame in a news text is /.../ the imprint of power – it registers the identity of actors or interests that competed to dominate the text." Frames, thus, constitute perceptions of reality (Kitzinger 2007: 134) that lead to the selection of certain topics, issues and concerns. These are then presented in a specific configuration that exerts power over the audience. This is very often a form of political power and it is the "political elite [that] control the framing of issues" (Entman 1993: 57). This, once more, underlines the issue of access to authoritative and public discourses in which certain agents can attempt to exert their power over a large number of recipients. National media outlets are one context in which this kind of framing is likely to convey ideologies to the general public.

2.3. Ideology and the Media

This dissertation analyses media texts, more specifically, news articles. The media is an important institution which informs the public of events and processes, offering them a glimpse into power hierarchies and access into public space where some participants are better positioned to voice their opinions, thus greatly influencing whether and which preferred readings are established as the official interpretation. No small part of the media's influence is its power of media agenda setting according to which a "major consequence of news coverage /.../ [is] the determination of which issues /.../ [are] most important in public opinion" (McCombs et al. 2011: 75). This means that, in choosing some topics and sources over others, the media are always engaged in shaping what the public thinks they are interested in. In presenting these issues, however, the media and news texts are governed by particular guidelines, serve particular purposes and display a variety of specific features, all of which have a bearing on media analysis and on the analysis of discourse, ideology and power as socially, culturally and temporally situated phenomena. In short, "[n]ews is a major register of language. Understanding how it works is important to understanding the functioning of language in society" (Bell 2000: 65).

The media has a set of principles and guidelines as to what counts as a source of news and what is deemed relevant enough to become news (Fowler 1991: 12–17). One account of such principles has been proposed by Galtung and Ruge (1973): newsworthiness which is a set of criteria (Fowler 1991: 13, also discussed by Brighton and Foy 2007, for a list of additional news values from the late 20th century, see Downie 2003) which can be satisfied by a number of factors. For instance, news about celebrities, about "elite people" and major accidents (Fowler 1991: 14) are newsworthy. The newsworthiness of the gun debate lies in the potential the outcome has to affect the lives of Americans. The justices also have high profiles as they represent the power invested in the court. The SC and its work satisfy the criterion of continuity (Fowler 1991: 14): it has been established as a source of important decisions and potentially significant change. Newsworthiness suggests that there are expectations about the media and the events it should cover. This presupposes choice which means that ideology and power are introduced into the functioning of the media: choices are meaningful and proceed from someone's values and beliefs. As a construct based on choices, "'[n]ews' on television and in the press is not self-defining. News is not 'found' or even 'gathered' so much as made. It is a *creation* of a journalistic process, an artefact, a commodity even" (Philo 1983: 135). Hall (1978: 60) adds that "'news' is the end-product of a complex process which begins with a systematic sorting and selecting of events and topics according to a socially constructed set of categories". Among the categories are the need to make a profit and meet production schedules and the tradition of turning to proven sources (Fowler 1991).

Proceeding from the news values and scanning for news from various sources, the purpose of media is to inform the public of what it considers

important. As it collects, reorganises and distributes information, the media presents a specific view of events. This is where ideology and power become relevant, making media an important site of competitive struggle. The choices made in reporting are led by participants' roles and power and their access to resources and means of communication. Through this, a piece of news is formed which could be thought of as reformulation through which "the complexity of the original concept has been reduced, both lexically and structurally" (Blommaert 2005: 192). This means that ongoing processes are simplified; elements and participants polarised. But even in this simplified state, news articles bring together numerous sources and opinions and, through this, aim to provide the public with a coherent and, as much as possible, objective representation of often complex issues that they might otherwise be quite removed from.

This does not mean that what is reported as news is always the ideological construct of the powerful or that it is accepted without question. Matheson (2005: 27) claims that "the use of news language is /…/ more of a rhetorical achievement than simply the reproduction of dominance". He critiques the ideology-based analysis of media which assumes that the more powerful always dominate the message. Matheson (2005: 28) goes on to reiterate the notion put forward above: "[i]f discourse is part of structures of dominance and power in society, it is through speakers' use of discourse and orientation to dominance". The present dissertation views news articles as discursive constructs that are constrained by social circumstances. As such, the articles allow us to investigate how power and ideology come to operate on their production, without assuming that power hierarchies make a smooth transition into media texts. Matters are even more complex "because the nature of power relations enacted in [media discourse] /.../ is often not clear, and there are reasons for seeing it as involving *hidden* relations of power" (Fairclough 1989: 49). Even a detailed analysis of media texts and media operation will not reveal all factors at play, but it will offer a look into the patterns that news articles adhere to and the mechanisms at play in putting them together.

News articles are an object of study that is varied in voices and points of view, with multiple recontextualised sources. Fairclough (2006: 23), proceeding from Silverstone (1999), sees "media texts as a class of texts which are specialised for moving resources for meaning-making between texts, and more abstractly between different social practices, fields, domains and scales of social life". As such discursive phenomena, news articles could be termed instances of entextualisation as they extract a "portion of ongoing social action" (Blommaert 2005: 47) and construct a new narrative using extracts from the original discourse. The narrative constructed adheres to genre requirements, since putting together a news article has a set of guidelines that need to be followed. Genre provides a rationale which "shapes the schematic structure of the discourse and influences and constrains choice of content and style" (Swales 1990: 58, also see Bell 1991, Ljung 2000). The news article as a genre has a set of features that readers expect and can use to tell it apart from other types of media texts, such

as treatment of a topical and relevant issue, hopefully balanced reporting, inclusion of exact sources and so forth. At the same time, however, "media genres involve a complex admixture of genres from other domains /…/ which are recontextualised (and in the process may be significantly transformed) within the media" (Fairclough 2000: 150).

What become recontextualised and reconstructed in this instance are Supreme Court arguments and opinions. The SC is a public institution that is removed from the people. Although journalists and laypeople can visit the hearings, cameras, for instance, are not allowed in the courtroom (and the justices conduct most of the deliberation behind closed doors). This means that "most people in contemporary society glean day-to-day information from the media rather than through direct experience within a court of law" (Schulz 2010: 7). On the one hand, as authoritative figures, the justices have easier access to the media and find it easier to have their voices heard in the society; on the other, justices "may not control what exactly is written or said about them" (Fairclough 1996: 90). People's understanding of the courts is directly shaped by how the media frames and positions them. Schulz (2010: 8) reports studies that have shown confidence in the SC to be directly related to "what people hear about court decisions", making the media representation a vital aspect of the SC and their decisions. Schulz and Cannon (2010) also point to media's power to shape the public's perception of the courts. According to Schulz and Cannon (2010: 184), "news articles are dictating to the judiciary what should take place in a tacit *discourse of direction*", often using their ability to direct the public opinion as a tool to propel or influence courts' actions. But even if the justices are unable to control every aspect of media coverage, they are still better positioned to do so than many other groups. Van Dijk (2000: 265–266) writes that "[s]ince those who have active access to, and a control over the mass media are generally members of the elites, larger scope [of the media] will often be combined with higher credibility of the speakers/writers and hence a higher chance that models will be construed as preferred". Media coverage of the SC presents a nexus of power relations, access and ideologies, providing the object of analysis for this dissertation; an object that illustrates how powerful discourses are represented in the media and relayed to the public, forming the (official) narrative of the cases.

3. METHODOLOGY

This chapter presents the methodology compiled for the analysis of the corpus collected from *The New York Times*. It begins by presenting the tools for the macro level analysis and, then, for the micro level analysis. The method is combined with the aim of exploring positioning as it occurs in the discourse of news articles. As media texts, news articles are designed to convey the events in the society to readers who, for the most part, have no immediate contact with them. This makes context a central notion, as a shared context is still assumed – it explains the choice of topic as well as readers' interest in the news and their ability to decipher them. Thus, the method pays considerable attention to the context of news articles and of discourse production. The focal point is on how to account for how news articles position the events they report and the participants involved in relation to one another, the social context and the historical perspective.

3.1. Space and Positioning on the Social Level

The dissertation aims to broaden the scope of the critical discourse analysis conducted below on the basis of Blommaert's (2005) observations on CDA. A central notion borrowed from Blommaert is his suggestion that CDA could benefit from an extended view of history. In connection to this, Blommaert (2005: 37) points to the discourse-historical approach pioneered by Ruth Wodak but stresses that CDA needs an even greater sense of history, since the historical development of power, inequality and social structures is often neglected in actual analysis. An added focus on text results in the analysis of available and present discourses (Blommaert 2005: 35) which excludes missing discourses that can be important in understanding social processes and their influence on discourse production. Based on his critique, the present analysis begins by focusing on the historical development of the gun debate in the US and only then proceeds to the micro level analysis. Blommaert (2005: 51) also accuses CDA of focusing too closely on power and its abuse, creating a situation in which researchers inevitably find the abuses they are looking for. While aware of the pertinence of this point of critique, this dissertation nevertheless has much to do with authoritative discourse spaces in which some agents have more power to shape the discourses produced. And even though there are agents who do not fall in line with the power hierarchies (as the analysis below demonstrates), such breaks with the hierarchy draw attention, since they clash with the underlying power structures and existing expectations. Thus, the present analysis still accepts that certain agents and groups are better positioned to make their voices heard and establish their interpretations as the legitimate ones. The analysis adopts a portion of Blommaert's ideas and works towards establishing links between a set of texts and the society and historical context (also leaving aside the intercultural and international dimension of discourse

that Blommaert discusses as the material analysed below does not present a multicultural challenge).

The central assumption borrowed from Blommaert is that all texts are socially constructed, have specific origins and aims, and have been born out of specific cultural traditions. This leads Blommaert (2005: 99) to claim that much of "human communication is not a matter of freedom, choice or creativity". What one is dealing with instead is limited choice and freedom which is governed by socio-cultural constraints that guide discourse production. This is not taken to mean that individuals are not in control of the choices they make. Instead, it is taken to suggest that in trying to gain access to certain discourse spaces and in trying to make their voices heard, individuals, groups and their representatives work towards meeting the expectations of such spaces and communicative situations and this means adhering to existing traditions and structures of discourse production. Blommaert (2005) lists four pairs of criteria that affect the production of discourse by setting limits on what participants can say and do: text and context, language and inequality, choice and determination, and history and process.

The constraint of text and context connects textual and linguistic features with elements on the social level that influence text creation. According to Blommaert (2005: 39, 41), context is "a crucial methodological and theoretical issue" as all understanding is framed understanding, that is, guided by the participants' knowledge of the situation. Understanding and interpreting a text requires that people successfully fit offered meanings into their own understanding (Blommaert 2005: 42–43). This can be guided by including/excluding various elements, making use of different conceptualisations and linguistic forms. In terms of exclusions, Blommaert's notion that CDA is too narrowly focused on texts becomes vital. Such gaps can be of considerable significance in contemplating the role of discourse in the society. Whether an agent is specifically referred to in a text or not can point to the assumption that the audience is aware of the identity of the agent or would consider it irrelevant. But this lack can also serve specific interests, help hide responsibility or create an atmosphere of fear (van Leeuwen 1996, 2008: 28–32). This points to a need to map the notions of relevance and knowledge – omissions and inclusions point to what is considered relevant enough to be mentioned and to what is considered common enough to be unspecified. For Blommaert, context (whether specifically present or outside the narrow perspective of a text) is something ever present and extremely broad, not merely the background knowledge needed to understand something. The linguistic resources and access people have are also a type of context. Blommaert (2005: 60) terms such resource contexts "invisible contexts" because even though they need not manifest in text, they do affect people's understanding of discourse. In connection to that, one needs to ask questions about the corpus analysed and the social situatedness of the research, that is, investigate what Blommaert calls data history. The analysis should explore why certain topics are discussed at a certain time and what is necessary for a reader to understand a text.

The criterion of language and inequality has to do with the concepts of voice and mobility between discourses. Blommaert (2005: 68) defines voice as "the capacity to accomplish desired *functions* through language". Essentially, the questions of voice and mobility can blend into a single issue of participants being able to express themselves in a manner that is suitable and acceptable in a given context. Blommaert (2005) looks at immigrants who discover that, in a new country, their problems do not necessarily arise from limited language skills but rather from the inability to make themselves heard in a manner appropriate in the new discourse situation. This is an invisible context which either grants or denies access to understanding and producing certain type of text. The phenomenon of gate-keeping helps understand who have the necessary resources to gain access to contextual spaces and linguistic resources (Blommaert 2005: 76). This is "the 'hidden process' of disadvantage through language" (Blommaert 2005: 96) whereby some are more eligible than others to participate in some debates.

Choice and determination have a more systematic nature than language and inequality (which are more connected to individuals). According to Blommaert (2005: 99), human communication as a whole is "constrained by normativities", that is, it is subject to contextual factors and not a matter of absolute freedom. As all instances of discourse have historical backgrounds and specific "histories of becoming" (Blommaert 2005: 100), one can expect to find social patterns in discourse (e.g., a pervasive pattern of who is considered an authority). In discourse spaces, some participants are placed higher in the social hierarchy and their opinions have more weight. At the same time, their opinions tend to be more respectful of certain standards and traditions, such as the opinions written by SC justices. Blommaert suggests that these opinions are as much formed by the history of discourse than by the people who utter them. That is, such situations are the result of long-term processes by which certain participants are given a greater voice in specific situations. As such, this criterion is closely connected to that of history and process.

The constraint of history and process points to how positioning elements in text is the result of social processes, not a natural state: in short, people speak "from and on history" (Blommaert 2005: 137). What Blommaert (2005: 134) terms synchronisation is something that "creates a particular point from which one speaks, a point in history often crystallised in particular epistemic stances or ways of speaking". As a tactic, it "suggests clarity, coherence, and transparency, even quality, by eliminating attention to the nature of differences and contradiction" (Blommaert 2005: 134–135). As a strategy, such functions can considerably affect the way texts are perceived, as one can expect a selective incorporation of historical facts and of participants, creating a preferred metadiscourse far from a neutral list of facts (Blommaert 2005: 149). Adding the notion of simultaneity to synchronisation, Blommaert makes two crucial observations:

> First, we need to recognise that every discourse is a discourse *on* history; a discourse in which we shall see references and pointers to a variety of historical time-frames /…/. Second, every discourse will simultaneously be a discourse *from* history, one that articulates a particular position – or various, shifting positions – in history. (Blommaert 2005: 136)

These notions combine with recontextualisation and entextualisation as they likewise seek to pinpoint how ideas move from time to time and discourse to discourse and how preferred readings are established within this selective process. Through such strategies, the "reduction of enormously complex processes and events to a very simple scheme" can be traced (Blommaert 2005: 140). The task of the researcher is to reverse the process of simplification and re-establish the social context, background and history behind the text, while trying to determine the relevance of the choices made in its production. What Blommaert (2005: 157) underlines is that "if we combine these different forms of determination, social, spatial, and historical, we can suggest that people speak from *within a position in the world system*" and it is these positions that this dissertation is concerned with.

One way of accessing the sources that have guided the construction of texts is to investigate the links established to other texts and discourses through recontextualisation. Recontextualisation is a resource of investigating the micro level negotiation of meaning and construction of preferred metadiscourses. Narrowly speaking, this process can be identified in the linguistic transformations that texts undergo such as nominalisation, changes in the use of modal constructions or semantic relations (Fairclough 2005: 66). In broad terms, it can be viewed on two levels: "on one level it is the presence in my discourse of the specific words of the other mixed with my words, as for instance in reported speech; on another level it is the combination in discourse of different genres – or, we might add, different discourses" (Chouliaraki and Fairclough 1999: 49). These are the two levels of intertextuality: manifest intertextuality (Fairclough 2003; applied, for instance, in Rahm (2006)) and constitutive intertextuality (or interdiscursivity).

In the 1960s, Kristeva (1986: 37) echoed Bakhtin's ideas in stating that "any text is constructed as a mosaic of quotations; any text is the absorption and transformation of another". Following her, Fairclough (2001: 233) states that intertextuality means "the idea that any text is explicitly or implicitly 'in dialogue with' other texts (existing or anticipated) which constitute its 'intertexts'". According to Fairclough (1999: 102), intertextuality points to "the productivity of texts; to how texts can transform prior texts and restructure existing conventions /.../ to generate new ones". This productivity is not available to everyone: it is socially limited and depends on power relations (Fairclough 1999): in the gun debate in the US, it is the Supreme Court that can set precedents that other judicial institutions are to follow which means that the justices have a greater ability to change the conventions of interpreting the Second Amendment than the plaintiffs or the journalists covering the case.

Blommaert (2005) likewise considers intertextuality inevitable in the sense that writing or saying something unavoidably makes use of something that has already been written or said. All utterances have histories of use and abuse which allows "expressions to acquire powerful social, cultural, and political effects" (Blommaert 2005: 46).

Blommaert (2005: 46) sees intertextuality in the fact that "whenever we speak we produce the words of others, we constantly cite and recite expressions, and recycle meanings that are already available". This makes "occurrences of discourse /.../ intrinsically historical" (Blommaert 2005: 100). In the analysis of specific texts, Blommaert makes a distinction between intertextuality and entextualisation, the latter being a process closely connected with intertextuality. Entextualisation is the natural history of textuality, that is, of how social actors lift texts from their initial contexts and change them (Silverstein and Urban 1996). Blommaert defines entextualisation as a

> process by means of which discourses are successively or simultaneously decontextualised and metadiscursively recontextualised, so that they become a new discourse associated to a new context and accompanied by a particular metadiscourse which provides a sort of "preferred reading" for the discourse. (Blommaert 2005: 47)

As a tool of analysis, entextualisation points to the specific instances of other texts being introduced into a new one, turning "intertextuality into an empirical research programme" (Blommaert 2005: 47). Entextualisation can be seen in instances where other voices directly intrude (e.g., as direct quotes in media texts). As such, it is a useful concept in the analysis of news articles, focusing on the multitude of voices and opinions and pointing to different sources present in a single media text.

3.2. Space and Positioning on the Textual Level

The way that we speak within a position in the world system is translated into the discourse and text we produce. This is why discourse analysis focuses on the relationship between text and society which is mutually constitutive: society shapes the discourses produced within it and the discourse produced shapes the society and says something about it. Discourse is social magic that involves calling into existence that which is named (Bourdieu 1997: 223). The analysis on the textual level starts out by applying some of the tools proposed by Fairclough (1989) in his model of CDA which has three stages: description, interpretation, and explanation. The analysis mainly uses the first one which is "concerned with formal properties of the text" (Fairclough 1989: 5) and helps identify the participants and processes that are positioned in relation to one another and have varying degrees of mobility and agency. Mapping the participants is an important starting point as "the articulation of these categories of agents /.../ points to the articulation of different social systems /.../ and an

articulation of different orders of discourse" (Fairclough 2000: 148). Interpretation is aimed at contextualising textual findings in their immediate social surrounding and is necessary because "the relationship between text and social structures is an indirect, mediated one" (Fairclough 1989: 140). The two broad levels are addressed with the help of Blommaert's constraints which lend structure to the macro analysis, something Blommaert approaches by trying to systematise it more specifically than Fairclough. Blommaert's constraints are also more oriented towards mapping the way in which positions are assigned and recreated in and through discourse.

The key aspects explored in the textual analysis are based on the tools of analysis that Fairclough has developed greatly on the basis of Systemic Functional Linguistics (SFL) and, especially, on the basis of the work done by Halliday (1994). Halliday (1994: xv) suggests that the purpose of analysing text is both to understand it and to evaluate it. The latter requires a more complex and systematic analysis of the relationship between the text and the context and, as such, serves as a valuable foundation for CDA (Fairclough 2003: 5, also used, for instance, in van Leeuwen 1993, 1996). In starting to explore the relationship between the text and the context, Fairclough's (1989) level of description firstly focuses on establishing the participants in the corpus and identifies the processes that they are involved in. The choice is between actions, events and attributions, each suggesting a different degree of involvement (Fairclough 1989: 122). Actions presuppose the involvement of two participants, with the agent acting upon or affecting the patient. Events explicitly involve only the agent, whereas the patient or the goal of this "non-direct action" (Fairclough 1989: 122) is not specified in the sentence. Finally, attributions involve the specification of characteristics or qualities that an agent is thought to have. Although developed on the basis of Halliday and SFL, Fairclough does not adopt the tools provided in their initial form. Halliday's (1994) system defines clauses as representations (Finch 2005: 89) and this is what the present dissertation is also concerned with. Halliday's SFL distinguishes between material, mental, relational, behavioural, verbal and existential processes (Finch 2005: 88–92). These offer the opportunity to categorise clauses and processes through their different semantic roles. However, for the purposes of the present analysis, Fairclough's division into actions, events and attributions suffices to map the elements in preparation to exploring their spatial, modal and temporal mappings. Actions largely coincide with material processes in that they are directed towards certain goals; events coincide with mental, behavioural and verbal processes in that goals are often not part of these constructions (although verbal processes can also serve as actions if they are clearly directed to another element); finally, attributions resemble relational and existential processes in that they focus on the existence and characteristics of participants without directly affecting the shape and form of the discourse space.

Following initial textual mappings, the analysis focuses on mapping the positions and spatial relations between participants in Chilton's (2004)

coordinate system that maps space, time and modality. Chilton's model is used for the investigation of space and positioning as well as indexicality. According to Chilton (2004: 56), positioning occurs between participants in relation to each other, to the physical location that they occupy and to the moment of speaking. These aspects are important in mapping elements in the discourse space which is a conceptual representation of how texts create the world by selecting certain elements to be mapped and by defining specific relationships between these elements. The participants and their approximate positions in relation to one another can be mapped on the basis of linguistic features (Chilton 2004: 61).

The axes of the coordinate system intersect in the deictic centre which signifies the speaker's point of view and encodes the "here", "now", "us", "good" and "right". The deictic centre is the point in relation to which other participants and processes are mapped. The axes move from the centre of the "self" towards the perceptual or conceptual periphery at the endpoint of which is the "other" (Chilton 2004: 56–58). The distance of elements from the centre or from other elements cannot be measured in exact terms; rather, "people tend to place people and things along a scale of remoteness from the self, using background assumptions and indexical cues" (Chilton 2004: 58). Thus, "[o]ther entities (arguments of predicates) and processes (predicates) 'exist' relative to ontological spaces defined by their coordinates on /…/ [the] axes" (ibid). This means that positioning is a dynamic and relative process that indicates a dialogical relationship between participants, processes and the background system which comprises of the socio-cultural context of discourse. The approximate positions established by mapping linguistic markers reflect the understanding of discourse that relies on people's shared knowledge of the society and social relationships. Although the present analysis stays focused on what is encoded in the texts as such, this does not mean that people decode texts in the same way. Quite the contrary – individuals are likely to process and understand discourse very differently since they do this on the basis of their positions in a society, as the below analysis still indicates.

The vertical spatial axis reflects both the physical and conceptual space. The placement of elements on the axis involves conventional understanding of where certain elements should be located, reflecting social hierarchies and power relations. Objects with greater authority, power and respect (whether on a personal or institutional/public level) are placed higher. Since a discourse space is largely defined in terms of the relationships that participants and processes in it have, there are no stable discourse space as such. Rather, it is a changing construct that includes the elements immediately present in a text and maps them in relative terms. In news articles, this means that, as points of view shift and articles progress through different phases of reporting, the discourse space set up inside one or several articles changes. Depending on the voice brought into the coverage, the position of other elements in relation to the centre can change considerably. It is at the intersection of the voices and opinions that power relations come to impact how meaning is created and legitimised in the

society. In the text, space is primarily mapped with prepositional phrases, pronouns, metaphors and lexical choices.

The metaphor emerges as a central concept in the investigation of positioning, especially in spatial terms. People's understanding of the world largely operates on spatial terms and this is reflected in the use of metaphors that are grounded in a spatial understanding of the world. The fact that metaphors allow mapping between source and target domains usually results in a more abstract concept being conceptualised in a tangible manner (Chilton 2004: 51–52). Hierarchies are conceptualised through metaphors that make use of such divisions as "high-low" and "over-under"; whereas social groups can be referred to in terms of containment and by applying the distinction of insiders and outsiders (Chilton 2004: 52); a distinction that also relies on assigning different degrees of remoteness. Metaphors are not only involved in spatial representations but also conceptualise modality and temporal relationships. Thus, as a tool of analysis, they extend beyond the individual axes and are relevant in establishing positions in general.

The temporal axis is the only one to stretch in both directions from the centre, as "both past and future can be remote" (Chilton 2004: 59). Specific dates and times can be mapped on the axis, but it is more important to keep in mind that time is also culturally relevant and relative: the axis encodes (collective) selective memory or a constructed past and expectations and scenarios for the future. A participant or a process can be placed in a "particular historical periodisation" (Chilton 2004: 56) which implies certain beliefs, values and opinions. The fact that several points of view can be constructed of a single event points to the possibility of competing interpretations of the past and present. Neither is future a neutral territory as there are "conflicts between different visions of the future" (Dunmire 2005: 487). Remoteness on the temporal axis need not have a negative connotation, as elements placed in the distant past can acquire greater significance (as has happened to the US Constitution). Mappings on this axis are best interpreted in connection to their simultaneous positioning on the spatial and modal axis.

According to Winter (1998: 98–99), social relations in speech acts can be described along two dimensions: the dimension of social power relations and the dimension of roles in the speech act. These combine in situations in which there are certain power relations between the participants and in which certain modal expressions are used (ibid.). Winter further underlines the close connection between modal expressions and power. Modality has also been conceptualised as the grammaticalised manifestation of the speaker's subjective attitudes and opinions in which epistemic modality reflects the necessity and likelihood of something and deontic modality is associated with the speaker's wishes (Palmer 1991). The modal axis in Chilton's model encodes these two modalities: deontic modality points to what the speaker considers morally right and epistemic modality points to what is considered factually correct. The deictic centre is "the origin of the epistemic *true* and the deontic *right*" (Chilton 2004: 59); and what is perceived to be wrong in a factual or moral sense is

distanced from it (Chilton 2004: 60). Modality is marked with modal verbs, the use of negative and other linguistic features. Modal verbs more frequently associated with the centre or the "self" or "us" are "will", "can" and "might", whereas those associated with the remote, the "other" or "them" are "shouldn't", "mustn't" and "oughtn't" (ibid.). They form a scale moving from the "self" (who is always right, good, and engaged in what is allowed) to the "other" (who is wrong, bad, and engaged in what is disallowed). This is highly contingent upon the speaker's deictic centre and likely to alter, especially in news articles where one main goal is to introduce different views of the same events.

The use of different strategies to represent the "other" in a negative manner is a familiar topic in CDA (Caldas-Coulthard 2003: 288, van Dijk 2006c: 373). Establishing the "us-them" distinction with pronouns has been investigated in connection to categorisation and the formation of groups (van Dijk 1999, Sacks 1999). For one, the use of "we" can be ambiguous, as the group referred to can be unclear (Chilton and Schäffner 1997: 218). Representatives of groups and institutions can use "we" without specifying whether they refer to the organisation or to the society. With the role of "we" (whether it includes the audience or not), Fairclough (1999: 127–128) suggests that its use can be a significant indicator of power relations and authority: for example, the government can use it in appropriating the right to speak for all citizens. Whatever strategies are used, excluding some voices or representing them as a unified or monolithic group can lead to the development of stereotypes (van Leeuwen 2008: 147). According to van Dijk (2009: 52), groups seek to define places as belonging to them, establishing borders between "us" and "them", insiders and outsiders. The use of modal expressions help construct the "representations, identities, and relations" (Fairclough 1995a: 5) in news articles and is an indicator of the participants' positions in relation to each other.

In many ways, creating such groups and establishing positions in discourse in general serves the purpose of legitimising some voices and opinions. Whether intentional or not, this is what news representation amounts to, even in the case of news articles that seek to offer a balanced picture of events. The sheer fact that some elements are mapped in the discourse space legitimises them as participants qualified to speak on a given topic. By extension, absent and marginalised voices and opinions are delegitimized, since legitimisation is "intrinsically dyadic" (Cap 2008: 22). Chilton (2004: 111, 117) divides legitimisation as he does modality – into epistemic and deontic types, respectively relating to factual and moral claims. This echoes Berger and Luckmann's (1966: 110) claim that "legitimisation is not just a matter of 'values'. It always implies 'knowledge' as well". This means that legitimisation offers not only reasons for acting in specific ways but also provides explanations as to why things are how they are (ibid.). Berger and Luckmann's (1966: 112) suggestion that all language is essentially legitimisation is taken up by van Leeuwen (2007: 91) in his discussion of four major categories of legitimisation. Of these categories (authorisation, moral evaluation, rationalisation and mythopoesis) the

most relevant for the present analysis is legitimisation through authorisation; more specifically, authorisation through personal authority, expert authority, impersonal authority and the authority of tradition (see van Leeuwen 2007: 94–96 for a more detailed discussion of the types). The analysis below illustrates how some voices enter discourse spaces due to their personal authority that is related to their role in an institution (e.g., justices of the Supreme Court), expert authority related to expertise (e.g., legal representatives and judicial scholars), impersonal authority (e.g., the Second Amendment) and the authority of tradition (e.g., news reporting traditions, traditions of interpreting the law and the Constitution), contributing to the selection and salience of elements to be mapped in the discourse space.

Chilton's model is considered primarily a spatial model of proximisation by Cap (2008) who proposes an elaboration of it. His development aims to give the "capacity to respond to the temporal variability of the social and political discourse context generating, over time, a number of lexically different manifestations of the speaker's same principal goal" (Cap 2008: 39). Cap (2008: 31) proposes an analytical model based on six lexico-grammatical categories that aim to decode identities, movements and contacts relative to the deictic centre. This he proposes to do with the STA model – a model with a spatial, temporal and axiological axis. In this model, "the strategy of proximization assumes continual shifting of the concepts identified in these three dimensions in the direction of the deictic centre" (Cap 2008: 36), thus, assigning varied degrees of salience to elements as participants move them closer to the deictic centre to make persuasive arguments or achieve legitimising goals. The notion of shifts and capturing them is very much a concern in the textual analysis conducted in this dissertation, with a focus on news texts that extend over a long period of time and numerous deictic centres that map other elements relative to themselves in a dynamic manner.

3.3. The Corpus

The methodology has been compiled with the aim of analysing the corpus collected from *The New York Times* online version between April 2007 and August 2010. The corpus includes only news articles written to cover the *Heller* and *McDonald* cases as they were moving towards, being discussed or decided by the Supreme Court. Opinion pieces, editorials and other types of text produced have been excluded with the aim of remaining focused on a specific genre across the different court cases. The *Heller* coverage includes 21 articles published between March 2007 and July 2009, labelled NYT1, NYT2 and so on based on the order that they were published in. The 21 articles cover both the appeals court level (NYT1–NYT4), the Supreme Court deliberation of the case (NYT5–NYT21) and the aftermath of the *Heller* decision (NYT17–NYT21). As the articles look outside their temporal segment and comment on the court case and its progress as a whole, the analysis will not treat these stages separately.

The *McDonald* corpus mainly includes news articles that cover the period of actual SC deliberation and decision making (NYT22–NYT26). Only NYT27 offers commentary on the aftermath and reactions to the decision. An additional news article is included from the 1939 *Miller* case, labelled NYT0. This is a disproportionate addition to the other sub-corpora, yet serves as an important comparison as the report on the only previous SC precedent narrowly focused on the SA.

4. THE SOCIO-HISTORICAL CONTEXT OF THE SUPREME COURT, THE SECOND AMENDMENT AND THE GUN DEBATE

This chapter explores some aspects of the social context and historical development of the Supreme Court discussion of cases pertaining to gun rights specified in the Second Amendment. The focus is on how the media constructs what had happened before the articles covering the SC discussion were written and before the court had reason to discuss them. The chapter begins with the history of the SC, the highest court in the US, assigned with the task of providing oversight of the executive and legislative branches of government and protecting people's constitutional rights. The chapter also discusses the process of nominating and confirming SC justices. This is a highly ideological and politicised process: the justices are seen to have great authority as they can pass decisions that can affect legislation across the nation. The chapter also offers some details on the current members of the SC and their role in the gun debate. The justices have either conservative or liberal allegiances and they tend to follow them. This is why their backgrounds are such an issue when they are nominated. Their ideological divisions could be seen as shared or common knowledge in the US society which is why the news articles do not always detail their backgrounds, assuming that the readership has prior knowledge of this. Following this, the chapter continues with an account of the formulation of the SA and the factors contributing to its creation in its eventual form and then continues with the discussion of the three SC precedents connected to the SA. It finally elaborates on the socio-political factors that have led to the SC, the SA and the individual court cases being viewed and represented in a certain manner.

4.1. The Supreme Court

The Supreme Court is the highest court in the judicial branch in the US. Established in the late 18th century, it has become a highly revered institution to which people look for judicial guidance and the interpretation of founding texts such as the Constitution. Despite its honoured position, the process of having the SC set precedents and decide judicial questions is often problematic. The justices are restricted by procedural, political and ideological nuances. Thus, their work is not always set aside from everyday political bickering (Woll 1990: 582) but is subject to interpretation and assessment in a specific social context. The Constitution explicitly creates the SC (Baum 2001: 23): article III, Section 1 states that "[t]he judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish" (Woll 1990: 629). With that and with the authority of the Judicial Act of 1789, the SC was established and organised in 1790 as the highest institution in the judicial branch (Supreme Court of the United States

n.d.: para. 3). The aim was to design a branch that would serve as a check on the executive and legislative branches (Woll 1990: 565). The judicial branch or the SC would not be superior to other branches but would judge the constitutionality of what they do (Hamilton 1990: 568). The system of checks and balances between the branches means that other branches have control over the SC as well: the president nominates the justices and the Congress confirms them, although after that they have a life appointment which should remove them from party politics.

The Constitution is relatively vague about the exact nature of the SC (potentially out of a political need not to overly stress the fact that the court's powers would also extend to the states and it would be able to review state legislation (Woll 1990: 570)) which made for an uncertain beginning with decades passing before its exact principles of operation were settled. It took even more time before the SC became a highly regarded judicial institution. In the first decades, it was viewed as an institution of minor importance. In the 18th century, people refused nominations and sometimes "resigned to take more attractive positions in state government" (Baum 2001: 23), leaving the SC with "trouble gathering a quorum" (Wood 2009: 437). This changed in the early 19th century under the leadership of Chief Justice John Marshall who, among other steps to improve the court's position, "argued that when a federal law is inconsistent with the Constitution, the Court must uphold the supremacy of the Constitution by declaring the law unconstitutional and refusing to enforce it" (Baum 2001: 24)[1]. Wood (2009: 432) argues that perhaps "more than any other single judge, Marshall helped to carve out an exclusive sphere of activity for the judiciary that was separate from politics and popular legislative power". Such aggressive claiming of judicial authority allowed the SC to assume a position similar to the one that it is perceived to occupy now. Since then, the SC has influenced policies and the political process as such (Baum 2001: 259). It began to shape a position for itself as the institution that can right the wrongs made to citizens and affect the general development towards a freer and safer country. Specifically in the second half of the 20th century, it emerged as a central authority in individual and minority rights, although its exact positions have varied considerably over decades (Baum 2001: 26). Today, the SC is "one of the many public and private institutions that shape the society in significant ways" and its decisions are seen to have "a powerful impact" (Baum 2001: 257–267).

Nonetheless, the court's work and position are limited and it has "little tangible power" (Baum 2001: 267) which makes its perceived importance an interesting phenomenon. Baum (2001: 5) specifies several factors that restrict

[1] This, in itself, was not an alien idea. Even before the judiciary was structured and established, Hamilton (1990: 568) expressed this notion in his essay *Federalist 78*: "where the will of the legislature declared in its statutes, stands in opposition to that of the people declared in the constitution, the judges ought to be governed by the latter, rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental..."

its impact: for one, it is limited by the fact that the justices only have a certain amount of time in a single term. Thus, they can accept only so many cases and have always been highly selective. In this sense, the SC has enormous "power to set its own agenda" and it makes use of this quite frequently (Baum 2001: 102). Also, a single decision strictly affects only the two sides of the case, though such decisions "may have a substantial indirect effect on thousands or even millions of other people" (Baum 2001: 129). It is namely the potential to affect major policies that most people seem to base their understanding of the court's role on. After all, "in the legal domain, their discourse may *be* law" (Fairclough 1996: 90).

As the highest level of the judicial branch, the SC is seen to have the last say in debates argued before it (Baum 2001: 223). This is important, because the justices address legal ambiguities and the outcome may settle debates and controversies nationwide. Such cases are of special interest, as "every case requires the Supreme Court to choose among alternative interpretations of the law", that is, to "work in the language of the law" (Baum 2001: 138–139). This provides contemporary wordings for old important texts, verbalising the sentiments and opinions of the society at a certain time; in essence, making "new law to meet new circumstances" (Wood 2009: 458). This also means that the old texts get invested with contemporary meanings and values, a process that is heavily shaped by how laws are read at a given time, since there is no "right" way of interpreting law. Alexy (1989: 3) claims that laws can be interpreted in many ways depending on the "canon of interpretation" chosen (e.g., historical, comparative, logical). With this comes the understanding of the relevance of knowing the people on the SC and knowing what guides their decisions.

Finally, the SC decisions are not effective in themselves and the cooperation of policy makers is necessary for them to have a broad impact (George and Epstein 1992, Baum 2001: 6). For the SC to be able to settle a legal question, a case requiring this has to be presented to it in the first place. The decisions are also influenced by the laws that are produced by the legislature, since the SC cannot make laws itself (Woll 1990: 575); although that is not to say that the justices are not involved in the general process of making law (George and Epstein 1992, Patton 2007, Wood 2009: 442).

There is no definitive way of measuring all the factors that affect SC decisions. Not all factors are legally relevant, that is, pertain to different legal approaches to interpreting the Constitution. There are also extra-legal approaches which have to do with the values justices have or with the fact that they cannot accomplish much on their own and have to work with eight other justices (Epstein and Walker 1998: 35). Outside pressure also plays a role and has three main sources: the public opinion, partisan politics and interest groups (Epstein and Walker 1998: 37). The most common way for an outside party to influence the SC is through filing *amicus curiae* briefs (written legal arguments presented by people and organisations that are not directly involved in a case but wish to express their opinion). George and Epstein (1992) investigate the

co-existence of the two central strands of how justices make decisions: the legal and extra-legal models. The legal model is precedent-based and adheres to the doctrine of *stare decisis*[2]. The counterpart of this is the extra-legal model (also called sociological jurisprudence) which is based on the notion that law is a matter of interpretation and that behavioural factors also influence justices (ibid.). In the end, both legal and extra-legal approaches affect the decisions, although the presence of the latter is sometimes seen as an inappropriate influence on the justices who ought to be neutral and unbiased. However, some influence from the justices' personal views is unavoidable which makes their background one relevant factor when people try to predict the court's possible courses. As Clark (1982: 300–302) suggests, the task of reinterpreting laws means argumentation through the process of selection and ongoing reconstruction, which occurs from specific perspectives that agents have.

4.1.1. Nominating and Confirming Justices

Supreme Court justices are appointed for life or, formally, to hold their offices "during good behaviour" (Hamilton 1990: 566). The permanence of the office is the main ingredient in the independence of the court. It is, as envisioned by Hamilton (1990: 567), "the CITADEL of the public justice and the public security". In the process of seeking ways to influence the court; selecting, nominating and confirming justices has become an ideological battleground, but this is not a new development:

> since at least the latter half of the nineteenth century, the political branches have viewed the federal courts as an important device for supporting and furthering their own policy initiatives and entrenching their favored values, making full use of the fact that federal judges are life-tenured /.../. Both Democrats and Republicans, liberals and conservatives /.../ have viewed the courts as important lawmaking bodies and both have seen the courts as an important prize to capture. (Balkin 2004: para. 6)

Appointing federal justices is how presidents can have their ideology influence the country for years after their administration is replaced. The Reagan administration was of the opinion that the people chosen for judicial positions should suit their ideological and judicial-philosophical outlook (Grant 2004: 135, also see Harrigan 1992: 366); which is true of other administrations as well.

The nomination of a justice begins with a position opening up, usually due to a sitting justice retiring or dying. The president chooses a candidate to be presented to the Senate in order to get its advice and consent as prescribed by the Constitution. The Senate Judicial Committee conducts hearings of the nominee which can mean several days spent answering questions before the

[2] Latin for "to stand by a decision". This is a principle that dictates that courts adhere to previous precedents as the source of legal standards.

committee (and, increasingly, before the general public) who is trying to find out about the nominee's views on specific issues and predict the role they might take on the SC. This process is affected by the political climate and the topical issues likely to appear before the SC (Yalof 2001: 6). Once the committee gives their assessment, a simple majority vote in the Senate is required to confirm a justice. The whole process is under great attention from the media, the public, interest groups and so forth who are all interested in the ideological makeup of the SC. The role nominees end up playing on the SC is difficult to predict with certainty. History knows justices who have turned out to be disappointments for those who nominated them. One explanation is that the robe comes to change the person confirmed, that is, once someone is there for life they can revise their views. Earl Warren was a Chief Justice who made much more liberal decisions than anticipated (Schwartz 1983: 173). Similar fears circle with any new members (Lithwick 2005). In a context in which SC justices can affect the entire nation through deciding major socio-political debates, the battles over who gets to sit on the court have become increasingly public and partisan (Clark 2009: 154), with potential and new members being highly scrutinised for their views and prior records.

4.1.2. The Roberts Court

The current Chief Justice John G. Roberts was nominated by President George W. Bush and took office in 2005, replacing Chief Justice William H. Rehnquist. Since Roberts was seen to replace another conservative and considered no threat to the balance of powers, the nomination was low-key and fast. Roberts was a conservative nominee in favour of "judicial restraint" (Greenberg 2001: 71) and had grown out of the positions filled during the Reagan administration (Marus 2006: para. 3). His record suggested that he was a "solid constitutionalist" (Toobin 2008: 326), that is, a conservative candidate who would pursue an originalist approach to the Constitution. *The Washington Post* anticipated that "Roberts and Alito will join Thomas and Antonin Scalia to form a long-lasting right-of-centre bloc" (Babington 2006) and this is the role he has generally filled.

Among the eight Associate Justices, the longest serving member as of 2012 is Antonin Scalia who was nominated by Reagan (Harrigan 1992: 366) and took office in 1986. Once on the SC, Scalia sided with the conservative bloc; and on the SA, his record suggests support for the individual right reading. In 1997, he wrote the majority opinion in a case striking down part of the Brady Bill[3]. Thus,

[3] Officially titled the Brady Handgun Violence Prevention Act, the law had been in effect since 1993. It was named after James Brady who was paralysed after he was shot during the attempted assassination of Reagan in 1981. Among other provisions, the bill introduced the waiting period, making it impossible to purchase a weapon at a moment's notice. According to Doherty (2008: 50), who supports gun rights, this provision (albeit a rational one) positioned gun ownership as a privilege, not a right, leaving it up to the officials to decide whether people could exercise the right to keep and bear arms at all.

moving into *Heller* and *McDonald*, it was assumed that he would treat the SA as an individual right. Another Reagan appointment is Anthony M. Kennedy who took office in 1988. He initially seemed a typical conservative justice but has turned out to be a swing vote, especially after Alito joined the SC and became the fourth member of the conservative bloc, shifting Kennedy to the middle. His views have been "usually predictable, if intellectually incoherent" (Toobin 2008: 380), not so much guided by specific ideology, as he has often sided with the liberal justices. In SA cases, he has provided the conservatives with the fifth crucial vote.

George H. W. Bush also preferred candidates who shared his ideological views, filling prominent positions in the judiciary with ideological conservatives (Lukacs 2004: 410). An example of this is Clarence Thomas who took office in 1991 after scandalous hearings (Thomas et al. 1993, Yalof 2001). His role on the SC has been a conservative one, including his views on the SA. In the 1997 decision against the Brady Bill, Thomas not only signed on to Scalia's majority opinion but submitted a concurrence which went even further, suggesting that all gun control was unconstitutional (Toobin 2008: 119).

There are two Clinton nominees on the SC: Ruth Bader Ginsburg who took her oath in 1993 and Stephen Breyer who took office a year later. Ginsburg's confirmation proceeded without incident and she was confirmed after just three days of hearings (Toobin 2008: 86). She has been a liberal member who favours moderation. In SA cases, she joined the dissenters. Breyer was very confirmable due to his connections with people on the Judicial Committee (Yalof 2001: 198). He too became a member of the liberal bloc; his views of the Constitution tend to focus on the intention of the text which is visible in his dissents in SA cases. Samuel A. Alito, nominated by George W. Bush, was confirmed in 2006. He replaced Sandra Day O'Connor who had been a liberal justice, so his hearings quickly turned into an ideological battle (The Samuel Alito Nomination 2006). The main concern was that he would dramatically shift the court to the right.

In 2012, there were two Obama nominees on the SC. Sonia Sotomayor took the oath in 2009, replacing David Souter. She became the third woman and first Hispanic on the SC (Longley n.d.). Her views on the SA were debated during her confirmation process. Earlier in 2009, she had joined an appeals court opinion arguing against applying the SA on the state level (The New York Times 2009: para. 6). On the SC, her views on the SA have not changed and she joined the dissenting justices in *McDonald*. Elena Kagan took office in 2010, replacing John Paul Stevens. Her disadvantage was the fact that she had never served as a judge which meant that her views on central issues, including constitutional law, were unclear (WhoRunsGov n.d.). Codrea (2010) reports Kagan's answers to questions related to her views on *Heller* which suggested that she considered, at least during the confirmation process, *Heller* and the individual right reading to be settled law.

The Roberts court is arguably the most conservative court in decades, despite the addition of Kagan and Sotomayor (Liptak 2010b), as it was only Alito who shifted the ideological balance in recent years and the shift was to the

right. The court's ideology has been statistically measured with Martin-Quinn scores which provide data starting from 1937 (Target Point Consulting n.d.). According to the listing for 2007, Roberts, Scalia, Thomas and Alito formed the conservative bloc, Kennedy was a moderate or swing vote and Ginsburg, Breyer, Stevens and Souter were the liberals. This was the SC in 2008 when it decided *Heller* with five justices endorsing the conservative majority opinion. By 2010, when the court decided *McDonald*, Souter had been replaced by Sotomayor. The court decided 5 to 4 that the SA applied to states as well – another conservative victory.

4.2. The United States Constitution and the Second Amendment

A distinction can be made between ethnically and politically based nations, the former referring to the "so-called 'objective criteria' such as language, culture and territory" (Wodak et al. 2009: 19). The US as a nation is not held together by historically shared language or culture; it is a politically based nation that lacks traditional markers of ethnically based nationhood. Thus, its people need other elements to facilitate the creation of a sense of (national) belonging and togetherness. This has led to the development of a civil religion which is "an organic structure of ideas, values, and beliefs that constitutes a faith common to Americans as Americans" (Bellah 1990: 77). Civil religion "exalts national unity" (Bellah 1990: 79) by giving the people objects and beliefs around which they can construct a sense of togetherness. The Constitution is among the artefacts that embody some of the principles on which the society is based and, as such, is part of national mythology and identity. It symbolizes "the ability /…/ [to survive and] to embody enduring values and ideas" (Fenn 2001: 133). The Constitution and its amendments are the texts from which the American democratic ideal and the core values of the nation stem. The Constitution is an example of performative discourse; it is the social magic that aims to create what it names, as Bourdieu (1997: 223) suggested. In this case, it is the nation and the state that are envisioned in the founding texts.

The basic form and content of the Constitution have been set for over two centuries. By September 1787, "an entirely new government scheme embodied in the U.S. Constitution" (Epstein and Walker 1998: 3–4) had been written up with the purpose of amending weaknesses in the governing system. However, its initial formulation was not acceptable to all states and, eventually, a compromise was proposed. According to it, the Constitution was to be ratified by the states if certain amendments were made – amendments that protected the states from the federal government becoming too powerful and limiting the states' and the people's rights and freedoms (Epstein and Walker 1998: 5). This led to the creation of the first ten amendments known as the Bill of Rights. The amendments ensure rights and liberties (e.g., providing guidelines for the criminal

justice system and personal rights to express one's opinion (Gitelson et al. 1996: 28)).

In an attempt to give the people a Constitution that would endure and be stable, the idea was to compile a document that would be difficult but not impossible to correct, that is, something that would be "bendable but not trendable" (Keenan cited in Epstein and Walker 1998: 7). The history of amendments thus far has shown that this aim was achieved: since the ten first amendments were ratified within three years after the Constitution was born, only 17 amendments have been added between 1791, when the first ten were adopted, and 1992, making a total of 27 (Constitutional Amendments n.d.). In 1956, Justice Frankfurter reiterated the gravity of the amendments stating that "nothing new can be put into the Constitution except through the amendatory process. Nothing old can be taken out without the same process" (Ullmann v. United States 1956: para. 13, Levinson 1995: 15).

The complicated amendment process means that only a fraction of the proposals for amendments succeed. It also means that the ones that do are considered necessary in renegotiating the meaning of the original texts to fit changing values and social contexts. The fact that it is difficult to make changes and that the changes made are considered essential adds a sense of value to the existing amendments. With the overall "reluctance to tamper with the Constitution" (Baum 2001: 244), the Constitution and the amendments have acquired a sacred aura that has only been strengthened in time. Any instances that call for the Constitution to be amended engender heated debates as to their necessity and the overall approaches to understanding the Constitution either as a living and evolving text or as something that should be interpreted through originalism which stipulates loyalty to the initial context and intentions (Rakove 2002: 210), although it has been suggested that pure originalism does not really exist but should, and often is, accompanied by some consideration of contemporary realities (Williams 2003: 19). The issue with the Constitution and its amendments has been pinpointing their exact meaning and, hence, the exact constitutional rights provided. This is difficult but necessary: even though it is a sacred text, it needs reinterpretation if it is to remain meaningful and relevant.

Of all the amendments, the SA has been the most difficult to definitively interpret due to its enigmatic wording and the differences in how people have understood it. In its entirety, it states: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed" (Woll 1990: 632). Due to the wording, it is not only a historical or judicial but also a linguistic conundrum which means that questions of language, discourse skills and participants' rights to interpret the text become central. Winkler (2007: 706) states that the text is traditionally (and inevitably) the starting point for interpreting constitutional gun rights. Its notoriously vague wording continues to shape the discussion of gun rights, although it had been considered practically defunct by some scholars in the 20th century (Shalhope 1982: 599, Pound 1957). The development of American political thought and the Constitution has been linked to English common law and this is frequently

seen in discussions of the SA's origin (Levinson 1989: 647, Doherty 2008, Williams 2003, Winkler 2007). According to Doherty (2008: 7), the oldest roots of the right point to a communal right (Shalhope 1982: 604) that co-existed with the individual one, although the right had restrictions in both instances. Hence, from early on, one is confronted with a basic opposition between the individual and the communal nature of the right and between viewing it as absolute or limited.

Cress (1984: 25) summarises some central concepts in relation to arms and security: "[n]o nation was secure except by relying on the military strength of its own people. Nevertheless, freedom did not depend on the armed individual. Arms guaranteed liberty only through the organization and discipline provided by the militia". The ideology of free and armed men as the guardians of democracy and the check on government excesses were present in the English legal tradition in which the right to bear arms was "secured to the king's Protestant subjects by the English Bill of Rights [of 1689] since James II had sought to hold down a Protestant majority by disarming them while allowing a hostile minority to bear arms" (Pound 1957: 90). The idea that the people could, in an orderly fashion, exercise their right to oppose the government by use of arms if necessary is one of a long history, reaching back to the Magna Carta and being extended to the colonies, the state provisions and the US Bill of Rights (ibid.). In discussions of the US Constitution, the SA and gun rights, frequent references are made to the English Bill of Rights (Winkler 2007: 709, Pound 1957: 181). For English authors such as James Harrington and John Trenchard, the ability and willingness to protect one's rights and freedom and the fact that one is allowed to have arms for that purpose was the mark of a responsible citizen (Shalhope 1982: 604). More specifically, though, it was thought that landowners felt a responsibility and had the will to defend their property and the state.

The ambiguity of the right can be seen in the interpretations of another influential text: William Blackstone's *Commentaries on the Law of England* from 1765. According to Blackstone (n.d: para. 41), one of the auxiliary rights of people "is that of having arms for their defense, suitable to their condition and degree, and such as are allowed by law". This is an expression "of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression" (ibid.). Although authors who support gun rights might not stress this aspect (Doherty 2008: 7), the right prescribed by Blackstone was subject to "due restrictions" (ibid., Winkler 2007: 709), not an absolute one. The right to take up arms in defence was generally reserved to people interested in preserving the state, that is, to "responsible citizens" (Shalhope 1982: 602–603) or "peaceable citizens", according to Samuel Adams (Cress 1984: 34, Levinson 1989: 648). These ideas were on the background of the creation of the SA and many authors believe the communal reading to be truest to the framers' intention in that the right that they had in mind was the right of people as a community to use weapons to defend that community and their liberty against external enemies but, most

importantly, against the tyranny of their own government.[4] Cornell (2006) points out that even if an individual right could be rationalised on the basis of the SA, it would not be an unregulated and absolute right, as an unorganised group of people with weapons is a mob, not a militia.

Although states in the 18th century agreed that the right to bear arms and the ability to protect oneself from tyranny were important principles, it would be misleading not to point out that there was no clear agreement in how to put these principles into state constitutions. Many states did not specify the right to bear arms, although most listed the obligation to participate in the militia (Cornell 2006: 16). The Virginia Declaration of Rights talked about a militia but did not specifically mention a right to bear arms; this was implied in the state not providing arms for men in the militia (U.S. Constitution Online n.d.: para. 6). Pennsylvania specified the right to bear arms without mentioning the militia as such at all (ibid.) and became the first state to claim that people had the right to bear arms to defend themselves and the state. "Massachusetts became the first state to protect a right to both 'keep and bear arms' [and] /.../ linked this ideal to an obligation to provide 'for the common defense'" (Cornell 2006: 16). The differences in the states' approaches were reflected in their gun control policies. Winkler (2009: 1562) points to gun restrictions that were in place in the founders' day which indicate that guns were considered dangerous enough to require restrictions.

Next to the diverse approaches to defining, establishing and arming militias in the states in the 18th century, additional complicating factors were the fears and concerns states had about establishing a federal government. The main concern was that it might become oppressive, form a standing army and start infringing upon the states' and people's liberties. To avoid that, the states' right to have militias had to be protected, which many states wanted to have in writing when it came to drafting the Constitution. It was a firm conviction that the security and independence of the states relied upon trained, organised and willing citizens (Cress 1984).

James Madison, when drafting the SA, was strongly influenced by state constitutions (especially that of Virginia) when he suggested that it should read: "The right of the people to keep and bear arms shall not be infringed; a well armed and a well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person" (Cress 1984: 36). This was later rewritten and one thing to be excluded was the reference to the religiously scrupulous being obligated to contribute in another manner, as the idea of some being allowed not to participate in the defence of the community was troubling to members of the House (Cress 1984: 36–37). The existence of an early reference to religiously scrupulous people being allowed not to serve is relevant to discussing the

[4] The term "people" did not include everyone in the society but often meant propertied, educated and trained freemen who were peaceable and had not been involved in a rebellion or proven to be dangerous to the community.

meaning of the SA as it was finally drafted. For Cornell (2006: 17), this is further proof that it had been intended to protect a communal or civil right, not an individual one: a government cannot force a person to take up arms to defend their lives as individuals, but it can make a person take up arms for the defence of the community. According to Cornell (2006: 18), who relies on Blackstone, the issue of an individual right was entirely excluded from the intention and meaning of the SA. Cornell (2006: 2) writes that "the original understanding of the Second Amendment was neither an individual right of self-defense nor a collective right of the states, but rather a civic right that guaranteed that citizens would be able to keep and bear those arms needed to meet their legal obligation to participate in a well-regulated militia". Cress (1984) is likewise firmly of the opinion that the SA was intended to protect a communal right (also see Levinson 1989: 646, Williams 2003). According to Cress (1984: 38), the final version (approved by the House and Senate on September 24 and 25, 1789, respectively) made no reference to an individual right.

The communal or civic meaning has largely been lost by now. The main opposition nowadays is between "an 'individual rights' thesis whereby individuals are protected in ownership, possession, and transportation [of guns], and a 'states' rights' thesis whereby it is said the purpose of the clause is to protect the States in their authority to maintain formal, organized militia units" (FindLaw n.d.b: para. 2). The idea that the right to keep and bear arms is an individual and absolute one developed later in American history (Williams 2003: 22, Cornell 2006: 7). Cornell (ibid.) claims that the "[i]ndividual rights theory was born in the Jacksonian era as a response to America's first efforts at gun control. Collective rights theory emerged slowly at the end of Reconstruction and only crystallized in its modern form in the early twentieth century". The contemporary debate over the individual versus collective right issue could be termed equally misconceived on both sides (Cress 1984, Williams 2003, Cornell 2006). A contributing factor in the persistence of the opposition is the fact that, until 2008, the SC had not explicitly stated their interpretation of the SA.

Kopel (1999) investigates what the SC has said about the SA indirectly and claims that court cases from the 19th century mostly interpreted it as listing an individual right. In Kopel's (1999) account, the first court case in which the SA was mentioned was *Houston v. Moore* (1821) in which a dissenting opinion by Justice Story briefly discussed the SA, counting the states' right reading incorrect. Next to this, *United States v. Cruikshank* (1875) and *Presser v. Illinois* (1886) are frequently cited in connection to the understanding of the SA in the 19th century. The former is claimed to have supported the states' right view (Levinson 1989: 652, also mentioned as supporting this view in Cress 1984) and the individual right view (Kopel 1999), depending on who interprets the decision. The decision itself reads:

> The second amendment declares that it shall not be infringed; but this, as has been seen, means no more than that it shall not be infringed by Congress. This

> is one of the amendments that has no other effect than to restrict the powers of the national government, leaving the people to look for their protection against any violation by their fellow-citizens of the rights it recognizes. (United States v. Cruikshank 1875)

Kopel (1989) suggests that the correct way to understand the decision is to see it as an affirmation of an individual right, as the SC does not specifically connect it to militias; other scholars (Cress 1984, Levinson 1989) have interpreted it to only limit Congress.

Presser v. Illinois began when Illinois workingmen claimed that the state had infringed upon their SA right when it banned armed public parades (Kopel 1999). The SC decision held for the states right view, stating that the SA did not limit Illinois' right to establish such a ban (Levinson 1989, Kopel 1999). But as the SC also stated that such a ban did not in itself infringe upon people's right to keep and bear arms, the individual nature of such a right was implied. Based on this and other cases, Kopel (1989, 1999) concludes that the individual right reading was the dominant reading in the 19th century and continued into the 20th. But contrary views can be found: Cress (1984: 42) claims that the SA was drafted with the aim of protecting state militias, not an individual right, and considers this settled constitutional opinion in the 18th century intellectual climate.

In time, then, the SA has become interpreted in two opposing ways which makes for a partisan debate with high stakes. For one, people who interpret it as an individual right have been fearful of the possibility that its meaning could be fixed as a collective right and gun owners could be disarmed. People on the gun control side have been equally fearful of guns and armed criminals overwhelming the society and threatening everyone's security. Cornell (2006: 6–7) states that the current debate is the result of ideological and political struggles and has less to do with the original meaning of the text. Another complicating factor in reading the SA is the loss of fear of the government becoming oppressive in a manner that would necessitate taking up arms against it. Levinson, writing in 1989 and making cautionary references to the student demonstration in Tiananmen Square and to problems in Northern Ireland, points to the protection the SA and an armed citizenry originally provided against governments that could become tyrannical (1989: 656–657, also see Cornell 2006: 4). In such instances, it would not only be the people's right but their civic obligation to protect the community (Cornell 2006: 13).

With such fundamental differences, common ground is difficult to find and the debate turns into bitter opposition. For Williams (2003: 98), this represents a fundamental shift from the myth of unity that dominated the framers' time to the myth of disunity prevalent today which makes it doubtful whether the initial communal meaning, even if it were not neglected, would actually be helpful to the current debate. In the end, the power to decide the debate is very much in the hands of the SC that has become the highest institution and authority in constitutional law and review. On the topic of the SA, however, the SC has remained quite silent and there are really only three cases that narrowly focus

on the text of the SA, its meaning and scope. The following subchapters outline these three cases, their backgrounds, deliberation in the SC and their implications.

4.3. The Second Amendment in the Supreme Court

Over two centuries passed from the drafting of the SA without a "definitive resolution by the courts of just what right the amendment protects" (FindLaw n.d.b: para. 2). Lower courts looked to the SC to provide guidance, but it had "almost shamelessly refused to discuss the issue" (Levinson 1989: 653–654), leaving it up to the lower courts to answer the questions regarding gun rights and their limits. It was only during the last decade that enough pressure gathered and focused efforts were made to have the justices hear a SA case. This subchapter focuses on the SC precedents that directly address the SA: *United States v. Miller* (1939), *District of Columbia v. Heller* (2008) and *McDonald v. Chicago* (2010)[5].

4.3.1. United States v. Miller

The Supreme Court had rarely directly addressed the SA before the beginning of the 21st century and did so last in 1939 when it decided *United States v. Miller*. *Miller*, labelled "an impenetrable mess" by some scholars (Frye 2008: 49), has been made confusing by the fact that people on both sides claim that it supports their views (Brown 2001: para. 2). The ambiguity is the result of both gun control and gun rights advocates preferring to view the narrow scope of the decision in the broad context of their objectives and ideologies.

Miller began in 1938 with the arrest of Jack Miller and Frank Layton for the possession of an unregistered sawed-off shotgun considered illegal under the National Firearms Act (NFA) of 1934 (Frye 2008: 48). The decision moved through the District Court of Western District Arkansas with the court ruling that the NFA violated the SA. The case was then presented directly to the SC (a right of the federal government at the time when a federal statute was found unconstitutional (Kopel 1999: para. 12)), where only the government side was heard after Miller and Layton disappeared once they were freed by the lower court decision. Paul E. Gutensohn, their appointed counsel, who was originally meant to represent them before the SC, declined to do so since he had been unable to obtain money from his clients (Frye 2008: 59, 67). The case dealt only with the question whether that particular type of weapon is relevant in relation to the militia mentioned in the SA. In 1939, the SC was clear in their 8 to 0 decision (the newly appointed Justice Douglas was yet to be confirmed) in which Chief Justice McReynolds stated that "we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument" (United

[5] The names of the court cases are shortened to *Miller*, *Heller* and *McDonald* below.

States v. Miller 1939: para. 3; Findlaw n.d.a: para. 7), having in mind a sawed off shotgun (Brown 2001: 12). *The New York Times* (1939), reporting the decision handed down on May 15, 1939 connected the decision to the government's improved position to "fight bank robbers, gangsters and other criminals, whose favourite arm is the sawed-off shotgun".

Even though the case dealt narrowly with the sawed-off shotgun and the NFA, it has been interpreted broadly, leading to a situation in which "the anti-gun lobby can claim that it permits reasonable regulation of firearms. Gun rights advocates can say that it supports the right to own military style weapons" (Brown 2001: para. 22). The matter is further complicated by the fact that the decision remained open-ended: it left some room for interested parties to return to court to attempt to prove that the sawed-off shotgun actually had something to do with the militia. However, Layton pledged guilty to the weapons charge after the SC decision and Miller died before he could continue with the case after it was remanded for further discussions.[6] In this sense, "McReynolds assumed the Second Amendment guarantee ensures those subject to conscription may possess weapons suitable for militia service" (Frye 2008: 75), assigning on to another argument made by the government which stated that "the Second Amendment does not protect the weapons used by criminals" (ibid.). Which weapons would be protected and how was left unclear. Nor did McReynolds declare the SA an individual right (Kopel 1999: para. 13).

The fact that the only previous case related to the SA was argued 70 years ago and resulted in a confusing decision has contributed to active lobbying and campaigning on both sides. In the 20th century, a number of states and cities enacted gun bans to achieve some control over gun-related crime. However, most bans were soon abolished as numerous studies and polls have demonstrated people's dislike of aggressive gun control because "while gun control is sometimes popular, gun prohibition is not" (Kopel 2007: para. 3). There are various gun regulations and policies in effect with no clear opinion from the SC. The issue has largely been up for interpretation for decades with varying degrees of aggressiveness and urgency.

[6] This aspect of the decision is discussed by Puckett (2003) who has made a case for such weapons being useful in the military/militia. According to him (2003: 58), sawed-off shotguns are as much part of the criminal domain as cars or computers that could be used in committing crimes. Thus, there is no constitutional reason to ban these weapons (which Puckett shows to have been part of militia service before *Miller*). Commenting on *Heller*, Winkler (2009: 1560) further points to the arbitrariness of the distinction between weapons considered to be commonly used and weapons counted outside the militia arsenal. In his opinion, this is reasoning on the basis of dynamic consumer choices rather than legal principles.

4.3.2. A Period of Quiet

During the 70 years that the SC was silent on the SA, it did express some opinions that could be taken into account in discussing the amendment. Kopel (1999: para. 1) argues against the prevalent understanding that the SC has not addressed the issue, pointing to "the thirty-five other Supreme Court cases which quote, cite, or discuss the Second Amendment". According to him, these cases indicate that the court has supported the individual right reading. Among the cases discussed, 19 postdate *Miller* and most of these support the individual right interpretation. Kopel (1999) argues that instances in which the SA is mentioned in other legal debates might prove illuminating in terms of what right the court identifies in the SA. Only two of the 19 cases deal narrowly with gun control or gun rights; others deal with various judicial questions, for example, women's right to have abortions (as another area in which the government's influence and right to limit personal choice is debated), questions of criminal procedures and so on.

Burton v. Sills (1969) was a challenge of New Jersey's gun licensing law. It did not ban guns but established a screening procedure by which criminals, drug addicts and so on could be denied the right to keep and bear arms (Kopel 1999). The case was presented to the SC, but it declined to hear it; which casts little light on how the justices would have viewed the lower court decision which had rejected a SA-based challenge. The other court case directly related to gun rights was *Printz v. United States* (1997), a decision that declared part of the Brady Act unconstitutional. The SC decided in *Printz* that the federal government had no right to force states to conduct background checks (Toobin 2008: 152). Justice Thomas, in the footnotes of a concurring opinion, offers two points that are relevant here. First, he notes that the SA has not been discussed since *Miller* and that the SC has never addressed the individual right issue. Second, he points to the amount of scholarly writing on the SA which, for him, supports the individual right view (Printz v. United States 1997: para. 6, Kopel 1999). On the SA, Thomas writes:

> The Constitution, in addition to delegating certain enumerated powers to Congress, places whole areas outside the reach of Congress' regulatory authority. /.../ [The SA] similarly appears to contain an express limitation on the government's authority. /…/ This Court has not had recent occasion to consider the nature of the substantive right safeguarded by the Second Amendment. If, however, the Second Amendment is read to confer a personal right to "keep and bear arms", a colorable argument exists that the Federal Government's regulatory scheme, at least as it pertains to the purely intrastate sale or possession of firearms, runs afoul of that Amendment's protections. As the parties did not raise this argument, however, we need not consider it here. (Printz v. United States 1997: para. 2)

This in itself does not serve as precedent to guide lower courts, but it leaves the door open to the possibility of the SC accepting a SA case, especially

considering the reference to the growing interest in the SA among legal scholars and the court's (or at least Thomas's) willingness to comment on it.

After *Printz*, there were other signs that suggested a possible reinterpretation of the SA as an individual right, of which Winkler (2007) lists two most prominent ones: the court case *United States v. Emerson* (2001) and former Attorney General John Ashcroft's Memorandum to United States Attorneys. *Emerson* involved a challenge of a law which excluded people under restraining orders from owning weapons. The case eventually reached a court of appeals that affirmed a person's right to "privately keep and bear their own firearms that are suitable as individual, personal weapons and are not of the general kind or type excluded by *Miller*" (United States v. Emerson 2001: 63–64). This interpretation revived the SA for gun rights advocates (Doherty 2008: 20) and, whether welcomed or not, broke away "from at least eighty years of federal court precedent and construed the Second Amendment to protect an individual right to bear arms" (Winkler 2007: 690). John Ashcroft's Memorandum was another sign of growing support for the individual right reading. In 2001, General Attorney Ashcroft wrote that the circuit court, in declaring the right to keep and bear arms an individual one without declaring the law unconstitutional in *Emerson*, struck a balance that reflects "the correct understanding of the Second Amendment" (Ashcroft Memorandum 2001). Winkler (2007) remains sceptical of what this means for the application of the right. In his opinion, Ashcroft accomplished little more than a repetition of the confusion already created by *Emerson*. Both *Emerson* and the memorandum preached the individual right but were adamant that existing regulations were not negated (Winkler 2007: 691–692, Ashcroft Memorandum 2001).

In the end, Kopel's (1999) conclusion that the SC has supported the individual right view through decades is problematic. There are contradictory views: Henigan (1989) suggests that the SA's history in the SC shows that it has had next to nothing to do with limiting individuals' right to possess arms (also see Kopel 1999: para. 5). Thus, it would be impossible for lower courts to decisively adopt the individual right interpretation without a specific precedent from the SC, especially when it comes to applying the SA on the state level which the courts could not do without the SC first deciding that the SA actually applied to them (a conclusion that was entirely missing up to the early 21st century). In the context of such uncertainty, the justices were bound to accept a case in order to end the speculation and interpretation by lower courts, legal scholars, gun rights and gun control activists (Ruhl et al. 2003: 43).

4.3.3. District of Columbia v. Heller

The meaning of the SA became newly topical in the early 21st century when the SC accepted a court case from the District of Columbia. *District of Columbia v. Heller* concerned a handgun ban in place in Washington, D.C since 1976. The ban stated that no new guns would be allowed in the district, other than the ones

already registered by the residents (Kopel 2007: para. 2). There were problematic nuances:

> Formally, the District of Columbia only prohibited people from having handguns if the weapons were not registered. One might infer that the District permitted registered handguns, but a different provision of the D.C. Code prohibited the registration of handguns. Another provision outlawed the carrying of handguns, either openly or concealed, without a license. But the District did not issue licenses. And despite the common understanding of "carrying" a pistol to refer to possessing the weapon in public, rather than at home, the District stretched the term well beyond that meaning and defined "carrying" to include moving handguns from one room to another within one's own house. (Winkler 2009: 1553)

It was in this context that the Cato Institute, a libertarian group against gun prohibition, initiated a lawsuit on behalf of a number of D.C. residents in 2003. The challenge relied on the claim that the ban was unconstitutional and restricted their right to defend themselves (Brady Centre to Prevent Gun Violence n.d.: para. 1). Robert Levy was the mastermind in getting the process started by finding the lawyers, plaintiffs and funding[7]. Initially, the case had six plaintiffs (Shelly Parker, Tom Palmer, George Lyon, Gillian St. Lawrence, Tracy Ambeau Hanson and Richard Heller) whose claims were based on the issue of personal safety (mostly in the home). They were not, as a group, so-called gun people nor were they operating on the basis of "ideology, or mania, or fantasy" (Doherty 2008: 32). Of them, Heller was found to have the strongest stand, having been explicitly denied the right to register a gun he had purchased and owned elsewhere.

In March, 2007, a decision was issued by the U. S. Court of Appeals for the D.C. Circuit in the case then known as *Parker v. District of Columbia*. In the decision that struck down the gun ban, the court upheld residents' basic right to own weapons. However, this did not settle the issue in a decisive and broad enough manner and both sides agreed that "the Supreme Court should revisit the Second Amendment for the first time since 1939" (Levy 2007: para. 1) and issue a decision. Alan Gura (2007: para. 7), an advocate of gun rights, wrote: "Heller will likely be the highest-profile case on the Court's docket this term, and it promises to be among the most closely watched constitutional law cases in decades". Numerous factors were expected to influence the SC in deciding the case, among which was the fact that it had not addressed the SA for decades, making it difficult to predict how the justices might approach the question. Interest groups were also expected to play a role: "given the sparse legal

[7] *Heller* was heavily dependent on and strongly connected with interest groups, receiving its funding from groups supporting the overturning of the law (Jaffe 2008: para. 52–55). Levy, involved in the Cato Institute, was also active in another libertarian legal action group, Institute of Justice, which was not directly involved (Doherty 2008: 24). Another participant was the National Rifle Association, but it initially opposed the case, fearing the SC might decide against an individual right interpretation.

precedent and the magnitude of the issue, amicus briefs are likely to play an especially important role in the Court's deliberations" (Neily 2008: para. 2). The opportunity to present amicus briefs was used by many third parties: briefs against the ban were filed by senators, states, military officers, criminologists and scholars (Neily 2008: para. 5–8); briefs in its defence were filed by historians, the City of Chicago, the Brady Centre and so on (for a list, see FindLaw n.d.c).

The long debated question whether the SA lists an individual or a collective right was formally answered in 2008, when the SC ruled for an individual right that cannot be denied outright. Gun control advocates were denied the collective right interpretation which assuaged the gun rights advocates' fears that gun regulation would eventually lead to total disarmament. Thus, *Heller* was received as a step towards a more constructive discussion of gun rights and regulation, a discussion outside the ideological clashes of the extremes; it was hoped that the debate could now focus on practical details. But the debate was long from settled, as the SC created more questions than it answered (Winkler 2009, also see Põiklik 2008 and 2011). The justices stated that, although an individual one, the right to keep and bear arms is not universal and reasonable restrictions are allowed. However, they did not specify how to balance the two.

Winkler (2009) presents a scathing analysis of the decision and of the whole gun rights debate, comparing *Heller* to Joseph Heller's satirical novel *Catch-22*[8]. *Heller*, deemed by some an exemplary instance of judicial originalism, is in Winkler's opinion an example of the Constitution being interpreted as a living and evolving text. Winkler (2009: 1559) concurs with Posner (2008: para. 9) who considers Scalia's opinion "faux originalism" in that it claims to proceed from the framers' intent and the original meaning of the SA whereas, in fact, a true originalist approach would have yielded the opposite result. Posner comments on the meaning of the SA:

> Since a militia, provided that it is well regulated, is a very good thing for a free state to have, the federal government must not be allowed to castrate it by forbidding the people of the United States to possess weapons. For then the militia would have no weapons, and an unarmed militia is an oxymoron. /.../ The text of the amendment, whether viewed alone or in light of the concerns that actuated its adoption, creates no right to the private possession of guns for hunting or other sport, or for the defense of person or property. (Posner 2008: 3–5)

By this interpretation, Scalia's opinion is far from the originalist approach and actually laden with his ideology and wish to expand gun rights.

[8] This is not the only instance in which the concept of Catch-22 is evoked in connection to *Heller*. Gura used the same expression to comment on the D.C. law that *Heller* challenged (Doherty 2008: 68) and point to the situation in which one could not own a gun without having had it registered and, yet, the registration was a requirement for obtaining a weapon; and one could not register an imaginary weapon.

Winkler's (2009) issues with the SC opinion increase as he proceeds with the analysis of the references to reasonable gun restrictions listed. When the SC "ruled 5 to 4 that the District of Columbia's ban on handguns is unconstitutional under the Second Amendment" (Greenhouse 2008: para. 1) in June 2008, it stated that the SA "protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home" (District of Columbia v. Heller 2008: 1). However, the justices also wrote:

> It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. (District of Columbia v. Heller 2008: 2)

It is this aspect of the decision that Winkler (2009: 1561) finds curious in the light of Scalia claiming to follow an originalist approach, as the SA makes no reference to any such exceptions. An awkward contradiction emerges: "while forcefully declaring an individual right to keep and bear arms, the Court suggests that nearly all gun control laws currently on the books are constitutionally permissible" (Winkler 2009: 1561).

A similar sentiment is reflected in Richard Heller's comments on the decision:

> I was a little surprised that it actually took this long to be able to exercise my rights after the decision. You would think that they said the city must do this. Here's the Supreme Court order that you would be able to march and begin the registration process, which is another question we're working with. /.../ There are more forms than I know the account of in the registration process. (NRA 2008)

This is the result of the inconsistencies in the SC opinion which turned out to be a symbolic victory with little direct influence on laws. This in itself was not a surprising result. Winkler (2007: 683) had predicted that a SA case in the SC would result namely in a symbolic rather than substantive decision. Winkler could not, of course, foresee the specifics of this decision. His belief in the symbolic significance of a potential case was based on the question of judicial review. In short, provided that the SC did confirm the individual right view, the problem would be the standard adopted to review existing gun laws (Winkler 2007: 687). The choice between different judicial tests would most likely be made in favour of reasonable review meaning that "the vast majority of laws burdening a Second Amendment right to bear arms are likely to withstand judicial scrutiny" (Winkler 2007: 732). This would be the likely presumption

based on the history of judicial review on the state level which, in Winkler's view, would be a good place to look for guidance.

The *Heller* decision turned out to be almost as confusing and cryptic as *Miller*, leaving questions unanswered and problems unaddressed while presenting a judicial hybrid of an interpretation. It was soon clear that the decision did not settle the debate decisively: at the very least, the questions of judicial review, of the exact nature of allowed regulations and of incorporation remained. New challenges of gun laws across the nation appeared. By January, 2009, Winkler (2009: 1565–1551) accounts over 75 cases that were decided by lower federal courts with none resulting in a gun law being struck down on the grounds of the *Heller* reading. One such challenge, *McDonald v. Chicago* reached the SC in 2009.

4.3.4. McDonald v. Chicago

McDonald addressed one question left open by *Heller*: the possible incorporation of the SA (and its newly settled individual right reading) against the states. The question was whether the individual right applied not only to the federal government but to the states as well. By the time *Heller* was decided in 2008, a legal challenge had already been prepared in Chicago. It involved four plaintiffs (Otis McDonald, Adam Orlov, and Colleen and David Lawson) who were setting the case up with the Second Amendment Foundation and the Illinois State Rifle Association, a branch of the National Rifle Association (Denniston 2010: para. 4)[9]. The Chicago gun law was one of the strictest in the States (next to the D.C. ban under question in *Heller*). Similarly to the D.C., the law also disallowed unregistered weapons while making it nearly impossible to register one (Denniston 2010). This, according to gun rights advocates, made it impossible for law-abiding citizens to properly defend themselves but in no way hindered criminals (Savage 2009: para. 7). After the trial court ruled for Chicago, the case was appealed to the 7th Circuit Court of Appeals and consolidated with another court case, *NRA v. Chicago*. The Court of Appeals referred to their lack of authority in deciding the issue (Denniston 2010) and claimed to be limited by the SC precedents from the 19th century which suggested that the SA only restricted the federal government's efforts to limit the states' right to have militias (Levy et al. 2009). This invited the SC to revisit the issue which it agreed to do in 2009 when it accepted *McDonald v. Chicago*.

The issue of incorporation dates to the 19th century when the Fourteenth Amendment was ratified (1868). The amendment was passed in a period when Southern states were violating the rights granted to newly freed slaves by the federal government. The history of the amendment suggests that it was intended to extend no further than to protect this group of people (Woll 1990: 118). The two avenues provided by the Fourteenth Amendment, those of "privileges and

[9] The NRA is a highly influential gun rights group that had kept the SA issue alive for decades before *Heller* (Toobin 2008: 408–409).

immunities" and "due process of law", have not been used equally to challenge state laws. This is due to the *Slaughterhouse Cases*[10] from the 19th century that effectively blocked the use of the privileges and immunities clause in such instances (ibid.): the SC claimed that this clause protected a very narrow group of rights that have specifically to do with the existence of the federal government (Doherty 2009: 2). The due process clause, however, has been used since the middle of the 20th century to incorporate basic rights, such as those listed in the First Amendment, against the states (Woll 1990: 118–119).

The scope of the SA on the state level has been topical since the 19th century when it was linked with *United States v. Cruikshank* (1875) and *Presser v. Illinois* (1886). Levinson (1989: 652–653) argues that these most notably enshrined the view that the SA only restricts Congress and does not apply to the states. He acknowledges that the cases were decided years before incorporation as a concept was discussed by the SC (first in *B. & Q. R. Co. v. Chicago* (1897)), so these decisions could not be taken to indicate how the SC might approach incorporating the SA. In *McDonald*, gun right advocates sought the overturning of the rationale of *Cruikshank* and *Presser v. Illinois* and were eager to see the SA incorporated. This would mean that the states could not deny the constitutionally protected individual right to keep and bear arms. The argument was expected to rely on the due process clause. However, Alan Gura (who represented Heller in *District of Columbia v. Heller* and served as the lead counsel in *McDonald*) suggested that *McDonald* should instead be argued on the basis of the privileges and immunities clause and, through that, the *Slaughterhouse Cases* should be overruled (Doherty 2009: 2).

In June, 2010, the SC incorporated the SA against the states on the basis of the due process clause. Alito, writing for the majority, stated that the SA, like other rights in the Bill of Rights, must be interpreted to limit not only the federal government but also state and local governments (McDonald v. Chicago 2010). Although the majority relied on the due process clause, Thomas wrote a concurring opinion in which he reached the same conclusion but used the privileges and immunities clause as the most straightforward way of incorporating the SA. With that, the SA was declared applicable to states (and the Fourteenth Amendment was revived as a means of incorporating the Bill of Rights against the states). Similarly to *Heller*, the SC's 5 to 4 ruling in *McDonald* was a symbolic victory for gun rights advocates in that its practical implications remained unclear (Liptak 2010a: para. 5), as the court still did not

[10] In the 19th century, the state of Louisiana enacted legislation that monopolised slaughtering in New Orleans. Independent butchers initiated a law suit (the eventual *Slaughterhouse Cases* consolidated three cases), arguing that this was illegal under the Fourteenth Amendment's immunities and privileges clause. They asked the SC to interpret broadly what the immunities and privileges clause meant. The precedent set decided that "the immunities and privileges clause protected only those very few rights Americans had through their national citizenship" (Waldrep 2010: 161), excluding rights regulated on the state level. This severely limited the future reach and application of the clause (Waldrep 2010: 158).

specify the standard by which state regulations should be reviewed (Scarola 2010; on different standards of judicial review, see Winkler 2007). This means that there are no exact guidelines as to what the decision really means for the states in regulating gun possession. This will most likely result in further challenges of existing gun laws that could potentially move through the legal levels to the SC.

5. SOCIAL CONSTRAINTS AND DISCOURSE SPACES

The socio-historical background of the Second Amendment, the Constitution, the Supreme Court and the SA court cases discussed in the previous chapter inevitably shape the debate over gun rights in the US. The influence is seen in the discourse produced by the SC and the media but is also present as an influence on the broad social context in which specific discourse can be produced. The present chapter applies the constraints adopted from Blommaert (2005) to look back at how the historical context discussed in the previous chapter has influenced and continues to shape the gun debates and their news coverage. The constraints of text and context, language and inequality, choice and determination, and history and process map what and how has contributed to the formation of specific social contexts and the creation of discourse spaces in which participants, processes and events are positioned. The chapter also presents an analysis and a discussion of recontextualisation found in the NYT media coverage, with a specific focus on how the SA itself and the SC written opinions are brought into the news articles. The chains of recontextualisation to a great extent embody the discourse constraints and help trace their impact on the discourse produced. Recontextualisation and entextualisation are also important as the objects of study are news articles which rely on making use of different voices and numerous sources.

5.1. Text and Context

It can be difficult to reconcile the idealised conception of texts and the period in which they were created with their often problematic application in the constantly changing society. This has certainly been true of the SA and, as more and more time passes, continuous interpretations are necessary for it to remain meaningful in the society. SA history, as discussed in the previous chapter, underlines how laws can be (re)interpreted in starkly different terms. It is not the aim of this dissertation to establish a definitive or "right" interpretation of the SA but rather to point to the difficulties and complexities of the context in which it was drafted and in which it has ever since been interpreted. These interpretations, especially those by the SC, have become part of the canon that is consulted when new decisions are made.

The context of the SA court cases and their media representation cannot be limited to their contemporary circumstances but needs to take into account their history and origin. This, in turn, cannot be discussed only in the context of its creation. Thus, the ancient ideas of freedom and liberty and the English republicanism are all factors in making sense of the current gun debates in the US. This leads to the presence of references to ancient and fundamental rights in the discourse of gun rights and the presence of calls to regulation and sensible restrictions in the discourse of gun control. It is important to note that

the advocates on either side, as they make claims for one or other interpretation, need not be aware of the judicial-historical background of their views. Texts detailing the gun debate and arguments made can lack references to English law, but its strands nevertheless appear. This illustrates the persistence of some points of view and ideologies in discourse that are carried from one site of social struggle to another, borrowed from one discourse space to another. These ideas and their evolution can be traced through texts. This evolution underlines the extent to which the meaning of a single text can change.

The history of the SA illustrates the relevance of context in understanding a text. Its initial meaning and use, although highly contested, has become less relevant than the perceptions and ideologies of the contemporary society. Yet, the original intent of the people who created the SA is still debated. This can be seen in the *Heller* corpus:

> "It seems passing strange," Judge Laurence H. Silberman wrote for the majority, "that the able lawyers and statesmen in the First Congress (including James Madison) would have expressed a sole concern for state militias with the language of the Second Amendment. Surely there was a more direct locution, such as 'Congress shall make no law disarming the state militias' or 'states have a right to a well-regulated militia'". (NYT1)

Silberman is staking a claim to how the SA was originally meant to be read. Expressing his disbelief of certain actions by the framers, he is suggesting that there is a common sense solution to interpreting the SA. And he continues to present this by rephrasing its text as he understands it. Differently from the original, his paraphrase, however, lacks the validity of a constitutional amendment and the value added by time, and he lacks the authority to prescribe the paraphrase as the official interpretation.

Linking the founders' SA to the changed social setting has been one of the difficulties in establishing a coherent understanding of its role today. Discussing the construction of nations, Wodak et al. (2009: 12) consider temporal distance a serious obstacle in creating a national identity that could endure, since the similarity between an event in the (recollected) past and the present can be weak. Considerable effort is required to establish the need to follow today what was written two centuries ago. The lack of similarity between now and then can be compensated for by continuity; by what Ricœur claims is "the ordered stringing together of slight changes which, taken one by one, threaten resemblance without destroying it" (Wodak et al. 2009: 12). This is illustrated by the precedent based approach to settling legal issues: the SC looks to previous decisions and tries to uphold and follow their reasoning, making frequent references to the decisions and, at times, citing lengthy passages to support their arguments. Therefore, previous SC and lower court decisions have a significant impact on the creation of discourse.

Such chains of discourses and recontextualisation involve numerous texts, some of which are more easily traced than others. In the case of the SA and the present paper, the "text" itself is the SA and the media texts analysed, whereas

the "context" is the social setting but also other texts that shape the media representation and redefine the SA. For one, *The New York Times* news articles are based on the SC opinions on the SA. Thus, the written opinions as well as statements by the justices constitute the immediate textual environment and are part of the textual chain.

5.2. Language and Inequality

The concept of continuity can also be seen in the existence of social institutions which structure the national experience and past, lending it seeming coherence across time (Wodak et al. 2009: 12). The SA could be viewed as a social institution, as it has acquired a tangible history that accompanies it and can prescribe aspects of its application, granting it more authority than individual pieces of legislation. The SC is another social institution that spans time to establish a thread of continuity, especially in the form of precedents which gain gravitas through time and establish additional constraints on what lower courts, legislatures and the SC itself can do in terms of gun laws. It is also useful to bear in mind that the media itself is a social institution with its own traditions. Other institutions are also present in the coverage: the President and the administration, the Solicitor General, the lawyers, plaintiffs and defendants of court cases and interest groups.

These participants have different backgrounds, qualifications and roles: the justices are recognised as people who work with the language of the law, interpreting and establishing its meaning. As such, the court and the justices are set apart from other participants, even from experts in the field. They are in a special position to interpret the law, having the necessary qualification and ability to express their opinion in an authoritative and acceptable language that meets the discourse expectations of the public. Here, acceptable means that it is in keeping with what the profession requires as well as with what the public expects; it also points to the justices' ability to be "acceptable" at the time of their confirmation – for the president in terms of their ideological views and for the legislative branch in terms of confirming them. The importance of having the required qualifications is also visible in the presence of attorneys who represent the plaintiffs and defendants who are not well versed enough in the language of law and lack the official qualifications to represent themselves. Through this, hierarchies in the court system are reaffirmed: the SC is placed higher than the attorneys who make their case in front of it, while the attorneys are above their clients who are less knowledgeable of judicial nuance.

The participants with their different backgrounds bring with them diverse approaches to the analysis of the SA, from the historical to linguistic and pragmatic ones. These are often a reflection of fundamental differences in how people perceive gun rights. Levinson (1989) suggests that the contradictory SA readings are connected with contradictory conceptual maps that participants on either side have. This is visible in how one side is labelled "gun nuts" and the

other “bleeding-heart liberals” (Levinson 1989: 659) when the debate gets heated and highly ideological. It is likewise visible in the more neutral labels whereby the two sides of the issue are the “gun rights advocates” and the “gun control advocates”. Even these labels assign positions in the discourse space: one side is constructed as defending and fighting for rights, whereas the other stands for regulation and restraint. This opposition reflects broad cultural divisions in the values and beliefs people on the two sides have (Williams 2003, Põiklik 2011): gun rights advocates value freedom of choice and individual responsibility, whereas gun control advocates argue for security that is ensured through regulation, the police and keeping guns out of the hands of dangerous people. Such divisions are mapped on the terms used to label each side and these labels come to carry these notions and convey them to the readers.

Finally, and perhaps most importantly, the SA problem is at its core a problem of language and inequality. The context in which it was worded was highly tuned to the possibilities of the abuse of power, and the importance the language of the law has in counteracting such abuses. But it was also the power struggle over the ratification of the Constitution that opened the SA debate to numerous participants, under whose influence it came to have its confusing wording. The question of language is vital in analysing the gun debates: from the wording of the SA and previous court cases that have reinterpreted it to the participants’ linguistic skill and choices. The latter especially has to do with the notion of inequality, since not everyone is able to gain access to the discourse space wherein the SA is interpreted and its meaning is negotiated. This situation is the result of systematic preferences and traditions in the society which has to do with choice and determination.

5.3. Choice and Determination

Choice and determination as a discourse constraint is broader than that of language and inequality in that before a participant’s voice can be heard, they must gain access to the discourse space. The way participants, processes and events are chosen to be reported in the media has a great impact on whether and how the elements become positioned in the discourse space constructed by the articles. The status of the SC means that it is a traditional source of news and that the justices’ opinions and decisions are more likely to be reported than the actions of lower courts or the opinions of ordinary people. The inclusion of the voices of specific participants in media texts is the result of habitual choices that have led to a predetermination of the viewpoints included.

First and foremost, the very choice of corpus in this dissertation has to do with determination. *The New York Times*, the source of the corpus analysed, is a leading daily newspaper in the US. Established in 1851, it has become a source of reliable news, ranking at the top of online news sites and among the top three newspapers in terms of the overall circulation of US newspapers (Lulofs 2012). As such, it is an important source of news for millions of Americans and the

international audience. comScore, Inc. (2010), a site that measures the digital world, reports that the NYT brand website saw more than 32 million visitors in May, 2010. This means that it shapes the perception of the events reported for a very large audience. To a degree, it decides what is and becomes news, provides up-to-date coverage and shapes how an event is looked back on in the future. The NYT has reporters whose main focus is on reporting SC actions. This means that it is even more predetermined as a source of news and that the people covering it bring with them their individual preferences and views. Linda Greenhouse, the author of several articles in the corpus, is a well-known reporter who has won a Pulitzer Prize for her work in covering the SC (Cheney 2009). Her work is considered so influential that it has been termed the Greenhouse Effect, a phenomenon that started receiving public discussion in the early 1990s (Baum 2008: 141). It has to do with the fact that the main audiences of the SC tend to be liberal which makes justices sway to them in their desire for praise, argues Baum (2008: 139).

The SA, as part of the Bill of Rights, is a guaranteed element in the discussion of gun rights, at least on the federal level. It has been pre-selected as a participant; moreover, it is a central participant that organises the actions of the SC, the questions posed in the court cases and the foci of the media coverage (at least after it was initially introduced as the judicial basis for challenging the D.C. law). At the same time, the challenge of the D.C. law is itself a consequence of the SA allowing contradictory readings – its ambiguous wording has predetermined much of the confusion and debate. A string of similar cause and effect relationships can be traced between the three SC precedents: the *Miller* decision, by leaving ample room for interpretation and speculation, indirectly led to *Heller* being accepted by the SC. There is also a clear link between *Heller* and *McDonald*: *Heller* led to the challenge in Chicago which led to the SC accepting the case to address an unanswered question.

The nomination and confirmation of SC justices is another example of how choice and determination comes to have powerful effects. The choices made by previous presidents greatly determine the decisions made by the SC today, which lends a new perspective on the struggles over nominating and confirming justices on ideological bases. This becomes clear when one contemplates the 5 to 4 decisions made both in *Heller* and *McDonald*. Had but one justice in the majority had a different opinion, the gun debate and the situation of gun laws and gun regulation might now be quite different: not an individual right and not incorporated against the states.

5.4. History and Process

The notions of history and process permeate the other constraints. The symbiosis of text and context is shaped by the continuous circumstances in which texts are interpreted and the interpretations are applied; the question of language and inequality contributing to who gets to suggest these inter-

pretations; choice and determination establishing the potential and likely participants in the process of creating and interpreting discourse; and, finally, history and process comprising all the elements to convey notions of continuity and uniformity and to suggest a metadiscourse or preferred readings. The history of gun rights can be traced all the way back to ancient philosophers[11]: although not always specifically named, their ideas shape the metadiscourse that directs the perception and discussion of these rights. For one, they are the source of the link between liberty and freedom and people's ability to keep and bear arms. This idea was passed on to the English republicanism and, eventually, to the US Constitution (including the SA which protects the people's communal right to defend themselves against oppressors) and, in today's US, also to people's individual right to defend themselves in their home.

The notion of progress suggests changes and this has meant that distinctly different understandings of the SA have evolved and the initial communal understanding has been replaced by the opposition between the individual right reading and the states right reading. Although support for both interpretations can be found in court precedents, state and federal legislation, legal scholars' and public opinion, the situation of uncertainty and speculation came to an end (or, at least, to a milestone) in 2008, when the SC opted for the individual right view. For some, this was a radical shift in the debate; others welcomed it as a reinstatement of an ancient and fundamental right. The current situation has seen the singling out of one interpretation and its hailing as the correct one, as the one that allegedly reflects the framers' original intent; a decision that has certainly and greatly changed how gun rights and gun control are approached in the future. This might not mean an end to interpretations but a preferred reading of the SA has been established and the differences, in a way, synchronised into one metadiscourse.

[11] Doherty (2008), a gun rights proponent, takes the discussion of the right to keep and bear arms back to the ancient times. According to Doherty (2008: 7), when Aristotle "*defined* the 'polity' as those who bore arms" and Cicero discussed people's right to defend their bodies and persons, they were doing so based on the principle of the individual right to self-defence. Authors who stress the communal nature of the right, on the other hand, claim that Aristotle talked about the ability and willingness of people to stand up to would-be oppressors (Shalhope 1982: 604) and had in mind not an unlimited individual right but rather one of a communal and restricted nature. Another historical reference made in connection to gun rights is to the Florentine tradition (Shalhope 1982, Cress 1984) in which Machiavelli suggested that every citizen should be able to defend the state and yet none should be soldiers by profession. In *The Art of War*, Fabrizio claims that being a soldier means that a man will not desire peace but will, instead, seek cause for war (Machiavelli 2010: 3–6) and so it is dangerous to make soldiers out of citizens. Instead, citizens themselves should be the guardians of democracy and security (Shalhope 1982); a sentiment that some find in the SA (Cress 1984: 22).

5.5. Recontextualisation

Recontextualisation and the accompanying (preferable) metadiscourses are a phenomenon that brings together many of the constraints of discourse production. Two aspects of recontextualisation are addressed in this section within the news articles in the corpus collected from *The New York Times*: the presence of the SA itself and the presence of its precedents on the SC[12] (namely, the excerpts from the written opinions from both the majority and minority blocs on the SC). This is done through looking at instances of entextualisation, that is, of the direct inclusion of other voices into the articles, and of the immediate context into which they are placed in the articles.

5.5.1. The Second Amendment in The New York Times

The news report on *Miller* from 1939 (NYT0) is a brief text that is divided into seven short paragraphs which summarise the decision's main point, refer back to the lower court trial, recount Miller and Layton's attorneys' claims, cite Justice McReynolds and refer to the implications of the decision. The SA, which served as the basis for the challenge of the National Firearms Act, is entextualised in two instances:

> Sawed-off shotguns have not the slightest relation to the constitutional right of the American people to "keep and bear arms", as part of a "well regulated militia", the Supreme Court unanimously asserted today in an opinion by Justice McReynolds upholding the validity of the registration sections of the National Firearms Act. (NYT0)

> Attorneys for the two men contended that the registration clauses violated the Second Amendment of the Constitution reading: "A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed". (NYT0)

The first instance recontextualises the SA within the limited framework of the case by segmenting it and constructing a new sentence around these segments, whereas the second cites the SA entirely, providing the original text. The article goes on to connect the discussion of gun rights with the militia and gun control; *Miller* is connected to the right to own a certain type of weapon and the SA is cast as the basis for this right. Neither the SC nor the report address the SA from any other perspective, and its full scope is not discussed; that is, the preferred metadiscursive recontextualisation of the decision and the SA focuses on gun control on the basis of the militia clause.

[12] A more detailed discussion of recontextualisation and entextualisation of the SA can be found in Põiklik (2012) which looks at three articles reporting the three precedents respectively.

The *Heller* corpus is much more extensive than the *Miller* one, spanning 21 articles. In the articles, the SA is entextualised in numerous instances, both in full and in fragments (9 and 10 instances respectively). There are many more instances in which the phrases from the SA are used to discuss the right without marking them from the surrounding text but the focus here is on the specific instances of entextualisation and the accompanying recontextualisation contexts. NYT1 entextualises the full SA by introducing it with "The Second Amendment says"; NYT2 adds this comment in brackets: "Some transcriptions of the amendment omit the last comma", which introduces the idea that the SA could be read differently depending on how one prefers to group the phrases (but the article does not elaborate on this).

NYT17 is similar to NYT1 in the manner in which the SA is introduced, but the sentence preceding the SA sets a specific scene: "The two sides in the Heller case claimed to rely on the original meaning of the Second Amendment, based on analysis of its text in light of historical materials". This creates an expectation that the original meaning might be uncovered from the text (an expectation arguably not met by the SA that follows). Still, claims to the "true" meaning of the SA can be found on either side of the debate with justices in the majority and minority citing dictionary definitions in order to prove their positions. Mouritsen (2010: 1924) points to the increasing tendency of judges to "employ dictionaries for persuasive ends", although, according to him, the reliability of dictionary entries is a false assumption when it comes to interpreting statutes, as dictionaries can only tell us the meanings that have been in use, not the ones that are "correct or even common" (Mouritsen 2010: 1923). Trying to unearth the original meaning of the SA from dictionaries and historical texts constitutes an etymological fallacy by which word etymology is taken as sufficient evidence of its use. This is fallacious as it "ignore[s] that the meaning of words change" (Gula 2002: 48) and problematic, since different definitions for the same term can be discovered by either side in a debate.

Other instances of SA entextualisation are all accompanied by additional comments on its form or meaning. NYT5 talks about the term "arms", to which "the Second Amendment referred in its single, densely written, and oddly punctuated sentence: 'A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed'". NYT10 and NYT12 entextualise the SA in a context where its problematic wording is emphasised: "There was also a good deal of linguistic dissection of the [SA]" (NYT10) and it is "an ambiguous, comma-laden text" (NYT12). Thus, the preferred metadiscourse is that of linguistic ambiguity. NYT6 additionally introduces the SA with a reference to the "1939 decision that suggested, without explicitly deciding, that the right should be understood in connection with service in a militia". This introduction establishes a setting that centralises the militia clause.

There is only one instance in which the SA is fully entextualised in the context of the justices' statements: "Justice Stevens said the majority opinion was based on 'a strained and unpersuasive reading' of the text and history of"

the SA (NYT13). This sentence is followed by the text of the SA, which the article positions to be judged on its own merits. The article does not add commentary on whether Stevens or the majority have a persuasive reading of it. Out of all the instances, it is the connection to *Miller* in NYT6 that least questions the SA as such (next to the entextualisation in NYT1); other instances have, in their immediate context, comments regarding the difficulties in its interpretation. NYT9 summarises the problem that has led to *Heller* and the current debate:

> Exactly what the Second Amendment was intended to do is at the heart of the dispute. With a combined total of 69 briefs, the two sides offer competing historical and linguistic analyses of the Second Amendment's 27 words, mystifying in their arrangement and punctuation. (NYT9)

The entextualisation of the SA, as a rule, occurs in a metadiscourse that reinforces the impression that it is a cryptic text, the meaning of which is open to debate.

The SA is also entextualised as fragments that insert parts of the original text into the coverage. The militia clause is incorporated in four instances. NYT5 also accompanies this with a comment on its cryptic nature: "the amendment's ambiguous reference to a 'well regulated militia'". There are participants, however, who have less trouble with what to make of the clause: Dellinger, arguing for the D.C., is reported to have said that "at the time the Second Amendment was drafted, 'the people' and 'the militia' were essentially synonymous" (NYT10). He prefers to view the SA as stating the people's right to have weapons in order to participate in militia service. NYT13 makes a passing reference to the "well regulated militia" and incorporates Scalia's interpretation of it:

> According to Justice Scalia, the "militia" reference in the first part of the amendment simply "announces the purpose for which the right was codified: to prevent elimination of the militia". The Constitution's framers were afraid that the new federal government would disarm the populace, as the British had tried to do, Justice Scalia said. (NYT13)

Scalia is given space and voice to construct the context in which he interprets the clause. As a SC justice, his voice is authoritative to begin with and only strengthened by the fact that he is the author of the majority opinion.

The final clause of the SA is entextualised fully in NYT13 ("the right of the people to keep and bear arms, shall not be infringed") in a context which identifies it as the operative clause. This occurs in a section where Scalia continues to present his interpretation. He is reported to have said that "the operative clause 'codified a pre-existing right' of individual gun ownership for private use" (NYT13). For him, the first clause does not serve as a limit on the scope of the second. That is, he chooses to centralise what he sees to be an individual right while marginalising any possible restrictions arising from the

militia clause. NYT13 has another entextualisation of the second clause: "The court rejected the view that the Second Amendment's 'right of the people to keep and bear arms' applied to gun ownership only in connection with service in the 'well regulated militia' to which the amendment refers". Portions of the SA are left unchanged and integrated into the article in their original form. This leaves their interpretation open while reporting what the SC decided. The implication is that the SC interpretation could be argued with if someone had a different understanding of the fragments.

The clause "the right of the people to keep and bear arms" is entextualised in NYT1 and NYT6. In NYT1, it is marked with quotation marks not because it is part of the SA but because it is part of a specific interpretation: "In dissent, Judge Karen L. Henderson said the Miller decision unambiguously declared, in her words, that 'the right of the people to keep and bear arms relates to those militia whose continued vitality is required to safeguard the individual states'". The words from the SA are recontextualised by Henderson and, in reporting her words, by the NYT. The operative clause is, thus, entextualised and recontextualised in vastly different interpretations. These interpretations depend on the participants' points of view and values. NYT5 also entextualises "keep and bear arms": "The question is whether the Second Amendment to the Constitution protects an individual right to 'keep and bear arms'", implying the possibility that these verbs could be interpreted differently. The same idea is addressed in NYT1 which entextualises the appeals court majority opinion: "at least three members (and one former member) of the Supreme Court have read 'bear arms' in the Second Amendment to have meaning beyond mere soldiering". This comes early in the *Heller* coverage when predictions are made on how the SC might rule. The NYT again uses a fragment from the SA to illustrate what the SC work with in having to interpret the SA. (Missing from the entextualisations is the clause "being necessary to the security of a free state" which is apparently not considered problematic, at least not within the frames of the current debate).

Of the six *McDonald* articles, only NYT23 entextualises the SA in full (none of the articles in this corpus use its fragments). The SA is still set in a context in which its meaning is interpreted but this is not as central an issue as it was in *Heller*. Partly, this is because *Heller* settled how the SC viewed the SA, creating a precedent for the judiciary and the country to follow. NYT26 makes this apparent: "The Second Amendment's *guarantee* of an individual right to bear arms applies to state and local gun control laws, the Supreme Court ruled Monday in a 5-to-4 decision" (emphasis added).

5.5.2. Supreme Court Opinions in The New York Times

Supreme Court opinions are lengthy pieces of text which address a legal issue in extensive detail, from a legal, historical, linguistic, social or any other relevant perspective. Of the three decisions at question here, the *Miller* one is the

shortest. The *Heller* opinions (both majority and minority) extend to 157 pages and the *McDonald* ones (majority, concurring and minority opinions) to 214 pages. Even though the NYT news articles analysed here make use of limited sections of the court decisions, for reasons of space, the analysis does not include the texts of the decisions beyond the excerpts explicitly entextualised in the articles.

In NYT0, the SC opinion in *Miller* is introduced in the form of quotes from Justice McReynolds' (both verbal and written) statements. His opinion reaches the public in a mediated form: "But today Justice McReynolds drawled from the bench: 'We construe the amendment as having relation to military service and we are unable to say that a sawed-off shotgun has any relation to the militia'". Another instance entextualises sections from the eventual court decision: "And in his written opinion, he said: 'Certainly is it not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense'". The unanimous decision is cast as McReynolds's opinion which glosses over the fact that seven other justices supported it.

In the *Heller* coverage, the *Miller* opinion itself is not entextualised. References to it are made in an indirect manner in the metadiscourse of the articles or in quotes from the participants brought into the discourse space[13]. *Miller* is present in 9 articles among NYT1–NYT13. Several articles make a reference to *Miller* without even mentioning the full name of the decision. For example, NYT1 reports that the SC "last considered the issue in 1939" and NYT5 also makes a passing reference to it: "including the 1939 Supreme Court case". NYT4 adds more detail but also remains rather general in mapping *Miller*: "The court has not ruled on the meaning of the Second Amendment since an ambiguous decision in 1939". Such mappings suggest that *Miller* is considered an element that is firmly part of the existing narrative of the gun debate. There are more extensive recontextualisations, many of which point to how both sides claim that "the Supreme Court's 1939 decision on the Second Amendment supports their views" (NYT1). NYT1 adds participants' voices to illustrate this: Judge Silberman is quoted, saying that *Miller* "'did not explicitly accept the individual-right position' but did implicitly assume it", whereas Judge Henderson is reported as saying that "the Miller decision unambiguously declared /.../ that 'the right of the people to keep and bear arms relates to'" the militia.

At the beginning of the *Heller* coverage, *Miller* is mapped as the only specific precedent in existence. But this is not always a helpful presence when it comes to figuring out the "real" meaning of the SA. *Miller*, although a unanimous decision, has caused difficulties in terms of its interpretation in a broader context, which is evident in how it is recontextualised. NYT5 quotes Roberts who comments that "the Miller decision had 'side-stepped the issue'

[13] In the *McDonald* corpus, references to *Miller* are altogether missing, which is an indicator of the shift in focus that has occurred from the SA as such to its application in connection to the Fourteenth Amendment.

and had left 'very open' the question" of which right the SA protects. NYT5 also reports that "it has been nearly 70 years since the court even approached it obliquely" having in mind "the opaque, unanimous five-page opinion in 1939" (NYT13) that elsewhere in the coverage is also labelled "somewhat cryptic" by Judge Reinhardt of the San Francisco federal appeals court (NYT2). Still, there are two instances in which the *Miller* decision is mapped without contestation and without adding the voice of any specific participant, that is, there are instances in which the coverage presents an interpretation without immediately pointing to its debated nature. NYT6 writes: the SC "last looked at the Second Amendment nearly 70 years ago in United States v. Miller, a 1939 decision that suggested, without explicitly deciding, that the right should be understood in connection with service in a militia". NYT12 also reports that:

> In 1939 the court suggested that the right to gun ownership should be understood in connection with service in a militia – localized forces that, in colonial times, were seen as a bulwark against centralized authority. That collective interpretation led in subsequent decades to laws restricting firearm ownership. (NYT12)

As the metadiscourse of the coverage, these sections transcend the opposing interpretations presented through citing participants. They do not debate the meaning or implications of *Miller* but seem settled. In conclusion, a set of narratives on *Miller* can be found: the narrative of an individual right versus a collective right, the narrative of the decision as an ambiguous text and the metadiscursive narrative of a settled precedent.

Miller is also used by the justices in making their arguments for and against the individual right reading. The starting point for it is the fact that "For decades, an overwhelming majority of courts and commentators regarded the Miller decision as having rejected the individual-right interpretation of the Second Amendment" (NYT13). This understanding has changed, putting the SC in a position of having to reinterpret the SA and also take into account *Miller*. The majority and minority opinions differ in how this should be done, which the coverage details. In NYT13 (published a day after the SC decision was announced), the majority decision is considered remarkable in SC history; and for Scalia, its author, it is the "most important in his 22 years on the court". The majority acknowledge the problem of gun-related crime and violence but state that "the enshrinement of constitutional rights necessarily takes certain policy choices off the table /.../ It is not the role of this court to pronounce the Second Amendment extinct" (NYT13). The minority opinion considered the majority one a faulty line of reasoning and this is conveyed in the article:

> Justice John Paul Stevens took vigorous issue with Justice Scalia's assertion that it was the Second Amendment that had enshrined the individual right to own a gun. Rather, it was "today's law-changing decision" that bestowed the right and created "a dramatic upheaval in the law". (NYT13)

The minority opinion is primarily reported as contesting the *Heller* departure from what the SA has been traditionally read to mean by the courts (especially after *Miller*). In this section, it is also visible how entextualisation allows emotion ("dramatic upheaval") to be inserted into a news article that generally aims to be neutral.

In the *Heller* coverage, the minority and majority opinions are present throughout NYT12–NYT21, but specifically entextualised in NYT12, NYT13 and NYT15–NYT18. As a rule, such entextualisations take the shape and form of short sentences embedded in the text of the news articles and attributed to the justice who has written the specific majority or minority opinions or uttered the specific statements. In the articles, these sentences are then surrounded by immediate commentary from other participants or the metadiscourse of the articles. The original court decisions explicitly serve as the source for these excerpts. Entextualisations begin in NYT12 which was published right after the decision was announced and continue extensively in NYT13 in which a large portion of the article is formed of direct quotes from the opinions. The last portion of the *Heller* coverage focuses on the implications of the opinion and invites scholars to offer their views on it, including less entextualisation of the actual texts of the opinions. Entextualisations occur for each opinion written by the justices – the majority opinion by Scalia and the minority opinions by Stevens and Breyer. Out of these, Scalia's is most extensively quoted in the coverage (14 instances); Stevens's is found in 6 instances and Breyer's in 5. Two more instances identify the source of the opinion as "the court" (NYT12) or "the decision" (NYT13) (these are worked into the assessments of the decision given by Obama and McCain, respectively).

Scalia's majority opinion is first entextualised in NYT12 in a summary of what the court decided, namely, that "the Constitution did not allow 'the absolute prohibition of handguns held and used for self-defense in the home'", although (as the article goes on to specify) "Scalia said that the District of Columbia retained certain options, 'including some measures regulating handguns'". This is the gist as well as the problem of the majority decision – the awkward compromise between gun prohibition and the individual right, with little specifics. NYT13, published a day after the decision, provides more detail on the majority opinion. It begins by entextualising Scalia's reasoning in the light of the question of public safety:

> Justice Antonin Scalia's majority opinion /.../ said that the justices were "aware of the problem of handgun violence in this country" and "take seriously" the arguments in favor of prohibiting handgun ownership. "But the enshrinement of constitutional rights necessarily takes certain policy choices off the table," he said, adding, "It is not the role of this court to pronounce the Second Amendment extinct". (NYT13)

Similarly to *Miller*, the SC continues to consider public safety a central factor in gun rights. However, Scalia prioritises the protection of the constitutional (individual) right over gun regulation. The reasoning he presents suggests that

to regulate the right overly would be tantamount to dismantling the SA. The choice of elements entextualised constructs a narrative in which the justices make a conscious choice to centralise certain values. (The last sentence of the excerpt is also entextualised in NYT18 where it is likewise set in the context of the SC prioritising certain values).

The majority opinion is also entextualised as a discussion about the meaning of the SA: "he added that this 'prefatory statement of purpose' should not be interpreted to limit the meaning of what is called the operative clause /.../. Instead, Justice Scalia said, the operative clause 'codified a pre-existing right' of individual gun ownership for private use" (NYT13). Scalia is given further space to comment on *Miller* which he calls a "virtually unreasoned case" that "meant 'only that the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns'" (NYT13) which means that "dangerous and unusual weapons" (NYT13) are disallowed under the SA. The longest entextualisation of the majority opinion addresses the possibility of limiting the right:

> Justice Scalia's opinion applied explicitly just to "the right of law-abiding, responsible citizens to use arms in defense of hearth and home", and it had a number of significant qualifications. "Nothing in our opinion", he said, "should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms". (NYT13)

With this, the NYT presents the practical implications of the decision (or, rather, the lack of them, as Scalia is essentially reiterating the status quo of restricting gun rights). The second half of the excerpt is also entextualised in NYT17 but with a different lead-in: "Judge Wilkinson saved particular scorn for a brief passage in Justice Scalia's opinion that seemed to endorse a variety of restrictions on gun ownership". Before, a piece of Scalia's opinion established gun rights as related to safety in the home and to common sense limitations, but Wilkinson presents a different story. NYT17 continues: "Whatever else may be said about the Second Amendment, Judge Wilkinson wrote, those presumptions have no basis in the Constitution. 'The Constitution's text,' he wrote, 'has as little to say about restrictions on firearm ownership by felons as it does about the trimesters of pregnancy'". Wilkinson interprets the SA and Scalia's opinion in the light of different values. He centralises the original meaning of the text (as he understands it), implying that Scalia's opinion is not based on it and is, thus, unconvincing as a pursuit of an originalist approach. Wilkinson is further included to elaborate on the parallel with abortion. The 1973 *Roe v. Wade* decision interpreted the right to privacy that is implied in the Constitution to cover a woman's right to have an abortion. Ever since, conservatives have argued that this was judicial activism that went too far in interpreting the

Constitution. Wilkinson suggests that, given a cause they feel as strongly about, conservative justices would engage in similar activism.

Stevens's dissent (joined by Souter, Ginsburg and Breyer) is entextualised in NYT12, NYT13 and NYT15 (1, 4 and 1 instance, respectively). NYT12 entextualises a rebuttal of the majority opinion: "A dissent by Justice John Paul Stevens asserted that the majority 'would have us believe that over 200 years ago, the framers made a choice to limit the tools available to elected officials wishing to regulate civilian uses of weapons'". Stevens's opinion relies on the interpretation that the SA was a limit on the federal government only. NYT15 presents another section of his opinion, one that focuses on the political ramifications of the *Heller* decision: "Stevens said that in bypassing 'judicial restraint, the majority had thrown the Supreme Court into the "political thicket"' that Justice Felix Frankfurter, the conservative judicial hero, had warned against in a different context a long time ago". This echoes the critique from Wilkinson, adding to the voices of critique that accuse the majority of engaging in political and ideological battle. The most extensive use of Stevens's opinion is in NYT13 where it is set in a dialogue with Scalia. Stevens is the voice of critique: "it was 'today's law-changing decision' that bestowed the right and created 'a dramatic upheaval in the law'". Furthermore, he said "the majority opinion was based on 'a strained and unpersuasive reading' of the text and history of the [SA]". He is, thus, defined by his role as an opponent to the majority, addressing what he considers the flaws of the decision. The excerpts chosen from his opinion create an opposition of values: his perspective differs from Scalia's, as in his narrative previous precedent has a higher position than the majority opinion. This is evident in another entextualisation in NYT13: "Stevens said the majority's understanding of the Miller decision was not only 'simply wrong', but also reflected a lack of 'respect for the well-settled views of all of our predecessors on the court, and for the rule of law itself'".

Breyer's dissent (joined by the same dissenting justices) is present in NYT15 as a single word: "Breyer described at length the landscape of urban violence that he said gave 'compelling' support for the District of Columbia's effort at gun control". Although the word "compelling" is directly lifted from Breyer's text, its use in this instance recalls the use of scare quotes. Scollon (2004: 150) claims that this device helps journalists "position themselves as free of responsibility or liability" attached to the authoritative sources cited. Lillis and McKinney (2003: 70) refer to Scollon's treatment of this phenomenon when they suggest that using scare quotes "is a subtle form of discourse representation that allows the author to distance him/herself from the voice that has been appropriated, either to emphasise it as authoritative /.../ or as euphemistic". In this particular instance, both these functions are filled: the article delegates responsibility to Breyer and part of the reason for doing this might lie in the vagueness of the term "compelling". The article is, thus, indicating that Breyer is using a certain criterion for deciding what constitutes "compelling" support without making this criterion perfectly clear to the readers.

NYT16 has the other four excerpts from Breyer's opinion which focus on the role and effect of gun regulation. Breyer is reported to have surveyed a set of studies and quoted as writing: "The upshot is a set of studies and counter studies that, at most, could leave a judge uncertain about the proper policy conclusion". He introduces the results of his survey but, in the end, the coverage reports that "Breyer was sceptical about what these comparisons proved. 'Which is the cause and which the effect?' he asked. 'The proposition that strict gun laws cause crime is harder to accept than the proposition that strict gun laws in part grow out of the fact that a nation already has a higher crime rate'". He arrives at a conclusion that legislative bodies should be free to decide on the kinds of reasonable gun policies they prefer. Thus, he is represented as having a third position in terms of values: he believes that elected officials should be in charge of detailing gun laws. The coverage creates very different roles for Stevens and Breyer: Stevens is set in a direct dialogue, if not confrontation, with Scalia, whereas Breyer stands separately as a voice concerned with contemporary gun regulations (a position marginalised in the coverage compared to Scalia and Stevens).

The *McDonald* coverage has fewer instances in which SC opinions are included (only in NYT26), but more justices are entextualised since five opinions (the majority opinion, two concurring opinions and two dissents) were written. Differently from NYT0 and NYT13, NYT26 reports that there were further divisions in both the majority and minority bloc: the majority agreed upon the end result of the decision but differed on the best reasoning to arrive there. Alito, who wrote the majority opinion, was joined by Roberts, Scalia, Kennedy and, for the most part, Thomas. Alito's opinion "acknowledged that the decision might 'lead to extensive and costly litigation', but said that was the price of protecting constitutional freedoms" (NYT26). This follows the priorities set in *Heller*: protecting and centralising constitutional rights while marginalising legislative difficulty and cost. The majority used the due process clause as the best vehicle of incorporation. This led to Scalia submitting a concurrence in which he "acknowledged misgivings about using the due process clause to apply Bill of Rights protections to the states but said he would go along with the method here 'since straightforward application of settled doctrine suffices to decide it'" (NYT26). He is in a position of authority, being entextualised in the coverage, yet there is slight ambiguity in his role: going along with something is a weak course of action whereas bowing to settled doctrine is a value many justices centralise.

The dissenters in *McDonald* were Stevens, Ginsburg, Breyer and, instead of Souter, Sotomayor. They continued to hold that *Heller* had been incorrect and should not be extended. Stevens's dissent (joined by Ginsburg, Breyer and Sotomayor) is most extensively entextualised of the opinions. The first instance establishes a link between *McDonald* and *Heller*: "'Although the court's decision in this case might be seen as a mere adjunct to Heller,' Justice Stevens wrote, 'the consequences could prove far more destructive – quite literally – to our nation's communities and to our constitutional structure'" (NYT26).

Although *Heller* received more attention from the NYT compared to *McDonald*, Stevens stresses that *McDonald* should be viewed as an independent case that extends an incorrect right. He is further cited for a short historical account of the framers and, eventually, NYT26 reports that he "said the court should have proceeded more cautiously in light of 'the malleability and elusiveness of history' and because 'firearms have a fundamentally ambivalent relationship to liberty"'. Stevens is the voice that argues on the basis of uncertain data on the effectiveness of gun regulation. Breyer wrote another dissenting opinion joined by Ginsburg and Sotomayor. From his opinion, NYT26 continues to emphasise the problematic history of gun control which for him means that it should be the elected officials that decide how to regulate guns. Breyer's presence in the coverage ends on a fairly neutral (or perhaps resigned) note: "He also acknowledged that the majority decision limited the ability of states to address local issues with tailored gun regulations. 'But this is always true,' he said, 'when a Bill of Rights provision is incorporated'".

6. POSITIONING ON THE TEXTUAL LEVEL

This chapter presents the micro analysis of the corpus, moving through the respective sub-corpora on the basis of the methodology outlined in the third chapter. The media representation of the three Supreme Court precedents on the Second Amendment (*United States v. Miller*, *District of Columbia v. Heller* and *McDonald v. Chicago*) is analysed within a CDA framework with a focus on space and positioning in discourse. The corpus is analysed on the basis of Fairclough's (1989) discussion of participants and processes and Chilton's (2004) coordinate system of temporal, spatial and modal axes. The precedents are treated separately as the *Miller* corpus, the *Heller* corpus and the *McDonald* corpus. The *Miller* article dates from May 16, 1939 and is labelled NYT0. The *Heller* corpus includes 21 articles published between March 10, 2007 and July 30, 2009 (labelled NYT1–NYT21), and the *McDonald* corpus includes 6 articles published between September 30, 2009 and August 28, 2010 (labelled NYT22–NYT27).

Participants identified in the sub-corpora are the starting point for the analysis: they are mapped as individuals and groups that are involved in various processes that establish relationships between participants and, through this, come to define the discourse space. The participants categorised below include the majority of the references in the articles, but there are some exclusions such as passing remarks to additional lower level court cases that only appear in one or two articles or brief reports on people who visited the SC hearings of the cases. For the most part, the news articles in the corpus lend themselves to categorisation without great difficulty in that there are few complex combinations of participants. This means that, in the majority of the text, a clear participant or participant group is connected to a specific predicate and to a specific process. There are some issues when it comes to mapping several individuals together, but in such instances the analysis treats them as groups whenever possible (e.g., mappings of a number of SC justices are treated as mappings of "the majority" or "the minority" whenever such groupings under common labels are possible). In order to keep the participant groups manageable, some extensions of references to individuals or groups have also been categorised under the same heading. For instance, if the SC has issued an order, the reference "the court's order" is grouped under the SC. This is not the case with the specific court decisions in question which are treated as separate participants.

The processes that participants are involved in serve as another focal point: it is mainly the predicates connected to the participants that are explored on the basis of their modal, spatial and temporal mappings. In focusing on these three aspects, the analysis relies on Fairclough's (1989) categories of actions, events and attributions, rather than applying Halliday's (1994, Finch 2005: 88–92) classification of processes through their semantic roles, while fully acknowledging the usefulness of SFL analysis. On the modal axis, elements are placed on a scale of remoteness from the deictic centre which reflects what is

morally acceptable (deontic modality) and/or factually right (epistemic modality). This can occur on an individual or group level and is certainly subject to change as deictic centres shift in the news texts analysed. Pronouns primarily map the distinction between group or individual values and the values of the "other", as is evident below in participants' mappings of values associated with "us". On the modal axis, thus, pronouns "I" and "we" denote proximity to the deictic centre whereas "you" and "they" point to elements (and, hence, views and values) that a participant is less likely to identify with. Modal verbs fall on a scale from "right" to "wrong", and the same scale is expressed with the help of negative constructions and lexical choices. Space permeates the corpora and figures in positioning elements on the two other axes as well, but specifically spatial references are mapped through the use of metaphors, prepositions, adverbs and so forth which establish areas that participant groups inhabit, set up borders between these areas and map movements in the discourse space. Spatial references also encode assessments and are analysed for the hierarchies they represent and recreate. Finally, the analysis focuses on temporal mappings. The construction of deictic centre(s) is discussed throughout the separate subchapters. It should be stressed that it is purely for the purposes of teasing apart these aspects for a detailed analysis that space, modality and time are treated as distinct categories, where in reality they intersect and combine to form a complex media representation.

6.1. United States v. Miller

6.1.1. Participants

The most prominent participants in the 1939 article (NYT0) on the *United States v. Miller* decision are the SC, referred to as "Supreme Court" once and as "we" twice (in quotations from Chief Justice McReynolds). McReynolds is a prominent participant (referred to once with his name and with "he"), having been the justice to deliver the opinion. The decision is only mapped as "the McReynolds ruling" and "the McReynolds decision". The defendants, Jack Miller and Frank Layton (twice misspelt as Dayton), are mentioned once in unison. An additional reference is made to their attorneys. The District Court is mentioned once as being in agreement with the attorneys. A single reference is made to "the National Firearms Act" and "the government" and its representatives ("the government officials"). Most references are made to the sawed-off shotgun at the focus of the case labelled "sawed-off shotgun" (1), "this weapon" (1), "the firearm" (1), "it" (1) and, as an extension, "its use" (1). The list of participants reflects both the brevity of the article and the narrow focus of the case: the fact that the sawed-off shotgun is the most mapped element points to how the case had nothing to do with the philosophical underpinnings of the SA and everything to do with the NFA the government was seeking to strengthen. Differently from the treatment of the early 21st century court cases, NYT0 does not include any expert voices or the voices of

interests groups. Neither does it map other justices' opinions or any counter arguments to the decision.

6.1.2. Processes

The majority of verb phrases used in NYT0 denote events, slightly fewer denote actions and only a few denote attributions. This suggests that relationships between participants are present (there are only a few mappings through descriptions) but indirect (there is a preference for events rather than actions). Among the events, the SC is reported to have "unanimously asserted" its decision and it "was unable to say" (also an attribution) that the weapon in question had anything to do with the SA. There is one clear action when the SC, through McReynolds, acts directly on another participant and claims that they "construe the amendment as having relation to military service", defining the scope of the SA in relation to *Miller*. Two events are connected to McReynolds ("Justice McReynolds drawled from the bench" and "he said") which do not directly impact other participants, but the decision itself (identified through McReynolds) has a much more active role in the discourse space. The ruling serves as the subject twice, each time directly affecting other elements: "The McReynolds ruling upset a verdict of the Western Arkansas Federal District Court" and "the McReynolds decision had given them a new instrument with which to fight bank robbers, gangsters and other criminals".

The plaintiffs have an active role in the single action they engage in: "The record in the case of Miller and Dayton does not show for what purpose they were taking the sawed-off shotgun across State lines". They are involved in the illegal act of transporting a sawed-off shotgun. Their attorneys fill the subject position once: "Attorneys for the two men contended that the registration clauses violated" the SA. This event actually refers to their activities prior to the SC deliberation, since the attorneys were not present before the court. The same sentence is also the instance in which the NFA is given an active role ("the registration clauses violated the [SA]"), although a negative one, infringing on a constitutional right. The court on the lower judicial level is given a fairly active but modest role: "The District Court agreed with the lawyers". Another participant group are the government officials who are the subjects of two events and one action. One event ("Indicting Miller and Dayton, the government did not mention specifically that the firearm was a sawed-off shotgun") portrays the government as holding back some information, maintaining a distance from other participants (a sense strengthened by the use of "did not mention"). In "Government officials felt, today, however, that the McReynolds decision had given them a new instrument with which to fight bank robbers, gangsters and other criminals, whose favourite arm is the sawed-off shotgun", the government is represented with the event "felt" (an intrapersonal reference) and the action "to fight" which, on the contrary, depicts it as active and even militant. The weapon in question is primarily the subject of events and also of one action and one attribution. The latter clearly ("the firearm

was a sawed-off shotgun") identifies the type of weapon. The action is a passive construction used to specify information about the weapon: "Instead, it was solemnly described as a 'certain firearm, a double-barreled 12-gauge Stevens shotgun having a barrel less than eighteen inches in length'". This ascribes power over the weapon to the government: it can define it and affect how it is viewed by other participants.

6.1.3. Modality

Negation is used primarily to refer to arguments and circumstances that are missing from the deliberation: "The record in the case of Miller and Dayton does not show for what purpose they were taking the sawed-off shotgun across State lines"; or "Indicting Miller and Dayton, the government did not mention specifically that the firearm was a sawed-off shotgun". It is also used in denying the existence of relationships between specific elements. NYT0 begins by summarising the SC decision: "Sawed-off shotguns have not the slightest relation to the constitutional right of the American people to 'keep and bear arms'". The "have not the slightest relationship" denies the inclusion of sawed-off shotguns among weapons allowed under the SA, pushing it further on the modal axis as an element unconnected to the "constitutional right of the American people". A similar exclusionary use of negation occurs in a quote from McReynolds: "Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense". This is also the only occurrence of modal verbs in NYT0 mappings of participants and it envisions a future scenario placed along the temporal axis next to being a modal expression that contemplates the (un)certainty of a state of affairs. This statement from McReynolds is aligned with what the introduction to the article states but stands in opposition to the attorneys' claim that the regulation violates the SA. Support for their claim is drawn from the SA itself which is printed next to it. The SA also operates on the modal scale: "shall not be infringed" pushes attempts to infringe this right far on the modal axis, that is, away from the centre in which lawful and constitutional elements reside.

Pronouns are another means of placing the participants on the modal axis as entities with shared or different objectives and preferred actions. NYT0 has 7 such instances, some of which are straightforward (e.g., the use of the possessive adjective "his" and the personal pronoun "he" to refer to McReynolds or the use of "it" to refer to the weapon). It is equally transparent to use "they" to refer to Miller and Layton, although this does make a single unit of the two, glossing over any differences of opinion they might have. Other uses are more ambiguous. A reference is made to the government with an unspecified "them": "the McReynolds decision had given them a new instrument with which to fight bank robbers". The often vague "we" is used once here: "We construe the amendment as having relation to military service and we are unable to say that a sawed-off shotgun has any relation to the

militia". This is a quote from McReynolds who said this while pronouncing the decision. "We" refers to the SC as a whole as it was a unanimous decision. Such references might, however, be problematic with *Heller* and *McDonald* where the majority decisions do not speak for the entire court.

6.1.4. Space

Space and positioning is evident in the grouping of participants. The SC is represented as being in cooperation with the government, or at least as providing useful tools for it, and Miller and Layton are depicted as acting in unison in their breach of federal law. The groups inhabit different areas in the space and different relationships are set up between them. NYT0 has references to actual physical space, for instance, in reporting how *Miller* began with the two men transporting the weapon across state borders. The analysis is more concerned with the spatial representation of abstract entities, but it should be noted that references to state borders that can be measured in geographical terms are also discursive constructions and that the idea of some laws applying in some geographical areas and others in others with additional ones over-arching these areas is a discursive representation of the physical world. In short, the whole situation in which the men initiated a court case that reached the SC and would, in 70 years' time, become a central precedent was a social construction established and negotiated through discourse.

It becomes evident that spatial references are used to carve out specific areas of the discourse space and set up borders between participants and processes. When it comes to representing the right in the SA, spatial distance is used to denote that the weapon in question is not included in the range of legal ones. This is done in the metadiscourse of the article ("Sawed-off shotguns have not the slightest relation to the constitutional right") but can also be seen in the entextualisation of McReynolds' announcement of the decision and the written opinion. The extract from the decision indicates that the space in which the justices operate is that of past precedents, which is also evident in the reference to the court's previous treatment of the SA as specifying a militia-related right (McReynolds is quoted: "We construe the amendment as having relation to military service").

Hierarchical relationships are also set up by which, for one, court rulings, especially those of the SC, can alter and reshape other court cases: "The McReynolds ruling upset a verdict of the Western Arkansas Federal District Court, quashing an indictment charging Jack Miller and Frank Layton with transporting a sawed-off shotgun" (NYT0). The ruling has the power to change the course of court cases, even to the point of completely destroying the original indictment. This reaffirms the hierarchy of courts: the decision by the District Court can be "quashed" by the SC, placing the justices higher than other courts in the legal hierarchy. It is also within the SC power to put new means into the hands of the government: "the McReynolds decision had given them a new instrument with which to fight bank robbers, gangsters and other criminals".

This represents the SC as having the power to rearrange the tools available to the executive branch. Another hierarchical relationship is established between laws passed and the actions expected of citizens. This is visible in how Miller and Layton are charged with transporting the sawed-off shotgun across state lines "without registering [it] under the Firearms Act".

Going against a law or its common interpretation is viewed as intruding into its borders: "Attorneys for the two men contended that the registration clauses violated the Second Amendment of the Constitution reading: 'A well regulated militia /…/'". The attorneys claim that the regulation their clients were accused of breaking has wrongfully intruded in the area of the SA. The SA, thus, sets up the right to keep and bear arms as a clearly defined area in the discourse space. However, the attorneys' claims were opposed by the SC who ended up "upholding the validity of the registration sections of the [NFA]" (another representation of their authoritative position in the hierarchy).

6.1.5. Time

NYT0 was published on May 16, 1939, a day after the SC decided *Miller*, although the text of the article is dated May 15. This is what some temporal expressions orient towards: the deictic "today" is used in three instances with its reference being made clear from the beginning where the co-text states the date of publication. The temporal framework in which the events occur is set up in a uniform manner: the article primarily uses Past Simple to map the events and makes no references to any other specific moments in time (either to the date of the District Court decision or any prior decisions). This results in NYT0 not clearly distinguishing the events as temporally apart. The lower court decision and the arguments made there are merged with the SC discussion, when there was actually a period of time between the lower court decision and the SC accepting the case (March 30, 1939) and deciding it on May 15. The discourse space maps the attorneys' claims and the SC decision as temporally close, but the attorneys were only heard in the District Court. In short, NYT0 constructs a less ambiguous discourse space than there really was, creating a synchronised representation which leaves the impression of a more immediate dialogue between the participants.

6.2. District of Columbia v. Heller

6.2.1. Participants

The participants in the *Heller* coverage are a more varied group than in *Miller*. The most obvious reason for this is that the single 1939 article could not include all the nuances found in the *Heller* articles. This also has to do with the wider scope of the case which opens the door to many groups interested in its

outcome. The participants include the SC which is also identified as the Roberts Court after the current Chief Justice and mapped with deictic expressions ("this court"). Subcategories of the SC are the majority and minority groups that do not distinguish individual justices, which are also counted under the category of the SC. Another group are the individual justices who include current members and the former Chief Justices William H. Rehnquist and Warren E. Burger and Justices Thurgood Marshall and Felix Frankfurter. Distinctions are also made between liberal and conservative justices. Lower level courts and judges are treated separately. Whereas in NYT0, only the District Court that decided the case before it reached the SC is mentioned, here a range of other courts are present. References can be as specific ("the United States Court of Appeals for the Fifth Circuit, which hears appeals from Louisiana, Mississippi and Texas") or vague ("nine other federal courts", "the great majority of federal courts", and "one court"). The analysis treats the lower courts and judges in unison, since a court is frequently only present through a specific judge.

Roughly half the articles map the Washington, D.C. law. It is labelled "a gun control law in the District of Columbia", "Washington's gun law", "the law", "the handgun ban", "the District of Columbia ordinance" and so forth. Other laws are also mapped with both unspecific ("gun control laws /.../ around the country") or specific references (mainly through naming the city or state: e.g., "a Massachusetts law"). Such references are less common, occurring in about a quarter of the articles.

The articles map the lawyers for the D.C. and Richard Heller. On behalf of the D.C., comments are made by Linda Singer, the District's acting attorney general, and Mayor Adrian M. Fenty, who is sometimes grouped together with the lawyers. Arguing for the D.C. before the SC is Walter Dellinger (also identified as "a former acting solicitor general" (NYT10)). Among the people working to abolish the gun ban and establish an individual right reading are Robert A. Levy, a lawyer and senior fellow of the Cato Institute (an article focused on his role in the case also describes him as "a rich libertarian lawyer" (NYT17)), and Alan Gura, Levy's colleague and Heller's representative. Fewer references are made to their third colleague, Clark M. Neily III. The group is also labelled "the lawyers" (NYT17) and "the statute's challengers" (NYT5). Often, references to them are accompanied by references to the original six plaintiffs and to Richard Heller, specifically. Heller is treated as a separate participant since his presence is greater than that of the other plaintiffs (who are not named). He is identified as "Mr Heller", "Dick Heller", "Dick Anthony Heller, a security guard". These suggest that he has knowledge of and training in handling guns.

References to people supporting or opposing the individual right reading are not limited to those directly involved in the case but also include interest groups advocating for or against a certain result. The "advocates of gun rights" (NYT1) and "gun rights groups" (NYT14) are also labelled "supporters of the court's decision" (NYT14; this reference needs background knowledge of the lower court decision). Among the groups, the NRA is most frequently mentioned ("the

country's biggest gun advocacy group" (NYT11); "the gun group" (NYT11)). Frequently, groups are present through their representatives (e.g., references are made to Wayne LaPierre, "chief executive of the N.R.A." (NYT14)). Some gun rights supporters come from the realm of politics (e.g., "Lt. Gov. Casey Cagle, an ardent supporter of gun rights" from Georgia (NYT14)). The Cato Institute, a gun rights advocacy group, is not often mentioned in that capacity but is rather mapped as being directly involved in the case. With gun control advocates, references are made to one interest group, the Brady Centre to Prevent Gun Violence. This is "a prominent gun reform group" (NYT11) represented by its lawyer, Dennis A. Henigan, and "the group's state legislation and politics director" (NYT11) Brian Malte. This group is less present than gun rights advocates. Like gun rights advocates, gun control advocates also include politicians: Michael R. Bloomberg, the mayor of New York, identified as "a vocal opponent of guns" (NYT 14).

Among groups interested in firm gun control, officials of Washington, D.C are treated as a separate group. The D.C. itself often becomes an entity that acts in the discourse space ("the District of Columbia", "Washington", "D.C.", "the District"). At times, this is accompanied by a reference to a specific document ("the district's appeal" (NYT13), "the District's petition" (NYT5)) or an institution ("the D.C. Council" (NYT18), "the capital's newly empowered City Council" (NYT6)). The only individuals representing the D.C. are in NYT4 ("officials in the District of Columbia") and in references to Mayor Fenty who is cited in several articles. Additional participants that can be grouped as politicians are mapped in eight articles. The most influential members are the Bush administration and President Bush himself, with an additional reference to Vice President Dick Cheney. One member of the administration extensively mapped in NYT9 and NYT10 is the Solicitor General Paul Clement. He issued a brief on *Heller* in which he argued for the individual right reading but not for ruling the D.C. ban unconstitutional. This caused tensions within the administration, resulting in both Clement ("solicitor general", "he", "who") and the brief being mapped. There are other voices from the government both as groups and individuals (e.g., John Ashcroft who had been the attorney general in 2001 when he wrote a public letter supporting the individual right reading (NYT9)). Next to the government, increasing references to state lawmakers emerge as the coverage progresses. These are broad ("state lawmakers across the country" (NYT11), "Chicago officials" (NYT14)) but can also be specific ("Mayor Gavin Newsom" (NYT14), "Gov. Arnold Schwarzenegger of California" (NYT11)). With politicians, the lines between groups are sometimes blurred, mostly when politicians employ the ambiguous "we" or "our" (NYT10, NYT11). Further references are made to Republicans and Democrats as subgroups.

Differently from the 1939 article, the *Heller* coverage allots the SA an active position as an entity that acts on other participants. This occurs in most articles. The most frequent label used is "the Second Amendment", followed by "the amendment", vague references such as "the clause" (NYT5) are fewer. Labels

such as the "Second Amendment's protection of the right to keep and bear arms" (NYT2) are also used. Such extensions are categorised under the participant group "Second Amendment" as have references that substitute the phrase "Second Amendment" with "the Constitution" in instances where the reference is clearly to gun rights (NYT12). The SC's previous treatment and interpretation of the SA is also vital. This is why references are made to existing case law of which only one is mapped: the 1939 decision. *Miller* is mapped in six articles as "United States v. Miller", "the Miller decision", "the Supreme Court's 1939 decision on the Second Amendment" and "that ruling" and "that Supreme Court precedent".

Next to previous precedent, the background of *Heller* is included, comprising the decision made on the lower level and the court itself. The decision is mapped as "the decision" and "the decision in Parker", "the March decision" and "the case" but also as "the case, now called District of Columbia v. Heller, No. 07-290". Involved in deciding the case was the US Court of Appeals for the District of Columbia Circuit which is labelled "the appeals court", "the court", "full appeals court". The court is also mapped via its members (Judge Silberman, who wrote the majority opinion; Judge Thomas Griffith, who joined it; and Judge Karen Henderson, who wrote the dissent) or with "the majority". The moment the appeals court made its decision and both sides concluded that a SC opinion is needed, *Heller* was propelled to the level of national interest. The case is a distinct participant and is often given the power to affect other participants. It is frequently referred to simply as "the case" or "this case" but acquires more relevance after the SC decision when it becomes "today's law-changing decision" (NYT13) and "landmark ruling" (NYT12), next to "the high court ruling" (NYT12) and "the court's decision" (NYT14).

Finally, as *Heller* focuses not only on a specific law but questions the very meaning of the SA, its representation also voices the opinions of legal scholars who are invited to offer insight into the significance and possible effects of the ruling and the "original meaning" of the SA. Legal scholars express their opinion in ten articles. They are often divided into opposing sides: there are the "several leading liberal law professors" or "liberal law professors" and "the professors on the other side" (this label is introduced by Carl T. Bogus, a law professor at Roger Williams University, who endorses the collective right reading). There are numerous individual experts including "several other leading liberal constitutional scholars, notably Akhil Reed Amar at Yale and Sanford Levinson at the University of Texas" who favour gun control and the already mentioned Carl T. Bogus and "Eugene Volokh, a constitutional law professor at the University of California, Los Angeles" (NYT21). Another scholar, Laurence H. Tribe, a Harvard professor, used to support the collective reading but has now "come to believe that the Second Amendment protected an individual right" (NYT2). Some experts' field of expertise is defined in greater detail than others' (e.g., "Gary Kleck, a professor at Florida State University's College of Criminology and Criminal Justice, whose work Justice Breyer cited" (NYT16)).

6.2.2. Processes

The SC as a participant group is almost equally involved in actions and events (52 to 45); attributions are fewer (12 instances). Attributions are even less present in references to the SC as such (7), as half of the instances are used to refer to either a court order (1), to the court's choice of words and "review" of something (2), "the Roberts court" (1) or "the Roe and Heller courts" (1). There is no such tendency with actions and events, where only one action and one event come from references to a SC "decision" and "order" instead of a reference to the court itself. In references to individual justices and divisions in the SC, events outnumber actions (100 to 69) with attributions (16) being least used. Events are related to justices being reported as having "said", "argued", "claimed", "asked" etc. something and this is often accompanied with direct quotes. Numerous references are made simply to "the justices" and "the current justices" (15 actions, 16 events, 2 attributions). Individual members are mapped with 31 actions, 63 events and 11 attributions. These are divided unevenly among the 9 justices, with most references to Scalia who wrote the majority opinion (10 actions, 24 events, 3 attributions). He is followed by Kennedy (8 actions, 7 events, 3 attributions) and Breyer (6 actions, 9 events, 3 attributions) who are both the subjects of 18 verb phrases. Kennedy is centralised as the swing vote who eventually secures the victory to the challengers of the ban. Breyer wrote one dissenting opinion. The author of the other, Stevens, is mentioned in 12 instances (4 actions and 8 events). Roberts is mentioned in 11 events and 1 attribution.

Next to individual references, the justices are also grouped together in different configurations and participate in the discourse space as groups. This can mean joint ideologies, goals and actions ("the majority" as opposed to "the dissenters", "the more conservative justices" as opposed to "the (more) liberal justices"), but it can also represent oppositions within a group. There are some justices who are mapped more extensively (Scalia and Stevens), while other justices only get a passing mention as part of the majority or minority. Souter and Ginsburg are mapped in a single section (NYT1), being listed among the dissenters (1 action, 1 event). References to justices also map four former members: William Rehnquist, Warren E. Burger, Thurgood Marshall and Felix Frankfurter. They are reported as having said something in the past that is considered relevant to *Heller*. This leads to events being the most common process (8 events, 5 actions, no attributions) used for them. Burger is mentioned 10 times (the others are each mapped once), mostly in NYT1 and NYT17 where essentially the same statement from him is entextualised.

Lower courts found are the federal appeal courts of different circuits (the Second, Fourth, Fifth, Seventh and Ninth Circuit Courts), with the lower level District Court of Manhattan mapped through Judge James C. Francis IV. The references to the Court of Appeals for the Ninth Circuit in San Francisco are almost equally actions (9) and events (10) (and 2 attributions), whereas references to the courts of the 2nd, 4th, 5th and 7th Circuits are mainly actions, suggesting an active role being given to the courts as groups. Individual judges

are more often represented through events (they have "said" or "written" something) than actions. From the circuit courts, four judges are mentioned individually. From the 4nd Circuit, Judge Harvey Wilkinson III and Judge Richard A. Posner are quoted (1 action and 11 events; 1 action and 3 events, respectively). Judge Frank H. Easterbrook from 7th Circuit (2 events) and Judge Silberman (1 action) are also mapped. The judges are invited to comment on the decision, whereas the courts as institutions more directly affect other participants. Relationships between the courts are not specified; they are mostly mentioned in connection to their individual opinions. There are two instances in which the courts are described as being on opposing sides: when they are said to have "a split among" (NYT20) and a "conflict between" them (NYT21). These suggest different relationships: one of a division, the other of a direct confrontation.

The courts address laws and bills that exist or are introduced and debated. References to federal laws and regulations are heavily in favour of actions (24 actions, 4 events, 3 attributions), suggesting that laws are active in the space. This group includes proposed legislation across the nation: individual laws from specific states and cities (Massachusetts, Pennsylvania, Florida, Chicago and San Francisco) are the subjects of 13 actions, 6 events and 2 attributions. The D.C. ban follows the trend of participants being mainly represented through actions (27) but differs from the SC, justices and the lower court justices in attributions (17) exceeding events (9). This occurs as the law is labelled unconstitutional (NYT5, NYT12), having been in existence for a certain period of time (NYT5) or belonging among the strictest ordinances in the US (NYT3, NYT4). Actions outnumber events by three to one, suggesting an otherwise active role for the law.

Lawyers for Washington, D.C. are mapped in four articles (NYT1, NYT2, NYT6, NYT10), including a joint reference to them and Mayor Fenty. Most references are to Linda Singer through events (7) and the verb "said" which reflects the use of direct quotes from her. The quotes present a difficulty in categorisation, since they include references to an ambiguous "we". The "we" has been counted with the lawyers on the assumption that it includes her and people working with her. The "we" is more active than she (3 actions and 1 event) although mapped less. Another participant, Walter Dellinger who argued for the District is involved in 1 action and 4 events, the latter again due to direct quotes. There is one reference (an action) to D.C. "lawyers" which makes this group one of the more individually defined groups. There are no attributions. The role given to the D.C. lawyers is somewhat removed from the events: they offer commentary instead of being actively involved in affecting the discourse space and participants in it.

Among Heller's lawyers and representatives, Levy is most heavily mapped (19 actions, 30 events and 4 attributions). Most events are mapped with the verb "said" and in direct quotes from him. The actions are due to his active involvement in the case. His colleagues are less present and often referred to in unison as "they" or "the lawyers" in 8 actions and 6 events. Neily is not mapped

individually, but Gura is (1 action, 9 events). References with "we" and "they" are common; often introduced in direct quotes from the lawyers who account for their and other lawyers' activities. The overall division of the processes is 32 actions, 53 events and 4 attributions. Heller's representatives are more involved in events (and commenting on them with the help of "said") than in affecting other elements in the discourse space.

The interest groups advocate their points of view and take part in the proceedings by submitting amicus briefs. General references to gun rights advocates include 8 actions and 3 events, but these are outnumbered by the ones made to specific interest groups and their representatives. Two main groups emerge: the Cato Institute (2 actions and 1 event) and the NRA (8 actions, 5 events, 1 attribution). The Cato Institute is directly involved in the case, whereas the NRA has a more national role and becomes more present as the focus shifts from *Heller* to its aftermath and potential new challenges. From the Cato Institute, Levy and Shapiro are cited, both of whom are mostly consulted for commentary. Levy, also categorised under the previous group, is included here in his capacity as a senior fellow at the institute (3 actions, 7 events and 2 attributions). Shapiro is the subject of 3 events. From the NRA, its chief executive officer, Wayne LaPierre is the subject of 1 action and 11 events, and spokesman Andrew Arulanandam is the subject of 1 event. They, too, are primarily quoted as having "said" or "told" something. Overall, the groups have a dual role: the groups as such are involved in actions in the present, whereas their representatives are involved in commenting on what has happened in the past. Only four articles mention gun control groups or their representatives and only a single group and its members are cited. The Brady Centre's lawyer Dennis A. Henigan and its state legislation and politics director Brian Malte are involved in 3 events between them, mostly commenting on processes occurring in the discourse space. The centre itself is the subject of 3 actions and an additional action that has the pronoun "we" as the subject. Another event maps its connection to "many liberal politicians" (NYT12), indicating its political allegiances.

Closely involved is Washington, D.C., its legislative bodies and representatives. Most frequent references are made to the D.C. as such (14 actions, 4 events, 8 attributions). The number of attributions is largely due to D.C. being described as a non-state. 4 of the 14 actions are related to a petition presented by the D.C. Two individuals are mapped: Mayor Fenty and D.C. Councilman Phil Mendelson (6 and 7 processes, respectively). Fenty mainly comments on what has happened in events, but Mendelson is equally involved in actions and events. The City Council is also a participant (3 actions and 1 event), as is the pronoun "we" in direct quotes from different individuals (1 action, 1 event, 1 attribution). Across all subdivisions, 28 actions, 14 events and 10 attributions are found.

The political realm on the national level and in different states is also mapped. A subcategory includes President Bush and his administration, Solicitor General Clement and his brief, Attorney General John Ashcroft, Vice

President Dick Cheney and the Justice Department. These participants are primarily the subjects of actions (24), but there are also events (16) and attributions (3). Bush is the subject of only 2 actions and 1 event; the VP is the subject of 2 actions. Most references are made to Clement and his brief (16 actions, 12 events, 1 attribution) due to its controversial content. Anticipating the end of Bush's second term, the articles also include voices from another subcategory: the presidential candidates of the 2008 elections, Senators John McCain and Barack Obama. They are the joined subject of 1 action and 1 event. McCain is also the subject of 2 actions and 1 event; Obama is mapped through 6 actions, 3 events and 2 attributions. Partly, this is due to the fact that he used to teach constitutional law and could be termed an expert. Another subcategory are formed of state legislators and politicians contributing to the debate either through comments or proposing and enacting bills in response to *Heller*. West Virginia, California, Illinois, Pennsylvania, Florida and New York lawmakers, governors and mayors are mapped in 12 actions, 24 events and 3 attributions. Two states receive more mention: California (4 actions, 12 events, 2 attributions) and Pennsylvania (5 actions, 5 events, 1 attribution). There are also 7 references (all actions) to state lawmakers without a state or city being specified. Most references are specified through references to individual politicians (e.g., New York Mayor Michael Bloomberg and California Governor Arnold Schwarzenegger) or to spokespeople (e.g., Jenny Hoyle for Chicago Law Department).

The SA is another participant that, with some extensions, serves as the subject of 109 processes (86 actions, 15 events and 8 attributions). 74 processes (64 actions, 9 events and 1 attribution) refer specifically to the SA which points to a tendency whereby it is overwhelmingly the subject of actions and directly affects other participants. Notable extensions include references to its first clause (7 actions, 1 event and 1 attribution) and second clause (4 actions and 2 events). One subcategory uses the Constitution as the subject that, through a metonymic relationship, refers to the SA: "The Supreme Court announced Tuesday that it would decide whether *the Constitution* grants individuals the right to keep guns in their homes for private use" (NYT6; emphasis added[14]).

The lower court decision leading up to *Heller* is the subject of 28 processes (17 actions, 3 events and 8 attributions). Several actions, however, are connected to the decision being the subject of passive clauses which somewhat negates the dynamic nature otherwise created. The appeals court that made the decision in *Parker* is the subject of 38 processes (21 actions and 17 events) in the first half of the *Heller* corpus, playing a more significant role in the build-up to the SC case. The court is the subject of 15 actions and 8 events; references to the majority are the subjects of 5 actions and 6 events and the dissenters are the subjects of 1 action and 2 events. Among the majority, Judges Silberman and Griffith are individually placed, as is Henderson of the dissenters. This group has no attributions, pointing to a focus on how the court affects other partici-

[14] Here and hereafter, emphasis is added to the examples, unless specified otherwise.

pants rather than its qualities. The *Heller* case and its extensions are the subject of 56 processes (35 actions, 12 events and 8 attributions). Heller himself is the subject of 21 processes (18 actions, 1 event and 2 attributions) of which 3 are extended references to the application he submitted to the D.C. officials. Heller is constructed as an active participant but this is mitigated by the use of passive constructions (5 instances).

The final participant group is that of legal scholars and experts (and some extensions that point to an article or study by a specific expert) who are the subjects of 96 processes (28 actions, 60 events and 8 attributions). Among these, 18 are processes (11 actions, 6 events and 1 attribution) that refer to non-individual "legal scholars", "legal and gun experts", "constitutional scholars" and so on. Individual experts are the subjects of 70 processes (13 actions, 51 events and 6 attributions) which, first and foremost, have to do with what they "said", "noted" and "wrote".

6.2.3. Modality

The use of modal verbs in references to the SC is mostly epistemic, but there is one modal verb that has a deontic effect: "The court would then have to move to the next stage, defining what an individual right actually entails and what government regulations it permits" (NYT9). The modal verb is part of a clause that details where certain steps would eventually lead and, on the modal axis, this use is placed near the deictic centre as it suggests a "right" course of action. Epistemic uses are mostly connected to hypothetical scenarios concerning the court's actions. NYT3 writes: "a review by the Supreme Court is both warranted and likely should it be requested, said Michael C. Dorf, a Columbia law professor". An expert is invited to assess what is likely to take place on the temporal axis if certain events occur. The probability of a SC review is placed close to the centre. The same meaning is conveyed elsewhere: the SC "could adopt an individual right interpretation" (NYT3), "would review the handgun ban" (NYT6) and "would evaluate gun restrictions" (NYT13). In these, the SC is mapped close to the deictic centre. In fact, most modal verbs with this group are close to the modal centre.

In three instances, modal verbs are combined with negation. In "Since the only claim in the case is that law-abiding people have the right to keep a gun at home, the court will not have occasion to address restrictions on carrying guns" (NYT6), the phrase "will not have occasion to address" suggests a future scenario that is unlikely, being placed in the periphery of the modal axis. This refers to other issues connected to the discussion of the SA and gun rights that are not at focus in *Heller*. A direct quote from Clement ("I don't see why this court wouldn't allow the Second Amendment to have the same kind of scope" (NYT10)) suggests that for the SC to deny a certain development would be unlikely, that is, this possibility is placed in the periphery. Finally, in "some of the conservative justices on the court had scoffed at incorporation arguments in the past and might not want to set a precedent" (NYT20), the use of modal verb

and negation suggests that the SC is unlikely to want to go down a specific path of constitutional solutions.

Negation also occurs without modal verbs, mostly in references to the SC history and, specifically, to decisions missing from it: the court "has not decided a Second Amendment case" (NYT1), "has not ruled on the meaning of the Second Amendment" (NYT3) and "has never ruled" (NYT6). Such uses mostly occur in the first half of the *Heller* corpus in which the history of the SA and the SC's role in it are detailed. Through the use of negation, the articles reproduce the hierarchy by which the SC is in a position of authority: it is the justices' opinion that is missing from establishing a definitive reading. Sometimes, the use of negation produces the opposite meaning. In "In adding the case to its calendar /…/ the court not only raised the temperature of its current term but also inevitably injected the issue of gun control into the presidential campaign" (NYT6), negation helps map parallel processes by adding emphasis on the by-product of the case, that is, the effect it had on the 2008 presidential campaign.

The use of pronouns in mapping the SC is infrequent: most used is "it" with a single "they" used in NYT1 to map former justices. "It" is used in NYT6 and NYT12 (NYT9 also uses "itself" in "[the SC] itself has said nothing for nearly 70 years" to emphasise the lack of action on its part). This maps the SC as an institution rather than a collection of people. "It" maps both the past ("it has applied" (NYT6)) and the future (the SC announced "it would decide" the case (NYT6)). In modal terms, "it" does not establish an obvious distance from the deictic centre, but it does have a role in assigning responsibility: the SC as "it" serves as a unit with indivisible agency which means that whatever judgement is passed pertains to the court as such and not to its individual members.

In two instances, deontic modality is found in references to the justices: "the justices must then decide what such an interpretation means" (NYT5) and "the justices should use a standard more relaxed than the 'strict scrutiny' that the lower court applied" (NYT10). The latter is part of a quote from Clement, who is suggesting that the justices have an obligation to allow gun regulation. Most modal verbs work to create the effect of envisioning an alternative past ("In a 1996 dissent /…/ [Alito] wrote that he would have struck down a federal law regulating the possession of machine guns" (NYT1)) or future scenarios ("there is no way of knowing whether /…/ [Kennedy] would accept as reasonable some restrictions" (NYT15); the justices "indicated that they would go to the heart of the long debate" (NYT12)). In most instances, the source of authority is not mentioned, but there are instances where the assessments are attributed to specific participants. In "Professor Amar, however, argued that the justices would not only take up the case but would also ultimately vote for incorporation of the Second Amendment" (NYT20), the SC is constructed as likely to take certain action: the article aligns itself with Amar who has assumed an authoritative position in judging the SC's future actions.

With references to the justices, negation with other verbs is mostly (4 instances out of 6) used in connection to Kennedy. NYT10 states that "Kennedy, the member of the court at whom Justice Breyer was most likely

aiming his overture, did not take up the invitation", while NYT15 reads: "Kennedy /.../ did not compile quite the pitch-perfect voting record in this term" and "his vote was not always as essential". These map events that were likely but did not occur and are, thus, placed far on the modal axis. In another instance, the subject is an extension of the majority: "Justice Stevens said the majority's understanding of the Miller decision was not only 'simply wrong', but also reflected a lack of 'respect for the well-settled views of all of our predecessors on the court, and for the rule of law itself'" (NYT13). This negation expresses deontic modality: through Stevens' quotes and the negation "not only", the majority opinion is placed far on the modal axis from Stevens's point of view (and anyone's who would agree with him).

6 justices are mapped with pronouns in the subject position (Alito, Thomas, Kennedy, Scalia, Breyer and Roberts). Alito is only mapped in NYT1 in a reference to his past action before he became a SC justice. The same is true for the two references to Thomas as "he" in NYT5 and two references to Roberts as "he" (NYT5, NYT10). Other justices are mapped with pronouns as their involvement in *Heller* is reported and their opinion on it is brought into the news narrative. Scalia is mapped as "he" in NYT13 and NYT16 in 5 instances, with an additional mapping in NYT10 in which he is given space to map himself: "'I don't see why you have a problem', Justice Scalia told the solicitor general". His is a deictic centre from which the solicitor general's line of argument is removed. In NYT13 and NYT16, Scalia is mapped as the author of the majority opinion, the continuous and detailed report of which sets up a narrative in which "he" becomes a shorthand for Scalia. Next to him, the author of one dissent, Breyer is mapped as "he" in NYT10, NYT15 and NYT16. His opinion argues for the legality of the D.C. ban even in the light of the individual right reading.

The justice mapped most frequently as "he" is Kennedy (7 instances in NYT10 and NYT15). NYT15 allots considerable space to his voting past, establishing his decisive role in many decisions. It also speculates on what is not there, that is, his individual opinion:

> *He silently joined* Justice Antonin Scalia's majority opinion /.../. Since Justice Kennedy did not write separately, there is no way of knowing whether *he* is in full agreement with Justice Scalia's historically based analysis, or whether *he* would accept as reasonable some restrictions that lack the historical pedigree that language in Justice Scalia's opinion appears to demand. (NYT15)

This places Kennedy at a distance from the deictic centre where clarity and detail are, since he is something of an unknown. The "silently joined" can imply full agreement with Scalia but, as this need not be the case, the article arrives at a double mapping: Kennedy is either mapped with Scalia or separately from him. The use of "he" does not achieve this alone but is part of the small narrative that maps Kennedy in an extended manner. Another justice extensively mapped is Roberts who in NYT10 self-positions and speaks for a "we":

> Roberts expressed considerable impatience with this line of argument. "I wonder why in this case we have to articulate an all-encompassing standard", the chief justice said. "I don't know why, when we are starting afresh, we would try to articulate a whole standard that would apply in every case". (NYT10)

He shifts from a centre defined by his personal view to one defined by the SC he speaks for. He assumes that, to a degree, the two centres match. He positions a course of action proposed by Clement at a distance from these centres. It is also noteworthy how Roberts is here trying to limit the scope of the *Heller* case, as he resists treating it as a discussion of the very fundamental nature of the SA. Another instance in which pronouns are used to shift from one centre to another is the mapping of a former justice, Warren E. Burger. In NYT2 and NYT17, the same quote from his 1991 interview is entextualised: "one of the greatest pieces of fraud – I repeat the word 'fraud' – on the American public by special interest groups that I have ever seen in my lifetime". He is given space to position himself in opposition to the special interest groups who deceive the public. His centre is defined by his values which are in clear conflict with the individual right reading.

With lower courts and their judges, modal verbs are used only twice. In NYT19, a modal verb suggests that a different state of affairs existed in the past; a state altered by *Heller*: "'A year ago, I might well have taken for granted the authority of Congress to require that a person charged with a crime be prohibited from possessing a firearm', Magistrate Judge James C. Francis IV /…/ wrote in December. Heller changed that, he said". He is recounting *Heller*'s impact, at least for him. *Heller* has reshaped the hierarchy in which he operates – no longer is Congress positioned as *the* authority on gun regulation. Another instance ("[Amar] said, the Ninth Circuit judges might be hoping to 'frame the issue for the Supreme Court'" (NYT21)) presents an evaluation of the possible motives of lower court judges by a legal scholar. This reaffirms the impression created of legal scholars as commentators. These uses relate to epistemic modality: the first suggests a change in the state of affairs and places the no-longer-existing alternative further on the modal axis; the second deals with what might take place in the future. The use of negation is rare in references to lower courts (3 instances). These deal with what the courts have left undone: "Second Circuit /.../ has not addressed the question" (NYT2), "federal courts have not invalidated a single gun law on the basis of /.../ Heller" (NYT19) and "Ninth Circuit order did not provide the reasoning behind the decision" (NYT21). Negation places the events in the periphery while suggesting that the opposite event would have been expected and preferred.

With lower courts and judges, pronouns are used more frequently in the second half of the corpus (NYT17, NYT19–NYT21) when they assess the SC decision. Twice in the corpus, "it" is used to replace a court's full name (NYT1, NYT20). The most used pronoun is "they". It is used trice in the metadiscourse of NYT19 to map what lower courts have done nationwide in terms of gun

regulation, constructing the courts as acting in unison. Twice, "they" is used in NYT21 where Amar positions the US Court of Appeals for the 9th Circuit: "'They've got enough problems with the perception that they're out on a limb too frequently', without risking another reversal". He maps the judges as a unified group whose decisions are overruled all too often. This pushes the circuit court at a distance on the modal axis. The centre is not necessarily identified as that of Amar's, as the quote comments on the court's past record, although it definitely positions Amar as being in agreement with those who think that the court has problems with its public image. Individual judges are mapped with "he" which is the second most used pronoun (4 instances). "I" is used once when Judge Francis IV of the Federal District Court in Manhattan positions himself: "'A year ago, I might well have taken for granted the authority of Congress to require that a person charged with a crime be prohibited from possessing a firearm'" (NYT19). This is a personal account of the *Heller* decision which, nonetheless, appears in a context in which the metadiscourse of the coverage makes it clear that Francis has expert knowledge. Thus, the self-mapping through "I" could also be interpreted as an expert statement about the SC opinion.

The D.C. ban is the subject of two processes that use modal verbs. In "this law can and should be defended" (NYT4), Fenty is quoted. This contains both epistemic and deontic modality: "can" suggests that it is factually realistic to do so and "should" places an obligation to do so. In "The District of Columbia's law 'may well fail such scrutiny', the brief observes" (NYT9), Clement's brief suggests a future outcome for the law given that the SC employs any scrutiny on the strict side of the scale. The outcome is close to the centre, reflecting the epistemic possibility of such a development. Negation in combination with other verbs is used 3 times. NYT8 writes: "[the D.C.] ordinance not only bans ownership of handguns, but also requires other guns that may be legally kept in the home /.../ to be disassembled or kept under a trigger lock". This construction employs negation to emphasise an element, centralising both listed effects of the gun law. Two other instances are in NYT16 in direct quotes from Professor Kleck: "'We know the D.C. handgun ban didn't reduce homicide', he said in an interview" and "the ban 'didn't immediately take anyone's guns away". Such claims are counterbalanced by him pushing these options away from the centre.

References to D.C. lawyers do not include modal verbs and only have one negation. "We haven't ruled anything in or out" (NYT3) belongs to Singer, who claims that the placement of certain elements in the discourse space is undetermined. With that, possible alternatives are not considered morally or factually wrong; rather, they are placed in the periphery due to uncertainty. Only two individuals in this group are mapped through pronouns: Dellinger with "he" (NYT10) and Singer with "she" (NYT1). She additionally maps herself as belonging to and speaking for a "we" (NYT1, NYT2). Heller's lawyers are the subjects of two verb phrases with modal verbs: Levy said "they would not fight a request for Supreme Court review" (NYT3) and he "would not say how much" (NYT7) he had spent on financing the case. Both also include negation.

The first places any attempts to stop the case from moving to the SC far from the centre. The other is connected to two uses of negation without modal verbs (NYT7) in which Levy refuses to disclose information. NYT7 has two more negations, both in quotations from Levy: "We didn't want this case pictured as another case sponsored by the usual suspects" and "We didn't want to be going to the court with a radical case". He is placing "the usual suspects" and any potential "radical case" at a distance from his centre, suggesting that their claims are far from radical. Mappings through pronouns are four times more numerous with Heller's lawyers than with D.C. lawyers. Much of this is accounted for by NYT7 (other instances appear in NYT2 and NYT3) which is a detailed report on Levy's role in the case. NYT7 has 15 instances of him mapped as "he" and 3 instances in which he self-positions with "I" and gives a first person account of his involvement. Levy further uses "we" to talk about the efforts made by the entire group (NYT4, NYT7) and is mapped in a group reference with "they" (NYT3, NYT7). The other individual member mapped is Gura (4 references with "he" in NYT6). Mostly, Levy and Gura appear in their capacity as Heller's representatives and argue for the individual right reading by also calling it "a fundamental right" (NYT11).

References to gun rights advocates see scarce use of modal verbs and negation (3 instances). In NYT14, Newsom, Mayor of San Francisco, suspects that the NRA "might also sue to overturn a local ordinance requiring trigger-locks". This maps a future scenario. Although there is no specific negation, the context makes it clear that this development would be unwelcome. Two other instances come from the same passage: "Levy, too, said he was not a fan of the passage. 'I would have preferred that that not have been there', he said. 'It created more confusion than light'" (NYT17). These say the same thing, the first one paraphrasing the quote that follows. Levy places himself in opposition to a portion of the majority opinion in which Scalia states that, although the SC decided for an individual right, restrictions on gun ownership are still constitutional. This moves the section away from Levy's centre, an effect enforced by the comment preceding the quote. In the introductory remark, the NYT aligns itself with Levy's opinion that the SC created needless confusion. Modal verbs or negation are not used to map gun control advocates.

Personal pronouns for gun rights advocates are used in 12 instances (one of which is a "they" (NYT1)). Three instances are references to Levy in his role as a Cato Institute senior fellow (NYT17). LaPierre, the chief executive of the NRA, is also mapped in 2 instances as "he" (NYT11, NYT14). He is the person with whom the NRA becomes identified as the group is labelled "his organisation" (NYT11) and "his group" (NYT14). The NRA is also twice labelled "it" (NYT11) and once "they" (NYT11). Shapiro, also a senior fellow at the Cato Institute, is mapped as "he" (NYT15). He has a further opportunity to speak for the entire group in NYT15: "'we would prefer the highest court in the land to speak with one voice in resolving the nation's deepest disputes', he said". He constructs values for the whole group. Levy is also involved in mapping values, but this occurs in a personal manner in NYT17 when he

comments on the confusing section in the majority opinion. While so doing, he makes interesting comments on the SC opinion: that it should be written to be liked and that he can assess and find it lacking. "I would have preferred that that not have been there" is a mild rebuke but still a rebuke.

Gun control advocates are hardly mapped through pronouns (only in NYT11). The Brady Centre is mapped as "it" and is also the group that forms the "we" in: "'For years we were chasing the N.R.A.'s tail', Brian Malte, the group's state legislation and politics director, said of the National Rifle Association. 'But now we feel they are chasing our priorities'". Malte speaks for the group as Shapiro did for Cato while also establishing an "us-them" relationship between the two groups. Next to placing their values in the opposing sides of the modal axis, the section also applies the metaphor of a race, suggesting that the debate is a constant competition that establishes winners and losers.

The use of modal verbs in connection to the D.C., its mayor and officials is aimed at expressing hierarchies by which the SC has the right to tell the D.C. what the "correct" reading of the SA is. For instance, before the case was accepted by the SC, an article predicted that it was likely that "The District of Columbia will ask the United States Supreme Court to hear its appeal" (NYT4). After the decision, Levy is quoted as saying that "D.C. will have to implement a process for enabling people to keep handguns in their houses" (NYT1), whereas Fenty is not quick to promise any changes: "[he] said the District was reviewing both the impact of the decision and the next steps it would take in the litigation" (NYT1). Still, the justices set specific obligations ("the district government must issue [Heller] /.../ a license" (NYT13)) and limits ("The justices said the District of Columbia could not [still ban handguns]" (NYT20)). The SC is placed in a position of authority as it prescribes what is constitutional and what is not. This maps them above the D.C. and its officials on the spatial axis, but also suggests that, in the deictic centre of the dominant ideology in the society, the SC is closer to the centre on the modal axis than the other elements in the hierarchy. The previous example already includes negation, but there are other instances where it is used. More than half convey the same idea: "the district of Columbia is not a state" (NYT1, NYT5, NYT6 and NYT9). This notion is also relevant in: "this case was not the proper vehicle for exploring [incorporation] /.../, because as a nonstate, the District of Columbia is not in a position to argue it one way or another" (NYT6). This places the D.C. as a peripheral element in the issue of incorporation, essentially denying a voice to the district in this.

The D.C. and its officials are mapped with personal pronouns in 10 instances. The D.C. is labelled "it" in NYT1 and NYT20. In these instances the district is viewed as a unified entity. There are other instances where Fenty speaks for the D.C. and refers to the officials and politicians as "we" (4 instances in NYT1, NYT3 and NYT4). In NYT3, his quote introduces an emotional response when he comments on the appeals court's actions: "We are deeply disappointed that the court narrowly denied consideration". Similarly to Levy, who was not "a fan" of a passage, this statement maps deontic rather than

epistemic modality, suggesting that Fenty and the "we" he speaks for do not fully share the court's values. He also speaks of the determination the D.C. as a "we" has to defend the law: "We have made the determination that this law can and should be defended, and we are willing to take our case to the highest court in the land" (NYT4). This maps both deontic and epistemic modality but definitely maps the deictic centre for Fenty, "we" and the district: it is that of holding firm and protecting the long-lasting legislation as long as necessary.

Other political participants are mapped with 8 modal verbs, which have mostly to do with presenting events that are considered likely or unlikely. In "Those who have watched the 41-year-old Mr. Clement, a veteran of nearly four dozen arguments /…/, think it most unlikely that he would bow to pressure of this sort" (NYT9), the use of "would bow" suggests a potential future development, although "unlikely" marginalizes this. Similar to that are speculations about issues that might become relevant in the future, for example, in "The harder question in the case /.../ is what kind of restrictions the government could constitutionally place, in the name of public safety, on the newly recognized right" (NYT10). There are also references to politics on the state level. Governor Schwarzenegger is quoted in NYT11: "Democrats and Republicans can work together on this". This moves the possibility of cooperation between Democrats and Republicans closer to the centre, at least for him. The implication is that this is not usually the case which means that he is attempting to reconfigure the discourse space by placing in the same position participants that are often ideological opposites. Another modal verb places Breyer in an authoritative position from which he can establish the positions of other elements and define their relationships: "Breyer concluded that the mixed quality of the evidence on the efficacy of gun control, along with its varying interpretations, means that lawmakers should be allowed to assess it for themselves to set reasonable gun control policies" (NYT16). He has the authority to assign issues to be solved on the state level.

The use of negation with participants from the political realm includes one instance of defining the limits of a brief and another instance of denying a certain point of view. NYT9 reports that Clement's brief "does not take the next step and ask the justices to declare, as the federal appeals court here did a year ago, that the District of Columbia law is unconstitutional". On the modal axis, the event that did not take place is put at a distance from the centre defined by vicinity to the appeals court which is mapped as being "here". The sentence creates a distance, if not an opposition, between the appeals court and the brief. In the second instance, Newsome is quoted: "We don't happen to believe that it's good public policy /.../ to say 'Hey, come on in; let's everybody get guns'" (NYT14). The choice of the word "believe" suggests that this is an instance of deontic modality.

A number of participants from the political realm are only mapped once as "he" or "she" (Cheney (NYT9), Dan Brady (NYT11), Florida governor (NYT11), Bush (NYT13), Kate Harper (NYT11) and, also, McCain (NYT13); Obama is mapped thrice in NYT12). The most frequently mapped participant is

Clement who is labelled "he" in 9 instances (NYT9, NYT10) and allowed to map himself in suggesting that the SC should expand the scope of the term "arms": "And then I do think that, reasonably, machine guns come within the term 'arms'" (NYT10). Other participants are also given a chance to put forward a personal view with "I" and "me". Harper, a Republican lawmaker from Philadelphia, offers insight into what the gun issue entails for a politician: "'These are difficult votes for me because it hurts me with my caucus, and it also hurts with really strong Republican voters who don't want government interference', Ms. Harper said. 'On the other hand, I've got soccer moms and people who have never fired a gun and are afraid of them'" (NYT11). Harper positions the gun debate as one element in the political realm she needs to worry about, as she tries to balance the conflicting interests of several groups. She does not exactly reveal her preference and the assumption can be made that whatever course is politically more viable would be closer to her deictic centre. Still, her statement establishes gun right supporters and gun control advocates as very specific groups (strong Republican voters versus fearful soccer moms) and these lexical choices might be read as mapping strong voters closer to her values. Overall, the ability to self-position is useful for politicians but being mapped as someone who is seeking votes rather than operating based on their values might be less desired. Another "I" in this group is Bush: "I applaud the Supreme Court decision today" (NYT13). This maps his centre as the authoritative one that can evaluate the SC decision.

Sometimes, politicians speak for the collective "we". In NYT11, Schwarzenegger comments on state legislation: "The key thing is that we want to protect Second Amendment rights". In NYT11, he suggests that both parties can work to achieve this which implies that the "we" includes members of both, pointing to a bipartisan interest to make sure people can exercise their SA rights. The governor is constructing a deictic centre in which individual gun rights are a common value. There are voices that disagree and also speak for a "we". Newsom is quoted as saying that "We don't happen to believe that it's good public policy to public housing cites /.../" (NYT14). His "we" refers to the state lawmakers (although it is unclear whether his reference is bipartisan) but he goes on to expand his view to the entire nation. Hoyle, a spokeswoman for the Chicago law department, is quoted: "We feel we will be able to continue enforcing those ordinances very aggressively" (NYT14). Her "we" not only shares a point of view but also emotions. Hoyle is speaking from a centre which centralises public safety over the newly found individual right reading.

Modal verbs are infrequently used to map the SA. One instance discusses its possible applications while putting side-by-side different points of views: "The majority [of the appeals court] rejected the District's argument that the Second Amendment should apply only to the kinds of guns in use at the end of the 18th century" (NYT1). Another mapping pertains to the district which has outlined a specific area in which the SA should apply. For them, this would be the "right" reading and, thus, placed close to their deictic centre. On the other hand, there is a positioning in which the appeals court majority has pushed ("rejected") this

interpretation far on the modal axis. The appeals court has the position of authority and, in legal terms, their voice is the dominant one, at least to a degree. (This example is also very temporal, linking the beginning of the 21st century to the end of the 18th when the SA was created. By "rejecting" the D.C.'s request to take into account the situation in the 18th century, the majority seems to be ascribing to a different set of values, implying that social circumstances have changed between then and now.)

One modal verb positions the SA: "Were it standing alone, many legal scholars agree, the second part of the amendment would be no harder to read and interpret than other provisions of the Bill of Rights" (NYT8). The SA is divided into two parts and the second one is positioned closer to the centre axis, as it presents less difficulty in interpretation. Another instance addresses the same question by focusing on what *Heller* means for applying the SA: "[the appeals court] said that an individual-right interpretation of the Second Amendment would still permit 'reasonable regulations'" (NYT6). This expresses the contradiction encoded in the decision: gun rights are individual yet subject to restrictions of unknown strictness. A final example focuses on the SA while also affecting the political realm: "'There is now a real risk that the Second Amendment will damage conservative judicial philosophy' as much as Roe 'damaged its liberal counterpart'" (NYT17; quote from Judge Wilkinson). *Heller* is placed side-by-side with *Roe v. Wade* from 1973 in which "the justices maintained that a right to privacy was implied by the Ninth and Fourteenth Amendments" (U.S. History n.d.: para. 4), meaning abortions could not be banned outright. This led to bitter ideological battles between pro-life and pro-choice camps.

Negation in connection to the SA is used in 11 instances in 8 articles. Often, this limits its applicability to certain areas. In "[the SA] simply does not apply to 'legislation enacted exclusively for the District of Columbia'" (NYT6), the D.C. is mapped as standing out of the reach of the constitutional right. The same mechanism is used in NYT20: "Several Supreme Court decisions, all more than a century old, have said that the Second Amendment does not apply to the states". This leads to the SA being mapped in selected areas (which differ greatly for different participants). Similar limiting occurs with weapons possibly protected by the amendment: the SA "does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes" (NYT13, Scalia commenting on *Miller*). Certain groups of arms are placed outside the SA scope. Next to "protect", the verb "confer" occurs in negations: the SA "did not confer" an individual right (NYT12, NYT13). Instead of limits being placed on the SA through its descriptions, the SA itself limits the scope of another element, that of the individual right. However, this phrase is from McCain's quote in which he is in fact making the opposite argument: "[he] called the decision 'a landmark victory for Second Amendment freedom in the United States' that 'ended forever the specious argument that the Second Amendment did not confer an individual right to keep and bear arms'".

Personal pronouns in references to the SA are rare: the SA as a full text is labelled "it" in 4 instances (NYT13, NYT17 and NYT19). NYT8 further maps the first clause as "it" in two instances. The tendency is to map the SA by its more or less full name. The scarcity of pronouns also results from the fact that the SA is a participant that does not speak for itself but is rather embedded in other sections as support for arguments made. Modal verbs are not used in relation to the previous SC precedents and there is only one instance in which negation is used: "Silberman wrote that the decision, United States v. Miller, 'did not explicitly accept the individual-right position' but did implicitly assume it" (NYT1). Negation is part of a quote from Silberman and of the reference to the ambiguity inherent in *Miller*. Pronouns are not used map the previous precedent.

Only the first article in the *Heller* corpus includes modal verbs in references to the *Heller* decision before it reached the SC. Modal verbs are used in four instances, with one looking back to the past: "Only a few decades ago, the decision would have been unimaginable" (NYT2). The possibility of such a decision on the federal appeals court level is placed far on the modal axis, but only in the past. This suggests realignment of elements compared to the time in which the outcome of *Heller* is known: the idea has moved closer to the deictic centre of the modal/moral "right". Other instances construct the future: "Should the case reach the Supreme Court, Professor Tribe said, 'there's a really quite decent chance that it will be affirmed'" (NYT2). This scenario is placed close to the centre, especially for Tribe who is talking from the position of authority as an expert. There are no uses of negation in references to *Parker*. Only once, "it" is used in the subject position to map the decision on the lower level (NYT2).

The representation of the appeals court level includes one modal verb and one negation. In "4 of the 10 active judges on the court, the United States Court of Appeals for the District of Columbia Circuit, would have granted the petition for rehearing" (NYT3), the modal verb maps an imaginary past possibility. Negation is used in one instance which deals with projecting future scenarios: "If the full United States Court of Appeals for the District of Columbia Circuit does not step in and reverse the 2-to-1 panel decision /…/ the question of the meaning of the Second Amendment is almost certainly headed to the [SC]" (NYT2). This places a deontic obligation on the appeals court, although, should they fail to do this, the SC would be put in the position of having to address the issue. The lower court as such is not mapped with pronouns; the only personal pronoun used is "he" which twice maps Silberman (NYT1): "Silberman, writing for the majority yesterday, said the decision's reasoning still allowed 'reasonable restrictions'. /…/ It is 'presumably reasonable', he wrote, to prohibit drunks from carrying weapons and to ban guns in churches and polling places". The use of pronouns positions him as the source of the opinion, but "writing for the majority" suggests he is speaking for a group.

The eventual *Heller* case and decision is the subject of 9 predicates that include modal verbs. The modal verbs initially appear in references that plot its potential course towards and through the SC. NYT7 suggests that it is "the case

that may finally resolve the meaning of the Second Amendment". In NYT10, focus shifts to the possible impact the decision might have on allowed governmental restrictions: "The answer to that question, on which the outcome of the case will turn, was less clear". The first instance hesitantly positions the case as the possible solution to the old debate. With "may", this possibility is kept at a distance on the modal axis and in the future on the temporal axis. In the second instance, the modal verb suggests a greater degree of certainty, hoping that the questions that remain will be solved. Such a possibility is placed closer to the centre.

After the SC made the decision, the articles display reactions to and assessment of it. For example, Obama welcomed it, saying that "the ruling would 'provide much-needed guidance to local jurisdictions across the country'" (NYT13). This deals in certainties, commending the decision and placing it close to his deictic centre. Other voices disagree: "Chicago officials were also steadfast in saying they believed that the court's decision, which left open possibilities for local gun ordinances, would have little immediate effect" (NYT14). Obama needs to attract voters; the officials have to protect their legislation. The modal verb suggests an equal level of certainty on behalf of the officials (which is mitigated by the reference to their belief rather than knowledge, making it a case of deontic modality). An opinion even less kind to the decision comes from Professor Levinson: "My own bet /.../ is that Heller will more likely than not turn out to be of no significance to anyone but constitutional theorists" (NYT19). He leaves room for doubt but only a little: he places the likelihood of the decision's great influence far on the modal axis, marginalising its relevance in legal history.

Negation is used in 4 verb phrases. NYT6 and NYT21 report the decision: "the justices evidently decided that this case was not the proper vehicle for exploring [incorporation]" and "[the] decision did not apply the Second Amendment to state and local laws", respectively. In the first instance, *Heller*, a landmark ruling before it ever got to the SC, is recast as an unsuitable tool for the task at hand. In the second, its obvious limitation is once more restated and the decision is positioned as only relevant in some areas. With another negation, another expert expresses an opinion similar to Levinson's: "'The Heller case is a landmark decision that has not changed very much at all', said Adam Winkler" (NYT19). He is constructing a passive position for the decision: differently from the expectations, the reality of the decision is static and inconsequential. The ruling is mapped as "it" in 4 instances (NYT12, NYT13, NYT15 and NYT17). NYT17 also maps the ruling as "its decision", assigning ownership to the SC. In references to the plaintiff, there are no modal verbs or negations, neither are there any instances of self-positioning.

Legal scholars are involved in very few processes expressed with modal verbs and negation (5 altogether). Two modal verbs (NYT2) relate to descriptions of groups of scholars. The first reports that the work of "several leading liberal law professors" over several decades "will doubtless play a major role should the case reach the [SC]". The modal verb "will" lends certainty to the

claim that the scholars might have an integral part, an impression reinforced by the use of "doubtless". The other instance states that "Scholars who agree with gun opponents and support the collective rights view say the professors on the other side may have been motivated more by a desire to be provocative than by simple intellectual honesty". Here, "may" suggests a possible interpretation but leaves room for alternatives. This has to do with the fact that the interpretation is put forward by the opposing side: it is the gun control advocates that place gun rights advocates at a distance by using modal verbs that suggest a level of hesitancy. Positioning is done both by the article and the gun control side; i.e., the opinion of the latter is in the service of the article.

The other two instances of positioning with modal verbs are related to individual scholars. In NYT16, Professor Kleck claims that "I'd improve the enforcement of laws against unlicensed carrying of guns in public places". The contracted form of "I would" is an instance where Kleck is given the voice to suggest his plans. This is an instance of self-positioning: he presents his centre and suggests a course of action that would be close to it. In NYT20, Levinson is reported to have "said he would be surprised if the Supreme Court accepted these gun cases", referring to new challenges that appeared after *Heller*. This is also self-positioning, although less forceful, as it is introduced as reported speech. Levinson places a possible future development at a distance on the modal axis. He is able to do this on the authority he has as a law professor. The only negation connected to scholars is also found in a self-positioning: "In an interview, Professor Levinson described himself as 'an A.C.L.U.-type who has not ever even thought of owning a gun'" (NYT2). He positions himself in a centre from which the possibility of owning a weapon is far. This is evident in the use of the negation and adverbs "ever" and "even". In strategic terms, Levinson seems to be strengthening his authority not only as a scholar but as a person who has no personal interest in seeing the SA declared an individual right.

Group references with pronouns are made to "liberal law professors" who appear as "they" (NYT2) and, in an extension, as "their work" and "it" (both appear twice in NYT2). This is the extent to which scholars are mapped in unison; other pronouns map individual scholars (8 scholars). Several scholars appear once or twice as "he" (Alstyne (NYT8), Johnson (NYT16), Winkler (NYT19) and Eisburger (NYT15)) and offer brief commentary. Others are given more space to present their opinion. For instance, Amar is mapped thrice in NYT21 in offering assessment of the decision and predicting that it will eventually be incorporated. Levinson and Kleck are mapped more extensively as "he" (6 and 4 instances, respectively). Kleck is mapped in 4 instances in NYT16, which means that his inclusion is more episodic than Levinson's. This is partly due to the fact that his inclusion is motivated by his study that Breyer cites in his opinion. Kleck argues with some of the points Breyer makes, forming an extensive section of NYT16. Levinson is mapped in NYT2, NYT17 and NYT20. NYT17 offers most detailed insight into his views and includes a reference to one of his "seminal articles" as "it". NYT2 sees Levinson mapped

by another participant: "'The Levinson piece was very much a turning point', said Mr. Henigan of the Brady Center. 'He was a well-respected scholar, and he was associated with a liberal point of view politically'". Thus, even though Levinson is mapped more often than most other scholars, this particular mapping still sees him as an object that is defined by someone else rather than himself.

Two scholars are further allowed to self-position. Tribe puts forward the story of changing his views: "he had come to believe that the Second Amendment protected an individual right. 'My conclusion came as something of a surprise to me, and an unwelcome surprise', Professor Tribe said. 'I have always supported as a matter of policy very comprehensive gun control'" (NYT2). He accounts for a shift in his deictic centre and in how gun rights relate to it. This is an individual example of what the coverage reports has been happening among legal scholars over the past decades. Tribe's admission that this was an unpleasant shift lends credibility to the new interpretation. Kleck also self-positions: "I'd improve the enforcement of laws against unlicensed carrying of guns in public places" (NYT16). This simultaneously displays his knowledge (through his ability to put forward policy suggestions) and underlines that he is not in the position of power – he can say what he "would do" but is unable to cause the enactments directly.

6.2.4. Space

The SC's spatial representation creates borders between them and other participants, displays divisions inside the court and maps how it affects other participants. In the space in which the SC operates, movement is a central organising motif. The manner in which the SC moves is telling of how the coverage sees its role. NYT5 states that the SC "has never answered the Second Amendment question directly, and it has been nearly 70 years since the court even approached it obliquely" in which its movement is constructed in two parts. The SC is positioned in relation to the central debate concerning the SA and, indirectly, to the single previous precedent. The court's movement is portrayed as having been circumspect: "directly" (and "obliquely") combines with negation to suggest the lack of a desired state: that of the SC addressing the issue in a straightforward manner. The negation and choice of words, next to being decidedly spatial, carry (deontic) modality: the SC's indirect action is far on the modal axis and "wrong". There is a tendency to map preferred actions as straightforward movement. NYT12 has another instance in which the relationship between elements is defined through movement: "a day after the high court edged closer toward the legal norm prevailing in most countries on the death penalty /.../ it diverged from the global trend by confirming a broad right to gun ownership". This introduces the global dimension to the discourse and establishes a comparative link between the US and "most countries", positioning the norms of the latter as something to be aspired towards. It can be inferred that the movement suggested in "edged closer toward" should be faster. The second

half of the excerpt introduces an opposite movement: that of moving away from the rest of the world. Movement towards something can be viewed as desirable and positive, whereas divergence from certain goals means losing sight of what should be achieved.

In its movements, the court is not always fully autonomous. There are instances in which the circumstances might lead to it having to follow a certain course, as in NYT9: "The court would then have to move to the next stage, defining what an individual right actually entails and what government regulations it permits". The SC has a degree of liberty in deciding if moving to the next stage is necessary or not. There are also instances when other participants attempt to alter the SC movements: "It is routine for any solicitor general to try to steer the court away from deciding cases in a way that could harm federal interests in future cases" (NYT9). This maps participants whose opinions differ from the SC and who might attempt to change its position. Thus, although the SC is the judicial authority in cases it agrees to hear, it does not operate in a vacuum but can be considerably influenced by other participants.

Another central motif with the SC is that of placing borders and limits on the court and its authority. The borders and the areas between them define its role and impact on other elements. In "the dissenters accused those in the majority of indulging in rank judicial activism, of *injecting the court into a realm where it did not belong*" (NYT15), the court is defined as having overstepped its boundaries. Or rather, a bloc in the SC is accusing another of extending ("injecting") the court's authority to an area in which it might be challenged ("where it did not belong"). This is not only a spatial construction but also has a deontic aspect to it, as the dissenters consider this a wrong move. This is an interesting instance of (self-)positioning: the SC is positioned by its members and, additionally, one bloc is assessed by another. The deictic centre is that of the minority, not of the majority, who ended up defining the SA's scope.

The blocs inside the SC are constructed as occupying different areas that are divided by battle lines: "The court split on ideological lines" (NYT12). This division leads to disagreement among the justices which is often expressed through metaphors of war:

> Both sides in a closely watched *legal battle* over the District of Columbia's strict gun-control law are urging the Supreme Court to hear the case. If the justices agree — *a step* they may announce as early as Tuesday — the Roberts court is likely to find itself *back on the front lines of the culture wars* with an intensity unmatched even by the cases on abortion and race that defined the court's last term. (NYT5)

These metaphors ("legal battle", "front lines", "culture wars") introduce specific ideas. For one, they present a world in which there are clear divisions into opposing sides. This suggests that a compromise would be tantamount to a loss, as battle requires winners and losers (with the decision, "the court's conservative bloc won a stunning, if narrow victory" (NYT15)). The SC is further in danger of ending up "back on the front lines" of the debate; a construction that

implies their current distance from the epicentre of such culture wars. This section maps shifts on the temporal axis as well: the SC moves from a past position of involvement to a more marginal position at the moment to potentially becoming the key player in *Heller*. This underlines the dynamic nature of positioning: the specific SC representations are contingent on other participants, the circumstances of the case and the decisions the SC might make or not make.

The SC is closely watched by the media and the public, since it has the power to influence and shape public agenda. In NYT6, the SC is presented as having this role: "In adding the case to its calendar /.../, the court not only *raised the temperature* of its current term but also inevitably *injected the issue of gun control into the presidential campaign*". In "raised the temperature of its current term" the SC has made a decision that has drawn increased attention. Metaphoric representation suggests that to make something more visible is to increase its temperature. The last clause constructs the SC as an authority who can affect major processes in the society: they have the power to add elements to what people consider important in the 2008 election. This positions the SC high in the social hierarchy and as having some control over their actions and positions. The SC is positioned in a multitude of instances, but it is generally constructed as a powerful institution with the authority to "reject" or "accept" cases, making them more prominent and attention-worthy and leading to the SC "embracing" a certain interpretation, "upholding" or "striking down" or "putting an end to" certain regulations or "ending forever" specific arguments.

Justices individually or as blocs are less involved in actions than events, which means that fewer verb phrases position them through movement. But even verbs such as "said", "wrote", "added" and "argued" position them. They do not necessarily set up spatial/metaphoric relationships, but they do establish a position: the justices are presented as viewing the events and commenting on them at a distance. Other verbs specifically set up spatial relationships between the justices, between them and the case, the SA and so on. In "when the justices last autumn accepted the case of District of Columbia v. Heller, they indicated that they would go to the heart of the long debate" (NYT12), the justices are acting in unison, addressing the question directly. The issue is constructed as an entity with a periphery and a centre, suggesting that by going "to the heart of the long debate", the justices are acting decisively. This positions them close to the centre on the modal axis while retaining their high position on the spatial one: they have the authority to decide *Heller* and to answer the SA question.

The outcome of the case is far from clear in the early *Heller* articles: "Because none of the justices now on the court have ever confronted a Second Amendment case, any prediction about how the court will rule is little more than pure speculation" (NYT6). The justices are constructed as a unified group, standing in opposition to the case ("confrontation" suggests struggle in presenting an interpretation of the SA). The justices are treated as a unified group by other participants as well. In NYT9, "Clement asks the justices to vacate the decision and send the case back to the appeals court for a more nuanced appraisal of the issue". He petitions the justices who have the authority to do

what he cannot. A relationship is also set up between different courts: the fact that the SC can send a case back to a lower court for review suggests a hierarchical relationship in which the SC is positioned higher than the appeals court. Other instances construct the justices as belonging to different groups. In NYT5, "the dissenters accused those in the majority of indulging in rank judicial activism, of injecting the court into a realm where it did not belong," which makes use of "inject" to place a participant in a specific area in the discourse space. This is also an instance of deontic modality: "rank judicial activism" places the majority at a distance from the centre on the modal axis (this is true in two instances: one, if the centre is seen to be occupied by the dissenters and, two, if it is occupied by the point of view of the (author of the) article).

The oppositions inside the SC translate into the mapping of individual justices. For example, in stating that "Kennedy, the member of the court at whom Justice Breyer was most likely aiming his overture, did not take up the invitation" (NYT10), the coverage is setting up a specific relationship between the justices. Breyer is trying to persuade Kennedy to support his interpretation. As a swing vote, Kennedy is placed higher in the hierarchy of justices and has the power to decide which arguments become relevant for him and for the case. Justices who are equals can end up having a conflict:

> Justice Scalia and Justice Stevens *went head to head* in debating how the 27 words in the Second Amendment should be interpreted. /.../ [They] also *sparred over* what the court intended in that decision, United States v. Miller. (NYT13)

The justices have dynamic roles (more dynamic than the SA and the previous precedent, which are static) and the authority to establish preferred narratives. The only question is whose preferred reading becomes the official one and leads to discourse enactments. The SC is involved in "culture wars" and has to choose a side. The battle lines have been drawn inside the SC and it is the individual justices who are placed in the position of having to go head to head and spar over the issues. According to one view, this is the court's own doing: Stevens states that in bypassing "judicial restraint, the majority had thrown the Supreme Court into the 'political thicket'" (NYT15). There are also instances in which the conflict is implied but not realised: "Justice Stevens and Justice Breyer, in dissenting opinions /.../, refrained from leveling such a charge against Justice Scalia's majority opinion" (NYT15). According to the metadiscourse accompanying this, the majority opinion might be accused of putting innocent Americans in harm's way, but the dissenters do not pursue this line.

Lower courts are often mapped on the basis of their alignment in the SA issue. NYT2 reports that "nine federal appeals courts around the nation have adopted the collective rights view, opposing the notion that the amendment protects individual gun rights". The appeals courts cover the abstract area comprising the "nation" and are further constructed as being in a unified

opposition to the individual right reading (although the article also lists a few exceptions). On the modal axis, the collective right interpretation is, thus, positioned closer to the deictic centre in which the majority of appeals courts are. Some courts are in the discourse space due to direct involvement: "A federal appeals court in Washington refused yesterday to revisit a March decision striking down parts of a gun control law there" (NYT3). This places past decisions away from the court and requires the court to move back if it wants to re-examine any aspects of it. The decision made in the past is also placed higher in the hierarchy compared to the ban it "struck down" (a verb phrase often found with the SC and lower courts). This is not to say that courts are outside the bounds of critique: Clement "criticized the lower court as having approached the issue too categorically" (NYT9). The "issue" is constructed as a static element that the dynamic court approaches to affect it one way or another (their authority to do so re-establishes the hierarchy of the previous example). Clement is positioned as a commentator who is not necessarily higher than the court but is a knowledgeable and interested participant.

An emphatic spatial representation can be found in NYT19 in which the existing judicial practice on the lower court level is detailed:

> The courts *have upheld* federal laws banning gun ownership by people convicted of felonies and some misdemeanors, by illegal immigrants and by drug addicts. They *have upheld* laws banning machine guns and sawed-off shotguns. They *have upheld* laws making it illegal to carry guns near schools or in post offices. And they *have upheld* laws concerning concealed and unregistered weapons. (NYT19)

The repetition of "have upheld" creates the impression of unanimous opinions among courts who are certain of how to interpret the SA. Being considered constitutional moves the regulations higher in the hierarchy, increasing their authority and relevance in the judicial tradition. In some instances, the appeals court has a very dynamic relationship with the SC. NYT20 reports that in *Heller* "The question of the constitutionality of existing city and state gun laws was left unanswered. That left a large vacuum for the lower courts to fill". The SC seems to be abdicating its power by not answering every question. According to the article, the justices have left an empty space which has to be filled (pointing to how space is defined by what is there – its shape and extent does not exist in itself but is determined by the elements and their relationships). A possible reason for the justices leaving things open-ended is given by an expert voice: "Amar agreed that the majority in the Heller case seemed interested in returning to the Second Amendment /.../. In that case, he said, the Ninth Circuit judges might be hoping to 'frame the issue for the Supreme Court'" (NYT21). In this scenario, the SC has not left the decision up to the lower courts but hopes to address it itself. Again, the subject of the SC's discussions is portrayed in a static manner, with the SC acting on it. The SA is further placed in the past (although this happens specifically in connection to *Heller*). The lower court is not in the position to fill the gaps left by the SC; the power of the 9th Circuit

judges is limited to their ability to appeal to the SC and hope the justices agree with them: the appeals court hopes to "frame the issue", meaning they will present their preferred interpretation and hope the SC agrees.

The representation of lower courts also makes use of the metaphor of war:

> In extending the Second Amendment to the states, the Ninth Circuit stood alone among the federal circuit courts of appeals that have taken on the issue. Two circuits declined to apply the amendment to the states. That conflict between the circuits was widely seen as inviting quick review by the Supreme Court, a possibility that could be reduced by the Ninth Circuit's reversal. (NYT21)

This section moves beyond the *Heller* decision and focuses on its aftermath. The 9th Circuit court tries to "fill the vacuum" (as it extends the scope of the SA, that is, increases the area it occupies). The article defines the circuit court as standing apart from other courts and exploring an unknown territory as well as introducing new realities to the discourse space (namely the SA with a broadened scope). Most circuit courts are represented fairly indirectly, with the exception of two courts that have declined to join the 9th in widening the SA. What could be termed a difference of opinion is termed a "conflict between the circuits" – a choice of words that introduces the ideas of battle, winners and losers. This "conflict" is a cause for confusion that warrants the SC's stepping in. Thus, although the SC has the power to make the final decision, it may take other courts' over-stepping their limits before it gets involved.

The D.C. law is often placed at a distance from the Constitution and considered unconstitutional. Gura "said the District's ban on 'functional firearms' in the home was 'extreme' and should fail by any measure of constitutional scrutiny" (NYT10). This places the law away from the deictic centre which is inhabited by reasonable, constitutional laws (in spatial terms and on the deontic modal scale). There are opposing voices. Fenty is quoted: "We have made the determination that this law can and should be defended, and we are willing to take our case to the highest court in the land to protect the city's residents" (NYT4). The law is placed close to his deictic centre and seen as needing defence. Fenty also sets up a hierarchy of the actors: he places himself and the "we" between the SC ("the highest court in the land") and the residents the "we" has to protect. Thus, those who challenge the law are threatening both it and the D.C. residents. The law is also constructed by the SC as it debates its constitutionality: "the majority found that a gun-control law in the District of Columbia went too far in making it nearly impossible to own a handgun" (NYT12). According to the justices, it has exceeded the limits of reasonable regulation. The idea of something having gone "too far" is a relative spatial notion: there is no defined scale, no point of comparison, but the inherently spatial representation as laws having to adhere to certain restrictions is clearly present. The same occurs in NYT12: "The decision upheld a federal appeals court ruling that the District of Columbia's gun law, one of the strictest in the country, went beyond constitutional limits". The SC decision is constructed as

lending support to the appeals court ruling. The limits of reasonable and permissible laws are further defined by the limits of the Constitution.

D.C. lawyers are most frequently mapped with the verb "said" which does not position the group in relation to other elements but constructs them as commentators. There are a few instances in which the group is mapped spatially:

> Linda Singer, the District's acting attorney general, said the decision was "a huge setback". "We've been making progress on bringing down crime and gun violence", Ms. Singer said, "and this sends us in a different direction". (NYT1)

Singer is allowed to position herself and the "we" in relation to the events. She makes use of the metaphor by which progress means moving forward. This can be seen in how they have "been making process" until the decision by the appeals court has caused a loss of ground gained. The decision has forced "we" down an undesired path away from the centre from which she speaks. The section also establishes a hierarchy in which the appeals court decision has the authority to change the D.C.'s position and course of action. In terms of the future, Singer suggests that they are still thinking of the next move and "haven't ruled anything in or out" (NYT2). This is an instance of establishing spatial boundaries that distinguish desired/rational actions from the ones ultimately deemed unnecessary. Singer and "we" have the power to choose what they consider "in" or necessary/right for the D.C.

Verb phrases connected to Heller's lawyers are mainly involved in reporting what they "said", "added", "cited". There is one use of the metaphor of war: "Levy, a lawyer for the plaintiffs in the case — six residents of Washington who opposed its gun law — said they would not fight a request for Supreme Court review" (NYT3). Levy, who "created and financed" (NYT6) the lawsuit, is speaking for the plaintiffs. The metaphor is present in "they would not fight a request" although it is used to negate the possibility of a conflict. Another instance occurs in reporting how the plaintiffs were found: "Levy financed the lawsuit and recruited six plaintiffs" (NYT5) and "Heller was one of six plaintiffs recruited by" Levy (NYT6). These also introduce the idea of battle into the representation and cast Levy as an active participant who seeks out suitable people to pursue the challenge.

The Cato Institute is constructed as lending its strength to the challenge in *Heller* and Levy is its high ranking member. The most prominent gun rights advocacy group, the NRA also has an active role in the coverage:

> Still, the new efforts come as organizations like the N.R.A., the country's biggest gun advocacy group, *continue to wield tremendous influence* in state capitals and *are pushing strongly* for laws of their own. /.../ The N.R.A. *is tracking* 208 pieces of gun-related legislation in 38 states, both proposed restrictions it *opposes* and other bills it *supports*, the highest number since the gun group *began monitoring* state laws in 2001. (NYT11)

The NRA has considerable power to redefine aspects of gun policies nationwide, as it continues "to wield tremendous influence" on state level. It also has enough strength to push for the legislation it prefers. The group is actively involved in politics through tracking and monitoring legislation and picking and choosing which ones to oppose or support. Spatially, it could be argued whether the NRA is placed higher in the hierarchy compared to the pieces of legislation; rather, it has a more dynamic nature. The section is part of the metadiscourse and not enhanced by direct quotes from the group, but the deictic centre nonetheless belongs to the NRA.

This is not always the case: "A brief /.../ filed by the American Public Health Association and other groups said there were other collateral positive effects, including reductions in suicides and accidents, that gun control opponents *overlook or underestimate*" (NYT16). Here, gun control advocates (including the NRA) are positioned by the opposing side, so the centre is that of gun control supporters. Gun rights advocates become "gun control opponents" (defined by the adversarial relationship) who downplay the relevance of some elements. There are other instances where gun control advocates are placed in the centre: "Gun-control advocates have long maintained that the amendment's ambiguous opening reference to a 'well regulated Militia' limited its scope to /.../ service in a state militia" (NYT5). "Long maintained" is used to introduce the advocates' views, suggesting a tradition of supporting the idea. The strength of their conviction is downplayed by defining the first clause in the SA as "ambiguous".

The discourse space also includes representations of the relationships between the interest groups on either side. The Brady Centre is mapped: "'For years we were chasing the N.R.A.'s tail,' Brian Malte /…/ said of the NRA. 'But now we feel they are chasing our priorities'" (NYT11). Both sides monitor legislation and try to actively influence the outcome (the Brady Centre has increased its efforts). The spatial representation makes use of the metaphor of a race. As with the metaphor of war, this brings along winners and losers. There has been a shift in the dynamic between the groups with gun control advocates positioning themselves in the lead in monitoring and acting on legislation (this is self-positioning and should not be confused with the metadiscourse of the article nor with the viewpoint of the NRA who is supposedly falling behind).

D.C. officials are increasingly present after the *Heller* decision, as they are sought for commentary and reactions. NYT18 presents a spatial representation of their actions in creating new legislation to deal with *Heller*. The first instance creates a link between the decision and the D.C.'s actions: "Nearly six months after the Supreme Court put an end to the District of Columbia's decades-old ban on handgun possession, the City Council here passed a sweeping new ordinance on Tuesday to regulate gun ownership". The first half of the sentence constructs the SC as the force that stood in the way of the old law continuing to move on the temporal axis. The council is acting as a result of this (although they have not exactly been hasty). Their solution is termed "a sweeping new ordinance", that is, it is constructed as taking up much space. This also carries

an assessment of the ordinance: "sweeping" places it further on the (deontic) modal axis as a reckless solution.

What is implied in the previous example becomes apparent in a quotation from LaPierre: "The D.C. Council continues to try to make it harder and harder for law-abiding citizens to access this freedom" (NYT18). LaPierre, from his deictic centre, constructs the council as a force standing between law-abiding citizens and their constitutional right. There is also a sense of intent and persistence in "continues to try to make it harder and harder". The meta-discourse of the article is also not fully in favour of the new legislation: "Since the Supreme Court struck down the district's handgun ban, the Council had stitched together a series of emergency measures to regulate gun ownership" (NYT18). A cause and effect relationship similar to the one seen above is set up, as the SC has stopped the continued existence of the ban and the D.C. is reacting to it. The assessment of the reaction is clear: the council is acting in a state of emergency and putting together incomplete legislation. The article also includes the voices of the D.C. and its representatives: "Mendelson, who helped draft the bill and shepherd it through the Council, called it a 'very significant piece of legislation that borrows best practices from other states'" (NYT18). His opinion is starkly different: the draft is an important ordinance based on the knowledge and experience of other states. This statement is softened by what precedes it: the image of the councilman as a shepherd does not necessarily show the bill in the best light, making it look like it exists more for political purposes than for its merits.

Among other political participants, the administrations' views are mapped: "For many decades and under both Democratic and Republican administrations, the Justice Department said the Second Amendment protected only collective rights. The Bush administration reversed that longstanding position" (NYT1). The administration is constructed as having caused a significant change in direction. The same segment also sets up a political hierarchy: the Justice Department is placed lower in the hierarchy. This suggests that the department tends to orient itself to the president's views. But this is not always the case with everyone inside the executive branch; Clement's brief, for example, caused quite a bit of tension:

> The conservative columnist Robert D. Novak, who often *reflects views from inside the Bush administration*, wrote Thursday in The Washington Post that there was "*puzzlement over Clement*" and an expectation "*in government circles*" that the solicitor general would "*amend his position when he actually faces the justices*". Those who have watched the 41-year-old Mr. Clement, a veteran of nearly four dozen arguments who enjoys the respect of justices *across the ideological spectrum*, think it most unlikely that he would *bow to pressure of this sort*. (NYT9)

The section is rich in spatial references. The columnist is, first of all, positioned close to the president by which he is given some authority. He is given further room to enforce this notion when his words are quoted, suggesting insight into

the sentiments in "government circles". The newsworthy item is the fact that Clement's statements have not fallen in line with the administration, causing confusion in its higher ranks. The fourth line suggests that there are "right" and "wrong" positions for participants to occupy, depending on their perceived loyalties and obligations. The need for Clement to change his position is a deontic obligation placed on him by the administration. The added implication is that Clement is somehow misguided and, once in front of the authoritative SC, might reconsider. This undesired mobility is counteracted by participants who claim to have insight into his potential decisions via his past record. These participants (identified only as "those") point to something rather valuable in spatial terms: Clement's ability to reach across the discourse space or at least "the ideological spectrum". The second comment on Clement's broad appeal and steadfastness (here, immobility is a "good" thing) counteracts Novak's assessment and places Clement higher in the hierarchy as a principled person.

Clement's positioning is further complicated by additional voices. NYT9 includes Cheney: "But Vice President Dick Cheney was nonetheless so provoked by Mr. Clement's approach that last month he took the highly unusual step for a vice president of signing on to a brief filed by more than 300 members of Congress". Although Cheney is higher in the political hierarchy, it is still Clement's actions that cause him to act. Also, the "highly unusual step" taken was to sign on to a brief already written by other participants. Thus, he is ultimately constructed as reacting to other participants' moves rather than taking charge.

Recurrent spatial metaphors with the political realm have to do with finding the right track or a map to follow, for instance:

> Not that the solicitor general's brief finds the law to be constitutional, or even desirable. Far from it: the brief offers *a road map for finding the law unconstitutional*, but by *a different route from the one the appeals court took*. (NYT9)

> Lawmakers across the United States may look to the decision as a *blueprint* for writing new legislation. (NYT12)

The first excerpt points to the existence of alternative routes, only one of which can be the right one. It suggests that the goal is not the only thing that matters; it is also important to approach it right. The second section points to how *Heller* might become the "blueprint" for lawmakers who are, at the moment, confused about how to operate. Yet, the new decisiveness might not meet everyone's expectations, as "State lawmakers across the country are ramping up efforts to pass new restrictions on guns, following nearly a decade in which state legislative efforts have been dominated by gun advocates" (NYT11). In spatial terms, lawmakers have to "pass" certain stages in order to set up "new restrictions on guns". As was the case with Clement and Cheney, whose activeness shifted, lawmakers are also of an ambivalent nature: they are constructed as reacting to other participants' actions, but they also take action themselves, although their freedom to move is limited.

References to the political realm also include the presidential candidates who comment on the decision. The reference to McCain ("McCain, the presumptive Republican candidate, warmly endorsed the ruling" (NYT12)) makes use of a non-spatial metaphor. "Warmly endorsed" is based on a conceptual metaphor by which "good is warm". Obama is also present:

> Obama emphasized that the court had acknowledged a right for communities to pass "reasonable regulations". The Illinois senator, by crafting a stance that could be supported by both urban and rural dwellers, might have been mindful of the fateful role that gun control advocacy played in the 2000 election. (NYT12)

Obama draws attention to one aspect of the decision: the fact that communities are allowed to let some laws enter their legal landscape. He places this aspect close to his centre (which supposedly is also the communities' centre). His actions do not remain without commentary and he is described as a political player who positions himself in the most beneficial manner ("crafting a stance that could be supported by both urban and rural dwellers"), so that he could bring different groups round to his point of view. The section continues by introducing political notions: Obama's steps are set in the light of the 2000 elections, connecting the issue of gun rights to politics at the highest level.

The majority of references to the SA are made with the verbs "protect" and "apply". These are spatial constructs that create different relationships: "protects" creates a benevolent relationship in which the SA has strength and authority to guard the right; "apply" defines the area which the SA occupies. The SA is often a dynamic participant that protects and gives rights, applies to certain areas and limits others. However, the corpus reveals that it is also subject to restrictions and not entirely free: "[its] protection of the right to keep and bear arms may be limited by the government, though only for good reason" (NYT2). This sets up a hierarchy in which the government is higher than the SA, although any encroachments they might make on this right must have a "good reason". The SA is problematic in terms of its own position. Frequently, its text is subdivided. For instance, NYT2 states that "The text of the amendment is not a model of clarity, and arguments over its meaning tend to be concerned with whether the first part of the sentence limits the second". This is a question of authority, of whether the first half has the right to establish borders on the second. This has proven a difficult question, so much so that experts oftentimes wish that they could extract a portion and only interpret that: "Were it standing alone, many legal scholars agree, the second part of the amendment would be no harder to read and interpret than other provisions of the Bill of Rights" (NYT8).

However, there are participants who experience no difficulty in seeing its "real" meaning: "Scalia told Mr. Dellinger that 'the two clauses go together beautifully' if the Second Amendment was understood as an effort to guarantee

that militias would not be 'destroyed by tyrants'" (NYT10). The spatial struggle can be summarised as follows:

> Gun-control advocates have long maintained that the amendment's ambiguous opening reference to a "well regulated Militia" limited its scope to gun ownership in connection with service in a state militia. In the appeals court's view, the clause simply highlighted one of the amendment's "civic purposes". (NYT5)

The problem is how the SA and its parts are constructed and understood. If the first part limits the second, it should be read as having a collective reference; if it is read to only point to one possible area in which the SA could be applied, then nothing denies the individual right reading. With *Heller*, the latter has become the dominant reading, but that does not mean that alternative interpretations no longer exist.

Partly, the complication in establishing the "correct" interpretation lies in the ambiguous 1939 precedent: "Lawyers on both sides of the issue say the Supreme Court's 1939 decision on the Second Amendment supports their views" (NYT1). But there are those who see it in a more clear-cut manner: "Silberman wrote that the decision /…/ 'did not explicitly accept the individual-right position' but did implicitly assume it" (NYT1). Some SC voices disagree: Roberts "responded that the Miller decision had 'side-stepped the issue' and had left 'very open' the question of whether the Second Amendment protects an individual right as opposed to a collective right" (NYT5). The lack of borders on the SA is problematic; its meaning, having been left open, does not have a clear identity. Thus, it can enter into various configurations with participants, creating confusion in the discourse space. The aftermath of the decision is given in NYT12: "That collective interpretation led in subsequent decades to laws restricting firearm ownership" (reflecting the fact that, although Roberts suggests otherwise, *Miller* has often been interpreted to support the collective right reading). This creates a space in which the collective meaning has outlined a path and opened up new areas for laws to occupy. In either case, the decision entering the legal landscape reshaped gun regulation.

The *Miller* decision was the sole precedent until *Heller* made national news after the appeals court stated that the SA protects Heller's right to own a weapon in D.C. The appeals court decision is present in the first articles and becomes less relevant as the case moves on. In NYT1, Singer comments that the "decision was 'a huge setback'", making use of the metaphor of progress, of "good" things involving moving forward and "bad" things halting. The gravity of the decision is stressed through the use of the adjective "huge", implying that a great distance is created between the desired and now actual position. According to Fenty, the decision takes bold action: "Today's decision *flies in the face of laws* that have helped decrease gun violence in the District" (NYT1). He constructs it as showing blatant disregard for effective laws. A more moderate expression can be found in the metadiscourse of the article: "The

decision relied on what has so far been a minority interpretation of the /.../ [SA], though one that has been embraced by the Justice Department in the current administration and by some constitutional scholars" (NYT1). This constructs the decision as being based on a political and academic tradition but marginalises this as a minority interpretation, decreasing its salience by placing it away from the centre. NYT2 is even more direct: "Only a few decades ago, the decision would have been unimaginable". The word "unimaginable" points to a time when this interpretation was absent from the discourse space altogether. This also points to how this idea has not only become imaginable but firmly present in the discourse space.

The federal appeals court made the decision in *Parker* and "struck down" (NYT1, NYT2 and NYT13) the D.C. law, which suggests that courts have the right to push laws lower on the spatial axis. The appeals court also has the right to decide who gets to be placed in front of them: "the appeals court threw out five of the six plaintiffs" (NYT5), "the appeals court threw out the other five plaintiffs" (NYT6) and "The appeals court knocked five plaintiffs out of the case" (NYT7). The choice of words marks the court as manhandling other participants (the verbs "throw out" and "knock out" suggest the power to control the range of participants). There is more going on: "If the full [appeals court] /.../ *does not step in and reverse* the 2-to-1 panel decision /.../ the question of the meaning of the Second Amendment is almost certainly headed to the [SC]" (NYT2). Thus, on the district court level, there are two layers of separate players (the panel and the full court). The full court has the authority to interfere with what a section of it has done and cancel their moves. The decision they made ultimately reaches the SC, as the full court did not "step in and reverse" it.

The *Heller* decision is often described as a "landmark ruling" to mark its significance in the legal landscape: "The landmark ruling overturned the District of Columbia ban on handguns, the strictest gun-control law in the country, and appeared certain to usher in a new round of litigation over gun rights throughout the country" (NYT2). As such, the decision reshapes the discourse space by overturning the D.C. ban, but it also has implications outside the D.C.: the decision is seen to open up new areas and introduce new processes ("usher in a new round of litigation"). This also sets up hierarchical relationships on the spatial axis by suggesting that this litigation takes place above "gun rights throughout the country".

As with many other aspects related to SA cases, the implications of *Heller* are debated in the articles. For instance, as seen above, the Republican presidential nominee welcomes the ruling which in his opinion "ended forever the specious argument" (NYT13) made by gun control advocates. For him, the decision has put an end to some processes and established a definitive interpretation of the SA. Other participants focus on the practical implications and see the decision in a very different light: "Chicago officials were also steadfast in saying they believed that the court's decision, which left open possibilities for local gun ordinances, would have little immediate effect" (NYT14). They

are cited because Chicago's strict gun laws were thought to be the next object of challenges. They are constructed as holding a very firm ("steadfast") position on *Heller*. In their opinion, the decision has not decisively established the positions of different elements ("left open possibilities") and has no direct influence on existing configurations ("would have little immediate effect"). In the months after the decision, it was clear that it did not become accepted as an unquestioned precedent: "Four months after the Supreme Court ruled that the Second Amendment protects an individual right to possess guns, its decision is under assault — from the right" (NYT17). This shows that SC decisions are not always taken as gospel. Rather, their application depends on whether they are viewed as reasonable and practical. But *Heller* was often seen as an ideological decision.

Richard Heller is mostly connected to actual physical movements rather than abstract processes. A large portion of the references make use of the language of the SA: of the verb "keep" and the synonym of "bear", "carry": Heller "had applied for and was denied a license to keep a gun at home" (NYT5), "he carries a handgun on duty" (NYT5), "a security guard who carries a gun" (NYT13). The five other plaintiffs are placed in the margins, whereas Heller is centralised as the one with a justified claim. From the way he is represented, it is clear that he is very much limited by authorities above him, even though he does take bold action: "Heller challenged provisions of the Districts' law" (NYT1), he "had actually applied for permission to keep a gun at home and been rejected" (NYT5) and "The remaining plaintiff, Dick Anthony Heller, a security guard was turned down by the Washington police" (NYT7). The D.C. authorities can stop the movement of elements and place them lower on the spatial axis.

Legal scholars are mostly involved in "saying" and "writing" on the SA debates. But there are instances in which they are involved from the start and depicted as belonging to either side of the debate. For instance, "several leading liberal law professors" (NYT2) are reported as having been involved:

> In those two decades, breakneck speed by the standards of constitutional law, they have helped to reshape the debate over gun rights in the United States. Their work culminated in the March decision, Parker v. District of Columbia, and it will doubtless play a major role should the case reach the United States Supreme Court. (NYT2)

This section, rich in spatial constructions, represents them as having been part of the process of reshaping the discourse space of gun rights. This suggests that discourses and social processes are dynamic, subject to change and, most importantly, subject to change caused by the participants themselves. The scholars are given considerable power as they can affect the discourse on gun rights across the nation. The second sentence reflects the understanding that, as a result of the two decades' work, the scholars' efforts have moved higher on the spatial axis, becoming more noticeable and influential. This is seen in how the article claims that their work will continue to be relevant. These efforts are

placed close to the centre on the modal axis with the adverb "doubtless". In short, scholars are portrayed as having made efforts to become influential in the debate and as having achieved this. The increasing popularity of the individual right reading is further elaborated: constitutional scholars Amar and Levinson are reported to be "in broad agreement favoring an individual rights interpretation. Their work has in a remarkably short time upended the conventional understanding of the Second Amendment, and it set the stage for the Parker decision" (NYT2). The idea of "broad agreement" suggests changeability in their views and in the nature of the relationship between their opinions. Still, in their separate ways, they have both drastically affected the course of the SA interpretations. After their work on the SA history and meaning, the gun rights scene is in a state of chaos which has created space for *Parker* to appear as an attempt to reset order.

After the *Heller* decision, experts are brought in to comment on its impact: "The differing opinions mean that the whole issue of city and state gun laws will probably head back to the Supreme Court for clarification, leading many legal experts to predict a further expansion of gun rights" (NYT20). The fact that the question might have to be readdressed by the SC is represented as a regression in progress ("will probably head back") although it is only a potential development (placed at a distance from the deictic centre on the modal axis). This development would serve as a prerequisite for another potential scenario: that of the expansion of gun rights. Here, "many legal experts" are cited as the source of this prediction. Experts are involved in the processes but are quite frequently also depicted as standing at a distance as participants who can take in the whole scene and comment on it.

6.2.5. Time

In temporal terms, the SC is mapped from 4 basic aspects: that of mapping its history, that of mapping the time period between "now" and *Miller*, that of mapping the *Heller* case and that of mapping the future. The broadest representation of the SC in the discourse space has, on the one hand, to do with the court's few comments on the SA and, on the other, with specific historical references that are brought in as points of comparison. NYT5 reports that the SC "has never answered the Second Amendment question directly" and NYT6 writes that it "has never ruled that the Second Amendment even applies to the states". These instances point to events that have not occurred in the discourse space but are relevant in the context in which *Heller* is placed: it is unavoidable that the articles detail the history of the court in this, even if this history is missing. At times, the reference is less categorical: NYT5 writes that the SC "has not had recent occasion to consider" the nature of the SA (a reference embedded in a quote from Thomas from 1997) and NYT9 reports that the court is likely to do this "after decades of silence on the subject", although, as NYT19 suggests, the SC "has said in some past cases that the Second Amendment applies only to the federal government".

The most specific reference to a historical period in connection to the SC is in NYT10 and it is connected to the historical basis of the SA: "the justices appeared at least as well informed as the lawyers on minute details of English and American legal history". English laws are the philosophical origin of the American gun rights, making their appearance in the discourse space likely. In a way, this has an effect on the entire coverage (as a discussion of a right Americans have had for centuries) and guides the interpretation of the potential decision (as relatable to that tradition). The most frequent mapping on the temporal axis has to do with *Miller*, with most articles in the *Heller* corpus making a reference to it. NYT1 comments on the SA question and states that the SC "last considered the issue in 1939" and NYT6 reports that the SC "last looked at the Second Amendment nearly 70 years ago in United States v. Miller, a 1939 decision". Both create a link between the "now" of the article and the 1939 precedent with "last" and by mapping the exact period between these two elements ("70 years"). The same is expressed with negation: the SC "has said nothing for nearly 70 years" (NYT9) and "had not addressed [the issue] since 1939" (NYT10). Negation places the events that never took place at a distance on the modal axis, while setting up a continuous process in the past along the temporal axis: the SC is constructed as having continuously been silent.

Also frequent are references in connection to *Heller* as it progresses through the SC. These are most closely connected of the deictic centre "now" and, thus, most informative at the time when the article was published. The SC "announced Tuesday" and "on Tuesday" that it would hear the *Heller* case, "adding the case to its calendar, for argument in March with a decision most likely in June" (NYT6). These references are part of the metadiscourse of the article, operating inside the time frame of 2008 which serves as the deictic centre on the temporal axis. The last excerpt also maps the work process of the court, setting up a chain of events from "now" to a future point. NYT12 reports the SC decision: it "declared Thursday for the first time that the Constitution protects the right of individual Americans to have guns". "Thursday" also primarily speaks to the audience that shares the deictic centre with the article and is less meaningful for future readers. The second temporal reference, "for the first time" speaks to all readers equally – it points to a new element that has been injected into the discourse space. A highly deictic reference in connection to the SC is found in a quote from McCain: "Today, the Supreme Court ended forever the specious argument that the Second Amendment did not confer an individual right" (NYT12). The reference "today" underlines the significance of the day in which the SC made a decision that greatly altered gun rights. Finally, as time passes from the decision, additional references point to the time for which it has existed: "nearly six months after" it (NYT18), "about nine months ago" (NYT19), "a year ago" (NYT20).

References to the future are not very frequent in connection to the SC. One instance is embedded in a past reference: "'This court has not had recent occasion to consider the nature of /.../ the Second Amendment,' he said, and added: 'Perhaps, at some future date, the court will have the opportunity'" (NYT5, from

Thomas's 1997 statement). This is a multilayered temporal construct. Thomas speaks from a deictic centre in which he is mapping potential future SA cases, but his quote is in the past for the readers of the article who see *Heller* as taking the position of this "future date". In hindsight, this might add authority to Thomas who was able to project the course of events, but it also illustrates how discourse production tends to be followed with materialisations. The future is directly shaped in NYT15: "In the case for which history may ultimately remember the term — the decision interpreting the Second Amendment to protect the right to own a gun for private use — the court's conservative bloc won a stunning, if narrow, victory". Throughout the corpus, the historic relevance of the decision is underlined, contributing to the case becoming significant in the legal landscape. And, by suggesting what the court might be remembered for, the article already constructs the collective memory of the decision. Many potential future developments result directly from the court decision:

> In striking down the District of Columbia's ban on handguns, *the court began writing a new chapter of constitutional law*. The decision raised more questions than it answered, and it *may take many more cases* to flesh out how far the court intends to go *to displace* legislative choices for gun regulations. (NYT15)

This underlines that future developments are often the result of present efforts. In making their decision, the majority makes a conscious shift in how the SA is interpreted, beginning "a new chapter of constitutional law". The ambiguous nature of the decision allows the article to predict "many more cases" before the practical implications of this shift become clear. The excerpt implies that the SC already has an idea where they "intend" to end up.

Temporal references to the justices can be divided into three main groups: mappings of former justices, of current justices (especially in connection to their past actions) and of the deliberation of *Heller*. Former justices are mapped when their statements are judged relevant to the topic. "Former Chief Justice William H. Rehnquist, who died in 2005" is grouped together with Ginsburg, Scalia and Souter in a 1998 dissent in which, "at least three current members (and one former member) of the Supreme Court have read 'bear arms' in the Second Amendment to have meaning beyond mere soldiering" (NYT1). The metadiscourse suggests that this was mapped by the majority in the appeals court and the article has chosen to place the same dissent on its timeline as well. This excerpt from the 1998 dissent legitimizes the idea that the SA could be read as not having to do with a militia but with a universal right. This is not the case with another former justice:

> In 1992, Warren E. Burger, a former chief justice of the United States appointed by President Richard M. Nixon, expressed the prevailing view. "The Second Amendment doesn't guarantee the right to have firearms at all", Mr. Burger said in a speech. In a 1991 interview, Mr. Burger called the individual rights view "one of the greatest pieces of fraud — I repeat the word 'fraud' —

> on the American public by special interest groups that I have ever seen in my lifetime". (NYT2)

Burger is mapped as having expressed this point in both 1991 and 1992, lending stability to him as a participant. The temporal axis also maps the fact that he was appointed by President Nixon, which creates a specific time frame in terms of his time on the SC and maps him as a conservative justice (this makes his opinion a somewhat surprising one in today's context where politicians and SC justices act more strictly along ideological lines). The article makes use of a direct quotation that introduces pieces from Burger's speech in 1991. This creates a multilayered positioning: not only does the deictic centre shift from that of the article; it also shifts temporally from "now" in 2007 to "now" in 1991. Burger's statements are categorical, making use of negation and emphatic language which serve to position the possibility of such an interpretation far on the modal axis while essentially eliminating it from the temporal axis. In Burger's coordinate system, such an interpretation is impossible (emphasised by the use of "ever seen in my lifetime")[15].

Another former justice mapped is Felix Frankfurter: "Stevens said that in bypassing 'judicial restraint, the majority had thrown the Supreme Court into the "political thicket"' that Justice Felix Frankfurter, a conservative judicial hero, had warned against in a different context long ago" (NYT15). Stevens, in his own words and through the article, is presented as accusing the conservatives on the SC of acting against their own ideology. To do this, he makes use of the opinion of a former conservative justice. The inclusion of the former justices by other participants creates an effect by which they are present but not directly involved, that is, their participation is in the service of making someone else's point. The reason for relying on their opinion has to do with their authority as members of the SC, even though they are past members. Actually, as their predictions are seen to come true in the present, their opinions can gain even more strength.

The current justices are mapped with references to their past actions that are seen to have a bearing on *Heller*. The only justices whose past records in relation to gun rights are mapped through specific events belong to the conservative bloc: Roberts, Alito, Thomas and Scalia. Roberts expresses the most neutral opinion among them: "Asked *during his confirmation hearing* what he thought /.../ [he] responded that the Miller decision had 'side-stepped the issue' and had left 'very open' the question of whether the Second Amendment protects an individual right" (NYT5). This is no indication of how Roberts might judge an SA case but refers back to when he was not willing to commit to an interpretation. Others are more vocal. Alito, for example, is reported in NYT1 as having written that he "would have struck down a federal law

[15] Kopel (n.d.) puts forward a very different account of Burger's opinions on the SA. According to his view, Burger's statements are undermined by the fact that they were not made during his tenure in the SC and that, at times, Burger misinterprets aspects of the SA history (at least according to Kopel's conservative views).

regulating the possession of machine guns". This statement comes from "a 1996 dissent while serving on the federal appeals court in Philadelphia" and is followed by a reference to the deictic centre of the article, as he is also identified as "now a justice of the Supreme Court". This implies a straight connection between the past statement and Alito's supposed beliefs as a justice. The justices as a group are also positioned with "now": "none of the justices now on the court have ever confronted a Second Amendment case" (NYT6), making it difficult to predict the outcome. The adverb "now" is highly deictic and used to establish a connection between the present and the past.

A temporal representation similar to Alito's maps Thomas: "In 1997, he wrote a concurring opinion in a decision invalidating a federal requirement for local sheriffs to perform background checks on gun buyers" (NYT5). He is also portrayed as having previously preferred to give more freedom to gun owners. Scalia is not mentioned in connection to specific past opinions but in connection to a 2001 majority opinion (NYT10) that seems to contradict his views on expanding constitutional rights. The 2001 opinion was introduced as a point of critique by Clement who was arguing for the individual right but on the basis of a different level of constitutional scrutiny (Lithwick 2008: para. 2). The current justices are not always in control of the claims and opinions connected to them. Scalia, for instance, is the subject of another positioning which stresses the historic relevance of the case: "Scalia's majority opinion, his most important in his 22 years on the court" (NYT13).

References to the court's role in *Heller* are richest in mapping the deictic centre. The SC's work is divided into temporal sequences framed as "terms" (it acted "last term" (NYT5), "this term" (NYT15)). Other references are even more deictic: "as early as Tuesday" (NYT5) and "Thursday" (NYT12) which are less informative outside the immediate moment of writing the article than the previous examples. There are mappings that set up time relations between events: "Breyer, late in the argument, made an effort to save the statute by a similar historical analogy" (NYT10). His actions are set in relation to the rest of the deliberation and placed at the end of it. This is not only temporal but also carries deontic modality: the fact that he is represented as having done something late in the game suggests that he was not as passionately involved in the processes before. Other mappings point to cause and effect relationships: NYT5 suggests that if the justices agree with the appeals court and term gun rights individual, they "must then decide what such an interpretation means for a statute that bars all possession of handguns".

In references to the lower courts and their judges, similar time markers are used: "in 2001" (NYT1), "in the spring" and "in August" (NYT17), "last month" (NYT19) and "this month" (NYT20). Other deictic markers such as "now" and "then" are also used. Some lower court judges are set in a historical context through references to the presidents who appointed them: "Silberman was appointed by President Ronald Reagan, Judge Henderson by the first President George Bush and Judge Griffith by the current President Bush" (NYT1). This points to their possible ideological preferences, although it is not

a guarantee in predicting how judges decide cases. With *Heller*, lower court judges are actively involved in the initial stages: "A federal appeals court in Washington refused yesterday to revisit a March decision striking down parts of a gun control law there" (NYT3). This relies on the readers' knowledge of its deictic centre and their ability to contextualise the sentence and make sense of it. "March decision" is not in itself a meaningful phrase, but it is given meaning through the continuous construction of the discourse space. There are contextual cues but much of the deictic knowledge is built up between the article and other articles and sources.

Other time references are less context sensitive and can be deciphered outside the immediate context of the articles. NYT9 reports that "the great majority of federal courts have long refused to read the Second Amendment as protecting an individual right, and the Supreme Court itself has said nothing for nearly 70 years". This suggests parallel processes of both the federal courts and the SC withholding certain actions. The two are set in a relationship of equal inactivity but unequal authority, and the "but" suggests that the SC could change the way federal courts operate. This turns out not to be the case fully. After the SC decides *Heller*, the confusion left does not provide much guidance for lower courts: "For now, lower courts probably have to follow the older decisions [on incorporation] until the Supreme Court says otherwise" (NYT19). Lower courts are tied to the "older decisions until" the SC takes more decisive action. This sentiment is enforced with a quote from Winkler: "To date, the federal courts have not invalidated a single gun control law on the basis of the Second Amendment since Heller" (NYT19). He looks back to the temporal axis as he sees it: at *Heller*'s ineffectiveness and the lack of changes after this "landmark decision".

The majority of temporal positioning of the D.C. law is achieved through tense forms (articles point to how the law "is" one of the strictest in the nation and "was" passed with a certain aim). Fewer deictic markers are used, most of which identify the law either through its age or the year it was passed in: "the court declared that the 31-year-old statute /.../ was unconstitutional" (NYT5), "the requirement in the 1976 law" (NYT12) and "The local law, which dates to 1976, is generally regarded as the strictest gun-control statute in the country" (NYT9). The time for which the law has been in effect is relevant in discussing its merits. Challenging a 31-year-old law is a move against a long tradition:

> The [D.C.'s] /.../ gun law has long been a major irritant to supporters of gun ownership around the country. The law was one of the first to be passed by the newly empowered District of Columbia in 1973, after it received home rule authority from Congress, where the gun lobby remains strong. (NYT5)

The adverb "long" points to the law being around for some time and this is specified in the following sentence which gives the exact year it was passed in. At the same time, this information is set in the context of political changes and

struggles: the D.C. is positioned in opposition to gun rights advocates and the Congress which is under the sway of the latter.

D.C. representatives are initially mapped in commenting on the appeals court decision. Singer constructs the D.C.'s past: "We all remember very well when D.C. had the highest murder rate in the country, and we won't go back there" (NYT2). This is a rhetorical construction: not only is she speaking for an ambiguous "we" but she also presupposes that there is a uniform understanding of the past and a shared desire not to reverse some processes. Another temporal mapping has to do with how the D.C. might continue after the appeals court decision: "Fenty and Washington's lawyers did not immediately vow to ask the Supreme Court to hear the case" (NYT2). This stands in contradiction with the previous statement from Singer – were the D.C. ready to passionately defend its gun law, they would probably continue "immediately". Lawyers on the other side are mapped through a specific time reference: "The statute's challengers, who brought their lawsuit in 2003 /.../, *promptly* agreed that the case merited the justices' attention" (NYT5). Not only does this establish a specific position for their past actions, it also differs from the D.C. representatives' not taking "immediate" action. This constructs them as more dynamic participants. Levy's past is extensively mapped: readers learn that he is 66 years old, "came to law *late in life*" and is "a rich libertarian lawyer who has *never* owned a gun" (NYT7). The last phrase points to a state that has never existed but is still relevant in pre-emptively counteracting charges that anyone involved in trying to expand gun rights must feel strongly about guns themselves.

Time references related to gun rights advocates mainly focus on the NRA and are frequently expressed in the choice of verbs not in adverbs or dates. The NRA is represented as one of the organisations that "continue to wield enormous influence" on state level and as a group who "began monitoring gun laws in 2001" and "continued to build upon it" (NYT11). They also react quickly and move fast on the temporal axis: they "immediately announced [their] /.../ intention" (NYT12) to challenge other laws and did so when they "sued San Francisco and its housing authority on Friday" (NYT14). This sentiment is further expressed in "Just hours after the court's decision on Thursday, gun rights groups sued the City of Chicago, seeking to invalidate several municipal codes, including a 1982 ordinance" (NYT14). Not only do gun rights advocates move with great speed, they again challenge a decades old law. Thus, separate mappings contribute to constructing them as elements that react with speed to other participants' actions. Gun control advocates are identified as holding true to a certain opinion: "Gun-control advocates have long maintained that the amendment's ambiguous opening reference to a 'well regulated Militia' limited its scope to gun ownership in connection with service in a state militia" (NYT5). There is a more favourable and forceful positioning by the Brady Centre's representative: "'*For years* we were chasing the N.R.A.'s tail', Brian Malte /…/ said of the National Rifle Association. 'But *now* we feel they are chasing our priorities'" (NYT11). This suggests that the group has become more actively involved.

D.C. officials are mapped with some references that are relative to the moment in which the coverage was written ("yesterday" and "in September" in NYT5; "last year" in NYT13). References to the future make use of the modal verb "will":

> The *immediate* consequence of the decision, Mr. Levy said, is that "D.C. *will have to implement* a process for enabling people to keep handguns in their houses". (NYT1)
>
> The District of Columbia *will ask* the United States Supreme Court to hear its appeal of a decision *in March* that struck down parts of its gun control law, the district's mayor, Adrian M. Fenty, announced *yesterday*. (NYT4)

The first instance is introduced by the use of "immediate" which suggests that there is an urgent need for the officials to act, and the action they decide to take is mapped with a modal verb ("will have to implement"), suggesting an undesired future scenario towards which current circumstances are forcing them. The default placement of "will" close to the centre is counteracted with the choice of "have to" which suggests that, for them, this future action is at a distance from the centre. The second sentence uses "will" to construct a future that is close to the centre from which Fenty speaks, followed by deictic markers informative at the time the article was published ("in March" and "yesterday"). Another mapping points to a cause and effect link and characterises the nature of the actions: "Since the Supreme Court struck down the district's handgun ban, the Council had stitched together a series of emergency measures to regulate gun ownership" (NYT18). The SC decision is the starting point for quick action by the council which is represented with an assessment as well: the implication is that something done quickly is not done well.

In the political realm, the Bush administration is mapped as diverging from how previous administrations interpreted the SA: it "reversed that longstanding position, saying the amendment protects the gun ownership rights of individuals, subject to a few restrictions" (NYT1) and its "reversal of a longstanding Justice Department position under administrations of both political parties favoring the collective rights view" (NYT2). The first excerpt maps the "longstanding position" as having to do with the meaning of the SA; the other as being a state in time that has endured both Democratic and Republican administrations. Clement's brief that caused trouble for him within the administration is said to support the individual right reading "which has been administration policy *since 2001 when* John Ashcroft, *then* the attorney general, *first* declared it in a public letter to the [NRA]" (NYT9). This addresses the change in the administration's position in detail, identifying 2001 as the year in which it occurred. The change is attributed to a specific member of the administration, the then attorney general. The greater authority behind this change is evident from a quote from Bush who welcomed the ruling: "As a longstanding advocate of the rights of gun owners in America /.../ I applaud the Supreme Court's historic decision" (NYT13).

Presidential candidates are mapped as both "quickly weighed in" (NYT12), but Obama is positioned in more detail. The fact that he "once taught constitutional law" (NYT12) is mentioned as relevant information. In terms of decisive views, Obama remains less committed and "while" supporting gun rights "also" supports communities' rights to limit these rights for themselves. This suggests double movement on the temporal axis: Obama wants to support both points of view without choosing one over the other.

Chicago officials, thought to be the next target for gun rights advocates, are mapped in the future: "'We feel we will be able to continue enforcing those ordinances very aggressively', Jenny Hoyle, a spokeswoman for Chicago law department" said (NYT14). This is based on the belief that *Heller* will not have a significant effect, leading the officials to map their future actions which consist in continuing to enforce the laws. Other states' experience changes after *Heller*: Pennsylvania, whose laws were more lenient, also had to consider the exact nature of gun legislation and regulation they would allow: "'There are many people who believed that we would never discuss hand gun legislation in this building, let alone have a vote', said Johnna A. Pro, the spokeswoman for Dwight Evans, a Democrat in the Pennsylvania Statehouse" (NYT11). Florida is reported as having "recently passed a measure preventing businesses from prohibiting customers or employees /.../ [from keeping] their guns in their cars on their property" (NYT11).

References to the SA have few specifically deictic markers; it is mostly mapped through the use of tense forms and content-based references. Tense forms help map its history: the SA "'was not intended to tie the hands of government in providing for public safety', the [Clement] brief asserts. Exactly what the Second Amendment was intended to do is at the heart of the dispute" (NYT9). Thus, the intentions of the authors of the SA are relevant. It also maps the past time when some aspects of the SA were less ambiguous ("was not intended"), although this is done in an exclusive not inclusive manner, so it does not map what the SA actually meant (a sentiment echoed in the second sentence). Tense forms also trace the SA through time:

> In the 1939 case, the court decided a narrower question, finding that the Constitution *did not protect* any right to possess a specific type of firearm, the sawed-off shotgun. /…/ [Scalia] said the Miller decision meant "only that the Second Amendment *does not protect* those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns". (NYT12)

The first section puts *Miller*'*s* conclusions firmly in the past ("did not protect"), leaving room for the possibility that things are different now. The other uses present tense, making *Miller* directly relevant for the current moment ("does not protect"); a notion strengthened by the fact that this assessment is in a quote from Scalia that discusses previous precedent to strengthen his argument for expanding gun rights. He chooses the aspect of the previous decision that supports his interpretation and makes it relevant with present tense. *Miller* itself

is placed on the temporal axis as "a/the (SC) 1939 decision" (NYT1, NYT5, NYT6) and is once also placed in a group of other SA court cases (NYT5).

The SA is also mapped through references to its historical context and periods of established interpretations. NYT2 suggests that "There used to be an almost complete scholarly and judicial consensus that the Second Amendment protects only a collective right of the states to maintain militias". The phrase "used to be" establishes a period in the past in which there supposedly was a uniform understanding of the SA. Later in the corpus, NYT17 specifies the period by saying that "For much of the 20th century, the conventional view of the amendment had been that it only protects a collective right". This positioning in the metadiscourse stands in contrast with the quote from Bush: "I applaud the Supreme Court's historic decision today confirming what has always been clear in the Constitution: the Second Amendment protects an individual right to keep and bear firearms" (NYT13). He constructs a different history than the previous sections do, suggesting there has never been any question in how the SA should be read.

The articles offer an explanation for the contradictory constructions. The three judge panel of the appeals court is reported to have said that, when the SA was written, it "served the purpose of assuring that the citizenry would have guns at hand if called up, while also guaranteeing the right to keep arms even if the call never came" (NYT5). Clement states the same in his brief entextualised as: "at the time the amendment itself coexisted with the 'reasonable restrictions on firearms' that were in place at the time" (NYT9). His claim is reiterated in NYT10 in a quote: the SA "talks about the right to bear arms, not just a right to bear arms /.../. And that pre-existing right always coexisted with reasonable regulations of firearms" (NYT10). The SA mappings have to do with its different interpretations which lead to the situation in which the two sides construct alternate histories, focusing on the SA's different aspects and using them to support their argument. Next to the past, there is one instance where the SA is mapped in the future. In NYT17, Wilkinson writes that "'There is now a real risk that the Second Amendment will damage conservative judicial philosophy' as much as Roe 'damaged its liberal counterpart'". He is projecting a possible future in which the SA reshapes Conservative philosophy[16], should *Heller* be judged judicial activism.

The *Parker* case is set in a specific relationship with the previous tradition of reading the SA:

> *The earlier decision*, by a divided three-judge panel, was *the first* federal appellate ruling *in the nation's history* to hold a gun control law unconstitutional on the ground that the Second Amendment's guarantee of a right to

[16] It is debatable whether this should be read as having much to do with the SA, as the thing most likely to have an effect in the future is actually the *Heller* decision itself. Nonetheless, the analysis proceeds from the labels subjects were given in the articles and classifies this future reference as having to do with the SA.

> bear arms protects the rights of individuals, as opposed to the collective rights of state militias. (NYT3)

"The earlier decision" (relative to the time of writing the article and the existence of *Heller*) is, throughout the corpus, identified by the month it was made in: "the March decision" (NYT2), "a March decision" (NYT3) or "in March" (NYT4). The decision is positioned in opposition to the SA history as it is labelled "the first /.../ in the nation's history" to suggest an individual right reading (the same is stated in NYT1.) The use of present tense in "protects" also works as a temporal marker, constructing the SA as having a continuous meaning that is still relevant. The metadiscourse incorporates the panel's argument, which is a biased view of the SA history, whereas elsewhere in the corpus this claim is argued against: "Only a few decades ago, the decision would have been unimaginable" (NYT2). This points to processes that have changed the legal landscape, leading to *Parker*, *Heller* and other challenges.

Additional temporal references are telling of the deictic centre from which the articles and voices in them speak. NYT1 quotes Fenty: "Today's decision flies in the face of laws that have helped decrease gun violence in the District of Columbia". His comments were made at a press conference after the decision was announced and share the deictic centre "today" with it. For the article, it is already "the case decided yesterday", pointing to a shift in the deictic centre form "today" to "yesterday" and from Fenty to the article itself. There is also a mapping of a future for *Parker*: "Should the case reach the Supreme Court, Professor Tribe said, 'there's a really quite decent chance that it will be affirmed" (NYT2). The court that decided *Parker* is also positioned through references to its actions "yesterday" (NYT1) and "in March" (NYT5). Time markers also map a division in the court, as the March decision was not taken up "in May" (NYT4) by the full panel.

References to the court case after it became *Heller* belong mostly to the second half of the corpus. Deictic markers map the case through SA history (it "was the first since 1939" (NYT12)) and through the metadiscourse of the article (it was "to be argued Tuesday" (NYT9)). The participants have high hopes for the decision: "Levy /.../ helped create and single-handedly financed the case that may finally resolve the meaning of the [SA]" (NYT7). A temporal relationship is also set up between the decision and gun-related crime in NYT12: "The ruling came a day after a Kentucky plant worker shot and killed his supervisor, four other employees and then himself". This is related to gun control advocates' fears of such crime increasing after *Heller*. A possible reading of this is that the journalist thinks the SC justices have not shown enough concern for the consequences of their decision. People favouring gun regulation would see it as an illustration of why strict gun laws are necessary, whereas people favouring broad gun rights think that a greater availability of guns for law-abiding citizens for self-defence makes for a safer society. The context models people have lead them to form different mappings of this particular event and its implications for the gun debate.

Other participants are hesitant about the possible results of the decision. NYT12 reports it as "a landmark ruling that might make it harder for cities or states to limit such ownership as they fight crime". The modal verb constructs a possible future scenario which is at a slight distance from the centre. The same modal verb is used to report Georgia officials' reaction: "Lt. Gov. Casey Cagle, an ardent supporter of gun rights, asked a Republican state senator to form a study panel to see how the court's decision might affect that state's gun laws" (NYT14). The information provided suggests that Cagle might favour expanding gun rights and would like the decision to lead to this. The decision draws further speculation regarding its future which is a direct result of its ambivalent nature. One appears in a quote from Rakove, a Stanford historian: "Neither of the two main opinions in Heller would pass muster as serious historical writing" (NYT17). This is a purely hypothetical opinion now, but future analysis of the opinions is very likely. Rakove is equally harsh on both the majority and minority opinions and paves the way for a critical approach to them. The same is found in NYT19 where Levinson is quoted: "My own bet /.../ is that Heller will more likely than not turn out to be of no significance to anyone but constitutional theorists". The use of "will" is mitigated by "more likely than not", but Levinson seems certain of himself: his projection also sees *Heller* becoming marginalised in the legal landscape. The only area in which the decision is generally thought to have an impact is incorporation: Wilkinson "assumed, as most experts do, that the decision would apply to the states" (NYT17).

Richard Heller is rarely mapped on the temporal axis and when this happens, temporal references are more aimed towards setting up the scene of the *Heller* case and explaining the motivation behind it. NYT7, for instance, presents the sequence of events related to him: "Heller, a security officer, was turned down by the Washington police when he tried to register a pistol he had bought while living elsewhere". NYT10 presents what followed: "Heller, a security guard who challenged the statute after his request for a license to keep his gun at home was turned down". These sections provide information about his past: his work as a security guard (presumably making him a responsible gun owner), the fact that he had, at some point, been allowed to have a gun (although in a different state) and, finally, recount how the D.C. officials' turning down his request led to the challenge.

Legal scholars are involved in various activities that are mapped on the temporal axis: reshaping the national gun rights debate, (re)defining the scope and meaning of the SA, publishing on the topic, engaging in the debate and projecting future scenarios. Their most influential role has been to alter the dialogue on the SA and refocus "the earlier consensus" (NYT2) on the collective right reading. The consensus has been broken with "the work over the last 20 years of several leading liberal law professors" (NYT2) who now support the individual right reading. "Those two decades" have seen changes in "breakneck speed by the standards of constitutional law" (NYT2). NYT2 spends a lot of space on mapping the scholars' publications. Tribe's treatises

from 1978, 1988 and 2000 are mentioned as well as Bogus's 2000 study of SA scholarship and other articles (NYT8). Levinson is often mapped, most notably in NYT2: "In 1989, in what most authorities say was the beginning of the modern era of mainstream Second Amendment scholarship, Professor Levinson published an article in The Yale Law Journal called 'The Embarrassing Second Amendment'". 1989 is mapped as the true turning point for SA scholarship and Levinson is represented as the central agent. References to publications continue after the *Heller* decision: "Winkler 'summarized the impact of Heller in an article to be published in The U.C.L.A. Law Review in June'" (NYT19). The scholars are also invited to make predictions as authorities on constitutional law. NYT20 reports that, as the issue is likely to be taken up by the SC again, "many legal experts /.../ predict a further expansion of gun rights". Some scholars self-position: Tribe says that "I have always supported as a matter of policy very comprehensive gun control" (NYT2). This stands in opposition to him surprisingly discovering that he now thinks the opposite. Levinson (like Levy) points to how he does not really have a relationship with guns himself: he "described himself as 'an A.C.L.U.-type who has not ever even thought of owning a gun'" (NYT2).

6.3. McDonald v. Chicago

6.3.1. Participants

The *McDonald* corpus, comprising 6 articles from *The New York Times* published between September 30, 2009 and August 28, 2010, indicates a narrower interest towards the topic with fewer digressions into the history of the SA and its interpretations. The general division of participants follows the lines seen in *Heller*, but there are notable absences and additions. The SC is still continuously part of the coverage, labelled "the court" or "the Supreme Court". Rare references are made to the court as "it" (twice in NYT22), "the United States Supreme Court" (NYT25) and "we" (NYT23) by Roberts. Individual justices and blocs that fall on either side of the debate are present. Roberts is referred to twice in NYT23 (as is Kennedy) and Thomas is present twice in NYT23. Ginsburg and Sotomayor are only listed among the dissenters with Breyer and, in that role, they are collectively also labelled "they" (NYT26), with one reference identifying them as "the dissenters". The majority justices are referred to more often. Scalia is cited several times with his name and, to a lesser degree, with "he" (NYT23, NYT26) and with "I" in quotations attributed to him (NYT23). There is also a reference to him as "the justice" in a section where he is continuously cited (NYT23). Stevens is the subject of a number of clauses but most references are made with "he" or "I" and his name is used once in an individual reference and once in mapping "the dissenters". Breyer is the subject of 6 clauses, half of which use "he". Alito is cited with his name, "he" and "who" (NYT26). The majority is separately cited in 5 instances (NYT26). There are additional mappings of "the justices" (NYT23, NYT26), the *Heller*

majority (NYT23) and "at least five justices" (NYT23, NYT26). Other levels of the judicial system are rarely mapped. NYT22 and NYT26 have 3 mappings: "the United States Court of Appeals for the Seventh Circuit", its "Chief Judge Frank H. Easterbrook" (NYT22) and "the lower courts" (NYT26). Other references are made in NYT25 to the aftermath of *Heller* in Washington, D.C.; to "a federal judge" identified as "Judge Ricardo M. Urbina of Federal District Court for the District of Columbia" or as "Judge Urbina" and "he".

Similarly to *Heller*, the *McDonald* coverage focuses on a specific gun law – in this instance to the law in Chicago. The regulation is identified as "the law" (NYT22, NYT27) and, when referred to as a set of regulations, "the laws" and "they" (NYT27). Other references point to its function ("the handgun ban" and "the firearms ban" (NYT27)) or establish a source or area of authority ("the city ordinance" and "the city's gun ordinance" (NYT27); "the Chicago gun control ordinance, one of the strictest in the nation" (NYT24)). Since *McDonald* is concerned with extending the SA's protection of an individual right to state laws, the latter are viewed as a separate participant group (with the exception of *Heller* and its aftermath which is still a separate group). References in this group are to "state and local gun laws" (NYT22), "state and federal gun regulations" (NYT27) or to "quite a few kinds of laws" (NYT22), "all sorts of restrictions on gun ownership" (NYT23) and "what kinds of gun laws" (NYT26). The latter are vague references in the context that lacks SC specifications of what laws are allowed under the new reading. There are a few brief references to simply "laws" (NYT26, NYT27), a use of "those" (NYT27) and a temporal positioning in "new gun laws" (NYT25).

Chicago representatives are mostly identified individually. James A. Feldman or "Mr Feldman" is also referred to as "you" in a quote from Roberts (NYT23). "Mara Georges, the city's top lawyer" (NYT27) is indirectly also an implied agent in whatever actions "Jennifer Hoyle, Ms Georges's spokeswoman" or "Ms Hoyle" (NYT27) is involved in. Hoyle is mapped as "she" and uses the ambiguous "we" (NYT27) to presumably refer to the city and its representatives. Less specific references are made to the "city attorneys" and "six city attorneys" (NYT27). The plaintiff's representatives receive fewer mentions, which is a notable difference from *Heller* where they were more actively mapped. The only person identified is Gura, who argued before the SC and is also identified as "you" by SC justices. Only two references are made to the plaintiff ("Otis McDonald" and "he" in NYT23) who is mapped alongside his representatives.

The City of Chicago is mostly mapped through non-personal references to "the city" and "it" (NYT23, NYT27). References are also made to "the City Council", "city officials" (in a joint reference to "the police" in NYT27) and "Chicago". Separate references are made to "top city officials" (NYT7) and to the only individual participant in the group, "Mayor Richard M. Daley" (NYT23), also identified as "Mr Daley" and "he". NYT27 also extensively maps the Chicago police: "the police (department)" and their representative,

"Jody Weis, the police superintendent" who also uses "we" to talk about Chicago law enforcement efforts in combating gun-related crime.

The SA is still relevant in the coverage, even more so than the Fourteenth Amendment which is at focus in *McDonald*. The latter is the subject of one process and, even then, only a part of it ("due process" in NYT23) is referred to. The SA is most often referred to as "the Second Amendment" (NYT22–NYT26). Two references point to a section of the SA in NYT22 ("the clause") and in one instance the same section is mapped as "it" (NYT26). In three instances, the SA is mapped alongside the Bill of Rights: "The Second Amendment, like the rest of the Bill of Rights" (NYT23, NYT26) and "the Second Amendment, like other provisions of the Bill of Rights" (NYT26). Three instances map the SA through an extension: NYT23 points to "the content of the Second Amendment" and NYT26 to "the Second Amendment rights" and "the Second Amendment guarantee".

The *Miller* precedent is missing from the discourse space. There is one generalising reference to previous decisions: "Several Supreme Court decisions, all more than a century old" (NYT22). Most references are made to *Heller* which is also identified as "Heller itself" (NYT23), "the Heller case" and "the Heller decision" (NYT26). There are two references to *Heller* with "it" (NYT26) and one with "that decision" (NYT25). 4 subject phrases out of 11 make a temporal reference. For instance, "last year's decision, District of Columbia v. Heller" (NYT22) and "the 2008 Supreme Court case, District of Columbia v. Heller" (NYT25). The *McDonald* case rises out of *Heller* and is mapped in the discourse as "the new case, McDonald v. Chicago, No. 08-1521" (NYT23). This maps it as being a "new" development (also "the new case" in NYT22) in the SA issue, implying the existence of a previous state of affairs. Numerous references look ahead to the moment when the SC makes its decision in *McDonald*, identifying it with labels such as "the (court's) decision", "the ruling", "it" and "the majority decision" (NYT26). These configure the discourse space differently, implying different agency and phases of the process. The last reference makes it clear that there is a minority that thinks otherwise, introducing the possibility of other points of view into the space.

Legal experts are also decidedly less present. The only expert individually identified is Eugene Volokh from the University of California (NYT25, also mapped as "he"). Other mappings are less specific: "most legal scholars", "many of them", "these scholars" (NYT22), "many constitutional scholars" and "they" (NYT26). One instance maps their political affiliations: "scholars on the right and left" (NYT22), another puts scholars alongside judges: "Many judges and scholars, including Justice Scalia" (NYT23). Interest groups are practically unrepresented in the *McDonald* corpus compared to *Heller*. Only one mention is made of Paul Hemke, President of the Brady Centre (NYT25), and two references are made to the Joyce Foundation (NYT27), a non-profit organisation that among other things also funds programmes related to gun violence prevention, with the only subject position mapping introducing its director of communication, Charles Boesel.

6.3.2. Processes

The SC is the subject of 30 processes; there are no attributions next to the 14 actions and 16 events. It is often involved in events in which it does not directly impact other participants, an impression strengthened by the use of modal expressions by other participants in relation to it. Individual justices are the subjects of 67 processes (43 events, 21 actions, 3 attributions). Most processes have individual justices as their subjects (49), instead of blocs in the SC (18). The most frequently mapped justices are Scalia and Alito (17 and 12 processes, respectively). Scalia is the more dynamic one (5 actions, 10 events and 1 attribution to Alito's 1 action and 11 events), as he is more often in a position to act upon other elements. They are followed by Stevens and Breyer (7 processes each). In references to blocs, processes are equally divided: both sides are involved in 5 processes (2 actions and 3 events). A few references are made to justices without pointing to their position in the SC ("the justices" are involved in 3 actions). In connection to the closest past precedent, "the Heller majority" is the subject of 2 events. Lower levels of the judicial system are involved in 8 events and 3 actions, with most processes (1 action and 5 events) mapping Judge Urbina. Chief Judge Easterbrook and his Court of Appeals for the 7th Circuit in Chicago are involved in 2 actions and 2 events.

The Chicago law is the subject of 11 processes (6 actions and 5 attributions). This points to its ambivalent role: on the one hand, it is involved in affecting other elements; on the other, it is described and assigned a static role (the same happened to the D.C. handgun ban in *Heller*). Some of the ambivalence is lost as 4 of the 6 actions are passive constructions, in which it is actually the subject that is acted on. Other laws are the subjects of actions (9) and attributions (4). Laws that already exist are overwhelmingly involved in actions (6 actions and 1 attribution), whereas references to "a few kinds of laws" (NYT22) or "all sorts of laws" (NYT23) that could exist are mapped with 3 actions and 3 attributions (the latter are mainly mapped in discussions of their constitutionality). The other laws also have an ambivalent role, acting on other elements and being subjects of descriptions and passive constructions. Compared to the Chicago law, the passive role is more prevalent with them (6 actions in the active voice compared to 3 in the passive and 4 attributions).

Lawyers representing Chicago are heavily involved in actions (11) and only 4 events. Most references map individuals: Feldman is mapped with 3 actions and 1 event. Hoyle, the spokeswoman for Georges (subject of 1 action), is the subject of 1 action and 3 events and also serves as the source that maps the city's representatives with "we" in 3 actions. Attorneys are the indirect subject of 3 actions, making them the most dynamic participant group which acts on other elements, although a number of the actions occur in the past. Lawyers on the other side are mapped less (4 actions, 2 events). References to McDonald's lawyers are actually references to Gura who is mostly mapped through direct quotes from Scalia who comments on his actions and gives advice. Otis McDonald is the subject of two clauses.

Chicago officials are the subject of 16 processes (8 actions, 7 events, 2 attributions). These are almost equally divided between Daley and the city officials as such (1 action, 5 events and 1 attribution, and 6 actions, 2 events and 1 attribution, respectively). The mayor is more involved in events and less dynamic than "the city". There is one joint reference to the officials and the police (event expressed with "say" in NYT27). The police are involved in 9 processes, 3 of which map the superintendent Weis. The police as an institution are further mapped with 5 actions and 1 event.

The SA is mapped in 18 instances (14 actions, 1 event and 3 attributions). The Fourteenth Amendment is the subject of only three processes (all actions). 2 of these map part of the SA ("the clause") as their subject, referring to the "privileges and immunities" clause. Both amendments are represented as operating in the present, actively impacting other elements. *Heller* is the subject of 11 processes (9 actions, 1 event and 1 attribution). This lends it a dynamic nature, although it is placed as acting on other elements in the past. (Other previous precedents are only involved in a single event.) *McDonald* itself is the subject of 12 processes (9 actions, 1 event and 2 attributions).

The "most" and "many" legal scholars mapped are the subjects of 1 action and 5 events. The only identified expert is the subject of 2 actions and 3 events. Scholars are mapped with 11 processes, the majority of which establish them as commenting on other participants rather than taking part. There are only two mappings of interest groups: Hemke is the subject of an action in which he comments on how *McDonald* still allows gun regulation (NYT27); Boesel is the subject of an event ("said" in NYT25) in which he comments on the Chicago law being worth defending.

6.3.3. Modality

The use of modal verbs in connection to the SC expresses both epistemic and deontic modality, but it is not always clear which is expressed. Some instances are more transparent than others: in NYT22, the SC announces that "it would decide whether state and local gun control laws may be challenged under the [SA]". This is epistemic modality directed towards the future. The same mechanism is in NYT24: "before the court would hear a big gun control case". Other instances offer assessment of the ongoing processes alongside modal expressions: "it seemed plain that the court would extend a 2008 decision" (NYT23). The phrase "seemed plain" places the possibility of the SC extending gun rights close to the deictic centre. The same is achieved with "would" which suggests a likely path for the SC to follow. There are instances in which modal verbs set up complex relationships between participants: in "Breyer, who also wrote a dissent in Heller, peppered the lawyers with questions about how the court might apply the Second Amendment to the states in a limited way" (NYT23, a similar construction with "might apply" is also used in NYT22), the modal construction pertains to the SC itself, but its use is linked to opinions outside the SC (the justice looks to other participants for suggestions on how to proceed).

Instances of modality in mapping the SC often have to do with other participants expressing their opinions on its actions. NYT22 reports that "the court should, these scholars say, look to the amendment's 'privileges or immunities' clause". This can be interpreted as both epistemic and deontic modality. The same occurs in NYT23: "Gura, supported by scholars all along the political spectrum, argued that the court should instead rely on the /…/ 'privileges and immunities' clause" (a similar "should rely" is also used in NYT26). A clear instance of deontic modality is found in NYT23 ("the court has been making parts of the Bill of Rights applicable to the states in the wrong way") in an accusation from Gura. He does not comment further on this in the coverage, providing no factual support for the evaluative "wrong".

Negation is used in three processes that map the SC. In NYT23, it is used in a direct quote attributed to Roberts who addresses Gura:

> "All the arguments you make against" applying the Second Amendment to the states, Chief Justice John G. Roberts Jr. said, "it seems to *me* are arguments you should make in favor of regulation under the Second Amendment. *We haven't* said anything about what the content of the Second Amendment is beyond what was said in Heller". (NYT23)

Roberts is criticising Gura by suggesting that he has read too much into *Heller*. The negation maps something that does not exist, as Roberts is pointing to an absence in the space that he feels is the basis of Gura's arguments. In modal terms, Roberts is pushing some interpretations of *Heller* far on the modal axis, distancing himself from what Gura has read into it. It is interesting to note the shift in pronouns: Roberts shifts from talking for himself to talking for the whole SC, as was also seen in the *Heller* coverage. This creates two deictic centres from which his opinion can be read (the use of "we" is ambiguous – is this something the SC would agree with or is Roberts usurping the power). This use of "we" is one of three instances in which pronouns are used to map the SC in subject positions. In NYT22, "it" is used twice to map the SC. Other instances of negation occur in evaluations: "Indeed, over the course of 200 pages of opinions, the court did not even decide the constitutionality of the two gun control laws at issue in the case" (NYT26). An element is mapped as something that should have existed but does not. The implication is that this would have been a desired state. Another negation is used in a section that reports Alito "saying [that] the court did not mean to cast doubt on laws prohibiting possession of guns by 'certain groups of people in certain places'" (NYT26). He is restating what the SC wrote in *Heller* and negating an alternative possible interpretation (that it was too broad). By placing the interpretation at a distance from the centre, Alito is suggesting that public safety is his core value.

Few modal verbs are used in references to individual justices. NYT23 reports that "at least the justices in the Heller majority would say yes without reservation" to incorporation. This maps the future and places the possibility of

the justices incorporating the SA close to the deictic centre with the verb "would" and the added "without reservation". The dissenters in *McDonald* are also the subject of one process expressed with a modal verb: "They said the Heller decision remained incorrect and added that they would not have extended its protections to state and local laws even had it been correctly decided" (NYT26). This occurs after *McDonald* is decided and expresses the dissenters' point of view: "would not have extended" maps the majority decision at a distance from the centre; an effect strengthened by "the Heller decision remained incorrect".

Another modal verb is in NYT26: Scalia is reported as saying "he would go along with the method here 'since straightforward application of settled doctrine suffices to decide it'". This comes after the article reports that Scalia "acknowledged misgivings" about using the due process clause. Scalia is placed in the centre and slightly removed from it is the majority's actions. At a greater distance is the minority option of not incorporating the SA. Deontic modality is visible in Scalia's reaction to Gura's arguments on the meaning of the SA: "Scalia was unimpressed" (NYT23). For him, Gura's claims are unconvincing, but the metadiscourse of the article makes it clear that his reaction is emotional as much as it is intellectual. A single negation occurs: "Many judges and scholars, including Justice Scalia, have never found that methodology intellectually satisfactory" (NYT23). The methodology refers to using the due process clause to incorporate sections of the Bill of Rights against states. Scalia, together with scholars and judges, places this method at a distance from the centre they share. (This is also the only modal verb construction in references to legal experts.)

Mapping justices with pronouns occurs in 17 instances. In NYT23, the *Heller* majority is mapped as "they", and in NYT26, the dissenters in the current case are twice mapped as "they". These are the only instances in which pronouns establish justices as groups in the SC. Other pronominal references are to individual justices, of whom Breyer is only mapped once (NYT26). Alito is mapped twice in a section of NYT26 where he acknowledges some problematic aspects in the majority decision, thus being positioned at a distance from the decision which he was part of making. Stevens is mapped twice as "he" (NYT23, NYT26) and once as "I" (NYT23). NYT23 entextualises a quote from him: "'I'm asking you what is the scope of the right to own a gun?' he said. 'Is it just the right to have it at home, or is the right to parade around the streets with guns?'" The justice is pointing to questions that remained after *Heller* and this is how the metadiscourse embeds them. Were they to be taken alone, however, Stevens would seem weak, asking for someone else's guidance in setting up guidelines which is actually his area of expertise. Scalia is the justice most often mapped with pronouns. NYT23 devotes considerable space to reporting his actions and opinions:

> Justice Scalia objected to the inquiry. A constitutional right, he said, cannot be overcome because it may have negative consequences. But Justice Scalia was

> less receptive to an idea that has excited constitutional scholars in recent months. "What you argue", he told Mr. Gura, "is the darling of the professoriate, for sure, but it's also contrary to 140 years of our jurisprudence". (NYT23)

NYT23 extensively reports the SC hearings of *McDonald*, opting to entextualise the participants' voices rather than to use reported speech. In so doing, the article shifts into the SC hearings and positions the readers as audience to the hearings and identifies the point of view of the article with the readers. The effect of reporting is present in the choice of entextualised sections and in added commentary (e.g., in "Scalia was less receptive"), but direct quotes help create a sense of immediacy.

NYT23 continues to focus on Scalia and his exchanges with Gura:

> Justice Scalia was unimpressed. He said Mr. Gura should focus on winning his case rather than remaking constitutional law. "Why do you want to undertake that burden", Justice Scalia asked, "instead of just arguing substantive due process, which as much as I think it's wrong, even I have acquiesced in it?" (NYT23)

This uses direct quotes next to reported speech, in which Scalia continues to address Gura and argue with his line of reasoning. Readers are again placed in the context of the hearings. This is also an instance of Scalia self-positioning in relation to the traditions of constitutional law. Although his statements indicate that he is not entirely free in his actions and has to, from time to time, agree to views he does not prefer (thus, weakening his position), the fact that he gets to position himself (differently from many other justices) centralises his opinion. These sections underline the shifting nature of media discourse and deictic centres in it: Scalia, who above assumed to speak for the whole SC, when he commented on "our jurisprudence", is here putting forward an individual point of view.

Modality with lower courts is not expressed with modal verbs but with lexical choices. In NYT22, the appeals court for the 7th Circuit dismisses a new case, "saying it was up to the Supreme Court to overrule its own precedents if it wished to do so". The appeals court is suggesting that some actions are the responsibility of the SC. This can be interpreted as both epistemic modality (as it is true factually) and deontic modality (as the appeals court suggests that the SC has an obligation to clear any confusion they created). Negation is not used; pronouns are only used in NYT25 in which Judge Urbina is mapped as "he" twice.

The Chicago law is not mapped with modal verbs, but modality is still there. One instance questions the role and authority of the law as a tool against gun related crime: "Both police and city officials say the ordinance has not been the primary means for getting violent offenders off the streets" (NYT27). This marginalizes the role of the ban in law enforcement, but it is still considered valuable:

> Charles Boesel, director of communications for the Joyce Foundation, said in a written statement that the city's gun ordinance was worth defending regardless of how often it was enforced, because a decision to apply the Second Amendment to states and municipalities "could have profound implications for current and future gun policy in Chicago and nationwide". (NYT27)

The law is "worth defending" which means that Boesel (and, through him, the Joyce Foundation) place it close to their centre. One value in the centre is the preference for existing gun policy over possible revisions under the "new" SA. The value of the law is almost symbolic and is not tied to the frequency or efficiency of its use. Other gun laws are mapped with modal verbs in connection to their treatment by the SC. NYT22 reports that the SC announced accepting *McDonald* and planning to "decide whether state and local gun control laws may be challenged under the [SA]". The SC is planning to decide whether to map such challenges close or at a distance to their deictic centre which is the centre of authoritative readings. The outcome is far from certain as *Heller* allowed gun regulation despite finding an individual right in the SA: "the majority opinion, by Justice Antonin Scalia, suggested that all sorts of restrictions on gun ownership might pass Second Amendment muster" (NYT23). *McDonald* turns out to be similar to *Heller*: "As in the *Heller* decision, the justices left for another day just what kinds of gun control laws can be reconciled with Second Amendment protection" (NYT26). The use of "can" suggests clarity in mapping an element in relation to the centre, but this impression is negated by the fact that the SC has not offered this clarity.

Modality in connection to the attorneys is expressed with pronouns rather than modal verbs. Feldman is the subject of a modal verb phrase in a direct quote from Roberts: "All the arguments you make against [incorporation are] /.../ arguments you should make in favor of regulation under the [SA]" (NYT23). Feldman is mapped at a distance from Roberts's centre. Roberts is prescribing what he thinks Feldman should be doing, suggesting that he is not following the "right" course and has moved too far from Roberts's core values. Another positioning happens through negation in NYT23: "'We do bypass our ordinance because the penalties are more serious under state laws', Ms. Hoyle said. 'But there's this idea that we didn't really enforce the ordinance, and that's just not true. We prosecute people all the time'". Hoyle uses "we" which most likely refers to the city but the exact scope of the reference remains undefined. The negation works to counteract charges made against Chicago on their limited application of the ordinance. At face value, "we didn't really enforce the ordinance" places this action far on the modal axis, but "that's just not true" counteracts this, suggesting this is exactly what "they" did.

The plaintiff's representatives are also mapped by other participants. Gura is positioned through quotes from Scalia. In NYT23, this is made clear in the metadiscourse of the article: "He said Mr. Gura should focus on winning his case rather than remaking constitutional law'". Similarly to Feldman, Gura is being told which actions would map him closer to the deictic centre from which

the justice speaks. Scalia also positions Gura with pronouns: "'What you argue', he told Mr. Gura, 'is the darling of the professoriate, for sure, but it's also contrary to 140 years of our jurisprudence'" (NYT23). This constructs an opposition between "our jurisprudence" (Scalia is speaking for the SC) and a fad among the "professoriate". Scalia's arguments show his values: SC traditions are held in high esteem, whereas scholars' opinions are changeable and less valuable. Scalia further questions Gura's chosen course in asking "Why do you want to undertake that burden" of remaking constitutional law, implying the existence of other courses that would better serve Gura's goals. This suggests Scalia's greater insight into and knowledge of how the case could be argued successfully.

Otis McDonald is mapped in an instance that can be interpreted to construct modality-based relationships between elements: "The lead plaintiff in the case, Otis McDonald, has said he wants to keep a handgun in his home for protection from drug gangs" (NYT23). This creates a relationship between a person's desire to feel safe in his home and the drug gangs that threaten that safety. It also makes a plea for empathy and invites readers to identify with the desire to protect one's home.

With Chicago, modal verbs are used to construct potential futures: "Breyer asked Alan Gura /.../ whether the city should remain free to ban guns if it could show that hundreds of lives would be saved. Mr. Gura said no" (NYT23). Modal verbs are part of constructing a future in which the outcome of the case is contingent upon the city's ability to provide facts in support of their law. There are mappings that do not make use of modal verbs: Daley, for instance, is reported as having "said he was disappointed by the ruling because it made the city's handgun ban 'unenforceable'" (NYT26). The lexical choice "disappointed" in this self-positioning shows him placing the ruling far from his deictic centre. He elaborates: "Common sense tells you we need fewer guns on the street, not more guns" (NYT26) and "'When the wrong people have access to guns', he said in June, 'needless violence is likely to happen'" (NTY27). Chicago police is rarely mapped on the modal axis; there is only one instance in which a modal verb is used: "'Those are much heavier hits than we'd have using the city ordinance to try to combat and to try to serve as a deterrent against this gun violence', Mr. Weis said" (NYT27). The superintendent comments on how the city actually has stricter laws at their disposal than the law in question, curiously marginalizing the law under attack.

Modal verbs with the SA suggest how it should be treated in the judiciary: "The important point was a broad one, Justice Alito wrote: that the Second Amendment /.../ must be applied to the states under the 14th Amendment" (NYT26). Alito is in a position to state what has to be done with the SA and he is casting this as an obligation. Another instance uses this construction ("must be applied to limit not only federal power but also that of state and local governments" (NYT26)) but does so in a reference to the fact that this obligation derives from the SC decision. These instances map obligation differently, one pointing to a specific justice as the source of authority, the other

making it a matter of judicial fact. This is very different from the statement found before the case was decided: "Several Supreme Court decisions, all more than a century old, have said that the Second Amendment does not apply to the states" (NYT22). The negation is used to push the obligation far from the centre, making it less likely in the legal landscape. Another modal mapping comes from a quote from Hemke, president of the Brady Centre, who "called it 'the latest ruling to make it clear that the Second Amendment allows strong common sense gun laws'" (NYT25). This comment on the initial appeals court decision is an argument on the basis of the elusive "common sense", which is a highly suspect deictic centre not defined in detail.

The Fourteenth Amendment is mapped in fragments. One instance discusses the merits of the immunities and privileges clause: "Scholars on the right and left believe, moreover, that the clause could play a role in protecting rights not specifically mentioned in the Constitution" (NYT22); whereas another focuses on the due process clause: "'Due process', after all, would seem to protect only procedures and not substance" (NYT23). Both are hesitant and leave room for counterarguments: the first suggests the clause might be relevant in the future, the other points to a possible application.

Heller is mapped on a "correct–incorrect" paradigm. Kennedy, who was in the *Heller* majority, comments on what it would mean for *McDonald* not to expand the individual rights reading: "If it's not fundamental, then Heller is wrong" (NYT23). Kennedy does not commit thoroughly to interpreting the SA in a broad manner, suggesting that there are conditions in which *Heller* could be placed far from the centre and displaced in the judicial hierarchy. The dissenters in *McDonald* are much more critical of *Heller*, saying it "remained incorrect and /.../ that they would not have extended its protections to state and local laws even had it been correctly decided" (NYT26). They push *Heller* away from the centre and negate the possibility of incorporating the SA. Modality with *McDonald* has to do with looking forward to its outcome. NYT22 reports: "A decision that the Second Amendment applies to the states would not answer most questions about what kinds of gun laws are vulnerable to challenges under the [SA]". The article is already interpreting a possible outcome, placing it far from the centre. NYT23 adds more detail to the hesitancy about the possible decision: "While such a ruling would represent an enormous symbolic victory for supporters of gun rights, its short-term practical impact would almost certainly be limited". There is, again, doubt about the actual implications of applying the SA to states. There are people for whom the decision would be close to the centre ("an enormous symbolic victory") but there are also those who would disagree.

Future possibilities are also mapped in NYT26 in which the majority "acknowledged that the decision might 'lead to extensive and costly litigation', but said that was the price of protecting constitutional freedoms". This constructs a hierarchy of values and maps constitutional freedoms closer to the centre than any practical difficulties that would accompany protecting these freedoms. The minority disagree: "'Although the court's decision in this case

might be seen as a mere adjunct to Heller', Justice Stevens wrote, 'the consequences could prove far more destructive – quite literally – to our nation's communities and to our constitutional structure'" (NYT26). They suggest that some participants would place *McDonald* close to their centre but caution against misjudging how harmful it could actually be to that centre.

6.3.4. Space

The SC decisively acts on other participants. NYT27 reports that it ruled "that cities and states could not pass laws that superseded the right to bear arms guaranteed in the [SA]". It is given the authority to prescribe legislative action. Potential laws are additionally placed in a relationship with the right declared in 2008. In a hierarchy, the SC is the authority above both the SA and legislative bodies (who are lower than the SA). The articles indicate that the SC has the power to reshape the judicial landscape: "it seemed plain that the court would extend a 2008 decision that first identified an individual right to own guns to strike down Chicago's gun control law" (NYT23). The court plans to apply *Heller* to the whole legal landscape. Another mapping points to how they would do this: by applying the tool found in the individual right reading to "strike down" the Chicago law (this verb is also used in NYT25). The case merits SC's attention and is constructed with the "big is important" metaphor: "26 hours before the court would hear a big gun control case" (NYT24).

As the court case reached the SC and was deliberated, the articles report the speculations regarding its outcome. NYT22 reports that "Most legal scholars expect the court to apply the Second Amendment to the states. But many of them are urging the court to take an unusual route to that result". There is room for other participants to affect how the SC operates. Scholars are trying to convince the court to follow the path they consider appropriate: "Many constitutional scholars had hoped that the court would use Monday's decision /.../ to revise its approach to how constitutional protections are applied to, or 'incorporated against', the states" (NYT26). This constructs "constitutional protections" as elements to be acted on. There are different paths to them that participants can use. It is not only participants outside the SC that have doubts about how the issue is resolved: Stevens claims that the SC "should have proceeded more cautiously in light of 'the malleability and elusiveness of history' and because 'firearms have a fundamentally ambivalent relationship to liberty'" (NYT26). His critique is aimed at the decision which he considers too broad.

Spatial constructions point to how the justices plan to reshape the discourse space: "At least five justices appeared poised to expand the scope of the Second Amendment's protection" (NYT23). They have taken a position that suggests their willingness to make the SA impact a larger portion of the space. The notion of an SC precedent as increasing or decreasing the area in which other elements are allowed to operate is also present in how Breyer is mapped: he "peppered the lawyers with questions about how the court might apply the

Second Amendment to the states in a limited way" (NYT23). Those against expanding the SA are looking for ways to establish borders on the new right. This is what Breyer is doing here. Movement metaphors are often used in mapping the justices. NYT26 reports that "The majority offered the lower courts little guidance about how much protection the Second Amendment affords". The SC is constructed as the participant who is expected to lead the way and establish "the right course" for the judicial system (the same was found in the *Heller* corpus). The idea of more or less appropriate paths existing is also present in the section that reports Scalia saying "he would go along with the method here 'since straightforward application of settled doctrine suffices to decide it'" (NYT26). He is mapped as a passive participant: he appears to have misgivings but decides to take the same path as others. Some justices would prefer different routes: "Though the majority agreed on the outcome, its members differed about how to get there" (NYT26). The discourse space provides different courses of action, each with their own implications for the participants' values and goals.

Space is also involved in mapping the implications of the SC decisions: "The justices returned the case to the lower courts to decide whether those exceptionally strict laws /.../ can be reconciled with the [SA]" (NYT26). The SC has the power to halt the effect of an appeals court decision and to send it back for review. Similar spatial constructions suggest that the SC can act on other elements, for instance, it can use other elements as resources in achieving its ends: "Drawing on the first clause of the amendment" (NYT23) and "the dissenters drew different conclusions from the historical evidence" (NYT26). Other spatial verbs are used ("objected", "wrote", "treat") which construct different relationships between the participants. Overwhelmingly, justices are in a position of power, being able to "offer guidance", "give advice", "return cases", and this position is not challenged even if they are thought not to be doing expected things.

The mapping of lower courts makes use of few explicitly spatial constructions. Still, space is inherent in Judge Easterbrook "writing for a unanimous three judge-panel" (NYT22) which places the panel as a unified element and forefronts Easterbrook as their representative. Judge Urbina is constructed as acting upon other elements by, for example, making use of tools provided by the legal tradition: "He applied the standard of 'immediate scrutiny'" (NYT25). An interesting aspect is the use of "found" in "[Urbina] found that new gun laws, which were passed after the United States Supreme Court struck down a previous firearms ban, are constitutionally sound" (NYT25). The verb is used to map court decisions yet suggests an arbitrary process as things can be "found" to be different as well.

The Chicago law is most frequently mapped as a tool other participants can use: the city's laws "have been a key crime-fighting tool" (NYT27), "the ordinance has not been the primary means for getting violent offenders off the streets" (NYT27) and "ordinance has also been used to keep guns from citizens who try to register them legally" (NYT27). Next to being in the service of other

participants, the law is also acted on, most prominently by the SC: the ban "was essentially nullified recently by the [SC]" and "was effectively overturned by the court" (NYT27). This points to the power the SC has over legislation (at least in the cases brought before them). References to other gun laws are sometimes mapped in connection to *McDonald*. NYT22 reports that *McDonald* might not help decide "what kinds of gun laws are vulnerable to challenges under the [SA]", whereas in NYT25, Urbina suggests that "new gun laws which were passed are constitutionally sound". These instances operate on the assumption that, for an element to resist revision under the new reading of the SA, it cannot have weaknesses. This is connected to the idea of overstepping what the new SA allows: the SC "ruled in June that cities and states could not pass laws that superseded the right to bear arms guaranteed in the [SA]" (NYT27) and, for a law to be allowed to remain, it has to "pass Second Amendment muster" (NYT23), that is, fit within its limits. Crossing the limits means risking its "constitutional soundness".

Representatives of Chicago are involved in various spatial movements. Feldman is mapped as making arguments against incorporating the SA (NYT23), suggesting that arguments are manufactured during the case. Right after, a spokeswoman is reported as having "sought to clarify her boss's remarks" (NYT27), implying hesitant movement with the aim of establishing the preferred reading of the boss's bold comments. The same spokeswoman also speaks on behalf of the ambiguous "we" when she suggests that "we do bypass our ordinance because the penalties are more serious under state laws" (NYT27). This is another instance in which the Chicago law is marginalised by the very people who are most interested in upholding it. Spatial mappings of the city's representatives also include an ambiguous mapping of their achievements: "While the police have made 12,967 arrests since 2000, city attorneys have won just 2,068 convictions" (NYT27). The attorneys have been successful but not enough: the metaphor of war is used to describe the procedure of prosecuting people successfully while the adverb "just" marginalises the achievement.

Among McDonald's representatives, Gura is the main subject of spatial mappings. NYT23 reports that he is "supported by scholars along the political spectrum" which centralises him. A more extensive positioning comes from Scalia who "said Mr. Gura should focus on winning his case rather than remaking constitutional law. 'Why do you want to undertake that burden' Justice Scalia asked" (NYT23). Scalia's statement suggests that Gura lacks the power to reshape "constitutional law" which he considers a difficult course. In further reflecting on Gura's actions, Scalia puts forward an alignment that might explain his desire to take on the challenge of altering constitutional law: "Unless, the justice added, Mr. Gura was 'bucking for a place on some law school faculty'" (NYT23). Scalia is offering a reason for Gura's attempts to achieve something almost unachievable: it might open up new positions and paths for him.

The justices and Gura also argue over "whether the city should remain free to ban guns" if their effectiveness in saving lives was proven (NYT23). This

implies that the city was free to do this before *McDonald* ("free" suggests the liberty of passing preferred legislation, i.e., to change their position on gun regulation). Previously, this freedom led to a law in "1982, when the city tightened its gun ordinances to include the handgun ban" (NYT27). Although "tightened" suggests limiting the area, the result actually affected a wide variety of gun ownership. Primarily at issue here is the city's freedom of movement that the SC could potentially limit. However, this does not lead to the city abolishing the law but to having "amended the gun ordinance at the mayor's behest" (NYT27). The city eliminated some weaknesses that would make the law "vulnerable to challenges". The police are involved in law enforcement, which is reflected in their spatial mapping: they "recovered 5,195 illegal guns", "have made 12,967 arrests" and are involved in deciding whether "to bring both city and state charges against someone" (NYT27).

The SA is overwhelmingly mapped with the use of verbs "apply" (7 instances) and "protect" (3) which map different aspects of it. "Apply" is involved in the question of incorporation: whether the SA (as a tool) "applies" or "should apply" to states; whereas "protect" also maps the rights it ensures. "Protect" additionally implies that there are participants who would like to take these rights away. Another mapping establishes the "original" borders of the SA: it, "like the rest of the Bill of Rights, originally restricted only the power of the federal government" (NYT23, an almost identical sentence is used in NYT26). The adverb "originally" places the current application of and discussion over the SA in a contradiction, pointing to shifting borders: "Just how much strength the Second Amendment has in places that regulate but do not ban guns outright will be worked out in additional cases" (NYT23). This shows that the SA, although newly empowered by the individual right reading and incorporation, might not be strong enough to set limits independently of other elements. Of the three actions mapping the Fourteenth Amendment, two also make use of "apply" (NYT22) and "protect" (NYT23). The third suggests that a part of it "could play a role in protecting rights not specifically mentioned in the Constitution" (NYT23). In other words, it could be used to reshape constitutional law by mapping rights not yet present.

Heller has an active role; for one, it "struck down parts of the gun control law" in the D.C. (NYT22, NYT23). Through becoming a SC precedent, it acquired more power to reshape the legal landscape. It also "placed limits on what the federal government may do to regulate guns" (NYT23), directly establishing borders between elements and displaying the authority granted to it by the SC. *Heller* seems to unearth facts already in existence, but overlooked, as it "first identified an individual right to own guns" (NYT23) and "recognized an individual right to keep and bear arms" (NYT25). Yet, there are times in which *Heller* is mapped as less decisive, as "the decision left open the possibility of measured firearms regulation" (NYT25) and "left open the question of whether" the SA applies to the states (NYT26). Through this, *Heller*'s authoritative impact is mitigated.

McDonald, as it "proceeded through the courts" (NYT27) became mapped in very different functions. NYT26 quotes Stevens who cautions against people who would consider it "a mere adjunct to Heller" and not a full-fledged case, while a Mr Cumberland, a spectator of the court hearings, feared that the decision was "going to force states like California to recognize" the individual right (NYT24). Some opinions stay on the fence, expressed, for instance, in parallel constructions: "While such a ruling would represent an enormous symbolic victory for supporters of gun rights, its short-term practical impact would almost certainly be limited" (NYT23) and "The ruling is an enormous symbolic victory for supporters of gun rights, but its short-term practical effect is unclear" (NYT26). These imply the existence of different deictic centres according to which *McDonald* might be extremely important and central or limited and marginal. The fact that both possibilities are mapped is a function of the genre at focus, as news articles present different points of view. Interesting among SC precedents are instances in which the justices themselves are seen to revise their work, as Alito does in NYT26: he said "the decision might 'lead to extensive and costly litigation', but said that was the price of protecting constitutional freedoms" and "He also acknowledged that the majority decision limited the ability of states to address local issues with tailored gun regulations".

Legal scholars are positioned as commenting on the events and, sometimes, as bystanders: "Scholars on the right and left believe" (NYT22) or "many constitutional scholars had hoped" (NYT26). From time to time, they are mapped with other participants to lend support to claims: "Volokh /.../ supports gun rights" and "he favors a test of such laws" (NYT25). These suggest alignments with certain points of view but imply different involvement. Other scholars are placed with judges and justices in mapping that they "have never found" the use of parts of the Fourteenth Amendment a fully valid methodology (NYT23). The role of experts is often limited to supportive functions, with little opportunities to directly impact other participants or reshape the discourse space.

6.3.5. Time

Time references to the SC begin by mapping their work routine: NYT22 points to the SC choosing from cases that have "piled up over its summer break". Other references are related to the *McDonald* and *Heller* decisions. Mappings of the SC's deliberation are highly deictic, indicating both the court's progress and time of writing the articles. NYT22 reports that the SC "announced on Wednesday" that it would accept *McDonald*. This, as many references with *Heller*, is a deictic marker that relies on readers' knowledge of context. As the SC approaches hearing the case, the NYT publishes an article that, next to covering the case, also focuses on people interested in seeing the hearings in person. One spectator is reported to have "arrived at the court Monday morning around 8, 26 hours before the court would hear a big gun control case" (NYT24). The exact time reference and the fact that people are lining up to see

the argument lends urgency to the process. Finally, mappings also refer back to when the decision was made, to "Monday" (NYT26) and to "June" (NYT27) after more time passes from the decision.

References to *Heller* are less dependent on the specific context of the articles and the actual day of the decision is no longer relevant. NYT23 maps the year and points to its significance in judicial history: "a 2008 decision that first identified" an individual right. *Heller* is directly connected to *McDonald* in NYT26: "The ruling came almost exactly two years after the court first ruled that the Second Amendment protects an individual right to own guns". Two instances map the SC through its previous history: it "later ruled that most of the protections of the Bill of Rights applied to the states under the due process clause of the 14th Amendment" (NYT23, NYT26). The "later" is relative to the original SA that, based on the previous information given, only applied to the federal government. Thus, it points to an unspecified period but also to how the SC has reinterpreted parts of the Constitution before.

Individual justices are not mapped on the temporal axis as much as they were with *Heller*. Only a few references map the justices in relation to the case. Stevens is mapped as having suggested on "Tuesday that important questions remain unresolved" (NYT23). In NYT26, Stevens is mapped as he presents his opinion "in his final dissent before retiring" which he did that summer. The reference to Tuesday is part of reporting court proceedings, whereas the reference to retirement is an emotional insertion. Another mapping is directly part of narrating court proceedings: "Now it was the chief justice's turn to give advice to the lawyer before him" (NYT23). The remaining temporal mappings are related to the SC's past on gun rights and the potential implications of the current decisions. NYT23 reports that the justices (with many judges and scholars[17]) "have never found" the Fourteenth Amendment to be a suitable tool to incorporate the Bill of Rights. This is a temporal as well as a spatial mapping, suggesting and, at the same time, denying the existence of the thing mentioned. NYT26 comments on *McDonald*: "the justices left for another day" the decision as to which laws would be permissible under the SA.

Lower courts are similarly positioned through the relationship their actions have to the "now" of writing the article: "In June, the United States Court of Appeals for the Seventh Circuit, in Chicago, affirmed the dismissal of the new case" (NYT22). Another such reference is to the D.C. Circuit Court: "Washington can restrict the right of its residents to own guns – again – a federal judge ruled Friday" (NYT25). These require contextual knowledge of the events in order to be fully meaningful. Urbina offers an evaluation: he "ruled that the city had gotten it right this time" (NYT25). The deictic "this time" implies that there are other instances where the city has been wrong, which is shared background knowledge to people familiar with *Heller*.

[17] This is also the only explicit temporal marker in relation to legal experts. Other than this, they are mapped with tense forms (they "expect", "believe" (NYT22) and also "said" (NYT25) and "argued" (NYT26)).

Temporal mappings of the Chicago law and other laws are not achieved through specific time markers but through tense forms. The Chicago law is mapped with Present Perfect which suggests that the law has been in use in the past and continues to be relevant now ("ordinance has also been used to keep guns from citizens" and "the laws /.../ have been a key crime-fighting tool" (NYT27)). Attributions are also used in the present form: "how useful [the laws] /.../ are in deterring crime" and the "ordinance was worth defending" (NYT27). With similar laws, attributions in the present are frequent (NYT22, NYT25) and Present Continuous is used to map them along the temporal axis: "laws prohibiting possession of guns /.../ laws forbidding carrying guns /.../ laws regulating the commercial sale of firearms" (NYT26). These reflect the fact that most laws are still in effect at the time of the *McDonald* coverage.

Lawyers on either side are also primarily mapped through tense forms and this is often done by other participants (e.g., when Scalia comments on Gura's strategy, his quotes address the lawyer directly and in a shared temporal context). The shifts in past and present forms and other indicators, such as quotation marks, help distinguish between different events in time. The only specific time references are found in NYT27, one of them in a direct quote in which the city's representative emphasises that they "prosecute people all the time" (this is a response to accusations that the city underutilises the law). NYT27 also maps city attorneys who "earn $57,000 to $149,000 a year" and, thus, "worked part time on the case". This information comes from the representative and is aimed at adding value to the city's claims, referring to people's willingness to work on keeping the law even if it means working for little money.

Chicago officials are mapped from two main aspects: references to the mayor and to the city's past actions. Daley is mapped as having "long insisted" that the law is vital for Chicago. Also, he "has repeatedly said" that it is important for a city to have such laws (NYT27). This suggests that he has been stable in having this opinion over an extended period. The city's past is, in three instances, mapped with a reference to 1982 when the law was passed (two references appear as "starting in 1982" and suggest a continuous movement onwards, and the third expresses the same idea with "since" (NYT27)). The city is mapped in connection to the SC cases. For example, in "the firearms ban /…/ was effectively overturned by the court in June, just when Chicago was in the midst of a number of highly publicized shootings", simultaneous processes are mapped on a single section of the axis. There is no specific relationship between the two, but they do show how topical gun regulation was at the time. In "On July 2, four days after the court ruling, the City Council amended the gun ordinance", the article maps the SC decision and the speedy change affected in Chicago. The police are mapped in NYT27: "Mr Weis said Aug. 16" and "From January through mid-August". The latter is followed by "During that time, the police recovered 5,195 illegal guns, also roughly the same as last year" which accounts for police actions as quantifiable data from each year. This is also seen in expressions such as "prosecutions, however, rarely result in convictions" and

"the police have rarely arrested anyone solely for violating the city's gun ordinance". The article further comments that "It is far more common" that both city and state charges are brought.

Time references to the amendments are found in the use of tense forms. As a text that has validity over time, Present Simple is mostly used to map the SA, especially as its meaning has been newly established in *Heller*: the SA "applies" and "protects" (NYT22), "says" (NYT23), "allows" (NYT25) and so on. The Fourteenth Amendment is placed in the future with modal verbs. Previous treatment of the SA in the *Heller* case is mapped through the year: "a 2008 decision that first identified" (NYT23), "The 2008 Supreme Court case" (NYT25) and, in relation to *McDonald*, "a sequel to the 2008 decision". One reference, "last year's decision", constructs a deictic position relative to the time the article was written. Other precedents are mapped only once: "Several Supreme Court decisions, all more than a century old, have said that that the Second Amendment does not apply to the states" (NYT22). Their age functions in two ways: either to lend them authority as revered precedents or to point to a need for updates. The 2010 case, *McDonald*, is mapped in relation to *Heller*, without the latter always being mentioned: it is labelled "the new case" (NYT22, NYT23). Modal verbs are also used to look to the future: "A decision that the Second Amendment applies to the states would not answer most questions" (NYT22). This positions the outcome of the case in the future and slightly from the centre on the modal axis, as there is a possibility that this will not come true. Similarly positioned is the effect the decision might have: "its short-term practical impact would almost certainly be limited" (NYT23) and "its short-term practical effect is unclear" (NYT26). Concern for the long-term impact is not present in the articles which focus on what a decision to incorporate would immediately mean for gun laws across the nation.

6.4 Discussion

The previous sections have mapped the media representation of the three Supreme Court precedents from 1939, 2008 and 2010. The micro analysis has identified the main participant groups in each sub-corpus and mapped the processes they are involved in. In addition to that, the analysis has explored how the participants and processes are mapped on the modal, spatial and temporal axes and how the media coverage establishes deictic centres. This section discusses the main results of the textual analysis and underlines the central tendencies found in how *The New York Times* news articles construct the discourse space that becomes the media representation of SA-related court cases in the US.

The three precedents map a fascinating evolution in the meaning of the SA, shifting from a militia and government-centred meaning to one focused on the individual. The precedents stand apart in time, with 70 years passing between *Miller* and *Heller* and an additional two years passing before the decision in

McDonald. During the 70-year gap, opposing interpretations, based on different ideologies, have been in a contest; a contest that was formally (but not decisively) settled in 2008. The *Heller* decision established the judicially authoritative reading of the SA, adding another layer to the existing discursive history which has often interfered with, rather than facilitated, arriving at a synchronised interpretation. Whatever history the SA has is primarily a history of texts: of the ones behind the SA, the SA itself, the precedents that followed and, unavoidably, the way these texts have been mediated to the public. Many of the aspects of interpreting the SA converge in the media coverage of *Miller*, *Heller* and *McDonald*. The precedents are pieces of authoritative discourse with the power to affect considerable change in the society. The media coverage brings in additional voices, from experts to legislators, who are crucial in constructing a report on the court cases, the decisions made, and their social implications.

The *Miller* coverage is the briefest of the three precedents. The 1939 article offers a fairly simplified view of the court case in question and of the SA. The unanimous decision made by the justices is conveyed to the news article through the figure of Chief Justice McReynolds. He uses the pronoun "we" to present the SC's interpretation of the SA. Through that, he is reaffirmed as taking the role of the spokesperson and the full court is positioned as supporting the decision. Thus, McReynolds's personal authority is blended with the institutional authority that the SC has in creating a legitimate decision in the court case. The article includes no challenges of the decision which is firmly focused on the constitutionality of a single type of weapon. The weapon is the most mapped element in the coverage, reflecting the narrow focus of the case, which dealt with the legality of transporting a sawed-off shotgun over state borders. The most active participant, however, is the government who is given a new tool in the struggle to combat criminals and is positioned in a militant role. Completely absent are interest groups and scholars: there is no broad debate in which they figure and the question of the SA is not as politicised as it is in the early 21st century, that is, it is not part of a broad topical agenda addressed by the media at the time.

The 1939 article sets up hierarchies between the participants whereby the SC is higher than the lower court but lower than the SA, which the court has the authority to interpret but not change. The spatial representations set up areas which the participants occupy while also defining the nature of their relationships. For instance, Miller and Layton's actions are set outside the frames of SA protection, since the weapon they were transporting is out of the area that the militia clause covers. The temporal positioning of elements occurs in a simplified manner by which gaps between events are marginalised through the use of unifying tense forms and excluding some references to the exact moments on the timeline. The immediate temporal context is created with highly deictic expressions such as "today" which are meaningful in the narrow context of writing the article. As the article does not address the history of the SA or its philosophical underpinnings, there are also no references to any prior

decisions which means that, differently from *Heller* and *McDonald*, temporal references do not have the added function of establishing a historical timeline outside the details of the specific case. In conclusion, the article offers a brief glimpse into the court case that would, 70 years onwards, be the defining precedent (albeit one whose implications were ambiguous). It provides a temporally synchronised view of the case and a unified interpretation of its implications: the authoritative voices are those of the SC and the government which stand above the plaintiffs and their representatives who have presented a challenge of a federal law. These authoritative voices get to establish their point of view as the legitimate one.

The discourse space set up by the news articles covering *Heller* is vastly different from *Miller*. The participants mapped in this space are more varied and more numerous, partly due to the increased space of the articles published. The increase in space allotted and participants included is not without social significance. The fact that *Heller* receives extensive coverage reflects the society's concern with safety, expressed in debates over who, when and where has the right to keep and bear arms. This translates into the greater salience of the issue and to media's increased interest in providing extensive coverage. Voices interested in the outcome include, as an addition, scholars of constitutional law and the representatives of interest groups. Expert voices mainly fill the role of commentators in the coverage: they are not directly involved but are introduced as offering assessment of the decision and its implications. Although they tend to stand at a distance from the court procedure itself, they are often mapped through their deictic centres via direct quotes. This is especially the case with the individual references to 15 legal scholars. The experts serve another role: they lend support and, one can argue, credibility to the newly found individual reading, as it is their work that has played a major role in the reversal in how the SA is read. The sub-corpus includes experts who almost unwillingly agree to this reversal. Others have always been of the opinion that the SA lists an individual right. Numerous instances bring the experts into dialogue with the *Heller* decision and, through limited modal mappings, point to what the experts suggest they would do, had they a more powerful role. Theirs is the expert authority that comes with having certain credentials which help them gain access to the discourse space and allows them to be accepted as legitimate voices in the debate.

The coverage points to the consensus that used to exist among scholars before the late 20th century, when the individual right reading moved close to the centre that encodes what is constitutionally right. On the historical timescale, the year 1989 emerges as the turning point when scholars began to support the individual right reading (the year in which Levinson published an influential article). There are other dates that map other articles and studies, a tendency not found with other groups. By mapping such texts, their authors and content, the NYT traces the shifts in discourse while establishing the authors as authorities. These authorities are then, in the second half of the coverage, asked

to make predictions about the SA and most of them envision a future in which the SA returns to the court and the SC expands the individual right to states.

Interest groups are also added to the discourse space mainly as commentators, although the Cato Institute is very much involved in the case. There is a disparity, however, in how the groups are mapped, with gun control advocates being present much less than gun rights advocates who tend to have a more vocal role. This is especially the case with the NRA which is not actually involved in *Heller* but becomes more present as the decision's aftermath is debated. Interest groups are not necessarily linked with the process as such, but their access to the discourse space is bought with the salience they have. This salience is the result of the groups' very active roles in the public arena. They are seen to represent many people and to serve in their interest and, thus, their voices are included as legitimate commentary on the actions of the branches of government. The interest groups are present in their attempts to cast the whole SA issue as they see it and, in so doing, influence the SC or at least the public perception of the SC decisions. The dual role of interest groups is divided between the groups as such, who are more involved in actions, and their representatives, who are more involved in commenting on events. Both with gun rights and gun control advocates, frequent mappings shift between a shared "we" and an individual "I", making it sometimes difficult to pinpoint the source of some of the opinions and decide on the level at which they are shared by the group versus belonging to the representatives only.

It is not the Cato Institute (who initiated the lawsuit) but the NRA that is most mapped among gun rights activists. The Cato Institute is mainly present through its representative, the man behind the case – Robert Levy; but his role is ambiguous, as he is also Heller's representative in the court proceedings. The NRA, however, is purely present as an interest group that has "tremendous influence" in the matter, as it tracks and monitors legislation, throwing its weight behind legislation it considers favourable to its agenda. The Brady Centre on the other side proceeds from the militia clause and, thus, continues the rationale seen in the *Miller* decision. The groups contend for the position of power, with gun rights advocates more so than gun control advocates being characterised by quick movement and reaction to events in the discourse space. Both the presence of the interest groups and of the legal scholars in the media representation in the early 21st century point to how the media has grown more inclusive in some ways – they not only grant access to formal institutions and officials but also to other voices that are seen as having a role or a stake in the process.

The SC is strongly present in the discourse space and is mostly involved in actions. On the temporal scale (which the lower courts are not mapped on), the SC is mapped through its past actions, present discussions and future plans. It is mapped close to the deictic centre when it comes to modality, with most of what the justices as a collective say being mapped as epistemically "right". The periphery positions for the SC are mostly reserved for things missing from the discussion, such as sufficient previous precedent to guide gun regulation. Such

absences contribute to setting up hierarchies, since the lack of specific SC action is cast as "the" issue to a great extent. This clearly points to the authority the SC has – there are instances where the actions of the other levels of the social hierarchy are not enough and the justices need to address a topical issue, granting it greater visibility in the society. The need to fill some gaps sometimes takes the form of deontic obligation placed on the SC. Other spatial mappings view the SC as a single unit which can approach legal matters either "directly" or "obliquely". These references also encode modality, since a straightforward approach is what is expected of the court. The coverage focuses on the US, with only passing mentions of gun regulations elsewhere, defining the outermost limits of the discourse space as limited by the US context.

Time references related to the SC map the court's history, the time gap between *Miller* and "now", the *Heller* case and the future. There is also the frequent presence of something that has never happened, that is, a direct decision on the SA. This absence is reinforced through references to the 70-year gap between *Heller* and *Miller*, the ambiguous decision the SC should revise after decades of silence. The future of the *Heller* decision and the gun debate is also mapped and already shaped by the participants. By labelling the decision one by which "history may ultimately remember the term", the discourse begins to produce this effect and shape the perception of the decision accordingly, just as the coverage predicts a return of gun-related issues to the SC and a need for further decisions. Temporal mappings occur at two levels (which is true with many other participants as well). One is the level of the immediate context of the court case which uses highly deictic expressions such as "Tuesday" and "next March". The other operates on a level for which one need not occupy the immediate temporal context of the articles. The fact that *Heller* "for the first time" claimed that the SA protects an individual right is a mapping that stays true even as the temporal centre shifts.

Individually, the justices are most involved in events that cast them as commentators. Their individual authority is different from their power as a group, though both are legitimised through their position in the society and the traditional role the SC is seen to have. These elements grant them access and the right to decide fundamental legal matters. Inside the group, there is a clear hierarchy: Scalia is present most, as the author of the majority opinion, followed by Kennedy, the swing vote, followed in turn by Breyer and Stevens who wrote the dissents. Modal mappings are used to establish very different deictic centres, the main context of which is the dialogue between the majority and the dissenting opinions as they are covered. Deontic modality is used to set up relationships between participants and to position them in relation to specific deictic centres: for instance, in suggesting that the majority decision is "simply wrong" and lacking respect for "the rule of law itself", Stevens is establishing a centre from which the majority's point of view is removed. Other instances are connected to the opportunities to self-position given to some justices, both past and present. Roberts, for example, shifts from speaking for "I" to speaking for "we", thus, confounding the two and setting up alternating deictic centres that

may overlap but may also differ. Self-positioning is also found with former justice Burger whose comments on the SA are entextualised twice. He establishes a clearly defined centre that is the polar opposite of the majority opinion in *Heller*.

Spatial representations of justices map them as a collective "justices" before the decision and as belonging to the majority or the minority after the decision. The build-up to the majority-minority division (themselves spatial labels that point to the size of the groups, that is, to the support either view has managed to gather) has to do with attracting sufficient votes in the SC, a process that gives the position of authority to Kennedy. Other justices, who have already chosen their side, are at a more equal footing. Once decided, the justices are in a dialogue as opposites: the majority speak of the individual right which they have lifted high as a decisive precedent, whereas the dissenters suggest that the majority have misplaced the SC in the discourse space by pushing it into a "political thicket". This suggests that there are areas which are more suitable than others for the SC to be in: primarily, that their proper area is the judicial one and any crossover to political or ideological realms is seen as marring the SC. The division into majority and minority groups underlines how SC decisions acquire their authority through a numbers game – the difference between a legitimate authoritative opinion and mere commentary can be as small as one person's opinion.

Temporal mappings of the justices also include former justices which is another significant difference between the *Heller* and *Miller* coverage. In the latter, the focus was solely on McReynolds with no mention of other, let alone former, justices. The former justices are present since the authority of their voices is not lost in time. There are moments in which they could in fact be considered to have more weight, for instance, when Frankfurter is brought in to criticise the majority decision. The past of current justices is also mapped, although it is mainly that of the conservative justices. Presumably, this is because their views might turn out to be the decisive ones given the makeup of the SC. The current justices are also mapped through the specific case at hand. For one, Scalia's career is set in relation to the majority opinion he wrote which is considered the most important one in his 22 years on the SC.

Lower level courts are rarely mapped on the modal axis and this is to point to decisions that they have not made (due to, largely, the lack of SC guidance). At the beginning of the coverage, lower court decisions are consulted to determine the nationwide approach to gun regulation in a context in which there is no decisive opinion from the SC. But the idea of lower courts having to fill certain vacuums continues to be present even after the *Heller* decision, when lower courts are left with its ambiguities. There is a shift in how lower courts view the SA: the beginning of the coverage lists the courts as largely supporting the collective right. The second half reports that there are some federal courts that have adopted the individual right reading. In the discourse space, the power that lower courts have is decidedly smaller than that of the SC in whose stead they have to act until sufficient guidance is provided by the high court. Thus,

their presence in the discourse space is based on their dependence on SC actions, rather than their own authority in the area of gun regulation.

The SC's only previous precedent is mapped through past actions, although these are often debated, as participants in the current debate seek to establish what *Miller* meant. In the course of this, it shifts in the discourse space, as some participants claim it implied the individual right reading to be the correct one, whereas others suggest that it left this open. There are also those who argue that it actually supported the collective right interpretation. The latter is given more prominence as it appears in the metadiscourse of the coverage in which it takes the form of a shared background into which arguments to the contrary are inserted. The NYT deictic centre is that of the existing practice and, to a degree, opposes attempts to redefine *Miller* as dealing with an individual right. The temporal gap between *Miller* and *Heller* is great motivation behind *Heller* being created. *Miller* is in a direct dialogue with the 2008 precedent to which it is often compared and contrasted, although the details of the cases are very different, as is the social context out of which they grew.

The SA has an active role in the discourse space, although it is often also acted upon as participants debate their views. The corpus reveals a hierarchy by which the second clause of the SA is considered closer to the centre of clear statements, whereas the first is pushed to the margins as the source of the debate and confusion. This indicates that, to an extent, the SA can be and is subject to critique, although this critique does not challenge the overall authority that SA as part of the Constitution has, it only addresses the fact that it is not the easiest text to interpret. Another effect achieved through mapping the SA is the placement of other elements within and outside of the bounds of what is considered constitutionally permissible. The problem is that participants disagree on the scope of the application of the SA. This is made more difficult by its fragmentation, which participants use to centralise some aspects and marginalise others. Throughout the coverage, the precise position of the SA in the hierarchy shifts: in the opinion of the majority it defends a right in a manner that the SC cannot breach, but there are instances in which it is apparent that lawmakers as well as judges and justices have the power to limit the right. In search of the right answer or arguments to support one's interpretation, the history of the SA is consulted and, for some participants, it is the original meaning and intention that they are after. But due to the ambiguity of the SA and its previous interpretations, there are various histories to choose from: one of a collective right, one of an individual right and one of a communal right.

The D.C. gun law is mapped both as a passive object and as an active agent. It has two different functions: a vital tool that has helped keep violence down or an obstacle to law-abiding citizens exercising their constitutional right. It is worthy of defence in the opinion of the D.C. mayor who places the law close to his deictic centre. Its opponents, however, consider it "extreme" and beyond "reasonable regulation". The scope of these terms is undefined: the SC ends up declaring the law unconstitutional because it is unreasonable yet does not set the criteria of reasonableness. Such assessment of the law is inherently spatial,

establishing areas in which the law is or is not constitutional or reasonable, depending on how the participants describe it.

The D.C. officials who aim to protect the law are mapped through their representatives and through references to the officials as such. Modality in this group is often directed towards the future in which the D.C. is most likely in a position of having to meet SC guidelines. This constructs a temporal cause and effect relationship and sets up a hierarchy in which the D.C. has less authority. This is strengthened by the marginalisation of the district by labelling it "not a state". Such mappings place it away from the centre that embodies a unified approach across the nation that would be protected by the Constitution. Spatial constructions of the officials differ depending on whether one is dealing with self-positioning or not: the NRA sees the D.C. as an obstacle that stands between law-abiding citizens and their constitutional right by passing a sweeping new ordinance, whereas the officials claim that their post-*Heller* legislation builds on the knowledge and practices found to work in other states. Yet again, positions are highly dynamic depending on whose perspective is mapped and there is an obvious struggle happening for the right to establish preferred readings of the situation. In that struggle, however, the SC and its justices have a much more authoritative position than the D.C. representatives.

With the political realm, modal mappings frequently have to do with speculations about the SC decision and how it might affect the states and the nation. Politicians also introduce comments based on values and the "-isms". It is the political participants that talk about what they "believe" in (or what the "we" they speak for believe in) and "want" to do in terms of gun rights, constructing a deictic centre and modal relationships that are based on deontic rather than epistemic modality. They map what they consider to be people's motives more so than most other participants who mainly focus on legal aspects. For instance, politicians and lawmakers are concerned with almost anecdotal groups of people, such as the soccer moms who are afraid of guns. This is an indication of how they argue on the basis of and within a discourse space that is very different from that of the SC, lawyers and legal scholars. Their voices are at the periphery of the debate, yet an important part in the regulation of gun possession, as they are participants who supposedly reflect the current tendencies in the political preferences that the people have. Having been elected to office gives them a mandate that grants them access to the discourse space. There are also SC voices that add authority to lawmakers: Breyer, in his dissent, argues against establishing an individual right reading and, instead, supports states' power in making the decisions regarding gun laws, drawing the lawmakers closer to his deictic centre (and higher on the hierarchy) compared to the opinions written by other justices.

The Bush administration has greatly altered the interpretation previous administrations have had of the SA, opting for the individual right reading. The coverage sets up a hierarchy at the top of which is the president who defines the basic direction the administration is striving towards. This is why Clement's brief which diverges from this direction leads VP Cheney to take action against

him. The fact that his difference of opinion is centralised points to what is considered the "norm", that is, top officials keeping in line. Slightly removed from the presidency are Obama and McCain who, despite both agreeing with the decision, speak from very different ideological positions. Their presence has to do with the 2008 presidential election and their voices (as those of a potential future president's) are relevant in discussing the future direction of gun policies in the US. McCain reaffirms the conservative point of view, identifying himself with the conservative centre, whereas Obama stresses the relevance of communities being able to decide for themselves the kinds of laws they prefer and need. This aligns Obama with Breyer's dissent which also centralised lawmakers as those who should make the decisions. The metadiscourse suggests that this might be little more than a political effort on Obama's behalf and it does not explicitly link the statement to the dissenting opinion. The lawmakers do not seem inclined to start defining the area themselves, as they are often mapped through metaphors of looking for "a road map" or "a blueprint" for further actions. This places the authority elsewhere – mainly with the courts that can provide judicial guidance. There is one deciding moment in the representation of political participants: the 2001 Ashcroft Memorandum that first expressed the administration's support for the individual right reading.

The opposing sides of the case are present through their representatives who adopt the role of commentators and spokespeople. Heller's representatives are mapped on the modal axis through pointing to their strategic choices to avoid certain moves (NYT7). In spatial terms, the most interesting instance of the D.C. representatives' mapping occurs when Singer speaks for the D.C. and suggests that the *Heller* decision on the lower court level is a significant step back that jeopardises public safety. Thus, the enhancement of an individual right, welcomed by some, is considered progress reversal by the D.C. The plaintiff's representatives are engaged in military-related actions in causing the D.C. to have to take a step back (e.g., by recruiting the plaintiffs). D.C. representatives operate on a broader historical scale, as the law has been in effect since 1976. Singer recalls a time that everyone in the "we" should remember, a time when violence was severely damaging the D.C. Heller's representatives are mapped starting with 2003 when the lawsuit was initiated, so their involvement with the law is more short-term (but this is not, of course, the centre point of their claims, according to which they are defending an ancient right).

The *Heller* case itself is initially present as a lower court case and the beginning of the corpus suggests that only a few decades ago, such a decision would have been firmly at the far end of the modal axis as "unimaginable" but has now become something that, if placed in front of the SC, could affirm the individual right reading. This is a stark change from a position in which this interpretation has been considered a "minority interpretation" and in which Fenty sees it as transgressing against reasonable laws. The appeals court that made the decision also served as a filter for elements potentially to be placed before the SC, as it threw out five of the original plaintiffs. It also serves as an

institution that has the power to shape certain court cases into SC cases by accepting them and making a controversial decision. This is reminiscent of Cap's (2008) discussion of shifts in deictic centres as something that reflects the increase in the salience of some elements. Thus, it is in the power of the lower court to begin the process of centralising some court cases and, through that, some views and values. The *Parker* case is present in the beginning of the coverage where it is introduced as the source out of which the eventual SC case grew. The judges on the appeals court are also present at the beginning but disappear as the case moves through the SC and are replaced by D.C. legislators who address the aftermath of the decision.

Once the *Parker* case becomes the *Heller* case, it becomes the subject of speculation that occurs in the future section on the modal axis as a matter of hypothetical scenarios. This happens at every stage: at first, speculation pertains to whether it would be accepted by the SC, then to whether the SC could rule for an individual right reading and, eventually, to whether the decision will have an actual impact. The latter is the most debated aspect: Obama casts it close to his centre as something that provides clear guidance; Winkler suggests that the decision will have few immediate effects, pushing it further from his centre; and McCain declares that it ends a misguided debate over incorrect readings of the SA, setting the decision close to his centre and also high in the hierarchy. In spatial terms, the decision concluded one stage of debating the SA while beginning a new one (of debating how the right identified could be exercised). The temporal references function on the dual level of the immediate context and the broad historical scale. There is considerable speculation about the future of the decision, which tends to focus on the problems it created (the threat it is seen to pose to gun laws) or its ineffectuality (some scholars predict that it will be of no consequence). Such discussions already shape the future, yet most participants agree that the decision will have to be followed by other decisions that define its vague aspects.

Richard Heller himself is present by directly engaging in the activities mentioned in the SA, that is, in keeping and bearing arms. His right to do so has been restricted, as he has been the subject of the D.C. authorities who have stopped him from registering a weapon. Looking for a SC opinion re-establishes the social order in which the SC can step in and assist in reversing an unfair law. Heller is centralised compared to the other original plaintiffs, although he rarely speaks for himself and is mostly mapped in the metadiscourse or in his representatives' quotes. Additional references account for his past, mainly his experience with weapons as a security guard and his difficulties in obtaining a gun permit. His presence in the discourse space is, to an extent, a matter of chance – he is not a predictable participant in gun debates on the national and the SC level, but he is granted access, since his claim is best positioned for the interest group that has already sought to challenge the D.C. law.

The *McDonald* coverage is the direct result of the *Heller* case. Challenges of the Chicago gun regulation occurred a few hours after the 2008 decision was announced, that is, right after the SC established an authoritative legal precedent

that can affect changes in gun regulation and legislation. The 2010 case fulfils the predictions made in the previous sub-corpus where participants envisioned a future in which the SC would have to return to the issue. Perceived as a continuation of the 2008 *Heller* decision, the case merited less attention from the NYT which published six news articles on it. Partly, the decrease in attention is attributable to the case being a foregone conclusion – the fact that the SC would return to the issue and expand the right was one prediction commonly made in the *Heller* corpus. The participant groups in this sub-corpus are fewer as the result of less space and the less revolutionary nature of the case. Significant absences compared to the *Heller* coverage are the political realm, which is not brought in on a national level, and the *Miller* decision, which is apparently not relevant in discussing incorporation. There are groups that are present as they were previously but to a lesser degree: lower courts, interest groups and legal scholars[18]. Other groups are roughly the same, although with fewer mappings.

The SC continues to be strongly present, frequently in mappings of deontic modality through which other participants place obligations on it regarding what and how the SC "should" do. It continues to be mapped high in the hierarchy, as it has the authority and the right to continue providing guidance. The broad blocs in the SC continue along the lines found in the previous sub-corpus, being divided by their ideological allegiances or, once the decision is made, by their opinions in the case. Time references again operate on two levels: within the immediate context of the articles and within the broad social context. The uncertainty of the past decisions is again transferred to the future as the SC does not use *McDonald* to decisively establish what laws are constitutionally permissible.

The individual justices are more involved in events and attributions which construct them as impacting other participants less than they do as a group. Scalia and Alito are the most frequently mapped justices, followed by the dissenters Stevens and Breyer. Other justices are not centralised which is a shift from *Heller* in which Kennedy was mapped extensively. The coverage details the justices' opinions, also mapping divisions in the majority which have mostly to do with disagreement on the two possible avenues of incorporation. Within these divisions, justices construct deictic centres for themselves in relation to which other justices are mapped. For those supporting the due process clause, other majority members who favour the immunities and privileges clause would be placed at a distance from the centre but decidedly closer than the justices who continue to view *Heller* and its incorporation as "wrong". Differently from *Heller*, individual justices at times seem less certain of themselves: Scalia confesses to having misgivings about the majority decision but goes along with

[18] Legal scholars continue to act as commentators, but they are much less mapped, since their role in the history of incorporation is not as centralised as in changing the SA reading. The only individual of the group, Volokh, is aligned with gun rights advocates and with the aim to expand the individual right.

it, whereas Breyer asks the lawyers for ideas on how to apply the SA. Despite this, the SC still has the power to reshape the judicial landscape and to prescribe what lower courts and lawmakers have to do in specific areas.

The Chicago law is equally involved in actions and attributions, taking on a dual role as an agent acting on other elements and as the subject of descriptions. The same duality is found with other laws mapped in the coverage. The laws are primarily mapped in relation to other participants' deictic centres. For instance, Chicago officials consider their law "worth defending" and do so by placing it close to their centre which stipulates that public safety is a more relevant value than extensive gun rights. The decision expected from the SC would determine the placement of similar laws nationwide, that is, it would establish whether the justices value fighting crime over extending the individual right. This, in a way, also decides the central values for other participants who are bound to follow the justices' authoritative opinion. Curiously, the Chicago law is frequently marginalised by the officials themselves who claim that they in fact use other laws more frequently. They imply that the other laws are stricter, downplaying accusations that their gun ordinance exceeds the bounds of reasonable regulation.

Both city and McDonald's representatives are mapped as active agents who impact other participants. (Otis McDonald is also an active agent, although not extensively mapped.) Chicago representatives are mapped more often (differently from *Heller* where the plaintiff's representatives were the more frequent voices). Most references are to individuals. With the plaintiff's side, Gura is often mapped, although this is done only through direct quotes from Scalia which decreases the active effect of Gura's presence. Both sides are also mapped through responses to accusations made against them. Chicago representatives argue against people who say they under-employ the law, taking a value-based stance and explaining their understanding by which the law has inherent merits. McDonald's representatives (or rather, Gura) are accused of trying to remake constitutional law instead of limiting themselves to the problem and solutions at hand. The plaintiff himself adds a very specific perspective on his need to have arms: he wants to be able to defend himself from "drug gangs".

Chicago officials, the only representatives of the political realm, are present through Mayor Daley and the City Council. The city is also present through the police and the superintendent, a group not found in *Heller*. Daley is mapped as feeling "disappointed" in the ruling made since "common sense" suggests that keeping guns out of the hands of the "wrong" people is the sensible thing to do. Being disappointed with the SC sets up a relationship based on deontic modality: he feels that the court has not met his (and his constituents') expectations. Moreover, according to him, the SC has erred against "common sense", that is, against the dominant ideology, by opting for different values. Finally, the city is positioned as a participant that has to follow prescriptions as they address the weaknesses in legislation so that it would "pass Second Amendment muster".

The SA continues to be mapped but is represented in starkly different terms. Before the SC decision, the NYT reports that most SC decisions that have had anything to do with it (all more than a century old) have stated that it has nothing to do with the states. After the decision, the opposite becomes the valid reading. It is very much close to Alito's deictic centre when he argues that the SA "must be applied" to the states; a point of view later on also adopted by the metadiscourse of the coverage, lending it an air of fact rather than opinion. The Fourteenth Amendment that is actually at focus in *McDonald* is surprisingly infrequent in the discourse space with a few instances mapping its due process and privileges and immunities clauses and doing so in a hesitant manner as they "could play a role" in incorporating the SA against the states.

Heller is present through actions as is *McDonald* which is mapped as a dynamic participant that affects other elements. *Heller* inhabits a polarised area where participants are divided by viewing it as correct or incorrect. In wanting to extend the *Heller* right, the justices set this aim above values that focus on effective low-cost litigation, keeping down gun violence or leaving the power to decide these matters to lawmakers. This leads to yet another "symbolic victory" which comes from the authoritative SC but is not as automatically transferred into enactments as some participants would like. There are participants who argue against the decision which for them seems to force states down a specific path. There are different readings of the *McDonald* decision which aim to actively shape the preferred narrative according to certain values. Time references to *Heller* no longer include references to weekdays which helped construct the immediate temporal framework in the previous sub-corpus. Instead, *Heller* is mapped as having been decided in 2008 or "two years ago", a reference that establishes a deictic relationship between "now" and "then". *McDonald* is mapped as its future is being negotiated. Instead of *Heller*, the aftermath of which *McDonald* is, it is now "the new case" which has an unclear practical impact which requires further debate.

7. CONCLUSION

The present dissertation analyses the discourse spaces set up in the media coverage of Second Amendment related Supreme Court precedents in the United States. The news articles report SC discussions of three cases that focus on the meaning and scope of the Second Amendment to the US Constitution: *United States v. Miller* (1939), *District of Columbia v. Heller* (2008) and *McDonald v. Chicago* (2010). The corpus covers two periods in which *The New York Times* has reported SC deliberations of SA court cases: the year 1939 (1 article) and the period between January 2007 and August 2010 (27 articles). The analysis of the 28 articles is conducted within the framework of Critical Discourse Analysis, with a focus on space and positioning in discourse. The methodology combined is based primarily on tools borrowed from Fairclough (1989), Chilton (2004) and Blommaert (2005) and it is applied on two levels: the macro analysis explores the social context and the movement of text through time and contexts, and the micro analysis focuses on the texts of the news articles in the corpus.

At the centre of the analysis is the problem of interpreting the Second Amendment which poses linguistic, historical, political and judicial difficulties. Its complete text reads: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed". This has engendered opposing views on its meaning. One interpretation sees it list a communal right to defend a community against a tyrannical government. Another focuses on the function of the Bill of Rights which was to protect the states from the federal government: this approach sees the SA protect the states' right to have militias. Yet a third interpretation sees it list an ancient and individual right, granted to people so they could defend themselves when the government or the police cannot be relied upon. These interpretations are possible due to the ambiguous text of the SA which lends it to ideological interpretations and manoeuvrings, subjecting it to interpretations guided by the different "-isms" in the society.

In addressing these ambiguities and debates on them, the present dissertation has sought answers to the following questions. On the macro level, the questions posed were: (a) how the text and history of the SA has shaped the contemporary gun debate in the US; (b) how the ideologies of different groups have shaped the debate by providing participants with different sets of values and different reasons for action; (c) how power hierarchies and access to authoritative discourse spaces have led to the redefinition of the SA in the early 21st century; and (d) how the constraints of text and context, language and inequality, choice and determination and history and process have shaped the coverage in *The New York Times*. On the micro level, the paper has investigated the effect of the macro level aspects on discourse production by exploring the discourse space(s) set up in the articles. Specifically, the micro level investigates: (a) which participants are mapped in the discourse space and which processes they are involved in; (b) which modal relationships are established

between the participants; (c) which spatial relationships are established between the participants; and (d) which temporal relationships are established between the participants. Through this, the analysis aims to answer the central question: whose perspectives (that is, deictic centres) dominate the media representation and the overall debate over the meaning and scope of the SA at different times and which factors contribute to changes in discourse spaces that map the debate.

The dissertation is divided into seven chapters. The introduction elaborates on the notions of space, positioning and context in discourse, outlines the framework of the analysis and presents the questions the analysis has sought to answer. The second chapter offers insights into the connections between ideology, discourse and power and the (re)production of social hierarchies, also providing a brief overview of media as a site of meaning-making and reconstruction of social order. The methodology chapter details the tools combined to explore space and positioning in discourse. The chapter on the socio-historical background of the SC, the SA and its previous history in the SC contextualises the analysis with a focus on the text of the SA and its interpretations by the court. The macro level analysis is presented in the fifth chapter and is organised on the basis of the discourse constraints. A subsection focuses on the recontextualisation and entextualisation of the SA and the SC opinions in the corpus. The micro level analysis in chapter six focuses on the 28 articles in the corpus and ends with a discussion of the textual mappings of the three precedents. The conclusion looks back to the dissertation and answers the questions posed.

7.1. The Effect of History and Social Circumstances on the Second Amendment Debates

The text and history of the SA has shaped the contemporary gun debate in the US society to a great extent. The amendment was proposed in response to the states' concerns about granting the federal government too much power. Its eventual wording was a compromise, having gone through several drafts. Still, in the 19th century the SA had a less debated role: it was understood to limit the federal government and have nothing to do with the rights of individuals. At times, it has been considered almost extinct in terms of its practical implications for gun regulation. Pound (1957: 91) claims that it "is one provision of the Bill of Rights that seems to have been able to achieve nothing". Yet, as a part of the Constitution, the discussion of gun rights has circled back to the SA and its implications. The Constitution and its parts have a high profile and obvious authority in the US society. This is attributed to the unique trait of the US society in which the Constitution is a vital part of the judicial landscape, not only a political statement of fundamental rights (Wood 2009: 447). The combination of fundamental law and legislative practice leads to a situation where basic values enter the debate on specific pieces of legislation. In that process, new questions are born out of new priorities and circumstances and

previous interpretations come to be revised. Thus, the SA and previous opinions on it re-emerge in chains of recontextualisation and intertextuality, leading to new enactments and materialisations in the society. This process counteracts the problems of temporal distance by constructing a sense of continuity between then and now, a sense that would respect the SA while making room for modern concerns in gun rights.

In the 20th century, the initial tension between the state right reading and the federal right reading evolved into the tension between the value of self-reliance and individual liberty and the value of safety ensured through appropriate regulation of gun ownership. The ideologies of different groups have shaped the debate by providing participants with different sets of values and different reasons for action. As mentioned, competing views on the SA have not only survived but continue to find support in the society. Thus, much of the difficulty in establishing the dominant reading of the SA is derived from group values and beliefs which lead different participants to approach the SA and its application from different angles and uncover conflicting meanings. The main opposition between the individual right and the state right reflects the opposition between conservative and liberal values: conservatives stress personal freedom and liberals believe there is a firm place for government in providing reasonable regulation. The groups also have many values in common such as the belief that it is the SC that can settle the issue and that it is the constitutional amendment that should be the basis of gun regulation nationwide.

The SC itself is very much affected by the "-isms", since the justices on the SC for the most part represent either conservative or liberal values. The court has had very different positions in the society, from being considered inconsequential in the early 19th century (Wood 2009: 441) to becoming equal to the president and the Congress in the system of checks and balances. The power that this position entails has led to increasingly partisan and ideological debates over who are nominated and confirmed to serve on the SC, since they will affect the society for years, as they gain access to the public arena and to the highest tiers of the judicial system and are, thus, granted a powerful and authoritative voice. Once on the SC, justices engage in a competitive struggle that involves negotiation and discussion, with additional voices from the society hoping to sway them in certain directions. These voices proceed from their ideologies and work toward establishing their interpretation as the dominant mode. Power hierarchies and access to authoritative discourse spaces have helped lead to the redefinition of the SA in the early 21st century. In the build-up to the *Heller* and *McDonald* decisions, more and more legal scholars came to believe that the SA actually protects an individual right. Their voices are considered legitimate due to the credentials they have. This, in turn, grants them access to various discourse spaces, among them that of the national media. In these discourse spaces, the justices are then better able to centralise certain issues, such as the meaning of the SA. Combined with a conservative executive branch and with a SC that was likely to achieve a conservative majority, the scene was set for a court case that would address the SA. This arrived in 2003

when the Cato Institute entered a legal challenge that formulated a fundamental question about the SA.

The media coverage studied in the present dissertation, differently from the court setting, offers access to a wider variety of participants due to their offices, qualifications or their visibility in the public debate over gun rights. History, ideology, power, access and opportunity are further explored through the constraints of text and context, language and inequality, choice and determination and history and process that shape the media coverage in the NYT. The patterns of media coverage and perceptions of constitutional debates affect contextual influence on the media representation by, for instance, preselecting participants and determining the sources of news. The text and context constraint can be seen in the need to include specific sources, from the debated SA to the SC majority and minority opinions, from legal scholars and their articles to the statements by officials and the representatives of interest groups. The articles cannot do without the sources which are the source of proof and of authority. This points to the constraint of language and inequality, as the articles map authoritative voices that can affect and decide the case instead of the voice of an average citizen who lacks access to authoritative discourse spaces. Many of the choices journalists make have been predetermined and guided by history and process.

Recontextualisation embodies many of the discourse constraints and allows authoritative participants to inject new discourses with their values and ideologies as they make use of existing discourse in a filtered manner. The analysis explored the entextualisation of the SA and SC opinions in the news articles and found that in the *Heller* coverage the SA was often entextualised with commentary on its ambiguous meaning, whereas in the *Miller* coverage it was present as an unchallenged basis of a militia-related right. The SC opinions also have different positions in the coverage: the 1939 article represents the SC decision as Chief Justice McReynolds's opinion and reports its focus on the militia clause. The *Heller* and *McDonald* coverage point to the division in the SC and entextualise both the majority and minority opinions. With the 2008 and 2010 decisions, the majority opinions are the authoritative ones; minority opinions do not have the same force, although they are short a single voice.

7.2 The Representation of Supreme Court Deliberation in The New York Times

The first micro level question concerns the participants mapped in the discourse space and the processes they are involved in. The coverage includes a varied circle of participants which is still only a selection of all the voices that could be mapped. The discourse space set up in the *Miller* coverage offers a simplified look at the court case by mainly including the parties directly involved in the case. The *Heller* coverage introduces a broader set of participants, but is similar to the *Miller* article as it continues to map the two sides of the legal debate, their

representatives and the SC. However, the SC subdivides into majority and minority groups and is represented through many individual justices, not a single representative. Additional voices enter the discourse space: legal experts and interest groups from both sides of the debate, state officials and legislators and lower courts nationwide and the representatives who speak for them. In the *McDonald* corpus, the SC and the justices still have a central role to play and, again, the majority and minority groups are mapped and some justices are mapped more extensively than others. The SA and legal scholars are notably less prominent. Instead of *Heller*, *McDonald* occupies the position of the debated case, whereas *Heller* becomes the previous precedent (replacing *Miller* which is not mapped). The coverage tends to map individuals as commentators while assigning groups and institutions active roles in impacting other elements. Access to discourse space is most frequently granted on the basis of social position, whether in connection to specific institutions (the SC, the Washington, D.C. council), organisations and their actions (the interest groups) or expertise in a given field (legal scholars). Thus, there are different sources of authority, from those related to governmental institutions, the traditions of honouring the Constitution, the authority assigned through the political processes and so on. In any case, there is certain logic to the voices that are allowed to enter the discourse space and there are always those who are excluded.

The relationships established between the participants on the modal axis differ from coverage to coverage. *Miller* offers a brief glimpse into modal relationships: the largest divide is between Miller and Layton's claims to a constitutional right and the SC interpretation of the SA that denies this. Modal mappings in *Heller* work to set up deictic centres for the different points of view the participants have. The coverage initially positions the SC close to the deictic centre of most participants and the articles as the institution with the power and even the obligation to settle the matter. In fact, the whole motivation for the SC to act comes from elements negated in modal mappings: there is a lack of sufficient guidance from the SC which leads participants to appeal to the court both on deontic and epistemic dimensions. This changes after the decision as participants divide into camps that either agree or disagree with it. Most participants accept the authority that the SC has even when they do not agree with the outcome and the strongest voices of critique actually come from inside the SC itself. Frequently, the representatives of groups set up deictic centres that encode specific values and these values are often equated with group values. The articles shift from one deictic centre to another. For the most part, they do not construct a centre for themselves that would clearly align with either side of the debate, but the coverage does map the fact that *Heller* is a noticeable shift from tradition. Thus, it could be inferred that the NYT does not identify with the voices that claim *Heller* to simply have uncovered a lost fact. In the *McDonald* corpus, the division into two camps begins earlier, as many participants see the SC decision as a foregone conclusion (the fact that the justices would deliberate another case is predicted in the *Heller* coverage). *McDonald* also creates further divisions, not just a straightforward opposition of opinions:

Heller's right and wrong become right, almost right (correct decision, wrong approach) and wrong.

Another question posed in the micro analysis pertains to the spatial relationships established between participants. The discourse space in *Miller* is largely defined by the hierarchical relationships set up between participants and the areas they affect. Spatial representations in the *Heller* corpus present a complex web of relationships in which participants act and react, forming different groups and allegiances. The organising motifs in these relationships are those of borders and limits and of movement. The SC takes decisive action by moving in a direct manner and its actions can either open up avenues or stop other elements from going down specific roads. Power hierarchies are established both between institutions and individuals. The metaphor of war is used in the representation of the justices and of the Cato Institute and the NRA. Interest groups also engage in activities expressed with the metaphor of a race which also suggests a struggle towards establishing winners and losers. The political realm is constructed with metaphors that depict them as seeking a road map or a blueprint. What the *Heller* case means for the overarching narrative on the SA is the realignment and repositioning of many elements. Most importantly, the two interpretations (individual versus state right) have exchanged their positions on the centre-periphery scale. In the *McDonald* corpus, the SC continues to be in a position of authority and can interpret the SA and prescribe this interpretation to legislative bodies and lower courts. The latter are mapped below the SA which is the source of the right that is affirmed by the justices. The metaphor of leading the way describes SC actions, but there are other participants who attempt to change the court's direction, such as the legal scholars. In the end, the overturning of the Chicago law is cast as another major, though symbolic, victory.

The temporal relationships established between the participants in the *Miller* article construct a simplified discourse space, as the article constructs a narrative in which gaps in time are marginalised. The most extensive and systematic temporal mappings in the *Heller* corpus are related to the SC and the justices. They are involved in the coverage from the start to the end, whereas several other groups are mapped only on some sections of the temporal axis. SC mappings establish their past, the period of silence between *Miller* and *Heller*, the proceedings during *Heller* and the future of *Heller*. The SA and the *Miller* decision belong to the past of the SA debates and are mostly mapped on that section of the temporal axis, although the SA frequently acts in the present as well. Politicians and legal scholars have been involved in the past of the debate and also discuss the future. Mappings occur on two levels: the historical timeline and the immediate temporal framework. The *McDonald* case is primarily mapped in relation to the 2008 decision and becomes the "new" case relative to that. The justices' background and the SC past record is less mapped than in *Heller* and the majority of temporal mappings for these groups have to do with the immediate court proceedings; the historical perspective is less mapped.

7.3. The Dominant Perspectives

By addressing the previous questions, the dissertation has explored whose perspectives dominate the media representation and the overall debate on the meaning and scope of the Second Amendment at different times and which factors contribute to changes in discourse spaces. In the media coverage of the three Supreme Court cases, the socio-political reality and circumstances are reflected in a selective and, inevitably, limited manner. There are many reasons why these cases end up in the public eye: the fact that the SC is a habitual source of news, the authoritative role the court is perceived to have, the fact that the constitutional amendment in question relates, in a famously ambiguous wording, to the polarising and ideological issue of gun rights. The perspective explored in this dissertation is that of *The New York Times*, a daily newspaper that serves as a major source of news for large numbers of Americans and foreigners alike. Media coverage has been chosen as the object of analysis, since it is likely to become the defining representation: the public is unlikely to read the actual court opinions and they have limited access to the SC work, whereas journalists covering the SC spend comparatively more time researching the issue, attending SC hearings and various press conferences, thus gaining a fuller understanding of the process. As McCombs et al. (2011: 85) claim, "news media attention also can influence how people think about a topic by selecting and placing emphasis on certain *attributes* and ignoring others". This makes media salience itself a vital issue. In the present dissertation, the different corpora clearly point to very different levels of salience which shape the public's opinion on the importance of discussing gun rights at a given time.

The coverage of the three cases spans decades in time and offers very different representations of the events. Each corpus reflects the social context of the time and is shaped by a multitude of factors outside the actual texts, building upon previous layers of discourse, bringing together current discourses and shaping future ones. The reason why the precedents occur and come to be viewed as closely related is that there is a need to update the meaning and application of the fundamental law that is the SA. It is necessary to return to the text from time to time in order to make it meaningful in a new social and historical context, that is, to construct its relationship to the shifting deictic centre(s). However, the SA, due to its inherent ambiguities has posed a considerable challenge to attempts to synchronise the view of its history and establish a cohesive metadiscursive narrative of its meaning. Still, this is something that needs to be done, as the SA is part of the Constitution and, hence, one of the artefacts of the civil religion in the US. As founding texts, the Constitution nor the SA can be ignored, yet addressing them can be a difficult task.

The three sub-corpora are very different discourses on how the SA has been discussed in the US. The *Miller* coverage, consisting of a single article from May 16, 1939, clearly presents a limited view of the court case. The case was involved in deciding the constitutionality of owning and carrying a specific

weapon and the applicability of a federal law. The SA appears as a militia-related right and gives no cause for a broad discussion of its philosophical, judicial or historical background. The SC decision is unanimous and un-challenged, suggesting that the NYT's deictic centre coincided with that of the government and the court.

The *Heller* coverage is vastly different, spanning 21 articles between March 10, 2007 and July 30, 2009. Not only a testament to the increased volume of news produced in the 21st century, the increase in the number of reports also points to the salience of the issue of (personal) safety. The *Heller* coverage maps the problematic aspects of the SA text and history, engaging in a broader philosophical debate than *Miller* did and, thus, turning to additional sources to help explain the issue in authoritative voices and from specific deictic centres. The coverage is filled with events that are mapped differently from different centres – from the *Miller* decision to the decision made in *Heller* that comes to be viewed as either a welcome victory or a dramatic upheaval of existing tradition. Most importantly, the *Heller* coverage maps a significant turning point in how the SA is viewed: the individual reading, before supported by some lower courts, legal scholars and interest groups, replaces the states right reading as the central one due to a suitable court case aligning with a somewhat conservative SC and finding authoritative support from the executive branch. Through mapping the ambiguities inherent in the SA and the doubts concerning the SC decision, the NYT points to the ideological and political nature of the symbolic victory won in *Heller*.

Once the justices declare the constitutional individual right in *Heller*, another case is predicted due to the ambiguities present in the decision. The predictions came true in 2010 when the individual right was extended to the states in *McDonald*. This corpus includes 6 articles and spans from September 30, 2009 to August 28, 2010. *McDonald* is often seen as an adjunct to *Heller*, and it received less coverage. As with *Heller*, the majority justices continue to position themselves as defenders of a constitutional right: they centralise individuals' ability to defend themselves in the home while marginalising (but not negating) concerns over gun violence and gun crime. Minority justices continue to defend the necessity of strict gun regulation and of leaving these decisions to elected officials. Also marginalised in both *Heller* and *McDonald* are the concerns of the Washington, D.C. and Chicago officials. They insist that their legislation is necessary and is based on common sense yet are found to err against people's constitutional right.

The dissertation shows how the legitimisation and centralisation of the conservative belief in the individual right to keep and bear arms is the result of a competitive struggle not only between the two sides of the court cases or the justices in the Supreme Court – it is the result of a competitive struggle in the society as such. *The New York Times* maps how the discussion of gun rights has moved from 1939 to the early 21st century and points to important shifts that have occurred in that time. The highly ideological nature of the debate in the early 21st century translates into a media coverage that brings together

numerous participants who have sought to influence the outcome. The clarity of the 1939 article is replaced by an array of opinions both for and against the different readings of the Second Amendment, the existing legal approaches to gun rights, the possible future developments and even the *Miller* case itself. The coverage reflects how a certain configuration of authoritative participants has made an unlikely interpretation of the SA the dominant one, leading to enactments and materialisations in the society. In this reflection, the media reproduces the power hierarchies and relationships it maps in the discourse spaces of the news articles; just as it reproduces the ideological nature of the debate by giving voice to doubts and oppositions. In the end, what the coverage of the constitutional debates illustrates is that the discussion of the Second Amendment is highly ideological and polarised and that the conclusions have less to do with the amendment itself and much more with who has the authority and opportunity to interpret it from the perspective of their values and to prescribe that interpretation to other participants in the public arena.

BIBLIOGRAPHY

Primary Sources

NYT0 The New York Times. 1939. Supreme Court Bars Sawed-Off Shotgun. Denies Constitution Gives Right to Carry This Weapon. *The New York Times*, May 16.

NYT1 Liptak, Adam. 2007. Court Rejects Strict Gun Law as Unconstitutional. *The New York Times*, March 10. Available at http://www.nytimes.com/2007/03/10/washington/10gun.html?scp=5&sq=%22second+amendment%22&st=nyt, accessed May 15, 2007.

NYT2 Liptak, Adam. 2007. A Liberal Case for Gun Rights Sways Judiciary. *The New York Times*, May 6. Available at http://www.nytimes.com/2007/05/06/us/06firearms.html?scp=26&sq=%22second+amendment%22&st=nyt, accessed May 26, 2007.

NYT3 Liptak, Adam. 2007. District of Columbia Set Back in Fight Over Its Gun Law. *The New York Times*, May 9. Available at http://www.nytimes.com/2007/05/09/us/09guns.html?scp=30&sq=%22second+amendment%22&st=nyt, accessed May 26, 2007.

NYT4 Liptak, Adam. 2007. Washington Mayor to Take Fight for Gun Law to Supreme Court. *The New York Times*, July 17. Available at http://www.nytimes.com/2007/07/17/us/17guns.html?scp=38&sq=%22second+amendment%22&st=nyt, accessed July 18, 2007.

NYT5 Greenhouse, Linda. 2007. Case Touches 2nd Amendment Nerve. *The New York Times*, November 13. Available at http://www.nytimes.com/2007/11/13/washington/13scotus.html?scp=60&sq=%22second+amendment%22&st=nyt, accessed November 30, 2007.

NYT6 Greenhouse, Linda. 2007. Justices to Decide on Right to Keep Handgun. *The New York Times*, November 21. Available at http://www.nytimes.com/2007/11/21/us/21scotus.html?scp=61&sq=%22second+amendment%22&st=nyt, accessed November 30, 2007.

NYT7 Liptak, Adam. 2007. Carefully Plotted Course Propels Gun Case to Top. *The New York Times*, December 3. Available at http://www.nytimes.com/2007/12/03/us/03bar.html?scp=68&sq=%22second+amendment%22&st=nyt, accessed December 4, 2007.

NYT8 Liptak, Adam. 2008. A Militia of One (Well Regulated). *The New York Times*, January 13. Available at http://www.nytimes.com/2008/01/13/weekinreview/13liptak.html?scp=73&sq=%22second+amendment%22&st=nyt, accessed January 27, 2008.

NYT9 Greenhouse, Linda. 2008. Gun Case Causes Bush Administration Rift. *The New York Times*, March 17. Available at http://www.nytimes.com/2008/03/17/washington/17scotus.html?scp=84&sq=%22second+amendment%22&st=nyt, accessed March 25, 2008.

NYT10 Greenhouse, Linda. 2008. Court Weighs Right to Guns, and Its Limits. *The New York Times*, March 19. Available at http://www.nytimes.com/2008/03/19/washington/19scotus.html?scp=87&sq=%22second+amendment%22&st=nyt, accessed March 25, 2008.

NYT11 Steinhauer, Jennifer. 2008. At State Level, More Attempts to Limit Guns. *The New York Times*, April 15. Available at http://www.nytimes.com/2008/04/15/

us/15guns.html?_r=1&scp=96&sq=%22second+amendment%22&st=nyt, accessed May 1, 2008.
NYT12 Stout, David and Brian Knowlton. 2008. U.S. Justices Rule for Individual Gun Rights. *The New York Times*, June 26. Available at http://www.nytimes.com/2008/06/26/world/americas/26iht-scotus.4.14024132.html?_r=1&scp=114&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
NYT13 Greenhouse, Linda. 2008. Justices, Ruling 5–4, Endorse Personal Right to Own Gun. *The New York Times*, June 27. Available at http://query.nytimes.com/gst/fullpage.html?res=9904E2DD1431F934A15755C0A96E9C8B63&scp=116&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
NYT14 McKinley, Jesse. 2008. Challenges to Bans on Handguns Begin. *The New York Times*, June 28. Available at http://www.nytimes.com/2008/06/28/us/ 28guns.html?_r=1&scp=120&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
NYT15 Greenhouse, Linda. 2008. On Court that Defied Labeling, Kennedy Made the Boldest Mark. *The New York Times*, June 29. Available at http://www.nytimes.com/2008/06/29/washington/29scotus.html?_r=1&scp=121&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
NYT16 Liptak, Adam. 2008. Gun Laws and Crime: A Complex Relationship. *The New York Times*, June 29. Available at http://www.nytimes.com/2008/06/29/ weekinreview/29liptak.html?_r=1&scp=122&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
NYT17 Liptak, Adam. 2008. Ruling on Guns Elicits Rebuke from the Right. *The New York Times*, October 20. Available at http://www.nytimes.com/2008/10/21/washington/21guns.html?scp=156&sq=%22second+amendment%22&st=nyt, accessed November 30, 2008.
NYT18 Falcone, Michael. 2008. Washington Council Enacts Tough Gun-Control Measure. *The New York Times*, December 16. Available at http://www.nytimes.com/2008/12/17/us/17gun.html?scp=165&sq=%22second+amendment%22&st=nyt, accessed December 20, 2008.
NYT19 Liptak, Adam. 2009. Few Ripples from Supreme Court Ruling on Guns. *The New York Times*, March 16. Available at http://www.nytimes.com/2009/03/17/us/17bar.html?scp=179&sq=%22second+amendment%22&st=nyt, accessed March 23, 2009.
NYT20 Schwartz, John. 2009. Gun Rulings Open Way to Supreme Court Review. *The New York Times*, June 16. Available at http://www.nytimes.com/2009/06/17/us/17guns.html?scp=200&sq=%22second+amendment%22&st=nyt, accessed June 28, 2009.
NYT21 Schwartz, John. 2009. Appeals Court Sets Rehearing on Ruling that Eased Gun Restrictions. *The New York Times*, July 30. Available at http://www.nytimes.com/2009/07/31/us/31guns.html?scp=232&sq=%22second+amendment%22&st=nyt, accessed August 7, 2009.
NYT22 Liptak, Adam. 2009. Justices Will Weigh Challenges to Gun Laws. *The New York Times*, September 30. Available at http://www.nytimes.com/2009/10/01/us/01scotus.html?scp=245&sq=%22second+amendment%22&st=nyt, accessed October 1, 2009.
NYT23 Liptak, Adam. 2010. Supreme Court Still Divided on Guns. *The New York Times*, March 2. Available at http://www.nytimes.com/2010/03/03/us/03scotus.html?scp=262&sq=%22second+amendment%22&st=nyt, accessed March 3, 2010.

NYT24 Liptak, Adam. 2010. Tailgating Outside the Supreme Court, Without the Cars. *The New York Times*, March 2. Available at http://www.nytimes.com/2010/03/03/us/03line.html?scp=263&sq=%22second+amendment%22&st=nyt, accessed March 3, 2010.

NYT25 Schwartz, John. 2010. After a Supreme Court Loss, Washington's Gun Laws Pass Muster. *The New York Times*, March 26. Available at http://www.nytimes.com/2010/03/27/us/27guns.html?scp=268&sq=%22second+amendment%22&st=nyt, accessed April 5, 2010.

NYT26 Liptak, Adam. 2010. Justices Extend Firearm Rights in 5-to-4 Ruling. *The New York Times*, June 29. Available at http://query.nytimes.com/gst/fullpage.html?res=9E0DEFDE1E3DF93AA15755C0A9669D8B63&scp=296&sq=%22second+amendment%22&st=nyt, accessed July 4, 2010.

NYT27 Dumke, Mick and Dan Mihalopoulos. 2010. City's Restrictive Gun Laws Are Rarely Enforced. *The New York Times*, August 28. Available at http://www.nytimes.com/2010/08/29/us/29cncguns.html?scp=317&sq=%22second+amendment%22&st=nyt, accessed August 29, 2010.

Secondary Sources

Alexy, Robert. 1989. *A Theory of Legal Argumentation. The Theory of Rational Discourse as Theory of Legal Justification*. Oxford: Oxford University Press.

Althusser, Louis. 1984. Ideology and Ideological State Apparatuses. In *Essays on Ideology*. London: Verso, 32–60.

Ashcroft Memorandum. 2001. Office of the Attorney General, Washington, D.C. 20530. Available at http://www.justice.gov/ag/readingroom/emerson.htm, accessed July 11, 2011.

Babington, Charles. 2006. Alito is Sworn in on High Court. *The Washington Post*, February 1. Available at http://www.washingtonpost.com/wp-dyn/content/article/2006/ 01/31/AR2006013100354.html, accessed February 1, 2006.

Balkin, Jack M. 2004. The Passionate Intensity of the Confirmation Process. *Jurist*. Available at http://jurist.law.pitt.edu/forum/symposium-jc/balkin.php, accessed June 22, 2011.

Baum, Lawrence. 2001. *The Supreme Court*. 7th Edition. Washington, D.C.: CQ Press.

Baum, Lawrence. 2008. *Judges and Their Audiences: A Perspective on Judicial Behaviour*. Princeton: Princeton University Press.

Bell, Allan. 1991. *The Language of News Media*. Oxford: Blackwell Publishers.

Bell, Allan. 2000. The Discourse Structure of News Stories. In Allan Bell and Peter Garrett (Eds.) *Approaches to Media Discourse*. Oxford: Blackwell Publishers, 64–104.

Bellah, Robert N. 1990. Civil Religion in America. In Donald G. Jones and Russell E. Richey (Eds.). *American Civil Religion*. San Francisco: Mellen Research University Press, 76–88.

Berger, Peter L. and Thomas Luckmann. 1966. *The Social Construction of Reality. A Treatise in the Sociology of Knowledge*. London: Penguin Books.

Bernstein, Basil. 1996. *Pedagogy, Symbolic Control and Identity. Theory, Research, Critique*. Lanham: Rowman & Littlefield Publishers, Inc.

Blackledge, Adrian. 2005. *Discourse and Power in a Multilingual World*. Amsterdam and Philadelphia: John Benjamins Publishing Company.

Blackstone, William. N.d. [1765]. *Commentaries on the Law of England*. Available at http://www.lonang.com/exlibris/blackstone/bla-101.htm, accessed June 12, 2011.
Blommaert, Jan. 2005. *Discourse. A Critical Introduction*. Cambridge: Cambridge University Press.
Brady Centre to Prevent Gun Violence. N.d. Parker v. District of Columbia. Available at http://www.gunlawsuits.org/docket/casestatus.php?RecordNo=87, accessed February 17, 2008.
Brighton, Paul and Dennis Foy. 2007. *News Values*. London: SAGE Publications.
Brown, Michael S. 2001. The Strange Case of United States v. Miller. Available at http://www.enterstageright.com/archive/articles/0801/0801usvmiller.htm, accessed February 16, 2008.
Brown, Gillian and George Yule. 1988. *Discourse Analysis*. Cambridge: Cambridge University Press.
Bourdieu, Pierre 1997. *Language and Symbolic Power*. Cambridge: Polity Press.
Caldas-Coulthard, Carmen Rosa. 2003. Cross-cultural Representation of 'Otherness' in Media Discourse. In Gilbert Weiss and Ruth Wodak (Eds.). *Critical Discourse Analysis. Theory and Interdisciplinarity.* Hampshire and New York: Palgrave, 272–296.
Cap, Piotr. 2008. Towards The Proximization Model of The Analysis of Legitimization in Political Discourse. *Journal of Pragmatics*, Vol. 40, 17–41.
Cheney, Catherine. 2009. Profile – The Greenhouse Effect. *Yale Daily News*, February 23. Available at http://www.yaledailynews.com/news/2009/feb/23/profile-the-greenhouse-effect/, accessed July 31, 2012.
Chilton, Paul. 2004. *Analysing Political Discourse. Theory and Practice*. London and New York: Routledge.
Chilton, Paul and Christina Schäffner. 1997. Discourse and Politics. In Teun A. van Dijk (Ed.). *Discourse Studies 2. A Multidisciplinary Introduction. Discourse as Social Introduction*. London: SAGE Publications, 206–230.
Chouliaraki, Lilie and Norman Fairclough. 1999. *Discourse in Late Modernity: Rethinking Critical Discourse Analysis*. Edinburgh: Edinburgh University Press.
Clark, E. Culpepper. 1982. Argument and Historical Analysis. In J. Robert Cox and Charles Arthur Willard (Eds.). *Advances in Argumentation Theory and Research*. Carbondale: Southern Illinois University Press, 298–317.
Clark, Tom S. 2009. Measuring Ideological Polarization on the United States Supreme Court. *Political Research Quarterly*, Vol. 62, No. 1, 146–157.
Codrea, David. 2010. What Are Elena Kagan's Views on Second Amendment? Available at http://www.examiner.com/article/what-are-elena-kagan-s-views-on-second-amendment, accessed September 6, 2012.
comScore, Inc. 2012. *The NewYork Times* Ranks as Top Online Newspaper According to May 2010 U.S. comScore Media Metrix Data. Available at http://www.comscore.com/Press_Events/Press_Releases/2010/6/The_New_York_Times_Ranks_as_Top_Online_Newspaper_According_to_May_2010_U.S._comScore_Media_Metrix_Data, accessed July 30, 2012.
Constitutional Amendments. N.d. Constitutional Amendments 11–27. Available at http://constitutionalamendments.org/constitutional-amendments.html, accessed June 2, 2011.
Cornell, Saul. 2006. *Well-regulated Militia: The Founding Fathers and the Origin of Gun Control in America.* New York: Oxford University Press.
Cress, Lawrence Delbert. 1984. An Armed Community: The Origins and Meaning of the Right to Bear Arms. *The Journal of American History*, Vol. 71, No. 1, 22–42.

Denniston, Lyle. 2010. Second Amendment Drama: Act II. Available at http://www.scotusblog.com/?p=16704, accessed April 23, 2011.
District of Columbia v. Heller. 2008. District of Columbia et al., Petitioners v. Dick Anthony Heller. 554 U.S. ___ (2008). Available at http://www.supremecourt.gov/opinions/07pdf/07-290.pdf, accessed February 12, 2009.
Doherty, Brian. 2008. *Gun Control on Trial. Inside the Supreme Court Battle over the Second Amendment*. Washington, D.C.: CATO Institute.
Doherty, Brian. 2009. Heller Ain't No Bad Place to Be. Second Amendment Hero Alan Gura Continues the Legal Fight for Gun Rights. *Reason*, July 2. Available at http://reason.com/archives/2009/07/02/heller-aint-no-bad-place-to-be, accessed July 3, 2011.
Downie, Leonard. 2003. *News about the News*. Westminster, MD: Vintage Anchor Publishing.
Dunmire, Patricia L. 2005. Preemting the Future: Rhetoric and Ideology of the Future in Political Discourse. *Discourse & Society*, Vol. 16, Issue 4, 481–513.
Ehrlich, Susan. 2007. Legal Discourses and the Cultural Intelligibility of Gendered Meanings. *Journal of Sociolinguistics*, 11(4), 452–477.
Entman, Robert M. 1993. Framing: Towards Clarification of a Fractured Paradigm. *Journal of Communication*, 43(4), 51–58.
Epstein, Lee and Thomas G. Walker. 1998. *Constitutional Law for a Changing America. Rights, Liberties, and Justice*. 3rd Edition. Washington, D.C.: CQ Press.
Fairclough, Norman. 1989. *Language and Power*. London and New York: Longman.
Fairclough, Norman. 1995a. *Critical Discourse Analysis. The Critical Study of Language*. Harlow: Longman.
Fairclough, Norman. 1995b. *Media Discourse*. London: Arnold.
Fairclough, Norman. 1996. Technologisation of Discourse. In Carmen Rosa Caldas – Coulthard and Malcolm Coulthard (Eds.). *Texts and Practices. Readings in Critical Discourse Analysis*. London and New York: Routledge, 71–83.
Fairclough, Norman. 1999. *Discourse and Social Change*. Oxford: Blackwell Publishers.
Fairclough, Norman. 2000. Political Discourse in the Media: An Analytical Framework. In Allan Bell and Peter Garrett (Eds.). *Approaches to Media Discourse.* Oxford: Blackwell Publishers, 142–162.
Fairclough, Norman. 2001. The Discourse of New Labour: Critical Discourse Analysis. In Margaret Wetherell, Stephanie Taylor and Simeon J. Yates (Eds*.). Discourse as Data. A Guide for Analysis*. London: SAGE Publications, 229–268.
Fairclough, Norman. 2003. *Analysing Discourse: Textual Analysis for Social Research*. London: Routledge.
Fairclough, Norman. 2005. Critical Discourse Analysis in Transdisciplinary Research. In Ruth Wodak and Paul Chilton (Eds.). *A New Agenda in (Critical) Discourse Analysis. Theory, Methodology and Interdisciplinarity*. Amsterdam and Philadelphia: John Benjamins Publishing Company, 53–70.
Fairclough, Norman. 2006. Semiosis, Ideology and Mediation: A Dialectical View. In Inger Lassen, Jeanne Strunck and Torben Vestergaard (Eds.). *Mediating Ideology in Text and Image: Ten Critical Studies*. Philadelphia: John Benjamins Publishing Company, 19–35.
Fauconnier, Gilles. 1999. Methods and Generalizations. In Theo Janssen and Gisela Redeker (Eds.). *Cognitive Linguistics: Foundations, Scope and Methodology*. Berlin and New York: Mouton de Gruyter, 95–128.

Fenn, Richard K. 2001. *Beyond Idols: The Shape of a Secular Society*. Oxford: Oxford University Press.
Finch, Geoffrey. 2005. *Key Concepts in Language and Linguistics*. 2nd Edition. Hampshire and New York: Palgrave MacMillan.
FindLaw. N.d.a. United States v. Miller. Available at http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=307&invol=174, accessed February 16, 2008.
FindLaw. N.d.b. U.S. Constitution: Second Amendment. Available at http://caselaw.lp.findlaw.com/data/constitution/amendment02/, accessed February 16, 2008.
FindLaw. N.d.c. District of Columbia v. Heller. No. 07-290. Available at http://supreme.lp.findlaw.com/supreme_court/docket/2007/march/district-of-columbia-v-heller-07-290.html, accessed 12 July, 2011.
Foucault, Michel. 2005. *The Archaeology of Knowledge*. London and New York: Routledge.
Fowler, Roger. 1991. *Language in the News. Discourse and Ideology in the Press*. London and New York: Routledge.
Frye, Brian L. 2008. The Peculiar Story of *United States v. Miller*. *NYU Journal of Law & Liberty*, 3.1, 48–82.
Galtung, Johann and Mari Ruge. 1973. Structuring and Selecting News. In Stanley Cohenand Jock Young (Eds.). *The Manufacture of News: Social Problems, Deviance, and the Mass Media.* London: Constable, 52–64.
Gee, James Paul. 2003. *An Introduction to Discourse Analysis: Theory and Method*. London: Routledge.
Gee, James Paul. 2012. *Social Linguistics and Literacies. Ideology in Discourses*. 4thEdition. London: Routledge.
George, Tracey E. and Lee Epstein. 1992. On the Nature of Supreme Court Decision Making. *The American Political Science Review*, Vol. 86, No. 2, 323–337.
Gitelson, Alan R., Robert L. Dudley and Melvin J. Dubnick. 1996. *Ameerika Ühendriikide Valitsemissüsteem*. 4th Edition. Boston: Houghton Mifflin Company.
Goffman, Erving. 1986. *Frame Analysis: An Essay on the Organization of Experience*. Lebanon: First Northeastern University Press.
Grady, Joseph E., Todd Oakley and Seana Coulson. 1999. Blending and Metaphor. In Gerard J. Steen and Raymond W. Gibbs (Eds.). *Metaphor in Cognitive Linguistics*. Philadelphia: John Benjamins Publishing Company. Available at http://cogweb.ucla.edu/CogSci/Grady_99.html, accessed August 1, 2012.
Grant, Alan. 2004. *The American Political Process*. 7th Edition. London and New York: Routledge.
Greenberg, Cheryl. 2001. Twentieth Century Liberalism: Transformations of an Ideology. In Harvard Sitkoff (Ed.). *Perspectives on Modern America: Making Sense of the Twentieth Century*. Oxford: Oxford University Press, 55–79.
Greenhouse, Linda. 2008. Justices, Ruling 5–4, Endorse Personal Right to Own Gun. *The New York Times*, June 27. Available at http://query.nytimes.com/gst/fullpage.html?res=9904E2DD1431F934A15755C0A96E9C8B63&scp=116&sq=%22second+amendment%22&st=nyt, accessed June 30, 2008.
Gula, Robert J. 2002. *Nonsense: A Handbook of Logical Fallacies*. Mount Jackson: Axios Press.
Gura, Alan. 2007. Supreme Court Agrees to Hear Second Amendment Challenge to D.C. Gun Ban. Available at http://dcguncase.com/blog/, accessed February 17, 2008.

Hall, Stuart. 1978. The Social Production of News. In Stuart Hall, Chad Critcher, Tony Jefferson, John N. Clarke and Brian Roberts (Eds.). *Policing the Crisis: Mugging, the State, and Law and Order*. London: Macmillan, 60–61.

Halliday, M.A.K. 1994. *An Introduction to Functional Grammar*. 2nd Edition. London: Edward Arnold.

Hamilton, Alexander. 1990. Federalist 78. In Peter Woll (Ed.). *American Government. Readings and Cases*. 10th Edition. New York: Harper Collins, 566–571.

Harrigan, John J. 1992. *Politics and the American Future*. 3rd Edition. New York: McGraw-Hill.

Henigan, Dennis. 1989. The Right to Be Armed: A Constitutional Illusion. Available at http://www.guncite.com/hci2nd.html, accessed June 22, 2011.

Hodges, Adam. 2008. The Politics of Recontextualisation: Discursive Competition over Claims of Iranian Involvement in Iraq. *Discourse & Society*, 19(4), 483–505.

Jaffe, Harry. 2008. DC Gun Rights: Do You Want This Next to Your Bed? Available at http://www.washingtonian.com/articles/people/6732.html, accessed April 25, 2008.

Janssen, Theo and Gisela Redeker. 1999. Introduction. In Theo Janssen and Gisela Redeker (Eds.). *Cognitive Linguistics: Foundations, Scope and Methodology*. Berlin and New York: Mouton de Gruyter, 1–10.

Kitzinger, Jenny. 2007. Framing and Frame Analysis. In Eoin Devereux (Ed.). *Media Studies: Key Issues and Debates*. London: SAGE Publications, 134–161.

Koller, Veronika. 2005. Critical Discourse Analysis and Social Cognition: Evidence from Business Media Discourse. *Discourse & Society*, Vol. 16(2), 199–224.

Kopel, David. 1989. The Second Amendment in the Nineteenth Century. Available at http://www.davekopel.com/2a/lawrev/19thcentury.htm#VIII, accessed 3 July, 2011.

Kopel, David. 1999. The Supreme Court's Thirty-Five Other Gun Cases: What the Supreme Court Has Said about the Second Amendment. Available at http://www.davekopel.com/2a/lawrev/35finalpartone.htm, accessed August 7, 2010.

Kopel, David. 2007. Gun Prohibitionists Mostly Misfire. Available at http://www.cato.org/pub_display.php?pub_id=8807, accessed 16 February, 2008.

Kopel, David. N.d. Warren Burger and the Second Amendment. Available at http://www.davekopel.com/2A/mags/crburger.htm, accessed August 3, 2012.

Kristeva, Julia. 1986. Word, Dialogue and Novel. In Toril Moi (Ed.). *The Kristeva Reader*. New York: Columbia University Press, 34–61.

Lakoff, George and Mark Johnson. 1980. *Metaphors We Live By*. Chicago: The University of Chicago Press.

Lakoff, George and Mark Johnson. 1999. *Philosophy in the Flesh: The Embodied Mind and its Challenge to Western Thought*. New York: Basic Books.

Levinson, Sanford. 1989. The Embarrassing Second Amendment. *The Yale Law Journal*, Vol. 99, No. 3, 637–659.

Levinson, Sanford. 1995. *Responding to Imperfection: The Theory and Practice of Constitutional Amendment*. Princeton: Princeton University Press.

Levy, Robert A. 2007. The D.C. Gun Ban: Supreme Court Preview. Available at http://www.cato.org/pub_display.php?pub_id=8717, accessed February 17, 2008.

Levy, Robert A, Ilya Shapiro and Roger Pilon. 2009. National Rifle Association v. City of Chicago; McDonald v. City of Chicago. Cato Institute, July 6. Available at http://www.cato.org/pub_display.php?pub_id=10336, accessed June 8, 2011.

Lillis, Theresa and Carolyn McKinney. 2003. *Analysing Language in Context: A Student Workbook*. London: Trentham Books Limited.

Liptak, Adam. 2010a. Justices Extend Firearm Rights in 5-to-4 Ruling. *The New York Times*, June 28. Available at http://www.nytimes.com/2010/06/29/us/29scotus.html?_r=1&scp=2&sq=second%20amendment&st=cse, accessed July 22, 2010.

Liptak, Adam. 2010b. Court Under Roberts Is Most Conservative in Decades. *The New York Times*, July 24. Available at http://www.nytimes.com/2010/07/25/us/25roberts.html, accessed August 2, 2011.

Lithwick, Dahlia. 2005. The Souter Factor. Available at http://www.slate.com/articles/news_and_politics/jurisprudence/2005/08/the_souterfactor.html, accessed July 31, 2012.

Lithwick, Dahlia. 2008. Moving Targets. The Solicitor General is the Latest Target in the Showdown over Guns. Available at http://www.slate.com/articles/news_and_politics/jurisprudence/2008/03/moving_targets.html, accessed September 3, 2012.

Ljung, Magnus. 2000. Newspaper Genres and Newspaper English. In Friedrich Ungerer (Ed.). *English Media Texts – Past and Present. Language and Textual Structure.* Philadelphia: John Benjamins Publishing Company, 131–149.

Longley, Robert. N.d. Current U.S. Supreme Court Justices. Available at http://usgovinfo.about.com/od/uscourtsystem/a/supctjustices.htm, accessed July 12, 2011.

Lukacs, John. 2004. *A New Republic: A History of the United States in the Twentieth Century*. New Haven and London: Yale University Press.

Lulofs, Neal. 2012. The Top U.S. Newspapers for March 2012. Available at http://accessabc.wordpress.com/2012/05/01/the-top-u-s-newspapers-for-march-2012/, accessed July 30, 2012.

Machiavelli, Niccolo. 2010. *The Art of War*. Seattle: Pacific Publishing Studio.

Maingueneau, Dominique. 2006. Is Discourse Analysis Critical? *Critical Discourse Studies,* Vol. 3(2), 229–230.

Marus, Robert. 2006. Alito Confirmation Reflects National Divisions. *Christian Century*, 123 (4), 12–13. Available at http://search.epnet.com/login.aspx?direct=true&db=aph&an=19861999&loginpage=login.asp , accessed May 2, 2006.

Matheson, Donald. 2005. *Media Discourses*. Maidenhead: Open University Press.

McCombs, Max, R. Lance Holbert, Spiro Kiousis and Wayne Wanta. 2011. *The News and Public Opinion. Media Effects on Civic Life*. Cambridge: Polity Press.

McDonald v. Chicago. 2010. Otis McDonald, et al., Petitioners v. City of Chicago, Illinois, et al. 561 U.S. ____ (2010). Available at http://www.supremecourt.gov/opinions/09pdf/08-1521.pdf, accessed January 13, 2011.

Merleau-Ponty, Maurice. 2002 [1948]. *The World of Perception*. London and New York: Routledge.

Mills, Sara. 2004. *Discourse*. 2nd Edition. London: Routledge.

Mouritsen, Stephen C. 2010. The Dictionary Is Not a Fortress: Definitional Fallacies and a Corpus-Based Approach to Plain Meaning. *Brigham Young University Law Review*, Vol. 2010(5), 1915–1979.

Neily, Clark. 2008. Respondents' Amici. Available at http://dcguncase.com/blog/, accessed February 17, 2008.

NRA. 2008. John Popp's Interview with Richard Heller. Available at http://home.nra.org/#/ila, accessed January 12, 2010.

Palmer, F. R. 1991. *Mood and Modality*. Cambridge: Cambridge University Press.

Patton, Dana. 2007. The Supreme Court and Morality Policy Adoption in the American States. *Political Research Quarterly*, Vol. 60, No. 3, 468–488.

Philo, Greg. 1983. Bias in the Media. In David Coates and Gordon Johnston (Eds.). *Socialist Arguments*. Oxford: Martin Robertson, 130–145.
Posner, Richard A. 2008. In Defense of Looseness. The Supreme Court and Gun Control. *The New Republic*. Available at http://www.tnr.com/article/books/defense-looseness, accessed June 15, 2011.
Pound, Roscoe. 1957. *The Development of Constitutional Guarantees of Liberty*. Westport: Greenwood Press.
Põiklik, Pille. 2008. *Positioning in Discourse: The Role of the Supreme Court in Mediated Constitutional Debates in the United States*. Unpublished MA Thesis. Department of English, University of Tartu, Tartu, Estonia.
Põiklik, Pille. 2011. The Unalienable Right to Keep and Bear Arms? Interpreting the Second Amendment to the United States Constitution in the Light of American Ideals. *Estonian Journal of English Studies*, Vol. 2, No. 1, 110–124.
Põiklik, Pille. 2012. Recontextualisation of the Second Amendment and Supreme Court decisions in *The New York Times*. *Brno Studies in English*, Vol. 38, No. 1, 23–37. Available at http://www.phil.muni.cz/plonedata/wkaa/BSE/BSE_2012/BSE_2012-38_1_-XX_Poiklik.pdf, accessed September 11, 2012.
Printz v. United States. 1997. (95-1478), 521 U.S. 898. Available at http://www.law.cornell.edu/supct/html/95-1478.ZC1.html, accessed June 22, 2011.
Puckett, Brian C. 2003. United States v. Miller and Short-Barreled Shotguns. A Critical Analysis of the U.S. Supreme Court Opinion Including an Evidentiary Presentation. Available at http://www.keepandbeararms.com/puckett/MillerShotgun.pdf, accessed May 2, 2011.
Rahm, Henrik. 2006. Getting Attention in the Media. In Inger Lassen, Jeanne Strunck and Torben Vestergaard (Eds.). *Mediating Ideology in Text and Image: Ten Critical Studies*. Philadelphia: John Benjamins Publishing Company, 193–210.
Rakove, Jack N. 2002. Words, Deeds and Guns: "Arming America" and the Second Amendment. *The William and Mary Quarterly*. Third Series, Vol. 59, No. 1, 205–210.
Ruhl, Jesse Mathew, Arthus L. Rizer III and Mikel J. Wier. 2003. Gun Control: Targeting Rationality in a Loaded Debate. *Kansas Journal of Law and Public Policy*, 13, 13–83.
Sacks, Harvey. 1999. Everyone Has to Lie. In Adam Jarowski and Nikolas Coupland (Eds.). *The Discourse Reader*. London and New York: Routledge.
Savage, David. 2009. Supreme Court to Hear Challenge to Chicago Gun Law. Chicago Breaking News Centre, September 30. Available at http://archive.chicagobreakingnews.com/2009/09/supreme-court-may-decide-on-hearing-chicago-gun-cases.html, accessed November 12, 2010.
Scarola, Matthew. 2010. Analysis: State Gun Regulations and *McDonald*. Available at http://www.scotusblog.com/?p=22475, accessed 22 May, 2011.
Schulz, Pamela D. 2010. *Courts and Judges on Trial. Analysing and Managing the Discourses of Disapproval.* Münster: Lit Verlag.
Schulz, Pamela D. and Andrew J. Cannon. 2010. Judicial Time Lords: Media Direction vs. Judicial Independence. *International Journal of Criminal Justice Sciences*, Vol. 5, Issue 1, 174–188.
Schwartz, Bernard. 1983. *Super Chief. Earl Warren and His Supreme Court – A Judicial Biography*. New York and London: New York University Press.
Scollon, Ron. 2004. Intertextuality across Communities of Practice: Academics, Journalism and Advertising. In Carol Lynn Moder and Aida Martinovic-Zic (Eds.).

Discourse across Languages and Cultures. Amsterdam and Philadelphia: John Benjamins B.V., 149–176.
Shalhope, Robert E. 1982. The Ideological Origins of the Second Amendment. *The Journal of American History*, Vol. 69, No. 3, 599–614.
Shenhav, Shaul R. 2005. Concise Narratives: A Structural Analysis of Political Discourse. *Discourse Studies*, Vol. 7(3), 315–335.
Silverstein, Michael and Greg Urban. 1996. The Natural History of Discourse. In Michael Silverstein and Greg Urban (Eds.). *Natural Histories of Discourse*. Chicago and London: The University of Chicago Press, 1–17.
Silverstone, Roger. 1999. *Why Study the Media?* London: SAGE Publications.
Supreme Court of the United States. N.d. A Brief Overview of the Supreme Court. Available at http://www.supremecourtus.gov/about/briefoverview.pdf, accessed January 17, 2008.
Swales, John. 1990. *Genre Analysis: English in Academic and Research Settings*. Cambridge and New York: Cambridge University Press.
Tannen, Deborah. 1993. Introduction. In Deborah Tannen (Ed.). *Framing in Discourse*. New York and Oxford: Oxford University Press, 3–13.
Target Point Consulting. N.d. The Ideological History of the Supreme Court, 1937–2007. Available at http://www.targetpointconsulting.com/scotusscores-labels.html, accessed July 12, 2011.
The New York Times. 1939. Supreme Court Bars Sawed-Off Shotgun. Denies Constitution Gives Right to Carry This Weapon. *The New York Times*, May 16.
The New York Times. 2009. Sotomayor's Notable Court Opinions and Articles. *The New York Times*, July 10. Available at http://www.nytimes.com/interactive/2009/05/26/us/0526-scotus.html, accessed September 6, 2012.
The Samuel Alito Nomination. 2006. George W. Bush Names a Second Supreme Court Justice. *Supreme Court Debates*, 9:3, 65. Available at http://search.epnet.com/login.aspx?direct=true&db=aph&an=20190074&loginpage=login.asp, accessed May 12, 2006.
Thomas, Dan, Graig Mccoy and Allan McBridge. 1993. Deconstructing the Political Spectacle: Sex, Race, and Subjectivity in Public Response to the Clarence Thomas/Anita Hill "Sexual Harassment" Hearings. *American Journal of Political Science*, Vol. 37, No. 3, 699–720.
Toobin, Jeffrey. 2008. *The Nine. Inside the Secret World of the Supreme Court*. New York: Anchor Books.
Ullmann v. United States. 1956. 350 U.S. 422. Available at http://www.law.cornell.edu/supct/html/historics/USSC_CR_0350_0422_ZO.html, accessed June 12, 2011.
United States v. Cruikshank. 1875. 92 U. S. 542. Available at http://supreme.justia.com/us/92/542/case.html, accessed June 24, 2011.
United States v. Emerson. 2001. 270 F.3d (5th Circuit). Available at http://aclu.procon.org/sourcefiles/US-v-Emerson.pdf, accessed June 12, 2011.
United States v. Miller. 1939. 307 U.S. 174. Available at http://usgovinfo.about.com/library/bills/blusvmiller.htm, accessed January 12, 2010.
U.S. Constitution Online. N.d. Constitutional Topic: The Second Amendment. Available at http://www.usconstitution.net/consttop_2nd.html, accessed August 1, 2010.
U.S. History. N.d. 57d *Roe v. Wade* and Its Impact. Available at http://www.ushistory.org/us/57d.asp, accessed August 22, 2012.
van Dijk, Teun A. 1997. Discourse as Interaction in Society. In Teun A. van Dijk (Ed.). *Discourse as Structure and Process. Discourse Studies: A Multidisciplinary Introduction Volume* 1. London: SAGE Publications, 1–37.

van Dijk, Teun A. 1999. Discourse and the Denial of Racism. In Adam Jarowski and Nikolas Coupland (Eds.). *The Discourse Reader*. London and New York: Routledge, 506–520.
van Dijk, Teun A. 2000. *Ideology: A Multidisciplinary Approach*. London: SAGE Publications.
van Dijk, Teun A. 2006a. Introduction: Discourse, Interaction and Cognition. *Discourse Studies* Vol. 8(1), 5–7.
van Dijk, Teun A. 2006b. Discourse, Context and Cognition. *Discourse Studies*, Vol. 8(1), 159–177.
van Dijk, Teun A. 2006c. Discourse and Manipulation. *Discourse & Society*, Vol. 17(2), 359–383.
van Dijk, Teun A. 2008. *Discourse and Context. A Sociocognitive Approach*. Cambridge: Cambridge University Press.
van Dijk, Teun A. 2009. *Society and Discourse. How Social Contexts Influence Text and Talk*. Cambridge: Cambridge University Press.
van Leeuwen, Theo. 1993. Genre and Field in Critical Discourse Analysis: A Synopsis. *Discourse & Society*, Vol. 4(2), 193–223.
van Leeuwen, Theo. 1996. The Representation of Social Actors. In Carmen Rosa Caldas-Coulthard and Malcolm Coulthard (Eds.). *Texts and Practices. Readings in Critical Discourse Analysis*. London and New York: Routledge, 32–70.
van Leeuwen, Theo. 2007. Legitimation in Discourse and Communication. *Discourse & Communication*, Vol. 1(1), 91–112.
van Leeuwen, Theo. 2008. *Discourse and Practice. New Tools for Critical Discourse Analysis*. Oxford: Oxford University Press.
van Leeuwen, Theo and Ruth Wodak. 1999. Legitimizing Immigration Control: A Discourse Historical Analysis. *Discourse Studies* Vol. 1(1), 83–118.
Voloshinov, V. N. 1986. *Marxism and the Philosophy of Language*. Cambridge: Harvard University Press.
Waldrep, Christopher. 2010. *Jury Discrimination. The Supreme Court, Public Opinion, and a Grassroots Fight for Racial Equality in Mississippi*. Athens and London: The University of Georgia Press.
Weiss, Gilbert and Ruth Wodak. 2003. Introduction: Theory, Interdisciplinarity and Critical Discourse Analysis. In Gilbert Weiss and Ruth Wodak (Eds.). *Critical Discourse Analysis. Theory and Interdisciplinarity*. Hampshire and London: Palgrave, 1–32.
Werth, Paul. 1999. *Text Worlds: Representing Conceptual Space in Discourse.* New York: Longman.
WhoRunsGov. N.d. Elena Kagan. Why She Matters. Available at http://www.whorunsgov.com/ Profiles/Elena_Kagan, accessed July 2, 2011.
Williams, David C. 2003. *Mythic Meanings of the Second Amendment: Taming Political Violence in a Constitutional Republic*. New Haven: Yale University Press.
Williams, Raymond. 2001. Base and Superstructure in Marxist Cultural Theory. In Meenakshi Gigi Durham and Douglas M. Kellner (Eds.). *Media and Cultural Studies: Keyworks.* Malden and Oxford: Blackwell Publishers, 152–165.
Winkler, Adam. 2007. Scrutinizing the Second Amendment. *Michigan Law Review*, Vol. 105, No. 4, 683–733.
Winkler, Adam. 2009. Heller's *Catch 22*. *UCLA Law Review*, Vol. 56, 1550–1577.
Winter, Simon. 1998. *Expectations and Linguistic Meaning*. Lund University Cognitive Studies 71. Lund: Novapress.
Wodak, Ruth, Rudolf de Cillia, Martin Reisigl and Karin Liebhart. 2009. *The Discursive*

Construction of National Identity. 2nd Edition. Edinburgh: Edinburgh University Press.
Wodak, Ruth. 2006. Mediation Between Discourse and Society: Assessing Cognitive Approaches to CDA. *Discourse Studies* Vol. 8(1), 179–190.
Woll, Peter. 1990. *American Government. Readings and Cases*. 10th Edition. New York: Harper Collins.
Wood, Gordon S. 2009. *Empire of Liberty. A History of the Early Republic, 1789–1815*. Oxford: Oxford University Press.
Yalof, David Alistair. 2001. *Pursuit of Justices. Presidential Politics and the Selection of Supreme Court Nominees*. Chicago and London: The University of Chicago Press.

SUMMARY IN ESTONIAN

Positsioneerimine ja ruum meediadiskursuses: kriitiline diskursusanalüüs Ühendriikide põhiseaduse teise paranduse kohtuasjade kajastusest ajalehes The New York Times

Käesolev doktoritöö uurib ruumi ja positsioneerimist Ühendriikide meediadiskursuses, keskendudes sealse Ülemkohtu kohtuasjadele ning nende kajastusele ajalehes The New York Times. Lähemalt uuritakse kohtuasju, mis arutlevad 18. sajandist pärit Ühendriikide põhiseaduse teise paranduse üle. Teine põhiseadusparandus (TP) sõnastab ühes lauses Ühendriikides kehtivad relvaõigused, kuid teeb seda sellises sõnastuses, et enam kui kahe sajandi jooksul pole selle täpset tähendust suudetud selgeks vaielda. Doktoritöö eesmärgiks on kaardistada ühiskondliku konteksti ja traditsioonide mõju neile vaidlustele ja seda kolme Ülemkohtu pretsedendi meediakajastuse läbi: *United States v. Miller* (1939), *District of Columbia v. Heller* (2008) ja *McDonald v. Chicago* (2010).

1780ndate aastate lõpus tekkinud vajadus relvaõigusi puudutava põhiseadusparanduse järele põhines hirmul, et Ühendriikide põhiseadusega luuakse keskvalitsus, mis hakkab osariikide õiguseid liialt piirama. Endised Suurbritannia kolooniad soovisid säilitada teatava sõltumatuse keskvalitsusest ja seda aitas tagada õigus enda vabadust sõjalise jõuga kaitsta. Omakaitseõiguse sõnastamine aga oli algusest peale problemaatiline, sest 18. sajandil reguleerisid osariigid relvaõigusi väga erinevalt. Pärast keerukaid läbirääkimisi ratifitseeriti TP 1791. aastal, kuid selgust relvaõigustes sellega ei kaasnenud, sest sellest ajast peale on selle teksti väga erinevalt tõlgendatud. Järgnenud debattides on põrkunud arusaamad osariikide ja keskvalitsuse vabadustest ning indiviidi ja valitsuse vabadustest. Erinevad osapooled on oma vaatenurkadele toetust leidnud TP tekstist: relvaõiguste pooldajad keskenduvad teksti teisele poolele, mis väidab, et inimeste õigust relva omada ja kanda ei tohi piirata, samas kui relvaseaduste pooldajad loevad sama oluliseks esimest poolt, mis nende sõnul lubab relvi omada ja kanda vaid omakaitses osalemisega seoses.

Vaidlused, mis puudutavad põhiseadust, jõuavad teatud tingimustel Ühendriikide Ülemkohtu ette, kelle ülesandeks on kaitsta põhiseaduslikke õigusi. TP-d pole ülemkohtunikud just sageli otsustaval moel käsitlenud. Enne 21. sajandi algust pärines ainus otseselt seda puudutav otsus 1939. aastast. *United States v. Miller* kujunes prominentseks pretsedendiks ja on nüüdseks TP ajaloolise narratiivi oluline osa. 1938. aastal arreteeriti Jack Layton ja Frank Miller, kes ületasid ebaseadusliku relvaga osariigi piiri. Kohtuasi jõudis Ülemkohtuni, mis otsustas üksmeelselt, et kohtualustel pole õigust omada relva, mis ei kuulu relvajõudude arsenali. Tehtud otsust, mis puudutas vaid seda juhtumit, on hiljem laiemalt tõlgendatud ja nii on sellest saanud mõjuv argument mõlema osapoole jaoks: relvaõiguste pooldajad väidavad, et muud tüüpi relvad on lubatud; relvaseaduste pooldajad väidavad, et relvi tohib omada vaid seoses teenistusega omakaitses või muus relvajõus. Järgmised 70 aastat ei arutanud

Ülemkohus TP-d. Viimaste aastakümnete jooksul aga toimus muutus TP tõlgendamises ja see tekitas vajaduse Ülemkohtu selge arvamuse järele.

Eelmise kümnendi alguses algatas CATO Institute (muuhulgas ka relvaõigusi pooldav libertaarne huvigrupp) kohtuasja Washington, DC-s. Seal 1976. aastast kehtiv relvaseadus keelustas sisuliselt relvade ostmise ja omamise eraisikutele ning tegi uute relvade registreerimise pea võimatuks. Kohtuasja algatajad väitsid, et seadus riivas elanike põhiseaduslikku õigust relvadele ja enesekaitsele. Antud seisukohtade erinevus viis küsimuse viimaks Ülemkohtu ette, mis 2008. aastal otsustas, et TP kaitseb eraisiku õigust relvadele. Relvaõiguste pooldajatele oli see oluline võit, kuid relvaseaduste pooldajad pidasid seda ohtlikuks muutuseks senistes traditsioonides. Siiski ei lahendanud kohtuotsus vaidlusi lõplikult. Ülemkohtunikud otsustasid küll, et TP kaitseb indiviidi õigust relvadele, kuid rõhutasid samas, et see ei muuda osariikide ja kohalike omavalitsuste relvapiiranguid kehtetuks. Vastupidi, kohtu enamusarvamus loetles mitmeid tingimusi, mille puhul relvaõigusi saab tugevalt piirata. See nimekiri polnud aga ammendav ja andis nii alust edasisteks kohtuasjadeks. Lisaks sellele vajas lahendamist ka indiviidi relvaõiguse kehtivuse ala. Nimelt pole Washington, DC näol tegu osariigiga, mistõttu ei laienenud otsus automaatselt osariikidele. See küsimus lahendati kaks aastat hiljem, mil Ülemkohtu ette jõudis *McDonald v. Chicago*. See sai alguse Chicagos, mille relvaseadus oli pea sama range kui endine Washington, DC oma. Kohtuasi põhines väitel, et eraisiku relvaõigus tuleks laiendada tervele riigile ja seda ülemkohtunikud ka 2010. aasta suvel tegid.

Käesolev doktoritöö uurib antud kohtuasjade kajastust ajalehes The New York Times. Analüüsi aluseks olev korpus hõlmab 27 artiklit ajalehe veebilehelt (kogutud 2007. aasta aprilli ja 2010. aasta augusti vahel). Lisaks pärineb üks *Milleri* kohtuasja kajastav artikkel 1939. aastast. Korpusest on välja jäetud arvamuslood ja juhtkirjad ning sellesse kuuluvad vaid uudisartiklid, sest doktoritöö analüüsib nimelt tekste, mille eesmärgiks on erinevate vaatenurkade ja arvamuste võimalikult objektiivne esitamine. Analüüs käsitleb eraldi erinevaid kohtuasju puudutavaid artikleid, mis jagunevad *Milleri*, *Helleri* ja *McDonaldi* korpusteks. *Milleri* korpuses on 1939. aastal avaldatud artikkel; *Helleri* korpuses on 21 artiklit ja *McDonaldi* omas 6 artiklit. Korpuste suurused on väga erinevad ja ka see osutab, kui suurt tähelepanu meedia ja avalikkus relvaõiguste küsimusele erinevatel aegadel pöörab.

Analüüsi keskmes on ruum, ruumilised suhted ja konteksti mõju diskursusruumide konstrueerimisele. Toimijate ühine arusaam ühiskonnast peegeldub ühiskonnas loodavates narratiivides (Blommaert 2005: 221), mis konstrueerivad diskursusruume. Need ruumid kujutavad tegelikkust valikuliselt ja neis paigutavad toimijad nii end kui teisi teatud veendumustest ja tavadest lähtuvalt. Nii kannavad ruum ja elementide paigutamine selles väärtushinnanguid ja peegeldavad võimusuhteid. Doktoritöös rakendatakse põhiliselt Fairclough (1989), Chiltoni (2004) ja Blommaerti (2005) teooriaid ja analüüsivahendeid. Blommaerti (2005) järgides algab analüüs diskursuse loomist mõjutavate tegurite kaardistamisega. Selleks rakendatakse makroanalüüsis Blommaertilt laenatud

teksti ja konteksti, keele ja ebavõrduse, valiku ja (ette)määratuse ning ajaloo ja protsessi mõisteid. Lisaks uurib makroanalüüs rekontekstualiseerimist ja entekstualiseerimist ehk tekstide liikumist ühest kontekstist teise. Rekontekstualiseerimisahelad toimivad filtritena, mis liigutavad tähendusi ja diskursusi ühest kontekstist teise, mõjutades nii olemasolevate diskursuste tõlgendamist ja uute diskursuste loomist (van Leeuwen 2008, Fairclough 2005, 2006). Mikroanalüüs kaardistab Fairclough (1989) vahendite abil toimijad ja protsessid, mida uudisartiklite diskursusruumi paigutatakse. Fairclough (1989) protsesside kategoriseerimise süsteem põhineb osaliselt Halliday (1994) süsteemfunktsionaalsel grammatikal, mis on kriitilise diskursusanalüüsi oluline alus (Fairclough 2003). Kriitilise diskursusanalüüsi eesmärgiks on uurida võimusuhete olemust ja toimimist ühiskonnas ning nende suhete kujutamist ja kinnitamist diskursuses. Nii on analüüsis olulisel kohal ideoloogia ja võimu mõisted ning tähelepanu pööratakse sellele, kuidas toimijad kehtestavad end kui autoriteete (van Leeuwen 2007) ja pääsevad nii võtmetähtsusega diskursusruumidesse. Doktoritöö uurib neid protsesse Chiltoni (2004) koordinaatsüsteemi abil. Chiltoni süsteemi ruumi, modaalsuse ja aja telgedele kaardistuvad Fairclough (1989) abil tuvastatud toimijad ja protsessid. Kolm telge ristuvad deiktilises keskmes, mis osutab toimijate erinevatele vaatenurkadele ning aitab leida meediakajastuses ja ühiskonnas domineerivad vaated ja ideoloogiad.

Diskursusruumide analüüs otsib vastuseid järgnevatele küsimustele. Makrotasandil uuritakse: (a) kuidas TP tekst ja ajalugu on kujundanud relvadebatte; (b) kuidas erinevate gruppide ideoloogiad, väärtused ja vaated on debatti kujundanud; (c) kuidas võimuhierarhiad ja ligipääs diskursusruumidele on viinud TP tähenduse muutuseni ja (d) kuidas teksti ja konteksti, keele ja ebavõrdsuse, valiku ja (ette)määratuse ning ajaloo ja protsessi piirangud on kujundanud uuritavat meediakajastust. Mikrotasandil uuritakse makrotasandi tegurite mõju diskursusloomele, keskendudes uudisartiklite diskursusruumidele. Täpsemalt uuritakse: (a) millised toimijad pääsevad diskursusruumi ja millistes protsessides nad osalevad; (b) milliseid deontilisi ja episteemilisi suhteid modaaltelg toimijate vahel kaardistab; (c) milliseid ruumilisi suhteid toimijate vahel kaardistatakse ja (d) milliseid ajalisi suhteid toimijate vahel kaardistatakse. Nende küsimuste toel vastatakse kesksele küsimusele: kelle vaatenurgad (ehk deiktilised keskmed) domineerivad meedikajastuses ja debatis laiemalt ning milliste tegurite mõjul diskursusruumid ja perspektiivid neis ajas muutuvad.

Kolme kohtuasja kontekst koos TP, Ülemkohtu ja eelnevate pretsedentide ajalooga kujundavad tänaseid relvaõiguste debatte ning nende kajastust. Blommaerti (2005) diskursuspiirangud osutavad näiteks osalevate toimijate ja sobivaks peetavate uudisallikate ettemääratusele. Nii kajastatakse Ülemkohtu vähemus- ja enamusarvamusi, õigusteadlaste arvamusi ja nende tekste, huvirühmade esindajaid, poliitikuid jne. Allikad paigutatakse valikuliselt artiklite metadiskursusesse ja see on lähedalt seotud keele ja ebavõrdsuse piiranguga: artiklid kaasavad autoriteetseid hääli, kelle võimuses on protsesse mõjutada ja ülejäänud toimijatele ja ühiskonnale dominantseid narratiive kehtestada. Meediatekstide puhul sisenevad hääled diskursusesse muuhulgas läbi rekonteks-

tualiseerimise ja entekstualiseerimise: näiteks *Helleri* korpuses paigutatakse TP sageli konteksti, mis rõhutab selle vastuolulist sõnastust, *Milleri* korpuses on see aga otseses seoses omakaitsega. See erinevus peegeldab 21. sajandi alguse konteksti, kus relvaõiguste debatt on märksa ideoloogilisem ning kus TP tõlgendamise õiguse nimel käib tihe konkurents. 2010. aastaks sai küsimus juriidilises mõttes lahendatud ning eraisiku relvaõigused kuulusid põhiseadusliku kaitse alla Ühendriikides tervikuna. Kuid muudatus TP tõlgendamises ei muuda tähtsusetuks eriarvamusele jäävaid toimijaid, kes on olulised kohtuotsuse kommenteerimisel ja võivad rollida mängida tulevikus, kui peaks tekkima vajadus *Helleri* otsust ümber kaaluda.

Tekstitaseme ehk mikroanalüüsi esimene aspekt puudutab diskursusruumis toimijaid, kes on eri kohtuasjade kajastustes väga erinevad. 1939. aasta artikkel kaasab kohtuasjaga otseselt seotud osapooli ja nende esindajaid, tollast valitsust ja Ülemkohut. Viimane pole neutraalne osapool, vaid toetab valitsuse püüet piirata relvade ebaseaduslikku ja kuritegelikku kasutamist. 2008. aasta kohtuasja kajastus kaardistab oluliselt laiema toimijate ringi. Lisaks Ülemkohtu jagunemisele enamuseks ja vähemuseks ning suurema arvu üksikute ülemkohtunike kajastamisele on kaasatud ka õigusteadlased, huvigrupid, ametnikud ja seadusloojad, alamate astmete kohtud ja teised toimijad. Eraldi toimijaks on 1939. aasta artikli keskmes olnud *Milleri* kohtuasi. *McDonaldi* kohtuasja puhul on paljud toimijate rühmad samad kui 2008. aastal. Oluliseks erinevuseks on TP ja õigusteadlaste väiksem roll. TP on suures osas asendatud 14. põhiseadusparandusega, mille toel 2008. aasta otsus osariikidele laiendatakse. Varasemate pretsedentide seas on *Heller* asendanud *Milleri*. Toimijate kaardistamises on läbivaks tendents omistada indiviididele kommentaatorite roll ja jätta rühmadele võim protsesse mõjutada.

Modaalteljel on kõige selgemalt polariseeritud 1939. aasta artikkel: Milleri ja Laytoni kaasuse modaalses keskmes on veendumus, et TP kaitseb nende õigust teatud relva omada, kuid Ülemkohtu autoriteetsem hääl peab õigeks hoopis omakaitse relvastamise õigust. *Helleri* ja *McDonaldi* puhul on vastandlikke vaatenurki enam, kusjuures mõjuvaimad neist pärinevad Ülemkohtu enda seest, sest erinevalt 1939. aasta otsusest pole need otsused üksmeelsed (mõlemad jagunevad enamuseks ja vähemuseks, milles on vastavalt 5 ja 4 ülemkohtunikku). Ülemkohtu kui neutraalse osapoole positsioon muutub kajastuse käigus, kui kohtunikud jagunevad kaheks leeriks. Samas ei seostata 2008. aastal Ülemkohtu otsust otseselt ühegi teise toimijategrupiga, nagu juhtus 1939. aastal. Ülemkohtu otsuse ja kohtunike jagunemine polariseerib omakorda teisi toimijaid. Siinkohal on oluline märkida, et isegi toimijad, kes kohtuotsusega ei nõustu, ei väida, et Ülemkohtul pole õigust seda otsust teha. *McDonaldi* kohtuasja puhul muutub Ülemkohtu kaardistamine taas. Kohtunikud ei jagune enam vaid enamus- ja vähemuspoolteks, vaid lisandub jagunemine enamusarvamuse sees. See tekitab modaalteljele skaala, millel on „õige“ otsus, „peaaegu õige“ otsus ja „vale otsus“. Üldine jagunemine kaheks toimub 2010. aastal varem kui *Helleri* puhul, sest paljude osaliste meelest oli otsus ette teada (vastupidine otsus tähendanuks, et *Heller* oli mingis mõttes väär). Läbi kõigi alakorpuste liiguvad

artiklid modaalteljel erinevate deiktiliste keskmete vahel. Enamasti ei konstrueerita sealuures selgeid vaatenurki mingi osapoole kasuks, kuid teatud määral annab meediadiskursus siiski toimuvale hinnangu.

Ruumilisel teljel kujutavad meediatekstid sotsiaalseid hierarhiaid ja seda eriti *Milleri* puhul, kus enamik toimijaid kõnelevad väga selgetelt positsioonidelt institutsioonide sees. Näiteks on Ülemkohtul õigus teistele toimijatele ettekirjutusi teha, kuid ta allub ise TP-le: ülemkohtunikud võivad seda tõlgendada, kuid mitte muuta. Poliitilises mõttes kaardistatakse Ülemkohus ja valitsus lähestikku, kuigi kohus on hierarhias kõrgemal, sest selle võimuses on valitsusele lisaõiguseid anda. 1939. aasta artiklis on oluline roll ka TP-l, mis määratleb põhiseaduslike ja põhiseadusvastaste alade piirid. *Helleri* kajastus toob lugejani märksa mitmekülgsema representatsiooni ühiskondlikest hierarhiatest. 2008. aasta kohtuasja kajastamisele on pühendatud 21 artiklit, mis katavad ajaliselt pikema perioodi. Kesksed ruumilised motiivid puudutavad siin piiride seadmist ning elementide liikumist, näiteks liigub Ülemkohus otsustavalt teatud suundades ning võib teistele elementidele uusi alasid avada või takistusi seada. Osa liikumist kaardistatakse sõja metafoori abil, aga ka võistluse metafoorile toetudes, mis mõlemad eeldavad võitjaid ja kaotajaid. Lisaks toetub poliitikute kujutamine metafooridele, mille aluseks on õige tee leidmine. Metafoorid osutavad elementide ümberpaigutamisele, mis on tegelikult kogu *Helleri* kajastuse keskmes. Ka *McDonaldi* puhul on Ülemkohus autoriteetsel positsioonil (ülemkohtunike võimuses on TP tõlgendamine ja teistele institutsioonidele ettekirjutuse tegemine, kusjuures viimased on samuti TP mõjualas). Ülemkohut kujutatakse endiselt kui teejuhti, kuid diskursusruumis on mitmeid teisi toimijaid, kes omakorda kohtu liikumissuunda muuta püüavad. *Helleri* kohtuasi on 2010. aasta kajastuses määrav pretsedent, mille võimuses on keskvalitsuse tegevusvabadust piirata. Kohati on *Heller* isegi prominentsem kui *McDonald* ise, mida nähakse selle lisana.

Milleri artikkel esitab lihtsustatud versiooni sündmuste ajalistest suhetest ja marginaliseerib nende vahele jäänud perioode, tuues lugejani ladusa narratiivi kohtuasjast. *Helleri* ja *McDonaldi* puhul on tegu keerukamate ajasuhetega, millest kõige komplekssemad on seotud Ülemkohtu ja ülemkohtunikega. Neid kaardistatakse kajastuse algusest lõpuni, samas kui paljud teised toimijad osalevad protsessides perioodiliti. Ülemkohtu kaardistused puudutavad nii kohtu minevikku, vaikusperioodi *Milleri* ja *Helleri* vahel, *Helleri* kohtuasja kui ka selle tulevikku. Põhiseaduse teine parandus ise ja *Miller* paigutuvad sageli minevikku, kuid TP toimib ka olevikus. Poliitikud ja õigusteadlased vaatavad eelkõige käimasoleva debati tulevikku. Enamasti toimivad kaardistused kahel tasemel: ajaloolisel ja vahetul ajalisel tasemel. *McDonaldi* kohtuasja seotakse tugevalt 2008. aasta otsusega (see on *Helleri* suhtes „uus“ kohtuasi). Erinevalt *Helleri* korpusest on Ülemkohtu ajalugu ja ülemkohtunike taustad 2010. aastal vähem olulised. Enamasti kaardistatakse vahetut ajalist raamistikku, mitte ajaloolist perspektiivi, mis osaliselt tuleneb ka kajastuse lühidusest.

Doktoritöö keskendub vaatenurkadele, mis domineerivad TP debattides ja nende meediakajastustes erinevatel ajahetkedel. On mitmeid põhjuseid, miks

need kohtuasjad teatud hetkedel avalikkuse tähelepanu alla on sattunud: Ülemkohus on traditsiooniline uudiste allikas, ülemkohtunikele omistatakse märkimisväärset võimu, küsimuse all olev TP puudutab äärmiselt ideoloogilist relvadebatti. Analüüs keskendub ajalehe The New York Timesi vaatenurgale, sest meediatekstid moodustavad olulise osa kujunevast ühisest narratiivist. Iga kohtuasja korpus kajastab oma aja ühiskondlikku konteksti, kusjuures kajastust vormivad arvukad tekstivälised faktorid, muuhulgas eelnevad ja kaasaegsed tekstid ja diskursused, hirmud/ootused tuleviku osas ja vajadus TP tähendust ja rakendamist kaasajastada. TP teksti juurde tagasi pöördumine on vältimatu, sest see vajab tõlgendamist uutes kontekstides ja uutest deiktilistest keskmetest lähtuvalt.

Milleri kohtuasjaga seoses ei arutleta meedias TP filosoofilise, juriidilise ega ajaloolise tausta üle. *Helleri* kajastus on põhjalikum ja tegeleb laiema filosoofilise aruteluga, mis osutab faktile, et 21. sajandi alguses on turvalisus Ühendriikide ühiskonnas keskne teema. See toob kaasa suurema toimijate ringi ja mitmed kohati lausa vastupidised vaatenurgad. *Heller* markeerib kardinaalset muutust TP lugemises: pikalt kehtinud osariikide õiguse tõlgendus asendatakse eraisiku õigusega, mida varem toetasid vaid mõned alama astme kohtud, õigusteadlased ja huvirgrupid. Selle tegi võimalikuks sobiva kohtuasja algatamine ja jõudmine konservatiivse enamusega Ülemkohtusse kontekstis, kus tõlgenduse muutumist soosis ka keskvalitsus. *Helleri* otsuse vastuolud tekitasid olukorra, kus 2010. aastal relvadebatt taas Ülemkohtu ette jõudis. Järgnenud otsus laiendas TP individuaalse tõlgenduse kogu riigile ja selles seadsid ülemkohtunikud taas kesksele kohale indiviidi õiguse end kaitsta ja marginaliseerisid muret relvakuritegude üle. 2008. ja 2010. aasta otsused kehtestasid ühe tõlgenduse kui teisest õigema, kuid siiski pole vaidlused lõppenud. Doktoritöö näitab, kuidas keskseks muutunud indiviidi õigusi kaitsev tõlgendus on saavutatud läbi ideoloogiliste vaidluste mitte ainult Ülemkohtus, vaid terves ühiskonnas. Ajalehe The New York Times artiklid kaardistavad relvaõiguste debati arengut 1939. aasta *Milleri* otsusest 21. sajandi alguse otsusteni. Kajastuses asendub 1939. aasta artikli selgus arvamuste rohkusega ja seda nii TP tähenduse, erinevate juriidiliste lahenduste, võimalike tulevikustsenaariumite kui *Milleri* enda osas. Kokkuvõttes illustreerib meediakajastus seda, kui ideoloogiline on põhiseaduse teise paranduse arutelu Ühendriikides. Ühtlasi saab selgeks, et arutelude tulemustel on vähem tegemist põhiseaduse paranduse endaga kui sellega, kellel on õigus ja võimalus seda enda väärtuste seisukohast tõlgendada ning seda tõlgendust teistele toimijatele ja ühiskonnale dikteerida.

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Põiklik, Pille. 2011. The Unalienable Right to Keep and Bear Arms? Interpreting the Second Amendment to the United States Constitution in the Light of American Ideals. *Estonian Journal of English Studies*, Vol. 2, No. 1, 110–124.

Põiklik, Pille. 2010. Social Dimensions in Discourse Analysis: The Case of Constitutional Debates in the United States. Proceedings of the Second Summer School of Sociolinguistics. The University of Edinburgh, 14–20 June, 2010. Available at http://www.lel.ed.ac.uk/sssocio/proceedings/Pille.pdf.

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