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American Political Violence (The *Government and Opposition*/Leonard Schapiro Lecture 2023)

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Abstract

Amongst the ways in which American democracy is distinct, the Weberian anomaly stands out: the United States equates to a classical Weberian state with the routine trappings of bureaucratic power, national organization, stable territorial parameters, a legal code and military power. But it is at best a quasi-Weberian state in respect of state monopolization of legitimate violence. The scope of the Second Amendment means the federal government has control in many instances over the use of physical force but historically this authority coexists with the (explicit or implicit) delegation of political violence to societal actors. In this article I argue that the legitimization of political violence outside the state is endogenous to the American constitutional settlement, a feature which arises from the country's origins and the institutional arrangements adopted in key constitutional clauses and judicial decisions.

Keywords: United States; political violence; legitimacy; Weber

Our President will need us. ALL OF US ...!! On January 6th. We the People owe him that debt. He Sacrificed for us and we must pay that debt. (Guy Wesley Reffitt on a private group chat of the Texas Three Percenters, 20 December 2020, quoted in Feuer et al. [2022](#))

Now, if I don't get elected [with tariffs], it's going to be a bloodbath ... for the country. (President Elect Donald Trump,¹ 16 March 2024, Ohio, quoted in *Washington Post*)

Amongst the ways in which American democracy is distinct, the Weberian anomaly stands out: the United States equates to a classical Weberian state with the conventional trappings of bureaucratic power, national organization, stable territorial parameters, a legal code and military power. But it is at best a

quasi-Weberian state in respect of the state monopolization of *legitimate* violence (Francis 2014; Gerstle 2015; Johnson 2007; King and Lieberman 2009).

Violence is not ring-fenced out of American society but accommodated and (mostly) controlled within it. The scope of the Second Amendment (Carlson 2015; Corley 2020; Cornell 2006; Filindra 2023) means the federal government has control in many instances over the use of physical force – notably in the deployment of national guards domestically under the Insurrection Act and in foreign affairs – but historically this authority coexists with the (explicit or implicit) delegation of political violence to societal actors. Who these actors are varies over time but includes the enslavers and their cronies, white supremacists and militias, private police or detective forces and local police forces (Carlson 2019; Holman 2024; Obert 2022). This legitimization of political violence outside the state is a function of the American constitutional order (not a corruption of it), emanating from the country's origins and the institutional arrangements adopted in select constitutional clauses and subsequent court decisions about them. European states do not regard the use of force by non-state actors as legitimate, and neither do other settler states such as Canada, Australia or New Zealand (although they tended to do so with respect to the treatment of Indigenous persons during the period of violent settlement). The resultant constitutional toleration of political violence by non-state actors violates the expectation of a *monopoly* over the legitimate use of physical force commonly deemed requisite to the democratic state.

My account of this Weberian anomaly challenges standard views of political violence in the United States. There is a strong pro status quo leaning in much scholarship to view political violence as a routinized expression of a political system with built-in obstacles to change – such as the arduous process of enacting laws, the skewed representational basis of the Senate, the life tenure of Supreme Court justices, and corrosive effect of money-fuelled primaries in candidate selection. This view of conflict significantly underplays, for example, the racialized character of this 'routinized' conflict and lacks explanatory traction in the face of the rise in political violence in the 21st century (Jones and Miller 2024). Common to all these scholars' work is the view of political violence as exogenous to the political system (even if endogenously prompted) and as an anomaly rather than as a constitutive element, accommodated institutionally and politically.

Of course, people complain that such behaviour falls beyond the bounds of decency, but the courts do not always agree. When 17-year-old Kyle Rittenhouse drove across state lines to Kenosha, Wisconsin with a loaded assault rifle to 'protect' local businesses from protesters involved in the Black Lives Matter (BLM) movement in 2020, the courts found that he was within his rights not only to join the counter-protest armed with a lethal weapon, but also to slay two BLM protesters who tried to disarm him. To justify the shooting, he relied on the generous Wisconsin self-defence law eviscerating the 'duty of retreat' doctrine (Lustbader 2021; Weinstein 2021).

In Part 1, I argue that the legitimization of political violence outside the state is endogenous to the American constitutional settlement. This feature arises from the country's origins in the 1770s and the institutional arrangements adopted in key constitutional clauses and judicial decisions (Ware 2011). Endogeneity fundamentally constrains how the American polity manages political violence. Violence in society is policed but endemic and accepted. Comprehensive fieldwork-based

studies of urban disorders, notably the Chicago Commission on Race Relations Report (1922) set up by Illinois Governor Frank Lowden after the ‘race riot’ of July–August 1919 left 38 people dead and the Kerner Commission (1968) set up after the widespread city strife in America during the 1960s are vital primary sources about how to define political violence.

In Part 2, I analyse the place of political violence in the non-Weberian American state by periodizing the polity’s development across four eras, differentiated by how (a) extra-state violence was legitimated in particular ways to serve identifiable interests, and (b) how some initiatives to limit extra-state violence succeeded in widening the state’s control over the use of physical force. Our era of heightened partisan polarization corresponds with a resurgence and spread of positive attitudes towards violence in democracy (Carter Jackson 2022; Jardina and Mickey 2022; Kalmoe and Mason 2022; Kleinfeld 2021, 2023; Nacos et al. 2024). The strength of the nation’s gun culture, historically fanned by pro-gun rights advocacy groups, has contributed to this resurgence (Elinson 2021; Elinson and McWhirter 2024; Filindra 2023; Lacombe 2021; McIntire and Kantor 2024; Pew Research Center 2017; Yamane 2023).

In Part 3, I analyse some of the main mechanisms through which American democracy has accommodated political violence as an endogenous characteristic and their consequences including the use of violence for reform and the legitimating role of presidential pardons.

Part 1. Weber’s limited state: Violence with social order

Violence

Two key types of political violence stand out in the US case (Graham and Gurr 1969; Kalyvas 2019). First, political violence involving the state either as a target – including armed insurrection, terrorist bombings, secession in 1861, mass protests and rebellions, and incivilities against and targeting of state officials – or by the state targeting groups such as organized labour in the 19th and early 20th centuries and civil rights activists in the 1960s and 1970s. Second, intergroup or intercommunal violence perpetuated to suppress a designated out-group by those who see themselves as the in-group. Both types illustrate the salience of political violence in American political development facilitated by the Constitution but in distinct ways.

Examples of intercommunal violence include the scorched-earth destruction in Tulsa, Oklahoma of the black Greenwood neighbourhood in 1921 by white citizens, when 36 African Americans were murdered and a district wiped out; the multiple unlawful attacks on African American towns in the post-Civil War decades by whites (who were rarely held accountable, and if charged, commonly acquitted) (Keith 2008; Lane 2008); or the attacks by white supremacist councils to prevent racially integrated housing in the 1950s and 1960s (Sugrue 1995). The murder of 14-year-old Emmett Till in 1955 in Mississippi falls into this type too. Civil rights leader Medgar Evers’s murder in Jackson, Mississippi in 1963 by a white supremacist-motivated attack on the Civil Rights Movement. Both the killings of Trayvon Martin (2012) and George Floyd (2020) are incomprehensible outside the racial hierarchy of the US. Floyd’s murder regvanized Movement for Black Lives protesters. Both Martin’s death and the self-defence actions of Rittenhouse fit a tradition of intercommunal violence. Intergroup violence is aided further by a tradition of militia formation

and maintenance, and by federal disengagement in the long 19th century from protecting Black Americans' rights (Cowie 2022; Francis 2014).

Mobilized to subvert a presidential election result, the insurrectionists of 6 January 2021 caused mayhem, deaths and political instability but failed to stop democracy. The plot to kidnap the governor of Michigan also failed. But failure and success are imprecise measures: consider the killing of eight people and wounding of six others, including some Holocaust survivors, at the Pittsburgh Tree of Life Synagogue during the Shabbat morning service in October 2017, infamously becoming the deadliest assault on Jews in American history. Rather, the compelling indicator is the recurrence of political violence in the United States in a much more pronounced way than in other democracies. Thus, other acts of political violence – including the racial murder of ten African Americans in a supermarket in Buffalo, New York in 2022 designed to spark a 'race war'; anti-government gestures such as the murderous Oklahoma City bombing; and even abuse by some members of Congress of their colleagues – offer compelling evidence of an irresistible tendency amongst some Americans to behave violently for political motives (Arceneaux et al. 2020; Belew 2018; Freeman 2018; Hinton 2015; Hinton and Cook 2021; Miller 2015).

Social order

The ubiquity of violence distinguishes American democracy comparatively and challenges a core expectation of democratic order. Social scientists share an assumption that states hold a monopoly on legitimate violence and that achieving this monopoly is necessary to enable a functioning polity. This idea is based on the enduring definition advanced by Max Weber: 'a state is that human community which (successfully) lays claim to the monopoly of the legitimate physical violence within a given territory' (Weber 1994: 310–311).

The centrality of violence to control or more broadly maintain public order is the great Hobbesian challenge of state control. The absence of predictable sources of authority expressed in part in some routinized version of the rule of law makes economic activity precarious and unrewarding. Wresting authority and order from social groups or organized militias has become a core preoccupation in how comparativists analyse the development of modern states, especially as forms of democracy spread despite evidence of democratic backsliding.

In the US the eradication of the 'illegitimate use of violence' (North et al. 2009: 22), deemed necessary to a Weberian monopoly of legitimate force, is incomplete. Violence is a *legitimate* part of American democracy. Constitutional protection permits members of society, as individuals or conditionally organized into militias, to access lethal weapons for political purposes, and the state's constitutional founding laws mean state power over violence has coexisted with violence in society.

The federal government of the United States lacks, and has always lacked, a monopoly over the legitimate use of violence. This absence comes from various reasons, including Second Amendment rights (as they have evolved); a political culture which includes a celebration of lawlessness and anti-government sentiment; and the original status accorded to militias in that Second Amendment, a status driven, in large part, by the presence of enslavement as a form of private property (Bogus 2023; Cornell 2006). This feature means at a minimum, in sociologist Jennifer

Carlson's terms, that we need 'to racialize the Weberian presumption' (2019: 677). Not only did the establishment of the US signal a violence-led skewering to Native American communities (Blackhawk 2023), it also consolidated enslavement as a form of property that a majority of the Delegates to Philadelphia wanted to protect (King and Smith 2005; Van Cleve 2010).

Historically the absence of a monopoly of legitimate violence by the American state created space for non-state actors to 'take matters into their own hands' in ways that range from lynchings and murders to riots to incivilities. This legacy persists, as a number of scholars underline, and in ways that could be argued – and are argued – to be legitimate by gun rights advocates. The last three presidential elections have featured death threats to election workers, members of Congress or ideological opponents (Sullivan 2023). The threats have extended to judges, jury members and prosecutors presiding in cases in which the former Republican Party president Donald Trump appeared as the defendant before his re-election in 2024. The same GOP candidate in 2024 imprecated the dangers of a 'bloodbath' if his candidature failed. There is undoubtedly an ebb and flow to federal enforcement of its putative monopoly on political violence (King 2017), with contests about the scope of that power, but it is not settled in a conventional state-formation sense, given the embrace of what Jonathan Obert (2024) terms 'armed federalism'.

Acts of political violence are not confined historically to the actions of white supremacists, though these loom massively over American political development. Federal government policy towards Native Americans throughout the 19th century was murderous, contradicted the rulings of the Supreme Court and perpetrated tens of thousands of avoidable deaths. The virtual destruction of the Osage Nation depicted in the Martin Scorsese film *Killers of the Flower Moon*, where the perpetrators are largely sanctioned by the police and protected by the courts, is an egregious example. Federal force turned too on the efforts of workers to organize collectively to demand better working conditions and wages. National guards were routinely deployed under the Insurrection Act – which permits presidents to assist civilian authorities in law enforcement – to protect employers' interests and to uphold the constitutional principle that employers' plants, manufacturing and distribution networks were private property in which site-workers had no legal standing other than as hired labour (Taft and Ross 1969).

This political violence *coexists* within a functioning political system. The ambition to protect enslavement as property and property acquired through dispossession (Park 2024) motivated a localist-biased federalism (for example, in the Senate's representational disproportionality); a constitutional guaranteed access to arms; and an explicit role for deputizing local militias (Rao 2008), as an alternative to a national army and potentially as a force deployable against national authority. Combined, the First and Second Amendments protecting free speech and the right to bear arms as part of a local defensive militia (Kirkpatrick 2024) – and instead of a professional standing army – buttress the partial Weberian constitutional settlement.

Contemporary examples of how this constitutional settlement functions abound. For example, the judicial doctrine of self-defence enacted in certain states (which helped acquit Trayvon Martin's killer in Florida in 2012) and the erosion of the 'duty to retreat' and its replacement with the 'stand your ground' doctrine expand property rights. The removal of the requirement of a licence to carry concealed

weapons has spread rapidly across the states. Since 2013, the year in which Illinois made this switch, the right to carry a concealed weapon has been legal in every state. These examples reflect how America's origins imbue these rights, since early colonists fought with and killed Native Nations to seize land and ran a regime based on enslaving millions of African Americans. Early homesteaders were armed to self-defend their property dispossessed from Native Americans. The railway companies sponsoring white immigrants from Europe as homesteaders provided weapons to them for self-defence.

The Second Amendment is thus central to this Weberian anomaly and helped perpetuate America's lasting gun culture. In *United States v. Cruikshank* (1875) the Supreme Court exempted states from regulation under the First and Second Amendments and cemented the distinction between arms held as part of militia rights under the Second Amendment and individuals possessing firearms for self-defence, though states did have the power to regulate gun ownership if they wanted to.

Part 2. Political violence and the American state: A periodization

Political violence has been a constant of the American polity, since its pre-federal origins in the early 17th century, through the foundational constitutional agreements of the 1780s, the Civil War and into the 21st century's insurrectionist turn. As the historian Kellie Carter Jackson ruefully observes, American history is 'benchmarked by violence' (2022: 11).

This analysis is heuristic. Each historical era (Figure 1) is distinguishable in terms of the legal order for access to weapons, scale of intergroup violence, the use or non-use of federal power and the salience of anti-state political violence.

Period 1. Getting started: Localism and militias in charge

Most scholars recognize the 1770s and 1780s as a key stage in the arc of the American state. This first era was shaped and opened in the 16th century with European colonialism, and decisively shaped in 1619 with the arrival of kidnapped Africans, to be enslaved as part of the burgeoning economy of North America. The 13 colonies present by the last quarter of the 18th century were strong separate entities with constitutions and legal rules precariously bound together from the 1770s in opposition to the British Crown's fiscal and military policies towards them. They differed by levels of enslavement, though enslaved people were present in most colonies. The authors of the Declaration of Independence declaimed in the 27th grievance against King George III that 'He has excited *domestic insurrections amongst us*, and has endeavoured to bring on the inhabitants of our frontiers, the *merciless Indian savages*, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.' The reference to 'domestic insurrections' related not only to Shay's Rebellion (1786–1787) in Massachusetts – an anti-state action violently to repel government debt collectors – but also to a fear that enslaved African Americans would revolt.

Hostility to the British imperial monarch resulted not only in the Declaration and achievement of independence from the UK, but also in a localist sentiment opposed to strong national government amongst the colonials (if not all the

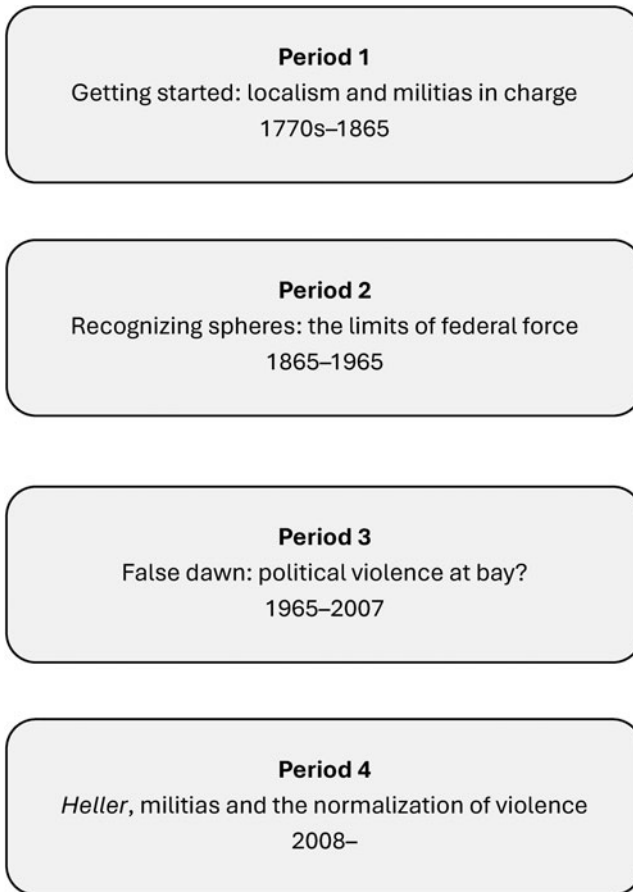


Figure 1. The Four Eras of Political Violence.

Delegates). This anxiety fatally weakened the Articles of Confederation (1781–1789): they created a limp confederal government with limited authority (for instance, the Confederation Congress could only act if 9 of the 13 states agreed) and allocated most power to the states. The government of the Confederation ‘had no executive, no courts, and no way for the Congress directly to collect revenues to pay the nation’s bills’ other than by requesting states’ contributions (Robertson 2015: 23).

Anti-national government sentiment is also a defining element of the Constitution ratified in 1789, enshrined in a powerful notion of the will of the people and a Montesquieu republicanism favouring separated powers. Former colonial leaders’ hostility to federal authority meant inflated powers of the states. Strict limits constrained a US professional army. Community-based white militias gained a leading role in military defence (with any short-term military mobilization under civil control), with Delegates purposefully constraining the state’s possession of Weberian-style legitimate control of the exercise of physical coercion in the

territorial boundaries (Gerstle 2015). Until abolition, some American citizens queried the 'legitimacy of federal compulsion' to join, for example, posses intended to round up escaped slaves (Rao 2008: 6). The posse comitatus doctrine's expectation that white citizens had a duty to join such posses rendered the federal government an agent of enslavement which some Americans rejected, a role reconfigured in former slaveowners' advantage after Reconstruction. In federal actions against striking workers, posse comitatus legitimated employing private armed agencies.

The enslavement system rooted in the political economy of plantations and bond issuing on Wall Street was outside the nominal or formal legal system of the US. That is, enslaved men and women experienced only a violent system of authority maintained by enslavers. Accounts of militias before the American Revolution and in the post-Revolution decades make clear the extent to which plantation owners and enslavers throughout the US and states feared rebellions such as the slave rebellion in New York City in April 1712, Tacky's Rebellion at Fort Haldane in April 1760 and later the Haiti Revolution. In response, all able-bodied white males had to enrol in their local militia. And of course the right to bear arms was something included in state constitutions, and traced to the right to possess arms provision included in the English Declaration of Rights in 1689. This principle was entirely familiar to the Founders as British subjects, steeped in the notion that the British constitution defended liberty. In 1770, there were 470,000 enslaved persons in the US, doubling to 900,000 by 1800, heightening a problem of control and prompting Madison's militias (Bogus 2023). Violence in this enslavement regime and after the Civil War performed communicative and instrumental roles – to keep a forced-labour system going and maintain white privilege.

Local, state and federal jurisdictions impose regulations about both gun possession and gun use, but these regulations are racially calibrated. The sociologist Jennifer Carlson (2019) underlines how race has set limits and opportunities on access to weapons, noting that:

in myriad ways, early gun laws and gun customs helped to first construct and then enforce a color line that equated freedom, citizenship, arms bearing, and whiteness. Thanks to custom, law (including the 1850 Fugitive Slave Act), and firearms access, whites had broad ability and authority to aggressively and violently stop, question, detain, and indefinitely confine those of African descent. (2019: 641)

Carlson places the homesteading movement in this context, as 'white posses' that used legally acquired arms to 'pillage and seize land' for white settlement. The anodyne label 'homesteading' promoted the idea of magnanimously occupying empty land, whitewashing genocide violence and racial hierarchy (Carlson 2019: 641). In practice, the whole basis of homesteading rested on an earlier institutional system – registries – establishing what land was included in the jurisprudence of the US and who owned it. The legal scholar K-Sue Park (2024) demonstrates how the registry system was a vital tool of the expanding colonial powers from the 17th century, giving deeds to white owners of land seized from Native Americans and of enslavement as property. The title registries' systems were soaked in political violence: 'colonialists' property innovations involved introducing ostensible 'race

neutral' institutions like the registry. The registry arose in the context of colonial laws that openly provided for different treatment of racial groups and that sanctioned extreme violence against nonwhites and especially enslaved people' (Park 2024: 1494). The development of property law in the United States (and its preceding colonies) is sown in 'histories of racial violence in America' (Park 2024: 1495). Dispossession in the 18th and 19th centuries led to property expansion through homesteading and strengthening of physical property defence rights. Armed homesteaders relied on the Castle doctrine law which stored the legal presumption of self-defence to homeowners if they harmed intruders. Property ownership and the right to armed self-defence were neatly sutured, and rendered endogenous to the polity as it expanded before and after the Civil War.

The accommodation of enslavement in the Constitution unravelled (exacerbated by the Court's *Dred Scott v. Sandford* decision), sparking abolition, the secession of Confederate southern states and a decisive victory for the Union championed by northern states. The defeat of the South vanquished any notion of the legitimacy of a state to mobilize its militias against the federal government, though a proposal in Congress to disband southern states' militias foundered – slain by reference to the Second Amendment.

A period of military presence in former Confederate states during Reconstruction demonstrated the potential force of federal authority and national power, to promote civil rights against the preferences and actions of states and local communities. Southern Republicans created new militias composed of African American and white citizens, a significant reform quickly targeted by the Ku Klux Klan militias reassembling former confederates (Behrend 2017: 117–178, 211–213).

The American state's legitimacy to use federal force to oppose southern states' insurrection marked a strengthening of the national state's capacity and legitimate exercise of force. The federal government had crushed Native American communities too, with the Bureau of Indian Affairs operative from 1824 to guide this forceful displacement policy, culminating in Wounded Knee in 1890 and the assimilationist 1887 Dawes Act (King 2005). But federal authority was far from universally accepted: vicious anti-draft riots in New York City in July 1863 and the hapless collapse of posse comitatus as an obligation on citizens after 1865 permitted whites to overpower African Americans despite Reconstruction (Rao 2008: 54).

Although southern states have not engaged in overt insurrection or violence since, the Civil War did not, however, end the role of militias, the power of local enforcement agents to enlist civilians into posses as needed (Obert 2018; Rao 2008), or the protections afforded under the First and Second Amendments. Most importantly, the post-enslavement racial order turned on white civilian violence against African Americans, again permitted by the state with complicity from local whites and state law-enforcement authorities. This combination became the essence of the second period.

Period 2. Recognizing spheres: The limits of federal force

The potency of national authority to challenge political violence waned after the Civil War when federal troops returned north, and the enslavement transmogrified into a *de jure* segregationist order enforced (after Plessy) with Jim Crow laws, an

absent federal government and ruthless white violence and intimidation against African Americans. The Supreme Court stubbornly ruled a lack of federal legitimacy to intervene. And in its 1875 ruling, *United States v. Cruikshank*, the justices confirmed a distinction between the Second Amendment right to bear arms as part of a militia and a separate right to carry arms for self-defence. This latter conclusion weakened efforts by pro-Reconstruction Republicans and civil rights reformers to get weapons away from such groups as the Klan, busy terrorizing the formerly enslaved – especially if in militias – but a display of concentrated federal action led by President Ulysses S. Grant quelled the Klan in the 1870s (Bordewich 2023), showing how formal authority could control violence when deployed. The Court did, however, underline individual states' authority to enact laws regulating possession and use of firearms in the interest of public safety (Cornell 2006).

The arrival of a new century left political violence undiminished. Federal force rained down on striking workers and immediately after World War I white supremacists set on Black Americans in dozens of cities in what the National Association for the Advancement of Colored People (NAACP) swiftly daubed the 'Red Summer' of 1919. In rural Elaine, Arkansas, hundreds of whites killed over two hundred African Americans. The disorder and deaths prompted the Illinois governor to form a Chicago Commission on Race Relations (1922) to investigate. The Commission rightly documented the consolidating racial segregation in Chicago's neighbourhoods and accompanying ingrained racism but lamely offered no proposals to weaken local violence.

Segregation and white supremacist violence were universal across the US but not brought under control in southern states. The deliberate weakness of federal government authority was essential to racist lawlessness; such enfeeblement confirmed the legitimacy of violence in society outside federal control. The racial order rested on violence, fear and intimidation, and immunity for white perpetrators (Aaronson 2014) – with some rare exceptions (Francis 2014). By default, federal inactivity in response to widespread societal violence thereby legitimated the constitutional order.

The ubiquity of unchecked political violence was disastrous. Intense lawlessness in the South ensued – race massacres from Colfax to Tulsa to Birmingham church bombs – with no accountability. Anti-lynching legislation faltered. Halting resolution came only with deployment of national guards in the 1950s and 1960s to suppress racist-based violence (King 2017; King and Lieberman 2021). Such deployment by Democrat presidents Kennedy and Johnson was resisted and challenged as illegitimate by southern leaders, a position epitomized in Alabama Governor George C. Wallace's inauguration declaration on 14 January 1963, 'segregation now, segregation tomorrow, segregation forever' (Cowie 2022: 2). In the long term, federal activism ended the Democrat Party's control of the South and allowed the Republican Party to begin its march to dominance there.

Workers organizing strikes in the 19th century and opening decades of the 20th century encountered aggressive responses from employers, supplemented by private police forces (Obert 2018). Employers could also call upon the federal government, as successive presidents – citing the Insurrection Act – mobilized national guards to break strikes in a role upheld by the courts. The unequal balance shifted under President Franklin D. Roosevelt's New Deal. For labour, the passage of the Wagner (National Labor Relations) Act in 1935 transformed industrial relations

from its peak of violence to legitimate strikes and a displacement of violence to inter-union conflicts. Wagner empowered employees in the private sector to organize into trades unions, engage in collective bargaining and take collective action (strikes) to advance their cause. The legitimacy of national troops deployed under the Insurrection Act against workers faded.

Before Roosevelt and the New Deal, not only was the limited role of the federal government as enforcer of civil rights locally confirmed – the last state to ratify a Jim Crow Constitution (Mississippi) did so in 1910, deepening the post-Reconstruction racial order – but the institutionalization of racism across the federal government animated the Woodrow Wilson administration elected in 1913 (King 2007). This Wilsonian imperative formalized racial segregation between federal workers and hierarchically in all government departments, setting the stage for mortgage redlining and structural racism. The 1877 Dawes Act ended Native American autonomy. In 1919 the ‘Red Summer’ showed the federal government’s capacity to assert national authority when a wave of anarchy and communist-inspired violence and protests – a Red Scare – was quashed by the Palmer Raids and the 1917 Espionage Act.

Period 3. False dawn: Political violence at bay?

The passage of civil and voting rights legislation and the diffusion of desegregation and broader rights of citizenship marked major changes in American political development. But concurrently the deep urban unrest of the 1960s signalled persistent discrimination by police forces as a source of political violence (a dynamic intensifying in the 21st century, including in Minneapolis in May 2020 when George Floyd was murdered). Urban disorder in the early 1960s prompted first the Great Society and subsequently the Kerner Commission (1968) and its recommendations to increase federal spending on cities, initiate police reforms and enforce anti-segregation laws. The assassination, in 1968, of Dr Martin Luther King Jr – one of numerous assassinations in this decade – provoked protests and underscored the depth of inequality. This came against a backdrop of political violence from right and left, including the Democrats’ Convention of so-called hardhats in Chicago in 1968, George Wallace’s 1968 presidential campaign and the assassination attempt on Wallace in 1970. The national guard deployed in Detroit, Newark, Washington, DC and Watts, in each case resulting in deaths of African American protesters. Overall, the 1960s was a decade of exceptional political violence in the United States, probably the country’s most violent decade since the 1870s when Reconstruction collapsed in a hail of violence orchestrated by white supremacists. The chief of police in Los Angeles proposed a paramilitary response to protesters, the Weathermen set off bombs, the Black Panther Party movement was active and a rigorous counter-intelligence federal response emerged (CONTREL). Chicago hosted the hardhats convention in 1968 and the trial of the Chicago Eight in 1969, and in December 1969 the prominent Black Panther Party leader Fred Hampton was killed in his apartment by a tactical unit of the Cook County State Attorney’s Office with assistance from the Chicago Police Department and the FBI under the illegal COINTELPRO programme. Over 100 gunshots hit the apartment, killing a drugged Hampton and another Panther

member. An investigation by the Cook County coroner ruled the two deaths as justifiable homicides (though in the 1980s a civil lawsuit by Hampton's survivors successfully sued the federal government, Cook County and the City of Chicago, each of whom had to pay out a third of the settlement for what was in effect a state assassination).

Extreme political violence at the workplace ceased by the last quarter of the 20th century, and the regularity of white supremacist violence towards African Americans declined. Laws against prejudice and discrimination had some muscle in employment contracts and public life. The explicit use of racist tropes in election campaigns declined but the unsubtle implicit use – Reagan's welfare queens in 1980 and the Willie Horton ad used by George H.W. Bush in 1988 – was not far beneath the surface. Indeed retrospectively, an angry white ethnic identity was seething, ready to align with an invigorated white evangelical nationalism in the new century (Jardina 2019), a dynamic present in whites' vicious opposition to desegregation and busing across the country (Bobo 1983). Gun culture is undiminished. Gun ownership is revered amongst white Americans, Republican and Democrat, more than other groups according to Alexandra Filindra's survey, especially those who equate 'true American identity' with Christianity (Filindra 2023).

The Supreme Court had not yet begun its shift to liberalize gun ownership and gun use laws. Its *Lewis v. United States* decision in 1980 showed the Court upholding a congressional law limiting access to weapons for certain groups.

President George H.W. Bush's invocation of the Insurrection Act to help civilian authorities respond to widespread disorders in Los Angeles in 1992 (leaving 63 dead and over 2,000 injured) after the court acquitted four LA police officers of beating an African American man, Rodney King; and the right-wing terrorist bombing of federal government offices in Oklahoma in 1995 (killing 168 people) became searing reminders of the place of political violence in American political development, however. Because this was the pre-internet and social media era, access to materials with anti-government ideologies and pro-violence advocacy was harder to acquire. The Oklahoma City bomber was tutored into action through a group of right-wing militias and extremists. Twenty-three years later the racist killer who shot dead nine African American church attendees in Charleston, South Carolina learned his trade and ideology from widely available internet sources, long after the 'fairness doctrine' (requiring controversial issues be presented to audiences with differing views) had ended as a constraint on broadcasting content.

Period 4. Heller, militias and the 'normalization of violence'

Our contemporary era is characterized by the jurisprudential liberalization of access to and public use of weapons, the uptick in political violence across the US – including protests about deaths in communities of colour resulting from police or stand-your-ground encounters – deepened and aligned partisan, racial and affective polarization among voters, and weakened federal force after the steady enhancement in states' rights since the 1990s. Localists are emboldened, reviving values and sentiments celebrated in the late 18th century, with some communities seeking secession from larger territorial units to establish racially segregated school

and residential districts (Johnson and King 2019; Rocco 2021; Yancy 2022). Racially motivated massacres – such as the Charleston church and Buffalo supermarket killings in 2016 and 2022 respectively – ensure violence is at the forefront of American society.

The election of Barack Obama as America's first African American president and the Supreme Court's monumental decision in *District of Columbia v. Heller*, both in 2008, set the stage for the contemporary resurgence in gun ownership, political violence and heightened affective polarization. Obama endured an unprecedented number of death threats for a president. First and Second Amendment constitutional rights are hugely significant as they contribute to the barriers thwarting laws to regulate access to guns and their use (Carlson 2023; Filindra 2022; Winkler 2013). Protected in the Second Amendment, the right to bear arms has significantly expanded and deepened. Gun ownership is up, spurred, for example, by the Obama presidency: the election of Obama led many whites to acquire a gun or to augment their collection in anticipation of tighter ownership regulations (Berrigan et al. 2022; Yamane 2023). Lobbying by gunmakers and the National Rifle Association (NRA) helped drive this process (Carlson 2023; Lacombe 2021; McIntire 2022; McWhirter and Elinson 2023). Lobbying also intensified to make gun ownership less about militias and more about individuals. Pro-gun lobbyists, including the NRA, play a key role in depoliticizing mass school and other shootings, defining their perpetrators as dangerous people with guns for whom no regulation would make a difference to their actions. Indeed, for gun owners mass shootings expose the need for more weapons – in the hands of teachers, for example – not fewer. After the kidnapping attempt on Michigan's governor, the governor's chief of staff recoiled at 'the normalization of violence' that it seemed to signal (quoted in Barrett 2022).

The Supreme Court steps in

Since 2008, the opportunities to own and to use firearms has changed under several important Supreme Court rulings. These decisions affirm that the right to gun ownership and to bear arms is an individual right (thereby demolishing long-standing jurisprudence) not one confined to membership of a volunteer militia (*District of Columbia v. Heller* 2008). The right to carry concealed weapons in public places has steadily widened (*New York State Rifle and Pistol Association v. Bruen* 2022). The right to modify a weapon into a more deadly form with a 'bump stock' adjustment has been rendered constitutional (*Garland v. Cargill* 2024). These constitutional rights are hugely significant as they contribute to the barriers thwarting laws to regulate access to guns and their use (Carlson 2023; Cornell 2006; Filindra 2022).

Heller decisively shifted the Court's view of the Second Amendment from a state militia power to an individual right to bear arms unrelated to military service and in the context of personal confrontations (notably in the home), in the majority's decision employing the conservative 'originalism' doctrine and even citing pre-American Revolution English law. If *Heller* affirmed the individual's right to bear arms unconnected to militia service, *Bruen* paved the way for exercising that right in places outside the home by rejecting a discretionary concealed carry licensing law from New York State. This expansion – previously limited in a gun

regulation in 1968 prompted by Black Panthers carrying open arms as allowed then constitutionally – permits organized militias openly to display arms at rallies. One study of 700 armed demonstrations between January 2022 and November 2022 found ‘at about 77 percent of them, people openly carrying guns represented rightwing views, such as opposition to L.G.B.T.Q. rights and abortion access, hostility to racial justice rallies and support for former President Donald J. Trump’s lie of winning the 2020 election’ (McIntire 2022).

The Court’s majority opinion separated any relative assessment of the harm produced by gun ownership (measured in evidence-based gun regulation laws) from a judicial defence of the Second Amendment, urging lower-court justices to seek out historical analogies to justify contemporary gun policy. Right-wing militias such as the Boogaloo Boys and the Proud Boys meet at rallies around the country fully armed up to defend First and Second Amendment rights, and such assemblies are enjoying an uptick. The study cited above finds that armed protests occur across the United States, but in those states (Washington, Virginia, Texas, Pennsylvania, Oregon, North Carolina, Michigan, Kentucky, Georgia and Arizona) which have responded to Supreme Court rulings with enhanced open-carry laws, organized rallies and mass protests with militia-style protesters have grown (McIntire 2022).

The increased number of political violence incidents

The incidence of political violence appears heightened in 21st-century America. The racist-motivated massacre of nine African Americans at a church in Charleston, South Carolina in 2015 and the Unite the Right killing of Heather Heyer in Charlottesville in 2017 are a foreground to George Floyd’s filmed death in Minneapolis. Floyd’s murder, stirring a nationwide and international protest movement, gave way to the storming of Capitol Hill in January 2021 with at least four deaths, to the murder of ten African Americans at a supermarket in Buffalo, New York in 2022, and the attempted assassination of the Republican presidential candidate in Butler, Pennsylvania in 2024. These overt acts of political violence hark back to the origins and political development of the US. Perpetrators face punitive consequences. Both the Charleston and Buffalo racist perpetrators are in jail for life (one under a death penalty), the police officer convicted of Floyd’s murder got a long sentence, the killer of Heather Heyer was jailed and over 1,000 Capitol Hill insurrectionists were convicted, many receiving lengthy periods of confinement.

The persistence of political violence despite this pattern of retribution reveals how strongly those Americans engaging in violent acts feel and maintain the legitimacy of such actions despite the authority of the federal government set out in the Constitution. Often the violent acts stem from affiliation with a group committed to violence, such as the Three Percenters militia members at 6 January (a group which takes its appellation from the size of the population in the 13 colonies fighting the British – three percent). Their symbol of a Roman numeral III circled by 13 stars adds to the political culture of non-peaceful interaction with government in America. The Confederate flag – unfurled in Congress by insurrectionists on 6 January – is another instance as is the anti-government Gadsden rattlesnake flag, and the American flag turned upside down (a symbol of support used by the 2020 election deniers), sported in the residence of US Supreme Court Justice

Samuel A. Alito Jr (Kantor 2024). Alito garnered further controversy when a Revolutionary War-era ‘appeal to heaven’ flag was spotted at his vacation home, a symbol of Christian nationalism adopted also by election deniers (Kantor et al. 2024). These symbols assume heightened significance when the propensity for violence intensifies under partisan polarization (Vavreck 2016) and racial spillover of policy issues (Tesler 2012), combined with such threats as those to kill the former vice-president, Mike Pence (ironically VP to former President Trump), and a serving Supreme Court justice.

Violence impinges on many elected politicians. The convicted assailant of the former Democrat Party Speaker Nancy Pelosi’s husband was apparently on a mission to harm her. Entering the Pelosi home with a hammer, the intruder bludgeoned her husband while demanding, ‘where is Nancy?’, he plainly had an intent to attack a politician (quoted in Edmondson 2022). In common with many other leading Democrat politicians, Pelosi featured in Republican ads and numerous social media conspiracy tropes demonizing her (Parker et al. 2022) and extending into violent threats against her person. The insurrectionists storming Congress on 6 January shouted her name and hunted down her office. Convicting one 24-year-old woman from Pennsylvania – she had encouraged others to enter the Speaker’s office, advocated stealing and boasted on social media before removing material in an effort to evade capture – the justice singled out her casual lawlessness: ‘the defendant’s conduct that day was utterly reprehensible’ (quoted in Wolfe 2023). The defendant received a three-year term, joining hundreds of other insurrectionists hunted down by the FBI since January 2021.

But insurrectionists are embraced by the former Republican President Donald Trump as ‘hostages’: that is, they are American citizens, incarcerated unfairly by the federal government, who were simply exercising legitimate rights to protest and express their opposition to an election under First Amendment rights. Trump’s characterization goes directly to the issue of state monopoly and the legitimacy of political violence exercised in society.

Affective polarization and political violence

The elevated polarization along partisan and racial lines in the American electorate since the 1990s impedes long-standing opposition to the legitimacy of violence in political life, and to the standard measures of democracy such as vacating an elected office after electoral defeat (Iyengar et al. 2012). In other words, public attitudes towards the acceptability of using violence to defend or advance political beliefs has moderated from an overwhelming opposition to such actions to a softer belief that on occasion such extremes may be necessary and therefore legitimate.

Polarization is deeply about racism in the United States (Jardina 2019; Kleinfeld 2021, 2023; Mutz 2018; Rhodes and Nteta 2024; Tesler 2012). ‘Affective polarization’ describes levels of hostility by one group of partisan supporters towards those who support another party, a division not based on ideological differences, which is the standard approach to explaining party political cleavages. Democrat Party supporters hate Republican partisan supporters simply because they are Republicans; the reverse antipathy holds too as Republican partisan supporters hate Americans who are Democrat Party supporters. This atavism goes below mere partisan polarization to a deeper animosity rooted in personal values and

hatreds (Druckman et al. 2021). The levels of bile associated with the affectively polarized is such that the step to act violently on these feelings is short. Nathan Kalmoe and Lilliana Mason (2022) call this ‘radical American partisanship’.

The rise of positive attitudes to the use of political violence

The Public Religion Research Institute’s (PRRI) annual survey of public opinion attitudes has reported an increase in the acceptability and perceived need for political violence in the early 2020s. The 2023 survey (with 2,535 respondents) reports an increase in positive views towards the need to use political violence in US politics from the 2021 survey: from 15% to 23% for all Americans, 7% to 13% for Democrat respondents, 13% to 22% amongst independents, and from 28% to 33% for Republican voters (PRRI 2023). One in three registered Republican Party supporters accept that ‘true American patriots’ are likely to have to employ violence to save the country they believe in, ‘because things have gotten so far off track, true American patriots may have to resort to violence in order to save our country’. Having run the question for several years, in eight surveys, the response in 2023 was the first time that the positive response rate towards political violence was above 20%. White evangelical Protestants also report a similar third believing that resorting to political violence may be necessary to save the country. None of the other religious groups surveyed had a similar level of support for political violence. Unsurprisingly, in the PRRI surveys, support for political violence amongst voters who believe the argument that the 2020 election was stolen and are ardent Trump supporters is marked – standing at 46% – and of those Americans who simply hold a positive view of the former president, 41% accept the need for political violence.

Support for the use of political violence in politics and an acceptance that it may be necessary to resort to its use has grown this century, whether by as much as some surveys report or not. The notion of legitimacy is again crucial to this analysis: the issue is not the extent of the state’s monopoly on violence; rather it is about the state’s monopoly of legitimate violence. Polarization, racism and the division between Trump-supporting Republicans and other American voters is piercing into political culture, attitudes and sentiments. For some commentators the danger of a civil war seems realistic, but a meaningful erosion of democratic beliefs is a more probable trajectory (Mettler and Lieberman 2020; Skocpol 2020; Walter 2022). From their online experimental study, Matthew Graham and Milan Svolik report a turn against democracy amongst some American voters. They write, ‘when faced with the choice between a co-partisan candidate whose positions violate democratic principles and a candidate who complies with democratic principles but is otherwise unappealing, a significant fraction of voters may sacrifice democratic principles to elect a candidate who champions their party or interests’ (2020: 392, emphasis added). In their results, Graham and Solvik do find that a majority of Americans favour democracy but this sentiment is not held strongly and a majority now favour partisan loyalty over commitment to democratic principles (and see Jardina and Mickey 2022).

While such findings represent in part the exceptional era of polarization of 21st-century America, they are consistent with my argument about the endogenous place of political violence.

Part 3. American democracy and the accommodation of political violence

This article has demonstrated how intrinsic and ubiquitous political violence is to the history and politics of the United States, before and since the adoption of its Constitution in 1787–1789. This violence includes intergroup conflicts, often murderous, anti-government actions and mobilizing armed organized militias, activities which persist despite a shifting legal order and efforts to hem in lawlessness. The partiality of the federal government's authority to control the legitimate exercise of physical force – exposing the limits of America's version of the Weberian state – is a fundamental source enabling political violence to endure, I have argued. What role does this accommodation of violence play politically?

First, the deployment of violence for reform has been vital because of how violence is endogenous: it is an unavoidable backlash. The political scientist Ted Lowi's *The Politics of Disorder* – written in the early 1970s in response to the previous decade's protests – called, in opaque prose, for a celebration of 'law and disorder'. He imputed a cathartic energy to challenge hierarchy and authority as tests of leadership. For others, however, the use of violence is less discretionary.

In *Black Power* (1967) Stokely Carmichael (Kwame Ture) and Charles Hamilton underlined the inevitability of a violent alternative trajectory to the non-violent civil rights movement: 'a key phrase in our buffer-zone days was non-violence. For years it has been thought that black people would not literally fight for their lives. Why this has been so is not entirely clear; neither the larger society nor black people are noted for passivity ... Black people should and must fight back.' Or as the scholar Charles Cobb (2014) phrases his pithy book title, 'this nonviolent stuff'll get you killed', to convey the key role of violence in the civil rights movement. Historian Kellie Carter Jackson's *Force and Freedom* (2019) examines how black abolitionists came to accept that a peaceful path would not get results (and see Taylor 2023). In *We Refuse*, Carter Jackson (2024) argues that the role of non-violent resistance as a part of the civil rights struggle overlooks significant acts of refusal and rebellion; she emphasizes the number of African American women who have owned firearms historically to protect their households from white supremacists – including, Carter Jackson notes, the iconic Rosa Parks. Several scholars challenge the accuracy and rigidity of the long-established dichotomy between armed self-defence and non-violence in the civil rights movement. The historian Akinyele Omowale Umoja (2013) uses the case study of Mississippi to illustrate how non-violent civil rights activists there necessarily depended on armed colleagues to help resist the white violence heaped on them as they struggled for change. Umoja emphasizes the embrace of violence to defend communities and fellow activists as a reluctant but ineluctable option in the face of white repression and terrorism. Because the federal government declined to use its enforcement powers (King and Lieberman 2021) or to deploy national guards under the Insurrection Act to protect civil rights activists in the 1964 Summer Freedom campaign, armed activists hung out at the fringes of the peaceful protests to provide self-defence, as the historian Charles Payne documents (1995).

Charles Cobb (2014) elaborates on this point. He surveys acts of armed self-defence by African Americans across enslavement, Reconstruction, the early 20th century and particularly during the 1950s and 1960s – notably the Deacons for

Defense in Jonesboro, Louisiana and the unnamed group active in Tuscaloosa Alabama under Joseph Mallisham's guidance – when the Freedom Movement peaked. He finds that beneath the surface of non-violent rhetoric and strategy armed self-defence was necessarily at work to protect non-violent civil rights activists from racist violence; he contends that the movement's success in practice required this element of armed self-defence. Veterans (of whom Medgar Evers was one) made up a striking number of activists providing this armed self-defence. Among them was the civil rights activist in Monroe, North Carolina, Robert F. Williams. Williams had no reservations about using violence, entitling his book *Negroes with Guns* (2013), and doubted whether any change could occur without resorting to violent resistance and protest: for Williams the depth of America's structural racism meant any transition to civil rights was improbable. Williams argued for retaliatory violence against white supremacist in addition to armed self-defence, both forms of political violence dictated by the embeddedness of America's racial order. He relished how the image of 'Negroes with guns' alarmed white Americans.

Frances Fox Piven, known for her work on protest movements, puts 'disruptive' challenging at the core of her account of change but argues that protest often needs violence: 'Students of American social movements ... tend to ignore episodes of violence that do occur, excluding them by fiat from their definition of social movements' (2006: 47). She adds that 'violence by protesters are often treated as a purely moral issue, a stance that ignores the violence inherent in the institutional routines, such as the starvation wages paid to the Lawrence MA 1912 strikers' (Piven 2006: 47).

Second, from its colonial origins, political violence has upheld America's racial order. Racialized violence in America is ubiquitous, particularly in respect of criminal justice and social protest (Banerjee et al. 2024; Miller 2015). Historically, the fears induced by the 18th-century pre-Independence race riots in New York City (and resulting laws setting up slave watches and banning Black Americans from owning firearms), the Haitian Revolution and the draft riots in the 1860s soaked up these features. The 20th-century mobilization of the American Indian Movement (AIM) for rights looked back to the legacy of 19th-century massacres such as Wounded Knee.

Occasionally and non-trivially some enslaved people would encounter the formal system and then discover that the laws there merely confirmed the system of enslavement – notoriously in *Dred Scott*, which ruptured the polity to its core and ushered in civil war. Formal legal rules and incarceration reinforced each other. The legacies of decisions taken in the 1770s and institutionalized in the Constitution, then rooted in the legal system and in the system of law enforcement, 'inextricably ... linked them to the history of slavery and settler colonialism' (Hinton and Cook 2021: 265). The post-enslavement racial order moved violence to a new domain, enforcing racism with a combination of laws and the constant threat of violence, a spectre regularly animated (for example, through lynching and beatings; Brundage 1993; Pfeifer 2004). The federalization of racial hierarchy in the 1910s and 1920s ensured that segregationist violence persisted after the reforms of the 1960s.

The nominal *de jure* termination of segregation and discrimination in civil rights reforms has not ended racialized violence remotely. As Megan Francis remarks of

the present era, ‘the way racial violence is embedded in the criminal punishment system is striking: Black people are disproportionately imprisoned, abused in custody, stopped and frisked by police, and sentenced to longer terms’ (2022: 188). Although the enduring influence of racial violence is a profound threat to democratization in America, Francis notes that ‘state-sanctioned killing of Black citizens’ is omitted in the recent scholarship about the dilution of democracy. For Francis, placing racial violence as ‘outside’ the polity precludes grasping its centrality: ‘despite the enduring influence of racial violence, scholars of American politics do not usually treat it as a durable threat to democracy’, but treat it as exogenous. Anti-Black violence is not partisan-based: ‘the absence of a more nuanced discussion of racial violence results from examining democracy through a single frame’ (Francis 2022: 188, 189), a frame neglecting endogeneity.

Third, a mechanism aiding the endogenous status of political violence is the constitutional system of pardons releasing those who engaged in violence from their sentences. Civil War secessionists faced trials and imprisonment but then pardons (Dodds 2021), and many senior figures such as Jefferson Davis skirted prosecution (Lepore 2023). Assassinated President Lincoln’s successor and unexpected White House incumbent, Andrew Johnson, proved an enthusiastic pardoner of ex-Confederates and a weak enforcer of Union conditions on the former rebel states (Dodds 2021). The record of convicting white Americans for racial violence is weak (Aaronson 2014; Romano 2014), though increasingly expanded as standards of civil rights gain federal enforcement and ballast (for example, through the application of federal hate crimes of the sort used against the killers of Ahmaud Arbery in Georgia; Nakamura 2022).

This tradition of presidential pardon not only gives credibility to the legitimacy of violent actions but laces it with the expectation that this legitimate quality will be vindicated, resulting in perpetrators’ release from incarceration. Of the nearly 1,500 people charged for rioting on 6 January, dozens faced sedition charges (more than at any time in US history), notably members of militias such as the Proud Boys and Oath Keepers (whose Yale-educated and veteran leader won 18 years’ imprisonment; Feuer 2023). Convictions or guilty pleas have been won for over 1,000, and by the election in 2024 560 had gone to prison. Former Republican President Donald Trump had, by August 2024, come to promise pardons not only for those convicted of misdemeanour charges but even for those prisoners who had assaulted police officers (Debusmann and Wendling 2024). Asked if he would pardon rioters who had assaulted police officers, Trump responded, ‘Oh absolutely ... If they are innocent I would pardon them’ (quoted in Levien 2024). This promise – aired during a combative interview with African American journalists in Chicago on the last day of July 2024 – confirmed what Trump had said in the previous months (‘full pardons with an apology to many’, quoted in Paybarah 2024), and with his giddy elevation of insurrectionists as ‘hostages’.

Protests mobilized by partners and families of convicted felons from 6 January have sprung up. Justice for January 6th (J4J6) holds nightly vigils outside the jail in Washington, DC in which many of the 6 January prisoners are incarcerated, anointing their spot as Freedom Corner, communicating each evening with some inmates on speaker phone to sing in solidarity with them (Rosin 2024). But Trump’s use of the language of ‘hostage’ is under challenge. District of

Columbia Judge Royce C. Lambeth rebuffed such a characterization to describe criminals charged with breaking into property, rioting and assault. He resisted the normalization of the insurrectionists' behaviour on 6 January. Justice Lambeth issued a memo 'Notes for Sentencing', with a forceful statement of why lawlessness and vigilantism is incompatible with a society ordered by the rule of law. The First Amendment, he reiterated, offered scope for peaceful assembly and protest.

Conclusion

Taking American political violence seriously challenges accounts of the formation of the American state and its purported monopoly on the use of legitimate violence and physical force. For example, the persistence of racialized violence means the institutions of state and government settled in the 1770s and revised in the 1860s rested more widely on violent presumptions and arrangements than commonly appreciated. Hobbling national authority had to be an essential aim of the Delegates in Philadelphia or they would each confront unsustainable futures. To make violence so embedded required extending it into the constitutional core through such vociferous causes as states' rights, free speech, the Second Amendment right to bear arms, and rejection of a standing army in favour of local militias mobilized as needed and under local or state authority and not the centre. Carrying arms was never a lost cause.

Political scientists commonly understand political violence as exogenous to the political system (even if endogenously prompted) and as an anomaly rather than as a constitutive element. Demise in violence is presumed. Since there is a constitutional accommodation, containing and facilitating a transition from routine violence has been an urgent political task since the 18th century. There is some success – for instance, in the erosion of violence at strikes.

Political violence features more in the US political system than in comparable democracies because the founders' constitutional arrangements legitimated political violence outside the state. Within society, the constitutional settlement placed limits on the power of the federal state despite nominally according it a monopoly on physical force. This renders political violence endogenous to American politics.

The enduring challenge for Americans is how to reconcile respect for a capacious exploitation of the First and Second Amendments with the imperatives of the rule of law. For Justice Lambeth (2024) in his District of Columbia courtroom, there is no question about the unconstitutionality of 6 January: 'nor was the January 6 riot an act of civil disobedience, because it was *violent*, not peaceful; *opportunistic*, not principled; *coercive*, not persuasive; and *selfish*, not patriotic'. Those Americans advocating pardons adopt the obverse view. They cite the same constitutional rules in affirmation of insurrectionists' legitimate embrace of political violence. Weber would side with the judge but acknowledge also the vulnerabilities bequeathed by the Constitution to the federal government's exercise of legitimate coercion.

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Note

1 This was his position at the time of writing.

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