Social Product Liability: Who can we blame now?

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In Brenkert’s argument, he begins by noting that handguns cause significantly more harm and cost to society. His argument is indeed a valid one in this day and age. The heightened security and ingrained fear that many law-abiding citizens have come to expect when attending large events, or the depth of harbored emotions parents feel when sending their children to school **cannot** argue that Brenkert is incorrect; firearms have been mass publicized as a problem of today’s society. While Brenkert has provided many points as to why we should hold gun manufacturers responsible for damages to society, his overall assertions are weak.

How can firearms manufacturers be held responsible for the actions of individuals? While many media outlets publicize a school shooting, pulling on the heartstrings of millions of Americans as we watch their sensationalized story unfold, we must stay strong and remove emotion to understand that we cannot lessen the burden on personal responsibility in these situations. Brenkert’s argument emphasizes *illegal* use of these firearms for *criminal activity*, blaming the marketing of handguns by the manufacturer as one that “encourages guns to fall more readily into the hands of those who would misuse them” (Brenkert, 2000).

The culture of gun ownership is not that which Hollywood and other media outlets would like us to believe and Brenkert’s accusation towards firearms manufacturer’s marketing practices is inaccurate. Many firearms companies push for responsible gun ownership and Glock is a great example. Glock, whose primary product is pistols (aka handguns), is solidly dedicated to promoting the 4 primary rules of gun safety (Glock, 2019). Further, in the State of Michigan, those wishing to purchase a pistol must obtain a license to do so, undergoing a federal background check to ensure the purchaser is of sound mind and has not been convicted of criminal activity that would interfere with possession of a pistol (Michigan State Police, 2018). To expect responsibility to be placed on gun manufacturers because of marketing is tantamount to expecting automobile manufacturers to take responsibility for car crashes because their commercials portray good looking actors driving fast and “drifting” in the desert around obstacles. Both scenarios lead back to the individual’s personal choice. And personal choice is not something that anyone outside of that person, can be in control of, let alone be held responsible for.

Brenkert continues to argue that gun manufacturer’s unreasonably contribute to the likelihood of harm to society because the nature of a gun is lethal and the lethality of it cannot be toned down, such as that of a car that can drive slower to reduce lethal force (Brenkert, 2000). In this scenario, let’s remember that new drivers are required to take some sort of driver’s training prior to operating a vehicle on their own. This gives them the opportunity to learn, under supervision, the laws, dangers and intricacies associated with general vehicle operation. Thus, giving the driver the knowledge to understand *how* and *why* one would need to make the vehicle drive slower.

Similar to driver’s training, individuals wishing to possess firearms have opportunities to participate in education on laws, function and use of said firearms. Furthermore, this education is the responsibility of the individual, especially when it comes to keeping abreast of laws pertaining to firearms use and ownership. While an argument could be made that this education should be mandatory, the government would most likely be the regulating agency, thereby removing any responsibility from gun manufacturers. Again, the culture of gun ownership is that of responsibility and respect. An individual who is *legally* obtaining a firearm deeply understands the effect of negligence and honors the power of the firearms lethality by respecting core rules. As previously mentioned, Brenkert argues a vehicle can be slowed down to reduce lethal force; similar is true for firearms in that the user can make educated choices to reduce the chance of harm. Ultimately, the lethality of each is dependent upon the operator.

Brenkert attempts to link foreseeability of harm from guns to the manufacturers by claiming that dealers allow illegal purchases to occur by people who are “not eligible to possess them or who do not wish to be identified as a purchaser of [sic] a firearm in official records, and who are likely to use the handguns that they obtain in the commission of crimes” (Brenkert, 2000). Unless a person explicitly announces their intent, the last comment made by Brenkert cannot be assumed as we do not know that an individual is absolutely going to use the firearm in a crime. As for the dealers allowing illegal purchases to take place, it is highly unlikely, although not completely impossible. “Under federal law, any person who engages in the business of dealing in firearms must be licensed” or may face prison time as well as fines of up to $250,000 (U.S. Department of Justice, 2016). An individual who is unlicensed is still expected to conform to state and federal laws (U.S. Department of Justice, 2016). So therefore, if an individual or a dealer decides to offer the sale of a firearm to a person that is not eligible, they themselves are doing so in an *illegal* way.

In conclusion, if individuals are not following the laws put in place to protect against harm caused by a product, how can we hold manufacturers to a similar or greater standard of responsibility? At what extent does the manufacturer cease to be responsible for actions outside of their control? Laws are put in place to protect individuals and society as well as to establish a standard of ethics, responsibility and operation. It is unfortunate that many individuals in this time, see themselves to be above the law. This ideal perpetuates the troubles in society and furthermore gives way to inappropriately blame, just as Brenkert has done in his paper on Social Products Liability regarding firearms manufacturers.

# References

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