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RESPONSE TO BERNARD E. HARCOURT'S *ON GUN REGISTRATION, THE NRA, ADOLF HITLER, AND NAZI GUN LAWS: EXPLODING THE GUN CULTURE WARS (A CALL TO HISTORIANS)*

*Deborah Homsher**

In his article, Bernard E. Harcourt traces a recurrent argument in the American gun debates—the identification of Nazi Germany as a regime whose gun-registration policies facilitated the disarmament, and hence the annihilation, of that nation's Jews, and the related assertion that the right to “keep and bear arms” can help shield a people from murderous tyrants.¹ Professor Harcourt cites organizations and individuals, such as Charlton Heston, former president of the National Rifle Association (“NRA”), and Wayne LaPierre, the NRA's current CEO, who have made use of this argument in their efforts to impede legislation requiring American gun owners to register their firearms.² Professor Harcourt also notes how this vivid cautionary tale has mutated over time, for instance by spawning an apparently effective, but historically bogus, Hitler quotation extolling the benefits of gun registration: “For the first time, a civilized nation has full gun registration! Our streets will be safer, our police more efficient, and the world will follow our lead into the future!”³

The article then summarizes and discusses the work of Dan Kahan and Donald Braman, legal scholars who advocate the development of a “more muted expressive idiom that brings opposing cultural factions closer together and that reconciles, rather than aggravates, the cultural conflict.”⁴ Professor Harcourt critiques this approach, however, contending that it oversimplifies the pro-gun and anti-gun

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1. Bernard E. Harcourt, *On Gun Registration, the NRA, Adolf Hitler, and Nazi Gun Laws: Exploding the Gun Culture Wars (A Call to Historians)*, 73 *Fordham L. Rev.* 653 (2004).

2. *Id.* at 654.

3. *Id.* at 658.

4. *Id.* at 664.

camps by representing each of them as “monolithic.”⁵ He also contends that this approach fails to address a very serious concern: how these divisive questions should be *answered*, rather than simply laid to rest.⁶ The author is not convinced that “rhetorical” methods of the sort recommended by Kahan and Braman, which are essentially political strategies, can help the American public answer substantive questions concerning public policy and law.⁷ His article, which analyzes some of the discordant voices broadcast from pro-gun advocacy groups by tracking the recurrent Hitler argument, is meant to provide readers with a more accurate, because more complex, understanding of the culture wars behind the gun debates.

Professor Harcourt’s article raises two different kinds of issues: first, which approaches to these manifestations of our “culture wars” are most effective,⁸ and second, how the Hitler argument is used as a strategic weapon in those wars.⁹ The first question cannot be answered unless we identify a goal. It appears that Professor Harcourt’s chief goal is to provide readers with a more nuanced understanding of the pro-gun/anti-gun debates. His critique of the Kahan and Braman thesis suggests that he believes such nuanced understanding can help citizens identify their own cultural values and decide what to do about them.¹⁰

It is not clear, however, that an analysis of rhetoric promulgated by fringe groups like Jews for the Preservation of Firearms Ownership (“JPFO”), among others, can map these culture wars accurately if that analysis fails to take into account how much clout, how much power, these various organizations wield and whom they represent. If, for instance, the JPFO has only six members, or if it is really an ephemeral Internet presence, or even a front organization for an active cadre of anti-gun-registration advocates who are not, in fact, Jews,¹¹ then we ought to know such information in order to weigh the significance of this particular battalion on the field.

In short, the analysis of discourse, in itself, while fascinating, is not as *useful* as it could be. Researchers would do well to supplement analyses of this kind with some assessment of the persons and strategies at work in the background. Who is behind the curtain? During the mid-1990s, when a number of pro-gun groups were interested in displaying their commitment to women (during these years, Tanya Metaksa and Marion Hammer were positioned as

5. *Id.* at 665.

6. *Id.* at 666.

7. *Id.* at 664 n.55.

8. *Id.* at 663-66.

9. *Id.* at 667-69.

10. *Id.* at 664-65.

11. In fact, at this Symposium, I spoke with an individual who told me that he knew JPFO members, and that most of them were “Messianic” Jews, that is, Jews who had converted to Christianity.

conspicuous spokespersons for the NRA),¹² the magazine *Women and Guns* was being published by Julianne Versnel Gottlieb, who happened to be the wife of Alan M. Gottlieb, chairman of the Citizens Committee for the Right to Keep and Bear Arms (“CCRKBA”), and the magazine’s executive editor was Peggy Tartaro, daughter of Joseph P. Tartaro, president of the Second Amendment Foundation and editor of *Gun Week*.¹³ The contact address listed for the editorial office of *Women and Guns*, for the CCRKBA, and for the Second Amendment Foundation was singular: James Madison Building, 12500 NE Tenth Place, Bellevue, WA.¹⁴ In short, a small group of well-connected, interconnected, even interrelated people had managed to magnify their public “voice” and presence in a way that affected the public gun debates. They had leveraged their influence—a political/public relations tactic also practiced with consummate skill by the NRA and any other capable advocacy group. It is important that we know and assess background information of this sort when studying those debates.

Partly for that reason, I am always interested in the NRA—its methods, rhetoric, reported membership figures, and self-representations—because it has influenced the discourse enormously by providing catchphrases, soundbites, talking points, potted histories, and statistics for its allies to use as ammunition in these culture wars. The very revealing statements by Charlton Heston cited by Professor Harcourt¹⁵ illustrate how that organization responds to and manipulates “identity group” politics of the kind defined and analyzed by Michael C. Dorf in the Article he presented at this Symposium.¹⁶ One such statement is from a 1997 speech Heston gave to the National Press Club:

Heaven help the God-fearing, law-abiding, Caucasian, middle class, protestant, or even worse evangelical Christian, midwest or southern or even worse rural, apparently straight or even worse admitted heterosexual, gun-owning or even worse NRA-card-carrying, average working stiff, or even, worst of all, a male working stiff, because then, not only don’t you count, you’re a downright nuisance, an obstacle to social progress, pal.¹⁷

12. Metaksa is the former executive director of the NRA’s Institute for Legislative Action. Hammer is a former NRA president.

13. See Second Amendment Found., Gottlieb-Tartaro, at http://www.saf.org/public_gt.html (last visited September 16, 2004).

14. In fact, the websites of each group all continue to list this same street address. *Women and Guns*, July/August 2004, at <http://www.womenshooters.com/TOC.html> (last visited September 16, 2004); Citizens Committee for the Right to Keep and Bear Arms, at <http://www.ccrkba.org> (last visited September 16, 2004); Second Amendment Found., at <http://www.saf.org> (last visited September 16, 2004).

15. Harcourt, *supra* note 1, at 654, 657, 661, 663-64.

16. Michael C. Dorf, *Identity Politics and the Second Amendment*, 73 *Fordham L. Rev.* 549 (2004).

17. Harcourt, *supra* note 1, at 661 (quoting Charlton Heston, *The Second*

This passage, coupled with the Hitler argument, illustrates how the NRA and its usual allies engage not just in “identity group” politics, but in *victim* identity group politics. In the quotation cited above, Heston identifies his chief constituency, his pals, as white, Christian, heterosexual, non-urban males. Yet the Hitler argument effectively equates this constituency with the Jews of the Third Reich, a group whose collective status as victims of the Nazi regime, and as members of a “minority,” cannot be questioned. The NRA arguably attracts public support by both resisting and attempting to co-opt American “victim” politics, which its constituency perceives as having been initiated by the leftist protest movements of the 1960s, sparked by black/female/gay/Native American reformers (all, except for “female,” now designated “minorities”) and, in some cases, involving demands for adjustments (i.e., affirmative action) or even reparations based on an assessment of losses suffered by members of each identity group, and their collective ancestors, over the years. As part of its strategy of resistance, the NRA in effect claims that its members have also been victimized, or could easily become victimized, even threatened with genocide, if they lost their means for self-defense.¹⁸ Dorf contends that the NRA is fueled by the reactions of “angry white men.”¹⁹ My impressions of pro-gun discourse and American politics generally suggest that many (of course not all) members of this “identity group” resent the fact that their white-Christian-heterosexual-non-urban-midwestern-or-southern predecessors have been criticized, even vilified, as a result of liberal political reforms and redefinitions of American history. Consider, as evidence, the heated debates concerning the public display of the Confederate flag. Heston sarcastically refers to such reforms as “social progress.”²⁰

Amendment: America’s First Freedom, Address Before the National Press Club (Sept. 11, 1997), in *Guns in America: A Reader* 201 (Jan E. Dizard et al. eds., 1999)).

18. Cf. Daniel D. Polsby & Don B. Kates, Jr., *Of Holocausts and Gun Control*, 75 Wash. U. L.Q. 1237 (1997). The authors contend that Americans underestimate their own susceptibility to tyrannical government and genocide: “But one cannot reason that an American tyranny is *impossible* simply from the fact that overwrought judgments on this subject are commonly and casually made, often by people who should know enough to weigh their words before speaking.” *Id.* at 1255. Further:

To many Americans, genocide seems so remote a contingency that the relevance of policies meant to constrain it can simply be dismissed out of hand. This is one aspect of the theory of American exceptionalism—the idea that we Americans are different from and perhaps better than the other members of the human race. One is entitled to be skeptical whether this self-conceit is sound, especially given that one of the more terrifying aspects of genocide has been its prevalence among civilized, educated, cultured people. A reality check is in order for Americans who reflexively dismiss the relevance of genocide to their lives.

Id. at 1261-62.

19. Dorf, *supra* note 16, at 552 (internal quotation marks omitted).

20. See *supra* note 17 and accompanying text.

This attempt by the NRA's natural constituency to represent itself as potentially threatened, just like "minorities," and to characterize itself as both identifiably Christian and identified with Jews (or, in related arguments, identified with armed black freedmen living in the South after the Civil War), puts them in some twisted situations. Professor Harcourt notices one of these when he calls attention to the fact that,

[t]he fringe pro-Nazi element in this country has far more ties to the pro-gun community than it does to the anti-gun community, and you are far more likely to see a swastika at a gun show or a pro-gun rally than you are at the anti-gun Million Mom March on the Washington Mall.²¹

In short, the anti-gun camp's determination to resist, and eagerness to appropriate, America's "victim" politics and discourse explain why an essentially conservative, perhaps even nativist, organization would promulgate an argument that effectively equates its members with the Jews slaughtered in the Holocaust.

Professor Harcourt's analysis of the many different voices to be heard from both sides of the gun debates is surely a corrective to more simplistic portraits of the advocacy groups in question. At the same time, his examples display how swiftly and efficiently arguments, statistics, and phrases are exchanged between like-minded organizations and citizens, thanks to the media—notably the Internet—and to busy organizations, large and small, on both sides. It is the repetitive qualities, the deaf and deafening qualities, of the American gun debates that most amaze me. We cannot analyze these debates properly unless we recognize that, in many cases, they are not conducted by scholarly methods, where the evidence is collected before the conclusions are reached. Instead, frequently, the conclusions are reached *first* and supporting evidence—from Nazi Germany, from the post-Civil War South, even from Cambodia, Indonesia, or China—is then mustered to be used as ammunition. This quality, among others, makes it seem as if moderate responses and analyses are useless contributions to the gun debates, but the discourse does shift in response to new information, and the battleground today is different from the trampled field of the 1990s.

21. Harcourt, *supra* note 1, at 660.

Notes & Observations