

Morality in Political Rhetoric: Examining the Effects of Moral
Language in Debate Using the Contemporary Gun Control
Controversy

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Abstract

The place of morality in law is undisputed historically, as the very language of rights reveals, but the letter of most law is absent any language of morality. Despite this absence, the political rhetoric that supports or opposes contentious law is almost always filled with moral rhetoric. The examination of the dialogue between the proponents and opponents of the gun legislation and policy reform that was proposed as a result of the tragedy of the Sandy Hook school shooting and the recent spate of high-profile mass-shootings in general reveals that not only is there a strong moral language used by both sides, but that each side sees itself as possessing the moral high ground while also fearing the other side's intentions. Whether it is the political left or right or either side's fringe elements who demand even more radical solutions to the problem, the rhetoric is centered on moral concerns and is ever-escalating in intensity, sometimes into the realm of the absurd. The moral element of the rhetoric creates an "us" versus "them" adversarial relationship, but because the basis of the rhetoric is moral neither side can give ground for fear of losing their self-assumed moral superiority. The focus of political debate could benefit from the use of the 'no harm principle' applied to the use of moral rhetoric, for scapegoating targets such as those who have mental health issues or the entertainment industry may harm cause cascading harms in civil society. Furthermore, moral rhetoric can actually undermine its moral authority by being invoked in political rhetoric when it violates the no harm principle against civil society.

No one can know for certain if this senseless act could have been prevented, but we all know we have a moral obligation – a moral obligation to do everything in our power to diminish the prospect that something like this could happen again.
– Vice President Joe Biden, January 16, 2013.¹

Because while there is no law or set of laws that can prevent every senseless act of violence completely, no piece of legislation that will prevent every tragedy, every act of evil, if there's even one thing we can do to reduce this violence, if there's even one life that can be saved, then we've got an obligation to try.
– President Barack Obama, January 16, 2013.²

Using Moral Rhetoric in Political Debate

Heated partisan language is not a new phenomenon in Washington. Yet, in the wake of a tragedy like the fatal mass shooting at Sandy Hook Elementary in Newtown, CT, one might expect the deadlock between sides to subside—if even slightly. However, with the renewed focus on gun control issues in politics, neither the proponents for nor the opponents to more gun control seem willing to budge, and in fact seem to be behaving more stubbornly than ever. A massacre of so many young children at the hands of a heavily armed gunman rallied the sympathies of the nation, but neither side was moved to alter their core position. This deadlock suggests that despite the issue is at hand, the political rhetoric regarding gun control unlikely to change no matter what tragedy occurs. Indeed, on both sides of the debate, the moral language used indicates that moderates and extremists are even more entrenched in their views than ever.

The Sandy Hook massacre committed by a young shooter, Adam Lanza, was the latest of a recent spate of prolific tragedies involving gun violence. Due to the unique nature of the tragedy involving such young victims, the gun control debate was powerfully thrust to the forefront of the mind of every political pundit, columnist, blogger, and the general public. Suddenly everyone was rushing to make their political views on the issue known, and in the

¹ “President Obama’s Remarks in New Gun Control Actions (Transcript),” *The Washington Post* (June 16, 2013) http://www.washingtonpost.com/politics/president-obamas-remarks-on-new-gun-control-proposals-jan-16-2013-transcript/2013/01/16/528e7758-5ffc-11e2-b05a-605528f6b712_story_2.html

² Ibid

rush to do so the political rhetoric became flooded by calls to action and of a moral obligation for action.

On one side stand those who are lobbying for more gun control: citizens, government officials, celebrities, interest groups, and organizations, whereas on the other side stand those lobbying against more gun control also including citizens, government officials, celebrities, interest groups, and organizations. Both sides were invited to be part of a month-long Vice Presidential commission in the wake of the tragedy, and both sides have the general population's support. What separates one from the other are their views on what must be done. The question as to whether or not there needs to be more gun control is no doubt significant, yet one of the most interesting aspects of the contemporary debate is the use of moral rhetoric by both sides to support their own views as well as how they employ this language to demoralize the position of their opponents.

Starting with the press conference where the results of the month-long commission were announced, the gun control debate has been shrouded in the political rhetoric of morality. There the Vice President said America has a "moral obligation" to act, and President Obama followed by saying that Congress and the government had a responsibility to prevent "evil" acts and furthermore that Americans have an "obligation" to do so in any way possible. While this instance was neither the first nor the most incendiary use of morality in the current gun control debate, the prolific nature of the press conference and the stature of the two men make the language that they did use very weighty. Moreover, invoking morality essentially means that a distinction is being drawn between what is good and what is bad or evil.

In other words, moral language serves as a dichotomous political tool for separating the morally "right" camp from the morally "wrong" camp in this debate. Here, the pro-gun control camp argues that they have the moral support of the nation, and this claim is

reinforced by their belief that their position is morally superior, while the anti-gun control camp had been thrown on the defensive from the beginning of the debate. Additionally, having been labeled as “bad” morally those opposing additional gun legislation have had to contend with being equated with other groups such as terrorists, criminals, or sexual deviants.

The rhetoric regarding gun control has led to comparisons of both sides to Hitler’s Nazi Germany, which is logically absurd, for a critically thinking viewer of this exchange of rhetoric would conclude quite rationally that both sides cannot be acting like the Nazis. For example, prominent politician Mike Huckabee has made the comparison between gun control supporters and ultimate disarmament of the populace, which he claims was a key point of how the Nazi regime was able to come to power.³ In response, articles have been published by proponents of gun control stating that not only is the comparison unfair to them but also that perhaps the opponents of gun control are the ones with views most in line with Hitler’s Nazi Germany, with one article plainly stating “Hitler and pro-gun advocates want the same thing” referring to deregulation policies.⁴

In the context of this back-and-forth, the rhetoric is becoming increasingly heated, with a popular conservative website stating not only that “Hitler disarmed his domestic enemies before launching a genocide against them” but also that “left-wing blogs have successfully gamed Google’s search engine results so that when people searched for terms such as ‘Nazi gun control’, they were met with a plethora of articles claiming the historical bias for this connection was a fabrication.”⁵ The absurdity of the fact that both sides seem to

³ “Huckabee Stokes Fear With Nazi Gun Control Comparison,” *The National Memo* (April 5, 2013). <http://www.nationalmemo.com/huckabee-stokes-fear-with-nazi-gun-control-comparison/>

⁴ “Hitler Gun Control Facts: U.S. Pro-Gun Advocates Have More in Common with Hitler than they Think,” *Polycymic* (January 2013) <http://www.polycymic.com/articles/22692/hitler-gun-control-facts-u-s-pro-gun-advocates-have-more-in-common-with-hitler-than-they-think> and “Hitler Joins Gun Control Debate, But History is in Dispute,” *Huffington Post* (May 6, 2013) http://www.huffingtonpost.com/2013/03/23/hitler-gun-control_n_2939511.html

⁵ “Yes, Hitler & Stalin Did Take the Guns,” *Alex Jone’s Infowars.com* (February 26, 2013) <http://www.infowars.com/yes-hitler-stalin-did-take-the-guns/> On the above three footnotes, concerning the accusations of Nazism flying back-and-forth between the two sides, it is useful to understand that comparisons

be trying to compare the goals of the other to arguably the most evil regime in history is evidence of just how far people will go in their use of moral rhetoric to both demonize the other side and galvanize their own side against the opposition. Although most moral language in political rhetoric is not nearly as extreme as the above, it is significant to recall that while historically recognized as a driving force behind law and used as means to legitimize it, moral language itself rarely finds its way into the text of specific laws.

However, the language of rights implies morality, and particularly in America, where rights are enshrined in the Constitution as the highest law of the land, and thus public moral support for the law as a “good” social structure is evidenced simply by observing the legal, executive, and justice systems. To call or imply that an argument is immoral is to imply that the argument is not right, not a right, and not lawful. In the press conference following Sandy Hook, both the President and Vice President used language of morals to describe the future action they desire, thereby creating a moral boundary between their ideas and any opposition. In addition to their moral language, the use of the word “obligation” is an extraordinarily strong language selection, for its use implies that anyone who does not feel they are obligated to act in such a way are not moral (or at least do not have the same morals as the speaker), which creates a “us” and “them” mentality in listeners.

The history of moral language in political speech is a long one, and thus could be traced back through the invocation of “rights” in numerous instances as historically to claim a right implies that there is “wrong” that must be addressed by legal means. Today, the use of moral language, surrounding controversial contemporary issues such as the gun control

to fascist or other authoritarian regimes of the past are a surprisingly common occurrence in heated discourse today, but they are somewhat akin to the McCarthy-era cries of communism. The idea is the same, that one side is comparing the other to something generally assumed to be evil. However, an interesting claim here is the distortion of history. The fact that both sides are able to distort history to suit their ends to such a degree as to have it say practically opposite things is surprising, and it leaves one wondering how such a tactic can pass through any logical mind in the public. Perhaps this is evidence of some larger apathy or intellectual failure in the public that such an absurd set of accusations could even be made in the first place. Accepting that leads one to wonder: why and how did such a failure occur or such apathy arise?

debate, is accepted as normal behavior by the public, pundits, and politicians. The latter are beholden to their party, their voters, and other interests in many cases to support certain viewpoints in the legislative efforts and to oppose others. Politicians call on a language of morals to deliver the message of their stance on issues to their voters, most often to gauge support or to incite opposition to their opponents. While moral language is useful to incite support for an issue or to criticize opponents, the question remains as to what effect it has on the letter of the law itself?

This question cannot clearly be answered in all cases, for a thorough examination of all the congressional testimony, speeches, and campaigning for bills and the actual text of those bills (whether they pass or fail) is a monumental task that cannot be undertaken here. However, the heated debate that accompanies controversial issues, from politicians and people who advocate for a particular viewpoint, rarely appears in the formal legal documents produced by Congress. Indeed, the bill that was brought to the Senate floor as a result of the encouragement to produce gun control measures did not contain a single mention of “moral,” “obligation,” nor did it reflect the strong moral language that was used to support the bill in the first place.⁶ The discrepancy here between the language used to support measures for gun control and the language of the final bill is indicative of controversial legislation. This point merits particular emphasis: although both the proponents and opponents of the legislation will assume moral positions in their rhetoric, the actual text of legislation does not contain moral language.

The disparity between the spoken word and the printed text presents several questions: If the moral language in political rhetoric is not used for the text of the law, then what effect does it have?; What effect does the use of morality specifically have on political discourse?; Why is the debate over controversial issues such as gun control so vitriolic when

⁶ For the specific language of the texts and the debates see Congressional Record 113th Congress (2013-2014) <http://thomas.loc.gov/cgi-bin/query/R?r113:FLD001:S02614>

it has no affect on the proposed legislation?; and What effect does such strong language have on the political process? Perhaps these questions are esoteric in nature as one can only take their best educated guess at the motivations of political speakers from what they say and do, but there is a history of morality in political rhetoric as well as contemporary debate that can be used, to explore these issues in relation to some of the specific consequences of invoking morality in political rhetoric. Using several theoretical viewpoints in unison, this paper will examine the rhetoric surrounding the contemporary, controversial gun control debate to illuminate the harms that follow from and broader implications of using a language of morals for political ends.

Moral Political Rhetoric in the Gun Control Debate

Those who argue for more gun control legislation claim that they have a moral obligation to prevent even one less death from gun violence, and on the other side of the debate are those who use the exact same terminology of moral obligation to argue against more gun regulation in the United States. Each side seems to realize that moral language is the strongest political tool they can bring to bear in support of their goals. Despite appearances, efforts supporting increased gun control and the opposition to such efforts are not new political issues, but they are merely another round in a continuing debate suddenly brought to the forefront of political attention by the recent cluster of violent gun crimes.

For example, there was an assault weapons ban in place from 1994-2004,⁷ which prohibited several categories and types of weapons in an effort to decrease gun crime. While the success of that effort is open to question, the arguments that were used around the time of its inception were centered on crime statistics and less on emotional issues as has been the case since the Sandy Hook shooting. This time gun legislation has been brought to the floor

⁷ “Violent Crime Control and Law Enforcement Act of 1994’, *One Hundred and Third Congress Second Session* (<http://www.gpo.gov/fdsys/pkg/BILLS-103hr3355enr/pdf/BILLS-103hr3355enr.pdf>)

of Congress in the wake of a very traumatic and emotional tragedy, and both sides have resorted to the language of moral rhetoric to support their side and attack the other side.

As stated above, on one end of the spectrum stand those who advocate stricter gun controls, including the President and the Vice President, who argue that if one less death from gun violence can be assured through stricter legislation, then there is a moral obligation to support and pass such legislation. Some of those who vocally support this position are former Arizona Congresswoman Gabrielle Giffords, herself a victim of gun violence; Senator Dianne Feinstein of California, who proposed the recent gun legislation; Piers Morgan, a popular CNN analyst and political pundit; and many others who see gun violence and the lack of regulation as manifestations of endemic problems within American society. The endemic problems in society that they often mention are the general apathy or acceptance of violence in entertainment, various violent crime or homicide statistics, or the way that news media harps over sensational violence in society.

Whereas, on the other side of the debate stand the National Rifle Association, many gun enthusiasts, and others who argue that passing more gun control legislation is a violation of personal liberty, and therefore there is a moral obligation to oppose it. Among those who vocally advocate for rejecting additional gun control legislation include pundits for conservative leaning news stations such as FOX, online presences such as conservative news aggregator Drudge Report, blog style news website such as Alex Jones' Infowars, and conservative news websites like NewsBusters, among others. Just as those who propose more gun control, opponents argue that if one wishes to truly understand gun violence, other societal factors must be considered. Among their points, they argue that to blame gun violence on the number or type of guns available to the public is unfair, as those who are committing these crimes are not the law-abiding citizens that the proposed laws would target. Indeed, one sheriff in Kentucky has even gone so far as to state that he considers it his "moral

obligation” not to enforce any gun control legislation that violates the US Constitution as well as the state constitution which he swore to uphold.⁸

Given that the language of each side in the gun control debate mirrors the other side, several questions arise. First and foremost: is there a justification of one morality that could override the justification for the other? This question is what each side is using political rhetoric to try to answer. Each side realizes that moral language is the strongest political tool they can bring to bear in support of their own goals and the best way to undermine their opponent’s position and support. However, in the course of their attacks of each other, both sides are bringing into the dialogue ‘other societal factors’ which are implicated as potential causes for gun violence beyond the individuals committing the crimes.

What are these ‘other societal factors’ and to what extent are they serving as scapegoats, appealed to by both sides of the debate to avoid responsibility for the wedge being created by their rhetoric between their supporters? Targeting ‘societal factors’ enables a level of avoidance, for it is an opportunity for politicians to distance themselves from the vitriolic criticisms of the other side. In the wake of a tragedy there is immense pressure to do something about gun violence, and as a way to avoid the moralized main topic, lawmakers try to redirect some of the focus onto other topics tangentially related to gun violence. This is worth noting, particularly because of the potential effect, and even cascading harm, such scapegoating behavior can have on the very ‘societal factors’ that are invoked as root causes of gun violence, for example, mental health issues and violent media such as Hollywood movies and video games.

⁸ Nick Wing, “Denny Peymann, “Kentucky Sheriff, Feels ‘Moral Obligation’ Not to Enforce Gun Control Law,” *Huffington Post* (January 14, 2013) http://www.huffingtonpost.com/2013/01/14/denny-peyman-kentucky_n_2472119.html

Examining the language of the debate offers an opportunity to better understand just how far the moral language is affecting the ability of people to have respectful and levelheaded discourse in politics and to what extent the rhetoric is used to scapegoat any issue that may have some tenuous link to the central problem. To attempt to arrive at such an understanding, it is useful to carefully consider the specific moral language that surrounds the pro- and anti- gun legislation debate itself.

The moral language of the pro-control side is best exemplified by rhetoric of the President and Vice President, even if their vow of a moral obligation to prevent even one more death from gun violence is not nearly as strong as the language used by some advocates of gun control. For example, Piers Morgan's talk show has frequently featured interviews with people who are opposed to new gun control legislation. Mr. Morgan, clearly believing that stricter gun control is necessary, is more than willing to use his nationally televised news show to advocate for his position, whether with his own words or using the words of others. To date, he has called the gun debate a "war" and stated that the "NRA is winning the war" against the people.⁹

To do so he has compared the recent gun violence, particularly Sandy Hook, to the Dunblane school shooting in his native United Kingdom, as the latter resulted in the complete ban of most firearms there. Modeling that, he advocates the complete ban of assault-style "killing machines" in the United States, because he states that such weapons are not protected under the Constitution's Second Amendment.¹⁰ While sensationalism is expected in today's news programming, he frequently becomes highly emotional when advocating against people opposing gun control to the point where he threatened to leave the country if America would

⁹ Matt Hadro, "Amidst Fading Support for Gun Control Laws, Peirs Morgan Says It's 'the NRA Versus the People,'" *News Busters* (April 5, 2013). <http://newsbusters.org/blogs/matt-hadro/2013/04/05/amidst-fading-support-gun-control-piers-morgan-says-its-nra-versus-peopl>

¹⁰ Huffpost Video (May 8, 2013) <http://videos.huffingtonpost.com/piers-morgan-fighting-for-gun-control-517637864>

not stop “this relentless tidal wave of murderous carnage” and ban assault style military weapons as he calls them.¹¹

Clearly, he has a very personal objection to the opponents of gun control, and he has no qualms about using the highly emotional aspect of gun control to his advantage. In his televised debates with opponents he advocates for saving as many lives as possible through banning high capacity magazines, stating that going from allowing thirty rounds to only seven would hypothetically save twenty-three lives and that this reduction is good, but that having zero gun deaths in America is the best case scenario to fight for, effectively implying that if he could achieve that goal he would do whatever it took to do so.¹² Mr. Morgan’s personal stance on gun control is understandable and certainly allowable in American society. He uses very specific language to highlight what he feels are the “bad” things about America’s gun laws and vehemently argues against people who disagree with him, essentially assuming the moral high ground by implying to his audiences that opponents of gun control are at least partially morally “bad” as well.

Advocates for gun control will often highlight the extreme views of the other side, but the advocates also have their radical element. Iowa state representative Dan Muhlbauer took the gun control rhetoric to a new level when he suggested that the government ought to ban *and* confiscate certain types of weapons.¹³ This type of advocacy is exactly what the far right will use to generate support from more moderate listeners, and the rhetoric between the two sides feeds off of each other until so far removed from the actual facts of the issue at hand that rhetoric is the only substance left to exchange.

¹¹ “Piers Morgan: I Would ‘Seriously Consider Deporting Myself’ Over Gun Control” *Huffington Post* (December 31, 2012) http://www.huffingtonpost.com/2012/12/31/piers-morgan-gun-control_n_2387985.html

¹² “Piers Morgan, Dana Loesch Debate Gun Control (VIDEO)” *Huffington Post* (March 29, 2013) http://www.huffingtonpost.com/2013/03/29/piers-morgan-dana-loesch-guns_n_2978682.html

¹³ David Martosko, “Iowa Lawmaker Calls for Retroactive Gun Ban, Confiscations of Semi-Automatic Weapons,” *Daily Caller* (January 9, 2013) <http://dailycaller.com/2013/01/09/iowa-lawmaker-calls-for-retroactive-gun-bans-confiscations-of-semi-automatic-weapons/>

Extreme gun control views are not the only views out there but they are certainly the most highlighted by the right, just as the left enjoys highlighting the rights extremist's views. Strong language and notions of what is "good" or "bad" for America are used to create not only more support for a certain side but to demonize the opposition in the eyes of a side's supporters. The play on morality through the rhetoric that is used drowns out a chance at rational debate, and perhaps there is no better example than some of Piers Morgan's interviews¹⁴ to illustrate just how quickly both sides of this debate can become entrenched to the point that they argue endlessly and never seem to approach the issue of what can or should be done with regard to actual gun control proposals.

As a result of the 'us' versus 'them' mentality, constantly reinforced in the media, one side is reduced to simply saying 'we want to ban/control guns more' and the other side to 'we want less gun control or no more gun control' over and over again. Those are the stances that are expected in the current discourse and they make for quick, easy, and memorable sound bytes. The fact that neither side can get through to the other could be less a matter of their actual positions regarding gun violence and more an issue of their refusal to back down from their perceived moral high-ground, which ironically leads them to the low and dark corners of discourse such as each side accusing the other of behaving like Nazi Germany.

¹⁴ Josh Feldman, "Piers Morgan Explodes At Gun Advocate: 'How Many Kids Have To Die' Before You Change Your Mind?," *Mediaite*, (December 15, 2012) <http://www.mediaite.com/tv/piers-morgan-explodes-at-gun-advocate-how-many-kids-have-to-die-before-you-change-your-mind/> and Josh Feldman, "Piers Morgan Battles Pro-Gun Advocate Over Assault Weapons Ban: 'Don't Be Ridiculous! What An Absolute Lie!,'" *Mediaite* (February 27, 2013) <http://www.mediaite.com/tv/piers-morgan-battles-pro-gun-advocate-over-assault-weapons-ban-dont-be-ridiculous-what-an-absolute-lie/> These two links contain videos where Piers Morgan interviews gun control opponents on his program Only two are included here, but even a cursory Google search reveals that Mr. Morgan has had several debates with conservative gun control opponents. Watching the videos, regardless of one's political affiliation, reveals the lack of true discourse and the amount of argumentative behavior shown by both Mr. Morgan and his guests. Also evident in these videos is the lack of focus on what should be done with guns because so much time is spent debating the validity of statistics or becoming emotional. This behavior, it should be noted, is not exclusive to Mr. Morgan's show but is endemic of the news media to date. All the major broadcast networks, perhaps in an effort to drive up ratings, seem eager to encourage behavior that is less about reporting on issues and more about arguing about issues. This, it is reasonable to conclude, has an effect on people's perceptions of what the debate is about and what they expect from the political rhetoric surrounding this issue. At this juncture, it is hard to tell if the sensationalism of the media is driving the debate, or the debate itself is providing fodder for the media to sensationalize.

Mirroring the forceful advocates for gun control, Mr. Morgan being an example rather than an exception, there is no end of popular and controversial conservative presences from the Drudge Report to Alex Jones' Infowars on the internet to widely watched FOX News channel on national television attacking their opponents with their own morally charged rhetoric. Among conservatives, a popular response to calls for gun control is simply: "guns are not the problem, people are."¹⁵ Effectively, this sentiment is backed by the claim that a number of other factors influence gun crime well beyond the number or type of weapons available to purchasers, the vast majority of whom, they argue, are responsible and non-violent citizens. If neither guns nor responsible citizens are the problem, this then invites the question: who or what is?

One answer, provided in a three minute speech by fifteen year old Sarah Merkle before the Maryland state legislature, is that those who are passing gun control legislation *are the problem, not guns*. Or in her own words: "By signing this legislation [in Maryland], you are not signing away gun violence but instead liberating American citizens of our Constitutional rights. You are not eliminating guns from society but eliminating our ability to protect our lives, liberty, and pursuits of happiness."¹⁶ Responsible gun owners like Sarah Merkle are plentiful, for mass shootings are in fact statistically very rare even if they seem to be all too frequent.

This brief statement encapsulates the moral sentiment of the gun control detractors, and its specific and deliberate use of references to the Constitution and the Declaration of Independence are employed to great effect. The opposition to gun control is battling the current power structure of the top levels of government, and there is a natural feeling of being politically overpowered in such situations. In response, there is a claim made to rights.

¹⁵ Posted by user: James Madison, "15 year old girl leaves anti-gun politicians speechless" *YouTube.com* (March 25, 2013) http://www.youtube.com/watch?feature=player_embedded&v=L_-N9_tnWBo

¹⁶ *ibid*

Whether it is the Second Amendment, the natural right to self-defense, or rights protected by local laws and legislation, the introduction of the language of rights intensifies the language of morals. Similarly to the use of the language of ‘moral obligation’, claiming the right to do or have something implies that there are wrongs that need to be corrected by specifying and protecting said right by law.

Moreover, morality is being claimed by both sides of the debate in ways that appeal to their supporters. Sarah Merkle states toward the conclusion of the video that “taking away the people’s right to bear arms is taking away people’s power in the government.”¹⁷ If her speech, which is essentially representative of the conservative position, is compared with the speech of Piers Morgan, it becomes clear that the debate is dichotomous. Given these two incompatible positions, the rhetoric in support and in opposition to gun control has escalated to the point that there are going to be perceived winners and losers in a power relationship.

Additionally, precisely because of the morality invoked by each side, the victory or loss in the “war,” as Piers Morgan phrased it, will be seen as a victory of one morality over another. To lose in a battle of morality would be absolutely devastating to either side, so interestingly and perhaps predictably, both sides refuse to compromise on the core issue. With little attempt to compromise in this ‘us’ versus ‘them’ war, both sides have found common ground by turning to scapegoats, namely, ‘other societal factors’ such as mental illness and violent entertainment.

Here invoking the adage that ‘guns don’t kill people, people kill people,’ can be seen in a new light, as a deflection from the core issue in response to the moral war being fought by two sides with enough supporters that they cannot afford to lose ground. Because there was a general sense that something needed to be done in the wake of Sandy Hook, politicians

¹⁷ “15 year old girl leaves anti-gun politicians speechless” *YouTube.com*

toward these purposes. But their desire for real change in policy regarding mental health can override such concerns as one advocate for better mental healthcare, the president of the National Council for Community Behavioral Healthcare, states “I hate the connection between gun violence and the need for better mental health care, but sometimes you have to take what you can get.”²¹ The reception by those advocating for better mental health treatment and attention has in fact been mixed. While there are those who share the ‘take what you can get mentality’, there are others who resent the connection between the mentally ill and gun violence that is being drawn by politicians.

With political attention turned toward mental health issues, some believe that there is a misrepresentation occurring where mentally ill people are being targeted for punishment rather than for help.²² Others are bluntly calling out the scapegoating that is occurring in the rush to avoid the more complex political issue of gun control.²³ Just as a small fraction of those who legally own guns commit violent crimes and even fewer commit mass shootings, there is no evidence that more than a small fraction of the mentally ill will commit violent crime or mass shootings if they have guns in their possession. There is no dependable way to predict who is mentally ill to such an extent that they would be at risk of committing mass violence prior to violent action, so efforts to avoid the possibility of such an event have been focused on limiting the mentally ill’s access to the means of violence.

Moreover, if further limitation is possible, it may stigmatize the entire community of mentally ill instead of having the intended effect of simply identifying those who may be at risk of committing violent crimes. As a result of the uncertainty, mental health professionals

²¹ Peters, “In Gun Debate, No Rift on Better Care for Mentally Ill”

²² Jackie Kucinich “Mental health advocates worry about gun legislation” *USA Today*, (April 10, 2013) <http://www.usatoday.com/story/news/politics/2013/04/09/mental-health-gun-violence/2068321/>

²³ “Wrong Focus: Mental Health in the Gun Safety Debate” *Judge David L. Bazelon Center for Mental Health Law*, (April 17, 2013) <http://bazelon.org/News-Publications/Press-Releases/4.17.13-Gun-Violence-Press-Release.aspx>

are divided as to whether or not there is more benefit or harm being done to their agenda by the political maneuvering surrounding gun control. Yet, the scapegoating of mental health by both sides of the gun control debate works for the most part because there is not a consensus rejection of political influence on the issue, thus the politicians are able to distract themselves from the moral war they created regarding gun control by focusing on mental illness.

The partial compliance of the mental health industry to their role as political scapegoat has created a political outlet away from the mess created with moral rhetoric in the gun control debate. However, another choice scapegoat has not been so acquiescent. The video game industry has also been long targeted as contributing to violent gun crimes. In the wake of the Columbine High School shooting in 1999, for example, there was intense scrutiny of the potential impact that violent video games had on the minds of the two perpetrators, for both were avid players of *Doom*, a particularly violent shooting game at the time.²⁴ Now, a new tragedy has renewed attention on the potential impact of violent video games on gun violence, with aforementioned gun control advocate and state Representative Mr. Muhlbauer saying “We’ve got these video games out here for these little kids. Maybe it’s time we start pulling them away, as far as – you know, they’re playing some really nasty games on there that are shoot-em-up and whatever – and evidently our culture is pulling you toward this.”²⁵ This quote is representative of the argument concerning violent video games; the games allow children to virtually shoot things, so they may have some connection to instances when young people actually do shoot people in the real world.

When Vice President Biden formed his task force in the aftermath of Sandy Hook, the video game industry was invited to Washington to be a part of the dialogue. The meaning of

²⁴ There was at the time intense public debate over the role video games played in Columbine, and now summaries of those arguments are easily found online alongside articles calling the connection into question. Mike Nizza, “Tying Columbine to Video Games,” *The New York Times*, (July 5, 2007) <http://thelede.blogs.nytimes.com/2007/07/05/tying-columbine-to-video-games/>

²⁵ Martosko, “Iowa Lawmaker Calls for Retroactive Gun Ban, Confiscations of Semi-Automatic Weapons”

this invitation was not lost on the industry, with many concerned that they would be the focus of “a witch hunt” and that merely going to the meeting was a tacit admission of some level of guilt regarding the problem of gun violence.²⁶

The industry is not only fearful of being implicated by the Vice President in gun violence but also by the opposition to gun control. Just days before the meeting, the NRA had called the video game industry “a callous, corrupt, and corrupting shadow industry that sells and sows violence against its own people.”²⁷ There are fewer succinct phrases that can summarize just how badly the video game industry is being targeted by interests on both sides of the gun control debate, and like mental health care, there is no consistent proven link between violent games and real world violence.²⁸

The effort here is to scapegoat an industry that is vaguely-related to the issue at hand. But in this instance, unlike the reactions by mental health professionals and advocates, the gaming industry is not divided on whether it could benefit from any additional governmental attention. Video games are a multi-billion dollar industry every year selling millions of games, and the two most popular games of 2012 in the U.S. were both shooter games, *Call of Duty: Black Ops II* (6.1 million copies sold) and *Halo 4* (4.6 copies sold).²⁹ How many of those nearly ten *million* people committed a violent crime with a gun? What is the

²⁶ Yannick LeJacq, “What Biden’s Meeting With the Video Game Industry Really Meant,” *The Wall Street Journal*, (January 11, 2013) <http://blogs.wsj.com/speakeasy/2013/01/11/what-bidens-meeting-with-the-video-game-industry-really-meant/> and Kris Graft, “Opinion: Meeting with Biden is a mistake for the game industry,” *Gamasutra*, (January 9, 2013)

http://gamasutra.com/view/news/184564/Opinion_Meeting_with_Biden_is_a_mistake_for_the_game_industry.php#.UPBOQonjl-J and Dillon Zhou, “Gun Control Debate: Video Games Are Being Scapegoated For the Sandy Hook Shooting” *Polycymic*, (January 2013) <http://www.policymic.com/articles/23298/gun-control-debate-video-games-are-being-scapegoated-for-the-sandy-hook-shooting>

²⁷ Yannick LeJacq, “After Sandy Hook, Should Violent Video Games Call a Cease-Fire?,” *The Wall Street Journal*, (December 21, 2012) <http://blogs.wsj.com/speakeasy/2012/12/21/after-sandy-hook-should-violent-video-games-call-a-cease-fire/>

²⁸ “Do Violent Video Games Contribute to Youth Violence?,” *Procon.org*, (Updated May 8, 2013) <http://videogames.procon.org/> For a very useful summary of the debate over violent video games and violence, see this source. It offers a clean breakdown of the pros and cons of the issue and many links to PDF and other documents and references backing up the arguments surrounding the points raised on either side of this debate.

²⁹ “USA Yearly Chart,” *VGCharts*, (2012) <http://www.vgchartz.com/yearly/2012/USA/>

representative gamer? It seems that, like the mentally ill, there is a small, statistical minority of the video game population that commits violent crime with guns.

Why the industry is repeatedly targeted for scapegoating in response to gun violence is an interesting question to explore, but more interesting is the fact that Congress seems so ready to target a commercial industry that has been judged by the Supreme Court to have the same First Amendment protections as other forms of expression or art, which even if they have violent or objectionable content are nevertheless protected under free speech.³⁰ It appears that Congress is using the video game industry simply because they are unable to understand exactly what the industry is, and the fact that shooters like Adam Lanza were “captivated by warfare video games”³¹ seems to be to them a direct cause of his actions, rather than simply an indicator that he lived in the modern world and consumed products like so many other children who are not violent in any way.³²

Despite the best efforts of some lawmakers, the rhetoric targeting video games as a scapegoat for the current gun control debate has been shelved due to a backlash of pressure from the video game lobby (which did not exist as a particularly strong entity until recently), as well as grassroots groups like Video Game Voters’, online bloggers, and other

³⁰ *Brown, Governor of California et al v. Entertainment Merchants Association et al* 564 U.S. 08-1448 (2011) <http://www.supremecourt.gov/opinions/10pdf/08-1448.pdf>

³¹ N.R. Kleinfield, Ray Rivera, and Serge F. Kovaleski, “Newtown Killer’s Obsessions, in Chilling Detail,” *The New York Times*, (March 28, 2013) http://www.nytimes.com/2013/03/29/nyregion/search-warrants-reveal-items-seized-at-adam-lanzas-home.html?pagewanted=all&_r=0

³² There is an implied link that is of particular interest. Namely, playing video games stands as consumer’s choice, whereas mental health is presumed not to be a choice, but a condition. Choice and condition are connected through the person of Adam Lanza. If they are both problems in society that lead to gun violence, then what could be the inferred relationships between them? It could be implied that those who play violent video games are mentally abnormal or that mental health is a choice. While not the focus of the paper (nor has it been fully developed within the contemporary debate itself), it is worth pausing to consider the potential connection between the two scapegoated populations and the implications of such an inferred connection. For example, if ten million people played the two top games of the past year, and one, Adam Lanza, shoots up a school, what are the odds that another video gamer will do likewise? Low. Yet with those odds lawmakers imply causation between violent games and shootings. Between gamers and mentally ill people, there is a point to be made that perhaps the majority of the population is being harmed by legislation intended to trap a very small number of people only remotely connected with the legislation focused incorrectly on the scapegoats.

commentators who are respected by the video game playing populace.³³ The fact that efforts to scapegoat violent video games as responsible in part for violent gun crime have failed is a large victory for the video game industry, and it means that politicians will now have to look elsewhere for ways to avoid negotiating a treaty and finding a conclusion to the war of morality that they have created around gun control. The scapegoat attempts on the mental health and video game industries are indicative of the problem: politicians are seeking to avoid the central issues and instead seek easy solutions.

Over the recent months, politicians have created a web of moral rhetoric on both sides that does nothing but entrench supporters of either side in their own positions, leading to a “war” as Piers Morgan phrases it. These two sides play off of the words of the other defensively and in fear. The pro gun control advocates fear a world where violence rules, and the anti-gun control advocates fear a world where no one is armed except the government which could become tyrannical. The ultimate end-game scenario is the creation of an ‘us’ versus ‘them’ mentality in the minds of people involved with the debate. Because the debate is morally framed, to back down is to lose moral authority and power that comes with it, so neither side is seeking compromise. Rather, most action on gun control is targeted at periphery issues that both sides can more easily approach such as mental health or video games because they are seen as an opportunity to avoid the language of morals around gun control. In doing so, they essentially target populations within civil society, violating the no harm principle of traditional jurisprudence, which is a crucial part of the balance between rights and obligations. The video game and mentally ill segments of civil society are far larger than the number of people lawmakers should be targeting with gun control legislation,

³³ “Video Game Lobby Steers Gun Violence Debate Away,” *Huffington Post*, (April 9, 2013) http://www.huffingtonpost.com/2013/04/09/video-game-lobby_n_3046533.html and Owen Good, “What Are *Splatterhouse*, *Kindergarten Killer* and the Other Games the NRA Slammed Today?” *Kotaku*, (December 12, 2012) <http://kotaku.com/5970504/what-are-splatterhouse-kindergarten-killeer-and-the-other-games-nra-slammed-today> and *Video Game Voters Network* (2013) <https://secure.videogamevoters.org/>

so the choices in scapegoats has the potential to harm far larger segments of the population that have little to do with the core issue and intent of gun control.

The Problems of Morality in Political Rhetoric

In order to examine the problems the contemporary political issues present with regard to moral language and political rhetoric, one would do well to explore the connection between moral language and law or politics. Indeed, to build a strong theoretical framework to view these issues it is necessary to engage with aspects of the history of political and legal thought, wherein in the interrelation of law and morality is central. Although there is a long history that helps to explain the rhetoric of rights, this language is not limited to moral philosophy, plain letter law, or jurisprudence; that is, it is not a specialized or esoteric discourse and continues to fill public spaces and incite engagement in the public, as evidenced by the active debate about rights that is constantly visible in the airwaves, newspapers, and Internet commentary, domestically and internationally.

The initial point of entry into the theory surrounding the connections between law and morality is difficult to find, but can be best summarized by the question-based approach taken by H.L.A. Hart (1907- 1992) in his three part lecture on the subject of *Law, Liberty, and Morality*.³⁴ Hart begins simply enough by examining the historical and causal question: “Has the development of the law been influenced by morals?” to which he responds with an unqualified “Yes.”³⁵ As suggested above, and as Hart confirms, there is little debate as to whether law and morals have affected each other through history, but this simple two-way causal statement is not nearly enough to understand the nuances of the relationship. However,

³⁴ H.L.A. Hart, *Law, Morality, and Liberty* (Stanford: Stanford University Press, 1963).

³⁵ *Ibid.* 1.

Hart does not stop here, but rather considers a question that is very applicable to the modern debate as to what should be done in the face of gun violence: “Is the fact that certain conduct is by common standards immoral sufficient to justify making that conduct punishable by law? Is it morally permissible to enforce morality as such? Ought immorality as such to be a crime?”³⁶

While Hart does not apply these questions to gun control, the conclusions he reaches in his analysis are a very helpful aid for the analysis of moral language and law in general. However, before answering the questions directly, the “common standard of morality” that Hart mentions warrants further examination, as it prompts the question as to who determines this ‘common standard’: the people as a whole? Religion? Or, the political majority? Essentially, would the language of the rhetoric of the party in power, who claims to directly represent and embody the mainstream moral sentiment, constitute the common standard? While it is almost certain that the party in power would desire that this question be answered affirmatively, what if power is split between two opposing worldviews? In this case neither side has the ability to definitively create policies nor new legislation, such as what has emerged from the most recent incarnation of the gun control debate after Sandy Hook.

Indeed, any discussion of fundamental issues in society, especially those that involve different conceptions of the relation between law, morality, and rights, will claim to be representing a “common standard of morality,” despite the fact that the issue itself shows how ‘uncommon’ or even offensive each side views the moral claims made by their opposition. However, Hart’s analysis is useful precisely because it does not hinge on the threshold for establishing a common standard of morality, but rather it seems to suggest that it is loosely the majority of people’s moral outlook—without specifically stating that it is

³⁶ Hart. 5.

endorsed by some sort of power structure outside the will of that majority of people—that constitutes the ‘common moral standard’.

The first observation Hart makes in his analysis is to reference the works of John Stuart Mill (1806-1873), specifically his 1869 work *On Liberty*.³⁷ In this work Mill sets forth his ‘no harm principle’ whereby “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”³⁸ Mill then uses the ‘no harm principle’ to specify how far government power may encroach on individual liberty. While Hart does not fully embrace Mill’s views regarding the ‘no harm principle’, he argues that: “on the issue relevant to the enforcement of morality Mill seems to me to be right.”³⁹ The application of the ‘no harm principle’ to instances of enforcing morality forms the heart of Hart’s analysis of the relationship between law and morality.

Hart spends the majority of his work examining whether or not it is justifiable to enforce a morality upon society through law, and he explains that many moral concerns are not enforceable or punishable through law. In essence, Hart contends that no supporters of some common moral feeling, even if it is the overwhelmingly predominant feeling, ought to have the power to enforce that morality on the lives of individuals who have other moral stances. By applying Mill’s ‘no harm principle’ to the relationship between morality and law, Hart makes a larger point, remarking that “it is plain that the question is one *about* morality, but it is important to observe that it is also itself a question *of* morality.”⁴⁰ Effectively Hart is asking the questions of whether it is morally justifiable to enforce one morality onto society as a whole as well as whether a society can enforce morality through law as a justifiable way

³⁷ John Stuart Mill, *On Liberty* (1869).

http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=233&chapter=16550&layout=html&Itemid=27

³⁸ *Ibid.*

³⁹ Hart, *Law, Liberty, and Morality*, 5.

⁴⁰ *Ibid.*, 17.

to preserve itself. Hart answers negatively to these questions and produces several valuable insights in the process.

Firstly and most obviously, the mere fact that a predominant morality would support the enforcement of its morality on society cannot mean that it is acceptable to do so, even if it was democratically decided, for supporters of a morality will predictably find it acceptable to enforce the morality they agree with onto society.⁴¹ Secondly, Hart considers briefly the second question concluding that if a society must enforce its morality through law in order to survive then perhaps the society does not deserve to survive.⁴² In giving this response, Hart undermines many of the arguments one finds in America today in the messages of any group that feels that their proposed moral way of life is threatened, for when those groups become the political parties in control of the government, then they may feel tempted to control society through enforcing their moral views through law. America has seen morality enforced through law throughout its history, from segregation to prohibition to treatment of homosexuals, and each of these examples has been challenged by groups of people who did not share the moral views that were imposed upon them.

Finally, Hart states that it is worth noting that forces and people wishing to enforce morality are attempting to justify that enforcement at all because “where there is no *prima facie* objection, wrong, or evil, men do not ask for or give *justifications* of social practices.”⁴³ In other words when people have to justify enforcing something, rather than explaining or demonstrating the value of the enforcement, then there is an implication that what they are enforcing is not universally accepted or agreed upon by the people on whom the morality is being imposed by law.

⁴¹ Hart., 20.

⁴² Ibid., 29.

⁴³ Ibid., 20.

That difference between a justification and an explanation with regard to enforcing morality implies that there is an interference with an individual's liberty of choosing to act in accordance with their private morality in public. In other words, the morality of the majority does not need to justification for the sake of the dissidents but rather for its own sake, for without justification of itself the morality could not long be the widely accepted stance. Hart states that whether it is a utilitarian morality that only forbids activities that may result in harm to others or a morality that forbids activities that may or may not be harmful to others, the simple fact that the morality supports its own enforcement is not nearly enough justification to enforce that morality because the justification circularly relies upon itself.

Thus, the fact that morality and law build upon one another is not the issue Hart, and Mill, find contentious. However, if and when a small group in power attempt to enforce their morality on society through the creation of specific laws deigned to change and create a 'common morality', Hart and Mill emphatically object to their actions, for even as law is informed by our collective moral sentiments, a 'common moral standard' cannot *be created by law*.

However, the justification given for attempting to force their moral vision regarding what is best for the American public onto said public runs headlong into the problems Hart points out. Attempting to enforce morality is a highly paternalistic endeavor according to Mill, for attempts to do so infringe upon an individual's liberty and violates the central no harm principle.⁴⁴ Hart elaborates on Mill's point and clarifies that although Mill's extreme anti-paternalistic view is not as applicable to the modern world; a modified version of Mill's principles is needed to properly critique proposed enforced morality.⁴⁵ In short, Hart's modified principles would still object to using law to enforce positive morality.⁴⁶ Here, there

⁴⁴ Mill, *On Liberty*.

⁴⁵ Hart, *Law, Liberty, and Morality*, 33.

⁴⁶ *Ibid.*, 33.

seems to be a tacit recognition that morality cannot be enforced easily on contentious issues in the modern world because of the noted lack of moral language in the laws themselves. Hence, the disconnect between the sometimes fierce moral political rhetoric and the letter of the laws that are passed could be a reflection of the difficulty of enforcing morality in a justifiable manner, and the gun control debate in the United States is an example of this difficulty.

The question of why political rhetoric continues to be infused with moral language remains open on this point, but now the answer can begin to be explored in detail. Again, the most obvious contributing reason as to why moral language continues to infuse political rhetoric is simply that there is a long historical relationship between morality and law. This relationship between language and intended results in legislation exists because it works when trying to inspire people to support a cause. The leader-follower relationship inherent in America's party system encourages the decision makers and influential figures to reach out and gather support from a relatively less informed populace. The populace in turn trusts that the leaders they choose to follow for various reasons are knowledgeable about the topics they speak about.

As the fluctuation of government approval ratings shows, the trust relationship is not always strong, but when talking about morally contentious issues, the leaders have to present shortened talking points on complicated issues to the public. The laws they are proposing are devoid of moral statements and filled with technical legal jargon, so the practical reason for using the moral political rhetoric is that it is a quick way to present an issue to the public so that they can understand it. The moral language provides the politicians with a way to slant their speech to their target audience so that not only are they creating an "us" versus "them" mentality among debaters but also among the general supporters on both sides. The goal underlying this strategy is that people will agree with a moral side and therefore be less

inclined to agree with the side they see as immoral or wrong because they have been given a very simple way to look at an issue as having a “good” side and a “bad” side.

If the moral language of political rhetoric was purely a tool to increase support, then it would be indicative of the system that produced it. Additionally, it would then seem that moral language is being used in political rhetoric as a kind of power over the followers. Power relations being a fixture in politics, this idea is not unfathomable. Here the theories of Hannah Arendt (1906-1975) become very relevant to the framework being used to examine moral language in politics. If, despite a history of intertwining of law and morality, there is now an evident and recognized (if only tacitly) divide between the moral political rhetoric employed to bolster support for legislation and the language of law lacking morals, then why continue to use the power of moral language to sway the populace? Why are government officials, talking heads, and other leaders creating the “us” versus “them” mentality in followers, inciting in some instances extreme distaste for the other side in the process? What is at stake for the leaders, the government, that the language of morals is still necessary in political rhetoric? To find an answer to these questions, Arendt’s *On Violence* provides a necessary link between the language and a potential motivation for using that language.⁴⁷

Arendt’s work examines the relationship between power and violence, critically examining the role that bureaucracies play regarding both. The critical light which she shines on bureaucratic structures is quite easily applied to the current American political system. Arendt opposes large bureaucracy for the simple reason that she sees it as “the form of government in which everybody is deprived of political freedom, of the power to act; for the rule by Nobody is not no-rule, and where all are equally powerless we have a tyranny without

⁴⁷ Hannah Arendt, *On Violence* (New York: Harcourt, Brace & World Inc., 1970).

a tyrant.”⁴⁸ Bureaucracies like the ones employed under the Democrats and Republicans and numerous other interest groups and governmental organizations all are faceless creators of policy that rules the day-to-day lives of citizens. These huge bureaucratic machines have succeeded in overruling the voices of the citizens and the larger a bureaucracy becomes, according to Arendt, the greater chances there will be violence against its control. Government responds to such violence by growing bigger and bigger.⁴⁹

In the US, centralization of power around the faceless party bureaucracies and their diametrically opposed party lines in relation to contentious issues has caused a monopolization of political power within these bureaucracies. For Arendt, such centralized administrative governance so withdrawn from the personal relationships between the leaders and the followers is a Petri dish for cultivating violence.⁵⁰ Violence here does not mean gun violence, but it rather indicates for Arendt a more general specter of violent action against the bureaucratic power. As political power is monopolized by the bureaucracies, authentic political sources are removed and power ceases to have a grip on the political system, making it more likely that a violent reaction will occur, either to hold onto the power that remains or to replace it.

In addition to a scathing rebuke of bureaucracy as the reason for why government devolves and why violence is likely to occur (this paper shall not go too deeply into this latter claim other than to state that violence is implied in any power relationship), Arendt describes the difference between violence and power and the interplay they can have with each other. Power is basically described as “‘qualified’ or ‘institutionalized force’ ... a kind of mitigated violence”⁵¹ which is “the essence of all government ... an end in itself”⁵² while violence is “by nature instrumental; like all means, it always stands in need of guidance and justification

⁴⁸ Arendt, 81.

⁴⁹ Ibid., 85.

⁵⁰ Ibid., 85.

⁵¹ Ibid., 38.

⁵² Ibid., 51.

through the end it pursues.”⁵³ The relationship between the two is that of opposites, and additionally neither can exist where the other is absolutely present. Finally, violence can destroy power but cannot create it.⁵⁴ Arendt is attempting to flesh out the motivations people and bureaucracies have for gaining and opposing power. The desire for increased power is a driving force of politics, and Arendt states that there is a devolution evident wherever power structures have become larger and larger.

The devolution comes in the form of violence against the power structures, and such violence is often accompanied by powerful rhetoric, with one side labeling another side “anarchists, nihilists, red fascists, Nazis, ... Luddite machine smashers, ... police state, or latent fascism of late capitalism, and ... consumer society.”⁵⁵ Some of these labels Arendt gathers from the time of her writing are still in use today in political rhetoric along with new designators to demonize the “other” side.

For example, President Obama has been called a socialist, Muslim, and a tyrant among other things by his most extreme opponents while the political left has been all too happy to use language of its own such as saying that generally gun owners are out of touch southerners, hillbillies, or scared isolated anti-government radicals, to demonize their opponents. This critical language on both sides fires up the emotions of those who feel marginalized, that is, those who feel like they are so far away from the centralized power structure where they feel they deserve a voice. Far right or left extremists may not find traction regardless of how loudly they shout, but the rhetoric that is thrown at the other side can still have an impact. Rhetoric used in the middle, where true political power does reside in bureaucracies, is much more worthy of attention.

⁵³ Arendt. 51

⁵⁴ Ibid., 56.

⁵⁵ Ibid 15

The rhetoric of the middle segment of the populace between the radical fringes, while containing less wild accusations, is still quite potent and inciting toward the followers of the parties. However, radical speech even containing hints of violent action, whether the violence is physical, punitive, or violence through deprivation, can be a strong political motivator. “Violence has remained mostly a matter of theory and rhetoric where the clash between generations did not coincide with a clash of tangible group interests.”⁵⁶ While Arendt writes on the student rebellions of her time, the fact that violent rhetoric still exists today is evident in the language surrounding the gun control debate with opponents in particular fearing that there will be a seizure of their guns that will inevitably lead to violence. For example, the Kentucky sheriff who feels the moral obligation to oppose gun control measures says in his statement that he doesn’t want “a bloodbath in our community when they come in to take guns”⁵⁷ where the ‘they’ is a reference to the faceless government agents who are part of the bureaucracy that would be sent to do the gun control advocates’ bidding. The fact that these fears exist despite there being no confiscation bill on the floor of Congress shows the power that the mere threat of violence can have over the minds of people.

Violence in rhetoric can be a strong motivator and tool to use to instill fear. It can instill fear in one’s own side that their way of life is going to be threatened by the other, and it can instill fear in the other side that they are about to be overrun and acted violently against. While no politicians are making explicit physical threats against each other or against the populace supporting the other side, violence in power relations has many forms not just a physical manifestation. There are, of course, the traditional political tools of coercion: threatening funding for various projects or causes; threatening a candidate’s election prospects; threatening to vote for or against certain bills unless, etc. These threats

⁵⁶ Arendt, 18.

⁵⁷ Nick Wing, “Denny Peyman, Kentucky Sheriff, Feels ‘Moral Obligation’ Not To Enforce Gun Control Laws”

and actions are all forms of coercion, violence, conducted by one side against another, whether it is the two party machines against each other, two interests groups in opposition, or other groups against each other. Violence, as Arendt says, is used to destroy power, to undermine it so that by weakening the opposition one's own side grows more powerful.

In the gun control debate, the various factions are all vying for power and attacking the other side to gain it, and as Gabrielle Giffords speculates in her editorial, the NRA and lobbyists who opposed the gun control measure could have won through the use of coercion on senators. While true motivations of individuals are difficult to accurately prove, the speculation is most likely not without some merit. However, the real point at issue here is why the moral rhetoric became so much more scathing after the issue was decided.

Moral language, as discussed, is an excellent way to create an "us" versus "them" political atmosphere, and combined with the various forms of violence that can be invoked either to motivate one's own side or to intimidate another side, there is a strong potential for social manipulation. Bureaucracies, the faceless entities who are monopolizing real political power and creating the talking points that politicians are expected to generally adhere to, are "the latest and perhaps most formidable form of ... domination"⁵⁸ that Arendt speculates can be held responsible for many of society's political woes.

Power in bureaucracy is without a face, so it can act facelessly, clinically, without moral sentiment or consideration of what is right. However, power can also become diluted within a bureaucracy to the point where it is weak enough to be susceptible to challenge from without. Arendt states that when power becomes so diluted, violence has a high likelihood of coming into play to challenge the power structure. Coupled with America's tendency to respond to threats of violence by creating bigger bureaucracies, it appears that power may be nearing such a dilution point. The use of moral rhetoric creates a clear divide, where both

⁵⁸ Arendt, 38.

sides see themselves in a morally superior position, but one side is backed by a bureaucratic/political machine and the other side is backed by different bureaucratic/political machines. The rhetoric of violence in the form of coercion now has a chance to appear.

Perhaps the most obvious distinction that can be made in politics in America is that there are two political parties, Democrats and Republicans, who often find themselves on opposite sides of the most morally contentious issues to come before the government. Both parties, entrenched in their positions as America's only two realistic political parties to have a chance at winning major political races, have established massive party bureaucracies and have central party headquarters near the seat of the U.S. government in Washington D.C. From these headquarters of party bureaucracy come the official party lines on issues, talking points that are generally the stance party members are expected to take.

While not binding to politicians, the party structure in the halls of Congress is designed to enforce party lines with whip positions for the majority and minority party designated with the task of keeping party members voting with the rest of the party. These whips are elected politicians themselves, unlike the bureaucratic leaders within the party structure, but the fact remains that politicians are regularly called upon and potentially pressured to follow the party line on contentious issues.

Additionally, it is the job of party bureaucracies to discover ways to undermine and defeat political opponents in the other party whenever possible, and it is widely known that there are massive operations behind every election campaign designed to attack the viewpoints of the other party and its candidates. The moral political rhetoric on contentious issues can almost be predicted based on the party affiliation of the speaker in some cases.

When a gun control bill did come to the floor of the U.S. Senate in April 2013, it was predicted that most Democrats would support it and most Republicans would oppose it, and sure enough only five Democrats voted against it and only four Republicans supported it as it

failed.⁵⁹ This result was predictable to the point where before the votes were tallied the whips and leaders in the Senate knew that the bill would fail to pass.

Immediately following its failure, supporters of the bill including President Obama spoke of the great “wrong” that had been committed. The President said that the failure was “a pretty shameful day in Washington”; Connecticut Governor Dan Malloy said “the members who voted against this proposal should be ashamed of themselves”⁶⁰; and former senator and shooting victim Gabrielle Giffords authored a scathing editorial also calling for shame upon the Senate and stating that “I will not rest until we have righted the wrong these senators have done.”⁶¹ Their side, the side they claim has moral superiority, lost, and they responded by issuing more potent morally infused political rhetoric as a result. Yet, the coercion is not one-sided, nor is it limited to those who hold political office, for other groups, such as the NRA – a significant campaign contributor to those who are friendly to its policies – also have the ability to shame those who oppose its goals.⁶²

This kind of power struggle at the heart of the gun control debate is one where both sides feel powerless and vulnerable, so their moral rhetoric serves to bolster their side and demonize the opposition. In this respect the invocation and use of moral rhetoric serves as a

⁵⁹ Alexander Bolton “Senate rejects background checks on gun purchases in 54-46 vote,” *The Hill*, (April 17, 2013) <http://thehill.com/homenews/senate/294571-senate-rejects-tougher-background-checks-on-gun-purchases>

⁶⁰ Jeff Zeleny, Sunlen Miller, Sarah Parnass, and Chris Good, “Obama Takes Senate to Task for Failed Gun Control Measure,” *ABC News*, (April 17, 2013) <http://abcnews.go.com/Politics/obama-takes-senate-task-failed-gun-control-measure/story?id=18981374#.UXd9x7XOuul>

⁶¹ Gabrielle Giffords, “A Senate in the Gun Lobby’s Grip,” *The New York Times*, (April 17, 2013) http://www.nytimes.com/2013/04/18/opinion/a-senate-in-the-gun-lobbys-grip.html?_r=0

⁶² *Ibid*, *NRA Political Victory Fund*, (2012) <http://www.nrapvf.org/about-pvf.aspx> and Matthew Bloch, Hannah Fairfield, Jacob Harris, Josh Keller, Derek Willis “How the NRA Rates Lawmakers,” *The New York Times*, (December 19, 2012) http://www.nytimes.com/interactive/2012/12/19/us/politics/nra.html?_r=0 Here are referenced the NRA’s own “About” section of their political victory fund portion of their website stating that they rank political candidates on their issues across party lines and a link to a NY Times article with a colored map representing the rankings that the NRA gave lately to congressmen. It is interesting to note the population distribution relative to the amount of area colored for the higher and lower grades as the better grades tend to be farther from cities and cover far more area of the country. This distribution’s relation to other demographics of the country would be an interesting topic to discuss further particularly with questions relating the different groups to each other: city dwellers, rural populace, more vs less income, party affiliations, etc.

response to a perceived loss of power. Without question, when a side feels it is vulnerable, that its power is in jeopardy, the moral rhetoric has become harsher and more threatening (the repeated use of ‘shame’ in the post-vote rebukes serves as a prime example). This escalation can be understood as part of the struggle for power between faceless bureaucracies, people, and other groups. All of whom feel they do not have enough power, and therefore they all resort to coercion, violence, to undermine the power of their opponents. In this context, moral language acts as a reactionary response to feeling their power threatened by the other side, but because of the dichotomy of ‘Us versus Them’ formed by moral language, neither side can possibly understand that the position of the other side may be likewise motivated.

Searching for Moral Justification: Security

Thus far in this paper the debate on gun control has been approached strictly from the language of morality, but hand-in-hand with moral language is often the attempted justification of enforcing such a morality. Appealing to morality in this way is necessary, following Hart, if one desires to justify enforcing such morality through law, and thereby, through legal limitations and punishment. In the gun control debate, central to justifications to propose legislation is the notion of security, which itself is tied up in the language of morality. Perhaps the sentiment expressed by the President in the opening quote of this paper states the security justification best: essentially while no law can prevent all violence, in the interest of protecting just one more person the nation ought to pursue any legislation it can. The sentiment conveyed here is not simply that the nation has an obligation to pass new legislation, but that the purpose of that legislation is to protect just one more person who would otherwise be a victim of tragedy. This language is quite clearly the language of security that is directly tied both explicitly and implicitly to ‘the no harm principle’, which underlines American politics, law, and jurisprudence more generally.

The ‘no harm principle’ in its original as put forth by Mill demands that no law be created that impedes the right of the individual to live according to his or her desires unless they would harm another individual.⁶³ Hart generally agrees,⁶⁴ and it can easily be applied with slight modification to using the language of morals in debate as previously discussed. However, Hart does not adhere to the pure version of Mill’s principle, and now it is time to examine why he chose to diverge. While Mill sees no excusable infringement on individual liberty other than for protection against other people, Hart does not agree this must be where the line should be drawn. The short reason is that it has become acceptable that the state can provide for security in increasingly restrictive ways on the pure liberty Mill envisioned.⁶⁵ The drift from Mill’s liberty to Hart’s more restricted liberty is possibly indicative of additional societal fears governing what the dangers a society should be protected from other than merely harming each other’s liberty.

A more elaborate examination of what has led to the acceptance of more restrictions on Mill’s pure liberty in the United States and how it relates to the gun control debate will first have to examine what security exceptions to liberties entails. The central question relevant to gun control is: is there a security concern that is important enough to allow legislation to override the current liberties and rights governing the possession and use of firearms? More broadly put, the question becomes one of a proposed state of exception that the pro-gun control advocates claim exists.⁶⁶

States of exception are ambiguous political and judicial periods where a governing authority institutes laws that override rights or liberties the society previously enjoyed because of a situation that has emerged that requires fast action or harsh action in order to

⁶³ Mill, *On Liberty*.

⁶⁴ Hart, *Law, Liberty, and Morality*, 5.

⁶⁵ Ibid 33.

⁶⁶ Here, I take the phrase of the ‘state of exception’ as developed by Giorgio Agamben in his *State of Exception* (Chicago: The University of Chicago Press, 2005).

prevent further harm.⁶⁷ While it seems similar to emergency powers such as those traditionally considered or granted in times of war, the state of exception is not limited by a wartime application. A compelling description and analysis of the state of exception as a concept in modern governmental practice is given by Giorgio Agamben, where the state of exception is loosely described as a byproduct of necessity: “the state of necessity, on which the exception is founded, cannot have a juridical form.”⁶⁸ From necessity springs the state of exception, which cannot be a part of the law because it is not responsible to any law but rather to the circumstances of the necessity. This hierarchical dominance and elevation over enshrined juridical procedure present an issue that Agamben explores quite thoroughly.

The state of exception is harder to define than it is to recognize in practice. While defined rather ambiguously as “a ‘point of imbalance between public law and political fact’ that is situated – like civil war, insurrection and resistance – in an ‘ambiguous, uncertain, borderline fringe, at the intersection of the legal and the political’”⁶⁹ it is quite easily recognized in history as moments where, when facing great crisis, nations have allowed governmental power to supersede rights and liberties of the people in favor of increased power, ostensibly temporary and for the protection of the nation. In a way, declarations of war (including the ‘war on terror’) could be considered states of exception, for the normal laws, codes, and rights of people are suspended and replaced by wartime law and codes which are applied to other nations for the good of world order. An examination of the United States’ relationship with the state of exception on a domestic scale is necessary to further understand why in the name of collective security the individual gun owner’s previous rights may be restricted.

⁶⁷ Agamben, 2.

⁶⁸ Ibid, 1.

⁶⁹ Ibid 1

One need not go very far back into the history of the U.S. to find the state of exception. Although it would be easy (and correct) to point to Civil War policies under Lincoln in the 1860s or the Japanese internment camps during World War II as examples, there are other, more contemporary, examples more applicable to the gun control situation. Agamben states the example best: “The immediate biopolitical significance of the state of exception as the original structure in which law encompasses living beings by means of its own suspension emerges clearly in the ‘military order’ issued by the president of the United States on November 13, 2001, which authorized the ‘indefinite detention’ and trial by ‘military commissions’ ... of noncitizens suspected of involvement in terrorist activities.”⁷⁰ He is of course referencing the USA Patriot Act that this nation passed in the wake of the horrific terrorist attacks of September 11, 2001. This act was a state of exception created in order to respond to the terrorist threat which had killed over 3,000 Americans in the span of a day. It was passed quickly by Congress and it changed the way the country operated legally.

The Patriot Act was introduced in the House on October 23 and passed on October 24, then passed by the Senate on October 24, and signed into law by President George W. Bush on October 26, 2001, and no other legislation of such importance has ever been passed so quickly by Congress. With its passage, many rights that Americans enjoy as enshrined pillars of liberty such as the right to a fair trial, to a trial by jury, to not be held without charges indefinitely, have all been suspended for those we label ‘terrorist’, and the American people largely condoned it at the time of its passing.

In the atmosphere immediately following 9/11, and even today, there is a clear “us” and “them” rhetoric working to galvanize society in the face of uncertainty, so much so that public opinion and sentiment in the US has come to accept that when invoked, “them” or the other are always morally evil, and thus ‘they’ need to be dealt with immediately, even if it

⁷⁰ Agamben, . 3.

means disregarding the rights and liberties that we hold that all men created equal are entitled to.⁷¹ Essentially, the passage of the law “radically erases any legal status of the individual, thus producing a legally unnamable and unclassifiable being” that Americans, the “us” may treat without concern or regard for the law.

The curious thing about the USA Patriot Act signed into law in 2001 is that it is still on the books as of now, in 2013. However, this staying power is typical for states of exception, and it is exactly what those who oppose increased governmental powers in the name of security fear.⁷² Directly before mentioning the USA Patriot Act, Agamben describes the state of exception of the Third Reich that lasted twelve years, and both examples illustrate his point that “the state of exception tends increasingly to appear as the dominant paradigm of government in contemporary politics.”⁷³ The connection between the Third Reich and the Patriot Act by Agamben is deliberate, but not as a comparison of policy, to make the point

⁷¹ Andrew Johnson, “Ron Paul Criticizes Boston Lockdown: ‘We had Martial Law Out There,’ ‘It’s Criminal,’” *National Review Online*, (April 25, 2013) <http://www.nationalreview.com/corner/346624/ron-paul-criticizes-boston-lockdown-we-had-martial-law-out-there-its-criminal> Here it is worth mentioning that the effect of this legislation can be seen twelve years later after the Boston Marathon bombings in 2013. The creation of a ‘shelter in place’ order for the entire city was accepted as legitimate at the time, but after the crisis was solved, people began to debate whether or not such a state of exception should be seen as legitimate, whether it set a precedent, and what effect it will have on future actions. Some are going as far to call the response martial law, a full police state, and criminal as former Representative Ron Paul states in the video in this citation. Whether or not one agrees with the accusations of Mr. Paul, it is very interesting that the entire country basically accepted that the authorities could shut down an entire city in order to search for one person, completely dictating the activities and actions people were allowed to do during that time.

⁷² It is worth mentioning here, that perhaps ironically, there are scenarios where the fears that have played out in this paper thus far are reversed. The example that comes to mind first is the U.S. drone program. We use security concerns to justify their use abroad, but recently the FAA has approved law enforcement use of drones domestically, which has caused significant backlash. Here the moral high ground is being largely ignored by the state and instead they rely solely on a security justification while the people opposing the domestic drone programs are using the moral rhetoric. The government abandons trying to use security as a justification for enforcing a morality and focuses only on security as justification of its policy, disregarding the fears that such a policy will never go away once initiated. People opposing it on the other hand are arguing very strongly that there is a violation of rights (privacy in particular) that is occurring with the use of domestic drones, and they are rejecting the security arguments outright whereas in the case of the Patriot Act and in the case of gun control security is used with moral rhetoric together. The stark difference in approaches of both sides on the drone issue is worth remembering as this paper continues, as it opens new and interesting avenues for thought on the use of security justification. For an example of this tension, see this summary of the drone topic in light of Senator Rand Paul’s recent filibuster against drone policy: Hendrik Hertzberg, “The Drone Perplex: Rand Paul and Obama,” *The New Yorker*, (March 17, 2013) <http://www.newyorker.com/online/blogs/comment/2013/03/rand-paul-and-the-drone-war.html>

⁷³ Agamben, *State of Exception*. 2

clear that the state of exception where the normal rules and laws are suspended is being accepted more and more by people in the name of security due to fear. The state of exception, in other words, has become the rule, and the rhetoric of fear has made this possible.⁷⁴ Fear of the Japanese led to their internment in camps; fear of terrorist attacks caused the Patriot Act's creation; and fear causes citizens to seek gun control legislation and also to reject it.

In the gun control debate there is plenty of fear on both sides of the argument. The phrase 'slippery slope' can be used to describe the arguments of the most fearful segments of the population. On one side are the pro-gun control supporters, who fear massacres like the Sandy Hook shootings. They fear losing that one life that they could have saved with tighter policy, and they seek to create and enforce tighter policy to alleviate that fear. On the other side, the anti-gun control side, are those who fear a series of permanent restrictive measures being enacted against them until they are left powerless in the face of further, more restrictive, and even less desirable future laws. They see the gun control debate in terms of power, and they perhaps would agree with Arendt's assertion that power is "an instrument of rule, where rule, we are told, owes its existence to the 'instinct of domination.'" ⁷⁵ To them guns are power, and the limitations on guns being imposed upon them by a faceless bureaucratic/government machine is a scary thought that they must resist. Fear then is at play on both sides of the gun control debate, just as moral language is, and it makes both sides mutually afraid of each other.

The opposing sides are not blind to this fear, but each side is quick to label the fears of the other side as absurd, fantasy, or purely theoretical situations that will never occur. One relatively rational Forbes columnist notes that "On the one hand, we fear that any risk to any of us amounts to an existential threat to us all... On the other, we fantasize that anything

⁷⁴ Even in Mill's maximum liberty situation, the government had the duty to provide for the protection of its citizens from each other, and it could easily be implied that fear is an influential factor in this minimal-government situation. See in particular Mill, *On Liberty*

⁷⁵ Arendt., 36.

which helps even one of us represents a moral triumph for all of us.”⁷⁶ This statement encapsulates the arguments for increased security rather well, for in both cases what is feared most is the chaos that ensues from too much liberty or too much law.

On one side are people saying we need more security because increased protection is the ultimate goal of government, while on the other side people are seeking to preserve their rights and liberties and see any encroachment on them as full encroachment on all of them. The article continues with a criticism of the rhetoric from President Obama, Piers Morgan, and US Senator Patrick Leahy, stating that “none of these people actually believe this... those who deploy this kind of willfully illogical rhetoric don’t feel any moral responsibility at all for the risk and dangers posed by its excesses” and that rhetoric that proposes a blanket moral obligation such as protecting just one more child “poses a dramatic, immediate risk to the very concept of freedom.”⁷⁷

Indeed, the fears of the anti-gun control supporters, the moral obligation expressed by that Kentucky sheriff, are indicators of the fear that if they allow government to infringe on one right now in the name of security then there is a slippery slope precedent being set. To that end, sometimes comically through absurd logic like “Ban leaving the house!” (as leaving the house could kill one more person than it has to)⁷⁸ common people are expressing their fear of surrendering their rights to the government for increased security.

⁷⁶James Poulos, “Dangerous Rhetoric Damages Obama's Gun Control Proposal Package,” *Forbes*, (January 16, 2013) <http://www.forbes.com/sites/jamespoulos/2013/01/16/dangerous-rhetoric-damages-obamas-gun-control-proposal-package/>

⁷⁷ Ibid.

⁷⁸ “Obama: If gun control saves one child, it’s worth it; Conservatives shred his logic,” *Twitchoy*, (January 15, 2013) <http://twitchoy.com/2013/01/15/obama-if-gun-control-saves-one-child-its-worth-it-conservatives-shred-his-logic/> This source is a blog post containing selected Twitter posts regarding President Obama’s remarks quoted at the beginning of this paper. It is a sampling that was definitely selected carefully, but people did post these remarks and there are certainly enough people that believe the sentiments expressed here. The slant of the selected remarks aside, it is a useful way to see the point of the slippery slope argument expressed in very basic terms. It also expresses the slippery slope fears that an infringement on one right may not necessarily lead to a slippery slope of legislation on that right but could spread to other rights that people enjoy.

On the other side of the argument is the government and those who support gun control and generally want fewer guns or types of guns in the hands of people, because they fear future tragedies that could be prevented. It is this fear that drives legislation, drives the search for a scapegoat in the face of uncompromising opposition, and drives the battle to claim the moral high ground. Discussing what is truly necessary, a blogger for *The New Yorker* concludes correctly that the argument about guns is really about “the illusion of power” that guns provide, but they claim, like the gun control advocates do, that the power to own certain types of guns is not one that should reside with the people.⁷⁹

The author above believes that there is no acceptable or condonable justification for the continued presence of certain weapons in the hands of the public because the security risk to society that one could be owned by another killer like Adam Lanza is too high. The author even pokes fun at the fears of the other side stating “if our democratic government and its military *did* turn on us, that would surely present a threat and a problem that no number of North Dakotans with their Bushmasters could solve”⁸⁰ The pro gun control advocates have just as much faith in their responsibility to not abuse the state of exception as the anti-gun control advocates have fear that they will inevitably abuse the state of exception.

Finally, while it could be debated whether or not proposed gun controls actually constitute a state of exception, this is not the point. The point is that the proposed measures are seen and perceived to be a state of exception threat to liberty by those opposing them, and the security-minded arguments for their implementation do seem to suggest that Agamben’s state of exception could easily apply to them. Proponents of increased security at the expense of rights are here not only taking the moral high ground in their arguments, but they are also asserting that security concerns justify the enforcement of their moral arguments.

⁷⁹ Adam Gopnik, “The Cultural Fight for Guns,” *The New Yorker*, (April 4, 2013)
<http://www.newyorker.com/online/blogs/newsdesk/2013/04/the-cultural-fight-for-guns.html>

⁸⁰ *Ibid.*

The Forbes article mentioned earlier, where society's conflicting fears were highlighted as a problem with discourse, was relatively rational because it saw the mutual danger of fear on both sides of the argument, but it assumed that the supporters of the pro gun control moral rhetoric did not actually mean what they said. In order for such a strong message of moral right and wrong to resonate it cannot be a complete fabrication, and President Obama's executive orders that he signed immediately after his press conference referencing the moral obligation show his resolve to pursue his stated vision. The justification of morality through the language of security has worked in the past in America and the world, but despite the executive orders and the vocal supporters of the legislation, it failed in the Senate this time. While one can only speculate as to the true motivations of the Senators, it is not unreasonable to assume that the vocalized fears of the populace to give up even an inch of their rights in the name of security to another state of exception had an impact in Washington.

Conclusion: To Invoke Morality is to Cheat⁸¹

The examination of the dialogue between the proponents and opponents of the gun legislation and policy reform that was proposed as a result of the tragedy of the Sandy Hook school shooting and the recent spate of high-profile mass-shootings in general reveals that not only is there a strong moral language used by both sides, but that each side sees itself as possessing the moral high ground while also fearing the other side's intentions. Whether it is the political left or right or either side's fringe elements who demand even more radical solutions to the problem, the rhetoric is centered on moral concerns and is ever-escalating in intensity, sometimes into the realm of the absurd. The moral element of the rhetoric creates

⁸¹ This is a reference to Schmitt's (in)famous play on Proudhon's "Whomever invoked humanity cheats" within Schmitt's discussion of the friend-enemy distinction breaking down in the face of humanity. See Carl Schmitt, *Concept of the Political*. (Chicago: The University of Chicago Press, 2007)

an “us” versus “them” adversarial relationship between the sides, but because the basis of the rhetoric is moral neither side can give ground for fear of losing their self-assumed moral superiority.

The proponents of increased gun control measures speak of the need for more security for any individuals that they can protect, and they believe they have a moral obligation to provide that protection if they can. They see the horror of mass shootings and consider it necessary to enter into a state of exception whereby the people must surrender the rights they currently enjoy to own certain types of firearms for the greater protection of society. They position themselves in the power relationship against the potential violence of heavily armed rogue operators, and they expect the citizenry to see and accept this view as “good” for society. They fear the needless death and carnage that could be caused by maintaining such a broad right to bear arms, and they believe their moral concerns for everyone’s security outweigh the personal liberties of people.

In contrast, the opponents of increased gun control fear the faceless government bureaucracy depriving them of what they see as a personal right. They view guns as a power relationship too, but they see guns as a bulwark against tyranny. The threat of losing some of that right is enough to bring visions of future encroachments of the right to bear arms or even other personal liberties, and the slippery slope adds to their fear. This side of the debate also claims the moral high ground through the language of rights, for rights are good and therefore depriving them of that good is bad. Security concerns are not nearly enough to justify a state of exception where their rights may be infringed upon and the other side may justify asserting and enforcing its morality over them.

To the end of finding some sort of compromise in the face of the unwinnable political morass of clashing morality, of producing some legislation that can actually pass Congress, of seeking a middle ground, the two sides actually go outside the realm of the debate to

scapegoat outside influences. They drag in issues such as mental health and violent video games as sacrifices to appease the calls for action by everyone without actually addressing the moral arguments they are hurling back and forth. By scapegoating these issues, there is an attempt to compromise without compromise, whereby no one side has to lose moral ground yet legislation may be produced that appears to deal with the core issue.

Scapegoating in this way is met with varying degrees of success, but it is a common tactic whenever common ground is scarce yet the demand for action is high. It is important to realize that these techniques of avoiding the central issue through scapegoats and of creating increasingly vitriolic moral rhetoric to attack the other side and support their own are not unique to the gun control debate but are increasingly common in other contentious debates that divide the nation's moral sentiment. Politicians and other prolific supporters of one side of any difficult issue connected to morality seem more and more inclined to drift quickly away from the core issue and into moral rhetoric because it has the most effect, both on the supporters and the detractors, in terms of drawing attention to the issue.

The effect of morality on debate, therefore, is that it is increasingly divisive. All of the examples from the case of the recent debate over increased gun control center not on who has the most logical, rational, or convincing arguments, but rather both sides spend time talking about how their point of view, their side, is *right* and by implication how the other side is *wrong*. This basic moral view of issues is not reflected in the language of the law where one can find no mention of morality or what is right or wrong for society to do but rather finds plain lists of weapon types and styles. The debate has been hijacked by a language of morality to create a dichotomy for purposes of politics through fiery political rhetoric and has lost the connection to logic in favor of a "war" between moral stances. The end to debate begins as soon as the first moral "us" versus "them" distinction is created, for from that point

onwards both sides must assume they have the moral high ground and will be defensively reacting to each other instead of acting with each other.

What was seen during the press conference announcing the result of the Vice President's month-long commission to devise a response to the Sandy Hook shooting was not a solution to a problem but rather the creation of an insurmountable problem between the pro- and anti- gun control camps. From the moral language used in the speeches to the President's signing of the executive orders while flanked by small children for the cameras, the message was clear: we have the moral high ground on our side, how can one not agree with us? It is not unreasonable for the opponents of gun control legislation to react with moral language of their own as the Kentucky sheriff did, even copying the President's use of "moral obligation" in his remarks. Moral political rhetoric is toxic to constructive political debate the moment it enters, and it is used far too freely. Without always realizing what the consequences will be, politicians and others are using moral language to discuss political topics and expecting their opposition to be easily convinced or defeated. That they are surprised and outraged that the other side fights back shows that perhaps this toxicity is not evident to most.

The place of morality in law is undisputed historically, as the very language of rights reveals, but the letter of most law is absent any language of rights or morality. Despite this absence, the political rhetoric that supports or opposes contentious law is almost always filled with moral rhetoric. One could speculate that this is because whoever invokes morality cheats, in the sense that once morality enters the debate, the debate has little chance of returning to the nuts and bolts level of the issue at hand on a logical or rational level and instead becomes a war where neither side can gain ground.

Perhaps politicians realize the implications of morality in law, that when they use it they are aware that they are trapped into their position. If they do realize this, then they undermine their morality by claiming moral superiority. By attempting to justify morality

from within that morality, they fail to provide adequate reason violating the no harm principle as applied to political discourse, for they are invoking morality simply to create the dichotomy. When morality is used in this way, its use can undermine its own moral authority even as it claims that moral authority because it is trying to enforce its validity rather than recognizing or even attempting to compromise.

The no harm principle applied to moral rhetoric in debate provides a way to analyze the power relationships at play with competing moral visions without allowing the debate to immediately descend into moral deadlock where the only compromise is found in marginally related issues, for focus on these issues could in fact cause more harm than good to society when vast segments of the population are harmed through legislation for the sake of stopping a few members of society connected with those segments. Civil society should not be the victim of harm caused by moral deadlock in political debate, which has come to be the rule rather than the exception over the last decade.

Bibliography

- (18 USC 922(d)) <http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t17t20+540+0++%28%29%20%20AND%20%28%2818%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%28922%29%29%3ACITE%20%20%20%20%20%20%20%20%20>
- Agamben, Giorgio. *State of Exception* (Chicago: The University of Chicago Press, 2005).
- Arendt, Hannah. *On Violence* (New York: Harcourt, Brace & World Inc., 1970).
- Bloch, Matthew., Hannah Fairfield, Jacob Harris, Josh Keller, Derek Willis “How the NRA Rates Lawmakers,” *The New York Times*, (December 19, 2012)
http://www.nytimes.com/interactive/2012/12/19/us/politics/nra.html?_r=0
- Bolton, Alexander. “Senate rejects background checks on gun purchases in 54-46 vote,” *The Hill*, (April 17, 2013) <http://thehill.com/homenews/senate/294571-senate-rejects-tougher-background-checks-on-gun-purchases>
- Brown, Governor of California et al v. Entertainment Merchants Association et al*
564 U.S. 08-1448 (2011) <http://www.supremecourt.gov/opinions/10pdf/08-1448.pdf>
- Congressional Record 113th Congress (2013-2014) <http://thomas.loc.gov/cgi-bin/query/R?r113:FLD001:S02614>
- “Do Violent Video Games Contribute to Youth Violence?,” *Procon.org*, (Updated May 8, 2013) <http://videogames.procon.org/>
- Dwyer, Devin. “Sheriff Targets Mental Illness Link to Gun Violence,” *ABC News*, (February 8, 2013) <http://abcnews.go.com/Politics/OTUS/gun-control-debate-sheriff-targets-mental-illness-link/story?id=18435882#.UXt5xLXOuuI>
- Feldman, Josh. “Piers Morgan Battles Pro-Gun Advocate Over Assault Weapons Ban: ‘Don’t Be Ridiculous! What An Absolute Lie!’,” *Mediaite* (February 27, 2013)
<http://www.mediaite.com/tv/piers-morgan-battles-pro-gun-advocate-over-assault-weapons-ban-dont-be-ridiculous-what-an-absolute-lie>
- Feldman, Josh. “Piers Morgan Explodes At Gun Advocate: ‘How Many Kids Have To Die’ Before You Change Your Mind?,” *Mediaite*, (December 15, 2012)
<http://www.mediaite.com/tv/piers-morgan-explodes-at-gun-advocate-how-many-kids-have-to-die-before-you-change-your-mind/>
- Giffords, Gabrielle. “A Senate in the Gun Lobby’s Grip,” *The New York Times*, (April 17, 2013) <http://www.nytimes.com/2013/04/18/opinion/a-senate-in-the-gun-lobbys->

[grip.html?_r=0](#)

Good, Owen. "What Are *Splatterhouse*, *Kindergarten Killer* and the Other Games the NRA Slammed Today?" *Kotaku*, (December 12, 2012) <http://kotaku.com/5970504/what-are-splatterhouse-kindergarten-killeer-and-the-other-games-nra-slammed-today>

Gopnik, Adam. "The Cultural Fight for Guns," *The New Yorker*, (April 4, 2013) <http://www.newyorker.com/online/blogs/newsdesk/2013/04/the-cultural-fight-for-guns.html>

Graft, Kris. "Opinion: Meeting with Biden is a mistake for the game industry," *Gamasutra*, (January 9, 2013) http://gamasutra.com/view/news/184564/Opinion_Meeting_with_Biden_is_a_mistake_for_the_game_industry.php#.UPB0Qonjl-J

Hadro, Matt. "Amidst Failing Support for Gun Control Laws, Peirs Morgan Says It's 'the NRA Versus the People,'" *News Busters* (April 5, 2013). <http://newsbusters.org/blogs/matt-hadro/2013/04/05/amidst-fading-support-gun-control-piers-morgan-says-its-nra-versus-people>

Hart, H.L.A., *Law, Morality, and Liberty* (Stanford: Stanford University Press, 1963).

Hertzberg, Hendrik. "The Drone Perplex: Rand Paul and Obama," *The New Yorker*, (March 17, 2013) <http://www.newyorker.com/online/blogs/comment/2013/03/rand-paul-and-the-drone-war.html>

"Hitler Joins Gun Control Debate, But History is in Dispute," *Huffington Post* (May 6, 2013) http://www.huffingtonpost.com/2013/03/23/hitler-gun-control_n_2939511.html.

"Hitler Gun Control Facts: U.S. Pro-Gun Advocates Have More in Common with Hitler than they Think," *Policymic* (January 2013) <http://www.policymic.com/articles/22692/hitler-gun-control-facts-u-s-pro-gun-advocates-have-more-in-common-with-hitler-than-they-think>

"Huckabee Stokes Fear With Nazi Gun Control Comparison," *The National Memo* (April 5, 2013). <http://www.nationalmemo.com/huckabee-stokes-fear-with-nazi-gun-control-comparison/>

Huffpost Video (May 8, 2013) <http://videos.huffingtonpost.com/piers-morgan-fighting-for-gun-control-517637864>

James Madison (username), "15 year old girl leaves anti-gun politicians speechless" *YouTube.com* (March 25, 2013) http://www.youtube.com/watch?feature=player_embedded&v=L_-N9_tnWBo

- Johnson, Andrew. "Ron Paul Criticizes Boston Lockdown: 'We had Martial Law Out There,' 'It's Criminal'," *National Review Online*, (April 25, 2013)
<http://www.nationalreview.com/corner/346624/ron-paul-criticizes-boston-lockdown-we-had-martial-law-out-there-its-criminal>
- Kleinfield, N.R., Ray Rivera, and Serge F. Kovaleski, "Newtown Killer's Obsessions, in Chilling Detail," *The New York Times*, (March 28, 2013)
http://www.nytimes.com/2013/03/29/nyregion/search-warrants-reveal-items-seized-at-adam-lanzas-home.html?pagewanted=all&_r=0
- Kucinich, Jackie. "Mental health advocates worry about gun legislation" *USA Today*, (April 10, 2013) <http://www.usatoday.com/story/news/politics/2013/04/09/mental-health-gun-violence/2068321/>
- LeJacq, Yannick. "After Sandy Hook, Should Violent Video Games Call a Cease-Fire?," *The Wall Street Journal*, (December 21, 2012)
<http://blogs.wsj.com/speakeasy/2012/12/21/after-sandy-hook-should-violent-video-games-call-a-cess-fire/>
- LeJacq, Yannick. "What Biden's Meeting With the Video Game Industry Really Meant," *The Wall Street Journal*, (January 11, 2013)
<http://blogs.wsj.com/speakeasy/2013/01/11/what-bidens-meeting-with-the-video-game-industry-really-meant/>
- Martosko, David. "Iowa Lawmaker Calls for Retroactive Gun Ban, Confiscations of Semi-Automatic Weapons," *Daily Caller* (January 9, 2013)
<http://dailycaller.com/2013/01/09/iowa-lawmaker-calls-for-retroactive-gun-bans-confiscations-of-semi-automatic-weapons/>
- Mill, John Stuart. *On Liberty* (1869).
http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=233&chapter=16550&layout=html&Itemid=27
- Nizza, Mike. "Tying Columbine to Video Games," *The New York Times*, (July 5, 2007)
<http://thelede.blogs.nytimes.com/2007/07/05/tying-columbine-to-video-games/>
- NRA Political Victory Fund*, (2012) <http://www.nrapvf.org/about-pvf.aspx>
- "Obama: If gun control saves one child, it's worth it; Conservatives shred his logic," *Twitchy*, (January 15, 2013) <http://twitchy.com/2013/01/15/obama-if-gun-control-saves-one-child-its-worth-it-conservatives-shred-his-logic/>
- Peters, Jeremy W. "In Gun Debate, No Rift on Better Care for Mentally Ill," *The New York Times*, (April 12, 2013) <http://www.nytimes.com/2013/04/13/us/politics/senators->

- make-bipartisan-push-for-mental-health-care.html?pagewanted=all&_r=0
- “Piers Morgan, Dana Loesch Debate Gun Control (VIDEO)” *Huffington Post* (March 29, 2013) http://www.huffingtonpost.com/2013/03/29/piers-morgan-dana-loesch-guns_n_2978682.html
- “Piers Morgan: I Would ‘Seriously Consider Deporting Myself’ Over Gun Control” *Huffington Post* (December 31, 2012) http://www.huffingtonpost.com/2012/12/31/piers-morgan-gun-control_n_2387985.html
- Poulos, James. “Dangerous Rhetoric Damages Obama's Gun Control Proposal Package,” *Forbes*, (January 16, 2013) <http://www.forbes.com/sites/jamespoulos/2013/01/16/dangerous-rhetoric-damages-obamas-gun-control-proposal-package/>
- “President Obama’s Remarks in New Gun Control Actions (Transcript),” *The Washington Post* (June 16, 2013) http://www.washingtonpost.com/politics/president-obamas-remarks-on-new-gun-control-proposals-jan-16-2013-transcript/2013/01/16/528e7758-5ffc-11e2-b05a-605528f6b712_story_2.html.
- Schmitt, Carl. *Concept of the Political*. (Chicago: The University of Chicago Press, 2007)
- “USA Yearly Chart,” *VGCharts*, (2012) <http://www.vgchartz.com/yearly/2012/USA/>
- “Video Game Lobby Steers Gun Violence Debate Away,” *Huffington Post*, (April 9, 2013) http://www.huffingtonpost.com/2013/04/09/video-game-lobby_n_3046533.html
- Video Game Voters Network* (2013) <https://secure.videogamevoters.org/>
- “Violent Crime Control and Law Enforcement Act of 1994’, *One Hundred and Third Congress Second Session*, <http://www.gpo.gov/fdsys/pkg/BILLS-103hr3355enr/pdf/BILLS-103hr3355enr.pdf>
- Wing, Nick. “Denny Peymann, “Kentucky Sheriff, Feels ‘Moral Obligation’ Not to Enforce Gun Control Law,” *Huffington Post* (January 14, 2013) http://www.huffingtonpost.com/2013/01/14/denny-peyman-kentucky_n_2472119.html
- “Wrong Focus: Mental Health in the Gun Safety Debate” *Judge David L. Bazelon Center for Mental Health Law*, (April 17, 2013) <http://bazelon.org/News-Publications/Press-Releases/4.17.13-Gun-Violence-Press-Release.aspx>
- “Yes, Hitler & Stalin Did Take the Guns,” *Alex Jone’s Infowars.com* (February 26, 2013) <http://www.infowars.com/yes-hitler-stalin-did-take-the-guns/>

Zeleny, Jeff., Sunlen Miller, Sarah Parnass, and Chris Good, "Obama Takes Senate to Task for Failed Gun Control Measure," *ABC News*, (April 17, 2013)

<http://abcnews.go.com/Politics/obama-takes-senate-task-failed-gun-control-measure/story?id=18981374#.UXd9x7XOuuI>

Zhou, Dillon. "Gun Control Debate: Video Games Are Being Scapegoated For the Sandy Hook Shooting" *Policymic*, (January 2013)

<http://www.policymic.com/articles/23298/gun-control-debate-video-games-are-being-scapegoated-for-the-sandy-hook-shooting>