

## The rights of a 'paper Eichmann'

'Holocaust denier' David Irving, still capable of making headlines, deserves obscurity -- but also free speech.

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WHAT DO YOU DO with a problem like David Irving? Until a few years ago, the British author of "Hitler's War" was usually described as a "controversial historian." But in April 2000, a British high court judge held that Irving not only had denied the reality of the Holocaust but was an anti-Semite, a racist and a neo-Nazi sympathizer who "deliberately falsified and distorted" historical evidence in the service of his right-wing views.

Justice Charles Gray's damning 333-page judgment — which ended Irving's libel suit against academic Deborah Lipstadt for calling him a "Holocaust denier" — turned Irving from controversial to disgraced. It also cost Irving his London home (in Britain, the loser in a libel case has to pay the winner's costs), leaving him a bankrupt, marginal figure reduced to lecturing credulous audiences of conspiracy enthusiasts and collectors of Nazi memorabilia. Yet for all that, he is still capable of making headlines.

Late last week, it was reported that Irving had been arrested in Austria for giving speeches denying the existence of gas chambers in Nazi death camps. Like Germany, France, Poland, Lithuania, Belgium and Israel, Austria has laws against denying or applauding the Holocaust.

There are several odd details about Irving's arrest, starting with the fact that the offending speeches were allegedly made more than 15 years ago; the warrant for Irving's arrest was issued in November 1989. But for Americans, accustomed as we are to the 1st Amendment's robust guarantee of free speech, the mere existence of laws forbidding certain kinds of expression may invite dismissal of the whole affair as of little relevance to our own concerns. In my view, that would be shortsighted.

Countries that outlaw Holocaust denial do so not because they love liberty less than we do but because their history is different from ours. Holocaust denial causes real pain to survivors and their families. To fail to acknowledge that pain, or to treat it as a particularly Jewish problem that need not trouble anyone else, is to deny our common humanity — precisely the denier's aim.

As important, in Germany and Austria Holocaust denial is not just hate speech but also a channel for Nazi resurgence, like the Hitler salute and the swastika, which are also banned. Countries where the experience of occupation and the shame of collaboration still rankle have different views than ours on the balance between dissent and disorder. And Bosnia and Rwanda should have taught all of us that these are not simple questions. Sticks and stones may still break bones but name-calling can clear a path to genocide.

Understanding, however, need not compel imitation. In 1949, the Supreme Court heard an appeal by Arthur Terminiello, a Catholic priest who'd been fined \$100 by the city of Chicago for making a Jew-baiting speech. Justice Robert Jackson, former chief prosecutor at Nuremberg, warned that "if the court does not temper its doctrinaire logic with a little practical wisdom, it will convert the Constitutional Bill of Rights into a suicide pact" — an argument echoed today by those who would safeguard our security by abridging our rights.

But Jackson was in the minority. "Almost every generation in American history," wrote the journalist I.F. Stone, "has had to face what appeared to be a menace" frightening enough to justify the sacrifice of basic liberties. Stone, who described himself as "exactly what Terminiello meant ... by an 'atheistic, communistic, Zionistic Jew,'" felt that free speech, though not an absolute value, was worth the risks it carried. I agree.

As for Irving, he seems to me exactly what Pierre Vidal-Naquet meant by "a paper Eichmann." A distinguished classical scholar who lost both parents to the Holocaust, Vidal-Naquet coined the term to describe Irving's French ally, Robert Faurisson. "Confronting an actual Eichmann, one had to resort to armed struggle," wrote Vidal-Naquet. "Confronting a paper Eichmann, one should respond with paper." Which need not be passive.

Indeed, Deborah Lipstadt's exposure of Irving's unsavory views in her book "Denying the Holocaust" was effective enough on its own that Irving was willing to risk financial ruin to try and force her, or her publishers, to back down.

In Austria, a country dogged by its own failure to come to terms with the Holocaust, and where Kurt Waldheim's Nazi past was no bar to electoral success, Irving's arrest is not much more than a symbolic gesture. The threat of a 20-year prison term, even if it doesn't come to pass, only burnishes Irving's counterfeit credentials as a martyr to free speech.

Whatever their motives, the Austrians have every right to deny Irving a platform, even to deport him. They do not, though, have the right to rescue him from well-deserved obscurity.