

A CRIME MOST HEINOUS: RESPONSIBILITY FOR CRIMES OF WAR

Daniel Hyman-Cohen

Every few years, the American press reports on crimes against humanity in some faraway country. Following World War II, the Nuremberg and Tokyo trials revealed the crimes of Germany and Japan. After Soviet leader Joseph Stalin died in 1953, his successor, Nikita Khrushchev, denounced the purges of the thirties in the “Secret Speech,” which didn’t remain secret for long. In the 1960s, the French in Algeria and the Americans in Vietnam were accused of such brutality. The killing fields of Cambodia and the repressiveness of the victorious Vietnamese Communists made headlines in the late seventies, as did the crimes of the Chinese Communists and the El Salvadoran Junta in the eighties. A few years later, it was the Hutus in Rwanda and the Serbs in Bosnia who became infamous; very recently, Syria, Israel, and the Islamic State of Iraq and Syria (ISIS) have been accused of atrocities. And this is an extremely partial list.

To the citizens of liberal democracies, large-scale, brutal crimes often seem inexplicable, yet they have been, and remain, commonplace. Why people of different ethnic groups who have “liv[ed] in relative peace for decades” suddenly begin torturing and killing each other—and conversely, why such interethnic conflict ceases or never starts—is the subject of Lawrence Weschler’s essay “Vermeer in Bosnia,” written in the aftermath of the Yugoslav Wars in the 1990s (783). For guidance, Weschler turns to the Dutch painter Jan Vermeer (1632-1675), whose work, as Judge Antonio Cusese observes, “radiate[s] ‘a centeredness, a peacefulness, a serenity,’” even though Vermeer’s Europe was “awash in incredibly vicious wars of religious persecution and proto-nationalist formation, wars of an at-that-time unprecedented violence and cruelty” (779). That violence, however, is central to Vermeer’s paintings as “*felt absence*” (780); Vermeer is, Weschler argues, “finding—and, yes, inventing—a zone filled with peace . . . and then breathing it out” (781). And the painter does this by asserting “the autonomy, the

independent agency, dignity and self-sufficiency of the Other, in whose eyes we in turn” can exist as well (782).

This assertion of human individuality—of the individual as subject, responsible exclusively for his or her own actions, rather than for those of other people of the same ethnicity, religion, and so on—parallels the work of the Yugoslav War Crimes Tribunal in The Hague, Weschler argues. Interethnic warfare in the Balkans (and in Rwanda) began after people, goaded by prominent figures “intent on immediate political or material advantage, who . . . call[ed] forth the legacies of earlier and previously unaddressed grievances,” began to see those of different ethnicities as “instance[s]” or “type[s]” rather than as individuals (784, 783). The job of the tribunal was to show that prominent figures had provoked the violence—that they, and not the ethnic groups in their entirety, were primarily responsible for it. This demonstration of individual responsibility was, the tribunal prosecutor believed, the only way to break the cycle of violence, and, just as Vermeer had done in his paintings, “inven[t] . . . peace” (781).

But neither the causes of nor responsibility for war crimes and crimes against humanity is as clear-cut as Weschler argues, if the editors of *Crimes of War* are to be believed. While editors Omer Bartov, Atina Grossmann, and Mary Nolan would agree with Weschler that political figures do stand to gain from the incitement of ethnic hatred in some contexts, it is clear from their introduction to this collection of essays that Weschler neglects to specify these contexts at all. Political leaders do not attempt to incite genocide whenever it is in their interests—“genocide occurs normally under cover of war . . . or at least under the guise of a military threat” (Bartov *et al.* xv). The dehumanization of other ethnic groups following incitement isn’t a full explanation for the genocides in Bosnia and Rwanda, nor is it even a full social-psychological one. Wars with “a powerful ethnic element” that “aim to move or eradicate entire populations that st[an]d in the way of expansionist or hegemonic goals, [are] seen as a threat to the homogeneous character of the nation” (xv). Weschler historicizes the conflict in Yugoslavia—arguing that the “people not only seem incapable of forgetting the past but barely seem capable of thinking about anything else,” that they are “deeply mired in a poisonous legacy of grievance”—to the point that he ignores its contemporary roots and, in particular, the interests and ideologies of the ethnic groups

involved that may have helped drive the conflict (784).

If genocidal conflicts, such as that in Yugoslavia, are not driven only by “vengeance for vengeance for vengeance for who-any-longer-knows-what,” nor alone by prominent “individuals . . . who are continually endeavoring to manipulate” the ethnic groups they lead, the question of who bears responsibility for genocide becomes far murkier (Weschler 784). Witness the German reaction to an exhibition in Hamburg in the 1990s on the crimes of the Wehrmacht, as described in the Introduction to *Crimes of War*. For decades following World War II, “popular opinion in Germany tended to draw a distinction between the criminal agencies of the [Nazi] regime, primarily the SS and Gestapo, and the professional and patriotic conduct of the armed forces” (Bartov *et al.* xiii). The exhibition, however, “seemed to revive the long-dismissed assertion of collective guilt not as an amorphous notion but as a concrete understanding that the war waged by Germany was a criminal undertaking, and that the soldiers who fought in it were therefore . . . the perpetrators of innumerable crimes” (xvi). The German reaction to the exhibition echoed that of many other nations accused of systematic war crimes: “[w]ar is hell and therefore soldiers cannot be blamed for being brutal. The enemy was no better; perhaps it was even worse. Even if there were evidence of individual crimes, one could not generalize about an army of millions. Smearing the good name of the Wehrmacht was unpatriotic” (xiv).

Yet neither the Germans nor any other people whose army has committed crimes on a mass scale can dismiss them as the responsibility of a few powerful individuals. Their response, instead, is typically to attempt to explain or justify what they did, because they, as an entire people, are implicated. If genocide occurs not (or not only) as part of an ancient cycle of violence, if it involves the active and organized mass participation of a people motivated by what they perceive their interests to be or by ideology— even if they’re just following orders—responsibility cannot be so easily assigned to their leaders. Weschler’s thinking implies that every person involved is a subject; they all choose to participate. Dusko Tadic, the war criminal whose hearings Weschler was attending, was certainly responsible for what he did and what he ordered others to do. But the Serbian troops who followed his orders bore at least some responsibility as well. Not every American present at the My Lai massacre during the Vietnam War chose to participate; some

tried to save the villagers their comrades were slaughtering. Resistance and refusal are possible.

It is true that “genocide is [not] the inevitable consequence of modern war,” as the editors of *Crimes of War* put it (Bartov *et al.* xv). But “war crimes have become an increasingly recognizable and massive component of war since the late nineteenth century,” such that “civilians now comprise by far the majority of those killed, mutilated, raped, and uprooted even when they present no conceivable threat” (xvi, xv). Not all wars entail genocide, in other words, but most or all entail war crimes.

And this suggests that in some—perhaps most—cases, war crimes are not isolated incidents that take place in the fog of war when soldiers attack civilians out of fear or anger. Such crimes are often bound up with the strategic logic of the wars in which they occur—nowhere is this more obvious than in the American war with Vietnam. American policymakers, unwilling to allow the Communist-led National Liberation Front (NLF) to take control of South Vietnam, a U.S. client-state, “committed . . . to the destruction of the revolutionary nationalist forces in Indochina,” says Noam Chomsky in “An Act of Imperialism” (327). But the Vietnamese population viewed the NLF as the successor to the Viet Minh, the Communist-led organization that had defeated the forces of French colonialism. And, they saw the Communist North Vietnamese Army (NVA), which took a larger and larger role in the fighting as the war progressed, as an indigenous, nationalist force, rather than as an invading army. On the other hand, they saw the Americans as neocolonial occupiers, and the South Vietnamese state as their puppet—a view only reinforced by the Pentagon Papers, the U.S. government’s secret history of American involvement in Vietnam: “[T]he GVN [government of South Vietnam] ha[d] become the refuge of Vietnamese who were allied with the French in the battle against the independence of their nation” (Chomsky 325).

Since the Vietnamese generally saw the war as a continuation of that against the French, they supported the nationalist forces. On this basis, the NLF built a guerrilla movement of “astonishing strength and resiliency” in the countryside, one that was “deeply rooted in the population, and that gained its support because of the appeal of its commitment to independence and social reconstruction” (Chomsky 327, 330). This meant, however, that

the Americans could only destroy the guerrilla movement if they also destroyed Vietnamese “rural society” in the south; and, indeed, “the society was virtually demolished, though the resistance was never crushed” (327, 329). Yet, My Lai was only “a particularly gruesome application of a wider policy” (332). Committed to defeating the guerrillas, the U.S. engaged in war crimes as a matter of policy, making war on the civilian population of the Vietnamese countryside.

The implication of Weschler’s thinking—that mass murder is irrational to people who see each other as autonomous individuals, since such atrocities occur when “the Other . . . is being experienced not as a subject like oneself but as an instance, a type, a vile expletive”—is only sustainable if the individual is the unit of analysis (783). What is irrational for the individual soldier is rational for his or her government. Partially because its autonomous, individual members were given latitude to commit war crimes on a mass scale in Vietnam, the “American army [began] to disintegrate” in the late 1960s (Chomsky 329). But U.S. strategy remained unchanged until the war’s end—the Nixon administration “replaced [American forces] by native mercenaries,” and the slaughter continued (335). If it is nearly certain, in modern wars, that war crimes will be committed, even as a matter of policy or a rational means to victory, then it becomes imperative to prevent war in the first place—or at least to support war only after very careful consideration. We all become responsible for the crimes that occur, if not directly.

Howard Zinn discusses this issue at length in his essay, “The Bombing of Royan.” In April 1945, when victory over Germany was assured, the American Air Force bombed the French resort town of Royan, still held by the Wehrmacht, in combination with a Free French ground assault. According to Zinn, after three days of bombing and the use of napalm by the Americans “for the first time in warfare,” the German garrison surrendered (70). The town lay in ruins, most of its civilian residents dead. The attack was unnecessary, Zinn argues: “[E]veryone knew [the war] would . . . soon be over and all one had to do was wait for the German garrisons in the area to surrender” (68). Yet the assault went forward anyway.

Responsibility for the attack was “infinite[ly] dispers[ed],” according to Zinn (85). The U.S. Air Force, the local French commanders, and the Supreme Allied Command each played a role, but they could all “point,

rightly, to someone else as being responsible" (Zinn 85-86). This ambiguity, Zinn argues, is characteristic of most acts of "massive evil" in modern times: since they "require . . . an enormously complicated division of labor," "[n]o one is positively responsible for the horror that ensues. But every one is negatively responsible, because anyone can throw a wrench into the machinery" (86).

Weschler tells us that manipulative leaders bear most of the responsibility for genocide, excusing to some extent the soldiers who do the killing. Allied commanders in World War II—American, British, French, and Soviet—certainly manipulated public opinion and made most decisions in secret, as did the American presidential administrations that prosecuted the Vietnam War. But a multitude of people—soldiers and civilians—went along with or didn't protest their publicly-made decisions, even when those decisions would result in catastrophic loss of (civilian) life. Such complicity stems partially from "the habit of obedience," but it also stems from perverse values (Zinn 85). Weschler writes of the conflict in Bosnia as if genocide was the natural product of manipulative, influential individuals who stoked ethnic hatred. But there is nothing natural about genocide or war crimes. Both occur when political leaders, soldiers, and civilians actively, or tacitly, prioritize certain strategic, material, or ideological objectives over people. It is therefore the responsibility of all of us to do in life what Vermeer did in art, to "inven[t] . . . peace" (Weschler 781). Doing so means not merely "asserting the possibility of such an autonomous, inhabited sense of selfhood" in others, but also ensuring that those in positions of power respect and prioritize human life and human needs—values implicit in Vermeer's conception of the individual (782).

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