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Neubacher, Frank

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How Can It Happen that Horrendous State Crimes are Perpetrated? An Overview of Criminological Theories

Frank Neubacher*

Abstract

This article offers a criminological explanation of crimes perpetrated by state officials or involving states, more specifically such crimes as genocide, war crimes or crimes against humanity. After exploring the criminological implications of the Milgram experiments on obedience towards authority, the author presents the theory of 'neutralization techniques' and applies it at the state level. Finally, by way of illustration, the notorious speech made in 1943 by Himmler on the extermination of Jews is analysed.

1. Introduction: Explaining the Incomprehensible

Most serious crimes committed by the state, such as genocide or systematic torture, leave observers with a sense of shock and bewilderment. As a first reaction, the origins of heinous crimes are sought in the pathological personality of the perpetrator or in the exceptional evil of a political system. At times claims are even made that crimes like the holocaust are inherently unclassifiable, as they portray a unique, incomparable and incomprehensible incident.¹ Hans Magnus Enzensberger argued that those who term Hitler a common criminal render him apparently harmless, mistransforming his crimes into something comprehensible.² This perspective has merit, in particular if the dimensions of the crimes committed during the holocaust are considered. The genocide of the European Jews cannot simply be understood as a horrible accident of German or European history. Since it was planned and carried out in the centre of a modern, rational and enlightened society proud of its culture it should be rather seen as a product and problem of this civilization and culture.³ And yet, in asking how we can explain state crime, we should not overlook lessons from the disciplines of social psychology and sociology regarding behaviour in decision-making situations. Not least, because these disciplines may offer explanations based on the behaviour of normal people rather than monsters, demons or devils.

* Privat Dozent, Ph. D, Institute of Criminology, University of Cologne (currently at University of Dresden).
[Frank.Neubacher@uni-koeln.de]

¹ On this issue see D. Diner (ed.), *Ist der Nationalsozialismus Geschichte? Zu Historisierung und Historikerstreit* (Frankfurt: Fischer, 1987); M. Freeman, 'The Theory And Prevention of Genocide', 6 *Holocaust and Genocide Studies* (1991), 185-199, 186; M. Dabag, 'Genozidforschung. Leitfragen, Kontroversen, Überlieferung', 1 *Zeitschrift für Genozidforschung* (1999), 6-35, 29.

² H.M. Enzensberger, *Politik und Verbrechen* (Frankfurt: Suhrkamp, 1964), 36.

³ Z. Bauman, *Dialektik der Ordnung, Die Moderne und der Holocaust* (Hamburg: Europäische Verlagsanstalt, 1992), 98-131; M. Horkheimer and T. Adorno, *Dialektik der Aufklärung* (Frankfurt: Fischer, 1987), 112, 221.

It is well known that most Nazis were very ordinary: many of them were loving husbands and caring family-members, educated, generally law-abiding people – and yet they were also capable of horrendous criminal acts. In the course of the Jerusalem trial against Adolf Eichmann, head of department for Jews at the *Reichssicherheitshauptamt* (RSHA), a psychiatrist found Eichmann ‘in any case more normal than I am after having examined him’.⁴ And philosopher Hannah Arendt pointed out that the commission of even so grievous crimes did not require human monsters. To her Eichmann personified the ‘banality of evil’ – a term which has come to be understood as a synonym for the thoughtlessness with which an individual in bureaucratic structures can participate in such criminality, unable or unwilling to confront the logical consequences of their own actions.⁵

Confronted with the consequences of their deeds, even the perpetrators have difficulty in understanding those deeds and recognizing themselves therein. The excuses offered by Nazi criminals – for example, that they were compelled to obey orders – have provided nothing more than a legal defence strategy, albeit in vain. What then are the factors enabling people to display such cruel behaviour that they can hardly admit it to themselves, committing deeds which they themselves perceive as an attack on their self-image and pride, and which are consequently banished from memory or retrospectively falsified?

These questions are considered here from a criminological standpoint.⁶ Usually criminology deals with deviant behaviour. In this regard, however, state crime is special. The perpetrators of state crime are often not considered criminal by those in their own society, since their behaviour conforms with the expectations of others in that society. To call their behaviour deviant only makes sense with reference to some standard at a superior level (e.g. international law, universal norms).⁷ At the domestic level, a major part of the explanation has to deal with conformity or, as in Stanley Milgram’s experiments, with obedience. Despite the focus on individual behaviour, it would be wrong to assume the explanation is limited to the micro-level. The state is clearly implicated in the production of such behaviour through defining political aims, defining political in- and out-groups, disseminating propaganda and justifications for violence against the out-group, and signalling that it expects these aims,

⁴ Cf. H. Welzer, *Täter, Wie aus ganz normalen Menschen Massenmörder werden* (Frankfurt: Fischer, 2005), 9.

⁵ H. Arendt, *Eichmann in Jerusalem, A Report on The Banality of Evil* (New York: Viking Press, 1963); H. Brunkhorst, *Hannah Arendt* (München: Beck, 1999), 53. Also A. Alvarez, ‘Adjusting to Genocide, The Techniques of Neutralization and the Holocaust’, 21 *Social Science History* (1997), 139-178, 154-157 rejects the ‘Myth of Monsters’.

⁶ See F. Neubacher, *Kriminologische Grundlagen einer internationalen Strafgerichtsbarkeit – Politische Ideen- und Dogmengeschichte, kriminalwissenschaftliche Legitimation, strafrechtliche Perspektiven* (Tübingen: Mohr Siebeck, 2005), 215-239.

⁷ See I. Tallgren, ‘The Sensibility and Sense of International Criminal Law’, 13 *European Journal of International Law* (2002), 561-595, 575.

rules, views, and orders to be followed. After all, there are numerous links between the individual and the political level. These links are the central concern of this article. After exploring the implications of the Milgram experiments, the theory of ‘neutralization techniques’ is presented. Originally developed in the context of individual crimes, it is here applied to the state level, offering an explanation of state crimes, wherein ordinary people commit extraordinary crimes. The theory is illustrated through analysis of the notorious secret speech by Heinrich Himmler advocating the extermination of Jews.

2. The Milgram Experiments and Beyond

The Milgram experiments – also known informally as the ‘Eichmann experiment’ – were carried out at the University of Yale at the beginning of the 1960s. Stanley Milgram’s research work provided essential findings relating to the phenomenon of obedience and its destructive potential.⁸ Its relevance is widely recognized in genocide studies.⁹ Milgram believed the essence of obedience to be a person coming to the point where he sees himself as a tool which carries out the will of others and is thus no longer responsible for his own actions.¹⁰ This reversal of self-image should be seen as the central issue in the complex problem of obedience. Once a person has completed this crucial transformation all the essential traits of obedience appear. Adjustments within the thought process, willingness to participate in cruel deeds and the categories of self-justification built up by an obedient subject are generally similar. External circumstances do not make any difference — whether the subject is obeying in a psychological laboratory or the control station of a launch pad for inter-continental missiles.¹¹

⁸ S. Milgram, *Obedience to Authority: An Experimental View* (London: HarperCollins, 1974).

⁹ Z. Bauman, *supra* note 3, 166-183; H. Welzer, *supra* note 4, 108-113.

¹⁰ S. Milgram, *Das Milgram-Experiment, Zur Gehorsamsbereitschaft gegenüber Autorität* (Reinbek bei Hamburg: Rowohlt, 1982), 11.

¹¹ Milgram, *supra* note 10. Milgram’s experimental design which gave cause to his alarming observation presented itself as follows: Male volunteers received the order to subject other people to a number of painfully electrical shocks under the pretext that the experiment was to analyse the effect of punishment on memory and learning. Each test person held the position of a ‘teacher’ whose only task was to punish a ‘pupil’ with supposed electrical shocks each time a mistake was made during a learning test with pair association. However, the pupil was actually a member of the research team who was simply play-acting, and there were no real shocks given. The test person was instructed to increase the voltage to the next highest level for each mistake made by the ‘pupil’. The shock generator was clearly marked with thirty current levels which appeared to be evidently connected to the ‘electrical chair’ of the ‘pupil’. The voltage ranged from ‘15 volts: slight shock’, over ‘195 volts, very strong shock’ and ‘375 volts: Danger: severe shock’ up to ‘450 volts’. However, labelling from ‘435 volts’ onwards consisted of ‘XXX’. The experiment began after the teacher/test person had himself been subjected to a real trial shock of 45 volts and after the ‘pupil’ had been tied down. Protest of the victim was coordinated to the supposed electrical shocks and audible via a door being slightly ajar. At 75 volts the ‘pupil’ began to moan and grumble; at 150 volts he demanded to be released from the experiment; at 180 volts he yelled that he could not stand the pain any longer, at 300 volts he screamed with pain, insisted on his release and announced that he would refuse to answer any more questions. If the teacher/test person hesitated thereafter or protested against administering electrical shocks, the head of the experiment dressed in a grey coat would reply

Psychologists concluded from Milgram's experiments that relatively ordinary people can be made to perform cruel acts on others.¹² No deficits in their character are required, since they are simply fulfilling their duty, void of any personal animosity. The experiments suggested that the percentage of volunteers obeying a person in a position of authority could only be decreased by weakening the authority of that person. As if they existed in some kind of force field, the head of the experiment lost power over the volunteers to the same extent that the 'victim/pupil' or two colluding, disobedient accomplices gained influence. In the 'immediacy of the victim' condition, in which the volunteer was asked to force back the pupil's hand on the metal shock plate at the 150 volts level, the percentage of obedient volunteers was considerably reduced to 30 %. This was apparently because it is more difficult to harm a person that is concrete, visible, and able to observe our actions. In the 'disobedient group' condition, in which two colluding accomplices who were, like the victim, members of the research team and were acting as co-teachers, refused to continue at different shock levels, obedience could be reduced as low as 10 %. In this case the volunteer was left alone with sole responsibility for carrying out the instructions, and typically did not want to appear callous in front of others. Moreover, both colluding accomplices had just demonstrated that disobedience was possible and how to do it. Thus, they served as a model from which the volunteer could learn how to get out of the situation.¹³ Yet, Milgram concluded that the overall results raise the possibility that human nature cannot be counted on to insulate people from brutality and inhumane treatment. A substantial proportion of people do what they are told to do, irrespective of the content of the act and without limitations of conscience, so long as they perceive that the command comes from a legitimate authority.

Herbert Kelman built on Milgram's work by reflecting on the loss of moral restraint. He agreed with Milgram that '*authorization*' enhances the willingness of people to participate

'You have no choice but to continue!' In the absence of a reaction by the 'pupil', the head of the experiment insisted on punishment nevertheless.

The results showed that 62.5% of the test persons were obedient, i.e. two thirds carried out the orders of the head of the experiment right up to the maximum shock of 450 volts. A further 22.5% risked considerable physical injury despite protests of the 'victim', whilst only 15% refused to carry out orders after the 'victim' demanded breaking off the experiment for the first time. These results being virtually identical for men and women alike, caused a considerable shock in the scientific world and in the public. It was unequivocal that the phenomenon of obedience was due to authority. Upon changing the experiment so that the shock level was left to the test person's discretion, the majority used only minimum voltage on the 'pupils' which was even below the level where first moans were uttered. Therefore, aggressive impulses of individuals as a cause for the behaviour in the experiment could be ruled out.

¹² T. Blass (ed.), *Obedience to Authority, Current Perspectives on the Milgram Paradigm* (Mahwah, N.J./London: Lawrence Erlbaum, 2000); A.G. Miller, *The Obedience Experiments, A Case Study of Controversy in Social Science* (New York: Praeger, 1986); P.B. Smith and M.H. Bond, *Social Psychology across Cultures, Analysis and Perspectives* (New York: Harvester Wheatsheaf, 1993), 20.

¹³ Cf. F. Neubacher and M. Walter (eds), *Sozialpsychologische Experimente in der Kriminologie: Milgram, Zimbardo und Rosenhan* (Münster: LIT, 2002), 49-52.

in massacres. According to Kelman, the situation becomes so defined that common moral principles are suspended. The perpetrators see themselves in a ‘no choice situation’ either because they feel their duty lies in obedience or because they feel involved in a ‘transcendent mission’.¹⁴ In addition, Kelman identified two more significant processes: routinization and dehumanization.

The process of ‘*routinization*’ minimises the opportunities to question moral responsibility for repetitive actions. If others are also involved, nobody seems to be fully responsible; participants even mutually reinforce each other. Furthermore, moral reflection is limited by drill and numbing: the individual is gradually focused on the technical aspects of the routine job, e.g. how to arrange mass killings and make them more effective and less stressful for the executors.¹⁵ The greater the frequency of repetition of an action, the more the given definition of the situation becomes ingrained, including the techniques of justification. That is the reason why defiance becomes increasingly difficult after having made the first step (‘passing the gate region’)¹⁶. Breaking off would be seen as admitting having repeatedly made the wrong decision. Psychologically, it is easier to continue and defend the given definition of the situation against reservations and doubts.

Through ‘*dehumanization*’ the perpetrator excludes the victim from the community which is mutually bound by its morals, or as Helen Fein puts it, from ‘the universe of obligation’.¹⁷ The victim is deprived of the protection generally granted to any human being, in that he or she is assigned degrading and subhuman characteristics. In effect, the people so characterized are removed from the in-group and relegated to the out-group. ‘Perceived as inferior, members of the out-group are easily stereotyped, scapegoated, and stigmatized, and the hostility toward them strengthens in-group solidarity’.¹⁸

3. Techniques of Neutralization

Taken together, these theories offer explanatory components ranging from Milgram’s ‘obedience to authority’ to Kelman’s ‘process of dehumanization’ and his ‘transcendent mission’. Interestingly, there is a criminological theory that encompasses all these

¹⁴ H.C. Kelman, ‘Violence Without Moral Restraint: Reflections on the Dehumanization of Victims and Victimizer’, 29 *Journal of Social Issues* (1973), 25-61, at 38, 44. See also H.C. Kelman and V.L. Hamilton, *Crimes of Obedience: Toward a Social Psychology of Authority and Responsibility* (New Haven: Yale University Press, 1989); L. E. Day and M. Vandiver, ‘Criminology and genocide studies: Notes on what might have been and what still could be’, 34 *Crime, Law & Social Change* (2000), 43-59, 45.

¹⁵ H. Welzer, *supra* note 4, 86, 129.

¹⁶ H.C. Kelman, *supra* note 14, 46.

¹⁷ H. Fein, *Genocide: A Sociological Perspective* (London: Sage, 1993).

¹⁸ A. Alvarez, *supra* note 5, 146.

components: 'denying the responsibility', 'denying the victim', and 'appeal to higher loyalties'.

In their 1957 paper, Sykes and Matza presented a theory of delinquency based on the assumptions of learning theory that, first of all, provides an explanation of how ordinary citizens drift into criminality without rejecting the dominant social order.¹⁹ According to them, the delinquent generally accepts the legitimacy of this order including its basic norms (he is law-abiding). That is why he appears so ordinary and, in fact, is ordinary. However, he has learnt to neutralize these norms in specific situational contexts. The perpetrator claims an exceptional situation in which breaking the norm is justifiable without questioning the validity of the norm as such. Neutralization thus makes it possible for the violation to appear acceptable, if not legitimate. Moreover, the perpetrator protects his image and himself from self-blame and feelings of shame and guilt. In the words of Sykes and Matza, 'he has his cake and eats it too.'

Sykes and Matza divide neutralization into five different techniques:

1. The Denial of Responsibility ('I did not mean it'):

To minimize responsibility for the deed, it is transferred to external circumstances, e.g. an unlucky chain of events, legal incapacity or other circumstances (it was not my fault, I had no choice, I acted on superior orders).

2. The Denial of Injury ('I didn't really hurt anybody'):

Similarly, the wrongfulness of a deed can be denied by presenting theft as 'borrowing' or brutal bodily harm as a 'fair duel' with equal chances for the opponents.

3. The Denial of the Victim ('They had it coming to them'):

The status of victim can be denied in offences against property by referring to compensation at a later date, e.g. via insurance. For sexual offences the victim's consent can be claimed. Shedding a different light on the deed, the victim can also be presented as aggressor so that the delinquency appears to be an act of self-defence or a consequence of provocation. In extreme cases the perpetrator denies that there is a victim by denying that the victim is truly a 'person'. The rule 'thou shalt not kill' does not apply as the victim is reduced to 'enemy', 'communist', 'terrorist', 'scum', 'filth', 'bacillus', removing any human traits (dehumanization).

4. *The Condemnation of the Condemners ('Everybody is picking on me')*:

Furthermore, the delinquent can try to turn the tables by reasoning that the accusation against him is one-sided, hypocritical or a transparent political move. In this way the accusers will be deprived of the moral right to accuse. For example the police being involved in the arrest are called 'brutal and corrupt henchmen', the prosecutor is termed 'self-righteous', and the judges are described as the 'tool of an unlawful system'.

5. *The Appeal to Higher Loyalties ('I didn't do it for myself')*:

Finally, the delinquent seizes the opportunity to call upon a higher authority or rather upon higher values. The deed is then justified by stating that it was essential 'for the rescue of one's own people' or 'in the name of God' or 'a higher justice'. This last type of neutralization is characterized by presenting himself as an unselfish person driven by ethical motives.

The theory of Sykes and Matza is empirically supported by particular reference to acts of violence.²⁰ It is interesting to note that the inter-connection to other disciplines has hardly been noticed up to now. Albert Bandura's psychological learning theory also deals with neutralization which prevents self-condemnation for aggressive behaviour. In contrast to Sykes and Matza, Bandura recognizes eight different variations, although the differences between the two theories appear extremely minor over all. Bandura differentiates between (1) minimization by advantageous comparison; (2) citing higher principles; (3) shifting responsibility; (4) blurring responsibility; (5) dehumanizing the victims; (6) attributing guilt to the victims; (7) gradual de-sensitization; as well as (8) playing down and selective forgetting of behavioural consequences.²¹

Another approach worth mentioning is Leon Festinger's theory of cognitive dissonance.²² His central statement is that cognitive dissonance arises when attitudes and behaviour patterns do not harmonize. Cognitive dissonance is always felt as something unpleasant, thus motivating the individual to its minimization. In order to regain balance within the cognitive system, i.e. to reduce dissonance, it is necessary to change individual cognitive elements. The most common way of reducing cognitive dissonance is by 'spreading

¹⁹ G.M. Sykes and D. Matza, 'Techniques of Neutralization: A Theory of Delinquency', 22 *American Sociological Review* (1957), 664-670.

²⁰ R. Agnew, 'The Techniques of Neutralization and Violence', 32 *Criminology* (1994), 555-573; see also G.A. Antonopoulos and J.A. Winterdyk, 'Techniques of Neutralizing the Trafficking of Women', 13 *European Journal of Crime, Criminal Law and Criminal Justice* (2005), 136-147, 138; S. Maruna and H. Copes, 'What Have We Learned from Five Decades of Neutralization Research?', 32 *Crime & Justice* (2005), 221-320.

²¹ A. Bandura, *Aggression, Eine sozial-lerntheoretische Analyse* (Stuttgart: Kohlhammer, 1979), 235-246.

²² L. Festinger, *A Theory of Cognitive Dissonance* (Stanford: Stanford University Press, 1957).

apart alternatives'. After having chosen one of two alternatives, the desirability of the chosen one is increased and that of the non-chosen one is reduced. This process is often helped along by selecting information, i.e. dissonant information is avoided or suppressed. The fewer opportunities exist to change the decision, the more pronounced these effects are. Festinger himself did not apply his theory to delinquent behaviour. Nevertheless, his findings are applicable as the delinquent has feelings of dissonance because of the violation of the norm. In short, Festinger explains *why* a perpetrator neutralizes (motive) while Sykes and Matza, and Bandura, respectively, show *how* this goal is achieved (techniques).

4. Neutralization by the State: Labelling the Adversary a Political Enemy

History has shown that crimes committed or ordered by the state are particularly appalling. The scope for reinterpretation and neutralization grows within the political context.²³ The extraordinary dimensions of genocide and state crime necessitate extremely intense neutralization in order for the crimes to become feasible. People or groups of people are declared to be political enemies that have to be 'combated', 'killed' or 'annihilated'. Dehumanization is one of the most resolute forms of neutralization. Linguistically, this is enforced by euphemisms which disguise the fact that homicide or genocide is the final goal. Thus, terms such as 'special treatment', 'evacuation of Jews', or 'ethnic cleansing' are used as synonyms for mass killings. Powerful 'interpretation by the elite' legitimizes politically motivated violence by connecting it to the political order, its establishment and assertions.²⁴ Carl Schmitt, for whom the essence of politics lay in the distinction between friend and foe, including the declaration as an internal enemy²⁵, represents a fatal school of thought that became totally dominant during the period of National Socialism, through the dehumanization of political enemies. Deprived of all rights and of the status of human being, the 'enemy' was killed like an insect.²⁶

States violating human rights use the same neutralization techniques as individuals. State neutralization, however, is spread via the state's propaganda machine, thus having a far greater impact than individual neutralization. Collective awareness of right and wrong is synchronized, while neutralization techniques are offered to individuals to be taken into their repertoire of justification. In fact, this is a universal problem; techniques of neutralization and

²³ See H. Jäger, *Makrokriminalität, Zur Kriminologie kollektiver Gewalt* (Frankfurt: Suhrkamp, 1989).

²⁴ See H. Münkler and M. Llanque, 'Die Rolle der Eliten bei der Legitimation von Gewalt', in W. Heitmeyer and J. Hagan (eds), *Internationales Handbuch der Gewaltforschung* (Wiesbaden: Westdeutscher Verlag, 2002), 1215-1232, 1230.

²⁵ C. Schmitt, *Der Begriff des Politischen* (Berlin: Duncker & Humblot, 1932).

²⁶ G. Agamben, *Homo sacer, Die souveräne Macht und das nackte Leben* (Frankfurt: Suhrkamp, 2002), 124.

dehumanization can be observed in diverse societies.²⁷ The genocides in Bosnia and Rwanda are no exceptions.²⁸

Neutralization by the state can equally be classified as belonging to one of the five techniques described by Sykes and Matza. Manners of speech and patterns of argumentation can deny unlawfulness as such ('the reports are false, made up, exaggerated', 'we were at war', 'times were like that' etc.); they can accuse the victim ('the others are the aggressors, we were just defending ourselves', 'they have only got themselves to blame'); play down the state or society's own responsibility ('we had our orders', 'otherwise others would have done it', 'we had a blackout', 'we couldn't know', 'we were just small cogs', 'we were in danger ourselves'); attack those who call a spade a spade ('elsewhere the situation is even worse', 'for transparent reasons we are being scapegoated'); or appeal to higher loyalties ('it concerned our national security, our honour, a good cause, a higher form of justice' etc., 'the end justified the means').²⁹ The use of particular language or of official jargon is not necessarily based on a conscious decision of the individual. Analyses of decision-making processes in politics have shown the degree to which even political protagonists are subjected to the dynamics of social conformity. They consequently develop euphemisms to avoid any kind of direct reference to human suffering.³⁰

It is not far-fetched to include Sykes' and Matza's theory as a supporting pillar for a criminological theory of state crime.³¹ Below, the application of the theory to the political level is tested through an analysis of Himmler's secret speech advocating the extermination of the Jews.

5. Heinrich Himmler speaking of the Extermination of Jews (4 October 1943)

Himmler's speech in Posen (Poznan) on 4 October 1943 before the highest ranks of *SS-Gruppenführer* is both an eloquent and infamous example of state neutralization.³² Infamous

²⁷ See P. Roberts and N. McMillan, 'For Criminology in International Criminal Justice', 1 *Journal of International Criminal Justice* (2003), 315-338, at 327; F. Neubacher, *supra* note 6, 252; C. Möller, *Völkerstrafrecht und Internationaler Strafgerichtshof* (Münster: LIT, 2003), 273.

²⁸ H. Fein, 'Genozid als Staatsverbrechen, Beispiele aus Rwanda und Bosnien', 1 *Zeitschrift für Genozidforschung* (1999), 36-45, at 42.

²⁹ See also S. Cohen, 'Human Rights and Crimes of the State: The Culture of Denial', 26 *Australian & New Zealand Journal of Criminology* (1993), 97-115, at 107; E.M. Opton, 'It Never Happened and Besides They Deserved It', in N. Sanford and C. Comstock (eds), *Sanctions for Evil, Sources of Social Destructiveness* (Boston: Beacon Press, 1971), 49-70, at 57.

³⁰ I.L. Janis, 'Groupthink Among Policy Makers', in Sanford and Comstock, *supra* note 29, 71-89.

³¹ See F. Neubacher, *supra* note 6, 251-254; C. Reese, *Großverbrechen und kriminologische Konzepte, Versuch einer theoretischen Integration* (Münster: LIT, 2004), 141-146.

³² 'I shall speak to you here with all frankness of a very serious subject. Among ourselves, it ought to be spoken of quite openly, although we shall never speak of it in public. Just as little as we hesitated to do our duty as ordered on 30 June 1934, and put comrades who had failed against the wall and shoot them, just as little did we

because Himmler termed the atrocity of the ‘extermination of the Jewish people’ a ‘glorious chapter of our history, never having been written and never to be written’, and described the participating officers as ‘decent’. Infamous also for the way in which he seemed to anticipate the thoughts, anxieties and maybe even objections of his audience. Words of understanding are followed up by demands for even greater resolution and an appeal to an alleged historical necessity.

Himmler’s words are an example for the horrifying re-evaluation and reinterpretation of state crimes: according to his perspective, the perpetrators of the holocaust are not criminals but decent men. Having set aside matters of personal interest, they have coped with a difficult task expected to be carried out by them, and thus deserve glory. The suffering of the victims is completely transformed into the suffering of the perpetrators. This shows that the National Socialist propaganda took great care not to give the impression of an amoral rule; on the contrary, old morals were transformed into new ones with different content. Propaganda did not just give crime the perfect appearance but also the perfect pomp of morals with duties and sanctions.³³ One conclusion that can be drawn from Himmler’s speech is this: only if it is perceived as a struggle for purity or as a war of life and death, can mass murder be presented as heroic,³⁴ or as a job to be done. Pity, pangs of conscience and symptoms of

ever speak of it, and shall never speak of it. It was a matter of course, of tact, which thank God lives within us that stopped us from conversing about it, talking about it. It made everybody shudder but at the same time everyone knew that he would do it again if ordered to do so, and if it was necessary.

I am now talking about the evacuation of Jews, the extermination of the Jewish people. It is one of those things which is easy to say. “The Jewish people are to be exterminated”, says each party comrade, “this is clear, it is part of our party programme, elimination of the Jews, extermination, right, we’ll do it”. And then they all come along, these 80 million upright Germans, and each one of them has his decent Jew. Of course the others are swine, but this one is a first-class Jew. Of all those who talk like this, not one has watched, not one has ever lived through it. Most of you know what it means to see a hundred corpses lying together, five hundred, or a thousand. To have gone through this and yet — apart from a few exceptions, examples of human weakness — to have remained decent, this is what has made us hard. This is a glorious chapter in our history that has never been written and never shall be written. We know how difficult it would be for us if — with the air raids, the burdens and the deprivations of war — we still had the Jews, as secret saboteurs, agitators and trouble-mongers. We would now have probably reached the 1916/17 stage if Jews were still in the body of the German people.

The wealth they had we have taken from them. I have issued the strict order which SS-*Obergruppenführer* Pohl has carried out that this wealth is naturally to be passed to the Reich in its entirety. We have taken none of it. Individuals who have failed will be punished according to an order given by me at the beginning: he who takes even as much as one *Reichsmark* is condemned to death. A number of SS-men, although not many, have violated this order, and they will die without mercy. We had the moral right, we had the duty to our people to kill this people who wanted to kill us. However, we do not have the right to enrich ourselves by taking but one fur, one watch, one Mark, or one cigarette or anything else. In the end, we do not want, because we wiped out the bacillus, to become sick and die from the same bacillus. I shall never sit back and watch even the smallest spot of putrefaction develop or settle on this point. Wherever it grows we shall burn it out together. Altogether, we can say that we have fulfilled this most difficult duty for the love of our nation. And no harm has come to us in our innermost-self, in our soul, in our character’. (Document 1919-PS, from: *Der Prozeß gegen die Hauptkriegsverbrecher vor dem Internationalen Militärgerichtshof* [Nuremberg: Secretariate of the IMT, 1947], Vol. XXIX, 145-146.

³³ A. Finkielkraut, *Verlust der Menschlichkeit, Versuch über das 20. Jahrhundert* (2nd edn., Stuttgart: Klett-Cotta, 1999), 85.

³⁴ M. Freeman, *supra* note 1, 190.

awareness of impropriety were labelled afresh within the framework of new 'morals'. For example, they were seen as false humanitarianism, left-over from bourgeois morals, or signs of weakness.³⁵ Nonetheless, the re-evaluation was not so comprehensive, the sub-conscience not so paralysed that the need to keep this work of annihilation secret was not felt. The mass killing of Jews, and the T4 euthanasia programme alike, violated normative standards even in Nazi Germany.³⁶ That is why the importance of secrecy was repeatedly emphasized. At the beginning of his statement Himmler himself makes mention of this. As far as he is concerned, the 'sacrifice' begins here: getting 'one's hands dirty' without hope for public recognition.

Himmler's speech is peppered with neutralizations. Evidence of this can be found in (at least) 13 different passages in the text. Injury is being denied or rather minimized three times, when the 'evacuation of Jews' is mentioned, or the 'wealth' possessed by Jews from which 'we did not take anything', at least not for the purpose of personal enrichment. Closely connected to this is the triple denial of the Jews' status as victims. Injustice is not just absent where no damage has been done, but also where there is no victim. By presenting the Jews as 'secret saboteurs, agitators, and trouble-mongers' or as 'bacillus' endangering the 'body of the German people', they are made to lose their status as victims and instead become aggressors. Consequently, killing them seems legitimate and even their due. Or, as Himmler put it: 'We had the moral right, we had the duty to our people to kill the people who wanted to kill us.' In this way Himmler claims the existence of an emergency, a conflict of life and death involving two people with mutually exclusive desires to live. Although this picture does not at all correspond to the facts, it does give the appearance of a legitimate fight for survival. The denial of the Jews' status as victim is reinforced by the degradation to a 'bacillus' hereby completing the dehumanization process. A further denial of the victim, this time without reference to the Jews, is the passage on the Röhm-Putsch (30 June 1934). The politically motivated execution of 'comrades' of the SA is passed off as just punishment for 'failing themselves'.

Himmler refers to a higher authority or higher values three times. Special emphasis is given to the 'necessity' of annihilating the Jews and the 'moral right' to commit this deed. The historic necessity of the mission is again shown by Himmler's reference to the years 1916/17. Furthermore, he stresses several times that the Jews were killed for reasons of honour and unselfishness, namely 'love to our nation' and 'duty towards our nation'. Unselfish discharge of duties is connected twice to the reference of 'duty ordered'. One problem arises here: acting on superior orders can be seen as reducing personal responsibility

³⁵ H. Jäger, *Verbrechen unter totalitärer Herrschaft* (Olten/Freiburg: Walter, 1967), 275.

(denial of responsibility), but the superior order can also be seen as a good reason for participating in a legitimate military/political campaign (appeal to higher loyalties). This demonstrates that the techniques of neutralization can be difficult to differentiate.³⁷ In the end, even the fourth technique listed by Sykes and Matza (Condemnation of the Condemners) is represented in this speech. In order to immunize his followers against critique, Himmler portrays those of the ‘80 million upright Germans’ opposing the deportation of Jews as naïve hypocrites who endorse the National Socialist party programme but are unwilling to get their hands dirty. Thus, the speech in which all five techniques are proven culminates in this incomprehensible statement which is both the invocation of the ‘we feeling’ and the assurance of a positive self-image: ‘And no harm has come to us in our innermost-self, in our soul, in our character.’

6. Conclusion

The theory of neutralization techniques proves to be an important theoretical element in explaining macro-crimes, in particular linking the individual and the political level. It offers an explanation how heinous crimes are possible as well as how ordinary citizens can get involved with them without feeling guilty. However, a weakness is the lack of selectivity between specific neutralization techniques. It can be hard to distinguish between ‘denial of the injury’ and ‘denial of the victim’, as well as between ‘denial of responsibility’ and ‘appeal to higher loyalties’ (regarding acting on orders). Some overlapping cannot be ruled out.

Neutralization does not just happen. It might be offered or ordered by the state but incorporating it into one’s own justification repertoire is the active choice of each individual. Ordinary citizens, not monsters, drift into crime because they have decided to accept the given definition of a situation. In this sense neutralization is no excuse in a legal sense — instead, it makes the contribution of the individual visible.

³⁶ A. Alvarez, *supra* note 5, 143.

³⁷ See further W.W. Minor, ‘Techniques of Neutralization: A Reconceptualization and Empirical Examination’, 18 *Journal of Research in Crime and Delinquency* (1981), 295-318, at 298.