

Future Research on Theories of Evil: An Insuperable Blind Spot?

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This reflection explores the theories of evil in the field of genocide studies and highlights a 'blind spot' in understanding the motives behind mass killings. It discusses various theories of evil, ranging from individual-based to situational factors, and emphasizes the need for a nuanced understanding of diverse and complex motives. The reflection suggests that incorporating neuroscience into genocide studies may shed light on the motives behind violence by examining the impact of brain trauma and injury. However, it also raises questions about the extent to which neuroscience can provide a comprehensive explanation for motive and the implications of using neuroscientific evidence in genocide trials. The reflection concludes by discussing the limitations of attributing complete responsibility to the brain and the role of behavioral science in understanding criminal responsibility.

Keywords: theories of evil; perpetrators' motives; genocide trials; neuroscience

The multiverse of perpetrator and genocide studies proposes a panoply of theories of evil, some of which have emerged from very distinct disciplines, such as anthropology,¹ psychology,² and criminology,³ among others. Today, however, some of these theories – especially the earliest in the literature – sound partial and simplistic to our sharpened (or, more modestly, *sharper*) sensibilities. There is by now a relatively well-established theoretical genealogy of evil which begins with Immanuel Kant's concept of 'radical evil' and then moves on to Hannah Arendt's 'banality of evil', and from there all the way to Christopher Browning, and soon after, Daniel Goldhagen's claim about the antisemitic motive of *all* of Hitler's willing executioners.⁴ This is not to say that the above theories are misinformed

1 See Alexander Laban Hinton, *Why Did They Kill: Cambodia in the Shadow of Genocide* (Berkeley: University of California Press, 2005).

2 James E. Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (Oxford: Oxford University Press, 2007).

3 Alette Smeulers, 'Perpetrators of International Crimes: Towards a Typology', in *Supranational Criminology: Towards a Criminology of International Crimes*, ed. by Alette Smeulers and Roelof Haveman (Antwerp: Intersentia, 2008), pp. 233–65; Kjell Anderson, *Perpetrating Genocide: A Criminological Account* (London: Routledge, 2017).

4 See Daniel Jonah Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Knopf, 1996); for more details about a review of the literature, see Sabah Carrim,

or erroneous; they continue to offer an accurate description of motive. Their only flaw lies in proposing a singular catch-all motive to explain perpetration, when mass atrocity involves a varied group of people and by that token, varied motives that as it happens also change over time.

Stanley Milgram and Philip Zimbardo contributed to expanding the literature on evil by moving attention away from a focus on perpetrators' dispositional traits (as Kant, Arendt, and Goldhagen did), onto situational ones. Scholars became aware of the influence of environment, context, or circumstance on one's conduct. For Zimbardo, therefore, perpetrators are not bad apples but happen to be in bad barrels.⁵ It also became clear that people are susceptible to placing themselves in agentic states, rendering themselves manipulable by those in power, casting doubt on the notion that man behaves fully from a position of free will and responsibility.⁶ Since then, further theories of evil have emerged. Concepts identified by scholars such as 'righteous slaughter' or being a 'true believer'⁷ were added to the compendium of unveiled motives, and each became relevant to the piecemeal formulation of a typology of perpetrators. Another widely debated dichotomy, aside from the dispositional vs. situational, was the instinctive vs. behavioural,⁸ and that too, like all theories on evil, ultimately proved unsatisfactory. The idea that the motive of a perpetrator changes over time was also recognized and captured through Zygmunt Bauman's allegory of the bog as well as Ervin Staub's continuum of destruction.⁹

The trend couldn't be clearer: from the identification of a single motive to explain group behaviour – a grand explanatory theory– the understanding of mankind as a diverse and complex lot in a 'fluid, dialogic, dynamic, and varied' scenario (of mass atrocity) cleared the path

⁵ 'The Legacy of Hannah Arendt's Banality of Evil' *Review of Human Rights* 3.1 (2017), 65–86.

⁶ Philip G. Zimbardo, *The Lucifer Effect: How Good People Turn Evil* (New York: Random House, 2008), p. 211.

⁷ See Thomas Blass, 'A Cross-cultural Comparison of Studies of Obedience Using the Milgram Paradigm: A Review', *Social and Personality Psychology Compass* 6.2 (2012), 196–205.

⁸ See Jack Katz, *Seductions of Crime: Moral and Sensual Attractions in Doing Evil* (New York: Basic Books, 1988); Eric Hoffer, *The True Believer: Thoughts on the Nature of Mass Movements* (New York: Perennial Classics, 2002).

⁹ See Erich Fromm, *The Anatomy of Human Destructiveness* (New York: Holt, Rinehart and Winston, 1973).

¹⁰ Ervin Staub, *The Roots of Evil: The Origins of Genocide and Other Group Violence* (Cambridge: Cambridge University Press, 1989); Ervin Staub, *Overcoming Evil: Genocide, Violent Conflict, and Terrorism* (New York: Oxford University Press, 2011).

for nuance and ambiguity.¹⁰ The identification of a Niagara Falls of motives eventually called for organization, and there are now many ways and means of doing so.¹¹

Scott Straus classifies the motives mentioned so far as being individual-based, and hence existing at the micro-level in a bigger schema that includes meso-level and macro-level factors. Meso-level factors are in Straus' view the least explored and include group-related movements such as subnational regions and communities and institutions, while macro-level factors ascribe the origin of genocide to ideology, regime type, and intergroup relations, among others.¹² Most recently, Timothy Williams devised the 'complexity of evil' model, an admirable schema that gathers most, if not all of the theories of evil and sets them at the micro and macro level to encompass individual and contextual factors respectively. Meso-level factors comprise situational factors.¹³

II

Despite the effort of all aforementioned scholars as well as those who have been excluded here due to space constraints, Straus's brilliant critique and self-reflective exercise in a 2017 publication on the limitations of tracing the origin of genocide remains relevant:

Do we really understand – can we really understand – the processes that lead other people to murder other people? I think I understand the conditions that trigger the initial participation, or at least I understand some of them, but when I wake up at night or in the morning and I really think about what these individuals say, there is something that just does not add up – something that I feel we are missing. Or, if there is not, then the implications really are incredibly disturbing. In short, as much as I have thought about and spent some time thinking about perpetrators, there is something that I feel I cannot understand about the act of violence,

10 Alexander Laban Hinton, *Anthropological Witness: Lessons from the Khmer Rouge Tribunal* (Ithaca, NY: Cornell University Press, 2022), p. 97.

11 See Scott Straus, 'Second-generation Comparative Research on Genocide', *World Politics* 59.3 (2007), 476–501.

12 See Evgeny Finkel and Scott Straus, 'Macro, Meso, and Micro Research on Genocide: Gains, Shortcomings, and Future Areas of Inquiry', *Genocide Studies and Prevention* 7.1 (2012), 56–67.

13 See Timothy Williams, *The Complexity of Evil: Perpetration and Genocide* (New Brunswick, NJ: Rutgers University Press, 2020).

the act of repeated violence, and, sometimes, the act of mutilation.¹⁴

Straus alludes to what both he and James Waller define as a 'blind spot' in discerning motive, exemplified by unusual perpetrator justifications and rationalizations: 'I lost my mind, I became "seized by the devil", or I stopped thinking, or my heart stopped.'¹⁵ Perpetrators, Straus adds, don't seem to know what they are doing: 'there is something about the act of killing in genocide and mass violence that we do not understand and may not be able to understand, and I think it is important to recognize that.' His poignant conclusion is as follows: 'Do we even know what we are looking for?'¹⁶

In *Beyond Good and Evil*, Friedrich Nietzsche expresses a similar point:

Is not the suspicion growing, at least among us immoralists, that an action's decisive value is demonstrated precisely by that part of it that is not intentional; do we not suspect that all of an action's intentionality, everything that can be seen or known about it, that can be "conscious" about it, is still part of its surface and skin—which, like all skin, reveals something but hides even more?¹⁷

Waller goes even further in capturing the uncertainty inherent in these theories of evil, arguing that psychological explanations ought not to be evaluated as deterministic but rather as probabilistic, on the grounds that they merely indicate what a perpetrator *most likely* did.¹⁸ We can only conclude that in all things that lie beyond the purview of simple binaries, especially in matters of human behaviour, there is bound to be complexity, and through it, ambiguity, and hence a 'blind spot' – one which always offers the possibility of admitting additional (as well as alternative) explanations as to why people do what they do; and in scenarios of mass atrocity, why they kill.

14 Scott Straus, 'Studying Perpetrators: A Reflection', *Journal of Perpetrator Research* 1.1 (2017), 28–38 (p. 29).

15 Straus, 'Studying Perpetrators', p. 36. See also Waller, p. 22.

16 Straus, 'Studying Perpetrators', p. 36.

17 Friedrich Nietzsche, *Beyond Good and Evil* (Oxford: Oxford University Press, 2008), p. 33.

18 Waller, p. 16.

III

What can be done to eliminate the blind spot, and to figure out once and for all why people kill? One possibility is to keep searching for yet unveiled motives. Another is to resign oneself to it (the blind spot) as the insuperable, permanent elephant in the room. Ironically, both possibilities are offered through the amalgamated study of neuroscience and genocide studies: respectively, by providing new insights into motive; and by suggesting that causes and origins of behaviour are pegged to a complex array of variables, so that they will, in all likelihood, remain indecipherable.

At one end of the spectrum, the premise of brain science is that the mind–body dualism is no longer tenable because in fact the mind is really just the body.¹⁹ Thoughts, feelings, and emotions are brain processes that can be monitored and detected through high-resolution MRI scans, which, I should add, did not exist at the time the provisions of the Genocide Convention were being negotiated. What can also be monitored are areas of hyper- and hypoperfusion – i.e. heightened and reduced blood flow – in the brain, which may be indicators of anomalies.²⁰ In the context of mass atrocity, this would imply that the short and long-term effects of violence and trauma on the brain can now be traced, providing a new and expanded understanding of the implications of genocidal harm. It also means that studies into what makes people vulnerable to mass killings could be looked at more closely.

The political scientist Benjamin Meiches recently introduced the idea of extending the definition of genocide to include brain trauma and injury.²¹ Meiches cited the complex dynamics of how tampering with language and ecology – revealed through contemporary neuroscience – can render human bodies susceptible to violence.²² Brain injury, he averred, can diminish an individual's capacity 'to reproduce

19 It is worth noting that Cartesian mind–body dualisms have long been challenged, including in feminist and critical accounts. See Laura Jenkins, 'Corporeal Ontology: Beyond Mind–Body Dualism?', *Politics* 25.1 (2005), 1–11; Elizabeth Grosz, *Volatile Bodies: Toward a Corporeal Feminism* (Bloomington: Indiana University Press, 1994).

20 Jennifer Kulynych, 'Brain, Mind, and Criminal Behavior: Neuroimages as Scientific Evidence', *Jurimetrics* 36.3 (1996), 235–244.

21 Benjamin Meiches, 'Genocide and the Brain: Neuroscience, Mental Harm, and International Law', *Journal of Genocide Research* 24.1 (2022), 23–44.

22 *Ibid.*, p. 24. See also Louise Wise, 'Genocide in Sudan as Colonial Ecology', *International Political Sociology* 14.2 (2020), 129–155.

social practices and communal identity.²³ According to Meiches, the advantages and importance of including brain science in genocide studies are manifold: in view of the interdisciplinarity of the field and its continued aim to expand its reach, introducing medicine and the natural sciences into a dialogue that has so far been largely social scientific would not merely open up new avenues to explore, but would rather represent a fundamental breakthrough. Prospective researchers would also be spared the burden of overcoming the widely debated restrictions of Article II(b) of the Genocide Convention; since it includes causing serious bodily or mental harm, neurological damage could be easily admitted in this category. Moreover, in addition to the existing connection between trauma and brain injury in *post-genocidal contexts*,²⁴ we now know that trauma can extend far and wide from the site of injury or trauma, and the effects of non-lethal violence can manifest themselves not only in multiple ways, but also later in time.

IV

While Meiches's focus is primarily on how neuroscientific knowledge can expand our understanding of genocide and its impact on *survivors and bystanders*, this paper, because of its attention to motives (for mass killing) and to Straus's and Waller's 'blind spot', specifically discusses how defendants faced with charges of violence and mass killings can be viewed differently through the perspective of brain science. Here the case of the former Ugandan child soldier Dominic Ongwen is of particular relevance.

Abducted at the age of nine or ten while on his way to school and recruited in the Lord's Resistance Army (LRA), Ongwen underwent rigorous training and, as punishment for attempting to escape, was forced to skin people alive and engage in other forms of torture. At eighteen, Ongwen was promoted as a brigadier of the Sinia Brigade, one of the four LRA brigades, and was involved in an attack on a camp

²³ Meiches, p. 25.

²⁴ See Julia Viebach, 'Of Other Times: Temporality, Memory, and Trauma in post-genocide Rwanda', *International Review of Victimology* 25.3 (2019), 277-301; Eyal Bercovich, Lital Keinan-Boker, and Shaul M. Shasha, 'Long-term Health Effects in Adults Born during the Holocaust', *The Israel Medical Association Journal* 16.4 (2014), 203-7; Jutta Lindert, Hiam Y. Knobler and Moshe Z. Abramowitz, 'Genocide and Its Long Term Mental Impact on Survivors: What We Know and What we Do Not Know', in *Multidisciplinary Perspectives on Genocide and Memory*, ed. by Jutta Lindert and Armen T. Marsoobian (Cham: Springer, 2018), pp. 81-101.

for internally displaced people in Uganda. In 2021, by now in his late forties, Ongwen was sentenced to twenty-five years of prison for a total of sixty-one crimes comprising crimes against humanity and war crimes committed in Northern Uganda between 1 July 2002 and 31 December 2005. Citing the case, William Hirstein, Katrina Sifferd, and Tyler Fagan argue that child soldiers should be held less responsible than juvenile offenders because in addition to the fact that their brains are still undergoing maturation, their cognitive processes may be significantly impaired by 'proximity to violence, forcible recruitment and coercive treatment, indoctrination and manipulation.'²⁵ While this outcome is arguably not different from a psychological analysis determining a reduction in agency and responsibility of minors, the replacement of a social-scientific observation with one originating in neuroscience arguably gives it more credibility in a court setting. The question that emerging from this analysis is how to deal with defendants such as Dominic Ongwen in genocide trials who might plead in their defence that, 'It wasn't me, it was my brain.'

Although neuroscientific findings have not yet been presented as a defence in genocide trials, they have already informed judgements at the national level. In a ground-breaking decision in the 2005 US Supreme Court case of *Roper v. Simmons*, the death penalty was reduced to life imprisonment based on the premise that the prefrontal cortices of adolescents were not fully formed – more specifically that there was incomplete myelination of the cortical neurons – so they did not have the same level of cognitive development (perception, thinking, and reasoning) as adults, rendering it unfair to attribute the same agency and responsibility for their behaviour and actions.²⁶

It is foreseeable that *Roper v. Simmons* could be used in a future genocide trial involving someone with a profile similar to Dominic Ongwen. It is conceivable that other cases involving the use of neuroscientific evidence at the local and national level in courts would be resorted to in genocide trials. Suitable candidates for raising other such defences would be defendants citing schizophrenia and mental-health related conditions to explain their actions. Should this be the eventual path

25 William Hirstein, Katrina L. Sifferd and Tyler K. Fagan, *Responsible Brains: Neuroscience, Law, and Human Culpability* (Cambridge, MA: MIT Press, 2018), p. 228.

26 The Supreme Court barred capital punishment of juveniles who killed while they were under the age of 18. Lack of complete myelination of the cortical neurons in 16–17-year-olds was used in court to allege that murderers of that age were insufficiently responsible to deserve capital punishment. See *Roper v. Simmons*, 543 U.S. 551 (2005), *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama* 567 U.S. 460 (2012).

adopted by defendants in genocide trials, the understanding of motive through neuroscience would be a further addition to what has so far been unveiled about why people kill in scenarios of mass atrocity. A successor to Williams's complexity of model would then need to include neuroscientific causes as explaining or facilitating motive.

V

As shown through the above section, integrating brain science into genocide studies would allow us to inch forward in deciphering Straus's and Waller's 'blind spot'. It is debatable, however, whether such an expansion of the field would finally be able provide an all-encompassing explanation for motive. Adducing evidence about a person's compromised responsibility might reduce their legal responsibility for the crime committed but *not* exempt them.

Legal scholar Stephen Morse offers a forceful argument against holding the brain and its processes wholly accountable for our actions and decisions: 'brains do not commit crimes; people commit crimes.'²⁷ Neuroscience, with its dazzling insights, promises more than it can deliver. Morse provides a detailed discussion of the limitations in adducing neuroscientific evidence as a defence: for instance, we only have *ex ante* or *ex post* evidence about the state of the brain at the time of the crime. While some advocates of brain science use it to negate the existence of mental states, there is merit in Morse's argument that agents should be held responsible for their actions, regardless of the claims made by neuroscience. Writing with tongue in cheek, Morse has coined a medical term to refer to the habit of holding the brain wholly responsible for people's actions: 'Brain Overclaim Syndrome'. Morse concludes that an agent's capacity for rationality is only diminished by faulty neurotransmitters, psychological stress, trauma or the like. In other words, neuroscience only provides partial defences, rather than supplanting the establishment of causation.

The use of neuroscientific evidence in genocide trials would raise further questions: First, assuming a defendant did try to use the 'It wasn't me, it was my brain' defence, how would (or should) a genocide tribunal respond to such a scenario in view of (i) such a tribunal's relatively more pronounced focus on retribution rather than deterrence,

²⁷ See Stephen J. Morse, 'Brain Overclaim Syndrome and Criminal Responsibility: A Diagnostic Note', *Ohio State Journal of Criminal Law*, 3 (2006), 397–412 (pp. 408–9).

incapacitation, and rehabilitation; (ii) its resistance to deterministic perspectives on the question of agency, volition, and personal responsibility; and (iii) established precedents such as *Roper v. Simmons*, which, while not leading to entirely acquittals, did nevertheless result in reduced sentences. Second, what are the practical and epistemological limitations of viewing genocidal crime through the lens of studies in neuroscience, when a starting point is that neuroscientific evidence can only tell us what we already know through behavioural studies? For instance, a study of the brain is not required for a judge or jury to conclude that young criminals do not deserve to be held fully responsible for their actions. On this point, it is worth noting that Morse advocates for reliance on behavioural science over neuroscience evidence in cases where both are available, since criteria for responsibility are behavioural.²⁸ As an example, the neuroscientific evidence adduced in *Roper v. Simmons* could very easily have been replaced by behavioural arguments based on the earlier cases of *Thompson v. Oklahoma*²⁹ and *Atkins v. Virginia*,³⁰ both of which held that younger adolescents were less responsible and did not deserve capital punishment.

Taken together, the above questions would also bring to the fore ongoing debates in genocide studies, such as (i) the suitability of the court as a venue for trying mass atrocity crimes, (ii) common defence strategies employed by defendants in genocide trials, and (iii) the meaning of Waller's oft-quoted idea that when one studies the origins of genocide – or unveils another theory of evil – one should be doing so only in the optic of understanding, not forgiving.

VI

The claim that the study of neuroscience in genocide studies would inevitably reveal a blind spot in discerning motive is further substantiated by what Gregg Caruso and Owen Flanagan call 'neuroexistentialism'. If existentialism is a 'philosophical expression of the anxiety that there are no deep, satisfying answers', neuroexistentialism denotes anxiety and disillusionment as a result of the discovery that even hard science – brain science to be specific – is not reliable in guiding us towards satisfying answers to the questions driving 'the quest

28 Morse, p. 401.

29 487 U.S. 815 (1988).

30 536 U.S. 304 (2002).

of perennial philosophy to locate firm foundations for meanings and morals.³¹ Caruso and Flanagan present neuroexistentialism as the third wave of existentialism, where, following the disillusionments over God and Man which characterized the first two waves, Science is now the source of existential anxiety or crisis of faith. More specifically, neuro-existentialism holds that with advances in neuroscience, we may come to realize that we are not as free-willed as we would like to believe we are. Discoveries relating to brain function, hormones, and neurotransmitters account, among other things, for behaviour, including engagement in violence and violent behaviour.³² Thus, if neuroscience is taken to provide an explanation for behaviour, this presents a challenge to the value long ascribed to *mens rea* (literally 'guilty mind', or conscious awareness of wrongdoing) for the establishment of culpability, by reducing, if not negating, its status to that of a legal fiction – so that *mens rea* is now regarded as 'folk psychology' in contrast to the hard empirical evidence of neuroscience.³³ As we have seen, however, such extravagant claims to objective truth are to be taken with a degree of caution, and thus, despite the current promises made by brain science, the future of finding a definitive answer to the big question of why people kill remains nebulous.

31 *Neuroexistentialism: Meaning, Morals, and Purpose in the Age of Neuroscience*, ed. by Gregg D. Caruso and Owen Flanagan (New York: Oxford University Press, 2018), p. ix.

32 Though not encompassed in the definition of neuroexistentialism, this would also include genes as well as genetic predispositions. See Matthew L. Baum, 'The Monoamine Oxidase A (MAOA) Genetic Predisposition to Impulsive Violence: Is it Relevant to Criminal Trials?' *Neuroethics* 6.2 (2013), 287–306.

33 Bertram F. Malle, and Sarah E. Nelson, 'Judging Mens Rea: The Tension between Folk Concepts and Legal Concepts of Intentionality', *Behavioral Sciences & The Law* 21.5 (2003), 563–80.

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