

MAKING GENOCIDE UNTHINKABLE: THREE GUIDELINES FOR A CRITICAL CRIMINOLOGY OF GENOCIDE

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Abstract. Through a critical examination of some of the prevailing arguments for establishing a criminology of genocide, this paper seeks to demonstrate the limitations of mainstream criminological frameworks for understanding genocide. Moreover, it argues that, if we are to move beyond a mechanical application of the criminological canon to this thus far understudied area of criminal behaviour, we must develop a critical and reflexive criminological approach to the topic of genocide. In this manner, the analysis presented here follows in the footsteps of Bauman [Bauman (1989). *Modernity and the Holocaust*. Ithaca, NY: Cornell University Press] by asking: what can genocide teach us about criminology? In addressing this question, three guidelines for a future criminology of genocide are proposed. Briefly put, a criminology of genocide should be: (1) reflexive and non-redemptive; (2) ‘undisciplined’ and critical; and, (3) responsible.

Introduction

In the still fledgling criminology of genocide, criminologists have too often parachuted mainstream criminological analyses into the field of genocide studies (see, for example, Brannigan 1998; Day and Vandiver 2000; Yacoubian 2000; Alvarez 2001). These theories, as products of their own specific social and political contexts, typically fail to contribute much to our understanding of genocide. More often, their application to genocide appears more as an attempt to demonstrate the broad applicability of criminological theory. As well, responding to commentators such as Horowitz (1980), who have suggested that the criminological study would only serve to trivialise genocide by emphasising the pathology of perpetrators, some criminologists have asserted that criminology has much that it can contribute to the study of genocide. In contrast, the analysis presented in this paper follows in the footsteps of Bauman (1989) by asking: what can genocide teach us

about criminology? It offers three interlocking guidelines for a future criminology of genocide in answer to this question. Briefly put, a criminology of genocide should be: (1) reflexive and non-redemptive; (2) undisciplined and critical; and, (3) responsible.

A Reflexive and Non-Redemptive Criminology of Genocide

This section examines three arguments for the criminological study of genocide: (a) the deadly scope of the crime of genocide demands criminological attention; (b) criminologists are accustomed to studying tragic and terrible circumstances and therefore can maintain objectivity when studying the horrors of genocide; and, (c) criminology, as a discipline, can benefit from an engagement with the topic of genocide. These arguments are problematic because they each betray a lack of reflexivity, as well as a desire to redeem criminology through an association with the topic of genocide.

Some criminologists note that the deaths caused by genocide in the twentieth century have far outstripped those caused by street crime and present perhaps the 21st century's greatest danger (Friedrichs 2000; Yacoubian 2001). This is likely true, although there are certainly other horrors (e.g., environmental devastation) that could compete for this ignoble title. However, by employing a quantitative rationale for establishing a criminology of genocide these scholars potentially find themselves caught in a conundrum that has long troubled studies of comparative mass violence: the number of casualties becomes the definitive measure of tragedy even though it may *distance* us from the human consequences of genocidal actions. Numbers such as "20 million killed" are impossible to comprehend, making identification and solidarity with those who suffer the effects of genocide difficult. As Stalin is alleged to have said, in a prescient realisation of the distancing power of statistics, "one death is a tragedy, while a million are a statistic" (quoted in Alvarez 2001: 18).

In addition, inordinate attention given to deaths can result in a disregard for other forms of harm that are also significant parts of genocide. Criminologists studying genocide must acknowledge that genocide features much attendant suffering: forced expulsion, rape, cultural loss, mass theft, and torture, to name but a few. Although killing is certainly a primary component of most definitions of genocide (see, for example, Lemkin 1944; *United Nations Convention on the Prevention and Punishment of Genocide* 1948; Fein 2002), these other harms often

precede genocidal killings, have lingering effects that continue to trouble societies in their post-genocide years, and contribute to the perpetuation of cycles of violence (see Minow 1998). Thus, a criminology that fails to grapple with these myriad harms is not likely to produce useful knowledge to help us better understand, prevent, or prosecute genocide. Moreover, with respect to the crime of rape, which is often fundamental to genocidal processes, criminological inattention contributes to a further disregard for and normalisation of rape within warfare and genocide (see Brownmiller 1975; Niarchos 1995; Jamieson 1999).

Many criminologists in their work on genocide attempt to avoid the comparative tragedy debate and to recognise the variety of harms associated with genocide, but nonetheless draw on quantified death tolls as a means to provoke criminological interest. Yacoubian (2000: 9), for example, writes: “Curiously... the loss of millions of genocidal victims during the past five decades has elicited little response from scholars devoted to the discipline of criminology. An ironic conundrum is how a dedication to the study of ‘crime’ can simultaneously embody reluctance to research an offense as maleficent as genocide”. Yacoubian further illustrates his point through a review of criminological textbooks, journals, and conference presentations that reveals the dearth of criminological attention to genocide. However, even such qualified forms of quantification commit an error of distancing, although one different from that described above. This distancing stems from modernist pre-suppositions about the relationship between a discipline and its area of study. In particular, Yacoubian’s statement portrays genocide as a social problem external to criminology, which criminology can access and diagnose through its methodological and theoretical tools. He portrays genocide as a crime for criminology to count, measure and contrast with other social harms, but criminology, as a discipline, remains existentially safe from genocide’s horrors because this is a criminology *of* genocide with little concern for the fate of criminology *in* genocide. We will revisit this argument below, but first we must address a second argument for the criminological study of genocide.

Some suggest that criminologists are ideally suited to research genocide because we are familiar with the study of horrible crimes. That is, we have stood before murderers, rapists, and other feared groups, objectively gathered our empirical data, and generated concepts to help explain their harmful behaviours (Day and Vandiver 2000; Yacoubian 2000). This argument alludes to the criminologist’s supposed ability to maintain neutrality when confronting deviant activities that often cause a great deal of public turmoil. However, as Freeman (1991: 194) notes,

“Genocide is an inescapably normative concept; there cannot be a justified genocide. It is not killing but murder. The definition of ‘genocide’, therefore, presupposes a normative theory which distinguishes justified killing from murder”. Thus, the term “genocide” implies a normative engagement and thereby precludes any notion of objectivity that strives for the logical positivist criteria of “value-free” research. As well, an attempt to perform “value-free” research in the face of genocide would threaten to diminish solidarity with those who suffer its effects. As demonstrated in several previous studies of genocide and war crimes (see Milgram 1974; Bauman 1989; Kelman and Hamilton 1989), the modernist ideal of scientific neutrality is an important component of the conduct of genocide, as it allows the perpetrator to separate himself or herself from the consequences of his or her actions. Clearly, then, it is problematic for criminology to model the very acts it identifies as serious social problems.

Moreover, criminology must address its internal relationship to genocidal contexts. Broadly speaking, it is no longer tenable to imagine criminology in a space outside of the social world, as assumptions of objectivity evident in the existing criminology of genocide literature suggest. Criminology cannot sustain the image that it watches social action as a disinterested spectator because criminology is implicated in the universe of “crime”. As others have observed, through its analysis and study of “crime” criminology is often complicit in the constitution of the very objects (so-called “criminal events”) it chooses to study (see, for example, Steinart 1998) and too often takes for granted state definitions of crime, thus reinforcing prevailing exclusionary biases.

It would certainly be disingenuous for criminology to imagine itself in a space outside of, or distanced from, genocide. Criminology has been active within genocidal contexts. For example, criminalisation is a component of the dehumanisation suffered by groups targeted for genocide. This was the case with Jews in Weimar and Nazi Germany, as well as with Tutsis in Rwanda. Some criminologists who study genocide, such as Alvarez (2001) and Friedrichs (2000), acknowledge the role of law and criminalisation within genocide. However, they also appear to assume that a retrogressive criminology produced these criminalisations. But, as Wetzell (2000) demonstrates, it is a mistake to think that criminology under the Nazis was simply a corrupt science perverted by the ideology of racial hatred. Relative to criminological developments in other countries at the time, and growing out of the criminology of the Weimar Republic, criminology under the Nazis showed increasing methodological and conceptual sophistication. Despite this sophistica-

tion, criminologists failed crucially on two counts under Nazi rule. First, many criminologists opportunistically courted the Nazi leadership to gain political and financial support for the criminal-biological and eugenics-based research they were already undertaking (Wetzell 2000). Second, criminological thinkers, including those who were suspicious of criminal sterilisation policies, and even those who favoured sociological over biological approaches to criminological analysis, generally treated criminological categorisations such as “social” versus “asocial” and “corrigible” versus “incorrigible” as unproblematic (Wetzell 2000). Thus, hereditarian and exclusionary tendencies in criminological research contributed to general socio-discursive conditions in German society that made genocide “thinkable”; that is, it helped create the ideational conditions that permitted genocide to occur (Mamdani 2001). Moreover, it would be a mistake to declare too sharp a break between this “Nazi” criminology and the modern criminological enterprise since the legacy of the exclusionary narratives of eugenics and incorrigibility is evident in our thinking today. With administrative trends such as “zero-tolerance” policing and privatised prisons taking hold, and under the exclusionary conditions of neoliberalism (see Young 1999), criminology still faces the choice of participating in or critiquing the manufacture of social exclusion. As Steinart (1998: 412) points out, new classes of “incorrigibles” are still being produced, and there remains an unnerving “structural similarity between war propaganda and law and order talk” (Steinart 1998: 417; see also Pepinsky and Quinney 1991).

With this historical legacy of criminology in mind, it is useful to reflect upon Bauman’s (1989) critique of sociology through the lens of the Holocaust. In particular, Bauman observes that sociology has traditionally maintained a “mimetic relationship with its object” (1989: 29). That is, sociology, as a form of knowledge embedded in modernity, has replicated the rational characteristics of this social moment within its own practices. Mainstream criminology has followed sociology’s example by maintaining a similar mimetic relationship with its object of study, often taking for granted the rational presuppositions of criminal law and its legitimacy in constituting criminal and non-criminal actors within society (Jamieson 1998).

In this sense, Bauman’s approach is instructive for a critical criminology of genocide because it accepts the purpose of analysis to be more than the description, edification, or critique of the subject matter. It leads us to a *reflexive* criminology that examines and re-examines the discipline itself and the arbitrary limits it constructs as it attempts to categorise various forms of human activity and experience. In Bauman’s

work, this reflexivity does not simply take the form of a critique of socially conditioned epistemological or ontological assumptions; instead, it issues a challenge to scholars to engage in a normative evaluation of their disciplines when conducting research. In this sense, we ask ourselves not only, “are we answering the research questions accurately?” but also, “what are the consequences of phrasing and answering research questions in this manner?”

Reflexivity has become increasingly prominent in sociological theory. Smith (1990: 205–206) describes reflexivity as follows:

A reflexive critical enquiry... explicates how we are connected, through the socially organised practices of knowing, into the relations of ruling, whether as super- or subordinates. It enables us to explore how our practices of knowing articulate us to, and are themselves articulated to, the generalised or generalising relations of the society we live in, and in particular how we may be caught up in the relations of ruling and be confined, in our knowing, to the surfaces of the text.

Giddons (1991: 223) similarly calls for a reflexive approach to the social world through his “life politics”, which “brings back to prominence precisely those moral and existential questions repressed by the core institutions of modernity”. Both authors alert us to how our ways of knowing are embedded in a structured and institutionalised world, and incite us to probe below the surface of our taken-for-granted assumptions so that we can uncover the imprint of social structures upon our thinking. It is necessary for criminology to embrace reflexivity so it may overcome its mimetic relationship with modernity, as well as to consider how institutionalised contexts of power relations and patterns of exclusion – in particular, state-instituted notions of crime and criminality – potentially shape the questions we pose.

The existing criminological literature on genocide is not without its critical and reflexive moments (see Jamieson 1998, 1999). Friedrichs (2000) and Alvarez (2001) provide convincing assessments as to why criminology has ignored genocide (see also Yacoubian 2000), including the methodological biases of criminologists toward topics that are more readily quantified, the fact that research funding within the discipline is typically directed toward subjects of national interest, and the wariness of criminologists to engage in research that is morally charged and threatens to remove their ‘safe’, ‘scientific’ distance. Hagan and Greer (2002) add that political contexts can influence the choice of research topics in criminology. They argue that the Cold War played a key role

in distracting criminological attention from the crime of genocide, as the post-Nuremberg controversy over who had the right to apply laws of genocide and war crimes discouraged criminologists from examining issues of international crime and law.

Self-reflection on the discipline, however, remains largely at a practical and individual level, whereby criminologists identify the primary problems facing the field as societal obstacles and a lack of personal courage on the part of researchers. But what about criminology itself? Seldom addressed are the discipline's foundational blind spots and its history, in Agozino's (2004: 343) words, as an "imperialist science for the control of others". This brings us to the need for a non-redemptive criminology of genocide and mass violence.

Redemptive narratives are a common theme within the genocide literature. They suggest that, although genocide represents the height of human cruelty, we can nonetheless learn from it and grow morally and intellectually by engaging with this topic (see Cole 2000; Novick 1999). These narratives reflect an attempt to revalorise humanity following its absolute debasement. The existing criminology of genocide often participates in a similar form of revalorisation. Through an investigation of genocide, the most serious of crimes, the goal is to redeem criminology by demonstrating the discipline's moral and scholarly worth.

Along these lines, some argue that criminology will benefit from an engagement with the topic of genocide. This argument is correct to the extent that criminologists, in particular North American and Western European criminologists, need to reflect on and reform their discipline in light of world-historic events such as genocide, as suggested above. But this argument takes a redemptive turn when it leaves foundational criminological assumptions unaddressed. For example, Day and Vandiver (2000: 56) write, "We strongly disagree with the notion that [genocide] should be placed beyond the boundary conditions of our field. To do so results in lost opportunities to test the generalisability of our concepts and lost opportunities to integrate concepts from other disciplines". This positivist and instrumentalist argument turns criminological genocide studies toward the mundane tasks of testing and expanding criminological discourses rather than critically evaluating these activities in light of genocidal events. Others have expressed hopes that criminology will become "more profound" (Friedrichs 2000: 21) by bringing genocide into its disciplinary boundaries. In both examples, the benefits accruing to criminology are "redemptive" because the disciplinary reforms they promote are superficial to the extent that they leave the baseline assumptions of the discipline unchallenged. In this sense,

the benefits do not incite a re-imagining of criminology; instead, they reaffirm the core of criminological study, redeeming it in the shadow of its previous failings.

Alvarez's (2001: 2) contention that criminology should "assist in the process of shaping understanding and increasing awareness of genocidal crimes" also shows signs of criminological redemption. He suggests that, as academics, we have a responsibility to refuse silence and to make the horrors of genocide widely known so that people no longer stand idly by in the face of mass slaughter. Although we may debate the efficacy of using scholarly study as the vehicle for spreading such a message, this appears an admirable goal. However, one might wonder whether there truly exists a lack of genocide awareness in western societies today. Each month publishers release several new genocide- or Holocaust-related books. Mainstream films have on the Rwandan genocide are appearing to accompany those already made about Nazi Germany, Bosnia-Herzegovina and Cambodia. Indeed, one could argue conversely that there exists a surfeit of genocide consciousness, especially a Holocaust consciousness that has arisen through the proliferation of Holocaust museums (including several located in North America, well away from the gas chambers of Europe), films like *Schindler's List* and *Life is Beautiful*, and increased media coverage of "foreign" tragedies. This awareness did not exist immediately following World War 2, but has become ever-present within modern western cultures since the 1970s (Novick 1999). Sadly, this heightened awareness has done little to prevent genocides in Iraq, Cambodia, Bosnia, and Rwanda (Power 2002). As Cohen (2001: xii) eloquently posits "our touching faith in 'if only they knew' underestimates the willfulness of denial in the face of knowledge".

To some extent, the surfeit of genocide information illustrates that the field of genocide studies has become a market for the generation of academic status. Friedrich's (2000: 21) aforementioned desire to make criminology "more profound" through the study of the Holocaust hints at the collective profits potentially available to the discipline, but there are also benefits to be accrued by the individual criminologist teaching and researching genocide: the unquestioned nobility of the cause of repairing and preventing genocide casts an aura of seriousness upon the criminologist. In addition, it is not uncommon for academics of all stripes to seek the distinction of expanding their respective fields in new and important directions. This colonising mentality is an expected outcome of the competitive nature of academic markets, but we must understand and critically interrogate the workings of our marketplace

to ensure that there are motivations beyond self-interest that guide our research. As Bourdieu (2001: 113) reminds us, “‘Good causes’ are no substitute for epistemological justifications and do not allow one to dispense with the reflexive analysis which sometimes leads to the discovery that the propriety of ‘good intentions’ does not necessarily exclude an interest in the profits associated with fighting a ‘good fight’”. As criminologists studying genocide, our ‘good intentions’ too often mask our self-interested engagement with this topic and allow us the conceit that we are simply “messengers” – uninvolved mediating parties responsible for the objective delivery of information about genocide to the masses – ignoring that genocide is not only a “criminal” process for us to study, it is also a “criminalising” process in which criminological categorisations are complicit.

This is not to suggest that learning in the shadow of genocide is impossible or that all attempts to prevent genocide should forever cease. Rather it is a question of *what* we learn. For example, the study of genocide would allow criminology greater reflexive opportunity to reconsider itself and its engagement in the modernist project of “enlightenment”. This is an opportunity not only in the sense mentioned above whereby criminology would examine its role within genocides, but also to examine the epistemological biases that have historically guided criminological thought. Critical criminologists have worked to turn criminology’s gaze away from the crimes of the powerless and toward the crimes of the powerful, including those committed by the state (see Tombs and Whyte 2002). They have also brought attention to the constitutive and criminalising power of the law and of mainstream criminological discourses (see, for example, Barak and Henry 1998). In addition, they have drawn attention to forms of harm not traditionally understood as “crime”, such as white-collar offences (Sutherland 1983; Friedrichs 1996). Indeed, for several decades, socio-legal scholars and critical criminologists have actively subverted taken-for-granted legal categorisations and problematised the political application of legal categories (see Taylor et al. 1973). However, in the emerging criminology of genocide, the moral weight of genocidal actions has too often led scholars to accept legal classifications unquestioningly, and to reinforce them through criminological discourses.

In sum, the existing literature on criminology and genocide has demonstrated only a limited taste for reflexivity, which typically takes the form of a critique of the absence of criminological engagement with the crime of genocide (Day and Vandiver 2000; Yacoubian 2000;

Alvarez 2001). However, it has failed to address criminology as an actor *within* genocidal contexts. This omission serves to purify and redeem criminology by locating it outside the realm of genocidal activity and portraying it as a neutral observer rather than as a participant in creating genocidal conditions. But genocide is not simply a historical object to be converted into data for scientific analysis. Genocide is a topic upon which narratives that serve certain uses and misuses are constructed. With respect to the emerging criminology of genocide, the term genocide is often “misused” in a manner that reproduces and revalorises the dominant modes of knowing within the discipline – methods of knowing that share similarities with those employed within genocidal killings and are consistent with relations of power within society. A non-redemptive criminology would instead “use” genocidal narratives to disrupt these dominant patterns of knowing within criminology and, more broadly, to criticise oppressive relations within the social world.

An ‘Undisciplined’ and Critical Criminology of Genocide

This leads us to the second guideline that suggests a critical criminology of genocide must reach beyond its own disciplinary boundaries, as well as maintain a critical stance with respect to the discipline’s foundational presuppositions. This principle contrasts with those that claim genocide as a legal matter rightly belonging to the field of criminology, that simply add criminological explanations to already established explanations for genocide, and that fail to critically challenge the constitutive effects of criminology and law.

For some, the need for a criminological study of genocide is clear-cut: criminologists should study genocide and mass violence because international law designates genocide a “crime”. Yacoubian (2000), for example, emphasises the criminal nature of genocide and puzzles over criminology’s failure to examine this “crime”. But while it is true that genocide is now defined as a crime under international law (although the *United Nations Convention on the Prevention and Punishment of Genocide* has been rarely enforced), there is a danger that over-emphasising criminal codification might result in an attempt to “discipline” genocide, privileging criminological inquiry because criminology is, of course, *the* study of crime and, as Laufer (1999: 73) notes, “genocide is a crime without a criminology”.

To date, the study of genocide has benefited from a diversity of voices, ranging from journalists and historians to anthropologists and

philosophers, to name only a few. Criminologists must not simply come late to the field and declare it a territory that rightfully belongs to criminology. Instead, criminologists must join the multidisciplinary debate and open themselves to theories, concepts and methodological tools that are the product of other fields. In other words, we must be somewhat 'undisciplined' in our approach. Moreover, there is a need to take an 'internationalist' perspective toward criminological research on topics such as genocide and mass violence. Most North American and Western European criminological discussions of genocide (here, the present paper is unfortunately not an exception) fail to incorporate the work of criminologists living in areas where mass violence is more prominent (e.g., Nikolić-Ristanović 1998; van Zyl Smit 1998). Regionalism has for too long been the trend in criminology, as local issues remain our primary fodder despite the growing globalisation of crime.

Most criminologists studying genocide acknowledge the need for multidisciplinary; however, they have also been too eager to demonstrate the applicability of the western criminological canon to genocide. In doing so, they often take an "add criminology and stir" approach to genocide studies through which mainstream theories of the discipline are mechanistically applied to the topic of genocide. Many of these theories were developed largely with respect to male youth and street crimes, and are often dumb to the radical and "transgressive" (Stone 2004) social contexts within which genocide occurs. This is not to say, however, that one may not successfully draw on elements of criminological theory and redevelop them to work within the broader context of genocide research; but one's priority should be the extent to which the theory allows for a better understanding of genocidal social worlds rather than a mere demonstration of the elasticity of criminological theory.

The jury is still out with respect to whether applications of Sykes and Matza's techniques of neutralisation (Day and Vandiver 2000; Alvarez 2001; Cohen 2001), Turk's nonpartisan conflict theory (Day and Vandiver 2000), or Hirschi's control theory (Brannigan 1998; Brannigan and Hardwick 2003) contribute to the advancement of genocide studies. Nevertheless, there are several reasons why we should hold some reservations about importing mainstream criminological theories into genocidal contexts. First, these theories typically ignore broader matters of political, historical and social significance, even when we solely consider their application to street crimes. Second, they locate the motivation for genocide and mass violence primarily within a limited temporal sphere, eliding broader patterns of imperialism, capitalist

acquisition and exploitation and their consequences for those who suffer the effects of genocide and mass violence. Finally, these theories often play a role in constituting an excluded class of actors: “criminals”. Jamieson (1998) has instructively criticised the individuating and reductionist tendencies of these mainstream criminological theories and has suggested instead that we move toward a “criminology of war” more sensitive to the processes that constitute patterns of social exclusion. In general, however, more criminologists examining genocide need to keep in mind that “Criminal justice provides modernity a repository of ideological legitimacies and practical techniques with which state power controls those system ‘casualties’ who resist or are different” (Barak and Henry 1998: 157).

These limitations of mainstream criminological perspectives may have very negative repercussions for the study of genocide. We cannot begin to understand genocide through ahistorical and apolitical frameworks since the identities of both the perpetrators and the target populations are often re-negotiated over long periods; that is, in different historical stages, these identities are subject to varying political and social interpretations (see Mamdani 2001). For this reason, criminologists need to be wary of any facile application of the victim/offender language to which we are accustomed (Jamieson 1998). To date, there has been a tendency to essentialise the identities of victim and offender in our criminological narratives of genocide, ignoring the broader socio-historical patterns that led them to fill these roles and, in the words of Stone (2004: 59), that “genocide is a phenomenon that explodes the myth that there are either good or bad people”. In addition, since societal preparations for genocide culminate in extreme exclusionary narratives that justify the elimination of a targeted population, we, as criminologists, must be careful in applying theoretical perspectives that contribute to, or legitimise, this exclusionary work.

Moreover, without adequate historical, political, sociological and anthropological knowledge of the genocide context, we run the risk of narrowing genocide to fit the model of the “prototypical” genocide, the Holocaust (see Moshman 2001), in which a totalitarian state was the prime initiator of genocidal activity. The fundamental role of the Nazi state in the Holocaust has led to a prioritisation of criminological theories of state crime in attempts to explain all genocides (see, for example, Alvarez 2001; for a sociological example, see Chalk and Jonassohn 1990). While criminology clearly owes a debt to those critical criminologists who first examined the criminality of the state and specific state crimes (see Chambliss 1989; Ross 1995; Friedrichs 1998), there

is a danger that overemphasis on the role of the state will result in inattention to those cases where genocide occurs “beyond the state” and militias, cells, and warlords only loosely connected to the state are the central actors (see Hoffman 2000; Mueller 2003), or where the linkages between state policy and grassroots perpetration are too complex to be portrayed simply in unidirectional terms (e.g., Rwanda, see Mamdani 2001). Moreover, as Moses (2002: 22) notes, “the emphasis on state intention and totalitarian ideology directs attention away from social forces extant in all modernising and colonising societies that seek to sequester indigenous land and kill its owners if they are resisted”. As Moses is aware, our focus on the state’s role in genocide puts us at risk of missing the lessons Arendt (1968) provides in her analysis of the development of totalitarianism through the structural and ideational processes of imperialism and anti-Semitism.

Finally, we must remember that the legal concept of genocide has a rich and controversial history, beginning with the tireless efforts of Raphael Lemkin to define what had long been a “crime without a name” (Power 2002; see also, Lemkin 1944; Moses 2004). Lemkin’s research on genocide drew on a significant portion of world history, stretching back to mass killings such as the slaughter at Carthage. However, it is also the case that Lemkin’s socio-cultural milieu shaped his definition of genocide. For example, the emphasis he places on the protection of “cultural collectivities” models a Westphalian notion of nationhood. In addition, debates surrounding the status of so-called “cultural genocide” with respect to Lemkin’s definition raise questions as to whether or not genocide necessitates the physical destruction of a group and whether or not the Jewish Holocaust can be termed “unique” (see Bauer 1978; Katz 1994; Churchill 1997). These questions have important implications for the legal definition of genocide because, depending on how one answers them, certain groups may be excluded from making a claim to have suffered genocide (e.g., political groups and Aboriginal victims of colonialism). It should also be noted that genocide is a term that is subject to constant definition and redefinition (see, for example, Chalk and Jonassohn 1990; Fein 2002; Moses 2004). Thus, criminologists would be wise to treat the laws of genocide and war crimes as social constructions, much as critical criminologists do with domestic laws. The temptation, however, is often to forget this important criminological lesson in the face of the horrendous scope of genocide. Perhaps because the struggle for international recognition of crimes of mass violence has been long and hard fought, criminological

students of genocide are more reluctant to deconstruct the arbitrary and mystical foundations of its laws (Derrida 1992).

In sum, the project of a critical criminology of genocide is a multi-disciplinary one. If the criminological objective in studying genocide is simply to prove the merit of criminological theory on a sexy new terrain, the contribution of criminology to genocide studies is likely to be minimal. However, engaging other disciplines and in a critical analysis of criminology and law through the study of genocide will ultimately produce better research and a less parochial criminology.

A Responsible Criminology of Genocide

The final section of this paper examines the question of how one might “responsibly” study genocide. It addresses two forms of responsibility: academic responsibility to full and specific knowledge and moral responsibility to those who suffer the consequences of genocide.

Max Weber’s (1946) “ethic of responsibility” requires the scholar to look beyond the desired ends of the particular study and instead immerse him or herself in the practical realities of the research context to gain a full sense of the particularity of the situation. Ahistorical criminological analyses of genocides, such as the Rwandan genocide or the Holocaust, are too often exercises in forcing our concepts onto situations about which we have done insufficient research (and are often conducted in areas safely away from war-torn regions). This is particularly telling in criminological studies that discuss the Rwandan genocide solely as the murder of ‘innocent’ Tutsis by radicalised Hutus. Criminologists typically provide discussion of Rwanda’s colonial past and its role in the creation of radicalised identities (see, for example, Day and Vandiver 2000), but equally important matters of regional politics – such as conflicts in neighbouring Uganda, Burundi and Congo – are ignored. In contrast, Mamdani’s (2001) work on the cycles of victimisation and perpetration in the region provides a useful corrective to the criminological tendency to essentialise the roles of victims and killers in post-genocide research.

Criminological treatments of the Holocaust are also sometimes problematic on political and historical grounds. For example, in his discussion of the actions of Police Battalion 101 – a group of German reserve policemen who took part in operations to eliminate the Jews from Nazi-occupied Poland – Brannigan (1998: 263) cites Goldhagen’s (1997) *Hitler’s Willing Executioners* as his primary source because,

according to Brannigan, Goldhagen's treatment "is quite singular (running as it does some 700 dense, closely footnoted pages)". In drawing on the authority of Goldhagen's page count and footnoting, Brannigan ignores Goldhagen's extensive use of secondary sources to verify his key arguments, as well as the oftentimes contradictory (and occasionally arbitrary) way in which Goldhagen interprets these sources throughout the text (See Browning 1998). Thus, while Brannigan does provide important criticisms of Goldhagen's interpretation of the historical record, he does not adequately address the limitations inherent within the presentation of this record. Day and Vandiver (2000) also rely heavily on Goldhagen to support their application of Turk's non-partisan conflict theory, largely ignoring Christopher Browning's alternate interpretation of the German Police Battalion court transcripts that Goldhagen relies upon in part to make the case for a peculiarly German "eliminationist anti-Semitism". The debate between these two authors should not be ignored as it is of some significance to criminology. As Morrison (2004: 345) notes:

In Browning's account the reader must always consider a reflexive question: 'if I was in that position can I really be sure I would not have participated?' This should be a crucial question for criminology: for if Goldhagen is correct there are no general lessons to learn from the Holocaust... But if Browning is correct we are dealing with a general potentiality. In that case criminology, as a scholarly discipline concerned with human nature and activities of harm, of exercising power over others in a destructive manner, *must* consider these data.

The ethic of responsibility that demands diligent research is ideally coupled with a moral responsibility whereby the criminologist seeks to act upon the "metaphysical guilt" that Jaspers (2000 [c1947]) suggests many experienced in the shadow of the Holocaust. Jaspers identifies four types of guilt: criminal (direct responsibility), political (responsibility for the actions of the state that governs you), moral (a matter of individual conscience – when one knows grave crimes are occurring but goes on as though nothing is wrong), and metaphysical guilt. Criminologists are inclined toward examining criminal guilt, although those who study the crimes of the state have also brought political guilt under consideration. However, understanding and combating metaphysical guilt helps position the researcher in a clear moral relationship with the research subject. In particular, metaphysical guilt results from, in Jasper's words (2000: 65), "a lack of absolute solidarity with the human being as such... This solidarity is violated by my presence at a wrong or a crime. It is not enough that I

cautiously risk my life to prevent it; if it happens, and I was there, and if I survive where the other is killed, I know from a voice within myself: I am guilty of being still alive.” This is not “survivor’s guilt” through which one regrets living when others have died. It is a reminder of our connection and our responsibility to others. Although we may be limited in our ability to help or take action, we cannot allow this incapacity to dissociate us from other human beings – to forget our shared humanity. As criminologists, because we conduct research on individuals and communities in often brutal circumstances, and because we know of their suffering, we are responsible to them and cannot retreat into academic distance or indifference.

As Alexander (2004) argues, memory and narratives of cultural trauma provide opportunities for solidarity building. This is reminiscent of, and can be expanded by, the stance taken by Habermas during the *Historikerstreit* debates, which erupted among historians in post-Holocaust Germany over how they know and remember the Nazi past (see Maier 1988; Pensky 1989). Habermas argues that we inherit from our forebears a “form of life”, which may be, for many of us, one that made possible genocide and mass violence. Based on this inheritance, Habermas, borrowing and reworking Benjamin’s (1969) notion of “anamnesic solidarity”, suggests we are forbidden from “an unreflective and facile re-appropriation of cultural traditions” (Pensky 1989: 357). This also holds true at a disciplinary or institutional level to the extent that forms of intellectual life, such as criminology, have participated in making genocide thinkable through cooperation in the project of defining excluded groups. This demands that we interrogate our discipline and reconsider those elements of criminology that are inadmissible on moral grounds. In this sense, we move away from a redemptive criminology, which reflects a conservative and selective reading of the criminological past, and forge solidarity with those who have suffered under exclusionary modes of thought and action, as well as with the excluded of today.

Conclusion

These guidelines are admittedly preliminary steps toward a critical criminology of genocide, but they provide hope that a reflexive criminological response to genocide could play a role in making “unthinkable” exclusionary and eliminationist criminalisations. They

demand that criminologists studying genocide be conscious of the consequences of their classifications and eschew naive positivism:

The positivist dream of an epistemological state of perfect innocence papers over the fact that the crucial difference is not between a science that effects a construction and one that does not, but between a science that does this without knowing it and one that, being aware of the work of construction, strives to discover and master as completely as possible the nature of its inevitable acts of construction and the equally inevitable effects those acts produce (Bourdieu 1999: 608).

This is the key realisation that accompanies responsibility to our subject matter and responsibility to the other – historical events such as genocides are not simply sources of data on which to test our methodologies and hypotheses, they are potent symbolic narratives used to construct the social world. The ways in which we use these narratives have moral consequences; therefore, our responsibility is to consider how in the past our discipline has failed those who suffered the human consequences of genocide, and to re-order our discipline and society in a manner that helps to make genocide unthinkable.

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