# Kirsten Ainley
# Individual agency and responsibility for atrocity

## Book section

# Chapter 2

# Individual Agency and Responsibility for Atrocity

**Kirsten Ainley[1]**

> If only there were evil people somewhere insidiously committing evil deeds,
> and it were necessary only to separate them from the rest of us and destroy
> them. But the line dividing good and evil cuts through the heart of every
> human being … it is after all only because of the way things worked out that
> they were the executioners and we weren't. (*Alexander Solzhenitsyn, The
> Gulag Archipelago*)

There is a great deal of concern in contemporary international relations (IR) with evil

individuals. Slobodan Milosevic was the "Face of Evil" for many until attention turned to

Saddam Hussein, about whose acts of torture and mass killing George Bush stated: "If

this is not evil, then evil has no meaning".[2] Deeply unpleasant characters such as Idi

Amin, Pol Pot, Charles Taylor, Ratko Mladic, Radovan Karadzic, Jean Kambanda, Josef

Kony and Osama Bin Laden line up alongside these men as enemies of the good in late

twentieth-century and early twenty-first-century life. They are held responsible for

causing great and unjustified suffering to the innocent, for terrorizing or slaughtering

entire populations and for crimes against humanity on a grand scale. Despite the horrors

of the Holocaust, and the conviction that such despicable acts would never be allowed to

happen again, evil seems once again to stalk the earth.

In this chapter I am concerned not with defining what evil is, but looking at how

the label is used – in particular, why we assign responsibility for evil to "free" individuals

in contemporary international relations, and what the implications of this are. I will argue that seeking out supposedly rational, volitional individuals to hold responsible for atrocity is a corollary of the increasing focus on the individual, rather than the state, as the key agent in international politics. The individual is now seen by many as both the principal protagonist in bringing about evil, and also the main victim of such acts. This view, which I will argue is a result of the rise of cosmopolitan liberalism, has led to the establishment of the human rights regime, and to the development of international criminal law, and a system of tribunals and courts to exercise such law. The International Criminal Court (ICC), which is just beginning to try its first cases, is seen by its supporters as the best way to deal with evil in the world, and to ensure that the human rights of all individuals are upheld. However, developments such as the ICC are not as beneficial to international political practice as many of their supporters claim, for two principal reasons. First, the concept of the "international" individual agent on which they are based is highly problematic, because it ignores the enormous influence of social and environmental factors upon human actors. Second, there are significant negative implications of focusing only on those acts of "atrocity" which can be blamed on particular protagonists, and using the term "evil" to describe these individuals. These implications include the legitimation of state violence through the categorization of all intolerable or "atrocious" violence as the action of deviant individuals, the temptation to understand conflict in dualist terms of "good" and "evil", and a blindness towards instances of great suffering which cannot be framed as caused by intentional human action. The position also gives apparent support to the mistaken assumption that evil cannot be predicted or prevented, only punished after it has occurred. I will examine all

of these implications towards the end of the chapter, after I have looked in some detail at the emergence of the individual as the key actor in international relations.

**The Rise of the Individual**

The rise of the individual as an international agent has characterized post 1945 international relations and international political theory (IPT). In principle, individuals no longer need to rely on their state to protect their interests: a comprehensive system of human rights has been established which the individual can demand not due to her status as citizen of a particular state but due to her identity as a human being. Concern for individual suffering caused by grave human rights abuses has motivated wars – in Bosnia, Somalia, Kosovo and Iraq – as well as an abundance of law. There has been a marked shift in international political and legal discourse away from assigning responsibility to states for extremes of political violence or atrocity, and towards assigning responsibility – specifically criminal responsibility – to individuals. The most significant example of this shift is the establishment of the International Criminal Court, designed to prosecute individuals for acts held to be universally morally abhorrent. Yet focus on the individual in IR is relatively recent. In this section I will outline the twin roots of the new status afforded to individuals: liberalism and cosmopolitanism.

Cosmopolitanism is the older of these two doctrines, derived from the Greek *kosmopolites* or "citizen of the world". The Stoics rejected the Aristotelian view that a person's primary ethical identity was as a citizen of a particular polis, and saw instead all humans as belonging or potentially belonging to a single moral community. This rejection of the significance of particularistic attachments defines cosmopolitan thought,

which has developed and divided in a variety of ways in the two thousand years since the Stoics began to write. All strands of cosmopolitanism see the individual as the agent of concern, but they do not concur on what the individual is or what it means to focus ethics upon her. Liberalism, which developed in the European Enlightenment alongside a resurgent cosmopolitanism, provides the dominant mainstream interpretation of the individual in contemporary IPT, seeing her as volitional, rational and autonomous, and it is these characteristics which are seen to justify both protecting the individual through a system of human rights, and holding her responsible for the evil we observe in the contemporary world.

A central and defining characteristic of liberal philosophy is a conception of the person as a sovereign individual, a moral agent. Standard liberal accounts of agency see the individual as "possess[ing] internal powers and capacities, which, through their exercise, make her an *active* entity constantly intervening in the course of events ongoing around her."[3] An agent can cause changes in the world around her, but her actions are not themselves caused. She generates actions using her internal capacities of rationality and intentionality or will, and thus acts freely and without interference, as a sovereign body. Responsibility follows from free agency, as the agent is not forced to act in any particular way, and could by implication act otherwise if she chose to do so. As her actions are voluntary, she can be held not just causally responsible but also morally responsible (subject to ascriptions of moral praise or blame) for the consequences of them. Liberal notions of free agency owe a great deal to the work of Kant, who saw the possession of reason as the differentiator between human beings and the natural world. Through reason, humans could transcend the laws of cause and effect and effectively become "uncaused

causes". "Our blame", Kant argued, "is based on a law of reason whereby we regard reason as a cause that irrespective of all … empirical conditions could have determined the agent to act otherwise".[4]

The individual in liberalism is valued not just for her agency, but for her perfectibility. Liberal ethics follow Mill in seeing individuality as a normative good, because "it is only the cultivation of individuality which produces, or can produce, well-developed human beings".[5] The human ideal can only be achieved on this view by effort on the part of the individual: the individual must be self-determining, and human life a project. It follows that the central concept and primary good promoted within liberal political theory is liberty or freedom, as the individual cannot hope to self-determine if her actions are constrained by a state.

The idea of rights, claimed to be grounded in natural law, arose in liberal political theory as a way to protect the individual from imposition by the state and to support the pursuit of her chosen ends by guaranteeing to her the widest possible range of freedoms. The primary role of the state in liberalism is to guarantee these rights to its citizens, and any obligation the individual has to the state rests on its success in doing this.

These three ideas: the individual, freedom and rights, have been tremendously influential in Western political practice. Yet despite the progress of liberalism as a domestic political philosophy in the eighteenth and nineteenth centuries, the international realm was still dominated by a "morality of states", in which states were seen as the key actors.[6] This morality of states "base[d] the principles of international ethics on the principle of state sovereignty" so supported non-intervention in the affairs of other states on the basis of states' rights to autonomy.[7] By the twentieth century this view was being

questioned, with its foundation on the principle of sovereignty found particularly problematic; it is in opposition to this view of international ethics that both liberal internationalism and cosmopolitan liberalism developed.

*Liberal internationalism and cosmopolitan liberalism*

The first significant extension of liberalism beyond state borders came when British and American political theorists responded to the carnage of the First World War by proposing a liberal internationalist order. This programme for peace was outlined most clearly within Wilson's "Fourteen Points" speech, in which he advocated global support for sovereignty and national self-determination for all peoples under liberal, democratic, constitutional regimes; an international institutional structure which would manage international affairs through law rather than war; and the removal of all economic barriers to free trade. Wilson's position was not a wholesale rejection of the morality of states, but an updating of it in line with the principles of liberalism which had taken hold in domestic societies.  The liberal faith in progress and human perfectibility led theorists to believe that war could be eliminated, particularly through human rights, democracy and free trade. Liberal internationalists thought that "states which treat their own citizens ethically and allow them meaningful participation in the political process are … less likely to behave aggressively internationally".[8] Where liberal internationalism differs from the cosmopolitan liberalism which followed it is in its conception of the rights of peoples rather than people. Liberal internationalists argued that the principal rights that we should be concerned with in international affairs are the rights of collectives – of peoples – to sovereignty and self-determination. They did support individual human

rights, but held that freedom was best served by guaranteeing to groups the space to determine their own national projects.

The collapse of the League of Nations and the rise of totalitarianism in the 1930s leading to the moral horrors of the Second World War forced liberal theorists to reconsider their beliefs. Some, such as E. H. Carr, turned to realism.[9] They saw the liberal internationalist project as too ambitious – as utopian. Others – mostly activists and politicians such as Eleanor Roosevelt, rather than the liberal internationalist academics whose principles were now under attack – believed that their previous position, based as it was on only a partial reworking of the morality of states, was not ambitious enough. They rejected the state as a moral agent of concern entirely, and set out an ethics centred on the individual. This new position marks the coming together of the cosmopolitan rejection of particularistic attachments and the liberal commitment to the absolute priority of the individual, and it can be seen most clearly in the post Second World War focus on human rights. The concept of human rights was made concrete in the 1948 Universal Declaration and the Preamble to the Declaration states that human rights should be protected by the rule of law. The human rights regime suggests that there are some actions, such as torture, slavery and arbitrary detention, that are prohibited regardless of their status in domestic law, and regardless of the official status of the perpetrator. Human rights are afforded to all human beings *qua* human beings, and not due to their membership of any particular political community. The purpose of these rights is to guarantee to all individuals some basic protection from the actions of their states and, ideally, the freedom to formulate their own values and ideas of the good.

Evident here is the liberal conception of the individual as a volitional and normatively valuable agent who must be protected from arbitrary action from the state in order to be able to live according to her own goals and values. What cosmopolitanism brings to the picture is a new conception of the ethical value of foreigners – those who live outside the boundaries of the liberal state. Brown distinguishes between pluralist liberals (analogous to pre-1945 liberal internationalists) and cosmopolitan liberals as follows: pluralist liberals regard the right to govern oneself – the right of self-determination – as one of the most basic and important rights, so argue that the duties we have to our fellow citizens are qualitatively different to those we have towards the rest of the world. Cosmopolitan liberals see the identity every individual has as a citizen of the world (or simply as a human being) as prior to any national identity, so argue that normative action should be concerned to increase the political and civil rights of all people.[10]

*Responsibility in cosmopolitan liberalism*

The development of cosmopolitan liberalism in international political thought has done more than replace the state with the individual as the agent of concern. It has also altered views of responsibility in the international sphere. The principal feature of the cosmopolitan liberal view of responsibility is the legalisation of the concept. Law plays a central role in liberal theory. The rule of law is judged to be the best way to safeguard the individual from the arbitrary action of states, by requiring that government authority only be exercised in accordance with laws adopted through legitimate procedures. Liberalism in general sees law as an efficient and rational way to regulate relationships previously

governed by violence – whether those relationships are between individuals, states and individuals, or states. Law is valued so highly by liberals because it is conceptualised as the apolitical expression of an objective moral code. Law is aligned with morality, so moral responsibility is defined and discharged through law. This is true particularly of criminal law: criminal behaviour is seen as differing qualitatively from illegal behaviour to the extent that it breaches societal moral codes, though contract and civil law are also underpinned by normative claims. Obedience to the law is all that is needed to satisfactorily fulfil one's moral responsibilities in a liberal polis.

This legal approach to ethics can be seen in the expansion of liberalism in both domestic and international realms. Liberalism does not just value law, but particular types of law, and so has had significant effects upon legal frameworks and the construction of responsibility within them. Before I document the effect of liberalism on law beyond borders, I will outline its impact on domestic law.

Haney argues that the principal effect of the rise of liberalism in domestic polities was a move away from doctrines of collective responsibility to doctrines where primary responsibility lay with individuals, with a new emphasis on individual autonomy and personal character or disposition. A person's legal situation "was no longer defined in terms of his place in a hierarchy of social status, but came to depend instead upon his personal efficiency and capability in a capitalist economy."[11] The principle of freedom of contract became paramount as relationships of social status were replaced by contractual relations. Parties to contracts were seen as free and autonomous under what became known as "will theory". As Haney explains, "[w]ill theory assumed that parties were equally capable of knowing what they wanted, of freely choosing the circumstances

under which they would get it, and of expressing contractual agreements whose 'fairness' was a matter for the autonomous parties to decide themselves".[12]

The effect of liberalism on criminal law was also profound. The focus of such law changed from the punishment of sinners to the protection of property and of the rich from the poor. Criminal law in Western states came to reflect three key assumptions about human behaviour implied by the individualism which grounds liberalism, namely that: "1) individuals are the causal locus of behaviour; 2) socially problematic and illegal behaviour therefore arises from some defect in the individual persons who perform it; and, 3) such behaviour can be changed or eliminated only by effecting changes in the nature or characteristics of those persons".[13]

"The cardinal principle of criminal jurisprudence is that a crime is the act of a voluntary and responsible agent who chooses between the lawful and the unlawful".[14] The doctrines of free will and individual responsibility are the foundations of contemporary Western criminal law and it makes sense to focus any response to criminal activity on punishing or reforming individuals if the individual is seen as the causal locus of criminal behaviour, the agent. Haney concludes that, in the nineteenth century: "[t]he legal system, in harmony with widely held psychological theories about the causal primacy of individuals, acted to transform all structural problems into matters of moral depravity and personal shortcoming".[15] This approach became institutionalised in the criminal justice and prison systems, and, despite great progress in social science and fundamental challenges to methodological individualism, remains embedded in both domestic and international criminal law.

The epistemological status of law itself also changed through the nineteenth century as economic life was transformed: law was increasingly viewed in secular, instrumental and positivist terms. Laws were less about sin and more about controlling a constructed market place and protecting property – and as such, laws became divorced from social codes. Rather than being based on natural, or God's, law and expressing the moral values of the community, laws became seen by critics of liberalism as constructed to facilitate the realisation of individual desires and to support the distribution of economic and political power in society. This changing view of the foundations of law (from religious and natural to secular and contingent) caused a crisis of legitimacy for Western law, which was solved by re-founding law on the principal of (natural) reason and making the study of it a science. Law students were taught that law is objective and neutral, and should be seen as entirely separate from politics (which is subjective, arbitrary and value-laden). Recasting law as founded on reason also had the effect of privileging the status of the judiciary. Walzer argues that, as liberalism is founded on an idea of natural rights, liberals tend to see philosophers and judges as having some special understanding of the relevant issues, so assume that courts are the best places to define and protect rights.[16] This assumption, and the institutional design and practice which are suggested by it, can be witnessed in the legalisation of both domestic and international rights questions.

The appeal of liberalism in the West along with the failure of the international community to manage its affairs peacefully by ascribing agency and responsibility only to states has led to the increasing individualisation and legalisation of international relations as well as domestic politics. Cosmopolitan thinkers took the liberal focus on

rights and law and wrote it large upon the global scene, which has resulted in significant changes to conceptions of responsibility in international relations. Gradually, through the twentieth century, individuals have gained both rights and responsibilities. They, rather than states, are now conceived as the causal locus of the behaviours which are of most concern in IR and these behaviours have therefore been written into international law as crimes. There has been a double movement of, firstly, the criminalisation of international law, i.e. an increase in the amount of international law which is concerned with identifying and prosecuting criminal acts and, secondly, the internationalisation of criminal law, i.e. the prosecution of those responsible for criminal acts above the level of the sovereign state. Whereas those who take a "morality of states", liberal international or communitarian view see obligation as being generated within states, cosmopolitan liberals appeal to a universal code of right and wrong in order to establish responsibility beyond national borders. They use law, the favoured tool of liberalism, to establish and control these new structures of responsibility.

Prosecutions for human rights abuses are a recent innovation, but prosecutions for war crimes are not new. There are records of such trials dating back as far as Ancient Greece, but, until the twentieth century, suspected war criminals were tried under domestic law in national courts (meaning, in practice, that the perpetrators were safe from prosecution if they held senior positions within the state). In 1872, Gustav Moynier, one of the founders of the International Committee of the Red Cross, called for the creation of a permanent international criminal court. The process of its creation took more than 100 years, and, understandably given the liberal belief that law is preferable to violence as a

method of managing relationships, most moves towards it coincided with the end of major conflicts.

During both the First and Second World Wars there were calls for the international prosecution of leaders of belligerent states for acts of aggression and gross violations of the laws of war. The 1919 Treaty of Versailles provided for an *ad hoc* international court to try the Kaiser and German military officials. No prosecutions ever took place as the Netherlands granted asylum for the Kaiser, and Germany refused to hand over suspects, but the demand marked a shift in thinking in favour of holding individuals internationally responsible for war crimes. During the Second World War an international criminal court was proposed, but rejected by the Allies who instead established *ad hoc* International Military Tribunals at Nuremberg and Tokyo. These tribunals began the process of the international criminalisation of acts constituting serious human rights violations, rejected the principle of sovereign immunity and began to see *individuals* as the relevant actors (and therefore hold them responsible) instead of states or groups.

Reports of ethnic cleansing in the former Yugoslavia led, in 1993, to the Security Council establishing the International Criminal Tribunal for the former Yugoslavia (ICTY) to prosecute such acts. A year later, the International Criminal Tribunal for Rwanda (ICTR) was established, this time in response to the massacre of an estimated 800,000 Tutsis and moderate Hutus, also as a subsidiary organ of Security Council. The conflicts in former Yugoslavia and in Rwanda re-focused attention on large-scale human rights violations during times of conflict and they highlighted the significant practical difficulties encountered in setting up and running ad hoc tribunals, so showing the

benefits which could be gained from a permanent international body dedicated to holding individuals responsible for human rights violations.

Momentum for such a body gathered and in 1998 delegates from 160 states and a range of inter-governmental and non-governmental organizations drew up the Rome Statute which established an ICC with broad ranging powers to prosecute acts of genocide, crimes against humanity, war crimes and, potentially, aggression (although the Court will only have jurisdiction over crimes of aggression if a definition can be agreed upon, which looks unlikely). Within the Court, the individual is of paramount importance. As well as the rights of individuals rather than "peoples" receiving most attention since 1945, individuals are also now being held responsible for international violence. International criminal law suggests that atrocious or "evil" acts in international relations are the direct responsibility of specific persons rather than states, and the ICC has been set up to prosecute those persons. Neither position nor action of state holds any relevance: the individual has replaced the state as the agent of concern in international criminal law.

The ICC is a significant achievement of cosmopolitan liberalism: the Court has the power to over-rule the domestic legal systems of State-Parties if it feels that offences have not been adequately investigated or tried, and it is concerned to punish severe breaches of human rights regardless of the nationality or official position of perpetrators or victims.[17] The offences covered by the Rome Statute are judged to be wrong whether or not they are illegal within the domestic law that applies to the actors involved and little regard is paid to sovereignty and borders. Through international criminal and human rights law, in particular the ICC, cosmopolitan liberals are able to promote their particular

view of the correct roles of individual, state and law. Frédéric Mégret notes that:

"probably no international legal institution better approximates the Kantian ideal-typical

vision of a cosmopolitan-federation-of-states-in-the-making than the creation of a

permanent international criminal court".[18]

Cosmopolitan liberalism privileges the individual as an actor in IR and

international criminal law as the method to control individuals. The rhetoric which

accompanied the establishment of the ICC shows that individuals who do not conform to

the new legal codes are viewed as evil – a point Kofi Annan has emphasized on a number

of occasions:

> Our time -- this decade even -- has shown us that man's capacity for evil knows
> no limits. Genocide … is now a word of our time … a heinous reality that calls
> for a historic response.[19]
>
> [The Court] gives concrete expression to Francis Bacon's famous principle that
> not even the Sovereign can make "dispunishable" those crimes which are malum
> in se -- evil in themselves, "as being against the Law of Nature"..[20]
>
> The best defense against evil will be a Court in which every country plays its
> part.[21]
>
> The Court is an instrument of justice, not expediency.  It can and must serve as a
> bulwark against evil.[22]

Thus, the international prosecution of "evil" individuals after they have committed

atrocities is now the dominant approach to controlling violence and promoting rights in

international affairs.

**The Limits of Cosmopolitan Liberalism**

Supporters of the ICC regard the Court as a step along the path to global moral enlightenment, as the missing link in international human rights enforcement and as a powerful weapon in the fight against evil. However, the Court is premised on a highly problematic concept of the evil individual agent, which ascribes to the agent qualities of rationality, volition and autonomy that are not observed in practice, particularly not at the international level, and which denies the importance of the social relationships and environments of individuals.

Cosmopolitan liberal ethics are grounded on a particular conception of agency: a supposedly neutral conception of the individual, sovereign or autonomous, rational and volitional by nature; an "uncaused cause". However, there are significant problems with this model. First, it requires a dualism which is difficult, if not impossible, to sustain. To accept the model, we must see the "natural world" as a deterministic arena of cause and effect, but the human world as non-natural, and characterised by volitional or intentional action outside the realm of causal laws. In some mysterious way, human beings must have the power to act, at times, outside the causal rules which govern the natural world.

Second, and more critical to the argument I wish to make here about evil, the model requires that agents have preferences and identities which are formed prior to social interaction and that any social attachments they have are freely chosen rather than in any way constitutive: i.e., that the self is "unencumbered".[23] This position has been roundly criticised by communitarian theorists who argue that there is no such thing as the pre-social agent – we achieve agency only through participation in social institutions and in the enactment of social roles.[24] The individual, on this view, cannot exist before society:

our identities stem from our being embedded in social relations and from our psychological attachments to those close to us, and thus cannot be established prior to them.

The sovereign individuals of liberal theory behave independently, calculating costs and benefits in any situation and making decisions according to their personal preferences. However, we do not seem to behave as isolated individuals with any frequency. Pressures to conform and to obey lead to individuals behaving in surprising ways, often entirely in contradiction to the moral codes dominant in their communities. The two most striking, well-known and ethically ambiguous psychological experiments to demonstrate this were carried out by Stanley Milgram and Philip Zimbardo et al .[25]

Milgram designed and carried out an experiment to investigate the Holocaust-inspired hypothesis that Germans were more obedient to authority and more likely to follow orders to carry out atrocities than other nationalities. He advertised for subjects in the US from across the social strata (his original intention was to take the experiment to Germany having established a base-line low level of obedience in the US) to take part in a experiment on learning. Each subject was required to administer electric shocks to another subject, up to a deadly level. The shocks were simulated rather than real, but the subjects did not know this. Psychiatrists predicted that less than 1% of subjects would shock up to the highest level. In fact, although many of the subjects displayed great anguish, 65 % of them complied and shocked the learner up to 450 volts. Not one of the subjects stopped before 275 volts. Many attempted to refuse, but continued after the experimenter asked them to do so or assured them that he would take full responsibility for any adverse consequences. 95% of subjects continued the experiment up to 450 volts

when they did not have to administer the shock personally, suggesting that when the subject shared responsibility for any harm caused, she was more disposed to continue contributing to that harm.

In 1971 Zimbardo designed a Prison Simulation experiment which put subjects into positions of authority within groups rather than subjecting them to it. As in the Milgram experiments, volunteers were recruited through adverts in the local press, and half were allocated (via coin toss) the role of "prisoner", with the other half being "guards". The basement of Stanford University was converted into a mock prison, and on arrival at the prison, each prisoner was stripped, de-loused, issued with a uniform printed with an identification number and locked in a cell. The guards were given khaki uniforms, silver reflective sunglasses (to make eye contact impossible), clubs, whistles, handcuffs and keys to the cells and the main gate. Their job was to maintain control of the prison. They were instructed that they could push the prisoners if they did not comply with orders quickly enough, but were not to use other forms of violence.

On the second day of the experiment, prisoners staged a revolt, which the guards crushed. After this, the guards got more aggressive each day, and the prisoners became more passive and dependent. Every guard, at some time during the experiment, behaved in an abusive, authoritarian way. They humiliated and dehumanized the prisoners to such an extent that five prisoners, one a day, had to be released prematurely, suffering from symptoms such as uncontrollable crying, fits of rage and severe depression. The experiment, designed to run for two weeks, was stopped after six days out of concern for the emotional health of the prisoners.

Zimbardo conducted the experiment to investigate the power of roles, rules, symbols, group identity and situational validation of behaviour entirely contrary to the moral code of ordinary individuals. The prison experiment demonstrated the ease with which people could be led to engage in atrocious acts by putting them in situations where they were deindividuated or felt anonymous, where they could displace the responsibility for the consequences of their actions onto others, or where they could conceptualise their victims in ways that made them less than human, as enemies or objects.

These two experiments demonstrate in the most dramatic way that if moral agency is characterised as the volitional action of autonomous and rational individuals, then very significant aspects of the social environments of actors are ignored. It seems that acting in a social context, particularly when one or more members of the social group hold a position of authority and the members can submerge their moral identities into the group, enables individuals to cast aside moral requirements which would usually constrain them as they fight or succumb to social pressures[26].

The findings of these studies tell us a great deal about evil actions in international relations. One of the biggest puzzles philosophers have faced when trying to understand events such as the Holocaust and the Rwandan genocide is why it is that so many 'ordinary' people seem to contribute to the atrocities. In the conclusion to their study of the Holocaust, Kren and Rappoport state: "Our judgment is that the overwhelming majority of SS men, leaders as well as rank and file, would have easily passed all the psychiatric tests ordinarily given to US recruits or Kansas City policemen".[27] The subjects in both the Milgram and Zimbardo experiments were also judged to fall within the 'normal' range on the psychological profiling tests they completed.

There are two distinct (secular) views of evil in philosophical literature – "radical" and "banal" evil.[28] The first is developed from Augustinian and Kantian philosophy, seeing evil actions as carried out by evil individuals who know that the action is evil and choose to do it anyway. Such individuals are often described as "moral monsters".[29] The second conception of evil is a result of the research that Hannah Arendt undertook on the trial of Adolf Eichmann, and posits that evil can result even if actors do not have evil motives.[30] Arendt argues that Eichmann effectively abdicated his autonomy, did not reflect upon the effects of his actions, and carried out the tasks he was ordered to do to the best of his ability as he was motivated by career advancement rather than any desire to contribute to the extermination of Jews. He was thus a "moral idiot" rather than a "moral monster".[31] It is this view of evil as 'banal' which many use to explain the participation of ordinary people in acts of great evil, but the psychological studies described above, along with new work in the field of social psychology, should cause us to question whether such a clear distinction – between radical and banal evil – actually exists.

Arendt believed that people were more likely to replace their moral codes with habits and customs that permitted evil under the conditions of totalitarianism. However, the work of Milgram and Zimbardo suggests that "normal" people, acting in "normal" circumstances, can easily be led to engage in evil acts. Why is this? An interesting explanation can be found in the work of Barry Barnes, who, following Peter Strawson, argues that far from being autonomous agents, people are fundamentally vulnerable to each other, and seek deference or approval by monitoring the response of others to actions that they take.[32] He argues that people are motivated by attaining or retaining

status in their social group, so engage in action likely to secure that status. If the norms or values of the group support action judged by outsiders to be atrocious, those within the group may still participate in it out of a desire for status. This dynamic calls into question both liberal assumptions about autonomous agency, and the legalist conception of responsibility. Those acting may not intend the outcome of their actions, and those members of the group who do not explicitly contribute to the evil done may also have responsibility for facilitating it through upholding particular group values. This can be illustrated using the example of the violence which accompanied the breakdown of the former Yugoslavia.

Responsibility for the evil done during the breakdown spreads far beyond the 40 people convicted of crimes thus far at the ICTY. Virginia Held has looked at the responsibility of ethnic groups for ethnic conflict and concludes that such groups do bear moral responsibility in ethnic conflict as it is attitude as well as action which contributes to atrocity.[33] Ethnic hatred is morally blameworthy because even though such hatred is rarely against the law (and may even be protected by laws of free speech); it significantly increases the risk that harm will occur as it generates a climate in which such harm is more acceptable. This view accords with the arguments made by Barnes: if members of a group foster a climate of ethnic hatred, then acts to harm the ethnic other may raise one's status within the group and thereby bolster self-esteem. The group's attitudes alter the environment in which the individual acts. If we share in the creation of or sustain such attitudes, then we share in the moral responsibility for the harm that results. Policies of ethnic violence, ethnic cleansing and genocide are only successful if popular opinion is mobilised behind them, as demonstrated in the former Yugoslavia. Following the

dissolution of communism, the institutions which bound Yugoslavia together as a state disappeared, and political elites began to look for new power bases. Lacking organising factors such as trade unions or political parties due to years of communist rule, dormant national identities were mobilised by political leaders in both Serbia and Croatia. These identities both created and reflected nationalist feeling. The leaders were certainly manipulative in their use of identity: Milosevic generated fear among Serbs living in Croatia and Bosnia that they would become a mistreated minority if these territories were allowed to self rule. However, Serbian communities allowed this fear to turn into ethnic hatred and continued to support the government that was generating the messages. Held therefore believes that Serbs as a group should take responsibility for Serbian atrocities in Bosnia and Kosovo as they were receptive to Milosevic's messages. One could add that Croatians should also be held responsible as they were equally as responsive to Tudjman's ultra-nationalist messages as the Serbs were to Milosevic. If their hate-speech had not found an audience, the political leaders would have stopped using it, but through the 1990s nationalist feeling grew to the point where campaigns of massive ethnic cleansing (including an estimated 700,000 Muslims 'cleansed' from Serb-dominated areas of Bosnia and 800,000 Albanians from Kosovo by the Serbs, and 200,000 Serbs from Krajina by the Croatians) and atrocities including the establishment of detention and rape camps became politically possible. Ascribing agency and responsibility for these evils only to "moral monsters" such as Milosevic excuses the contributions made by many others. Even the instigators of evil are susceptible to social pressures, and must respond to social signals to be successful in their plans, thus many more people are implicated in evil (and are in positions in which they could help to prevent evil), than the

contemporary view of agency can acknowledge. The liberal emphasis on intentionality of agency and use of the law to confront evil means that many of those people who enabled atrocities by creating the social conditions which made them possible will escape unpunished as they cannot be shown to have intended particular harms.

This is particularly important at the level of "international" evil, as the Hitlers, bin Ladens and Husseins of the world differ markedly from "domestic" evil-doers such as Harold Shipman and John Wayne Gacey. Those who commit the atrocities we are concerned about in IR are not sociopathic loners: they are often prominent public figures whose perpetration of atrocious acts is either ignored or even actively supported by their followers – not serial killers and paedophiles attempting to stay hidden in the shadows. Yet we treat them in the same way that we treat criminals in domestic law. Domestic criminal law concentrates on punishing individuals for breaching societal moral codes – for being "deviant", for "conduct which does not follow the normal, aggregate patterns of behaviour".[34] In other words, these individuals are seen as "extraordinary" people acting in "ordinary" times. Domestic criminal law, at least in theory, rests on a system of shared norms and values, which criminals deviate from. International criminal law and international crime are different in character. A common or universal morality is claimed to underlie the ICC, but no such morality can be observed in international practice, not even a common commitment to prevent genocide. The world sat by and watched almost a million people being massacred in Rwanda in 1994, and at the time of writing, four years into the crisis in Darfur, virtually nothing has been done by the international community to respond to the situation beyond making statements of disapproval and issuing two token indictments at the ICC. There is no universal moral code to which we can refer

when confronted by evil, so people act according to more local codes. International crime also differs from domestic crime in that those involved in evil in IR are more likely to be ordinary people acting in extraordinary times than vice versa. Extraordinary circumstances such as conflict or state failure seem to elevate norms which promote stability or the safety of the group, so those who commit atrocities may be acting *according* to the values of their groups rather than deviating from them.

I do not wish to suggest here that we are all capable of being "the executioners", in Solzhenitsyn's words, that we all succumb inevitably to social pressure so can have no responsibility for any evil we contribute to, or that no relevant distinction can be made between those who seem to instigate evil, and those who carry out the orders issued by the instigators. Rather, I am arguing that the view from the other end of the spectrum – that evil is carried out by moral monsters, volitional, deviant, individuals who operate outside the codes of their societies – is wrong, and has worrying implications.


**Implications of the Individualistic View of Evil**

Ascribing agency and responsibility for evil to intentional individuals in international relations has four important implications. The first two concern the types of harm that such a view focuses our attention upon. Seeing evil as individual deviance both legitimates action carried out by dominant actors in accordance with the prevailing values in the contemporary international system, and leads to many instances of suffering – those which appear to be "natural" or "structural" – being effectively ignored. The third implication of this view is that it tempts us to frame political action, in particular conflict,

in simplistic terms of a fight between "good" and "evil", and the final implication is that

it leads us to believe that little or nothing can be done to prevent evil.

A key consequence of the development of the international criminal justice

system has been to confer a level of legitimacy on violence which does not fall within the

remit of the system, principally state violence or aggression (which is unlikely to ever be

defined satisfactorily so prosecutable under the Rome Statute):

> By focussing on individual responsibility, criminal law reduces the
> perspective of the phenomenon to make it easier for the eye … We are not
> discussing state responsibility, we are discussing criminal law. We are not
> really discussing a crime of aggression, we are busy discussing a rape or
> murder. We are not really discussing nuclear weapons, we are discussing
> machete knives used in Rwanda. We are not much discussing the immense
> environmental catastrophes caused by wars and the responsibility for them,
> we are discussing the compensation to be paid by an individual criminal to
> individual victims. Thereby the exercise which international criminal law
> induces is that of monopolizing violence as a legitimate tool of politics, and
> privatizing the responsibility and duty to compensate for the damages
> caused.[35]

Yet the effects of that violence which is bracketed away from "atrocity" because it is

carried out by states and permissible under the contemporary laws of war are much

greater on human beings and the environment than the effects of the small number of

crimes that the ICC will prosecute, and it is states which bring about the situations of

conflict which facilitate the atrocities that the ICC seeks to prosecute. Martin Shaw has

examined the relationship between the practice of war and that of genocide.[36] They are

traditionally seen as distinct, with war portrayed as a legitimate activity of states: often

necessary and sometimes noble. Shaw argues that genocide, by definition illegitimate and

criminal, is actually a form of war, produced by the same forces within modern society

that so frequently produce war: state power, economic organisation, ideology and the mobilisation and participation of the population – it does not spring from the diabolical imagination of evil individuals. In the twentieth century, warfare "in the hands of the most advanced liberal states, repeatedly degenerated into little more than the deliberate mass slaughter, first of soldiers, then of civilian populations".[37] These slaughters were not contrary to the social practice of war, but the inevitable and predictable consequence of it under modern conditions, according to Shaw. The argument here is not that war causes genocide. Rather, war (itself now enabled by industrial capitalism, the profits of which are often used to buy arms) makes it easier for leaders to extend "enemy" or "other" ideology and propaganda to include social groups rather than just armies, and from there to widen the use of armed force to include targeting these groups as such. Other practices also contribute: Shaw sees the language of slaughter as embedded in culture and "indulged" in television and film, and the mass media as the "principal means whereby society is mobilised for killing".[38] This is particularly visible when the media is state-controlled, as it was in Milosevic's Serbia and in Rwanda before and during the 1994 genocide. Shaw does recognise an irony in conceptualising genocide as a form of war: it is often only force that can stop such action (as the NATO support for the Croatian and Bosnian armies did in Bosnia, the NATO bombing did in Kosovo and the energised RPF fighting did in Rwanda). Thus the practice of war may sometimes be legitimate, but its very existence provides the conditions of possibility for genocide, as individuals often react to situations of conflict by strengthening group bonds, and for some strengthening the self means weakening or destroying the "other".

The second implication of the individualistic view of evil is that large-scale harms which cannot be explained as caused by the actions of volitional individuals tend to be ignored. Underlying cosmopolitan liberalism is an assumption that the world is naturally well ordered – that if everyone behaved according to liberal principles, suffering would largely cease. Harm results from "moral" evil - an aberration, brought about by monstrous individuals – not the normal workings of a liberal international system. This reflects the distinction made in philosophical writings between "natural" and "moral" evil. Moral evil is composed of "all instances of suffering – mental and physical – which are caused by the intentional and wilful actions of human agents (for which human agents can be held morally blameworthy)."[39] When the term evil is used in contemporary international relations it is overwhelming used to describe instances of moral evil. "Natural" or "structural" evils such as extreme poverty, mass starvation, and the vast inequalities brought about by the normal workings of the global economy, as well as the death and environmental destruction caused by the normal workings of a militarized global political system, are not confronted as they are not seen as the result of intentional human agency, and they conflict with the liberal faith in the underlying order of the world. The commitment to ascribing responsibility to individuals through international law significantly constrains the notion of responsibility that can be applied. Iris Marion Young argues that the most common contemporary conception of responsibility is the "liability model", which "derives from legal reasoning to find guilt or fault for a harm".[40] Under this view of responsibility, an agent is only responsible if her actions were both "causally connected to the circumstances for which responsibility is sought" and "voluntary and performed with adequate knowledge of the situation".[41] This standard of

responsibility is necessary for the fair application of the law, given the severe penalties that can be imposed for acts found to contravene the criminal code and the general equation of responsibility with blame in liberal thought, but serves to limit the states of affairs which can be included in liberal discourses of responsibility.

The reasons that natural or structural evils are discounted by the liberal international regime are political as well as philosophical. The human rights regime, central to combating evil in international relations, has little to say about economic abuse or hardship, or the extent to which economics influences war. The standard Western liberal governmental position has been to claim that free trade brings peace, and so to impose neo-liberal international economic policies and institutions onto weaker states. In general Western liberal theorists have privileged civil and political rights above social and economic rights, and rejected the notion that the problem of global inequality should have a place in any discussion of human rights. This stems from the normative value placed on free trade and free markets within liberalism and is reflected in the Rome Statute of the ICC, the institution supposed to be the missing link in human rights enforcement: social and economic rights are barely covered. The Rome Statute states that it will prosecute the "most serious crimes of concern to the international community as a whole" (Article 5), and as the operation of international capitalism is not a crime committed by individuals, its effects are ruled out of the rights discourse.[42] The effects of liberal economic policy on global poverty and economic inequality in particular are obscured by the attention directed towards moral evil and international crime.

Another, fairly well documented, effect of the discourse of evil generally is that outlined by Friedrich Nietzsche, and later Carl Schmitt: using the concept of evil tempts

us to see the world in a limited and dualistic way.[43] Anyone or anything that does not conform to our idea of the good, or that stands in the way of us achieving it, is labelled as evil. Fighting for good means opposing evil, and given that evil is so terrible, extraordinary measures are permitted to oppose it. According to Schmitt (himself a potential defendant in the Nuremberg war crimes trials, who was arrested and interrogated but released without charge), narrating others (Schmitt was referring to states, but the argument is just as relevant now the liberal focus has moved to individuals in the international sphere) as morally wrong and, in particular, as an enemy of all humanity – as evil – can justify extremes of violence towards them, as such enemies must be defeated at any cost: "To confiscate the word humanity … probably has certain incalculable effects, such as denying the enemy the quality of being human and declaring him to be an outlaw of humanity; and war can thereby be driven to the most extreme inhumanity".[44] This argument is echoed today by those who accuse the US of not respecting Iraqi lives in its action to discharge the responsibility it has assumed to rid Iraq of the evil of Saddam Hussein and his regime. Schmitt's analysis of the dangers of war as a moral crusade, and his recognition that such wars are still political ("[w]hen a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent"), is an important juxtaposition to the moral crusading of much cosmopolitan liberalism.[45]

This tendency to understand conflict as between "good" and "evil" extends to the way that "atrocity" is defined and prosecuted. All acts of atrocity are not prosecuted: the decision over whether to hold a trial in any given situation is highly politically loaded.

Power can prevent certain atrocities ever being tried, as it did after the Second World

War. The Nuremberg trials effectively legitimised the mass bombings of civilians carried

out by Allied forces in WW2, as these bombings were not tried, so not defined as war

crimes or atrocities. War crimes trials tend to be biased in favour of dominant groups, as

these groups are able to narrate their position as "good" (because it opposes "evil"), and

can use trials of their enemies to enforce this view, by excusing or drawing attention

away from crimes committed by the prosecuting state as the crimes being tried are

framed as being more serious:

> As well as trying alleged war criminals, these trials serve as vindication of
> Western progress … they function as moral demarcations between the
> accused and the accuser, they avert attention from war crimes closer to home
> and, finally, they contain the message that the untried crimes are not of this
> magnitude or order.[46]

This point is well illustrated by the history of the Nuremberg Tribunal. On August 8,

1945, the Allies signed the London Charter which established the Tribunal to try German

war criminals, apparently signalling their intention that international relations in the post

war era would be run according to the demands of international justice and basic human

rights. Yet two days prior to the signing, the US had dropped an atomic bomb on

Hiroshima, killing an estimated 140,000 people (mostly civilians), and the day after the

signing, they bombed Nagasaki, killing an estimated 74,000. Such was (and is) the power

of the US to assert its position as fighting on the side of the good that these acts have

never been assessed in any war crimes trial.

      The final implication of the contemporary focus on evil individuals is that it

suggests the prevention of evil is impossible. If we see agency is seen as residing with

volitional individuals, the conception of these individuals as "uncaused causes" makes atrocity impossible to predict (as unpredictability is inherent in the idea of free will). The ICC is a logical response to this liberal conception: if atrocity cannot be predicted, then it cannot be prevented. The way to respond to it must be *post hoc* legal prosecution and punishment. Yet social psychological studies suggest that evil actions are the result not just (and often not even) of the intentions of evil individuals, but also of situational and systemic factors that can be observed, and their likely influence predicted. The generation of ethnic hatred and the deindividualization and dehumanization of intended victims regularly precede atrocity. Given that we know firstly how susceptible humans (particularly humans under severe stress) are to conform to dominant group values and to obey orders, and secondly that atrocity in international relations usually takes place against a background of conflict or war, it should not be difficult to predict when evil acts will occur. Prevention of these acts is likely to be complicated and costly, but acknowledging that these acts can be predicted – that they are more than the isolated acts of madmen – may increase pressure on powerful actors to intervene to reduce the likelihood of atrocity by removing some of the background conditions which appear to facilitate it.

**Conclusion**

Holding volitional individuals responsible for atrocity is such a deeply-rooted notion in contemporary IR that it can be difficult to see that the position is both acutely flawed and has insidious effects. The great achievements of cosmopolitan liberalism – the human rights regime and the international criminal justice system, in particular the ICC – are

intended to respond to evil and to eliminate it. In this chapter I have argued that the view of the individual at the heart of cosmopolitan liberalism does not accurately describe people as they behave in the world. Human beings, good and evil, are fundamentally social creatures, and we can only understand and seek to prevent evil actions by acknowledging this. Ascribing responsibility for evil only to "moral monsters", and not to those people and situations who facilitate atrocity, means our responses to evil are misdirected, if attempted at all. Evils in international relations are rarely isolated, deviant acts, but are usually part of political programmes which receive significant publicity and public support, and are made possible by the normal practices of the international system. The liberal philosophical analysis of the individual agent leads to much moralizing in the face of evil, but little understanding and even less appropriate action.

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