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Reconsidering the Classification of Perpetrators in instances of Genocide and Mass Atrocity: A focus on the Khmer Rouge Era

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Abstract
The terms "primary", "mid-level" and "lower level" are employed to qualify perpetrators of mass atrocities, based on the magnitude of guilt and criminal responsibility. Could this classification be a misnomer? Could the relationship among perpetrators, or the roles they assume be more intricate, warranting a reassessment of the existing hierarchy? This paper explores the need to be more circumspect in penning perpetrators in categories, especially in complex scenarios of mass atrocity. To do so, the Non-Solitarist View of Human Identity and Framing Theory are used to explore the matter, with a focus on perpetrators of the Khmer Rouge era.

Key words: Framing theory, Identity, Khmer Rouge, perpetrators, violence.

Introduction

In *Identity and Violence*, Amartya Sen pieces together a theory that provides an explanation for the eventual outbreak of violence in a community.[1] According to him, the parceling of people into separate groups, followed by the assignment of names and labels to define

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them, constitutes the first stage of stoking the fire of resentment. How exactly does this come about? Sen (2006) explains that the way groups are distinguished from one another through identity labels, involves generalizations and therefore simplifications of who they are. Normally in naming a group, one particular qualification is highlighted at the expense of other characteristics possessed by its members—thereby constituting a "solitarist belittling of human identity".[2] In other words, he claims that "communitarian thinking", or thinking in terms of who belongs to which group, simplifies a person to "one identity per human being" and undervalues the other affiliations her or she may have.[3] (The "*Non*-Solitarist View" therefore seeks a broader perspective, and an understanding of human identity.) Now, while the Solitarist View is obviously an exercise in reduction, and by this very token problematic,[4] the other controversy that follows from it, is that it also exerts "normative power"[5] on its members who eventually adopt the behaviour expected of them, according to the label assigned to them.[6] Overall, this catalyses the process leading to resentment and violence.

The dangers of fixing labels that are reductive and hence ill-suited on groups of individuals, can be summarized into three premises: a) by singling out one group as homogenous in characteristics, the extent of "variation and complexity"[7] of the individuals therein is lost and ignored, b) the sum of differences that exist in one group may exceed the sum of differences pointed out between two groups, c) the process of labeling groups reductively exerts normative power over individuals so that they are led into acting out their (supposed) differences,[8] and end up pitting themselves (unnecessarily) against members of different groups. It is noteworthy that Sen wrote this book as a rejoinder to *The Clash of Civilizations and the Remaking of the World Order*,[9] putting into question the manner in which Huntington, its author, had simplified and reduced the characteristics of such large, and therefore complex and varied cultures as the Western and the Islamic one, and then gone on to speak of the imminent clashes between them in a post-Cold War era. Similarly, Sen also went on to criticize Huntington's classification of India as a "Hindu civilization", which according to him was misleading, considering the variety of non-Hindus in the country.[10] Sen alleges that this entails important consequences: For example, denoting India as a "Hindu" state, has been used by the

extremist Hindutva group to legitimize their presence and activities within the country.[11]

1. Framing Theory

Originally conceived by Bateson[12] and Goffman,[13] framing theory is in essence the idea that every frame or lens through which we view an idea, a person, or an event is politically charged. An unbiased, objective or "pure" perspective is therefore impossible. In fact, were it possible, it would involve what Nietzsche has called a "castration of the intellect".[14] Therefore, in evaluating information, it is primordial to bear in mind the political aspiration or inclination of the organisation presenting it. Alexander Hinton, in one of his recent works, *Man or Monster? The Trial of a Khmer Rouge Torturer* further refines this theory, suggesting that "[t]o frame something is to place it in a surround, thereby sharpening the image".[15] Moreover the frame "forms a border cordoning it off from…that which lies beyond that border".[16] Social realities are thus constructed by viewers and interpreters who view and interpret through a diversity of frames. Different realities are therefore created through the complex interactions of different motives and interests in the matter. Hence as Hinton explains, Duch is presented differently by the PRK (People's Republic of Kampuchea),[17] by victims and their relatives, and then by international organisations in charge of the the tribunal to try Khmer Rouge perpetrators. Another important idea put forward by Hinton is that by framing, information which is deemed incongruous, and contradictory to the aims of the project, is edited out (or redacted). Consciously or subconsciously we therefore filter the bulk of information received, and use what is strictly necessary to fill the interior of the "frame." It goes without saying that confining information obtained about people and events to "frames" is without a doubt easily done, but ultimately simplistic, reductive, and therefore clumsy and reckless. Much of Hinton's methodology in the work he has produced so far is about restoring the value of redacted data in the course of framing, by replacing it within the parameters of discourse it is most relevant to.[18] This paper seeks to do exactly that: that is, to restore redacted data about the variation and complexity of the individuals that are labelled as Primary Perpetrators and Mid-level perpetrators, in order to appreciate the real extent of their roles within the genocidal context. In essence, both, framing theory and Sen's theory operate in tandem in an

attempt to propose a more fleshed out perspective of the roles of perpetrators, so we may understand them beyond the simplistic labels they are associated with.

2.   Who are Primary and Mid-level Perpetrators?

For the sake of precision, and to keep track of the number of variables involved, the study was focused on the analysis of Primary and Mid-level perpetrators, at the exclusion of Lower level ones.[19]

The Encyclopedia of Genocide and Crimes against Humanity defines "perpetrators" as those who "initiate, facilitate, or carry out acts of genocide or crimes against humanity".[20] There is however no such formal or official definition of who constitutes a Primary, Mid-level or Lower Level perpetrator (hereinafter PP, MP and LP respectively). Yet, the terms so far seem to have entered academic discourse and used casually, although with important consequences. The jurisdiction of the Khmer Rouge Tribunal for instance is among other things, limited to trying 'Senior leaders' and this has included perpetrators considered both primary and mid-level. So far no lower level perpetrator has been tried.

Broadly speaking, PPs are assumed to have devised the policy that condoned the killings, and tended instructions and orders to MPs to carry them out—thus in the context of the Khmer Rouge era in Cambodia, Son Sen would have been such a person, as he gave out instructions to Duch,[21] among others, to get rid of the betrayers of the regime.[22] MPs in turn are responsible for the more detailed planning of the process of extermination, and may or may not be directly involved with the torture and killing—normally, LPs would carry out the killing, as in the case of the murderers in Browning's *Police Reserve Batallion 101*.[23] Usually MPs are "desk murderers" operating behind the complex bureaucratic process in conceptualising or operating the machinery that metes out torture and executions—a clear example of such personnel within the killing machinery would be Adolf Eichmann.[24] It was he who was in charge of planning the transportation of victims of the Holocaust to the concentration camps in Auschwitz, Belzec, Chelmo, Majdanek, Sobibor, and Treblinka. In the context of the Khmer Rouge, although there is evidence of Duch having taken part in torturing inmates at S-21, most of the work was done by his subordinates. PPs, by inference, would be figures like Adolf Hitler and Heinrich Himmler in the context of the Second World War, or Pol Pot, Nuon Chea, Khieu

Samphan, Ieng Sary and Son Sen in the context of the Khmer Rouge, as they were members of the nerve centre, or the *Angkar* ("The organization" in Khmer).[25] The consequences of this classification are manifold in light of the Non-Solitarist View and framing theory, the first being that "framing" someone as a PP or MP as this paper suggests, implies that a set of often erroneous assumptions are made about his[26] role within the criminal organisation. Second, the process of framing exerts normative power over the perpetrator's behaviour, determining, among other things, the defences he raises in court, and third, the way he feels about his involvement in the criminal organisation, and hence his magnitude of guilt and responsibility. This paper seeks to focus mainly on the first.[27]

In short, here is a summary of the assumptions made about the roles of PPs and MPs:

1. That PPs are at the head of the hierarchy and are those who order MPs to carry out the torture and killings;
2. That PPs act autonomously while MPs act heteronomously;
3. PPs are more evil than MPs,;
4. That PPs bear the greater burden or responsibility than MPs during mass atrocity, and therefore deserve more punishment;
5. PPs are responsible for more deaths than MPs;
6. That only MPs, and not PPs, can resort to Obedience to Authority as a defence.

All the above points are inter-related, but what is most noteworthy is that 2-6 are conclusions derived from the assumption spelled out in 1—it being the extent to which PPs and MPs have been reduced to "one identity per human being" where the former are masters so to speak, and the latter slaves, amounting, therefore, to the "solitarist belittling of human identity."

The hypothesis that prompted the study that informs this paper, is that PPs are after all not as autonomous, and MPs not as servile as they are made out to be. (For lower level perpetrators.[28] The issue at hand is that framing is reductive and simplistic[29] as it obfuscates the fact that PPs and MPs should not be looked upon as fulfilling rigid, non-negotiable functions, but as being involved in a fluid and dynamic relationship with one another—or what can be termed as "horizontal eternal interplay" which is the title of this paper. At the end of this paper, we should be able to look beyond frames, and

delved into redacted information in order to extend our perspective of the roles PPs and MPs assume in a mass killing enterprise.

3.   Exploring the *cause fiendi* of Hierarchies

But first, an important question regarding perpetrators is as follows: What justifies the existing hierarchy between PPs and MPs? To answer this, one must question the *causa fiendi* of hierarchies.

From the perspective of the current International Criminal Justice system, it is noteworthy that placing PPs above MPs ones in terms of culpability is based on the following assumption: perpetrators have been divided based on intent (or more specifically, "purpose/knowledge based intent") and not proximity to the violence in question. Otherwise, if culpability were based on proximity to violence, the obvious consequence would be that MPs would bear more responsibility.[30]

Echoing similar thoughts as Amartya Sen, by using evolutionary psychology, James Waller explains the rationale behind social hierarchisation—which should also apply to the divide between PPs and MPs: Waller says that the desire for social dominance leads to the establishment of hierarchies within society—an evolutionary response to avoid the need to fight for the same desires, because this would potentially lead to a waste of time, and even encourage destructive tendencies such as fights and even murder.[31] This desire for social dominance operates dually: it encourages friendships and coalitions that empower one to fight others, but also encourages our violent urges when our position within that hierarchy is threatened by those above or below us. Moreover Waller claims that other than social dominance, ethnocentrism and xenophobia exert control over the individual and his behaviour. And these are the foundations of man, in his original state, as the "hunter-gatherer", who is still in the process of adapting to his current environment.[32] By ethnocrism and xenophobia, Waller means the othering that Husserl introduced in phenomenology and its application in postcolonial studies, where our tendency is to separate ourselves from other people we consider to be threats, or different (superior or inferior) from us in any way. In the context of PPs and MPs, we see this in operation through the camaraderie that exists among individuals of a group, and the antagonism they show for an individual from a different group, especially in court settings, when they are 'under threat', and the need to stick together to fight together determines survival. In the

context of the classification of PPs and MPs, the label they're associated with influences the way they evaluate their own individual responsibility in criminal wrongdoing, how they are evaluated by the world at large, and also ultimately determines the defences they raise in court trials.

From a postmodern perspective, the establishment of hierarchies is artificial, and brought about primarily by man-made linguistic constructs that on deeper scrutiny betray certain assumptions and biases that may not always reflect the reality of the situation.[33]

4. The Horizontal Eternal Interplay between PPs and MPs

My contention is that many PPs would have at some point been under the sway of another authority—whether in the form of an idea or person—in reaching their decisions; and many MPs would have had so much power in certain scenarios as to be the masterminds behind acts of mass killings and other forms of destruction. For example, Hüttenberger has defined the Nazi political system as having no specific nerve centre, but with "overlapping agencies" that failed to make it as monolithic and efficient as it has been depicted.[34] This implies that perpetrators who stood at different levels in the hierarchy of their roles, acted with more autonomy than we think, rendering the assumption of the unidirectional movement of all the orders from PPs to MPs, a rather oversimplified description of reality. Allen also shows how passionate and independent some of the MPs were in furthering Nazi pogroms, and were far from the picture of puppet-like complaisance of Eichmann, as depicted by Arendt.[35] Thus the independent initiatives of MPs (and LPs) was a must for the system to work, which had to be at all times "dynamic" in its operations, and not a Molloch-like institution of monopolising power and decision-making.[36] Moreover Goldhagen makes the same observation, in referring to the German national character as being already poisoned with hatred for the Jews (he calls it "eliminationist anti-Semitism"), so that Hitler was merely a facilitator rather than the principal culprit behind the Final Solution.[37] The same can be said about the Khmer Rouge era, where evidence tended out by Etcheson and Vickery goes to show that there was no specific nerve centre in place, but that the killings in Cambodia were carried out by unruly peasants acting ruthlessly and arbitrarily.[38] This argument

also tallies with the one put forward by Minnich when she explains the importance of every member of the killing machinery, whatever be his position in the hierarchy of perpetrators, as a concerted effort was necessary for the project to be realised.[39] Such evidence negates the legitimacy and validity of a hierarchy based on a perpetrator's office within the mass killing organisation.

One view to the contrary about the hierarchical organization is proposed by Short, who in testifying before the Khmer Rouge Tribunal, stated that the relaying of information from the nerve centre to the zone chiefs was seamless and efficient, implying that the zone chiefs had no leeway to act autonomously. This perspective however, has been largely refuted—the most poignant being through Nuon Chea's Closing Brief.[40] This document is also the most illustrative so far, of the autonomy that local authorities enjoyed in making decisions on killings: one section for example mentions that "evidence shows that some events were the sole responsibility of local authorities. This is particularly true when one considers that most low-level cadres were not well-educated yet were nevertheless often zealous, if not radical about socialist revolution, and frequently eager to show that they were more revolutionary than others, perhaps to distinguish themselves."[41] Clearly many leaders lacked "effective control"—the necessary ingredient to establish crimes of obedience—over their subordinates.[42] Having said that, this document and its defence must also be treated cautiously, bearing in mind how the information therein is also the result of framing, this time in relaying material with the purpose of providing Nuon Chea with a full defence for the crimes committed by the regime.

The remaining part of this section will unravel the flows of information and power between PPs and MPs, tackling them in turn.

a) PPs who are not so Autonomous after all

As mentioned above, it is assumed that PPs hand out orders to MPs who are in turn in charge of their execution, implying that there is a master-slave or puppeteer-puppet relationship between the two. But it is easy to question this assumption, both through theoretical and practical means.

In applying Hegelian dialectics, the thinking is that there is a relationship of dependence that binds the two categories of perpetrators. The logic is as follows: It is believed that in a master-slave relationship, the movement in unidirectional, in that the

master always imposes himself on the slave, or the slave has to constantly live up to the expectations of the master. But G. W. F. Hegel, on the subject of the master-slave dialectic in *Lordship and Bondage* exposes us to the possibility that the master is nothing without the slave. He bases his thought on the following: that identity and self-consciousness are only recognised when a human being encounters another[43] so that a master must come face-to-face with a slave to be one, and vice versa. Two events mark this encounter: 1) the one loses itself in the other, as it recognises itself relatively to the other, (that is, one looks for similarities in the other) and 2) the one insists on its supremacy by relegating the other to an inferior, non-essential entity (by asserting one's differences vis-à-vis the other). Overall, this encounter is not harmonious; it consists of a struggle between the master (lord) and slave (subordinate), where each insists on its own autonomy or sovereignty. If it leads to death where one triumphs over the other, it is called "sublation", where a bigger entity swallows a smaller one, rejecting the need of the other for its existence. Achievement of self-consciousness is impossible in this case. But if it leads to resolution, the two entities can remain rather peacefully in their roles, while giving each other the recognition needed. The question is: How is this resolution brought about? Hegel answers this question through an analogy drawn from labour relations. He alleges that as the slave labours to use nature to create goods/products and perfects his skills, he sees more of himself and the result of his creativity in these end-products. He thus achieves self-consciousness (the ultimate aim, for Hegel). He acknowledges his own worth and understands that his creativity empowers him with the knowledge of his own independence and self-control. On the other hand, the master develops a dependence on the slave's products, and that is how he is enslaved by the slave's labour. He therefore recognizes the importance of the slave, although he remains hierarchically superior. In this scenario, the master achieves self-consciousness.

In summary, for Hegel, for the highest point of self-actualization or self-consciousness to be achieved, there should be no sublation (an example of sublation is a slave revolution). Instead, it is the fear of the slave, coupled with the self-confidence of the master that results in a peaceful coming to terms for both, paving the way for further progress.[44] In a different context, these dialectical terms have

also been translated as the well-known dynamics of thesis (master) x antithesis (slave) = synthesis. In essence, the master is under a coercive force to act like a master to uphold the master-slave relationship. That is why the master is as much a slave as the slave is to the master,[45] forming the essence of the meaning of "dialectic"—the movement between the two entities that lead to the recognition of each other. This is further supported by a thesis by Minnich who emphasises the importance of every member, be it a PP, MP or LP, involved in an enterprise of "extensive evil" (meaning genocides, mass atrocities, etc).[46] According to her, PPs are not the only, or even the most culpable, as "extensive evils cannot take over or sustain themselves if many of us do not reliably do their work."[47] The point of merging this thought with Hegel's teaching is to show that a PP's status, identity, existence are entirely dependent on the status, identity, existence of a MP, and vice versa. It is no wonder that Nietzsche, not unfamiliar with Hegelian dialectics, once opined that true freedom lied beyond being either a master or a slave.[48]

Bearing the above in mind, in practical terms, it is not difficult to recognise the same dynamics of coercion at play in the relationship between PPs and MPs. While the duty owed by the MP to the PP is obvious, what has not been touched upon is the reliance of the PP on the MP—or put in a different way, the normative power of this relationship on the PP's behaviour. Just as the allegory of the swamp (or bog) is used by Bauman,[49] or the concept of the "continuum of destruction" by Staub[50] to explain how a MP following orders is sucked into the process of torturing and killing, the same can be said about the increasing magnitude of dependence that PPs come to bear on MPs.

But first, an explanation of Bauman's continuum of destruction and how it applies to the formation of intent is necessary: unlike what was initially believed, it is now recognised that perpetrators do not really possess the required intention for mass killing at the beginning of their rule. This is an intent which is formulated gradually, and it is imaginable that if a perpetrator were asked at the start of his revolutionary project to exterminate millions of people, he would hold back. The formation of the required intent or planning occurs progressively as not to be obviously visible—a fact which always complicates the task of researchers and analysts trying to figure out at which point "things took on a different turn". The same

has been said about Milgram's subjects who can be considered to be MPs as they were acting under orders: had they been required from the beginning to institute the highest voltage of electric shocks to the students, they would have probably desisted.[51] It was the gradual and graded administration of the shock treatment that facilitated the way for extreme torture—explaining the metaphor of the bog, or the term "continuum of destruction" to explain the process of slow inducement.

In other words, the process of issuing instructions and following them among PPs and MPs must be understood as part of a continuous chain reaction similar to the idea of the "continuum of destruction" where intent is formed gradually, so that the meting out of an order by a PP to an MP informs the next one, and so on and so forth, into what can be termed the "continuum of obedience". The PP who issues instructions is therefore tied down by the system he in isolation, or his peers (other PPs) would have created. (In fact the plot thickens when more than one PP is involved, as the PP owes a duty to continue to act within the spirit of the project not only to his subordinate MPs, but also to his own peers—that is, other PPs—making him even less autonomous than he was originally made out to be.) In psychological terms, this would provide enough of a disconnect with the bigger picture of things, that the PP would be completely immersed in a vortex of issuance and execution of orders, as to be increasingly myopic in his grasp of the greater consequences of his actions. He would also be estopped from backing out, as were he to do so at any point during the project, he would have to bear the discomfort and dissonance that emanate from being plucked off from an ongoing and unfinished enterprise.[52]

In support of the above contention, Williams and Pfeiffer also push for the argument that the genocidal intent is rarely present at the beginning, and is moulded into a clear-cut intent only with time. Using frame analysis and social movement theory, they argue that first, as explained earlier, genocidal intent is in constant flux, and second, so is the ideological fervour that is transmitted from the PP to the MP.[53] Interestingly, the first point is supported by Thayer and Etcheson who both averred that Pol Pot may have had noble objectives of liberating his country, but that it ended up being a catastrophic affair, insinuating a change in their modus operandi towards achieving their aims of freeing their country. As to the

second point, Williams and Pfeiffer aver that there is no guarantee that the fervour of ideological preaching would be passed down as intensely as the PP intended it to, and would in turn spread as uniformly among the recipients (i.e., the MPs). By the same token, a mildly couched or worded message by a PP can even be received with an unparalleled intensity by the MP.[54] To illustrate this, an anecdote recounted by Hinton may be used: on interviewing Grandfather Khan, a LP during the Khmer Rouge era, Hinton found out that the latter was illiterate and had never really understood Khmer Rouge ideology,[55] this being an indication that the message of revolution may never have been properly internalized by many MPs and LPs. This lack of symmetry in the dissemination of information could also be assumed of ordinary Cambodian civilians who received "training and education" by misinformed cadres of the revolution. In summary, the belief in a system of orders being issued from top to bottom, is inherently erroneous. There is abundant evidence to show that orders were not transmitted seamlessly, nor was ideological fervour. With this in mind, it is hard to condone the simplistic generalization that a PP holds more power, and bears more criminal responsibility than an MP.

Another argument disputing the autonomy of PPs vis-à-vis MPs, in the specific context of the Khmer Rouge, is the fact that the Khmer Rouge was not run by one leader or dictator, but by a group of people. These were Pol Pot, Ieng Sary, Ieng Thirith, Khieu Samphan, Khieu Ponnary, Nuon Chea, and Son Sen. They formed the nerve centre of the organisation. In fact, in testifying before the Khmer Rouge tribunal, Chandler mentioned that he intended to modify his book and attribute the Khmer Rouge atrocities not just to Pol Pot and Ieng Sary, but to the Khmer Rouge leadership as a whole.[56]

Perhaps the attribution of numbers (e.g., Brother Number 1, Brother Number 2, etc.,) to the members may have given the false idea that Pol Pot was the principal mastermind behind the revolution—and that too, it is alleged that this numbering system was not actually in use, and that it had been devised by Cambodian studying in Vietnam who had copied the country's system of assigning numbers to those in power.[57]

There is evidence however to show that the other members of the clique were as powerful as, if not more than Pol Pot: for example in the setup of S-21, it seems as if Son Sen and Nuon Chea were the

principal masterminds, and Pol Pot was probably unaware of the its operation.[58] If this is true, it would indicate a rupture in the chain linking all responsibility to the single figure of Pol Pot. Other evidence, such as the confession sessions that were held among members of the politburo where Pol Pot admitted to Nuon Chea of being too gullible also shows the horizontality of the relationship that the clique shared with one another.[59] Arguably, these relationship dynamics would have the effect of exerting normative power on their behaviour,[60] the more accurate figurative description of them being that of acting as puppeteers and puppets to one another throughout the period, in a continuum of obedience, and not solely as puppeteers to their MP-puppets during the rule of the Khmer Rouge.

Another reason why believing in the autonomy of PPs is misleading, is based on the following: Milgram's description of man as being in an 'agentic state'.[61] Being in an agentic state implies that man is constantly vulnerable to exterior influences, exposing himself as a medium ready and willing to be governed or manipulated. In his research study, Milgram placed the model of an ordinary man (his test subject) in simulated conditions to demonstrate the impact of authority on him. Thus, Milgram's test subjects, with the authority conferred to them, first used and then abused it to inflict torture on their subordinates. But in light of recent studies showing how ordinary even extraordinary perpetrators (or PPs) are, so that what Milgram described could also be applicable to LPs, MPs and PPs, it can be inferred that PPs too are vulnerable mediums in agentic states. But vulnerable to what? Clearly, in the case of PPs, unlike Milgram's experiment, there is no one handing orders down to them. But so far, what has not been factored in, is the impact of *intangible* powers and influences over them. This could take the form of an ideology.

In support of this proposition, Hoffer in *True Believer* explains why people join mass movements: he avers that when a dissatisfied individual yearns to fill the void of his ineptitude, he often turns to a mass movement or embraces an ideology for solace.[62] This can be read as the individual being vulnerable and in an agentic state, as described above. With this in mind, none of the PPs can be said to have acted autonomously since they were motivated by an ideology, the utopia of a perfect world, that contrasted the war-ravaged

Cambodia they had known. In this project of utopian reform therefore, no one acted alone; everyone had the succour of one another,[63] and derived legitimacy by being part of this mass movement of sorts. Furthermore, Le Bon's *The Crowd* may account for the dilution of responsibility that every PP may have experienced, just by virtue of having acted concertedly.[64] And this in itself would establish the agentic state they were in, the normative power every PP exerted on another PP, the way in which the continuum of destruction (or obedience) gradually sucked them into the process, and hence the lack of autonomy with which they acted all along. This is important, because as Hoffer points out, the advantage of being part of a collective is that the followers feed off one another's sense of belonging to the group, diluting the guilt they feel as they proceed with their dismal operations.[65] It must however be pointed out that even Hoffer applies this reasoning to more obsequious members of a hierarchy, so that it becomes easy for him to analyse them within the frame of the victim. Thus he goes on to say that when followers are denied the defence of having merely followed orders, they end up feeling cheated, precisely because they joined such mass movements to evade individual responsibility. At first glance, Pol Pot and the other members of the highest rungs of the Khmer Rouge do not fit into this reasoning, because none of them used the victim frame at any point in time, or when they appeared in court.[66] But based on how they came together, as the bright elite of their society at that time, with the education they received, the frustrations they endured, the collective vision they had for the future of their country, and the currency of communist ideology in their times, it should not preclude us from viewing them as victims of being in an 'agentic state', vulnerable to the fashionable ideology of that generation.

Having broached the arguments of how PPs are not necessarily autonomous, we may now turn to examples of when MPs do not fit into the oversimplified role of acting on orders handed down by their superiors.

b)   Mid-level Perpetrators who are not so Servile

In court MPs are known to fall back on the defence of "Obedience to authority", claiming they ought not be held fully responsible for their crimes as they were merely following the orders handed down by PPs.[67] But the reason why Obedience to authority is not entirely justified as a defence resorted to by MPs, is that the chain linking

MPs to PPs is never clear or complete. Thus as Etcheson states, "not all of the killings during the Khmer Rouge regime were directly ordered by the central leadership".[68] Moreover, in an interview with Thayer, when asked about the deaths of innocent people, Pol Pot said that he didn't supervise the lower ranks and was only responsible for the fates of the most important people in the regime.[69]

In recognition of MPs and LPs' exercise of autonomy in decision-making, Korstjens divides people who killed into those who inflicted "obligatory violence" and those who acted out of "discretionary violence".[70] The former refers to those who acted under authority and the latter, to those who acted out of their own accord. It is however a formidable task to discern when either of the two types of violence was inflicted: when one studies the way in which the different "zones" operated, one uncovers different treatment meted out to the workers. In the Northern Zone for example, children didn't work in the rice fields but had to study in the morning and afternoon.[71] In other zones, treatment would have been harsher. Moreover, most of the commands from the nerve centre to the networks of patrons who controlled their respective zones, were sent orally or in written form, giving much autonomy to "not highly ranked" cadres (or MPs) to order killings on their own. According to Korstjens, the difference between the orders given out and their actual implementation would be accounted for by: i) confusion about policy, since commands were orally made, and some of them may have been contradictory and hence confusing; ii) fear, in the sense that those in command such as Duch, may have felt they were doing too little, so may have been led into compensating by doing too much, iii) radicalization, where people start acting in the name of the Angkar, and mould their behavior so as not to fall out of favour; iv) Lack of control, in the sense that many at the top of leadership only passed general instructions and did not monitor what was happening at the lower level; v) geographical differences, which meant that different regions were exposed to different levels of difficulty in working the land, and were also governed by people with different personalities. Thus if the issue at hand was a crime committed by someone due to a shortage of food, it made more sense to resort to killing him than reeducating him. In other words, Korstjens concludes that the relationship between those in command at the centre and those at the "periphery" was not exactly

symmetrical, and a greater part of the violence during the Khmer Rouge was the result of the latitude given to those at the mid-level of command. It is noteworthy that in corroboration of this argument, Duch averred that young interrogators under his control didn't have self-control and therefore didn't know their limits so that some were more cruel than others.

Another valuable nuance in the roles of perpetrators, is pointed out by Isenman when he identifies those who in acting in obedience to authority, do so blindly without considering the legal and moral repercussions of their actions, against those who are motivated by other reasons and who are given sufficient leeway to indulge in crimes of violence.[72] This distinction can be correlated with Korstjens analysis above, where the first would be an instance of obligatory violence, and the second, discretionary violence. Clearly, it would seem unfair if perpetrators of the second type were considered victims in any way, and resorted to the defence of "Obedience to authority".

Furthermore Etcheson claims that Duch acted independently of the Politburo's policies suggesting that his acts of violence were most probably a result of his exercise of discretion. It is from this that he draws the conclusion that Duch had a choice to refrain from inflicting torture and ordering the killings at S-21.[73] Chandler on the other hand favours an approach that is arguably more harmonious with the idea of Staub's "continuum of destruction", saying that once the killings and torture had begun, "perhaps" perpetrators like Duch didn't really have a choice. But then he also adds that it is unlikely to expect people in the mid ranks to oppose an order handed down by the top in the hierarchy, furthering the view that Duch was acting under coercion, and hence was merely being "obedient to authority". What may be deduced from this is that the reason why MPs acted as they did cannot be boiled down to singular factors such as "obedience to authority", fear, or that they always carried out either discretionary or obligatory violence. In many cases, all these variables would have operated synchronically and led them to do what they did, revealing a complexity in the relations that existed among MPs, and between MPs and PPs.

The arguments in this section have sought to test the assumption of a simplified top-down relationship between PPs and MPs, revealing that although this may be the case in certain situations,

reality is more complex, where PPs can be less autonomous than we believe, imprisoned by their past actions, vulnerable to ideology in their agentic state, tied to the duty they owe to MPs, as well as to other PPs, and while some MPs carry out orders issued by their superiors, some act more autonomously in ordering torture and killings, and the passing down of commands, orders, ideological fervour, or information in general information is never seamless. In other words, the overall picture is more complex than we originally imagined, so that a PP ought no longer be looked upon as bearing more responsibility than an MP in any scenario of mass conflict and genocide.

5. Final word on the Current Classification of Perpetrators

As mentioned earlier, the dual consequences of hierarchization and framing of perpetrators, imply that a certain extent of normative power is exerted on them, so that MPs resort to already established precedents as defence, playing the victim card too easily. PPs fall back on the only too well-known defence of being judged by the "laws of history to which the revolutionary has to submit to and sacrifice himself if need be,"[74] or of having held perfunctory roles (i.e "mere figurehead" defence) within the organization.[75] Moreover, in line with one of Sen's premises, perpetrators of different categories do certainly tend to view themselves as distinct from one another, depending on their classification. It is a well-known and documented fact that perpetrators are clearly aware of how they have been categorized, and that for example, a MP would be highly-strung to be likened to a PP. Thus it is known that Eichmann reacted adversely in being compared to Himmler[76]—so did Duch when compared to Nuon Chea.[77] Such defensive reactions to being likened to a "more criminally responsible" perpetrator, may seem quite unreasonable and out of place in view of the horror of the crimes perpetrated by MPs, their (relatively closer) proximity to violence, the detailed planning they were in charge of, the discretion they exercised in perpetrating violence, and the number of lives they took, which ought not make them feel less guilty than PPs.

A substitution of the perception of a vertical, top-down relationship between PPs and MPs (and LPs) to a horizontal eternal interplay, broadens our understanding of the roles of perpetrators, and indubitably, the magnitude of their guilt and responsibility. This horizontal outlook, although itself as idealistic as a vertical

conception of it, is still the better one of the two, as it provides us with less preconceived ideas at the point of launching into analysis. This conception is also harmonious with current trends in academia of incorporating the reality of our roles and our complexity as human beings, in particular as a warning against the "solitarist belittling of human identity". The Non-Solitarist view coupled with framing theory, could change the way a perpetrator would be viewed by the prosecution, the defence, the judges, and the public. Moreover, bearing in mind that the system of justice places a PP above a MP by virtue of purpose/knowledge based intent, rather than proximity to violence, this is in essence no more than an assumption made for the legal system to operate and be effective (or be result-oriented). This assumption like all others, especially in any study thorough and bold enough to face complexity and ambiguity, should be treated with a pinch of salt.

Notes

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[1] Sen, *Identity and Violence*.

[2] Ibid.

[3] Ibid.

[4] See Hinton, *Man or Monster?*

[5] See Zimbardo, *The Lucifer Effect.*

[6] See also Sen, *Identity and Violence*.

[7] Vickery, *Cambodia 1975-1982*.

[8] An example would be where a mid-level perpetrator, identified as such, should decide to fall back on the narrative of having merely followed the orders of a primary perpetrator in the carrying out of mass murder, raising the defence of "obedience to authority", when in truth he would have acted with quasi-complete autonomy in his conduct and activity. Therefore this hierarchisation of responsibility sets a bad precedent for future perpetrators who would know of the availability of this defence.

[9] Huntington, *The Clash of Civilisations*.

[10] Sen, *Identity and Violence*, 56.

[11] Ibid., 340-341.

[12] Bateson, *Steps to an Ecology of Mind*.

[13] Goffman, *Frame Analysis.*

[14] Nietzsche, *The Genealogy of Morals and Ecce Homo*, 382-383.

[15] Hinton, *Man or Monster?*, 27.

[16] Ibid.

[17] Chandler, *Voices from S-21.*

[18] Hinton, *The Justice Facade*.

[19] Although parallels can be drawn in the relationship shared by PPs and MPs on one hand, and MPs and LPs on the other.

[20] *Encyclopedia of Genocide and Crimes Against Humanity.*

[21] It is to be noted that Duch is also known as Kaing Guek Eav, and was the head of S-21, the security prison during the Khmer Rouge.

[22] Dunlop, *The Lost Executioner*.

[23] Browning, *Ordinary Men.*

[24] See Arendt, *Eichmann in Jerusalem.*

[25] Spencer, *Genocide since 1945.*

[26] The use of he/his will also imply she/her, following Fromm who said: "I have also, in general, used the word "he"when I referred to human beings, because to say "he or she" each time would be awkward; I believe words are very important, but also that one should not make a fetish of them and become more interested in the words than in the thought they express." (Fromm, *The Anatomy of Human Destructiveness,*)

[27] The other two premises will be tackled in another paper.

[28] See Goldhagen, *Hitler's Willing Executioners.*

[29] Hinton, *Man or Monster?*

[30] Cf. Rosenbaum, *Explaining Hitler*.

[31] Waller, *Becoming Evil*.

[32] Ibid.; cf. Fromm, *The Anatomy of Human Destructiveness*.

[33] Cf. Camille Paglia (2001) *Sexual Personae*.

[34] Browning, *Ordinary Men.*

[35] Allen, "The Banality of Evil Reconsidered."

[36] Strauss, "Studying Perpetrators."

[37] Allen, "*The Banality of Evil Reconsidered*"

[38] cf. see Chandler, *Voices from S-21.*

[39] Minnich, *The Evil of Banality*.

[40] ECCC, 05/02/2017, 123-133

[41] ECCC, 05/02/2017, 158

[42] Ibid., 161-162

[43] See Hegel, *The Phenomenology of Mind*, 133.

[44] Isenman, Reviewed Work: Crimes of Obedience, 1482.

[45] Üngör (ed.) *Genocide*, 147.

[46] Minnich, *The Evil of Banality*, 88.

[47] Ibid., 215.

[48] Hinton, "The Perpetrator, the Victim, and the Witness", 137-153.

[49] Bauman, *Modernity and the Holocaust*.

[50] Staub, *The Roots of Evil.*

[51] Milgram, *Obedience to Authority*.

[52] Zimbardo, *The Lucifer Effect*, 264; see also Hinton *Why Did They Kill?*, 121.

[53] Hinton, *Why Did They Kill?*, 121

[54] Williams & Pfeiffer. "Unpacking the Mind of Evil," 72-87.

[55] Callison, "Nietzsche and Hegel."

[56] Kozloski, "Defense Dissects Philip."

[57] Cruvellier, *The Master of Confessions.*

[58] Staff, "Khmer Rouge leader tells Cambodia court." *The Telegraph*.

[59] Chandler, *Voices from S-21.*

[60] Chea, *Pol Pot's Most Infamous Deputy/Interviewer: T. Sambath*.

[61] Milgram, *Obedience to Authority*.

[62] Hoffer, *The True Believer.*

[63] Williams & Pfeiffer, "Unpacking the Mind of Evil."

[64] Mohamed, "Of Monsters and Men," 1157-1216.

[65] Hinton, "The Perpetrator, the Victim, and the Witness," 137-153.

[66] Hoffer, *The True Believer.*

[67] Arendt, *Eichmann in Jerusalem.*

[68] Etcheson, *After the Killings Fields.*

[69] Thayer, The Last Interview.

[70] Kirstjen, "Smashing the Enemies*,"* 131-148.

[71] Becker, *When The War Was Over.*

[72] Isenman, "Reviewed Work: Crimes of Obedience," 1474-1482.

[73] Ibid.

[74] Arendt, *Responsibility and Judgment*, 53.

[75] See also Chea's defence at ECCC, 05/02/2017; Cruvellier, *The Master of Confessions*, 212-215; Hinton, *The Justice Facade*, 40.

[76] Arendt, *Eichmann in Jerusalem.*

[77] Bizot, *Facing the Torturer*, 129.

References:

Allen, Michael Thad (2008). The Banality of Evil Reconsidered: SS Mid-Level Managers of Extermination Through Work. *Central European History, 30*(02), 253. doi:10.1017/s0008938900014047.

Arendt, Hannah (1963). *Eichmann in Jerusalem - A report on the Banality of Evil* (Revised and Enlarged Edition ed.). New York: The Viking Press.

Arendt, Hannah (2003). *Responsibility and Judgment* New York: Schocken Books.

Bateson, Gregory (1987). *Steps to an Ecology of Mind: Collected Essays in Anthropology, Psychiatry, Evolution, and Epistemology* (2nd ed.). San Francisco: Chandler Pub. Co.

Bauman, Zygmunt (2000). *Modernity and the Holocaust.* Ithaca, N.Y.: Cornell University Press.

Becker, Elizabeth (1998). *When The War Was Over - Cambodia and the Khmer Rouge Revolution* (2nd ed.). USA: PublicAffairs.

Bizot, Francois (2012). *Facing the Torturer*. United Kingdom: Rider.

Browning, Christopher R. (1992). *Ordinary Men - Reserve Police Battalion 101 and the Final Solution in Poland* New York: HarperCollins.

Callison, William (2011). Nietzsche and Hegel: Identity Formation and the Master/Slave Dialectic. *Gnosis, 9*(3).

Chandler, David (1999). *The Tragedy of Cambodian History* (3 ed.). Thailand: Silkworm Books.

Chandler, David (2000). *Voices from S-21:Terror and History in Pol Pot's Secret Prison*. USA: University of California Press.

Chea, Nuon (2011) *Pol Pot's Most Infamous Deputy/Interviewer: T. Sambath*. Journeyman   Pictures, https://www.youtube.com/watch?v=PKHGxu7vd-g

Cruvellier, Thierry (2011). *The Master of Confessions - The Making of a Khmer Rouge Torturer* (S. L. Associates, Trans. 2 ed.). USA: HarperCollins Publishers.

Dunlop, Nic (2006). *The Lost Executioner - A Story of the Khmer Rouge* (2 ed.). United Kingdom: Bloomsbury.

ECCC. (05/02/2017). Nuon Chea's Closing Brief in Case 002/02. (E457/6/3). Retrieved 23 October 2018

Etcheson, Craig (2005) *After the Killings Fields: Lessons from the Cambodian Genocide.* Westport, Connecticut: Praeger.

Etcheson, Craig (1984) *The Rise and Demise of Democratic Kampuchea.* Boulder, Colorado: Westview.

Encyclopedia. (2005). *Encyclopedia of Genocide and Crimes Against Humanity* Retrieved from https://www.encyclopedia.com/international/encyclopedias-almanacs-transcripts-and-maps/perpetrators

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

Goffman, Ervin (1974). *Frame Analysis. An Essay on the Organization of Experience* (2nd ed.). Cambridge, MA, US: Harvard University Press.

Goldhagen, Daniel. J. (1996). *Hitler's Willing Executioners - Ordinary Germans and the Holocaust.* USA: Vintage Books.

Hegel, Georg Wilhem Friedrich (2008). *The Phenomenology of Mind.* United States: Oak Grove.

Hinton, Alexander Laban (2004). The Perpetrator, the Victim, and the Witness. *Mānoa, 16*(1), 137-153.

Hinton, Alexander Laban (2005). *Why Did They Kill?* USA: University of California Press.

Hinton, Alexander Laban (2016). *Man or Monster? - The Trial of a Khmer Rouge Torturer.* USA: Duke University Press.

Hinton, Alexander (2018). *The Justice Facade - Trials of Transition in Cambodia.* UK: Oxford University Press.

Hoffer, Eric (2002). *The True Believer -- Thoughts on the Nature of Mass Movements* HarperCollins e-books.

Huntington, Samuel P. (1996). *The Clash of Civilisations and the Remaking of World Order.* New York: Simon & Schuster

Isenman, Mark K. (1990). Reviewed Work: Crimes of Obedience: Toward a Social Psychology of Authority and Responsibility by Herbert C. Kelman, V. Lee Hamilton. *Michigan Law Review, 88*(6), 1474-1482.

Kaufmann, W. A. (1974). *Nietzsche - Philosopher, Psychologist, Antichrist* (4 ed.). Princeton, New Jersey: Princeton University Press.

Kiernan, Ben (1998). *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge 1975-1979* (3rd ed.). USA: Yale University Press.

Korstjens, Sandra (2016). Smashing the Enemies - The Organization of Violence in Democratic Kampuchea. In U. Ü. Üngör (Ed.), *Genocide - New Perspectives on Its Causes, Courses and Consequences.* (pp. 131-148). Amsterdam: Amsterdam University Press.

Kozloski, Mary "Defense Dissects Philip Short's Credentials, Methodology, and Biography of Pol Pot." In *Cambodia Tribunal Monitor.* http://www.cambodiatribunal.org/2013/05/08/defense-dissects-philip-shorts-credentials-methodology-and-biography-of-pol-pot/, 8 May 2013.

Lebon, G. (2001). *The Crowd - A Study of the Popular Mind.* Kitchener: Batoche Books.

Milgram, Stanley (1974). *Obedience to Authority*: An Experimental View-Tavistock Publications

Minnich, Elizabeth (2017). *The Evil of Banality*. London: Rowman & Littlefield.

Mohamed, Sara (June 2015). Of Monsters and Men: Perpetrator Trauma and Mass Atrocity *Columbia Law Review, 115*(5), 1157-1216.

Nietzsche, Friedrich (1989). *The Genealogy of Morals and Ecce Homo* (W. A. Kaufmann & R. Hollingdale, Trans. Vintage Books Edition ed.). New York: Vintage Books.

Paglia, Camille (2001). *Sexual Personae - Art and Decadence from Nefertiti to Emily Dickinson*. USA: Yale University Press.

Rosenbaum, Ron (2014). *Explaining Hitler - The Search for the Origins of his Evil*. USA: Da Capo Press.

Sen, Amartya (2006). *Identity and Violence - The Illusion of Destiny*. New York: W. W. Norton & Company.

Spencer, Philip. (2012). *Genocide since 1945*. New York: Routledge.

Staff. (14 December 2011). Khmer Rouge leader tells Cambodia court: 'don't call me Brother Number Two'. *The Telegraph*.

Staub, Ervin (1989). *The Roots of Evil - The Origins of Genocide and Other Group Violence* (2 ed.). New York: Cambridge University Press.

Strauss, Scott (2017). Studying Perpetrators: A Reflection. *Journal of Perpetrator Research, 1*(1), 28-38.

Thayer, Nate (25 August 2014). The Last Interview With Pol Pot (English Subtitles). from Raudonasis Khmeras

Üngör, Ugur (ed.) (2016). *Genocide - New Perspectives on its Causes, Courses and Consequences*. Amsterdam: Amsterdam University Press.

Vickery, Michael (1999). *Cambodia 1975-1982* (2 ed.). Thailand: Silkworm Books.

Waller, James (2002). *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*. New York: Oxford University Press.

Williams, Timothy & Pfeiffer, Dominik (2017). Unpacking the Mind of Evil: A Sociological Perspective on the Role of Intent and Motivations in Genocide. *Genocide Studies and Prevention: An International Journal, 11*(2), 72-87.

Zimbardo, Philip (2007). *The Lucifer Effect*. USA: Random House.