

Dehumanization Is Not An Option

**An Inquiry Into The Exercise Of Authority Against
Perceived Wrongdoers**

By Hans Sherrer

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Introduction

Every society must grapple with how people deemed to be legal wrongdoers are treated.

In the United States the analysis of laws and policies related to the treatment of people accused or convicted of a crime typically revolve around issues such as prison and jail conditions; medical and dental neglect; lack of educational and vocational opportunities; imprisonment of minors and mothers; spreading of diseases; access of prisoners to the courts to remedy wrongs; mandatory sentences that disregard personal mitigating factors; limitations on visiting, phone calls and mail; long sentences for relatively minor offenses; parole and probation; ad infinitum.

Scrutiny of behavior by law enforcement and jail and prison staff members toward arrestees, suspects, and prisoners commonly focuses on issues that include physical mistreatment and sexual misconduct.

Although it is important for those things to be exposed so interested people can bear witness to them, they occur as a result of, and are thus effects of laws, policies and attitudes. Consequently, focusing on those issues is not likely to result in any substantive lasting humane lasting changes to those laws and policies. Quite to the contrary, it is likely that publicity about issues such as deficient prison and jail conditions and suspect prisoner treatment has the opposite effect of reducing the possibility of positive change in the law enforcement system. That is because it is broadly viewed as whining by criminals who deserve punishment, and their apologists. That doesn't sit well with the large majority of people who share the prevalent societal attitude — “don't do the crime, if you can't do the time”.

The widespread and long-standing support for that adage is vividly exemplified by the fact that not only has the law enforcement juggernaut not been slowed in the least by all the activism within and without prisons during the past several decades, but criticisms of law enforcement and imprisonment policies going back more than 200 years have amounted to being ineffectual exercises in mental mastur-

bation, and dissipated physical effort and financial resources. Lack of success in meaningfully reforming law enforcement policies to be more humane was as predictable two centuries ago as it is today, because expending energy on the effects of any process while ignoring its causes will not result in it being fundamentally changed.

Three intertwining psychological factors are keys to understanding how and why the law enforcement system functions as inhumanely as it does: it provides a legally protected environment for unleashing the expression of *authoritarian attitudes*, and it relies on the tendency of human beings *to be obedient* and to *conform their behavior to social situations*.

Thinking in terms of the psychological causes of suspect law enforcement policies and activities instead of their physical results, requires a major mental shift to stop viewing the millions of people adversely affected by them as the equivalent of pool balls being ricocheted around a pool table, while ignoring it is caused by psychological factors underlying how the cue stick knocking them about is deliberately wielded.

That same psychological approach is applicable to every aspect of the law enforcement process. From the passage of criminal laws, to investigative and prosecution practices, to the manner of conducting court proceedings, to sentencing options, to police force management, to prison construction and operating procedures, to post-prison release policies, to the treatment of a person after completion of his or her sentence. For example, the immense amount of money flowing through the law enforcement system into businesses providing goods, services and facilities is dependent on the psychological factors outlined in the following reviews and articles. There are millions of people and thousands of organizations involved for varying financial and professional reasons in the law enforcement system. However, they no more cause the overwhelmingly support it enjoys among the general public than does Bill Gates' desire to have billions of dollars and to be thought of as a computer guru cause many millions of people to buy Microsoft products.

The concluding article about the dehumanizing treatment of German prisoners after WWII by U.S. and French military guards and staff members illustrates that bestial conduct of prison guards, staff members, and administration personnel toward prisoners is not unusual whether they are in military or civilian custody. Consequently, the mistreatment of Abu Ghraib prisoners, the suicides and attempted suicides and hunger strikes at Guantanamo Bay, and the drowning and machine gunning of prisoners in Afghanistan in custody as a consequence of the U.S. government's response to the events of September 11, 2001, is not unexpected aberrant behavior by the people exercising authority and acting under the color of law in those situations.

Taken as a whole, the following compilation of articles and reviews paint the picture that there is a need to explore radical new ways of how law enforcement — of which imprisonment is only one part — can be fundamentally altered to be more humane. They also provide some guidance for directions to take in seeking solutions to the current situation that can be described as: Dehumanization in the law enforcement realm is not an option. It is instead the predictable effect of the intersection between human nature, personal and societal attitudes, political policies, the law enforcement system's structure, and bureaucratic responses.

The law enforcement process taps into the basest of human emotions and stimulates vile actions, while submerging the noble and sublime aspects of the human spirit. It will take a new paradigm of thought to change that situation. This book is presented in the spirit of being a spark in that process by identifying some of the underpinnings of the dehumanizing law enforcement culture of this and other countries, so realistic and humane alternatives to it can be developed and effectively implemented.

Hans Sherrer
April 2008

I

Quiet Rage: The Stanford Prison Experiment

A review of the documentary

The quiet Sunday morning of August 14, 1971 was broken by the wail of sirens as the Palo Alto, California police swept thorough town arresting nine people. The suspects were handcuffed, read their rights and subjected to the degradation of the booking process after being transported to the Stanford County Prison (SCP). So began the Stanford Prison Experiment (SPE), one of the most important psychology experiments in this country's history.

The brainchild of Stanford University Psychology Professor Philip Zimbardo, the SPE was designed to study how psychologically "normal" people would react to role playing as prisoners and guards while being immersed in a prison environment for two weeks. To accomplish that a mock prison, the SCP, was set-up in the basement of Stanford's psychology building. To simulate the realism of an actual prison bars were put on windows and the cells were made of steel bars. There was also a "yard" and "chow hall" area, and a windowless punishment "hole." The prisoners were issued prison clothing marked with their assigned number, the guards were to be referred to as "Mr. Correctional Officer," and punishment for a rule violation would range from a loss of privileges to time in the "hole." Surveillance cameras allowed Professor Zimbardo and his assistants to monitor the SCP 24-hours a day.

Twenty-four young men were selected to participate from the many candidates subjected to diagnostic interviews and psychological tests designed to weed out abnormal people. Twelve men each were randomly assigned to be a guard or a prisoner. Nine of the prisoners were selected to be housed in three cells, and three guards were to be assigned to each 8-hour shift. The remaining three prisoners and three guards were on-call in case they were needed as a replacement.

The Palo Alto police department agreed to aid the realism of the SPE by making the surprise arrest of the nine men selected to serve

a two week prison term. Once at the SCP the prisoners and guards dutifully played their roles. To the amazement of Professor Zimbardo and his assistants, within 24 hours an incredible transformation occurred: the “mock” prisoners became prisoners, and the “mock” guards became guards. The SCP had morphed from being an experimental rat-maze into being a prison. Some prisoners became passive while others became rebellious. The guards that just wanted to put in their time on a shift and go home did nothing to stop the guards that reveled in exercising their power over the prisoners. One guard was nicknamed “John Wayne” by the prisoners because he was so sadistic. Yet he was “very pleasant, polite and friendly” on the street, and he only made his transformation from the gentle Dr. Jekyll to the monstrous Mr. Hyde when he put on his guard’s uniform. ¹ He reveled in lording over the prisoners, going so far as make himself appear more menacing by wearing reflective sunglasses like the guard in *Cool Hand Luke* (1967) who shot the unarmed prisoner played by Paul Newman.

The guards were given wide latitude in how to treat the prisoners with the caveat they could never strike them. As the days went by the guards as a whole flexed their power by increasing their aggressive, humiliating and dehumanizing tactics against the prisoners. The worst tactics were by the grave yard shift guards – which included “John Wayne.” One thing they did that wore on the prisoners was waking them at night to stand for count, instead of doing so while they slept. (Guards in actual prisons can annoy prisoners during night counts by rattling keys, running keys along cell doors, or shining a flashlight in their face.) The prisoners initially tried to resist their dehumanization by engaging in non-violent tactics that included a hunger strike, but the guards responded to every threat to their authority with psychologically brutal tactics designed to crush the spirit of the prisoners. The prisoners described the SCP as “a real prison run by psychologists instead of run by the state.” ²

Just like in a real prison, the stress of the situation made some of the prisoner’s crack. Within 36 hours one of the prisoners had to be

released after he exhibited signs of a nervous breakdown: He had begun uncontrollably crying, screaming, cursing, and acting irrationally.³ The stress of being in a prison environment caused a general deterioration of the prisoners into pathological behavior, and a prisoner a day had to be released after snapping. Although the men were “mock” prisoners in a “mock” prison it was psychologically real to them, and that is how they responded. Yet while prisoners were psychologically collapsing from the SCP’s effect on them, not a single guard quit or let up on their demeaning tactics.

It is important to keep in mind that the reactions of the SPE’s participants wasn’t because psychos were chosen to be the guards and wimps were chosen to be the prisoners. Whether a person was selected to be a guard or prisoner was purely random. If the assignments had been reversed at the experiment’s beginning, there is every reason to think the overall result would have been the same: The participants simply would have adjusted their conduct to fit their different role. The SPE indicates a significant influence on a person’s behavior in a particular situation is how they perceive their role in it and their emotional responses to that perception.

Consequently, when a “good person” is put in the compromising situation of needing to choose whether or not to act inhumanely, there is a high probability that the person will choose to act in a manner that he or she would normally consider to be evil or inhumane. So “bad people” are not necessary for a bureaucratic organization to do bad things — all that is necessary is for good people to allow themselves to be coopted by acting in accordance with what is expected of them due to



their involvement in a bureaucratic system or under the influence of an authority figure.⁴

Kurt Vonnegut's caution in *Mother Night* (1961) to be careful what you pretend to be because that is what you become, was dramatically confirmed by the behavior of the SCP's guards, prisoners and administrators.

An outside observer who first saw the SCP after it had been operating for nearly six days was horrified to see that it had become indistinguishable from a real prison environment. It is noteworthy that of the more than 30 people not involved in the experiment who observed it before her — including a priest and a defense lawyer — she was the first to be disturbed by what she saw. Shaken to the core, she was able to convince Professor Zimbardo after a prolonged and impassioned argument that as administrators of the “prison” he and his assistants had become blind to the unconscionable activities happening in front of their eyes. The SPE was a “controlled” experiment that had spun out of the control of the educators monitoring it. So after six days the SCP was abruptly shutdown and the planned two-week experiment was terminated.

That none of the several dozen people involved as a non-prisoner in the SPE acted on their own to try and end it, and that it took the impassioned plea of an outside observer for it to be stopped, emphasizes the extreme value of a whistleblower as a check on an organization's conduct. On one level what a whistleblower does is simply act like a decent human being, but on another level it is extraordinary that they are able to do what others with the same information do not do, and may even be hostile to doing. The SPE demonstrates that in an organizational/bureaucratic environment it is abnormal for a person to be willing to stand alone by doing what he or she believes is right.

The SPE was filmed from beginning to end. *Quiet Rage: The Stanford Prison Experiment* is the documentary made from that film footage.⁵ It includes commentary by Professor Zimbardo and others involved in the experiment that helps put what happened in perspective. The documentary also includes a remarkable exchange

filmed after the experiment between “John Wayne” and one of the prisoners he tormented. The scaring of the “mock” prisoner’s psyche by his treatment at the hands of a “mock” guard should serve as an electric shock of a warning to every person with a humanitarian impulse about what is happening to people in this country’s jails and prisons every minute of every day.

Quiet Rage graphically demonstrates that exposure to a jail or prison environment for even a few hours is toxic for the human psyche. It is not the conditions of confinement that leads to pathological behavior by prisoners, guards and other staff members — but the confinement itself. Although probably dismissed as an exaggeration by people that have never been jailed, actress Shannon Doherty was nakedly honest when she told an interviewer that she felt like she was going to die while jailed for many hours after being arrested for suspicion of drunk driving. That is particularly believable considering a prisoner in the SPE suffered a psychological collapse only 36 hours after being “pretend” arrested and confined in a “fake” jail. In contrast, there was no pretence in the slapping of cuffs on Ms. Dougherty’s wrists nor was there anything fake about the cell she was locked in for hours. A similar psychic scarring experience happens every day to the thousands of men, women, juveniles and children jailed across this country. It should make people think long and hard about the negative effect on society of jailing people for minor offenses, and imprisoning them for an array of petty or non-violent crimes.

It is made clear in *Quiet Rage* that if you put a “normal” person in a psychologically unhealthy environment like a prison or a jail, they will become infected by their exposure to the diseased situation. Professor Zimbardo is a prime example. In spite of his professional training he was so affected by his involvement as administrator of the SPE that if an outsider had not intervened to shake him back to reality, it would have gone on for days longer with perhaps catastrophic consequences – possibly even resulting in the physical injury or death of a prisoner or guard.

The idea that the documented mistreatment of prisoners by guards at Abu Ghraib prison in Iraq and at other U.S. facilities overseas was spontaneous and not directly ordered by superiors is consistent with the findings of the SPE. ⁶ Professor Zimbardo's experiment revealed that behavior by prison personnel that in everyday life would be considered aberrant, does not require either the approval of their peers, or explicit authorization by a superior.

Quiet Rage should be seen by everyone unaware of the psychologically crippling effects of imprisonment on both jailers and the jailed. However, the cat was let out of the bag in 1996 that the devastating psychological effects of imprisonment are both known and being ignored by politicians and law enforcement officials. The Prison Litigation Reform Act (PLRA) enacted in 1996 contains a provision specifically preventing prisoners from suing prison officials for "mental or emotional harm unless they can also prove physical injury." ⁷

Yet the SPE graphically demonstrated, prisoners suffer severe "mental or emotional harm" every day without any identifiable "physical injury" – while their tormentors escape any legal consequences. An example of the phenomena of psychological scarring of prisoners without accompanying physical injury is the many Muslims imprisoned by the federal government at Guantanamo Bay, Cuba, who have been driven to despair by the circumstances of their arrest and confinement to attempt suicide or engage in hunger strikes. The SPE also provides confirmation that the mistreatment of those prisoners, as well as prisoners at Abu Ghraib and other facilities is a predictable consequence of their imprisonment. ⁸ It is not dependent on an order or a specific policy, and it actually may occur in spite of directives prohibiting it.

Quiet Rage is the most authentic source available for outsiders to glimpse the pathological reactions caused by exposure of prisoners, guards and administrators to an incarceration environment. Thus it is an invaluable tool to expose large numbers of people to imprisonment's destructive psychological effects, and how it tends to unleash inhumane impulses in both prison staff members and

prisoners. For sure *Quiet Rage* should be seen by every judge, prosecutor and juror so they can make informed judgments as to whether a person's alleged or actual offense justifies them being sent into the human-made hell of imprisonment, from which they can be expected to emerge psychologically traumatized with unpredictable consequences.

The raw emotional reactions of the SPE's participants underscores it as one of the most important academic experiments ever conducted into not just the psychological effect of imprisonment on the caged and their cagers, but on the effect of power on those who wield it, and those it is wielded upon. The SPE's findings should thus be a prime influence on law enforcement policies at the local, state and federal level. Yet they have been ignored by policy makers. However, that official blindness doesn't detract from *Quiet Rage* being as relevant today, as when "John Wayne" prowled the Stanford County Prison in 1971.

The SPE has never been repeated by an academic institution in this country. It is, however, repeated every day in every jail and prison in the United States. Prisoners across the country daily experience conditions infinitely worse than those that caused over 40% of the prisoners in the Stanford County Prison to suffer a real-life nervous breakdown before it was shut down for humanitarian reasons after only six days. ⁹

Endnotes:

¹ Christina Maslach, "An Outsider's View of the Underside of the Stanford Prison Experiment," In *Obedience to Authority: Current Perspectives on the Milgram Paradigm*, ed. by Thomas Blass (New York: Lawrence Erlbaum, 2000), 214.

² Philip G. Zimbardo, "The SPE: What it was, where it came from, and what came out of it," In *Obedience to Authority: Current Perspectives on the Milgram Paradigm*, ed. by Thomas Blass (New York: Lawrence Erlbaum, 2000), 201.

³ *Id.*

⁴ There were many real-life example of this process during World War II when "ordinary" Germans from all walks of life engaged in inhumane actions when ordered to do so. See, e.g., Christopher Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (New York: HarperCollins, New York, 1993).

⁵ *Quiet Rage* can be purchased by sending a check or money order for \$110 (\$100 + \$10 s/h) to: Philip G. Zimbardo, Inc.; P.O. Box 20096; Stanford, CA 94309. The official Stanford Prison Experiment website is at: <http://www.prisonexp.org/>. Visitors to the website can view film clips from the video, and watch an 80 picture slide show of the SPE with commentary by Professor Zimbardo.

⁶ A drawing by former Auschwitz prisoner Alfred Kantor depicts prisoners being forced to do push-ups with one of the German guards pressing his boot on the back of a prisoner. (Alfred Kantor. *The Book of Alfred Kantor* (New York: McGraw-Hill, 1971), 65.) During the Stanford Prison Experiment that same behavior was exhibited when a guard spontaneously stepped on the backs of prisoners doing push-ups as punishment. See, <http://www.prisonexp.org/slide-15.htm> (last visited November 3, 2006). Similarly, guards at Abu Ghraib forced Iraqi prisoners to do push-ups. ("All four said that they were forced to do push-ups, and that while doing so were told to pretend that they were having sexual intercourse by moving their buttocks. Many of the soldiers brought cameras and took photographs, they said." U.S. Considers Reopening Inquiry Into Possible Abuse Before Iraq Prison Scandal, By Normitsu Onishi and Eric Schmitt, *The New York Times*, October 13, 2004.)

⁷ 42 U.S.C. § 1997e(e) Limitation On Recovery. No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

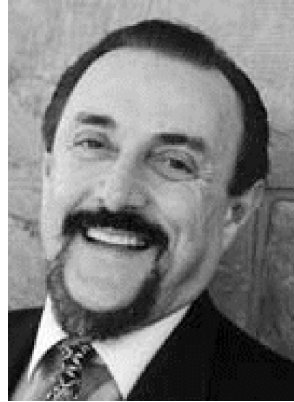
⁸ As of November 2005 at least 29 Guantanamo prisoners have responded to their situation by attempting suicide, and over 200 have engaged in a hunger strike of varying lengths of time. See e.g., Guantanamo suicide attempts, Wikipedia.com.

⁹ Philip Zimbardo's first-person account and analysis of the SPE was published in 2007. Philip Zimbaro. *The Lucifer Effect: Understanding How Good People Turn Evil* (New York: Random House, 2007), explains in detail that Zimbardo thinks the reaction of the "guards" and "prisoners" to the prison setting was due to a combination of institutional, situational and individual factors.

II

Interview Of Professor Philip Zimbardo

Stanford Psychology Professor Philip Zimbardo was interviewed by Hans Sherrer about his personal insights into the Stanford Prison Experiment that he created and supervised.



Question by Hans Sherrer (HS): Professor Zimbardo, was the Stanford Prison Experiment (SPE) the first psychology experiment that attempted to simulate a prison environment?

Answer by Professor Zimbardo (PZ): I am not sure, but it was the first to create a live in prison-like environment for an extended time period of at least a week.

HS: When did you first conceive the idea of observing the behavior of mock prisoners and guards in a simulated prison?

PZ: During a class the previous spring when I got students interested in the intersection of psychology of individuals and the sociology of institutions, and doing a mock prison for a weekend was part of the class exercise for one group of social psychology students.

HS: Did you encounter any opposition from the administration at Stanford University when you proposed the idea of conducting the SPE?

PZ: None. The study was readily approved by the Human Subjects Research committee because it seemed like college kids playing cops and robbers, it was an experiment that anyone could quit at any time and minimal safeguards were in place. You must distinguish hindsight from foresight, knowing what you know now after the study is

quite different from what most people imagined might happen before the study began.

HS: The SPE was conducted in the basement of Stanford's Psychology Building that was remodeled into the Stanford County Prison (SCP). Did you have any advisors with prison experience assist in designing the experiment to be as realistic as possible?

PZ: Yes, I taught a course that summer on the psychology of imprisonment with an ex-convict, Carlo Prescott, recently released from San Quentin after nearly 15 continuous years in various California prisons. He also was my consultant throughout the study, and I relied on others, guards, prison chaplain, local police and other ex-convicts.

HS: How many people assisted in operating the Stanford County Prison, and were they students, faculty members or outside volunteers?

PZ: I was the Superintendent, there was a Warden, an undergraduate, and 2 graduate students who acted as my Lieutenants. We also had the tech services of the Psychology Department's technician, and a few other people played minor roles. There were no outside volunteers

HS: When the SPE began what were the two or three primary things you hoping to learn from observing mock prisoners and guards interacting for two-weeks in a simulated prison environment?

PZ: What happens when good people are put into an evil place, do they triumph or does the situation come to dominate their past history and morality?

How powerful are situational forces in seducing ordinary people into ego-alien behaviors?

What are the boundaries between illusion and reality in such a setting?

HS: When the experiment began, did you expect the mock guards and prisoners to pretend to be their assigned role for the duration of the experiment?

PZ: We did not know if they would get into their roles and stay in them or it would just be fun and games to them.

HS: When did it become apparent that the guards and prisoners were not acting, but had conformed to becoming the role they started out pretending to be?

PZ: The major change came on the second morning when the prisoners rebelled and the guards crushed their rebellion with force and that led them to take their roles more seriously and to perceive of the prisoners as dangerous.

HS: The SPE was stopped after six days when a woman who hadn't previously observed the SCP was shocked at the behavior of the guards and prisoners. She was able to convince you to stop the experiment. Have you given thought to how long you would have continued the experiment if she had not visited the SCP, and what would it have taken for you to have stopped the experiment on your own without prodding from a concerned outsider?

PZ: I believe I would have ended it in a few more days because it was obvious that the guards were totally dominating the prisoners and creating horrific conditions, night after night escalating the kinds of abuse and degradation. The role as an outsider was to reframe the conditions that we had adapted to as immoral and terrible.

HS: By the time you stopped the SPE after six days, four prisoners had been released due to what have been described as psychological breakdowns. Were there other reactions by guards or prisoners that influenced your decision to stop the experiment at that time?

PZ: Another prisoner broke out in a full body psychosomatic rash and had to be released. The remaining prisoners were acting like zombies, totally mindlessly obedient, and some guards were becoming creatively evil in their tormenting actions.

HS: What do you think are some of the SPE's most important findings?

PZ: Situational variables can exert powerful influences over human behavior, more so that we recognize or acknowledge.

Seemingly small features of situations, like roles, rules, uniforms, signs, group identity, can come to control behavior as much as dispositional variables, such as traits.

Human behavior is incredibly pliable, plastic.

The line between good and evil is permeable and almost anyone can be induced to cross it when pressured by situational forces.

Heroes are those who can somehow resist the power of the situation and act out of noble motives, or behave in ways that do not demean others when they easily can.

Evil is knowing better, but willingly doing worse.

HS: Thank you Professor Zimbardo, for taking the time to share your insights about the Stanford Prison Experiment.

Note: This interview was conducted on August 27, 2003.

III

Comments About Professor Zimbardo's Interview

Professor Zimbardo makes it clear in his August 2003 interview that when the Stanford Prison Experiment (SPE) began he didn't know how the several dozen psychologically normal people involved would react. Yet even though he was expecting the unexpected, he was taken off guard when less than 24-hours into the experiment the "situational forces" of being in a prison environment caused the "normal" people participating to *become* guards and *become* prisoners, and his staff and him to *become* prison administrators. The experiment wasn't mimicking a real-world situation, it had become reality.

So a critical finding of the experiment is how susceptible a person's behavior is to being influenced by the circumstances of a situation. As Professor Zimbardo notes, a situation can have as much effect on a person's behavior as their personality traits. That principle is as applicable to the behavior of a person during their imprisonment as it is prior to and after it, when they are in the "free" world.

The results of Professor Zimbardo's 1971 prison experiment have been publicized for over 30 years in professional journals, popular magazines and books, and it was the inspiration for a simulated prison experiment in Australia in the late 1970s, and another in England televised nationally by the BBC in 2002. The experiment is also publicized by the professor's many speaking engagements in this and other countries, and the SPE's official website gets over 4 million unique visitors yearly. Furthermore, the SPE was a topic of discussion in the national media after the pictures of prisoner mistreatment at Abu Ghraib were publicly released in the spring of 2004. An example of the widespread knowledge of the SPE is it can be brought up as a topic of conversation in coffee shops, bookstores and other public places, and invariably one or more people has heard of it.

So it is reasonable to suppose a significant number of judges, politicians and law enforcement professionals are aware of the SPE. It is also reasonable to think those people could have some awareness that if the “situational forces” of their life was different, they would be amongst those caged in a prison instead of being on the outside looking in. Yet that knowledge is not being used to guide the shape of federal and state criminal codes or sentencing policies, or to shift the focus of imprisonment practices to providing prisoners with educational opportunities, quality physical care, vocational training, enhanced social skills, and prison release support services.

Novelist Fyodor Dostoyevsky, who spent five years imprisoned in Siberia after his death sentence for belonging to a subversive organization was commuted by the Czar, is credited with the insight that “Compassion is the chief law of human existence.” In spite of extensive knowledge that regardless of their innocence or guilt people can and are easily ensnared in the law enforcement process, a commensurate compassion toward prisoners is sorely lacking in the attitude of everyone from legislators to prison staff members to the general public.

IV

The Experiment

A review of the movie

The Experiment is a dramatic movie loosely based on the Stanford Prison Experiment (SPE) conducted by psychology Professor Philip Zimbardo at Stanford University in August 1971. First shown to German audiences in 2001, the movie was released in U.S. theaters with English subtitles in September 2002.¹ Professor Zimbardo had no role in the production or promotion of the movie, and he does not endorse it.

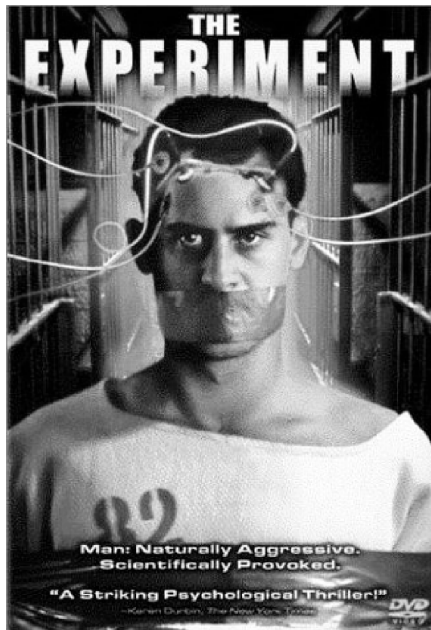
The SPE can be summarized as 24 young men determined to be psychologically “normal” were randomly selected to be either a guard or prisoner during a two-week mock prison experiment. The experiment was intended to study the psychological impact of imprisonment on both prisoners and guards. It was terminated after six days when the mock prison had taken on a life of its own, and five prisoners had suffered a nervous breakdown.

The Experiment is a psychological drama-thriller that portrays a vision of what might have happened if the SPE had been allowed to continue. Sadism, pettiness, snitching, injuries, rape and death are part of that vision – the same things that happen in real prisons. However the movie may have taken a little too much dramatic license when it portrays the guards extending their aggression against the prisoners to include the rape of a female staff psychologist by a guard.

The main character is a journalist who infiltrates the experiment to write an article about it for a magazine. Designated as prisoner number 77, he soon finds that he has much more to write about than he bargained for, as he becomes a participant in the mock prisons descent into a nightmare hell. *The Experiment's* realism is aided by an intensity that never lets up from its first frame to its last. One thing is certain: it will only be by accident if *The Experiment* is ever be shown in a U.S. prison.

The Experiment is a violent and intense drama that deserves its R rating. The movie is worth seeing at least once, particularly by people unfamiliar with the overt and subtle forms of tension and violence seething underneath the surface of a prison environment 24-hours a day. Its unusual story line provides food for thought about the advisability of putting people in an atmosphere that can trigger unpredictable, but mostly negative psychological reactions in both prisoners and their overseers.

A person shouldn't be put off from seeing the movie because it is subtitled in English – it is so engrossing you forget they are on the screen.



Endnote:

¹ *The Experiment*, DVD, directed by Oliver Hirschbiegel (2001; Culver City, CA: Sony Pictures, 2003).

V

Obedience To Authority Is Endemic

Prisons are bureaucratic institutions run by a set of rules under the oversight of administrators. As the prison workers with the closest contact to prisoners, guards and other hands-on staff members are expected to obediently carry out their assigned tasks regardless of how arbitrary or inhumane those duties might be. Thus the single most important personal characteristics of people that work in a prison environment is their willingness to follow commands and ‘just do their job.’

Although it is contrary to the popular mythology that Americans are rugged individualists, Frenchman Alexis de Tocqueville noted over 160 years ago in *Democracy in America* how compliant people in the United States are to authority. ¹ The obedience experiments of psychologist Stanley Milgram at Yale University in the 1960s confirmed that Tocqueville’s intuitive understanding of American’s willingness to be obedient servants has not changed. ² Furthermore, Milgram revealed that a large majority of Americans are obedient to a degree that qualifies them to be a guard in a high security prison.

Over three dozen adults from all walks of life participated one at a time as the “teacher” in Milgram’s experiment. ³ Their task was to sit at a control panel and flip a switch sending an electrical shock to a person - the “learner” strapped into a chair in another room - whenever the learner responded with the wrong answer to a question about matching pairs of words. Each teacher had personal contact with the learner by helping strap him into the chair, and at that time the learner told the teacher he had a “heart condition.” ⁴ The “experimenter” who wore a white coat and spoke with an authoritarian tone of voice told the teacher that although the shocks they were to administer “can be extremely painful, they cause no permanent tissue damage.” ⁵

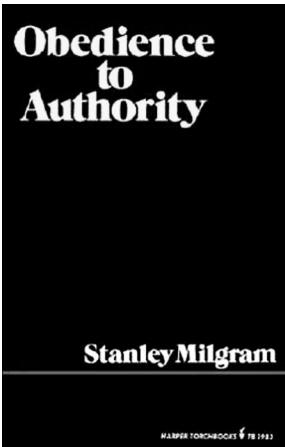
It was unknown to the teachers until after the experiment ended that the learner was an actor following a script of how to respond to each voltage level. ⁶ The learner was so convincing that when

questioned after the experiment, the teachers said they thought they were actually shocking him.

Beginning at 15 volts, the teacher's instruction was to increase the shock to the learner by an additional 15 volts each time he gave a wrong answer. As the voltage increased with each wrong answer, the learner's initial expressions of discomfort turned into screams. Standing next to the teacher, the experimenter calmly instructed him whenever he expressed doubt about continuing, "Whether the learner likes it or not, you must go on until he has learned all the word pairs correctly."⁷ The experimenter would also tell the teacher to ignore the learner's pleas to be freed and screams when he was shocked after each wrong answer, because "The experiment requires that you continue."⁸

At 300 volts the learner "shouted in desperation that he would no longer provide answers," and "he was no longer a participant" in the experiment.⁹ The experimenter calmly instructed the teacher to continue, and "to treat the absence of a response as a wrong answer."¹⁰ The learner "shrieked in agony" when shocked after not giving an answer, and finally became completely silent as the voltage continued to be increased with each non-answer to a question.¹¹ Some teachers expressed concern about continuing, but the experimenter firmly told them, "You have no other choice, you must go on."¹²

In spite of assurances the learner's "heart condition" wasn't serious, for all the teachers knew the electrical shocks were life threatening, especially after he stopped shrieking and became silent.¹³ Yet almost two-thirds of the teachers obeyed totally by increasing the electrical charge until it reached the control panel's maximum of 450 volts: Which was labeled "Danger: Severe Shock."¹⁴ Whatever doubts those teachers had about possibly hurting the learner were overcome by "attributing all responsibility" for their actions to the experimenter.¹⁵ The probability those teachers would have contin-



ued applying ever greater jolts of electricity if they had been able to do so is indicated by the attitude of one teacher who asked the experimenter when he ran out of switches to flip, “Where do we go from here, Professor?”¹⁶ After the experiment, that same teacher described the learner as “a stubborn person” who “brought punishment on himself.”¹⁷ He also justified ignoring the learner’s protests against continuing the experiment by saying, “I was paid for doing this. I had to follow orders.”¹⁸

Before the experiment, a group of psychologists predicted that the rate of total obedience would be 1/8 of 1%.¹⁹ Those experts were off by a factor of over 50,000%, since 65% of the teachers upped the voltage to the maximum.²⁰ It is also noteworthy that the other 35% of the teachers administered a minimum of 300 volts to the learner before they refused to increase it further.²¹ So the obedience rate for teachers shocking the learner with a significant level of voltage was 100%. Also, 100% of the teachers remained seated until told by the experimenter they could get up from the control panel, and not a single teacher defied the experimenter by rushing to the aid of the wailing learner — or to see if he was OK after he became silent.

Since first conducted in July 1961, variants of Milgram’s obedience experiment has been conducted a number of times in this and other countries — always with complementary results. One of those more recent experiments had a total obedience rate of 92%.²² That is one indicator people are more obedient today than four decades ago.²³ Milgram only used men, but when women were involved in subsequent experiments the obedience rate was indistinguishable from men.²⁴ So it is known the overwhelming majority of people will obey instructions from an authority figure to inflict excruciating pain to a person they know has done nothing wrong — and that they will do so when they have reason to believe the unprovoked punishment is life threatening to the innocent person.

Milgram attributed the high level of obedience to an altered cognitive state that he called the “agentic state,” which is triggered by a person seeing “himself as an agent for carrying out another

person's wishes.”²⁵ The “agentic state” is the opposite of an autonomous state.

The implications of Milgram's experiments directly relate to the routine conduct of prison personnel towards prisoners. The learner is analogous to a prisoner, the teacher is analogous to a guard, and the experimenter is analogous to any authority empowering a guard to act. The chair the learner was strapped into not only resembled an electric chair, but as far as the teachers knew they were gradually electrocuting the learner. However, unlike guards in a prison dealing with people convicted of a crime, the teachers obeyed knowing the learner had done absolutely nothing to deserve being electrocuted. Given that a prison guard chooses his or her job and regularly follows orders, it is almost unthinkable considering Milgram's findings, that 100% of the guards in any prison in this country would not carry out an order to severely mistreat one or many prisoners, up to and including summarily killing them.²⁶

That blind response to an inhumane order is predictable from the information and analysis in Milgram's book about the experiment.²⁷ In *Obedience To Authority* Milgram notes a clear parallel between American's administering what they had reason to think could be life threatening shocks to an innocent laboratory volunteer, and the “psychological mechanisms” underlying the inhumane actions of SS and Gestapo members against innocent people.²⁸ That conclusion is remarkable because Milgram's teachers could quit at any time and walk away from the experiment without any negative repercussions, whereas quitting for reasons of humanity wasn't a realistic option for SS and Gestapo members.

Milgram's experiment also directly relates to the silence of the general population about the physical and psychological mistreatment, and medical neglect of prisoners that is the norm in prisons. If a recognized authority approves inhumane actions taken against designated people, such as prisoners, an overwhelming majority of society (100% in Milgram's experiment) will not only be complicit by their silence, but if required will actively participate.²⁹

Considering the solid base of support in the U.S. for capital punishment, it is legitimate to ask what percentage of people could be expected to rise up and protest a directive to execute people convicted of offenses like rape, child molestation, or murder on some pretext related to, e.g., national security? The answer is indicated by the passive obedience of military personnel and civilians to President Roosevelt's February 1942 Executive Order 9066 authorizing the military to order the summary imprisonment of almost 120,000 Japanese-Americans who had not been indicted, tried, or convicted of a crime, on the ground that it was required for national security.³⁰ Would public reaction have been appreciably different if the federal government had taken the next step and executed them? It is doubtful considering Milgram's findings, and that the public in Germany did not interfere with widespread government endorsed atrocities after the war began.³¹

Professor Milgram's obedience experiments stripped away the illusion Americans are inordinately independent. Quite to the contrary, by and large they are no different than people in other countries who are all too willing to obey anyone appearing to be in a position of authority.

The obedience experiments stand alongside the Stanford Prison Experiment in demonstrating the behavior of guards, administrators and prisoners is primarily attributable as a response to the situation of being immersed in a prison environment.³² Both experiments also support the idea that "bad" guards or administrators are not at the root of inhumane treatment of prisoners, since if they were to trade places, the behavior of prisoners and guards would not change in any meaningful way.

Perhaps most importantly, the obedience experiments demonstrated that it is only self-delusional posturizing for people in the U.S. to claim a moral superiority to people in other countries, or to claim a higher level of civility. If people in this country were transported back in time to Nazi Germany to exchange places with Germans, history would likely remain unchanged. As Harold J. Laski observed in *The Dangers of Obedience* (1919), "civilization means,

above all else, an unwillingness to inflict unnecessary pain. Within the ambit of that definition, those of us who heedlessly accepts the commands of authority cannot yet claim to be civilized men.” Thus from Laski’s perspective this country cannot legitimately claim to be civilized, since it is dominated by a large majority of people who “heedlessly accept the commands of authority.”

Endnotes:

¹ Alexis de Tocqueville, *Democracy in America* (New York: Penguin Classics, 2003) First published 1835. See also, Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge: Harvard University Press, 1970). (“The curious conformism of Americans, noted by observers ever since Tocqueville, may also be explained in this fashion. Why raise your voice in contradiction and get yourself into trouble as long as you can always remove yourself entirely from any given environment should it become too unpleasant?” *Id.* at 107-108)

² However, people in the U.S. are not unique in that regard. Variants of Milgram’s experiments have been conducted in other countries with obedience levels in some cases higher than those of people in the U.S., and in some cases lower.

³ Stanley Milgram, *Obedience To Authority* (New York: Harper & Row, 1975), 16. This article discusses the first and most well-known of a series of experiments conducted by Prof. Milgram that are cumulatively known as the obedience experiments, all of which are discussed in *Obedience To Authority*. For clarity purposes in this article, the people referred to as the “teacher” are referred to in the OTA as the “subject.” Milgram’s obedience experiment was the subject of a 1970s made-for-TV movie titled, *The Tenth Level*, in which William Shatner played Milgram.

⁴ *Id.* at 55-56.

⁵ *Id.* at 19.

⁶ *Id.* at 22-23.

⁷ *Id.* at 22.

⁸ *Id.* at 21.

⁹ *Id.* at 23.

¹⁰ *Id.* at 23.

¹¹ *Id.* at 23.

¹² *Id.* at 21 (emphasis in original).

¹³ *Id.* at 23.

¹⁴ *Id.* at 57-58.

¹⁵ *Id.* at 8.

¹⁶ *Id.* at 46.

¹⁷ *Id.* at 46.

¹⁸ *Id.* at 47.

¹⁹ *Id.* at pp. 30-31.

²⁰ *Id.* at 57-58.

²¹ *Id.* at 35.

²² *Id.* at 50-52.

²³ Non-scientific evidence that Americans are more obedient today than when Milgram's experiment was first conducted more than 40 years ago, is public reaction to *The Fugitive*, a mid-1960s television series. *The Fugitives* plot was that after being wrongly convicted of murdering his wife and escaping from police custody, Doctor Richard Kimble is shown week after week being helped by strangers all across the country to stay one step ahead of recapture as he feverishly searched for the one-armed man that he saw leaving his house, where he found his wife dead on the floor. After four years on the air, the ratings of *The Fugitives* final episode in which Dr. Kimble finally tracks down his wife's killer remains the third highest rated series episode in TV history. The two that are rated higher are the final episode of *MASH* and the "Who Shot JR" episode of *Dallas*. While *The Fugitives'* theme of Kimble being helped by dozens of strangers over a period of years was believable in the 1960s, it is unrealistic today, and the series remake aired in 2000-2001 was cancelled after only 23 episodes.

²⁴ Thomas Blass, "The Milgram Paradigm After 35 Years," *Obedience To Authority: Current Perspectives on the Milgram Paradigm*, ed. by Thomas Blass (New York: Lawrence Erlbaum, 2000), 47-50.

²⁵ Milgram, *supra* at 133.

²⁶ In a sense this idea is formalized by the contract that prison personnel typically sign in which they agree to shoot a prisoner on command.

²⁷ Stanley Milgram, *Obedience to Authority* (New York: Harper & Row, 1975), is out of print, but used copies are available; *Obedience*, produced and narrated by Stanley Milgram, 45 min., VHS video, available for viewing at many university libraries. Purchase for \$325 from Penn State Media Sales; 118 Wagner Building; University Park, PA 16802; or <http://www.mediasales.psu.edu>

²⁸ See, Milgram, *supra* at 177-178. It is noteworthy that Germans from all walks of life engaged in inhumane actions when ordered to do so. See, e.g., Christopher Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (New York: HarperCollins, New York, 1993).

²⁹ As they did in Germany ruled by the Nazi Party. See generally e.g., *Id.*

³⁰ See e.g., "In Memoriam: Fred Korematsu (1919 -2005)," *Justice:Denied* magazine, Issue 28, Spring 2005, 5. President Roosevelt issued Executive Order 9066 on February 19, 1942. It is now known that the military knew Japanese-Americans posed no threat to national security at the time it lobbied Roosevelt to sign Executive Order 9066.

³¹ Although after World War II a common defense by Germans was to claim ignorance of the atrocities that were committed as a matter of government policy, the reaction of the "common" people who did know, and did nothing, or who actively participated indicates that their reaction would have been the same –

whether they knew for a certainty what was happening, or just heard rumors, or were completely unaware. See e.g., Browning, *supra*.

³² Philip Zimbardo, Craig Haney, and Curtis Banks, "Interpersonal Dynamics in a Simulated Prison," *International Journal of Criminology and Penology* 1 (1973): 69–97.

VI

The Third Wave Experiment

It is difficult to imagine an environment that can be more mentally dysfunctional and physically unhealthy for human beings than imprisonment. They induce a degree of mental psychosis in the people exposed to them and are festering grounds for a multitude of physical diseases. Yet subjecting large numbers of people in the United States and other countries to imprisonment enjoys overwhelming support by the general public. It makes one wonder how it is possible for people in a modern society to willingly accede to, and if necessary, become involved in the systematic mistreatment of designated individuals and groups of people. A key to answering that question lies in a little known psychology experiment conducted in 1967.

After watching a movie of Nazi atrocities, a student asked 26-year-old Palo Alto, California high school history teacher Ron Jones why the German people allowed millions of people to be brutalized under the direction of the German government. Instead of glibly responding, Jones researched the era of when the Nazis controlled the German government. Based on what he learned, Jones decided to conduct an experiment that would enable the students to answer that question for themselves.

The experiment Jones devised revolved around creating a student movement, and he borrowed tactics used by the Nazis to seduce the German people into supporting their political programs. Jones named the experiment the Third Wave.¹

Beginning on a Monday morning, Jones introduced slogans that he had his 30 students chant over and over. They included: "Strength Through Discipline," "Strength Through Community" and "Strength through Action." He also introduced rules such as, students were required to stand by their desk when asking or answering a question, and they had to always begin speaking by saying: "Mr. Jones." He also introduced a Third Wave salute: the right hand raised to the shoulder with fingers curled. In less than an

hour all but three of his students had uncritically, and in many cases enthusiastically adopted the Third Wave doctrine.

Jones also issued official Third Wave membership cards and assigned several students to report “members” who didn’t follow the rules. That proved unnecessary, because half the members voluntarily informed on members that criticized the experiment or broke rules such as not saluting when greeting each other. Third Wave members bonded into a clique that shunned friends and distrusted anyone who didn’t want to join. The editor of the school paper dared to publicly criticize the Third Wave, so she was one of the people viciously treated as an enemy.

By Thursday, four days after the Third Wave experiment began, membership had nearly tripled to 80 students. Third Wave fever swept through the school to the point that even the principal gave the official salute, and other school staff members also supported the



DVD cover of 1981 ABC television program about the Third Wave experiment.

movement. Jones announced the Third Wave was actually a nationwide program bringing together like-minded students willing to work toward political change. He also announced that the next day at noon, a presidential candidate would present the Third Wave program on national television.

By Friday, only five days after the beginning of the experiment, the Third Wave membership had grown by almost 700% to 200 members. At noon they gathered in the school auditorium to watch the unveiling of the national program they were proud members of.

The doors were closed and guarded to keep out all non-members. The students demonstrated

their solidarity by giving Third Wave salutes and shouting “Strength Through Discipline” over and over. Jones then turned on a projector. Scenes of a large Nazi rally led by Adolf Hitler came on the screen showing thousands of people that were only acting different than the students by their salute and the slogan they were chanting.

Jones explained to the packed auditorium there was no Third Wave movement: he made it up to show how easily people in a school, a city, or an entire nation can be induced to support a movement that marginalizes everyone considered an outsider, and whose members condone, if not actively participate in their mistreatment.

In a 1976 magazine article, *Take As Directed*, Ron Jones wrote that the Third Wave demonstrated the willingness of people to “replace reason with rules.”² There is perhaps no place on earth that has more inane and arbitrary rules than a prison – and staff members replace their sense of reason with enforcement of those rules.

Furthermore, the Third Wave demonstrated that people in the U.S. in general, and not just prison staff members, are as susceptible as people under the Nazis to replacing reason with arbitrary rules, to accept that it is OK to treat people in designated groups inhumanely, and then blind themselves to their mistreatment. That is reflected in the way the treatment of prisoners is as invisible to Americans in general as was that of Gypsies, Homosexuals, Communists, Jews and other groups denigrated by the Nazis were to the large majority of Germans. How many people in the U.S., for example, give a moment's thought that a prisoner's dental care can consist of having rotten teeth pulled, medical care for a serious problem can consist of being given two aspirin, that a minor rule infraction can result in months of segregation and/or denial of commissary, telephone use or other privileges, and that educational opportunities end somewhere between attaining the proficiency level of the 8th and 12th grade, and that institution supported vocational and educational programs to prepare a prisoner for economic self-sufficiency after his or her release are rare or non-existent.

Since over 95% of prisoners are released back to the streets, such treatment defies rational justification and involves the suspension of

reason. Prison staff members and everyone else in society that doesn't consider a person to be deserving of treatment as a human being while imprisoned, then interacts with that same person after their release in supermarkets, department stores and restaurants. The same phenomena existed in Germany after WWII, when people associated with persecuted groups once again interacted on a daily basis with the very same people who just a few years earlier would have unhesitatingly killed them by "replacing reason with rules" that instructed them to do so.

Thus, the Third Wave demonstrated Nazis and their supporters were identifiable by attitudes similar to those exhibited daily by people in this country toward prisoners and other disfavored minority groups. So there is a symbolic grain of truth when prison staff members that dehumanize and mistreat prisoners are referred to as Nazis — because they are in spirit, and it is only by a matter of degree that they are different in action.

Although prisoners in the U.S., Canada, England and other countries are not being gassed and shot en masse, that didn't happen to groups ostracized by the Nazis until the early 1940s. Prior to that time their treatment was only different in kind and degree from that of prisoners today in "civilized" Western countries. Given the general attitude that people in the U.S. have toward prisoners, it is legitimate to ask if there would be a widespread outcry if a systematic genocide program was quietly begun, small in scale at first, against prisoners in the U.S. that had been identified as unworthy of living.³ The Third Wave suggests there could be a public silence as deafening as that of Germans (and other Europeans) to the oppression of people linked to groups disfavored by the Nazis.⁴

Endnotes:

¹ *The Wave* is Todd Strasser's 1981 book about the experiment that was the basis for *The Wave*, a one-hour television program broadcast by ABC in 1981. Todd Strasser, *The Wave*, Laurel Leaf, reissue ed. 1981. A video of *The Wave* is available for \$79 from: Films Incorporated, 5547 N. Ravenswood Ave.; Chicago, IL 60640-1199. Todd Strasser's book is out of print, but used copies are available from Internet booksellers.

² Ron Jones, "Take As Directed," *CoEvolution Quarterly*, Spring 1976.

³ It can be argued that capital punishment is a form of such a program.

⁴ Included in this can be the response of U.S. and English officials (including Roosevelt and Churchill) who, in spite of knowing of German atrocities, didn't target rail lines leading to labor and/or death camps. See e.g., John Loftus and Mark Aarons, *The Secret War Against the Jews: How Western Espionage Betrayed The Jewish People* (New York: St. Martin's Griffin, 1997).

VII

The Ones Who Walk Away From Omelas

A review of the short story

The Ones Who Walk Away From Omelas was awarded the short story Hugo Award for 1974.¹ The allegorical story about the mythical city of Omelas is significant because in spite of its brevity, Ursula K. Le Guin succinctly explains the Devils Pact between a society's members and the government that allows the routine mental and physical mistreatment of men, women and juveniles imprisoned in substandard conditions. It is commonly accepted that as long as those people are made to suffer, then everyone else will be protected and society will have a chance to flourish.

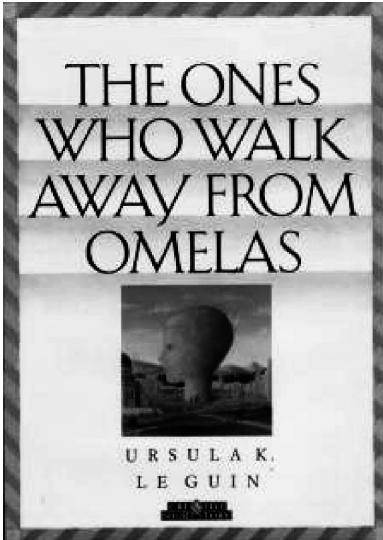
To all appearances Omelas was a happy place of industrious people. It had parades and its residents appreciated the arts. It had a bountiful Farmers Market. Its adults were mature, intelligent and passionate. Its children played carefree. It had a Festival of Summer that celebrated the splendor of Omelas. Among the festivities that attracted visitors from far away were horse races on the spacious Green Field.

The people of Omelas led pleasant lives, and it was such an ideal place to live that it had the air of being “a city in a fairy tale, long ago and far away, once upon a time.”

But Omelas had a secret. Its people believed “their happiness, the beauty of the city, the tenderness of their friendships, the health of their children, the wisdom of their scholars, the skill of their makers, even the abundance of their harvest...,” was dependent on the abominable treatment of a child jailed in a dungeon like chamber underneath one of Omelas public buildings. The people of Omelas believed the imprisoned one's bestial treatment was critical to maintain the ‘prosperity and beauty’ of their society.

However, occasionally a person in Omelas — sometimes after going to see the imprisoned one — suddenly left the city. Something was awakened within those people that didn't allow them to be

complicit in the mistreatment that was believed to be necessary for the betterment of society as a whole. The few compassionate people who rejected that notion and refused to be associated with such an inhumane policy, were “the ones who walk away from Omelas.”



It is unknown if Ms. Le Guin was aware of it when she wrote her fictional story, but it may be the clearest summary ever written explaining why a critical mass of people agree to have a hands-off attitude towards the law enforcement system: they believe what it does is necessary to ensure the safety of themselves, their family, their property, and their community. That is the Devil's Pact: In the name of the common good some people are allowed to be mistreated while imprisoned, in the belief it

ensures the rest of society has a kind of security that makes it possible for their life to be peaceful and enjoyable.

Ms. Le Guin has had a successful five decades long career. However, if it had instead consisted of her only having this one 2,800 word short story published, she would have been worthy of being remembered as an insightful thinker and great storyteller.

Endnote:

¹ Ursula K. Le Guin, “The Ones Who Walk Away From Omelas,” 278-284, *The Wind's Twelve Quarters*, Harper & Row (1975).

VIII

Dehumanization Paves The Path To Mistreatment

It has been known for over two millennia that a name is not just a means of identifying a person, but it powerfully affirms his or her existence as a human being. In *The Sociology of Language*, Joyce Hertzler observed that a person's identity is literally tied to his or her name: "Among both primitives and moderns, an individual has no definition, no validity for himself, without a name. His name is his badge of individuality, the means whereby he identifies himself and enters upon a truly subjective existence. My own name, for example, stands for me, a person. Divesting me of it reduces me to a meaningless, even pathological, nonentity." ¹

The importance of a name is traceable to its most ancient root, *naman* in Sanskrit (which became *nomen* in Latin). *Naman* is definable as, "that by which we know a thing." ² It is believed that the need to name people began "almost simultaneously with the origin of speech ... personality and the rights and obligations connected with it would not exist without the name." ³ In other words, the concept of personal ownership of things — whether they are goods or property or ideas, and the resolution of disputes involving them — presupposes a name to distinguish the person owning them from everyone else.

So in conjunction with trade, human societies evolved so that names are the recognized manner of distinguishing a person from all other persons.

As names assumed a central place in identifying a person, naming conventions were adopted that incorporated a means to distinguish certain people as belonging to a particular social strata. In ancient Rome, e.g., slaves were nameless until bought, and they were then known by their "masters" name with the prefix 'por' ("boy"), indicating their "non-person" slave status. ⁴

Names can also be used to identify a person as belonging to a particular ostracized group. Germany adopted that stratagem in

August 1938 when it was decreed, “Jews may receive only those first names which are listed in the directives of the Ministry of the Interior concerning the use of first names. If Jews should bear first names other than those permitted... they must adopt an additional name. For males, that name shall be Israel, for females Sara.”⁵

Those naming regulations were part of a broad amalgamation of laws and regulations that were intended to reduce Jews from being legally and socially recognized as full persons in Germany society. The closest parallel to that practice in this country, is that in all but a few instances, prisoners are assigned a unique number that becomes their primary identifier within the system incarcerating him or her. The assignment of a number to a prisoner is a representation of that person’s reduced status as a human being in society as a whole. A prisoner’s identification number must also be used by people outside the domain of the imprisonment system who correspond with that prisoner.

The lead character in the 1967-68 television series, *The Prisoner*, was imprisoned in a remote village, designated as Number 6, and subjected to omnipresent electronic and human surveillance. His impassioned response to his situation — “I am not a number. I am a free man! I will not be pushed, filed, indexed, debriefed, or numbered!” — symbolizes the dehumanizing perception that assignment of a number as a replacement for a name can have on both that person, and those who exercise authority over him or her.

A prisoner’s appearance of having a reduced status is significant, because considering a person to be less human, or even non-human, is an important factor contributing to the acceptability of his or her treatment in ways that would otherwise be decried — including the person’s imprisonment itself.

While an appreciable segment of the general public might care what happens to a human being, there is much less likely to be concern for a person characterized as less than fully human. In his book *Faces of the Enemy*, psychologist Sam Keen explained the power of using a label in place of a name to induce a state of mental blindness to the humanity of specific groups or individual people, and apathy about their treatment:

“As a rule, human beings do not kill other human beings. Before we enter into warfare or genocide, we first dehumanize those we mean to “eliminate.” Before the Japanese performed medical experiments on human guinea pigs in World War II, they named them *maruta* — logs of wood.” ... later we were to face the same archetypical degraded enemy, now labeled as “gooks,” “dinks,” “slopes” in Vietnam.”⁶

The same process used by Americans to commit horrific atrocities against people labeled as “gooks,” “dinks,” and “slopes” in Vietnam laid the groundwork for the killing of at least 800,000 Tutsi by the Hutu majority in Rwanda in 1994. That atrocity was made possible by the Tutsi’s dehumanizing public description as “cockroaches” that needed to be exterminated. The systematic mistreatment of Jews in Germany and other countries in the 1930s and 1940s was dependent on their portrayal in the media of the time as “vermin,” “bacilli,” and “demons,” to the point that even normally humane people became indifferent to their mistreatment.⁷

In the United States, ethnically dark-skinned people (slaves and native-Americans (Indians)) were so derided by the founding fathers that their status of being considered less human than Caucasians was embedded in the U.S. Constitution.⁸

Hence language techniques that dehumanizes a person or group is critical to making “civilized” people accept those people’s treatment in ways that would not ordinarily be acceptable.⁹ All too often a by-product of that dehumanization is the infliction of psychological trauma and/or physical violence on the person or group that is the object of the dehumanizing efforts.¹⁰

The speed with which that can occur was vividly displayed during the Stanford Prison Experiment conducted by Stanford Psychology Professor Philip Zimbardo. (see Chapter I). That 1971 experiment was intended to last for two weeks, during which time the interaction of mock prison guards and mock prisoners could be observed in the setting of a realistically designed mock prison known as the Stanford County Prison. Twenty-four young men specifically chosen for their psychological normality were randomly selected to either be

one of the 12 mock guards and prisoners. After being arrested at home by Palo Alto police and transported to the Stanford County Prison, the prisoners were assigned a prisoner number as part of the booking process. Zimbardo and his assistants didn't know what to expect and were surprised when within hours after the experiment began, the mock guards began abusing the mock prisoners who were only referred to by their number. The oppressiveness of the prisoner's situation resulted in the psychological breakdown of five of the twelve mock prisoners — the first after only 36 hours — by the time the experiment was prematurely terminated after only six days. Contributing to the physical and psychological mistreatment of the prisoners was their consideration as lesser human beings — which was symbolized by their identification by their number.

It can be deduced from experience and the Stanford Prison Experiment realistic simulation that a simple method of reducing the likelihood of prisoner mistreatment would be elimination of the practice of assigning a special number that represents the imprisoned person's designation as an inferior human being.

Endnotes:

¹ Joyce Hertzler, *The Sociology of Language* (New York: Random House, 1965), 271.

² Haig A. Bosmajian, *The Language of Oppression* (Lanham, MD: University Press of America, 1983), 3.

³ R.P. Masani, *Folk Culture Reflected in Names* (Bombay: Popular Prakashan, 1966), 6. Cited in Bosmajian, *supra*, at 3.

⁴ Bosmajian, *supra*, at 3 (citation omitted).

⁵ *Id.*, at 5.

⁶ Sam Keen, *Faces of the Enemy: Reflections of the Hostile Imagination* (New York: HarperCollins, 1991), 25-26.

⁷ Richard Grunberger, *A Social History of the Third Reich* (London: Weidenfeld and Nicolson, 1971), 324.

⁸ Constitution of the United States, Art. I, Sec. 2, Clause 3. "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons." Note: The part of this Clause relating to the mode of apportionment of representatives among the several States has been affected by Section 2 of amendment XIV.

⁹ Bosmajian, *supra*, at 121.

¹⁰ *Id.* At 131.

IX

Psychological Dehumanization of Prisoners

Involving prisoners in psychological experimentation raises serious cultural, legal, political, ethical and humane questions. However those concerns have been swept aside by the presumed value of experimentation in determining such things as how under various conditions authorities can influence the behavior and responses of people both imprisoned and in the general population.

One of the fathers of modern mental experimentation on prisoners is Massachusetts Institute of Technology (MIT) psychology professor Dr. Edgar Schein. He became one of the western world's foremost authorities on psychological coercion by studying the methods used by the Communist Chinese and North Koreans on U.S. prisoners during the Korean War. ¹

At a 1962 MIT seminar attended by psychologists and prison wardens from around the country, Schein explained how physical, psychological, and chemical techniques of coercion inflicted on U.S. prisoners of war, could be used on people in U.S. prisons. ² Schein told his audience that they shouldn't be squeamish about using mind control techniques on prisoners in this country that had been perfected by the Russians and Communist Chinese:

“These same techniques in the service of different goals may be quite acceptable to us. ... I would like to have you think of brainwashing not in terms of politics, ethics, and morals, but in terms of the deliberate changing of human behavior and attitudes by a group of men who have relatively complete control over the environment in which the captive population lives.” ³

The centerpiece of Schein's techniques of coercive manipulation is the psychological isolation of prisoners by the fraying or outright destruction of social bonds and their emotional support structure, to mimic the situation that existed with the U.S. prisoners in Korea. This includes fretting relationships between prisoners on the inside,

as well as their family and friends on the outside. The reason he keyed on this as a powerful coercive mechanism, is that to varying degrees we all perceive our existence as human beings from what is reflected back to us by those living beings we come into contact with. Psychologist Nathaniel Branden named this phenomenon the Muttник Principle. ⁴ In the 1960's he realized from his response to his dog Muttnik, that all living beings contribute to our mental health who make us feel real by accurately reflecting our treatment of them back to us. Branden's epiphany resulted from his realization that he felt good about Muttnik's joyful reaction to seeing him, because it was what he would expect from his kind and playful treatment of Muttnik. ⁵

Schein learned from studying the successful techniques of totalitarian regimes, that isolation and other forms of sensory deprivation, psychological disorientation, and pervasive surveillance have a significantly negative effect on the human psyche. Reducing the sensory feedback that Branden identified as vital to a person's well-being can be used as a weapon to induce cracks in a person's mental defense system. Schein believed this predictable human response to sensory alteration could be utilized for purposes of affecting the behavior of men and women in U.S. prisons.

Some of Schein's colleagues went beyond him by identifying the use of powerful psychoactive drugs as a practical way to biochemically isolate prisoners from their normal humanizing influences, without the expense of physically isolating them. ⁶

Beginning in the late 1960s, Schein's ideas on human experimentation were put into action and overseen by federal prison psychiatrist Dr. Martin Groder. He was instrumental in the transfer of "agitators, suspected militants, writ-writers, and other trouble-makers" to prisons far from their immediate relatives in an effort to sever family ties by making visits difficult. ⁷ After being moved, these prisoners were put in isolation and deprived of mail and other sensory stimulations. Every effort was made to weaken their internal defenses and heighten their susceptibility to influences controlled by prison authorities. If a prisoner responded favorably, he was granted privileges. If not, his psychological manipulation continued indefinitely.

University of Michigan psychologist Dr. James McConnell was an enthusiastic supporter of Dr. Groder's work. In an April 1970 *Psychology Today* article titled "Criminals Can Be Brainwashed – Now," McConnell favorably compared the human psyche to that of rats and flatworms.⁸ He even thought people could be manipulated with behavioral techniques he perfected while training flatworms to navigate a maze.

Harvard psychologist B. F. Skinner tried to resolve the ethical concerns that arose from the scientific treatment of the human mind like a pliable blob of Play-Doh in his 1971 book *Beyond Freedom and Dignity*. However, he chose to do so in a book with a title that neatly sums up the totalitarian attitude of those people involved in human psychological experimentation.

Make no mistake about it, the millions of prisoners over many years who have been subjected to various sensory deprivation and isolation techniques are viewed by the scientific community and knowledgeable law enforcement officials as human guinea pigs. They are "lab rats" who only differ in the type of experiments they are subjected to, from the prisoners poked, prodded, and zapped during the radiation and hormone experiments that occurred from the 1940's until the 1970's.⁹

When he was the director of the U. S. Bureau of Prisons, Dr. James Bennett made this crystal clear at the same 1962 conference where Schein made his presentation. He made the observation that the federal prison system presented "a tremendous opportunity to carry on some of the experimenting to which the various panelists have alluded."¹⁰ He wasn't idly talking. In July 1972, prisoners at Marion Federal Penitentiary smuggled out details to U. N. emissaries of psychological experiments that were being conducted on them.¹¹

The use of psychological techniques in prisons was already widespread enough in the early 1970's, that Jessica Mitford wrote about them in an August 1973 *Harper's* magazine article titled, "The Torture Cure: In Some, American Prisons, It Is Already 1984." Among other things, the revelations in that article are credited with contributing to the end of the radiation and hormone experiments

involving Oregon state prisoners.¹² However, Mitford's main thrust was exposing the use of prisoners as "lab rats" testing the effectiveness of sophisticated forms of mental coercion and powerful psychoactive drugs. She also wrote about the results of a laboratory experiment designed to test the effects of isolation on the human mind:

"The exciting potential of sensory deprivation as a behavior modifier was revealed through an experiment in which students were paid \$20 a day to live in tiny, solitary cubicles with nothing to do. The experiment was supposed to last at least six weeks, but none of the students could take it for more than a few days: Many experienced vivid hallucinations. One student in particular insisted that a tiny spaceship had got into the chamber and was buzzing around shooting pellets at him. While they were in this condition, the experimenter fed the students propaganda messages: No matter how poorly it was presented or how illogical it sounded, the propaganda had a marked effect on the students' attitudes — an effect that lasted for at least a year after they came out of the deprivation chambers."¹³

Mitford expanded on her *Harper's* article into the book, *Kind and Usual Punishment: the Prison Business* (1973). In the chapter detailing psychological experiments on prisoners, she quotes a 1970 prophecy Bennett made about prisons in the year 2000: "In my judgment the prison system will increasingly be valued, and used, as a laboratory and workshop of social change."¹⁴

The thinly disguised psychological laboratories known as supermax prisons and other experimental forms of mental manipulation exercised on prisoners are a part of today's reality that Bennett envisioned in 1970.

A number of people have related to this author their experience of being held in solitary confinement. Two of these are representative of how sensory deprivation affects the human mind. One explained that after several days in a windowless, noiseless environment he began hearing birds singing. Another told of how after several

days he began talking to himself — which he had never done before — and more than ten years later he continues to do so, long after his release from prison.

In 1996 the cat was let out of the bag that government authorities are aware of their potential liability for engaging in overt or *de facto* psychological experimentation on prisoners. This was revealed in the Prison Litigation Reform Act (PLRA) enacted in 1996. Its provisions contribute to the legal disenfranchisement of prisoners by effectively limiting their ability to redress wrongs and grievances through the federal court system. One of its provisions specifically prevents prisoners from successfully suing prison officials for “mental or emotional injury suffered while in custody without a prior showing of physical injury.”¹⁵ This provision of the PLRA is almost diabolical in its design because it effectively prohibits lawsuits that would publicly expose conduct that goes far beyond prisoner mistreatment, but is nothing less than the psychological torture of state and federal prisoners.

It is significant that isolation experiments involving prisoners at Dachau were among the vivisection experiments conducted by Nazi doctors.¹⁶ Needless to say, the work of these discredited Nazi doctors is being continued in spirit in U.S. prisons.

Non-consenting prisoners are experimented on in many dehumanizing ways. Yet their systematic mistreatment is openly condoned by political, judicial, and bureaucratic authorities in the United States, who view them in the same way their German counterparts viewed the prisoners at Dachau and Auschwitz. They don't see them as people being harmed — but as dehumanized objects getting no more or less than they deserve.

Note: This is an edited and revised version of an essay published in *Prison Legal News*, April 1999, Vol. 10, No. 4, pp. 1-3, under the title: “The Mental Torture of American Prisoners - Cheaper Than Lab Rats, Part II.” See also, “Part I - Can Prisoner's Glow in the Dark?,” published in *Prison Legal News*, March 1999, Vol. 10, No. 3, pp. 1-4. (About the use of state prisoners in Oregon and Washington for radiation experiments in the 1960s.)

Endnotes:

¹ Edgar H. Schein with Inge Schneier and Curtis H. Barker, *Coercive Persuasion: a Socio-psychological Analysis of the "Brainwashing" of American Civilian Prisoners by the Chinese Communists* (New York: W. W. Norton, 1961).

² Jessica Mitford, "The Torture Cure: In some American prisons, it is already 1984," *Harper's*, August, 1973, 16-30, 18.

³ *Ibid.*, p. 18 (emphasis added).

⁴ Nathaniel Branden, *The Psychology of Self-Esteem: a new concept of man's psychological nature*, (Los Angeles: Nash Publishing, 1969), 184-188. Dr. Branden also refers to this principle as psychological visibility.

⁵ The same principle applies to the reaction of other people and even healthy plants to our attentive treatment.

⁶ Mitford, ("The Torture Cure") *supra* at 18.

⁷ Jessica Mitford, *Kind and Usual Punishment: the Prison Business* (New York: Alfred A Knopf, 1973), 123-125.

⁸ James V. McConnell, "Criminals Can Be Brainwashed – Now," *Psychology Today*, April, 1970, 14-16.

⁹ See, "Part I - Can Prisoner's Glow in the Dark?," *Prison Legal News*, March 1999, Vol. 10, No. 3, 1-4.

¹⁰ Mitford, ("The Torture Cure") *supra* at 18.

¹¹ *Ibid.*, at 18.

¹² Karen Dorn Steele, "Psychologist pays price to stop experiments," *The Spokesman-Review*, Spokane, WA, June 19, 1994, A8.

¹³ Mitford, ("The Torture Cure") *supra* at 25. (emphasis added).

¹⁴ Mitford, (*Kind and Usual Punishment*) *supra* at 130, quoting Bennett's book, *I Chose Prison* (1970).

¹⁵ 42 U.S.C. §1997e(e) Limitation On Recovery.

¹⁶ Elihu Rosenblatt, editor, *Criminal Injustice: Confronting the Prison Crisis* (Boston: South End Press, 1996), 325. Vivisection is the scientific ritual of experimenting on animals in ways that are known to be painful to them. When human beings are involved, an important part of this ritual is redefining them as a form of non-human animal so they can be mistreated with a clear conscience. For example, the Nazis referred to Jews as lice and rats, because ruthlessly rooting out and exterminating disease carrying vermin is considered to benefit society as a whole. (See: Frederique Apffel Marglin and Stephen A. Marglin, editors, *Dominating Knowledge* (Oxford: Clarendon Press, 1990), 163-169.) Similarly, the law enforcement process in the U.S. is a ritualistic procedure that among other things serves the function of redefining someone convicted of a crime as something less than a whole human being. Once officially dehumanized with the label of being a criminal, for all practical purposes a person is "legally" permitted to be treated with conscienceless disregard.

X

Bureaucracies Fuel Dehumanization

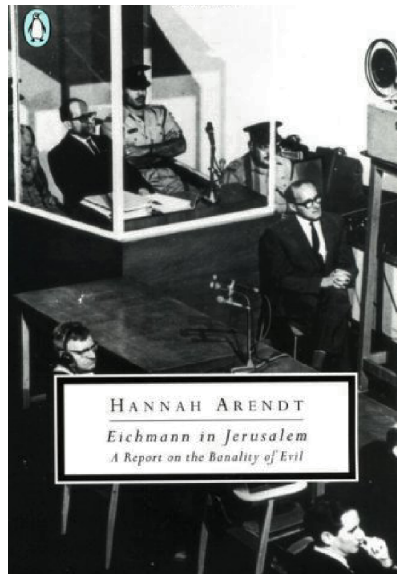
Bureaucracies and the people who staff them are the dominant means by which governments control and influence the daily lives of people throughout the world. That is because bureaucratic systems are the means by which politically articulated agendas are transformed into reality. ¹

The human devastation wreaked by past and present political regimes has not been inflicted personally by leaders such as Joseph Stalin, Mao Tse-tung, Idi Amin, Adolf Hitler, George W. Bush, and Tony Blair, but by rank-and-file members of bureaucracies or people acting with their approval. Whoever they may be or whatever position they may hold, political leaders merely issue directives or establish general policies. Those policies and directives are executed by bureaucrats, and to some extent acquiesced to by the general public.

Yet as important as it is, the central role of government bureaucracies in ensuring the success of political policies is often overlooked.

The exercise of latent bureaucratic power is a theme of Hannah Arendt's *Eichmann in Jerusalem*. Arendt uses the backdrop of Adolf Eichmann's 1961 trial in Israel to explore how bureaucratic systems facilitate unconscionably inhumane behavior by the apparently "normal" people typically associated with them.

Although Eichmann was a midlevel German SS bureaucrat helping coordinate transportation of troops, munitions, food and people, his Israeli prosecutors and the world press portrayed him as Satan for his role in the Nazi



regime. This media image, however, conflicted with Eichmann's single most distinguishing characteristic: he was an ordinary man who didn't exhibit any disturbing personal traits.² During the fifteen years between the end of World War II and his kidnapping in Argentina by Israeli agents, Eichmann lived a simple and quiet life with his loving family, going to work every day as people do throughout the world. His normality was unanimously confirmed by the half-dozen psychiatrists who studied him in prison during the year he awaited his trial, and by the minister who regularly visited him.³ Arendt subtitled her book *A Report on the Banality of Evil* precisely because Eichmann was psychologically indistinguishable from people from all walks of life throughout the world.

With the growth of governmental influences throughout the world, inhumane behavior by the evidently normal members of a bureaucracy is more in need of understanding today than it was at the time of Nazi rule in Germany. In *Modernity and the Holocaust*, sociologist Zygmunt Bauman explores the inherent capability of bureaucracies to function as powerful instruments of destruction and control. He shows how modern methods of mass organization and production are applied to the bureaucratic control and processing of human beings as effectively as they are used in making and distributing automobile parts and office supplies.⁴

Three elements interconnect to enable a bureaucracy to function as a destructive entity whose powers can be directed at any person or group that attracts its attention: *normal people* acting within the framework of a *bureaucratic system* with access to *modern techniques* of action and control.

Those three elements are reflected in eleven factors that contribute to the phenomenon of bureaucratic inhumanity:

- A majority of people have a near mindless obedience to authority.
- Sadistic behavior is enhanced by bureaucratic structures.
- Bureaucracies reinforce behaviorist attitudes.
- Bureaucracies substitute procedural compliance for creativity.

- Bureaucracies categorize people based on their level of conformity.
- The end justifies the means used to achieve bureaucratic objectives.
- People expect personal benefits from being associated with a bureaucracy.
- Bureaucrats are protected from outside accountability.
- A mob mentality permeates bureaucracies
- Wrongdoing by bureaucrats are hidden and whistle-blowers are silenced.
- Bureaucracies focus on maintaining and expanding their budget.
- The worst members of a bureaucracy rise to lead it.

To assist in understanding this important and menacing aspect of modern life, each of these factors will be briefly elaborated on.

Mindless Obedience to Authority

Most people exhibit a nearly mindless obedience to authority. Stanley Milgram's experiments at Yale University in the 1960s revealed that two-thirds of a representative sampling of Americans would inflict life-threatening high-voltage electric shock as punishment to someone they knew was innocent of any criminal wrongdoing, even when that person was screaming and begging for mercy.⁵ The other one-third of the people inflicted a significant voltage (a minimum of 300 volts) before declining to administer more shocks. Thus 100% of the "normal" Americans involved in Milgram's experiment willingly inflicted pain on a person they knew was innocent, upon the direction to do so by someone whose authority was established by nothing more than his wearing the white coat of a laboratory technician and speaking in a firm voice.⁶

People exhibiting obedient characteristics have been called "sleepers," because they can slip into and out of a state of moral blindness on command.⁷ Apart from innumerable historical examples, the stories in a major newspaper on any given day provide support for the observation that bureaucracies are predominantly if

not exclusively composed of persons who belong to the large pool of morally ambiguous and obedient “sleepers” identified by Milgram’s experiments. Furthermore, this phenomenon is not restricted by language, geography, political system, or era. It exists as much in the United States and other countries today as it did in Germany under the National Socialists, the Soviet Union under Stalin, and China under Mao Tse-tung.

Sadistic Behavior

Bureaucratic structures increase sadistic behavior by permitting and even encouraging it.⁸ This effect is produced by the systematic lessening of the moral restraints inherent in personal agency. Stanford Psychology Professor Philip Zimbardo’s “Stanford County Prison” experiment in the early 1970s confirmed this relationship in dramatic fashion. (See Chapter One)⁹ The experiment revealed that the sadism of people obedient to authority can be tapped into and given an expressive outlet by their association with a bureaucratic organization. Thus merely placing people in an environment in which they can freely exercise their sadistic impulses can have a liberating effect on their doing so.¹⁰ Society’s taboos against such behavior are lessened, and completely removed in cases such as police acting with extreme or deadly force in situations that would result in a normal citizen’s criminal prosecution.

Zimbardo conducted the experiment by setting up a realistically designed mock jail in the basement of a building and using participants from the general public who had been screened and selected for their normality. Those chosen to participate were randomly assigned the role of a guard or an inmate. To Zimbardo and his fellow researchers’ surprise, the guards began to behave sadistically toward the inmates within hours after the experiment began. In writing about this experiment, Bauman noted a “sudden transmogrification of likable and decent American boys into near monsters of the kind allegedly to be found only in places like Auschwitz or Treblinka”.¹¹ What began as a make-believe experiment soon degenerated into an all too real microcosm of the interpersonal dynamics of real jails and prisons.

The universality of Zimbardo's finding is confirmed by the fact that the overwhelming majority of the heinous acts committed in Europe during the Nazi era were not perpetrated by fanatics or deranged people. To the contrary, those acts were performed by ordinary Germans, French, Poles, Czechs, and others who considered themselves to be legally authorized to act in ways that were retrospectively viewed as inhumane.

The reaction of the inmates to their treatment at the hands of the guards forced termination of the Stanford Prison Experiment after just six days. The guards had become so psychologically immersed in their role of lording over the inmates that their sadistic behavior induced five of the inmates to suffer "acute emotional breakdowns"¹² Although never repeated in an academic setting in the United States, Zimbardo's experiment is repeated every day in real jails and prisons across the country.

Reinforcement of Behaviorist Attitudes

Bureaucracies reinforce behaviorist attitudes at odds with the idea that people are autonomous beings. Behaviorism promotes the idea that people can be conditioned to respond robotically in a predictable manner to a specific stimulus. Hence, behaviorism provides a justification for the inhumane way in which bureaucrats view and deal with people. The inflexible rules, regulations, and mandates *ad nauseam* of a bureaucracy are enforced in ways that conform to the proposition that people are as behaviorally pliable as rats and pigeons. In other words, the rejection of human autonomy and the role of consciousness in human behavior is ingrained in bureaucratic systems and in the thinking of those who administer their rules and regulations. One of the foremost proponents of behaviorism, Harvard professor B. F. Skinner, implicitly acknowledged this relationship in the title of his 1971 book *Beyond Freedom and Dignity*.

First explicitly embraced by the Soviet bureaucracy that funded Ivan Pavlov's research, behaviorist techniques of manipulating large populations by selectively extending a reward or inflicting punishment have been perfected during the past eighty years.¹³

Those techniques have been adopted in principle by all Western countries to the extent that behaviorism — and the hidden but very real threat of *constructive force* underlying it — dominates all interactions between members of a bureaucracy and the public. Constructive force operates on the mind and is intended to produce the same physical result and have the same effect on the affected persons as actual force applied to their bodies. When prevailing conditions suggest the potential use of physical force to gain compliance with a verbal, written, or physically or psychologically implied request or demand by a governmental entity or representative, a state of constructive force exists.

Conformity with Procedures Substituted For Creativity

Bureaucracies substitute conformity with technical procedures for the unpredictability of human idiosyncrasies, craftsmanship and ingenuity. Henry Ford perfected the first modern factory assembly line in 1913. It was soon reflected in the assembly-line methods adopted by bureaucracies to induce politically approved human behavior. So it isn't surprising that the enforcement of bureaucratic techniques of behavior control is carried out by people willing to adjust their own conduct to the requirements of political mandates and arbitrary technical specifications.

Consequently, bureaucrats can be described as carrying out their duties “in a machine-like fashion”¹⁴ Conversely, the people who require the most intensive corrective bureaucratic attention are individualistic, free-spirited and courageous men, women and juveniles who resistant outside pressures to conform themselves to fit a politically approved mold. In the domain of a government bureaucracy, individual uniqueness is trivialized and considered subservient to the depersonalization and anonymity of the systems and procedures of the agency.

The modern world's reduction of people to the status of things by their classification as a conglomeration of their visible and presumed characteristics was first identified in Germany. This condition was called *Karteimensch*, which loosely means someone

living a punch-card existence.¹⁵ Concretely expressed in the United States by the passage of the Social Security Act in 1935, this attitude has grown to the point that the survival of vast government bureaucracies depends on the widespread categorization and treatment of human beings as numbers.¹⁶

Categorization of People by Their Degree of Conformity

A bureaucracy typically categorizes people outside of it based on how much they conform to its standards. The more nonconforming or deviant a person or group is considered to be from bureaucratic norms, the higher the probability that person or group will be subject to dehumanization by a process known as *distancing* — a technique of mentally separating selected people from the rest of society that can include their physical removal.¹⁷ Those people are demonized and turned into “strangers” even though they may pose no threat to the public. Furthermore, mentally separating selected persons or groups by distancing often serves as a public relations precursor to their eventual physical separation. When practiced on a large scale, distancing can degenerate into a form of “witch hunt” that can vary in intensity from ostracism to genocide.

One consequence of the distancing process is that it enables people who ordinarily appear to be decent to act barbarically toward the people that have been dehumanized.

A well-known example of distancing is the dehumanization of Jews during the 1930s by Nazi propaganda that portrayed them as the human incarnation of rats and lice.¹⁸ This action was taken to justify a legal differentiation between Jews and the approved people in German society. The special legal status of Jews made their mistreatment by bureaucrats an activity that the patriotic general public could support.

Similarly, Americans who contributed to the dropping of atomic bombs on Hiroshima and Nagasaki did not support the extermination of hundreds of thousands of women, children and old people, but a dehumanized and faceless “Jap” enemy.

Distancing is actively employed in the United States. The most vivid example is the use of criminal prosecutions as a ritualistic procedure to mentally and physically distance men, women, and juveniles labeled as criminals from the rest of society. Distancing people through the criminalization process also serves the function of justifying the exercise of bureaucratic power as a “necessary evil” in order to assuage people’s fears and insecurities about groups and individuals politically assigned the role of being a domestic enemy, namely a criminal.¹⁹

The End Justifies the Means

Obedience to the mission of a bureaucracy is given precedence by those within it, over and above the means used to accomplish it. This principle is true whether the mission is issuing drivers licenses to people, imprisoning them, or herding them into cattle cars to be transported to a centralized killing ground. The end of a mission is held sacred by those within a bureaucracy. The means employed are important only to the degree that they assist in accomplishing the objective. Although the idea that the end justifies the means is the very antithesis of morality, it is institutionalized as a guiding principle of bureaucratic systems, and it is one of their central features .

This is to be expected considering that bureaucracies reflect the image of the political institutions empowering them to act. As outlined in books such as Ben-Ami Scharfstein’s *Amoral Politics*, thousands of years of experience support the idea that political institutions are fundamentally amoral.

This amorality appeared in the Nazis claim after World War II that they couldn’t be held personally responsible for their actions because they had a legal duty to achieve their politically empowered bureaucratic missions regardless of the methods they used to do so. At the Nuremberg trials, Nazis offered the following three primary defenses to justify their preoccupation with achieving the end of a bureaucratic mission to the exclusion of a concern with the means employed: *I was following orders*; *I was obeying the law*; and *I did not*

know the consequences of my actions. Jacques Ellul observed in *The Political Illusion* that those defenses are based on anonymity and secrecy:

The [bureaucratic] decisions taken are anonymous. This was clearly revealed in connection with the great Nazi war crime trial after the war. Nobody had ever made a decision. This happened again in the Eichmann trial. We must not say: “This is a lawyer’s argument, a lie.” On the contrary, it was the exact image of all that takes place in the modern state. All a chief [such as Hitler or Bush] can do is to give a general directive, ordinarily not incorporating concrete decisions, and therefore not entailing true responsibility for the concrete acts emerging at the other end.²⁰

American judges and prosecutors involved in the trials at Nuremberg in the late 1940s summarily rejected the Nazi defense that a political end justifies the bureaucratic means used to achieve it.²¹ However, in an ironic twist of fate, not just military personnel, but prosecutors, judges and police in the United States now wholeheartedly endorse the Nazi defense.²² These are the very people who direct the awesome power of the law-enforcement bureaucracy and who domestically are most in need of being held legally accountable for their misbehavior.

Given the human devastation and the demands for justice that the routine exercise of their power can cause, it is hardly surprising that bureaucrats everywhere tenaciously cling to the discredited Nazi defense that the end justifies the means. We hear the Nazi’s attitude of non-accountability expressed every time a bureaucrat defends an action by uttering the chilling phrase, “I am only doing my job.”

Personal Benefit

People expect to benefit personally from their association with a bureaucracy. Consequently, public proclamations by bureaucrats that they are dedicated to serving the interests of the public are little more than thinly veiled public relations ploys. People who have dealt with

government agencies for any length of time are acutely aware of this reality: So-called civil servants are typically neither civil toward nor servants of the public.

Instead of serving the mythical entity known as “the people,” bureaucrats are *de facto* mercenaries serving their own financial and professional interests. Preserving their position typically takes precedence over considerations of the impact their actions may have on people affected by them. This self-service has marked even the most extreme cases of bureaucratic loyalty we know of, such as those provided by the Nazis.

Dr. Josef Mengele committed so many heinous acts during his tenure as the chief physician at Auschwitz that he became known as “the Angel of Death.” In spite of his moniker, Mengele was regarded by friends, family and colleagues as a thoughtful and considerate man. Rather than acting out of mean-spiritedness, Mengele engaged in diabolical medical experiments on non-consenting victims because of his desire to advance his career in the Nazi bureaucracy. A doctor who worked with Mengele at Auschwitz was quoted as saying, “He was ambitious up to the point of being completely inhuman. He was mad about genetic engineering. . . . Above all, I believe that he was doing this . . . for his career. In the end I believed that he would have killed his own mother if it would have helped him.”²³

Adolf Eichmann exhibited the same detachment from the human consequences of his actions as Mengele. After attending Eichmann’s trial, Hannah Arendt wrote, “Except for an extraordinary diligence in looking out for his personal advancement, he had no motives at all.”²⁴

The amoral blindness exemplified by devoted and conscientious public servants such as Mengele and Eichmann is not unusual among people involved with a bureaucracy. Their desire is to benefit personally from being associated with a bureaucracy regardless of its inhumane policies or their role in implementing them. Thus, it is not unusual for bureaucrats to act as if their personal self-interest is intertwined with the exercise of raw power by the bureaucracy they are a part of.

Absence of Outside Accountability

Bureaucrats are protected by a nearly complete absence of outside accountability. They can do almost anything under the color of acting as a government employee without fear of legal consequences or personal financial accountability to anyone they harm. This risk-free status is expressed by the legal doctrines of qualified and absolute immunity that in all but rare exceptions serve to shield bureaucrats from civil liability for their personally injurious and harmful actions, and they are likewise normally protected from criminal responsibility.

U.S. District Court Judge Edward Lodge affirmed an aspect of the doctrines protecting bureaucrats from accountability when in May 1998 he dismissed criminal charges by the state of Idaho against FBI agent Lon Horiuchi.²⁵ Horiuchi had been charged with involuntary manslaughter for shooting an unarmed woman, Vicki Weaver, in the head while she was holding her infant daughter in her arms during the federal siege near Ruby Ridge, Idaho, in 1992.²⁶ Judge Lodge ruled that the Supremacy Clause of the U.S. Constitution bars federal agents from criminal prosecution by a state for violating a state law while performing their assigned governmental duties.²⁷ After three years of legal proceedings, the charges were dropped against Horiuchi — so he experienced no civil or criminal liability related to his role in Vicki Weaver's death.²⁸

The rarity of the prosecution of a local, state or federal law enforcement officer for killing civilians means that except in the most extreme cases they are *de facto* protected from criminal liability, while they are shielded from civil liability claims by qualified immunity.

The legal protections bureaucrats enjoy from outside accountability place them in a privileged position similar to the one formerly occupied by aristocrats. A defining characteristic of the largely self-contained aristocratic world was that its members were shielded from the enforcement of laws applying to the rabble of the general public. Thus, bureaucrats can be described as constituting a “new aristocracy.”

Mob Mentality

A bureaucratic environment encourages the development of a “mob mentality” in the people aligned with it. This attitude exists to the degree people within a bureaucracy see themselves as separate from people or groups outside of it considered to have different interests. Although they are normally exercised out of public view, episodes of mob-like behavior by bureaucrats are occasionally recorded.²⁹ When they are, it isn’t unusual for them to be defended by other bureaucrats in a display of inter-bureaucratic support.

The development of a “mob mentality” is a form of “groupthink” that displaces personal and critical thought with a bureaucracies short or long-term goals.³⁰ Even those people within a bureaucracy who are hesitant to accept its goals are induced by subtle psychological pressures to conform with them. Those who won’t do so are weeded out, because unreflective obedience is what enables the many members of a bureaucracy to function as the mindless units of a mob.

A bureaucracy couldn’t exist as a functioning entity without a carefully cultivated attitude of solidarity among its members. This “us” versus “them” attitude is pronounced in deeply entrenched and insulated bureaucracies. Law enforcement bureaucracies are perhaps the best example of this, because the men and women who comprise them are notorious for their cliquish behavior.

The mobish attitude prevalent in bureaucracies is also a major reason why whistleblowers are so rare, even though they are typically disclosing information known to many people in the bureaucracy they are a part of. Insiders who rock the boat are harshly treated for committing the offense of opening the veil of bureaucratic secrecy that normally conceals its activities from the rest of society. As a consequence of their public disclosures about the inner sanctum of their bureaucracy, they are treated as an “outsider” who must be exorcised.

Bureaucratic Secrecy and Suppression of Whistleblowers

A de facto code of silence contributes to hiding the illegal and amoral actions committed by members of a bureaucracy. Any sort of crisis that threatens the bureaucracy or its members triggers a closing

of ranks to protect it from outside scrutiny, interference, and legal oversight. A prominent example is that for six years the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Department of Justice jointly concealed from the public important facts related to possible wrongdoing by those agencies and their agents during the siege and destruction of the Branch Davidian Compound in Waco, Texas, in 1993.³¹ The code of silence protects bureaucratic wrongdoers from the lowest city and county level to the highest national level.

The veil of bureaucratic secrecy protecting the vile actions of its members from public exposure and scrutiny is pierced only occasionally by a courageous whistle-blower. Frank Serpico was one such whistleblower when he publicly testified in the late 1960s about widespread graft and corruption in the New York City Police Department. He was rewarded for his honesty by being shot in the face after he testified.³² Another insidious form of retaliation used to silence whistleblowers of internal government corruption or wrongdoing is their superiors' recommendation that they be psychiatrically evaluated.³³ Some potential whistleblowers may be pressured to remain silent by the threat of being sued or having to pay the opposing party's legal fees if they institute an unsuccessful suit against a bureaucracy. Whistleblowers are also silenced when they die under mysterious circumstances, such as those surrounding the death of former CIA director William Colby in 1996. Still other whistleblowers are punished by being forced to retire or by being transferred, demoted, or fired.³⁴

After going along with the strait-jacket of conformity imposed by a bureaucracy, a whistleblower has an "ah ha" moment that doing what they personally believe is right is more important than adhering to the bureaucrat's survival strategy to lay low and 'cover your ass.'

Given the risk to the careers, the pocketbooks, and possibly even the personal safety of whistleblowers, it is not surprising that revelations of wrongdoing within a bureaucracy are so rare that special laws have been enacted to create the impression that they are protected from retaliation. In practice, such laws do little more than enable surviving whistleblowers to possibly obtain a cash settlement after they are forced to retire.³⁵

Bureaucracies Focus on Maintaining and Expanding Their Budget

The lifeblood of a bureaucracy is its budget. Anything that contributes to solidifying or increasing a bureaucracy's budget is advantageous to its survival. Thus, all other considerations are subservient to maintaining, or preferably, increasing the money it receives to fund its operation.

Although government agencies, and privately held and public corporations are generally thought of as a single organization, internally they are comprised of a bureaucratic skeletal structure that carries out the organizations functions. Depending on the bureaucracy's size, it may be subdivided into multiple departments and/or agencies that vie for a consistent or increasing share of the organization's entire budget.

The focus on budgeting is shared by those employed by a bureaucracy, since it assures long-term employment and advancement opportunities for its staff members. From department heads to the lowliest clerks, the security of a person's position and the prospect for resume building and career advancement within (and outside) the bureaucracy is dependent on a stable or growing budget. That concern is also shared by persons working within the bureaucracy of another organization that has been contracted with to provide goods and/or services.

So the bureaucracy as an entity, the people who comprise it, and its outside contractors, all share the common interest of ensuring continuity or expansion of the organization's budget.

Consequently, a bureaucracy's activities, that to people outside of it appear to be its reason for existing, are only important to it insofar as they aid in expending or expanding its budget. The idea of national security, for example, may be important to the person in the street, but the bureaucracies entrusted to provide it are much more pragmatic. To them national security is important as a concept to the degree that it aids in ensuring the stability or growth of their budget. This end justifies the means attitude is prevalent among bureaucracies, whether a tax supported government bureaucracy, a

donation and grant-supported non-profit charitable bureaucracy, or a customer supported for-profit private bureaucracy.

A key aspect of a bureaucracy's budget requests for an upcoming period of time (that typically is annual or biennium) is to ensure that all of its current budget is spent or allocated for spending, and presented in such a way as to justify a request for additional money to cover expected or prospective spending increases. The appearance that there is a need to solve current or expected problems or resolve present or anticipated issues can assist in this process. For example, a known or suspected automobile design defect, or the perceived need to compete with a competitor's new model can result in a budget increase for a car manufacturer's design and/or engineering bureaucracy (department).

Although it may seem counterintuitive, exposure of a bureaucracy's failure to perform an expected or required function is an effective budget-boosting technique. A city's police bureaucracy (department), for example, can be criticized by the local newspaper for failing to prevent an increase in residential burglaries. Their response could be that a budget increase is needed for additional police and equipment to more effectively patrol neighborhoods. Likewise, news reports or investigative articles or lawsuits that a jail or prison bureaucracy is not providing adequate health care can be explained as resulting from an inadequate budget for medicine, hospitalization services and staff medical personnel. Thus an increase in its medical services budget is necessary.

The scenario of using a bureaucracy's apparent failure in performance as a tactic to increase or at least maintain its budget plays itself out regularly. It is a variation of the concept of "failing upwards."³⁶ It also emphasizes that there is a mutually beneficial symbiotic relationship between a bureaucracy, and organizations and individuals that benefit from being critical of its performance inadequacies and/or suspect activities.³⁷ The greater the degree of a bureaucracy's inhumanity, the more fodder its critics have to use for their own benefit.³⁸ Thus, while a bureaucracy may publicly express alarm about exposure of problems related to its activities or defend the adequacy of its performance, as long as the criticism doesn't impede the flow of

money into the organization it may be considered a nuisance or public embarrassment, but it is not a threat to its stability. Such problems or attacks can actually help strengthen the bureaucracy's financial base by providing justification for additional resources to achieve its institutional goals. Conversely, the bureaucracy's problems can be exploited by its critics to strengthen their financial base by providing justification to encourage support of their activities. Thus, behind the scenes of public antagonism between a bureaucracy and its critics, there exists a very real co-dependent relationship.

Although a bureaucracy is not particular about the source of its funding, it can affect the tactics that are used to justify its budget. A public bureaucracy's employees, for example, can support a political candidate who has endorsed a tax increase as the means of funding pay and/or benefit increases. A political candidate doesn't, however, have to support specific tax increases to be supported by a bureaucracy, as long as he or she supports an overall increase in its budget. An example is that in spite of public approval ratings similar to those of Richard Nixon when he resigned the Presidency, George Bush's popularity with the federal bureaucracy remained stable because of large increases in the budgets of many federal agencies during his time in office.³⁹ The lack of concern with where or how a bureaucracy's money is procured underscores the fundamentally amoral character of bureaucracies that is a hallmark of their inhumanity.

The Worst Get on Top

The most amorally flexible people involved in a bureaucracy tend to rise to the top and become its leaders. Some of the reasons for this phenomenon were explored in Noble Prize winner F. A. Hayek's essay, *Why the Worst Get on Top*.⁴⁰ Bureaucracies are perfectly suited to helping the unprincipled attain positions of influence and power because a lack of scruples gives them an advantage in advancing their careers. In this sense, bureaucracies are among the most perfect forms of kakistocracy known to man.

Government bureaucracies are agencies of political power, and the accomplishment of their missions typically depends on the unreflective

wielding of the power made available to their administrators. Hence, a ruthless willingness to wield an agency's power is an occupational requirement for someone to rise to the upper echelons. As Frank H. Knight stated, "the probability of the people in power being individuals who would dislike the possession and exercise of power is on a level with the probability that an extremely tender-hearted person would get the job of whipping-master in a slave plantation."⁴¹

The attraction of power-hungry people to positions of authority in a bureaucracy can have tragic consequences for everyone affected. To some degree, everyone in society is affected when the power-oriented people who influence and control the performance of bureaucracies express their darkest and most inhumane prejudices.⁴² For example, more than one in ten members of Congress as well as many federal judges are former state or federal attorneys. The power of compulsion and punishment available to a U.S. attorney and their brethren in the state courts attracts zealous people to seek those bureaucratic positions of minimal accountability. Positions in state legislatures and state courts are also filled with former local, county, and state attorneys, who infect all of the positions they fill, whether legislative or judicial, with their societally corrosive attitudes and prejudices.

Conclusion

The most terrifying and predictive aspect of novels such as *Brave New World*, *We*, *Nineteen Eighty-Four*, *The Trial*, and *The Rise of the Meritocracy* may be their portrayal of the general sense of helplessness people have against a bureaucracy's invasion into their life.⁴³ These invasions are made possible by people who, like Pavlov's trained dogs, obey politically authorized regulations, laws, and orders in near robotic fashion. They are among the large majority identified in Milgram's experiments as valuing conformity and obedience to authority more than the possible discomfort of a pang of conscience. Consequently, people correctly sense that they have little or no effective defense against all-encompassing and intertwining government bureaucracies, particularly when their power is augmented by public support.

With the continuing projection of the government's bureaucratic tentacles into ever more aspects of public and private life, it is almost redundant to observe that we now live in the "iron cage" of bureaucratic dictatorship against which sociologist Max Weber warned nearly a hundred years ago.⁴⁴ This is a menacing situation for people who are either not considered a member of a bureaucracy or in the privileged position of being protected against their predations by reputation, money, or political position. Since those bureaucracies lack the animating life force of a human conscience, they are the institutional equivalent of a psychopathic individual,⁴⁵ and they contribute to what sociologist Ashley Montagu has called this century's "dehumanization syndrome."⁴⁶

This situation is worsened by the fact that inhumane bureaucratic programs are not aberrations.⁴⁷ Quite to the contrary, well-planned and well-coordinated atrocities have been carried out by bureaucracies in many countries, including the United States, for over 100 years.⁴⁸ The first step to counteracting such bureaucratic programs is acknowledging they exist, that they are carried out by politically empowered bureaucracies, and that both the programs and the agencies carrying them out are inconsistent with what should be acceptable by any society professing to be civilized.

Endnotes:

* This is an edited and revised version of an article previously published as, "The Inhumanity of Government Bureaucracies," Hans Sherrer, *The Independent Review*, Volume 5 Number 2, Fall 2000, 249–264.

¹ The scope of those bureaucratic systems is indicated by the 22.728 million persons employed in March 2004 by federal, state, and local governments in the United States. (Federal, State and Local Government Employment and Payroll, March 2004, U.S. Census Bureau, <http://www.census.gov/govs/www/apesstl04rel.html> (last visited October 30, 2005)) That is nearly 11% of the U.S. adult population (July 2004), and 15% of the working population (September 2004). However, that figure *does not include* the many millions of people working for "private" companies — such as defense contractors — in a contractual relationship with a government bureaucracy.

² George M. Kren and Leon Rappoport, *The Holocaust and the Crisis of Human Behavior* (New York: Holmes and Meier, 1994), 70; Bruno Bettelheim, "Eichmann; the System; the Victims," *New Republic*, June 15, 1963, 23–33, at 23.

³ *Id.* at 23.

⁴ Bauman, Zygmunt. 1989. *Modernity and the Holocaust*. Ithaca: Cornell University Press, 13–18, 104–6; see also Feingold, Henry L. 1983. How Unique Is the Holocaust? In *Genocide: Critical Issues of the Holocaust*, edited by Alex Grobman and Daniel Landes, 397–401. Los Angeles: Simon Wiesenthal Center, at 399–400.

⁵ Stanley Milgram, *Obedience to Authority* (New York: Harper and Row, 1975). See also, Herbert C. Kelman and L. H. Lawrence, “Assignment of Responsibility in the Case of Lt. Calley: Preliminary Report on a National Survey,” *Journal of Social Issues* 28 (1) (1972): 177–212.

⁶ Milgram’s experiment has been replicated numerous times in this and other countries. The results have over-all been consistent with his original findings.

⁷ Bauman 1989, 167.

⁸ One of Bauman’s themes in *Modernity and the Holocaust* is the Holocaust was a product of the liberating effect a bureaucratic structure can have on inhibitions against cruel behavior (1989, 12–18). Herbert Kelman has explored areas of this theme and refers to the “processes of authorization, routinization, and dehumanization of the victim” (52) as contributing to the amoral behavior of persons acting within an authoritarian environment. Herbert C. Kelman, “Violence without Moral Restraints: Reflections on the Dehumanization of Victims and Victimiziers,” *Journal of Social Issues* 29 (4) (1973): 25–61, esp. 38–52.

⁹ Philip Zimbardo, Craig Haney, and Curtis Banks, “Interpersonal Dynamics in a Simulated Prison,” *International Journal of Criminology and Penology* 1 (1973): 69–97.

¹⁰ One hundred percent (100%) of the “everyday” people tested in Milgram’s obedience experiments obeyed to the point of administering what they believed was a minimum of 300 volts to a person they knew had done nothing criminal. In Zimbardo’s experiment 100% of the prison’s mock guards participated in the dehumanizing treatment of the mock prisoners they knew had committed no criminal wrongdoing, and 100% of the staff members allowed them to do so until an outside observer convinced Zimbardo to stop the experiment.

¹¹ Bauman 1989, 167.

¹² Zimbardo, Haney, and Banks 1973, 89, 95.

¹³ Arthur Koestler, *The Ghost in the Machine* (New York: Macmillan, 1968), at 3–18.

¹⁴ Bruno Bettelheim, *The Informed Heart: Autonomy in a Mass Age* (Glencoe, Ill.: Free Press, 1960), at 45.

¹⁵ *Id.* at 54.

¹⁶ The voluminous record keeping associated with the assignment of federal identifying numbers mandated by Social Security was one of the impetuses underlying the federal government’s support for the development of the electronic computer. See, Hans Sherrer, “How Computers Are A Menace To Liberty,” In *National Identification Systems: Essays in Opposition*, ed. Carl Watner and Wendy McElroy (Jefferson NC: McFarland 2004). See also, Charlotte Twilight, “Watching You: Systematic Federal Surveillance of Ordinary Americans,” *The Independent*

Review Vol. 4 No. 2, Fall 1999: 165–200, esp. 169–76.

¹⁷ Bauman 1989, 102–4.

¹⁸ Haig Bosmajian, *The Language of Oppression* (Washington, D.C.: Public Affairs, 1974).

¹⁹ Ernest Becker, *Escape from Evil* (New York: Free Press, 1975), 96–127.

²⁰ Jacques Ellul, trans. *The Political Illusion*, (New York: Knopf, 1967), 147.

²¹ Whitney R. Harris, *Tyranny on Trial: The Evidence At Nuremberg* (Dallas: Southern Methodist University Press, 1954).

²² See e.g., *Imbler v. Pachtman*, 424 US 409 (1976), which held that prosecutors have legal immunity from civil liability for actions performed in the course of their official duties. For a prosecutor’s candid admission that she relies on a Nuremberg defense to justify performing tasks she may consider morally repugnant but which her superiors have ordered her to do as a part of her job, see Kaminer (1995, 164).

²³ Klaus P. Fischer, *Nazi Germany: A New History*. (New York: Continuum, 1997), 516.

²⁴ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1994), 287. First published 1963.

²⁵ *State of Idaho v. Lon T. Horiuchi*, Case No. CR 97-097-N-EJL, Memorandum Decision and Order dated May 14, 1998 (U.S. District Court, Boise, Idaho).

²⁶ For an account of this episode by Randy Weaver’s lawyer, Gerry Spence, and to see a picture drawn by FBI agent Horiuchi immediately after he shot Vicki Weaver that shows his gun sights aimed at the door behind which she was kneeling with her head visible above the door’s window, see Gerry Spence, *From Freedom to Slavery: The Rebirth of Tyranny in America* (New York: St. Martin’s, 1995).

²⁷ Judge Lodge’s ruling was appealed by the Boundary County prosecutor to the U.S. Ninth Circuit Court of Appeals. A three-judge panel upheld the ruling by a 2-1 vote, and then the Court sitting *en banc* over-ruled Lodge’s order. See, *State of Idaho v. Horiuchi*, 253 F.3d 359 (9th Cir. 06/05/2001).

²⁸ After the new Boundary County prosecutor declined to proceed with Horiuchi’s prosecution and the charges were dismissed, on September 14, 2001, the Ninth Circuit vacated its decision of June 5, 2001, that had over-ruled Lodge’s order.

²⁹ Videos of police ganging up on a lone unarmed and unresisting suspect, epitomized by the Rodney King beating, is an example of this behavior.

³⁰ Patricia Niles Middlebrook, *Social Psychology & Modern Life*, second ed. (New York: Knopf, 1980).

³¹ Thomas Shapley, “Storm Clouds Gather above Waco, Texas,” *Seattle Post-Intelligencer*, August 29, 1999, E2; Peter Boyer, “Burned,” *New Yorker*, November 1, 1999, 62.

³² Peter Mass, *Serpico: The Cop Who Defied the System* (New York: Viking, 1973).

³³ As reported on ABC’s *20/20*, October 12, 1998.

³⁴ An example of this latter retaliation was the IRS’s attempt to fire agent Jennifer Long after her revelations during the nationally televised September 1997 Senate Finance Committee hearings on IRS abuses. (See, David Cay Johnston, “On tax day, I.R.S. prepared to fire star whistle-blower,” *New York Times*, April 17, 1999.) Among other things, her congressional testimony revealed how the IRS selectively

preys on the weak, poor, and defenseless, while ignoring people and companies “with either the resources to fight back or with friends in the agency.” *P-I News Service*, “Whistle-blower Tax Agent Comes Close to Being Fired,” *Seattle Post-Intelligencer*, April 17, 1999, B3.

³⁵ A prominent example involved Frederic Whitehurst’s being drummed out of the FBI after he exposed that the FBI crime lab was fabricating lab results in order to help prosecutors convict people legally presumed to be innocent. Whitehurst sued the FBI for its treatment of him, including its violations of his protections under federal privacy laws. The FBI agreed to settle Whitehurst’s lawsuit for \$1.16 million, contingent on his resignation. Thus, the FBI’s way of dealing with the problems in the operation of its crime lab was to get rid of the one man with the knowledge and willingness to reveal to the public its unethical and unscientific practices. Angie Cannon, “Most Wanted: A Good FBI Lab,” *Portland Oregonian*, February 14, 1997, A22; Myron P. Glazer and Penina M. Glazer, *Whistleblowers: Exposing Corruption in Government and Industry* (New York: Basic, 1990).

³⁶ The author first heard this phrase used by social commentator and actress Janeane Garofalo to describe how people in President George Bush’s administration are promoted and/or praised when they fail – not fired or reprimanded.

³⁷ Noam Chomsky is an individual who has a reputation for being critical of either the United States’ involvement in certain foreign countries, or support of foreign countries that have policies he doesn’t approve of. Among those was U.S. support for Indonesia’s annexation of East Timor in the 1970s. However, Chomsky has a record of supporting the federal government domestically, even going so far as advocating an increase in the IRS’ budget so it can be more efficient at collecting taxes.

³⁸ The benefits to a bureaucracy’s critics can include significant financial rewards. These can be in the form of being paid a settlement or award by a bureaucracy in response to a lawsuit, or it can be in form of using criticism of the bureaucracy as a means of encouraging people to financially support (by a donation or by a good or service) the organization based on its criticism, or using that criticism to secure financial grants. Which means that there is a direct nexus between the criticism of the bureaucracy and financial benefits accruing to the person or organization. The intertwining fact that money budgeted to be paid to critics (through lawsuits) makes them de facto contractors/employees of the bureaucracy. Payment of the lawsuit enables the bureaucracy to “spend” the money allotted in its budget, and maybe even ask for more money in the next budget cycle, in addition to requesting additional money to “fix” the supposed deficiency in its operation.

³⁹ An example of this is that the cost of the federal government’s social and economic regulation grew from \$25.454 billion in the last year of President Clinton’s administration, to a budgeted \$46,614 billion in 2008, the last year of President Bush’s administration. This is an increase of 83%. The total federal employment related to that regulation during that eight-year period went from 175,600 to 251,595. This is an increase of 43%. Source: Jerry Brito and Melinda Warren, “2008 Annual Report,

Regulators' Budget Report 29," *Joint project of Mercatus Center, George Mason University and Weidenbaum Center, Washington University*, June 2007. Table 1 – Spending Summary for the Federal Regulatory Agencies, Selected Years (Fiscal Years, Millions of Dollars in “Outlays”), p 4; and, Table 2 – Staffing Summary for the Federal Regulatory Agencies, Selected Years (Fiscal Years, Full-time Equivalent Employment), p. 5, available at, http://wc.wustl.edu/Reg_Report/2008/RegReportWebVersion.pdf (last visited October 16, 2007.)

⁴⁰ Friedrich A. Hayek, *The Road to Serfdom* (Chicago: University of Chicago Press, 1944), 148–67.

⁴¹ *Id.*, quoted at 152.

⁴² For a two-thousand-year analysis of the political process that concludes that bureaucracy naturally attracts the participation and leadership of amoral people, see Scharfstein 1995.

⁴³ Aldous Huxley, *Brave New World*. (New York: Harper Perennial Modern Classics, 1998 [1932]); Kafka, Franz, *The Trial* (New York: Everyman's Library, 1992 [1925]); George Orwell, *Nineteen Eighty-Four* (New York: Everyman's Library, 1992 [1949]); Michael Dunlop Young, *The Rise of the Meritocracy* (Somerset, NJ: Transaction Publishers, 1994 [1958]); and, Yevgeny Zamyatin, *We*. (New York: Modern Library, 2006 [1921]).

⁴⁴ Arthur Mitzman, *The Iron Cage: An Historical Interpretation of Max Weber* (New York: Alfred Knopf, 1970); and, David Beetham, *Bureaucracy* (Minneapolis: University of Minnesota Press, 1996).

⁴⁵ Gilles Amado, “Why Psychoanalytical Knowledge Helps Us Understand Organizations,” *Human Relations* 48 (April 1995): 351.

⁴⁶ Ashley Montagu, and Floyd Matson, *The Dehumanization of Man* (New York: McGraw-Hill, 1983).

⁴⁷ It has been recognized that the Nazi's Final Solution was a triumph of institutional duty over personal morality and responsibility. However, it is a mistake to view the Final Solution as an aberrant bureaucratic program. Historian Christopher Browning noted in this regard, “The Nazis' mass murder of the European Jews was not only the technological achievement of an industrial society, but also the organizational achievement of a bureaucratic society. . . . [It was] achieved by a bureaucratic mode of operation, in which depersonalized and dispassionate behavior unprejudiced by human emotions was a fundamental and positive value of the civil service.” Christopher Browning, “The German Bureaucracy and the Holocaust,” in “Genocide: Critical Issues of the Holocaust,” ed. Alex Grobman & Daniel Landes (Houston, TX: Rossel Books, 1983), 148.

⁴⁸ Ward Churchill, *On the Justice of Roosting Chickens: Consequences of American Conquest and Carnage*, (Oakland, CA: AK Press, 2003). See also, Rudolph Rummel, *Death by Government* (New Brunswick, N.J.: Transaction Publishers, 1994); and, Stephanie Courtois and others, *The Black Book of Communism: Crimes, Terror, Repression* (Cambridge: Harvard University Press, 1999).

XI

Deja Vu — The U.S. Circumvents Geneva Convention Protections ... Again

News media throughout the world have reported on the United States' mistreatment and even torture of prisoners imprisoned after September 11, 2001, in Iraq, Afghanistan, Guantanamo Bay, Cuba, and in a network of secret overseas CIA prisons. It has also been reported that Executive branch memorandums dating from at least January 2002 took the position that national security concerns trump the Geneva Convention's umbrella of protection against the extreme physical and/or psychological mistreatment of prisoners of war. In response to those disclosures, administration officials and defenders of its policies asserted the United States stands for the defense of freedom and that any mistreatment of prisoners were isolated aberrations. Among the sound reasons to view those claims with a degree of skepticism is the reported abuses are not the first time the U.S. has failed to observe the Geneva Convention's standards for treatment of war related prisoners. The worst episode of disregard for those norms began more than sixty years ago.

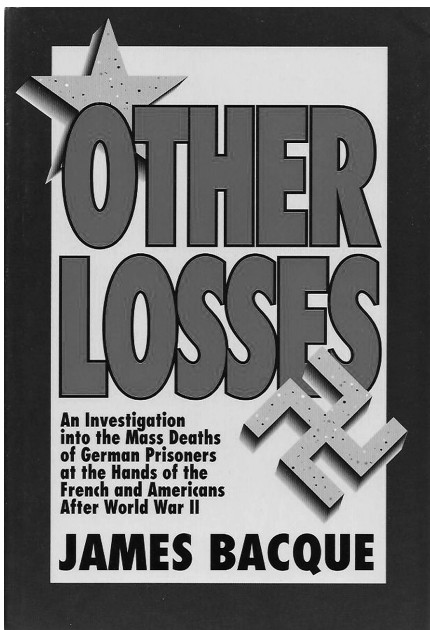
Three Atrocities by the Allies After VE-Day

Germany unconditionally surrendered on May 8, 1945. However that day of celebration (known as Victory in Europe Day, or VE Day) was also a day of infamy. Rather than marking the end of the horrors wrought by the war in Europe, VE Day symbolized the beginning of three human catastrophes involving allied powers.

Two of those events were instigated by Joseph Stalin, and they were consistent with his domestic policies that according to the analysis of Professor Rudolph J. Rummel in *Death by Government*, resulted in the untimely death of almost 43,000,000 able-bodied Russian women, children and men from 1929 to 1953. ¹ One event was Operation Keelhaul that involved the Allies agreement to the forcible repatriation of over two million Russian civilians and military personnel. ² In *Operation Keelhaul*, Julius Epstein explains that those

people were taken prisoner by U.S., French and British military personnel, turned over to the Russians, and then transported to the Soviet Union. Upon arriving in Russia the prisoners were typically either executed or condemned to slave as laborers in Stalin's Gulag Archipelago.³ For many of those people that was the equivalent of a slow death sentence. The second event was the refusal of Stalin to repatriate over two million German prisoners of war (POWs) who were effectively sentenced without a trial to work as slave laborers in the Gulag. Based on KGB archives made available after the collapse of the Soviet Union, at least 450,000 of those Germans died.⁴ Considering that Stalin's lust for spilling blood was such that Boris Pasternak described him as a "pockmarked Caligula," his pivotal role in both of those horrific tragedies is not surprising. Although it warrants noting that the U.S. actively participated in the former event and remained silent about the latter event.

The third catastrophe, however, was instigated by the United States, and it is an important but little known shameful episode in this country's history. Over five million Germans — unconvicted of any crime — were confined between 1945 and 1950 in U.S. prison



camps in Germany. The prisoner treatment policies of the U.S. included withholding adequate food, water, shelter, protective clothing and medicine; denying incoming and outgoing mail; refusing Red Cross oversight; and encouraging disease by neither providing medical care, nor sanitary cooking and waste disposal facilities.⁵ Prisoners were also delayed in their repatriation back into German society.

Several hundred thousand Germans were also confined in

French prison camps under conditions similar to those in the U.S. prison camps.

Those living conditions resulted in a death rate exceeding 30% per year in some of the prison camps.⁶ The causes of death included starvation, pneumonia, dysentery and diarrhea, respiratory illnesses and exposure.⁷ However the prisoners who died in droves after being subjected to those prison conditions weren't limited to captured German soldiers. The civilian prisoners included pregnant women, children as young as six, people over 80-years-old, and non-combatant teenage and adult males.⁸ Eyewitnesses described the living conditions in the U.S. facilities as similar to Nazi concentration camps, and that the skeletal German prisoners resembled "the starving wrecks at Dachau and Buchenwald."⁹

Much of what is known about the post-World War II mistreatment of German prisoners by the United States and France is due to Canadian James Bacque's research that forms the core of his 1989 book, *Other Losses: An Investigation into the Mass Deaths of German Prisoners at the Hands of the French and Americans After World War II*. The single most disturbing finding of Bacque is that the U.S. and France's atrocious conditions of imprisonment resulted in the death of a minimum of 750,000, and possibly as many as 1,250,000 post-war German prisoners.¹⁰ The title of Bacque's book comes from those deaths being euphemistically categorized in official government reports as – Other Losses.

Geneva Convention Standards of POW Treatment

The multiplicity of atrocities documented in *Other Losses* were committed after U.S. military officials carefully devised strategies to avoid compliance with the Third Geneva Convention's prisoner protection provisions. Convened in 1929, the Convention drafted 97 articles that established specific minimum standards of treatment for people taken prisoner due to an armed conflict. Several of those provisions state in part:

Art. 2. Prisoners of war ... shall at all times be humanely treated and protected, particularly against acts of violence,

from insults and from public curiosity. Measures of reprisal against them are forbidden.

Art. 3. Prisoners of war are entitled to respect for their persons and honour. ...

Art. 10. Prisoners of war shall be lodged in buildings or huts which afford all possible safeguards as regards hygiene and salubrity. The premises must be entirely free from damp, and adequately heated and lighted. ...

Art. 11. The food ration of prisoners of war shall be equivalent in quantity and quality to that of the depot troops. Prisoners shall also be afforded the means of preparing for themselves such additional articles of food as they may possess. Sufficient drinking water shall be supplied to them. ... All collective disciplinary measures affecting food are prohibited.

Art. 13. Belligerents shall be required to take all necessary hygienic measures to ensure the cleanliness and salubrity of camps and to prevent epidemics. Prisoners of war shall have for their use, day and night, conveniences [toilets] which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In addition and without prejudice to the provision as far as possible of baths and shower-baths in the camps, the prisoners shall be provided with a sufficient quantity of water for their bodily cleanliness.

Art. 14. Each camp shall possess an infirmary, where prisoners of war shall receive attention of any kind of which they may be in need. Prisoners who have contracted a serious malady, or whose condition necessitates important surgical treatment, shall be admitted ... to any military or civil institution qualified to treat them.

Art. 36. Each of the belligerents shall fix periodically the number of letters and postcards which prisoners of war of different categories shall be permitted to send per month ... They may not be delayed or withheld for disciplinary motives.

Art. 37. Prisoners of war shall be authorized to receive individually postal parcels containing foodstuffs and other articles intended for consumption or clothing. The parcels shall be delivered to the addressees and a receipt given.

Art. 42. Prisoners of war shall have the right to bring to the notice of the military authorities, in whose hands they are, their petitions concerning the conditions of captivity to which they are subjected. ... Even though they are found to be groundless, they shall not give rise to any punishment.

Art. 75. When belligerents conclude an armistice convention ... the repatriation of prisoners shall be effected as soon as possible after the conclusion of peace.

Art. 78. Societies for the relief of prisoners of war [such as the Red Cross or Quakers] ... shall receive from the belligerents ... all facilities for the efficacious performance of their humane task within the limits imposed by military exigencies. Representatives of these societies shall be permitted to distribute relief in the camps... ¹¹

U.S. Treatment of German Prisoners was Sub-Standard

Contrast the humane treatment required by the Geneva Convention with the following first-person account of how German prisoners were treated by the U.S. after VE Day:

The latrines were just logs flung over ditches next to the barbed wire fences. To sleep, all we could do was to dig out a hole in the ground with our hands, then cling together in the hole. We were crowded very close together. Because of illness, the man had to defecate on the ground. Soon, many of us were too weak to take off our trousers first. ... There was no water at all at first, except the rain, then after a couple of weeks we could get a little water from a standpipe. But most of us had nothing to carry it in, so we could get only a few mouthfuls after hours of lining up, sometimes even through the night. ... More than half the days we had no food at all.

...

Within a few days, some of the men who had gone healthy into the camp were dead. I saw our men dragging many dead bodies to the gate of the camp, where they were thrown loose on top of each other onto trucks, which took them away.¹²

Another German prisoner later wrote of his experience:

We would drink our own urine. It tasted terrible, but what could we do? Some men got down on the ground and licked the ground to get some moisture. I was so weak I was already on my knees, when finally we got a little water to drink. I think I would have died without that water. But the Rhine [River] was just outside the wire. The guards sold us water through the wire, and cigarettes. One cigarette cost 900 marks. I saw thousands dying. They took the bodies away in trucks.¹³

Still another prisoner wrote on a scrap of paper while in a prison camp, "How long will we have to be without shelter, without blankets and tents? Every German soldier once had shelter from the weather. Even a dog has a doghouse to crawl into when it rains. ... Even a savage is better housed."¹⁴

A half-American prisoner (American mother) complained to the prison's commander that the barbaric conditions violated the Geneva Convention. He was told, "Forget the Convention. You haven't any rights."¹⁵

The tenor of those descriptions of abominable prison conditions is corroborated by an account written in 1990 by a university professor in New York, who as an 18-year-old GI was a guard at a prison camp on the Rhine River:

In late March or early April 1945, I was sent to guard a POW camp near Andernach along the Rhine. I had four years of high school German, so I was able to talk to the prisoners, although this was forbidden. ...

In Andernach about 50,000 prisoners of all ages were held in an open field surrounded by barbed wire. The women were kept in a separate enclosure I did not see until later. The men I guarded had no shelter and no blankets; many had no coats. They slept in the mud, wet and cold, with inadequate slit trenches for excrement. It was a cold, wet spring and their misery from exposure alone was evident.

Even more shocking was to see the prisoners throwing grass and weeds into a tin can containing a thin soup. They told me they did this to help ease their hunger pains. Quickly, they grew emaciated. Dysentery raged, and soon they were sleeping in their own excrement, too weak and crowded to reach the slit trenches. Many were begging for food, sickening and dying before our eyes. We had ample food and supplies, but did nothing to help them, including no medical assistance.

Outraged, I protested to my officers and was met with hostility or bland indifference. When pressed, they explained they were under strict orders from “higher up.” No officer would dare do this to 50,000 men if he felt that it was “out of line,” leaving him open to charges.

...

These prisoners, I found out, were mostly farmers and workingmen, as simple and ignorant as many of our own troops. As time went on, more of them lapsed into a zombie-like state of listlessness, while others tried to escape in a demented or suicidal fashion, running through open fields in broad daylight towards the Rhine to quench their thirst. They were mowed down.¹⁶

Under Geneva Convention Article 11, German prisoners were required to be provided daily “food rations equivalent in quantity and quality” to those of U.S. troops who received upwards of 4,000 calories daily, and “sufficient drinking water...”¹⁷ They weren’t. Instead they were supplied with a starvation diet of as little as 800 calories daily and inadequate drinking water.¹⁸

German prisoners were required under Article 10 to “be lodged in buildings or huts which afford all possible safeguards as regards hygiene and salubrity. The premises must be entirely free from damp, and adequately heated and lighted.”¹⁹ Again they weren’t. Instead they were herded into open fields enclosed by barbed wire with only the clothes on their back to protect them from the elements.

Thus instead of taking the high road in the treatment of the post-war German prisoners, the U.S. and France chose to adopt inhumane tactics that were in violation of their international treaty obligations.²⁰ Descriptions of the German prisoners treatment is eerily similar to the conditions under which Union soldiers were held as prisoners during the South’s secession from the United States, in places such as the infamous Andersonville, Georgia prison camp.²¹ Andersonville was an open-air stockade that held as many as 32,000 prisoners at one time. The prisoners suffered an extreme lack of food and medical supplies, severe overcrowding, poor sanitary conditions, malnutrition, exposure to the elements, inadequate clothing, and a lack of potable water. Approximately 30% of all prisoners held in Andersonville died.

High U.S. Officials Approved Prisoner Mistreatment

Policy decisions by top U.S. political and military officials were responsible for the systemic mistreatment of German prisoners after hostilities had ceased. The person directly responsible for the care of German prisoners during the United States’ occupation of Germany after VE Day was General — and future president — Dwight Eisenhower. Prior to the cessation of hostilities Eisenhower made many comments reflecting the intense dislike (or even hate) felt by him (and other Allied authorities) towards Germans. In May 1943, for example, he wrote of the captured Germans in Tunisia, “It is a pity we couldn’t have killed more.”²² In a similar vein, Eisenhower said in August 1944 that all the thousands of officers comprising the German General Staff should be “exterminated,” in addition to all Nazi party officials and members of the Gestapo — which would

have totaled at least 100,000 people.²³ In a September 1944 letter to his wife Mamie he wrote, “the German is a beast.”²⁴ Eisenhower and many others amongst the victors had such a dehumanized attitude towards Germans that no atrocity against them was considered out of bounds.

The mistreatment of German prisoners was pre-planned to begin as soon as the war ended, when Allied prisoners of war (POWs) would be released and no longer vulnerable to reprisals. Crucial to success of the plan was circumvention of the Geneva Convention’s requirements for prisoner care. One aspect of the plan to circumvent the Convention was Eisenhower’s order on March 10, 1945, that after VE Day all German prisoners would be classified as Disarmed Enemy Forces (DEF) — not as POWs.²⁵ That ploy relied on the United States’ secret interpretation that the Convention’s protections only applied to prisoners designated as POWs.

A portent of the human catastrophe to come was when Eisenhower told General George Marshall that enclosures for the DEFs “will provide no shelter or other comforts.”²⁶ Eisenhower then ordered a number of measures to ensure there would be no monitoring of the prisons by international or German humanitarian organizations. Among the measures was that four days before VE Day all mail to and from German prisoners was barred, all German social welfare agencies and the German Red Cross were to be abolished, the International Red Cross (ICRC) was barred from accessing the U.S. and French prison camps, and American Quakers were barred from traveling to Germany to work as prison volunteers.²⁷

Furthermore, German civilians were ordered not to provide food to prisoners under penalty of summary execution. The order dated May 9, 1945, that was distributed in English, German and Polish, stated in part, “... under no circumstances may food supplies be assembled among the local inhabitants in order to deliver them to the prisoners of war. Those who violate this command and nevertheless try to circumvent this blockade to allow something to come to the prisoners place themselves in danger of being shot....”²⁸

In addition, the U.S. was blatantly duplicitous in deceiving the International Red Cross about its mistreatment of German prisoners. Barque wrote, “While ignoring the Convention completely, the State Department airily told the Swiss that the U.S. would continue to treat the prisoners “in accordance with the provisions of the Geneva Convention.””²⁹ This disingenuous attitude of secretly disregarding the Convention while publicly confirming it, “was typical of the way that the State and War Departments double-crossed the ICRC and the Swiss government about the Convention throughout 1945 and some of 1946.”³⁰ The deception by the government agencies was also successful at concealing the prisoner’s mistreatment from the possible prying eyes of Congressional oversight committees. To perpetrate the cover-up U.S. official’s even circulated false reports that “camp commanders in Germany were having to turn away released prisoners who were trying to sneak back in for food and shelter.”³¹

France Mimicked U.S. Prisoner Mistreatment

The United States’ treatment of German prisoners was mimicked to a significant degree by the French, who accepted many prisoners transferred from U.S. custody. However, one difference was that the French selected their healthiest prisoners and gave them increased rations so they could be used as slave laborers in reconstructing war damaged buildings and public infrastructure. That was done in defiance of the Geneva Convention’s Article 34 that allows prisoners to labor for pay, but not as unpaid, i.e., slave laborers.³²

In September 1945 the French newspaper, *Le Figaro*, published two articles by reporter Serge Bromberger about the conditions in the French prison camps. The articles disclosed, “The most serious source confirmed that the physical state of the prisoners was worse than deplorable. People were talking about a horrifying death rate, not from sickness but starvation, and of men who weighed an average 35-45 kilos [80-100 lbs.]”³³ Bacque wrote, “*Le Figaro* interviewed French General Buisson, in charge of the French camps, who admitted that the prisoners got only 900-1000 calories per day. “The

doctors told us that this was just enough for a man lying in bed never moving not to die too quickly,” said Buisson. Having refused *Le Figaro* permission to go to into the camps, Buisson nevertheless produced photographs of prisoners for Bromberger to inspect, but not to print. Bromberger wrote that they “looked like skeletons.”³⁴ A week after *Le Figaro*’s first article, *Le Monde* published an article by Jacques Fauvet that began, “As one speaks today of Dachau, in ten years people throughout the world will speak about camps like Saint Paul d’Égiaux.”³⁵

U.S. Press Doesn’t Investigate Prisoner Mistreatment

One response to the articles in *Le Figaro* and *Le Monde* was that in October 1945 *The New York Times* (*Times*) published several articles on the treatment of German prisoners. Bacque wrote that the *Times* did not assign a reporter or photographer to investigate the French or U.S. prison conditions firsthand, even though the paper “found “one source” who likened photographs taken in French camps of emaciated prisoners to photographs taken at Dachau.”³⁶ In spite of possessing information to the contrary, the *Times*’ articles reflected the official position of United States and France that the German prisoners were being properly treated.

The *Times*’ lack of curiosity was shared by the rest of the print and broadcast media in the U.S., which likewise did not investigate the reports of prisoner mistreatment.³⁷ However it is questionable if publicity about prisoner treatment by the U.S. would have made any difference. French society collectively ignored the revelations in the French press about the abominable treatment of German prisoners, and there was no improvement of conditions in the French prison camps.³⁸ Americans likely would have responded the same way, since the summary imprisonment of over 100,000 Japanese-Americans in bare bones U.S. concentration camps during WWII was tolerated with minimal public protest, and with the approval of the U.S. Supreme Court in several cases.

At the same time State Department and military officials were denying prisoner mistreatment, they were concerned that it would

be publicly disclosed that it was occurring on a holocaustic scale.³⁹ In order to deflect close attention from being paid to the occasional report of poor treatment of German prisoners, the U.S. government actively propagandized the false idea in the U.S. that there was a food shortage throughout Europe. Underlying that public relations campaign was the idea that if people in the U.S. thought Europe was suffering from a lack of food, then little attention would be paid to reports of prisoner suffering. In reality there was adequate food in Europe, and the military had large stockpiles.⁴⁰ Another act of duplicity by the U.S. was that it turned away trainloads of foodstuffs sent to Germany by the International Red Cross in Switzerland. The food was meant for German prisoners. However, U.S. officials rejected it with the explanation there was plenty of food available for them. While it was true there was sufficient food to adequately feed the prisoners in accordance with the Geneva Convention's mandates — it wasn't provided to them.

Opponents of Prisoner Mistreatment Ignored

The deliberate nature of the prisoner mistreatment by the U.S. and France is emphasized by the general compliance of the British and Canadians with the standards proscribed by the Geneva Convention in their treatment of German prisoners. After VE Day the British and Canadians adopted the classification of "surrendered enemy personnel"(SEP) for people imprisoned due to the war.⁴¹ The SEP classification was identical in all but name with the U.S. and French DEP classification. However, unlike their two allies, Britain and Canada's position was that the Convention applied to German prisoners designated as SEPs. They provided those prisoners with shelter, adequate food, protective clothing, clean water, sanitary waste disposal, hospital care, and incoming and outgoing mail privileges.⁴²

Many people within the military, including General George Patton, opposed the substandard treatment of the German prisoners.⁴³ However they all followed orders, and none of them is known to have blown the whistle to Congress or the press. So while as many

as one and a quarter million imprisoned German civilians and former soldiers died from starvation, exposure, or lack of medical care, the well nourished U.S. and French military personnel overseeing them silently watched — and dutifully kept their mouths shut. That wall of silence was rewarded. Not a single military person of any rank is known to have been disciplined, much less court-martialed for their participation in the murderous post-war mistreatment of German prisoners.⁴⁴

The prisoner mistreatment was so widespread and affected so many Germans that as time went on it became increasingly difficult to keep reports about it under wraps. By 1947 it was broadly enough known that Oregon Senator Wayne Morse read into the record an article by columnist Dorothy Thompson that said in part, “That country [France], with our consent and connivance, and in defiance of the Geneva Convention, has been employing [prisoners] as slave labor under the same definition of slave labor as that used against Herr Sauckel in Nuremberg [who was executed]. Few care to recall that President Roosevelt gave a specific pledge to the German people in September 1944: ‘The Allies do not traffic in human slavery.’ Do only a handful of people see that if, having defeated Germany, we accept for ourselves Hitler’s standards and Hitler’s methods, Hitler has conquered?”⁴⁵

Geneva Convention Prisoner Protocols Ignored by the U.S. in the 21st Century

The United States’ mistreatment of German prisoners more than 60 years ago remains relevant in the twenty-first century. It is known the U.S. has engaged in the systematic mistreatment and even torture of people taken prisoner in various countries, particularly since September 11, 2001.⁴⁶ It is further known that the U.S. has defied the Geneva Convention’s protocols in its treatment of those prisoners. That has been justified in part by reintroducing the post-World War II tactic of labeling prisoners as something other than prisoners of war. Today the U.S. is engaging in the sophistry of labeling prisoners as Enemy Combatants, while after VE Day Ger-

man prisoners were labeled as Disarmed Enemy Forces. Furthermore, although the Third Geneva Convention's Treatment of Prisoner of War protocols were modified by those adopted by the Fourth Geneva Convention in 1949, that agreement increased the specific protections for prisoners.

The most serious post-September 11, 2001, allegation of prisoner mistreatment by the U.S. is its alleged complicity in the death of 3,000 Taliban prisoners in Afghanistan in late 2001 by suffocation, heat prostration, or summary execution.⁴⁷ Although such treatment of prisoners is disturbing, the overall scale and forms of the mistreatment of prisoners in Iraq, Afghanistan, Guantanamo Bay and elsewhere, is much less in magnitude and intensity than what can be described as the deliberate mass murder of many hundreds of thousands, and perhaps over a million German prisoners by the U.S. after World War II. Yet the general principle involved remains the same. Also similar is the attempt of U.S. military and political officials to publicly proclaim that prisoners are being humanely treated — at the very time they are being egregiously mistreated out of the public eye. When viewed with reality distorting rose-colored glasses the conduct of United States political and military officials is hypocritical, while without them it can be seen as nakedly criminal.

That untoward conduct also explains why the U.S. under the Bush administration has refused to recognize the authority of the International Criminal Court (ICC) in The Hague to try U.S. citizens for crimes against humanity. The Bush administration repudiated President Clinton's announcement in 2000 that the United States was in favor of being a member of the ICC. As the BBC reported in May 2002, under the Bush administration "The US has vehemently opposed the setting up of the ICC, fearing its soldiers and diplomats could be brought before the court which will hear cases of war crimes and crimes against humanity."⁴⁸ The U.S. failed in its efforts to block establishment of the ICC, so it resorted to hardball political tactics to shield U.S. citizens from ICC prosecution for human rights violations. As of January 2008 the U.S. had

used the threat of economic sanctions to bully 100 countries into signing a waiver of enforcing ICC orders related to U.S. citizens.⁴⁹

Mistreatment of war prisoners falls under the jurisdiction of the ICC. So the world knows that the United States' disregard of the Geneva Convention's protocols on prisoner treatment will continue for at least as long as it opposes the authority of the ICC to hold U.S. citizens criminally accountable for committing "war crimes and crimes against humanity."

The extent of the United States' commitment to continuing disregard for the Geneva Convention's norms of prisoner treatment is indicated by the the Military Commission Act of 2006, signed into law by President Bush in October 2006. The Act allows the President to designate any person as an enemy combatant, which allows the U.S. to then imprison that person indefinitely without charge, and denies that person the right to file a habeas corpus petition in federal court challenging the legality of his or her imprisonment.⁵⁰ The Act also permits invasive physical abuse of that person by tactics considered internationally to constitute torture, and it allows that person to be tried, convicted and sentenced to death by judges relying on hearsay evidence, evidence extracted from a prosecution witness by torture, and evidence concealed from the defendant's lawyer. One of the Act's many harsh critics, Yale University professor of law Bruce Ackerman, said that it "authorizes the president to seize American citizens as enemy combatants, even if they have never left the United States. And once thrown into military prison, they cannot expect a trial by their peers or any other of the normal protections of the Bill of Rights."⁵¹

Conclusion

Bacque wrote in *Other Losses*, "One of the functions of myth in the twentieth century is to glorify the leaders who betray our ideals. The greater the betrayal, the greater the myth erected to hide it."⁵² That observation is as true in the twenty-first century, as it was in 1945. Six decades ago U.S. military and political officials circumvented the Geneva Convention because adhering to its provisions would

have spared the lives of many hundreds of thousands of post-war German prisoners considered sub-human by Eisenhower and like-minded people. While today, U.S. officials describe the Geneva Convention as “quaint” because it mandates the humane treatment of unconvicted and presumably innocent prisoners who are administratively categorized as enemies of the United States.

Endnotes:

¹ Rudolph J. Rummel, *Death By Government* (New Brunswick, NJ: Transaction Publishers, 1994), 8. (Professor Rummel’s actual estimate is 42,672,000 Russian citizens were murdered under Stalin’s rule from 1929 to 1953. *Id.* at 8.)

² Julius Epstein, *Operation Keelhaul: The Story of Forced Repatriation from 1944 to the Present* (Old Greenwich, CT: Devin-Adair Company, 1973).

³ Aleksandr Solzhenitsyn coined the term Gulag Archipelago to describe the Soviet Union’s vast network of forced labor camps, and which he documented in his trilogy, Aleksandr I. Solzhenitsyn, *The Gulag Archipelago 1918-1956: An Experiment in Literary Investigation I-II* (New York: Harper & Row, 1973); Aleksandr I. Solzhenitsyn, *The Gulag Archipelago 1918-1956: An Experiment in Literary Investigation III-IV*, (New York: Harper & Row, 1974); Aleksandr I. Solzhenitsyn, *The Gulag Archipelago 1918-1956: An Experiment in Literary Investigation V-VII* (New York: Harper & Row, 1976).

⁴ James Bacque, *Crimes and Mercies* (New York: Little Brown, 1997), 76-77.

⁵ James Bacque, *Other Losses: An Investigation into the Mass Deaths of German Prisoners at the Hands of the French and Americans After World War II* (Toronto: Stoddart Publishing, 1989), at 64-65.

⁶ *Id.* at 135, 164. In contrast, the death rate in U.S. state prisons in 2002 was 246 per 100,000 prisoners, or .246% — which was more than 100 times less than the death rate of German prisoners in some of the U.S. military prisons. See, Suicide and Homicide in State Prisons and Jails, *Bureau of Justice Statistics*, August 2005, NCJ 210036, Table 1, page 3.

⁷ Bacque (1989) at 163.

⁸ *Id.* at 40.

⁹ *Id.* at 91.

¹⁰ *Id.* at 2. That estimate was substantiated by additional research that is included in Bacque’s later book *Crimes and Mercies*. See, Bacque (1997) at 78.

¹¹ Convention Relative to the Treatment of Prisoners of War. Geneva, 27 July 1929, ICRC website,

<http://www.icrc.org/IHL.nsf/52d68d14de6160e0c12563da005fdb1b/eb1571b00dae90ec125641e00402aa6?OpenDocument> (last visited January 20, 2004).

¹² Bacque (1989) at 38.

¹³ *Id.* at 40.

¹⁴ *Id.* at 44.

¹⁵ *Id.* at 38.

¹⁶ In 'Eisenhower's Death Camps': Part I — A U.S. Prison Guard's Story, Martin Brech, *The Journal of Historical Review*, Vol. 10, No. 2 (Summer 1990), 161-166. At, http://www.ihr.org/jhr/v10/v10p161_Brech.html (last visited January 19, 2005). After the war Martin Brech became an Adjunct Professor, Philosophy & Religion, Mercy College, New York. Hans Sherrer verified Martin Brech was the author in a conversation with his wife on January 20, 2005. At that time Mr. Brech was in his early 70s and in a nursing home.

¹⁷ Convention relative to the Treatment of Prisoners of War, *supra*.

¹⁸ Bacque (1989) at 85, 89.

¹⁹ Convention relative to the Treatment of Prisoners of War, *supra*, Article 10.

²⁰ Some of those tactics were similar to those Stalin used in the 1930s to murder millions of Russians who were resistant to the Soviet government's expropriation of their property and their forced labor on collectivized state-run farms.

²¹ "Andersonville." *Encyclopædia Britannica*. 2008. Encyclopædia Britannica Online Library Edition. Feb. 28, 2008 <<http://www.library.eb.com/eb/article-9007449>>.

²² Bacque (1989) at 21.

²³ *Id.* at 23.

²⁴ *Id.* at 23.

²⁵ *Id.* at 20, esp. 26.

²⁶ *Id.* at 32.

²⁷ *Id.* at 75, 80.

²⁸ Bacque (1997) at 41-44.

²⁹ Bacque (1989) at 70.

³⁰ *Id.*

³¹ *Id.* at 149. References to deceiving congressional committees is also on 148.

³² Convention relative to the Treatment of Prisoners of War, *supra*, Article 34.

³³ Bacque (1989) at 98.

³⁴ *Id.* at 98-99.

³⁵ *Id.* at 104.

³⁶ *Id.* at 110.

³⁷ *Id.* at 109-111.

³⁸ *Id.* at 171.

³⁹ *Id.* at 33, 148.

⁴⁰ *Id.* at 32 (Vast food supplies in Marseille and Naples), 163.

⁴¹ *Id.* at 28.

⁴² *Id.* at 164, 168.

⁴³ *Id.* at 143, 149.

⁴⁴ *Id.* at 165-166.

⁴⁵ *Id.* At 152-153.

⁴⁶ Renee Schoof, "CIA director acknowledges use of waterboarding," *McClatchy Newspapers Washington Bureau*, February 5, 2008. <http://www.mcclatchydc.com/homepage/story/26569.html> (last visited February 14, 2008). CIA Director Michael Hayden admitted in testimony before a Senate committee in February 2008 that after September 11, 2001, the CIA had waterboarded suspected terrorists, but that it no longer did so.

⁴⁷ "Did the U.S. Massacre the Taliban," *Sunday Herald*, Glasgow, Scotland, June 16, 2002, *Sunday Herald* website, <http://www.sundayherald.com/25520> (last visited January 19, 2005).

This certainly wasn't the first instance of U.S. soldiers massacring "combatants" taken prisoner. When U.S. troops liberated the Dachau concentration camp, near Dachau, Germany, on April 29, 1945, they summarily executed what has been estimated as many as 520 German soldiers who had surrendered. This incident is known as the Dachau Massacre, and two books that have been written about it are: Howard Buechner. *Dachau: The Hour of the Avenger: An Eyewitness Account*. Thunderbird Press, Inc., 1986; and, David L. Israel. *The Day the Thunderbird Cried: Untold Stories of World War II*. Emek Press, 2005.

⁴⁸ US Renounces World Court Treaty, *BBC News*, May 6, 2002, *BBC* website, <http://news.bbc.co.uk/2/hi/americas/1970312.stm> (last visited January 19, 2005).

⁴⁹ Amitabh Pal, "Blanket Immunity: Bush Twists Arms To Evade Court," *The Progressive*, January 2007, 26-28.

⁵⁰ The United States Military Commissions Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006), (Senate Bill 3930[1]) signed by President George W. Bush on October 17, 2006. See, President Bush Signs Un-American Military Commissions Act, *ACLU Says New Law Undermines Due Process and the Rule of Law*, *ACLU Press Release*, October 17, 2006.

⁵¹ "Rushing Off a Cliff," *The New York Times*, September 28, 2006.

⁵² Bacque (1989) at 144.

Epilogue

Whenever it is publicly reported that men, women and/or juveniles are, or have been mistreated by a person acting under color of law (which includes police, and jail, prison or military guards), the typical response of officials is to attribute it to a few rogue officers and/or other low level staff members. Yet ascribing it to aberrant behavior by a few “bad apples” effectively forestalls even a cursory investigation into institutional or systemic factors, or unwritten ‘wink and nod’ policies by higher-ups that may have directly contributed to the mistreatment.

The foregoing articles and reviews illustrate that while widespread mistreatment of people under the color of law can be attributed to its explicit authorization by a superior, the perceived authority to act can be a much more subtle cause. Thus while the propensity of people to unflinchingly follow orders can explain mistreatment that is believed to be authorized, it is known that no specific authorization is needed. In the absence of authorization, mistreatment can be attributed to a dark aspect of “human nature”: the ingenuity of people to cruelly exercise the lawful power they perceive they have over others. The perception of that power is enhanced by the lack of meaningful negative consequences — except in very unusual circumstances — to a perpetrator’s mistreatment of people under their custody or control.

Another dark aspect of “human nature” is that a “bad person” isn’t necessary for people under that person’s authority to be systematically mistreated or even killed. When involved in a bureaucratic system the overwhelming majority of individuals that normally act like a “good person” will willingly, if not enthusiastically, conform their behavior to what is expected of them and engage in inhumane acts that they would otherwise consider abhorrent. The pliability of people used to obeying an authority figure contributes to the ease with which the mistreatment can be accomplished.

Whether or not mistreatment is formally authorized, a common denominator when it occurs is the person(s) responsible for it doesn't just have power over the mistreated person, but that person's humanity is diminished to a significant degree by being in what is considered an inferior position. Recognition of that situation is reflected in the relatively recent criminalization in the United States of sexual activity between a jail or prison staff member and a prisoner. Those statutes are rooted in the imbalance in the power (and social strata difference) between the people involved that makes voluntary and informed consent impossible. Consequently, being in the "dictatorial" position of having authority over a person in custody is the only precondition for a staff member's sexual contact with the prisoner to be considered criminal.

That is an example that if meaningful changes in the pervasive mistreatment of people under the color of law is to ever be a reality, the nature of the exercise of power, and particularly bureaucratic power, and its predictable effect on the dehumanization of people, must first be not only recognized, but understood and unflinchingly confronted.

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