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The 'ideal perpetrator': The French National Railways and the social construction of accountability

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Abstract

Mass atrocity requires the participation of numerous individuals and groups, yet only a few find themselves held accountable. How are these few selected? This article offers a framework that is useful for understanding how the condemned often embody attributes that keep them in the spotlight. Because norms used to identify perpetrators can set the context for future violence, long-term security requires interrupting both the actions of perpetrators *and* the discourses about them. A form of praxis, this study of the contemporary conflict over the French National Railways' (SNCF) amends-making for its World War II transport of deportees towards death camps considers how certain perpetrators come to stand for the many. The SNCF remains in the spotlight not because of greater culpability or an unwillingness to make amends but because it embodies attributes of an 'ideal' perpetrator: it is (1) strong, (2) abstractable, (3) representative of the nature of the crime, and (4) has a champion-opponent who focuses attention on the perpetrator. Understanding the labeling process makes visible who and what we ignore at our own peril.

Keywords

Accountability, Holocaust, mass atrocity, genocide, narrative, perpetrators

Introduction

While countless individuals, organizations, and companies made the Holocaust possible, for the past decade the French National Railways company (*Société nationale des chemins de fer français*, SNCF) has been one of the few entities finding itself embroiled in debates about accountability. More than 70 years after the Holocaust, *Le Monde*, *Figaro*, the *New York Times*, the *Washington Post*, and numerous local papers continue writing about the ongoing conflict in which a proportionally small group of Holocaust survivors are challenging the French National Railway's right to do business in the United States. The company remains the target of compensation debates for its role in the deportation of roughly 76,000 mostly Jewish, foreign-born deportees towards death camps during World War II. Many groups, including the French police – who conducted the round-ups of

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the deportees – never faced any specific charges; so why this focus on the SNCF? Vichy historian Michael Marrus (2010: 248) remarks on the global stigmatization of the SNCF, commenting that ‘not since the International Military Tribunal at Nuremberg ... has an organization been singled out in this way through a court decision’.¹ The model of ‘ideal perpetration’ presented in this article explores what accounts for this ongoing interest in the SNCF and other perpetrators in the wake of mass atrocity.

In the aftermath of mass violence, not every collaborator can be held accountable. Rwanda discovered this when faced with over one million potentially complicit parties in its 1994 genocide. This article argues that those held accountable are not always the most guilty or even the most dangerous; rather, they embody certain attributes enabling them to stand for the many. Considering how we identify and label perpetrators is crucial for security studies because distorted understandings of conflict dynamics and accountability distort solutions. Even good solutions applied to the wrong problem can reduce the likelihood of long-term positive peace. Moreover, not reflecting on security discourse will likely lead us back to more violence. The discursive separation of victims and perpetrators – which can happen quickly and without much thought – can actually be seen *as* violence. Deconstructing how we identify and label perpetrators can change the policies we create. Rather than just pointing to one evildoer, we can do the more robust work of looking at how cultural ethos and structures create the context for violence.

This article first argues for a discourse-oriented approach to security studies and then reviews contemporary Western social constructions of victims and perpetrators. This is followed by an explanation of the SNCF conflict and how these social constructions contribute to the company’s inability to shake its ‘perpetrator’ label while many other Holocaust-complicit companies relegate their participation to the distant past. To be clear, pointing out that the SNCF repeatedly finds itself in the spotlight is not to absolve the company of its responsibility: the company’s role in the deportations has been proven, and while many debate the company’s wartime margin of maneuver, the SNCF never proved itself any special friend of the Jewish deportee. (For more on the SNCF debates, see Federman, 2015.) The company participated in the deportations – and yet so did many others who will never face charges. So, why this sole focus on the SNCF? And why now? Proverbially hanging one boogeyman may make the crowd cheer. However, when celebrations and perpetrator pursuits distracts from considering deeper conflict dynamics, we perpetuate cycles of violence. The commercial appeal of singular villains is hard to resist. This article thus serves as an important counter-narrative, reflecting upon the nature of that appeal and how it poses a security risk.

Note, this discourse approach to understanding and responding to security threats dissolves the traditional divisions of personal, national, and social security. In an increasingly globalized world, the personal embodies the national and the social also reflects the personal. For example, feeling personally unsafe in urban gang territory in the contemporary USA reflects not just an individual vulnerability rectified by self-defense courses and an understanding of city neighborhoods. The problem also reflects the national challenge of widespread access to firearms and the opioid crisis. The production of these weapons and drugs involves other nations, thereby involving international affairs. By resisting traditional silos, this approach more fully honors the interconnectivity of security issues. To address issues separately can produce solutions that inevitably fall short of addressing the dynamic, interrelated challenges, especially regarding how we conceptualize and respond to perpetration.

Holocaust studies increasingly considers how constructions of perpetration affect how we understand mass radicalization, and therefore long-term security. German historian Hans Mommsen argues that the contemporary focus on the personality of the perpetrator obscures and distracts from studying how people become radicalized (Roseman, 2013). Holocaust studies has therefore moved from the functionary and individual biography model towards a sense of grass-roots responsibility

(Roseman, 2013: 445–446). When collective responsibility expands so wide, however, accountability becomes impossible, and for some survivors too emotionally exhausting. Daniel Urbejtél, who survived Auschwitz, says that to be mad at the French National Railways for deporting him and his family would mean he would also have to be mad at the people who turned in his parents, the French police for collecting them, the neighbors who stole their possessions, the buses that drove them all to the train station, the train conductors who took them to Auschwitz, and the Church, which ‘had not been particularly generous’. He would go crazy, he said, being mad at all these people and institutions (Interview 1). Even amid all these conundrums surrounding accountability, punishment of singular perpetrators remains a mainstay of transitional justice work (Teitel, 2014). The rendering of justice leads to celebrations, and victims may feel further legitimized by the perpetrator’s capture, but has capture helped ensure future security?

How and where we locate perpetration facilitates certain responses and disregards others (Cobb et al., 2018). For example, if perpetrators are seen as psychologically ill, they may receive health services or rehabilitation. In contrast, if they are considered highly functioning, then prisons may separate perpetrators from society. If mass radicalization is seen as the cause and the result of nationalism, then nationalism may be tempered. If nationalism is seen as a result of illiteracy, then education may be prioritized. How we frame problems affects solutions. Therefore, addressing long-term security requires more than simply dialoguing *about* security: it requires talking about how we talk about security.

Discourse analysis of security threats

Literature abounds addressing the nature of war and violence, yet Mani (2005) observes the dearth of scholarship in transitional justice and peacebuilding about how and why we punish. Fewer still explore the question of *whom* we punish. It is mostly philosophers and criminologists who have focused on these questions. In the 1930s, criminologist Frank Tannenbaum (2002) considered how the caught juvenile – not guiltier than his gang – stood for his collective. Labeling theory later considered the consequences for self and society of identifying people as criminals. Becker (2008) argued that, once labeled ‘deviant’, the person or group – in the case of petty crime – becomes an ‘outsider’. They become a ‘true outsider’ in the case of murder or other heinous crimes.

This article considers the framework we use to label such individuals and groups as ‘outsiders’ and the consequences to long-term security when individuals and groups find themselves excluded, first discursively and then physically. Jabri (1996) considers this discursive separation of the innocent from the guilty as violence. If she is correct, then by not challenging how we identify and articulate these groups, our own work poses a threat to security. Adorno (2012) encourages engaging in this self-reflective process. He contrasts reflection with what he considers perpetrators’ unreflective unleashing of hate and rage:

One must labor against this lack of reflection, must dissuade people from striking outward without reflecting upon themselves. The only education that makes any sense at all is an education toward critical self-reflection. (Adorno, 2012: 193)

Czarniawska (2004: 66) concurs, saying that through self-reflection the critical social sciences promise emancipation.

In international relations, when feminist post-structuralists led the call for reflexivity, they did so in the context of the social construction of identity (See Butler and Athanasiou (2013); Moser and Clark (2001); Shepherd (2007)). Moser and Clark (2001) challenged essentialist categories of men as perpetrators and women as victims. This article builds on their methodology by considering

the normative architecture used to separate the innocent from the guilty and how that discursive separation becomes the site of violence (Alexander, 2006; Jabri, 1996). War needs a compelling mythology to explain the included and excluded; once we designate the good (included) and evil (excluded), ‘the rules for everyday life change’ (Jabri, 1996: 6–7). War and violence become justifying; torture, killing, ethnic cleansing, rape, etc., viewed as incomprehensible and abhorrent in peacetime, are legitimized.

The binaries of good and evil, reassuring us of our innocence and telling us whom to fear, eventually become like rusty hinges unable to provide the movement necessary for moral and social development. Mani (2005: 511) claims that post-conflict work must focus on creating an *inclusive* political and civic community to ‘overcome the fragmentation of society that occurs or is exacerbated during war’. She further argues that this ‘reparative justice’ approach is overlooked because the field ‘focuses on certain identified groups in society, namely, “victims” and “perpetrators”’ (Mani, 2005: 512). Interrupting cycles of violence requires focusing on these iterative loops narrating self and other.

Understanding dynamics of inclusion and exclusion becomes central for international relations as well (Linklater, 1992). Writing in the context of US–Iranian relations, Duncombe (2016: 622) saw the dangers of exclusionary discourse:

binary representations of Self and Other inform the identity narratives of each state and how they are recognised. Furthermore, these representations contribute to misrecognition, which creates a feeling of disrespect, exacerbating tensions between Iran and the U.S. as they engage in nuclear negotiations.

The roles once cast exacerbate tensions. How, then, to interrupt these cycles? Lévinas (2003) and Adorno (2012) encourage greater identification with the Other; Tannenbaum (2002: 203–204) says, ‘the way out is to refuse to dramatize the evil’. The way that this evil becomes dramatized is therefore centrally important, and is the subject of the section that follows.

Social construction of victims and perpetrators

To engage in this reflexive work, those we also must consider conceptions of victimhood. Heidegger’s work on mythology of being provides some clues about how to conduct this inquiry: ‘the statement, “Man exists,” does not answer the question about whether or not man is real; it answers the question about the “essence” of man’ (Adorno, 2004: 117). Accordingly, labeling someone a ‘perpetrator’ summons the ‘essence’ of perpetration they represent, rather than their true existence. Duncombe (2016: 623) says that ‘mainstream International Relations (IR) has consistently ignored the importance of representation’. The following moves representation to the forefront, examining *how* we represent victims as well as their discursive relations with perpetrators.

The ideal victim

Much scholarship addresses the social construction of the victim and has gone so far as to define the *ideal* victim. Sociologist Nils Christie (1986) used the term *ideal victim* to describe a ‘little old lady’ on her way home from tending to an ill family member. She is robbed at gunpoint – in the middle of the day. Van Wijk (2013) argues that the ‘little old lady’ has a counterpart in the context of international crimes, often represented by children or unarmed groups. Christie warns that those considered ‘ideal victims’ are not always the most victimized or harmed group; they are simply those who receive instant recognition of their victimhood. Cultural norms determine this. In the context of individual and widespread violations, ideal or true victimhood demands total innocence as a kind of

purity (See Enns (2012), McEvoy and McConnachie (2012)). Transitional justice scholars, however, increasingly challenge victimhood's sacred position, expressing concern about the hierarchies of innocence such a model invites (See Fletcher (2015), McEvoy and McConnachie (2012)).

Bouris (2007) calls a Holocaust victim an 'ideal victim'. Almost all were unarmed, many were children, and a significant number were like Christie's ideal victim: little old ladies tending to their families attacked in broad daylight. Pure victimhood is a coveted position – one that many argue Holocaust survivors retain. In Kaminer's (2004) hierarchy of suffering, Holocaust survivors top the list. Novick (1999) recognized this position as being so privileged that other groups developed 'Holocaust envy'.

The victim–perpetrator relationship

Victims cannot exist without perpetrators. According to Christie (1986), ideal victims not only need ideal offenders, they create them in equal proportion. Positioning theory (Harré and Langenhov, 1991) explores relations between pairs such as these. Just as there can be no teacher without a student, no victim exists without a perpetrator. These positions are malleable in relation to one another; if the perceived innocence of the victim shifts, perceptions of the perpetrator shift (Harré and Langenhov, 1991; Christie, 1986). In the context of transitional justice, McEvoy and McConnachie (2012: 531) noted a similar dynamic: 'the "innocent" victim should be the binary opposite of what [Shadd] Maruna has termed the guilty "Bogeyman" who perpetrates wickedness'. The purest victims require a proportionally sized ogre.

Searching for the ideal perpetrator

Studying Norwegian guards in Norway torturing Jews under the thumb of the Germans, Christie (1986: 25) ultimately found that 'most violent offenders are not so ideal'. Even though publically we often consider perpetrators as insane, psychopathic, or simply evil, Christie found most torturers quite ordinary and concluded that most of us would have behaved in the same way if placed in the same conditions.² While ordinariness poses a threat to the good–evil framework, we are reluctant to release the binaries.

Perpetrators who find themselves in the proverbial public stocks for years are usually not there only because of their *actus reus*, their guilty act. They remain in the public eye because they represent what a society considers the characteristics of evildoers. Take, for example, women stoned in public every week in parts of Saudi Arabia. The ritual highlights them as perpetrators, yet, to many outsiders, perpetration lies with the rock-throwers, not the allegedly adulterous women. The lens defines the act.

In the context of Afghanistan, Johnson (2016: 712) found the hypervisibility of a scandal reflected how well it sat in relation to the 'normative architecture' of the community, rather than the size of the transgression. What we focus on tells us about ourselves, not the thing defined. Similarly, Ricoeur (2005) says that we can only know what we put into something. Our definitions define *us*, rather than the thing defined. The following outlines the SNCF's hypervisibility and then considers how the SNCF serves as an ideal perpetrator for the Holocaust.

The SNCF conflict

The contemporary SNCF conflict provides a salient site in which to study the intersection of social construction of perpetration and long-term security. During the German occupation of France during World War II, the SNCF transported roughly 76,000 mostly foreign-born Jewish deportees

crammed in cattle cars towards death camps. Subsequently, there has been a multidecade international debate over its ability to effectively make amends for its role in the Holocaust. The SNCF's business interests brought the conflict to the United States, where various states drafted legislation to thwart the company's US progress. 'I blame them [the SNCF] for the whole thing,' says one survivor involved in the lawsuits against the company. She lost her parents in the deportations and now resides in Florida (Interview 2). Rosette Goldstein, also a Florida resident, went to both Orlando and Annapolis to support the legislation and says she fights the company because she believes it had a choice (Interview 3). When survivors, once powerless children, succeed in tripping up a multinational company with annual revenues of over \$40 billion, the experience can be exhilarating and a symbolic way of honoring loved ones.

An irony of this conflict has been that the more the SNCF attempts to clear its name in the United States, the more it becomes associated with the Holocaust and the more disdain it incites. The company has opened its archives, donated over \$12 million to Holocaust education, and conducted an independent report on its wartime role, but the knots tighten with every move. 'The SNCF case has had a global resonance,' Vichy historian Marrus (2010: 263) observes; national and international media continue to report on each twist and turn. This article considers what accounts for this resonance and what this resonance can help us understand about other contemporary conflict.

Any student of this conflict eventually enquires about the curious omission of other rail companies (i.e. German, Japanese, American, Italian), other Holocaust-implicated companies (i.e. Siemens, IBM), and companies currently committing human rights violations. They ask, why are people only fighting about trains? And why only French trains? This article argues that the SNCF has certain attributes that make the company an 'ideal' perpetrator – ideal in the sense of fulfilling the role of villain more fully and satisfactorily than many of its counterparts. The company is perceived as (1) strong and impenetrable, (2) abstractable and inhuman, (3) representative of the crime, and (4) has a champion-opponent, meaning someone or some group that repeatedly focuses attention on a particular perpetrator. Exploring how Weberian ideal types (Kim, 2017) function in the context of violence helps slow the attribution of evil and interrupts discursive loops of inclusion and exclusion. Because the study of perpetration developed largely as a subdiscipline of Holocaust studies (Roseman, 2013), it is suitable to use a Holocaust-related example to put forth this model of the ideal perpetrator which proves useful in understanding the dynamics of perpetration labeling in many other contexts. The following provides background to the SNCF's role in the war and the decades-long conflict.

SNCF conflict background

France signed an armistice with Germany on 22 June 1940 in Compiègne, France, the site where Germany had signed its surrender in 1918. The *Convention Franco-Allemande d'Armistice* (hereafter, Armistice) relieved Germany of the burden of governing France; Germany allowed a French government to govern the *zone libre* (free zone) and to operate in the occupied zone under German direction. The French military was disarmed and French soldiers placed into prisoner-of-war camps. Article 13 of the Armistice placed the SNCF's rolling stock, as well as all communication services, under German control.

The state-owned-and-operated SNCF boasted 400,000 railway workers with equally as many railcars tasked with keeping the country and the German war effort moving forward. During the German occupation, the SNCF transported – for a fee – German soldiers, munitions, coal, and other goods necessary to support the war effort. The railroads also transported fleeing refugees, paying customers, and goods necessary for the country to function. The SNCF also transported roughly 76,000 deportees crammed horrifically into merchandise cars (often referred to as 'cattle

cars') headed for the German border. Nazis met these deportation trains at Novéant near the German border, and German train drivers then drove them to Auschwitz. Roughly 3,500 returned. The SNCF's role in these transports and its alleged profit for carrying these deportees fueled (and continues to fuel) a decades-long debate over whether the SNCF still ought to compensate survivors directly. The debates, first arising in France, also challenged the SNCF to change its wartime narrative from a singular tale of heroism to include an honest rendering of its role in the Holocaust.

Thus far, legal lacunae and the company's hybrid public-private identity have enabled it to avert legal accountability in the USA, France, and the European Court of Human Rights. Litigation in France, launched in the early 1990s, stalled out when the SNCF's legal team successfully used its identity as a private company to avoid liability. US courts refused to hear the case, citing the Foreign Sovereign Immunities Act, which prevents litigants from suing a country. In sum, the SNCF escaped liability in France for being private and in the USA for being public. Those still wishing to hold the SNCF accountable decided to use the company's business interests as leverage. The SNCF, a leading player in rail transport, won the Virginia Regional Express contract and the Massachusetts Bay Transportation Authority contract. Those fighting the company lobbied legislators in states where the SNCF (usually through its subsidiary Keolis) bid for regional, commuter, and high-speed rail contracts. As a result, the company faced both legislation and bad press in Maryland, California, Florida, and Virginia.

The US federal government urged states to drop the legislation and allow the US State Department to deal directly with France regarding this state-owned enterprise. In the case of the Purple Line extension of the Washington, DC metro system, the federal government threatened to withdraw \$900 million in funding from the project if Maryland legislators continued to pressure the company for restitution. The US State Department told the states to allow them to complete ongoing negotiations with the French government over this issue. A \$60 million settlement signed in 2014 by France and the USA aimed to settle the dispute by providing needed restitution to survivors overlooked by other French programs. Although many hoped the settlement would end the French railway conflict, another class action suit was launched in April 2015 on Holocaust Remembrance Day, alleging that SNCF employees stole victims' belongings during the deportations.³ The conflict rolled on.

Research approach

Research on this conflict was conducted in three parts. Part I required understanding the SNCF's role in the deportations, the company's amends-making, and the French Jewish community's current feelings about the company. This included archival visits, as well as meetings with leading Vichy historians, SNCF executives, and the French Jewish leadership. Part II necessitated understanding the contemporary lawsuits and legislation in the United States. Interviews with lawyers, legislators, and litigants, and attendance at legislative hearings provided the necessary materials. Working pro bono on the conflict for the US House of Representatives, the US State Department, and *The Washington Post* while following national and international media coverage allowed access to the different social constructions of the SNCF. Part III included speaking with over 80 Holocaust survivors, now living in France or the United States, who fled persecution in France, to understand their views on the conflict.

Narrative mapping

Narrative mapping provided an essential tool to interpret the data. The conflict analysis aimed to understand the social world of the conflict as much as its political and legal implications. Social

life cannot be understood without an examination of narratives. MacIntyre (1981) saw social life as a narrative, and Cobb (2013) considers conflict as both constituted and perpetuated by a complex system of these social narratives as they have gravitas (weight). Narratives represent and create our social and political worlds, including our conflicts. Analyzing conflict through a narrative lens requires embedding oneself in the context in which those narratives emerged; otherwise narratives remain unintelligible (Czarniawska, 2004). Immersion in the SNCF conflict enabled me to locate shifts and trace ‘webs of meaning’ (Yanow, 1996: 20).

Narrative methodologies also befit this study because of the political nature of the debates. The quest for control over stories is the political quest. These stories reflect and recursively direct the production of events mostly through the interplay of master and counter-narratives (Bamberg, 2005; Lyotard, 1984). Shenhav (2015: 34) defines master narratives as ‘leading principles, widespread ideologies, or sociocultural perspectives from which stories in the social domain evolved’. More than simply thoughts, those influenced by master narratives experience them as reality. They reflect shared meaning-making and understandings of events past and present (Shenhav, 2015: 17). Therefore, understanding the conflict required understanding the narratives.

During this analysis, shared tropes emerged: ‘the SNCF is an outlier’ or ‘they had no choice’. Similar tropes could be found in interviews, as well as news reports, correspondences between the SNCF and US officials, survivors interviews, and legislative hearings. Coached by their lawyers, litigants shared the most coherent narrative, which could easily be then transmitted to the media and then the wider public. Seeking out the varied narratives honors diverse perspectives (Czarniawska, 2004). Bruner (1990) considers stories as tools for social negotiation. These negotiations do more than reflect cultural norms: they create them. Interpretations of justice, accountability, perpetration, and victimhood are all being simultaneously articulated as well as constructed during these debates.

Just as literary theorist Frye (1957) asked scholars to ‘stand under’ a text, I too tried to stand under the narratives circulating about the SNCF. The relative invisibility I had hoped to maintain while engaging with and mapping the narrative landscape, however, proved impossible. Because of the strong victim–perpetrator discourse surrounding the conflict – the subject at the heart of this article – I found myself navigating uncomfortable terrain. Those fighting the company saw me as working either with or against them. When I explained my intention to study rather than engage in the conflict, some considered my answer a euphemism for defending the SNCF. The binary framing of my work reflects the problematic binaries at the heart of perpetrator framing. What made this case all the more contentious was the SNCF’s ability to serve as a perpetrator archetype.

SNCF: An ideal perpetrator

The SNCF cannot seem to shake its World War II history. Why not? Many other Holocaust and/or Nazi-complicit companies emerged relatively unscathed (e.g. Ford, IBM, Volkswagen, Hugo Boss, and Porsche). People may shake their heads disapprovingly when the subject arises, but few companies feel or ever felt the sting to their bottom line. Those fighting the SNCF ride Thyssen-Krupp elevators without a thought about the company’s role in supporting the Nazi war effort. They swallow Bayer aspirin for their headaches, forgetting that the company is the offshoot of I.G. Farben that produced the Zyklon B poison used in the gas chambers. While many German companies did pay into a fund after the war to help victims, no executives faced more than eight years in prison.

So why did the legislation, lawsuits, and articles discussing accountability for the Holocaust at times seem to focus *exclusively* on the SNCF? Some argue the SNCF has long escaped any accountability. Aaron Greenfield, a lobbyist fighting the SNCF in Maryland, said about the SNCF, ‘Come on, stop. You’re an outlier and you’re the only one that has never been accountable’ (Interview 4).

By this he means that the company did not compensate survivors directly. Marrus (2010), a historian called upon during the conflict, found it particularly ironic that the French police were not targeted given that they conducted the round-ups, guarded the prisoners, and enforced the retraction of their rights. Serge Klarsfeld agreed that these ongoing debates about the SNCF distracted from the '*vrais coupables*', the truly guilty, including French police and the Gestapo (Interview 5). Marrus concludes (2010: 254) that 'responsibility, in brief, most properly belongs with the French state, and not with the SNCF'.

Additionally, current debates show an astonishing lack of concern about companies currently involved in human rights violations. When I asked Maryland House delegate Samuel Rosenberg why his legislative bill did not require the state to vet the human rights history of *all* companies bidding for state contracts, he said, 'Well, that's what the people came to me about' (Interview 6). We see that when the spotlight shines brightly upon one, many culpable actors can hide in the shadows. When the German Deutsche Bahn (the contemporary German national railway company) asked US Ambassador Douglas Davidson if they ought to be concerned about their US bids, Davidson reassured them the conflict was solely focused on the SNCF (Interview 7). Amtrak did not have to worry about the slaves who built the US railway system or the US railways' role in transporting Japanese Americans to internment camps both because no one thought to ask and, even if they had, because Amtrak did not exist as a conglomerate until the 1970s. For those cast in the role of perpetrators, however, no amount of good deeds, past or present, seem to shake the yoke.

The SNCF's shifting identity

For the SNCF, a reputation proved easier to build than to restore.⁴ Immediately after the war, France and the SNCF worked together to construct a positive story about the SNCF's wartime role. The French government sought stories of heroism to rebuild national pride, and the SNCF's participation in the sabotage of the railways during D-Day made the national railway company a tangible site for that pride. On 26 August 1944, even though deportation trains had continued to depart just two weeks prior, the *Conseil national de la Résistance*, a resistance organization, congratulated then-SNCF president Pierre Eugène Fournier for the company's acts of sabotage during the war.

Ultimately, a film secured the SNCF's place in the national psyche as a wartime hero. In 1944, the SNCF funded a film about its role in the Resistance. The company maintained control over the screenplay and the editing. René Clément's resulting 1946 film *La Bataille du Rail*, which acknowledges the SNCF, was received well throughout France. In the 1950s, the SNCF received the highest medal of honor – *la Légion d'honneur* – for acts of resistance. The government-commissioned Paul Durand (1968) collected stories of SNCF resistance. During this time, the deportations were not discussed. A singular story had been constructed.

In the 1990s, after the fall of the Berlin Wall, transnational Holocaust litigation swept across Europe. During this time, lawsuits against the SNCF began, first launched by Kurt Schaetcher, a survivor who had secretly copied 12,000 documents from a Toulouse archive to demonstrate SNCF complicity (Broch, 2016). The court dismissed the case, citing a statute of limitations. Another famous lawsuit, launched by Lipietz and filed against the French state and the SNCF for the injuries suffered by Lipietz's mother, father, and stepfather, unleashed a chorus of demand (Lipietz, 2011). While the SNCF appealed successfully, overturning the legal decision of the Administrative Court of Toulouse, the company received over 1,000 requests for compensation (Marrus, 2010: 248). The company's image was forever tarnished. Goffman might explain the source of this rage as twofold: the first, for participating in the Holocaust, and the second, for 'impersonating someone of sacred status' (Goffman, 1959: 60), in this case, *le vrai Résistant*, the true Resistant.

Debate remains as to whether the SNCF began to shift its singular wartime narrative of resistance in response to these lawsuits or independently, but shift it did. In the 1990s, the SNCF commissioned an independent report on its wartime role that was eventually released to the public. Then, in 2000, the SNCF held a formal colloquium that attempted to integrate the narratives of wartime resistance with the deportations.⁵

For all its efforts, the Biblical promise ‘the truth will set you free’ did not apply to the SNCF. Marrus (2010: 249) observes, ‘ironically, the SNCF’s own commitment to historical accuracy has played an important role in the successful litigation’. Truth-telling made matters worse for the company; the more the SNCF spoke about its wartime role, the more it became associated with the role. National and international media coverage helped tighten the noose. As Marszolek (2010: 156) observed during the Auschwitz trials,

without the media, which told the public the story of the victims, of the perpetrators and of everybody in the court, there would not have been any effects at all. But the media always reflect both those who are the producers of information as well as its consumers.

Even some Jews in France expressed concern about the SNCF’s condemnation. Ambassador Davidson, the State Department’s special envoy for Holocaust issues, said the French Jewish leadership beseeched him and his colleagues to put an end to these lawsuits and battles against the SNCF because the battle worsened the already increasing anti-Semitism in France (Interview 7). Furthermore, Klarsfeld and the head of CRIF, France’s organization concerned with the social life of Jews, Richard Prasquier, said the SNCF had done enough. They appreciated the transparency as well as the roughly \$12 million in Holocaust commemoration and education (Interviews 5 and 8). The SNCF had also satisfied much of the international Jewish community. In November 2014, Israel contracted with the SNCF to improve its railway stations and the Israel National Railroad engineering training program.

The Anti-Defamation League based in Washington, DC, hoped for a negotiated agreement that would neither exonerate nor condemn the SNCF but find a middle ground (Interview 9). The vast majority of the over 80 survivors interviewed, all of whom survived persecution in France, had no interest in suing the company. But the debates remained polarized; why?

The SNCF’s fixed position

Once positioned as a perpetrator, the accused will struggle to re-story their identity. Many will be stuck with the perpetrator label. Especially when the crime is heinous, for some almost no amount of punishment will do. As McEvoy and McConnachie (2012) observed, the more innocent the victim, the harsher the punishment. Klapp (1954: 60) identified the fact that the villain must be destroyed both ‘in status and person as illustrated by the ideal fate of the ogre in the folktale who is boiled in his own pot’. In the SNCF conflict, litigants successfully destroyed the status of the company.

Just as in chess, where each piece has prescribed moves, victims and perpetrators have different levels of discursive mobility. Greimas and Cortés’ (1982) actant model of discourse analysis acknowledges this mobility, calling characters *actants* rather than heroes, villains, or victims. Individuals can shift between multiple roles throughout a narrative, and actors are not always human – sometimes they are trains or companies. But the mobility of each role is not equal. Victims have the fullest range of motion, moving with the freedom of chess’s queen piece. Perpetrators, however, move discursively more like the king – limited in mobility. Their position often becomes fixed or frozen (Greiff, 2017). The justice project works to do just this, first to trap and then to capture the king. The capture is first discursive then physical.

Criminologists and transitional justice scholars speak to the fixed nature of spoiled identities. Goode (2014) emphasizes the ‘stickiness’ of the perpetrator label. Klapp (1954) has found that stigma, once assigned, can rarely be surpassed. Minow (1999) and Braithwaite (2004) say these labels ignite blame and shaming cycles, keeping communities trapped in cycles of fear and revenge. There seems to be no escape. In *Moral Repair*, Walker (2006) encourages perpetrators to accept a certain amount of ongoing hostility and indignation for the irreparable harms committed. Entities and individuals tainted by perpetrator labels cannot always just sit still and take the beating. They are sometimes called on to respond. This leads us to the next problematic loop, the double bind.

Double bind: A problem of fixed identities

Sluzki et al. (1976) discuss the ‘double bind’, colloquially known as ‘damned if you do, damned if you don’t’. Double binds capture parties in contradictory messages, with an inability to escape, forcing them to remain silent, or to metacommunicate (ask the other party what is wanted of them). The SNCF experienced this rhetorical position especially with regard to apologies. Told to apologize, the SNCF did so in the United States, but found its apology rejected by a group of survivors in Florida who claimed that the company expressed regret only to win the Tampa–Orlando high-speed rail contract. They told the SNCF to go home and apologize in France and in French. SNCF President Guillaume Pepy did so at a commemorative ceremony at Bobigny, a former deportation site the company donated; in front of a room of Jewish leaders, victims, historians, and others, he apologized and bowed down before the victims. Lead lawyer Harriet Tamen responded, ‘Don’t bow down, write a check!’ (Interview 10).

When the company writes a check for Holocaust commemorative and educational activities, those challenging the SNCF deny or discredit the contribution. These activities are seen as insufficient, irrelevant, or considered a means of buying forgiveness. Furthermore, those challenging the company wanted survivors paid directly; but, when they were, survivors were slow to acknowledge that amends had been made. From the 2014 French–US settlement, Stanley Kalmanovitz received \$204,000 for the deportation of himself, his sister, and his father. About the SNCF, he said, ‘this is not a settlement of conscience. This is a commercial “gamble” settlement, an opportunity to be awarded large construction contracts was the guideline, not anything else’ (Interview 11) – a classic double bind.

Marrus (2010: 254) supposed the SNCF’s hypervisibility could be explained by the organization’s ‘democratic’ structure, its public ownership, the strong trade unions, and its efficiency, elements that ‘distinguish it from many other services in France’. While these may be contributing factors, the SNCF fell into and remains in the spotlight because the company embodies certain attributes, what Goffman (1959) calls ‘ideal qualifications’. As noted earlier, the qualifications for an *ideal perpetrator* that the SNCF embodies include strength, abstractability, representing the overall nature of the crime, and having a champion-opponent who consistently focuses attention upon them. Having just two of these attributes can sustain a perpetrator label; the SNCF has all four. Whereas the first two attributes are more straightforward, three and four require more explanation.

The SNCF: Strong and growing

Just as weaker victims more easily achieve victim status (Christie, 1986), stronger perpetrators more easily maintain their perpetrator status. After the war, the SNCF continued to grow, expanding well beyond France. As of 2017, French railroad engineering from railcar production to transport management remains world class, competing effectively against Japanese, German, and other

train companies internationally. This is reflected in the SNCF's earnings: Its 2013 worldwide revenue was €32.2 billion (roughly \$44 billion) (SNCF, 2013). The company is perceived as wealthy; a connection with the French state makes it seem impenetrable. If money were the only driving factor, however, other large Holocaust-implicated corporations like Siemens and the German train companies – also bidding for US contracts – would become targets.

Then we have the perception of physical strength. Trains are made of strong materials and move forward with great power. As a perpetrator on the stand, they can take the beating. They can absorb the blows of hatred and rage cast in their direction, leading to the second attribute. Even while advanced technologies abound, children and adults alike still stare at trains with an awe borne of amazement and fear.

The SNCF: An inhuman abstraction

Christie (1986) discussed the public's preference for a distant and dehumanized offender. The SNCF offers both. Abstractions prove more satisfying than individuals. Notions of *Nazis*, rather than actual Nazis, provided the needed distance and the needed numbers. *Nazis* are not actually people, but uniformed, indistinguishable individuals following orders. As a concept, they seem anything but human. Inhuman, they can be despised and disposed of without remorse and punished in perpetuity. Similarly, the SNCF can serve as a blockbuster villain – a larger-than-life and inhuman entity. Already inhuman, trains could not be more perfect.

The company is a pulseless legal creation with a mere acronym for a name. As a construct, the SNCF proves a far more satisfying rogue than a deceased fearful employee or an opportunistic technocrat. With the individual perpetrators long dead, the company resembles the shell of a hermit crab, vacated by the previous SNCF *cheminots* (railway workers), now inhabited by new residents.

The psyche's preference for an abstractable perpetrator may have contributed to the attacks against the SNCF even *after* all the perpetrators had died. Living individuals make it harder to play out a symbolic battle. Up close, the humanity within them and their constraints become visible. With these compromised and compromising individuals gone, ideal types circulate unimpeded. The next two attributes require more explanation because less scholarship exists and because they speak directly to these debates.

The SNCF represents the atrocity

Ideal perpetrators represent not just the ill deeds of one person or entity; they represent the atrocity itself. Human rights violations committed by the SNCF represent the heart of the Holocaust. Just as Hitler's name stands for all Nazism and Eichmann, even if his banality label prevails, came to represent the Final Solution, trains stand for the mechanized killing during the Holocaust. Players with a more marginal role rarely find themselves so aggressively targeted. The clothing company Hugo Boss, for example, produced the SS uniform. Hugo Boss himself was a fervent Nazi throughout his life, and yet the company experiences no contemporary backlash (Bazyler, 2005).

As a train company, the SNCF represents the symbol of the Holocaust. The result is a history very hard to shake. Hilberg (1973: 40), the father of Holocaust research, points out that while many organizations (SS, industrial enterprises, banks, etc.) contributed to the destruction of Jews in Europe, the railroads were 'indispensable at its core', citing Auschwitz's 42 parallel tracks as an example. Trains became the conveyor belt to hell upon which the majority of European Jews found themselves. Furthermore, rail transport became the shared experience of almost all those taken to various death or work camps. And of those who escaped or were hidden,

almost all eventually traveled on trains. Likely this explains why Marrus (2010: 256) observes how ‘railways have become a familiar trope in the cinematic representation of the Holocaust’. Holocaust museums rarely omit them.

Finally, because no one survived the gas chambers, those who survived the rail voyages can also provide the closest access to these final moments. The convoys were not unlike the gas chambers: sealed boxes that dehumanized their contents. Those who survived the trains can tell us about that experience, the conversations, and the prayers uttered. These testimonials, once heard, are hard to forget. These railcars past and present come to be associated with the murder as well as the dehumanization.

Trains past and present also become *lieux de mémoire*⁶ (Nora, 1989). Unlike most *lieux de mémoire*, which remain stationary and place-based, the SNCF provides a moving memorial, increasingly circulating the globe as the company acquires contracts and brings its history with it. Marrus (2010: 256) claims that because the SNCF lacked independence during the war, ‘the symbolic fit of the railways at issue with the Holocaust seems not quite right’. In the end, the trope trumps history. Narratives can trump facts.

The champion-opponent

What keeps the SNCF in the forefront is also the presence of what Propp (2010) calls a *dispatcher*, what Greimas and Cortés (1982) call the *sponsor*, and what I prefer to call a *champion-opponent*. In Propp’s typology of characters derived from Russian folktales, he found one character first makes the perpetrator visible and then dispatches the hero to slay this villain. This outsider – when deeply committed and motivated by personal vendettas – can play a vital role.

Renowned Holocaust activists and Nazi hunters Serge and Beate Klarsfeld brought to trial several major French collaborators, including Paul Touvier, Klaus Barbie, René Bousquet, Jean Leguay, and Maurice Papon. Without the Klarsfelds as champion-opponent, these individuals might have lived their final days free from public trial. Their trials led to convictions and added their names to public memory as *perpetrators*. Osiel (1999) observed the enormous media attention that Touvier’s trial received, noting how it became a proxy for a trial of the whole Vichy government. Touvier was an ideal perpetrator: He came to represent all French collaboration and had a very powerful dispatcher – the Klarsfelds – who consistently made his crimes visible.

In the SNCF conflict, both the Jewish diaspora and New York-based lawyer Harriet Tamen play the champion-opponent, dedicated to keeping the gaze fixedly upon and only upon the SNCF. Without Tamen’s relentless commitment to this battle against the SNCF, many agree that the issue might have dissolved long ago. Tamen has worked pro bono on the SNCF class action lawsuit for well over a decade. Prior to her involvement with the SNCF litigation, Tamen worked on the 1990s suit against the French national banks with Stuart Eizenstat and others. While she signed the agreement, she remarked soon after that it was ‘the biggest mistake’ of her life (Eizenstat, 2009: 337). She then launched the class action lawsuit against the SNCF and attracted an estimated 600 litigants worldwide.

After the \$60 million settlement signing at the US State Department, a number of lawyers on the team and the survivors in attendance celebrated the agreement. Tamen, by contrast, turned to Congresswoman Carolyn Maloney and said this was far from over. She told her team the same. Tamen worked behind the scenes to support a new class action lawsuit, launched in April 2015, against the SNCF in Chicago, where litigants charged the company not with murder but with theft.⁷ Tamen impaled, if not crippled, the giant. Once impaled, the intoxication of capture attracted the attention of a larger public. Marrus (2010: 259) argues that such positioning of the SNCF front and center does society a disservice:

The difficulty in singling out an organization such as the SNCF, and particularly a judicial reckoning more than sixty years after the event, is precisely the diffusion of responsibility for the Holocaust, what Hannah Arendt referred to as the 'moral collapse' that the Nazis caused everywhere in European society.

If moral collapse catalyzes mass atrocity, then focusing on a singular actor like the SNCF may be not only distracting but outright dangerous, especially for those concerned with long-term security.

Ideal types and long-term security

In the SNCF conflict and beyond, the identification and deconstruction of ideal victims and perpetrator constructs has larger implications for long-term security. Bouris (2007: 6) notes that 'the reliance on the ideal victim image is not just a problem for headline-hungry evening newscasts; it is a problem for thoughtful scholars of peacebuilding as well'. Bouris claims that the creation of the political victim is used to form political responses; therefore Johnson (2016) warns us to be careful how we denounce ethical failures, lest they reproduce exactly what we sought to condemn. The labeled perpetrator loses ability to speak and be heard as a legitimate member of society. This ostracization can lead back to cycles of violence and can distract the rest of society from inquiring into other factors contributing to the crime (i.e. failed policies, drug usage, underemployment, etc.).

The first step is observing the dynamics perpetuating the victim-perpetrator binaries. Then we need to become more comfortable with overlapping identities (Alexander, 2006; Enns, 2012; McEvoy and McConnachie, 2012). Hinton (2012: 158) also asks us to resist the urge to outsource evil because such a discursive move blinds us to where civilization still contains genocidal tendencies:

But as we now know, genocide is closely bound with modernity and civilization and, as the Milgram and Zimbardo experiments so clearly revealed, perpetrators are usually much more 'normal' than we'd like to think.

Sociologists, criminologists, and Holocaust scholars alike encourage looking beyond the individual perpetrator to the social/political norms and conditions that moved people towards crimes against humanity (Adorno, 2012; Roseman, 2013; Tannenbaum, 2002).

Conclusion

As the spotlight continues to shine on the SNCF and other singular perpetrators, the hypervisibility obscures everything outside its reach, including other offenders, underlying cultural norms that legitimize violence, and those directing the spotlight. Understanding how an offending person or entity finds its way to the gallows is the first step in increasing the visibility and reflexivity required for long-term, positive peace. Understanding the attributes that made the SNCF an ideal perpetrator helps us discover how other perpetrators find their way onto the stage of justice. Joseph Kony, the leader of the Lord's Resistance Army in Uganda, for example, became a world-famous perpetrator in large part owing to Jason Russell's Invisible Children, Inc. As the champion-opponent, Russell and his group kept Kony in the spotlight with the Kony 2012 campaign. Their website asks,

Can an online video make an obscure war criminal famous? And if he is famous, will the world work together to stop him? (*Invisible Children*, 2012)

The hope was that by putting Kony in the spotlight, justice would be served; the world would mobilize. Those suffering from his leadership, however, knew full well that all problems did not stem from the violence within this one man. Today, Invisible Children has expanded its mission to include support for early-warning systems, trauma healing, community resilience programs, and grass-roots advocacy (*Invisible Children*, 2012). These programs help people do more than prosecute the guilty: they find a way forward in the aftermath and work to prevent future outbreaks of violence.

While chasing after the evildoers remains a central part of post-totalitarian and security work, to do so without reflexivity leaves us all vulnerable. Only examining not only *how* and *why* we punish but also *whom* we punish can start to free us from the binaries keeping us bound in cycles of fear, revenge, and violence. As Christie (1986: 29) so aptly said, ‘my morality is not improved by information about bad acts carried out by monsters’. This framework for perpetration can also help us consider our conceptualizations of ISIS, Boko Haram, school shooters, the targets of the ‘#MeToo’ movement and many others. An examination of our discourses about these individuals and groups seeks not to expunge guilty acts but to resist the binaries and simplistic storylines which often lead us right back into violence. Highlighting only certain perpetrators leaves us steaming along too resolutely towards dangerous forms of justice.

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Notes

1. This tribunal held around a dozen executives accountable for their company’s role in supporting the German war effort and their use of slave labor. While the executives received little more than a slap on the wrist, and none of the companies disbanded, the tribunal laid the groundwork for future corporate accountability cases.
2. This ‘ordinariness’ is increasingly considered by documentary filmmakers who conduct interviews in bucolic settings to highlight the unremarkable nature of perpetrators in other mass atrocities. Joshua Oppenheimer’s *The Act of Killing* about the 1965 Indonesian genocide, Thet Sambath and Rob Lemkin’s *Enemies of the People* concerning Cambodia’s Khmer Rouge, and Claude Lanzmann’s nine-hour *Shoah* all feature these largely unimpressive villains.
3. In 2018, a Chicago judge dismissed the case.
4. For more on the SNCF’s reputation prior to the war, see Broch (2016).
5. For further discussion, see Federman (2016).
6. *Lieux de mémoire* is commonly translated as the sites or places of memory.
7. The claim of theft allows the suit to use the Alien Tort Statute and circumvent the Foreign Sovereign Immunities Act that blocked Tamen’s earlier suit. Historians almost unanimously agree that it would have been the police, *not* the SNCF workers, who had access to people’s belongings during the deportations.

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4. Interview with Aaron Greenfield, Maryland lobbyist, Annapolis, MD, 24 March 2014.
5. Interview with Serge Klarsfeld, founder of *Association des fils et filles des déportés juifs de France*, Paris, 8 January 2011.
6. Interview with Samuel (Sandy) Rosenberg, Maryland state delegate, District 41, Annapolis, MD, 19 March 2014.
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8. Interview with Richard Prasquier, president of the Representative Council of French Jewish Institutions (CRIF), CRIF offices, Paris, 11 April 2012.
9. Interview with Mindy Reinstein, deputy director of government relations, Anti-Defamation League (ADL), ADL offices, Washington, DC, 10 November 2014.
10. Phone interview with Harriet Tamen, lead lawyer on SNCF conflict, 30 May 2011.
11. Phone interview with Stanley Kalmanovitz, survivor, 17 May 2017.

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