

## **Mass Atrocity and Manipulation of Social Norms**

**ABSTRACT:** Mass atrocities are commonly explained in terms of changes in legal or moral norms. This paper examines the role that changes in social norms can play in precipitating or prolonging mass atrocities. I focus specifically on manipulative transformations of social norms. I first distinguish between the manipulative introduction and the manipulative activation of social norms. I then explain how both forms of manipulation can contribute to mass atrocities. Finally, extending a line of thought first suggested by Hannah Arendt, I present a case study of the manipulative introduction and activation of language rules amongst German National Socialist officials during WWII.

### **1. Introduction**

Norms – and changes in norms – occupy a central place in current efforts to make sense of mass atrocities. Philosophers, historians, and social scientists studying such crimes commonly cite inversions or breakdowns in legal or moral norms in their efforts to explain participation by large numbers of morally competent persons in atrocities. Considerably less attention has been paid to the contribution of social norms – and changes in social norms – to such crimes.

This paper contends that social norms merit greater scrutiny from scholars seeking to make sense of mass atrocities. I focus particularly on the phenomenon of manipulation of social norms, and show that such manipulation can play a determinate role in precipitating or prolonging large-scale crimes. I first make a conceptual distinction between two different forms of manipulation of social norms, namely, the *manipulative introduction* and the *manipulative activation* of social norms. I then show that each of these forms of manipulation can be and have been mobilized by individuals or groups seeking to carry out genocide and other forms of mass atrocity.

In order to illustrate these claims, the second half of the paper considers in detail a specific historical case of manipulation of social norms: the manipulative employment of so-called “language rules” (*Sprachregeln*) by the Nazis. This historical case study – developed partly on the basis of archival materials from the Hannah Arendt collection at

the Library of Congress – provides support for my claim that manipulation of social norms can help precipitate or prolong mass atrocities. At the same time, it raises important questions about the scope and significance of manipulation of social norms in cases of genocide and mass atrocity. I briefly consider such questions in my conclusion.

## 2. Social Norms

The term ‘social norms’ picks out a particular category of action-guiding prescriptions, prohibitions, and permissions, which can be distinguished from other kinds of practical considerations on ontological, epistemic, and normative grounds.<sup>1</sup> Four core features of social norms point up the distinctive character of such norms. These are the *particularity feature*, the *practice-groundedness feature*, the *group-intentional feature*, and the *accountability-creating feature*. In this section I describe these four features.

According to the particularity feature, social norms circulate within specific groups, organizations, or societies, and are normative only for members of those groups, organizations, or societies.<sup>2</sup> In this way social norms differ from other kinds of practical considerations that claim universal applicability. To say that social norms are particular to specific groups is not to say that their range or scope is ever fixed, since there are often legitimate questions about the bounds of membership in particular groups, and since social norms originating in particular groups often proliferate to other groups.

According to the practice-groundedness feature, at least part of the normativity of social norms is grounded in existing or perceived social practices within the specific groups, organizations, or societies in which they circulate.<sup>3</sup> This means that it is never appropriate to say that, although no practice of a particular kind exists in a particular group, and furthermore no members of that group believe (falsely) that such a practice exists, there nevertheless does exist in that group a social norm prescribing that practice.<sup>4</sup>

According to the group intentional feature, social norms depend for their existence on some appropriate distribution of beliefs and intentions among the members of the groups, organizations, or societies in which they circulate.<sup>5</sup> This feature is closely related to the practice-groundedness feature of social norms; indeed, only by combining these two features can we make sense of cases where the mere (mistaken) shared belief that a certain practice exists suffices to sustain a particular social norm. Much empirically oriented research into social norms focuses on developing models of the different distributions of beliefs and intentions that can give rise to and sustain social norms.

Finally, according to the accountability-creating feature, social norms create standards of accountability for members of the groups in which they circulate.<sup>6</sup> These standards of accountability are over and above the standards of accountability created by other kinds of norms, such as legal, moral, or perhaps epistemic norms; and in some cases they may conflict, directly or indirectly, with those other standards. When compared with legal norms, it is frequently less evident, in the case of social norms, which persons enjoy standing to hold others accountable for abiding by the prescriptions, prohibitions, or permissions embodied in these norms. In some cases, such as university honor codes, this uncertainty is resolved by assigning responsibility for enforcing social norms to particular bodies, such as honor councils. In many cases, however, no such formal assignment of responsibility for enforcing particular social norms occurs – and in these cases, it may be that all individuals subject to such norms can credibly claim standing to enforce them.<sup>7</sup>

In this paper, I assume that these four features of social norms are at least jointly sufficient to distinguish social norms ontologically from other kinds of practical considerations, including legal and moral norms. This is not a consensus point amongst scholars of social norms, some of whom seek to reduce moral (and legal) norms to social

norms.<sup>8</sup> Nevertheless, I think the argumentative burden rests on the reductionists, rather than on scholars who hold social norms distinct from legal and moral norms.<sup>9</sup>

### **3. Manipulating Social Norms**

The manipulability of social norms follows from the four features of social norms sketched above. This susceptibility to manipulation has attracted considerable attention in recent years. Experiments by empirically-oriented philosophers and other scholars have shown that it is possible, in the laboratory, to generate, activate, or erode social norms via the selective presentation or retention of information about the behavior of participants, the strategic framing of the choices posed, and the inclusion or exclusion of schemes of sanction or punishment for non-conformity.<sup>10</sup> Political scientists and policy makers have proposed (and in some cases, implemented) similar interventions in the real world.<sup>11</sup>

In contrast to such applied research into the manipulability of social norms, there has so far been little analytical work on the manipulation of social norms. This is in spite of the large philosophical literature on the general concept of manipulation.<sup>12</sup> Admittedly, that literature can be unwieldy: no general account of manipulation is uncontroversial,<sup>13</sup> and few specific claims enjoy wide acceptance.<sup>14</sup> Nevertheless, I believe it is important to inquire analytically, as well as practically, into the manipulation of social norms.

In this section, I begin by describing what I take to be a core feature of manipulation, namely, the intentional disruption of an agent's capacity to guide his or her actions according to relevant considerations. This feature, I argue, grounds a clear connection between manipulation and autonomy. Building on this, I distinguish two forms of manipulation of social norms: the manipulative *introduction* and manipulative *activation* of social norms. Finally, I use two hypothetical cases to clarify this distinction.

### *3.1 Manipulation, Action-Guidance, and Autonomy*

Elsewhere, I have defended a methodological approach to social norms that places such norms within the practical point of view – i.e. the point of view of agents engaged in practical reasoning. This view is implicit in my account of four core features of social norms above, most notably in my claim that social norms help to guide action. Like other philosophers, I believe that the capacity to guide or control actions according to relevant considerations is a necessary condition for autonomous agency.<sup>15</sup> Accordingly, I think that manipulation matters chiefly because it threatens this capacity. In this section I briefly set out my basic view of the relationship between manipulation and autonomy.

We can begin by distinguishing two broad classes of considerations that are relevant to individual agents' deliberations about action. On the one hand, there is the class of non-normative considerations. I shall refer to these here as “descriptive states of the world.” Such descriptive states include basic spatial and temporal circumstances, as well as various physical and social regularities. On the other hand, there is the class of normative considerations. Norms form a sub-division of such normative considerations; social norms form a further sub-division, marked out by the four features named above.

How do these various kinds of descriptive and normative considerations relate to agency, action, and autonomy? Everything that happens in the world, we may suppose, is constrained by descriptive states of the world. Some things that happen – specifically, things that are *done*, *undertaken*, or *performed* – are further constrained by normative considerations. Generally, we refer to entities capable of doing, undertaking, or performing as agents; we refer to the things done, undertaken, or performed as actions; and we refer to the distinctive way in which agents are constrained in their actions by descriptive and normative considerations by saying that agents are *guided* by such

considerations when deliberating over, or undertaking, actions.<sup>16</sup> When agents enjoy the capacity consistently to guide their actions according to relevant descriptive and normative considerations, we say that they enjoy (or possess; or exhibit) autonomy.

Manipulation, on my view, threatens to autonomy by undermining the capacity of agents consistently to guide their actions according to relevant descriptive and normative considerations. Manipulation is not the only thing to threaten this capacity: illness, at least of some kinds, also seems to threaten it, as does insufficient development or upkeep of relevant perceptual or intentional powers and abilities. Nevertheless, manipulation is of special concern because it is a threat to autonomy (or autonomous agency) that is created by other agents – typically (perhaps even necessarily) agents who, in the act of manipulating, are in fact exercising their own capacity for autonomous agency.<sup>17</sup>

The capacity of agents to guide their actions according to relevant descriptive and normative considerations can be undermined in many different ways, and so we should expect to find many different forms of manipulation. One way manipulation can work is to disrupt agents' ability to detect particular descriptive and normative considerations; a second way is to compromise agents' ability to gauge the relevance of the various considerations they have detected. In what follows, I focus on forms of manipulation that produce these and other sorts of disruptions through the instrumentality of social norms.

### *3.2 Two Forms of Manipulation of Social Norms*

In this section, I want to differentiate between two particular forms of manipulation of social norms. I refer to these as the *manipulative introduction* and the *manipulative activation* of social norms. Social norms are manipulatively introduced, I suggest, just in case (a) they are introduced or instituted within a particular group in order to alter the calculus of considerations that members of that group use to guide actions,

AND (b) the fact that these norms are introduced for precisely this purpose is itself concealed from the manipulated agents – thus depriving them of one eminently relevant consideration. Alternatively, social norms are manipulatively activated just in case (a) social norms previously present within a particular group are intentionally targeted by newly introduced cues, increased monitoring or threats of punishment, in order to alter the calculus of considerations that members of that group use to guide actions, AND (b) that fact that these new cues, monitoring policies, or punishments are introduced for precisely this purpose is itself concealed from the manipulative agents.

How do these criteria help distinguish cases of manipulative introduction or activation of social norms? In the first place, the two ‘(a)’ criteria capture the fact that the manipulation, or disruption of autonomy, is being carried out *by way of* social norms. Naturally, not every case of introduction or activation of social norms is manipulative; indeed, social norms are commonly introduced (or activated) with the explicit intention of changing behavior by changing the calculus of considerations driving behavior. The two ‘(b)’ criteria capture the fact that, in manipulative cases, the goal of changing behavior is itself concealed from agents, and so prevented from figuring as one of the relevant consideration upon which they can draw when deliberating about action.<sup>18</sup>

Now that I have offered criteria for distinguishing cases of manipulative introduction and manipulative activation of social norms, I want to illustrate these criteria via a pair of fairly benign examples of manipulation of social norms. The hypothetical social norm I will consider concerns the practice of making introductions upon entering a new social group. I will first develop an example of manipulative introduction of such a norm, then turn to an example of manipulative activation of such a norm.

### **Making Introductions 1**

- (1) Dr. Li, newly entered into group Y, is advised by long-time member Jones to introduce herself to other members of Y, rather than wait to be introduced.
- (2) There is currently no norm in Y concerning making introductions.
- (3) Dr. Li, deeming it more important to tend to her many patients than to make her introductions, decides not to follow Jones' advice.
- (4) Irked by Dr. Li's decision, Jones makes it a policy to tell future arrivals in Y that there is in fact a norm requiring them to make their own introductions.
- (5) Eventually, with enough new arrivals, Jones' tendentiously introduced norm concerning making introductions becomes firmly grounded in the shared beliefs, intentions, and practices of members of group Y.
- (6) Recognizing this new norm, Dr. Li reconsiders her position, and reluctantly decides to take time out from her medical practice to make her introductions.

A few features of this example deserve discussion. First, it is important to emphasize that Jones' initial advice to Dr. Li regarding making introductions is just that, advice. It is not an attempt to make her aware of a norm that (*ex hypothesi*) does not exist. This is what distinguishes this as a case of manipulative *introduction* of a social norm.

Next, we should consider what features of the case mark it as manipulative. As stated, the social norm on introductions is introduced precisely in order to change the calculus of considerations guiding Dr. Li's action. This is not yet enough to satisfy the two criteria set out above, however. In order to satisfy those criteria, we must consider whether Dr. Li has access to this eminently relevant consideration, or whether Jones has made effort to conceal this consideration from her. Only in the latter case, I contend, is it appropriate to say that Dr. Li is manipulated by the introduction of this new social norm.

Why should this be? It is in no way rare, in social and political life, for individuals and groups defending contrary policies to attempt to use formal and informal mechanisms to create social rules, regulations, and laws to advance their own policies, and to force their rivals to follow them. To be forced to follow a policy that one does not endorse is



the definition of coercion. Coercion is generally not held to be the same as manipulation, however. One plausible account of the distinction is this: whereas coercion involves forcing agents *knowingly* to do what they do not want to do, or what they do not consider to be right, manipulation seeks to induce comparable deeds in a way that escapes the notice, or at least the disavowal, of the targeted parties. In the hypothetical case developed above, if Dr. Li knows that Jones has introduced a new social norm precisely in order to get her to change her decision about making introductions, she may nevertheless think the new norm weighty enough to prompt a shift in her course of action, but she is free to say that this is a change made under duress, and to pick out Jones particularly as the originator of this duress. On the other hand, if Jones conceals his role in the production of the new social norm, then Dr. Li may again be prompted to change her decision, but she may not apprehend that she has been specifically targeted by this norm, and so may see no special basis for protest. Objectively, Dr. Li does have grounds for protest; but she has been deprived of access to this consideration which, we may suppose, is eminently relevant not only to her choice, but also to her mode, of action.

Let us now consider a second version of this hypothetical case, which illustrates the manipulative *activation* of a social norm.

### **Making Introductions 2**

- (1) Dr. Li, newly arrived in group Y, is informed by old-time member Jones that there is a norm requiring newcomers to await introduction to old members.
- (2) In fact, there is a social norm in Y requiring newcomers to wait to be introduced to old members.
- (3) Dr. Li hears that old member Isidore is badly ill, and decides she has a duty to check up on him, despite not yet having been introduced to him.
- (4) Jones, catching wind of this plan, forcefully reminds Dr. Li how seriously members of Y take the requirement that new arrivals wait to be introduced.
- (5) Jones repeats this admonition to Dr. Li whenever he judges her likely to be tempted by other considerations to ignore it.

(6) Dr. Li finally decides not to check up on Isidore until introduced.

Like the first example, this hypothetical case is designed to draw attention to key features of the manipulative activation of a social norm. First, I want to say something general about the activation of social norms. It is the province of empirical social science, particularly psychology, to discover and delineate the various mechanisms or pathways by which social norms (and perhaps norms of other kinds) become activated, i.e. made available for apprehension by some agent. Some philosophers who study social norms, notably Cristina Bicchieri, draw heavily on this social scientific research program, and adopt its language – speaking of social norms in terms of scripts and schemes, cues and categorization. I have not taken this route in my own account of social norms, largely because I want to discuss such norms in ways more familiar to philosophers working in traditional areas of ethics, meta-ethics, and political philosophy. There are plenty of ways to make sense of the activation of social norms from within these areas. One familiar way in which a norm can be activated, i.e. made available for apprehension by some agent, is for that norm to be pointed out to that agent. Another way is for that agent to be criticized for failing to follow that norm; another way is for that agent to be punished for failing to follow that norm.

Social norms, like other kinds of norms, can be activated in all of these ways. Only in exceptional cases, however, are we inclined to speak of such activation of norms (social or otherwise) as manipulative. The task now is to see what such cases have in common. Again, there are resources within traditional areas of ethics, meta-ethics, and political philosophy that enable us to make this distinction. One way in which manipulative activation of a social norm can occur is for that norm to be pointed out in a way that suggests it is the only consideration relevant to a targeted agents' choice of

action. Another way is for that norm to be pointed out in a such a belligerently persistent way that it becomes difficult for the targeted agent to apprehend or act on any other relevant considerations. The first strategy manipulates by highlighting one relevant social norm while pointedly omitting other relevant norms; the second strategy manipulates by “hounding” the targeted agent into including only the one norm in his or her practical deliberations.<sup>19</sup>

Both of these strategies are on display in the hypothetical case above. At stage (4), we may say, Jones attempts to manipulate Dr. Li by pointedly omitting mention of any other considerations that might be relevant to her decision to check up on Isidore. By stage (5), Jones has adopted the strategy of hounding Dr. Li by never allowing her to forget the social norm concerning introductions. In both cases, it should be noted, the manipulation necessarily involves concealment of the fact *that* pointed omission or hounding is what Jones is about, and for the obvious reason that, if Dr. Li was made aware of this relevant consideration, it would allow her to include Jones’s intentions within her deliberations, and either resist them, or yield to them under the sign of duress (in which case I think we should speak of coercion, rather than manipulation).

I would like to conclude this section by pointing out that neither of these fairly benign cases of manipulation presumes any ill will in the manipulator towards the manipulated. The two cases only assume a willingness, on the part of the manipulator, to exercise agency in a way that undermines (if only in a limited fashion) the autonomy of other agents. Insofar as autonomy is considered a morally significant condition or aspiration of agents, such manipulative disruptions to autonomy will be morally problematic, but they may nevertheless often be excusable, or even justifiable, given other morally significant aspects of the given situation. To be sure, neither excuse nor

justification is forthcoming in cases of manipulation of social norms for the purposes of precipitating, or prolonging, mass atrocities. Such specific cases of manipulative introduction and activation of social norms are my subject in the remainder of this paper.

#### **4. The Concept of Mass Atrocity**

It is difficult to define the term “mass atrocity,” but easy to identify actions and policies answering to this name. Large-scale killing, maiming, or sexual violation of civilians or captured soldiers during war; violent purges of political opponents during peacetime; terrorist or insurgent bombings of airplanes, shopping malls, or hotels—all sit comfortably within the core of the notion of mass atrocity currently employed by scholars, politicians, and social justice activists.<sup>20</sup> Naturally there are also many peripheral cases, rendered questionable by dint of their smaller scale, or lesser degree of harm. Nevertheless I will assume, for the purposes of this paper, that the broad contours of the concept of mass atrocity are familiar enough, and I will therefore only briefly mention two more particular features of mass atrocities that seem to render them susceptible to (partial) explanation by way of social norms.

The first such feature concerns the scale or scope of societal participation in mass atrocities. According to current scholarship, mass atrocities generally require the participation of large numbers of individuals—too many individuals for it to be plausible to claim that all participants lack ordinary capacities for moral perception.<sup>21</sup> There are of course exceptions to this general rule. David Luban, for example, has discussed the possibility of a genocide carried out by a lone individual equipped with a biological agent.<sup>22</sup> No doubt such a case would rightly be classed as an instance of mass atrocity. However, Luban’s case is only hypothetical, whereas historical cases of mass atrocities have in fact generally been carried out by large numbers of individuals.

The second feature of mass atrocities central to current scholarship has to do with the general temporal and geographical complexity of such crimes. The more expansive and complex mass atrocities are, and the greater the proportion of “ordinary men” amongst the perpetrators, the more they require explanations that reflect the influence not only of legal and moral norms, but also more informal principles of social ordering.<sup>23</sup>

In light of this general theoretical perspective, under which mass atrocity crimes typically involve the actions coordinated at scale both across individuals and over time, it is not surprising to find that theorists of social norms have sometimes remarked on the possibility of partially explaining mass atrocities via social norms.<sup>24</sup> However, with few exceptions (notably Kristen Renwick Monroe) scholars have not pursued the connection between social norms and mass atrocities in detail, and no philosopher, to my knowledge, has discussed the manipulation of social norms in the context of mass atrocity.

Admittedly, applying the theoretical framework of social norms to the explanation (and prevention) of mass atrocities presents certain difficulties, particularly where historical cases of mass atrocity are concerned. One challenge is to distinguish social norms from other informal principles of social ordering, such as customs and conventions, which may also play a part in precipitating atrocities; a second challenge is to recover evidence of the distinctive epistemic and intentional features of social norms in the case of historically distant crimes, perpetrated by individuals who are frequently either deceased or under pressure to misrepresent both their actions and their mental states at the time they performed them. I do not believe these obstacles are insurmountable. In the next section, I shall develop a case based on earlier claims made by Hannah Arendt in order to illustrate how these challenges to the use of social norms in the explanation of mass atrocity can be overcome.

## 5. Manipulating Norms During Mass Atrocity: The Case of Nazi Language Rules

Though Hannah Arendt's *Eichmann in Jerusalem* has been the subject of substantial controversy for 50 years, the particular portion of her text that I want to consider here has elicited little discussion from historians, philosophers, or other commentators.<sup>25</sup> This is Arendt's analysis of the effects that Nazi language rules (*Sprachregeln*) had on the ability of bureaucrats like Adolf Eichmann to perceive, and guide their actions according to, the moral norms that were obviously relevant to their situations. Arendt's interpretation of the effects of language rules on Eichmann and others individuals implicated in the Nazi genocide can be summarized as follows:

- (1) In order to promote the war effort and conceal their developing policy of genocide, Nazi administrators and military leaders imposed a strict regime of terminological control upon the written and spoken communications of bureaucrats and soldiers, including
- (2) Individuals such as Eichmann, whom Arendt characterized as basically "unthinking," and as holding the resulting "language rules" as highly important, to the point where he could not act without them, while, at the same time,
- (3) The great attention Eichmann and others paid to the language rules decisively diverted their attention from fundamental moral norms to which they ascribed, resulting in
- (4) Widespread participation by utterly ordinary individuals in genocide.<sup>26</sup>

To these four claims Arendt annexes a fifth, which is crucial for her analysis:

- (5) This morally obfuscating effect of the Nazi language rules was in no way accidental, but rather was explicitly intended by the high-level officials who introduced them.

Although subsequent historical and biographical research casts doubt on to Arendt's interpretation of the effects of the Nazi language rules on Eichmann personally, her general claim about the potential for changes in apparently extra-moral rules, such as terminological guidelines, to divert agents' attention from properly moral norms remains powerful. It resonates with recent scholarly efforts to locate in extra-moral rules of conduct (such as military codes of honor) some of the roots of mass atrocity.<sup>27</sup> I believe

the case of Nazi language rules provides a prime example of the manipulation of social norms in the context of mass atrocity. In order to vindicate this claim, it is necessary (1) to set out in greater historical detail than Arendt the scope, origin, and function of Nazi language rules; (2) to provide clear reasons for believing that these Nazi language rules had the structure of social norms; and (3) to make explicit a few key assumptions about the aims of the agents responsible for introducing and activating these language rules.

### *5.1 Varieties of Language Rules*

Arendt's most extended discussion of Nazi language rules appears in the sixth chapter of *Eichmann in Jerusalem*. She broaches the subject directly after discussing the special status (and responsibilities) granted to those members of the Nazi bureaucracy who gained knowledge of the Final Solution.<sup>28</sup> Arendt notes that the term "Final Solution" itself, along with various other "code names for killing," belonged to a larger secret vocabulary which Eichmann and his colleagues were required to use when discussing various aspects of the mass forced movement and murder of peoples.<sup>29</sup>

Arendt allows that various reasons might have supported the creation of this system of language rules. She insists that one of the chief objectives of this system was to defuse the moral objections to mass murder that individual participants in the killing process likely had. The rules did not advance this aim via outright deception – though the prescribed vocabulary was in many respects deceptive. Rather, "the net effect of this language system was not to keep these people ignorant of what they were doing, but to prevent them from equating it with their old, 'normal' knowledge of murder and lies."<sup>30</sup> Eichmann, she avers, was especially susceptible to such linguistic misdirection.<sup>31</sup>

Are Arendt's claims about the disruptive effects of the Nazi language rules on the practical reasoning of officials such as Eichmann plausible? In order to judge this, we

must first situate those rules within their wider historical context. The phenomena of linguistic innovation and regulation in Germany during the period of the Third Reich has inspired a large literature, much of it in German.<sup>32</sup> One of the most perceptive English-language works is Michael Townson's *Mother-Tongue and Fatherland*.<sup>33</sup> In this book Townson attempts to identify social and political preconditions for the linguistic transformations effected under the Third Reich. He considers the imposition of language rules one of several tools used to produce a "standardized discourse," i.e. a standard set of terms and constructions with which to describe the world and prescribe action in it.<sup>34</sup>

Townson focuses his inquiry not, as Arendt did, on the language rules instituted within the various governmental departments engaged in organizing genocide, but rather on the rules imposed on German newspapers and other press outlets by the Nazi Propaganda Ministry.<sup>35</sup> Here, for example, the rule was laid down that the term "Anglo-Saxon" (*Angelsachsen*) ought not be used to describe the English or the Americans, since this term indicated a common ethnic heritage.<sup>36</sup> Likewise, the term *Frontbegrädigung*, or "straightening of the front line," was to be used in place of "retreat."<sup>37</sup>

Other historians of the period offer further examples of actual attempted linguistic regulation through language rules. Claudia Koonz, in her book *The Nazi Conscience*, presents the interesting story of an unsuccessful attempt to impose a language rule. This was the effort by Nazi interior minister Wilhelm Frick to regulate the vocabulary used to describe and distinguish among different human races in scientific and bureaucratic communications.<sup>38</sup> Tasked with crafting anti-Jewish policy during the 1930's, Frick and his subordinates recognized that German racial scientists had failed, despite extensive efforts, to identify clear and coherent criteria for membership in the various officially recognized racial categories. This scientific fiasco threatened to make



nonsense of politically indispensable distinctions, such as the distinction between Aryans and Non-Aryans. Hoping to clear up the confusion, Frick and his subordinates proposed language rules, e.g. substituting “Jewish” and “non-Jewish” for “non-Aryan” and “Aryan,” or else “of foreign origin” for “non-Aryan.” As Koonz notes, however, these prospective rules never took hold within Frick’s organization, much less outside it.<sup>39</sup>

Such examples show that the invention and imposition of language rules extended well beyond the groups and organizations directly responsible for implementing the Nazi program of mass murder. Given the focus of Arendt’s study, it is natural that she focuses on the language rules imposed on actors more closely involved in genocide. In order to bear out the claim that her discussion identifies a signal example of the manipulation of social norms in the context of atrocity, it remains to show, first, that at least some of these language rules she describes had the structure of social norms, and second, that these language rules were either manipulatively introduced, manipulatively activated, or both.

### *5.2 Language Rules as Social Norms*

I believe at least some of the language rules investigated at the Jerusalem court and deemed influential by Arendt had the structure of social norms. In order to show this, I will first consider those language rules in terms of the particular, practice-grounded, and group-intentional character of social norms (I take it as self-evident that these language rules satisfied the accountability-creating requirement). I will then respond to two possible historiographical objections to categorizing these rules as social norms.

First, the *Sprachregeln* observed by Eichmann in his work on deportation matters clearly display the kind of particularity that is characteristic of social norms. The use of the terms “change of location” and “resettlement” as stand-ins for deportation and evacuation was normative within the Head Office for Reich Security and the Foreign

Service in discussions of Jewish policy; these terms did not achieve wide currency within the larger population, no doubt because the entire program of deportation and mass murder to which they belonged was classified as a state secret. Even if these language rules had achieved wide currency within the German population at large, this would not preclude them from counting as social norms, but only indicate an increase in their scope.

Second, the *Sprachregeln* at issue in Eichmann's trial appear to exhibit the practice-groundedness typical of social norms. According to this criterion, at least part of the normativity of a particular social norm must be grounded in an existing or perceived social practice. The inference that this was true of Nazi language rules is supported by the example of a failed language rule, mentioned above, i.e. the proposed rule that "Jewish" and "Non-Jewish" should be substituted for "Aryan" and "Non-Aryan." Although proposed out of a desire to be more faithful to current racial thinking, this proposed language rule never caught on even among the administrators of racial policy for whom it was devised. This suggests that some level of real or apparent use in practice was a necessary, though not a sufficient, condition for the survival over time of language rules.

Finally, there is the group-intentional feature. As mentioned earlier, this feature of social norms is closely connected with the practice-groundedness feature. Perhaps the most compelling evidence for the claim that Nazi language rules depended on the beliefs and intentions of the members of the groups in which they circulated comes from a remarkable exchange between Eichmann and Israeli Attorney General Gideon Hausner concerning the changing meaning of the term "special treatment" (*Sonderbehandlung*). In this exchange, against Hausner's assertion that "special treatment" always signified murder, Eichmann describes a varied and shifting scheme of reference, under which the term had "various meanings," encompassing such different acts as deportation of

prisoners to camps, transfer of prisoners from those camps to factories, and also killing.<sup>40</sup>

In discussing the use of this term both by himself and by other individuals named in documents presented by the prosecutor, Eichmann suggests that use of the term *Sonderbehandlung* reflected both an empirical expectation that others would use this term for the appropriate action(s) within their sphere of competence, and a normative expectation that others *should* use this term to refer to those actions.<sup>41</sup>

Having argued that the Nazi language rules satisfied the four features of social norms, I now want to consider two possible historiographical objections. First, some might object to using Eichmann's testimony as evidence of the group-intentional character of Nazi language rules. Holocaust and genocide scholars such as Christian Gerlach have argued convincingly that trial testimony and other trial-related materials cannot be accepted at face-value by historians of such crimes, but must be heavily discounted until independently substantiated.<sup>42</sup> Referring specifically to the Eichmann case, Gerlach points out that the problem stems not only from the incentives Eichmann had to exculpate himself, but also the fact that Eichmann consulted a large number of books and studies of the Nazi period prior to his capture and during his incarceration. Details drawn from these sources cannot always be distinguished from Eichmann's own, first-hand memories of participation in the processes of genocide.

This first objection may give us reason to be cautious about accepting Arendt's account of the impact of the Nazi language rules on Eichmann personally. Nevertheless, in my effort to show that these language rules exhibited the group-intentional quality of social norms, I did not rely on Eichmann's testimony alone (or Arendt's interpretation of that testimony), but rather incorporated much subsequent research on the language rules. For this reason, I think the objection does not touch the core of my case study.

A second possible objection is also historiographical in nature. One definitional criterion employed by some scholars of social norms targets the conditionality of social norms, i.e. the fact that individuals follow social norms only on the condition that they expect others to follow them, and that they believe that they are themselves expected, not only empirically, but also normatively, to follow them.<sup>43</sup> On the view of these scholars, the conditionality of social norms constitutes the chief difference between social norms and, e.g., customs, which are supposed to be followed without being conditional on empirical or normative expectations about the beliefs and actions of others. The possible objection, then, would hold that I have done too little to establish that the Nazi language rules were marked by this kind of conditional obedience.

To the extent that the trial record sheds light on this matter, it seems that at least some of the language rules to which Eichmann (or other officials) was in thrall exhibited the conditionality characteristic of social norms. Consider the following example: during his cross-examination, Eichmann is asked by Prosecutor Gideon Hausner about a particular communication with Slovakian officials, in which Eichmann tells the officials that their “fears and concerns about the fate of the [Jewish] deportees were unfounded, and that there was no reason for concern.” Eichmann replies, “Yes, that was the required use of words, and I had to apply it.” Eichmann goes on to note that, in more direct communications with representatives from the Jewish community in Slovakia, he “could, of course, not implement the orders as I had received them and just pass them on. In this setting, the matter was discussed somewhat more frankly, because the Jewish functionaries would not, in fact, have accepted what I was ordered to say.”

The problem, of course, is that this illustration of the conditional nature of a particular language rule comes from trial testimony, and, insofar as it tends towards

exculpation, must be treated with at least a moderate level of skepticism. Such an objection points to the difficulty in applying social norms particularly to assessments of accountability for mass atrocities. Clearly it is not possible to haul participants in atrocities into the behavioral laboratory in order to test the claim that some one or other social norm significantly influenced their choice of actions. Nevertheless, I do not think this objection is fatal. Historians have developed sophisticated methods for consulting and collating multiple sources in order to verify or disconfirm specific claims about points of fact made in an adjudicatory setting.<sup>44</sup> Those methods ought also to be applied to claims about the necessity of following a particular language rule, in order to settle the matter of their conditionality. Until this is done, I believe it is reasonable to suppose that central Nazi language rules, which did not have a lengthy pedigree, and which, as noted above, were substantially debated within the different branches of the Party, did display the kind of conditionality characteristic of social norms.<sup>45</sup>

### *5.3 Were Nazi Language Rules Manipulatively Introduced or Activated?*

I want finally to consider is whether the Nazi language rules should be counted as a case of manipulative introduction or manipulative activation of social norms. In assessing whether a particular case of introducing or activating social norms counts as manipulative, two questions must to be addressed. The first question is whether the introduction or activation of the norm(s) in question actually did compromise any agent's capacity to guide his or her actions according to relevant reasons. The second is the question of intentionality, i.e. the question of whether such a disruption was in fact sought by the agent(s) responsible for introducing or activating the norm(s) in question.

One of Arendt's most provocative claims about the Nazi language rules concerns their power to divert the attention of functionaries like Eichmann away from the most

salient normative features of their actions. Towards the end of her first substantial discussion of the language rules, she declares, “the net effect of [the Nazi] language system was not to keep these people ignorant of what they were doing, but to prevent them from equating it with their old, ‘normal’ knowledge of genocide and lies.”<sup>46</sup>

Arendt’s chief source for this claim appears to be her own observation of Eichmann’s apparent failure to recognize, even in retrospect, the moral quality of his actions.<sup>47</sup>

Unfortunately, Arendt offers no specific theory of how something like a language rule—a linguistic prescription—could have such a morally distortionary effect.<sup>48</sup> I believe that current theoretical work on social norms provides the basis for such a theory—and that this is one of the chief advantages of interpreting language rules as social norms.

Within the general theory of social norms, the notion of *categorization* can be used to make Arendt’s story about the morally obfuscating effects of language rules theoretically plausible.<sup>49</sup> Current work on norm psychology and normative cognition presents the following picture of how agents identify and come to follow norms: first, agents assign situations in which they find themselves to certain categories, on the basis of ‘cues,’ or environmental triggers; next, they activate scripts, or stored patterns of action, specific to those situations; embedded in those scripts, finally, are the various norms (moral, legal, or social) that agents take to be relevant within the category in question.<sup>50</sup> On Arendt’s account, the Nazi language rules were introduced precisely in order to divert the process of categorization itself. The coded terms, she claims, were introduced in order to replace terms which, when encountered, would normally cue quite different scripts, and lead to the identification of properly moral norms as relevant.

There is little direct evidence within Jerusalem trial record itself to support Arendt’s claim that Nazi language rules were *intentionally* introduced in order to achieve

such a morally obfuscating effect. To be sure, the Israeli prosecutor, Gideon Hausner, makes regular reference to the Nazi code language during the presentation of direct evidence and the cross-examination; however, it is no part of his argument that this language system was introduced for the purpose of compromising the moral resistance of functionaries like Eichmann. Instead, the prosecutor contends that the coded terms were introduced for the purpose of camouflaging the developing extermination world from the outside world. Repeatedly, when interpreting some document or testimony, the prosecutor (as well as the judges) appeals to this notion of camouflage, without referencing the further, morally manipulative purpose Arendt describes.<sup>51</sup>

More recent studies, however, suggest that Arendt is broadly correct in her claim that at least some of the Nazi language rules were intentionally introduced in order to evade the moral resistance of ordinary Nazis to mass murder. Thomas Pegelow Kaplan, in his 2009 book-length study of *The Language of Nazi Genocide*, argues that “the Nazi language directives altered language use at the widest societal level, helping create a political culture in which genocide was possible.”<sup>52</sup> At the same time, Kaplan resists a narrow interpretation of “top-down manipulation,” arguing, with special reference to the language rules promulgated by the Nazi Propaganda Ministry, that “such guidelines had an impact on the formation of thematic discourses in the press and wider political cultures without exclusively fashioning them.”<sup>53</sup> Ultimately Kaplan’s argument targets global, rather than more local, efforts at engendering political support for genocide through language rules; however, I believe it does provide some support for Arendt’s claim that active efforts by heads of different segments of the Nazi regime to manipulate language may, in some though certainly not all cases, have had a crucial impact on the comportment of individual citizens and functionaries. This does not rule out the

possibility that, in some cases, such a morally obfuscating effect occurred as an unintended consequence of the introduction of specific terms intended to camouflage particular Nazi actions. It does suggest that such cases would have been the minority.<sup>54</sup>

There remains the further possibility that, in some cases, particular language rules were not manipulatively introduced, but were manipulatively activated. Given the popular image of Eichmann as a man who followed technical rules meticulously, but failed utterly to consider the moral rules relevant to his actions, it might be supposed that Eichmann was manipulated, if not by the general introduction, then by the specific activation, of language rules. Such manipulation would proceed as follows: although the Nazi language rules were not intentionally introduced in order to evade the moral resistance of functionaries, such rules were intentionally activated—cued—at precisely those moments when moral resistance seemed forthcoming. The cues used need not have been subtle, or indirect, in order for the activation to be manipulative; simple, direct orders or admonitions to use the appropriate language rules when discussing some action or policy related to mass murder might have sufficed to draw the attention of bureaucrats like Eichmann away from more salient moral norms.<sup>55</sup>

Without specific forensic evidence it is difficult to certify any specific instance of manipulative activation of a language rule—e.g. any specific effort by Eichmann's superiors to manipulate him, personally, by cuing such a rule. Nevertheless the model of manipulation of language norms (understood as social norms) that I have provided makes sense of how such manipulation could occur. Furthermore, as the discussion earlier in this section showed, there is good historiographical support for the claim that language rules were manipulatively introduced by the Nazis in order to promote genocide. All told,



then, the case of Nazi language rules provides an illuminating historical example of how social norms can be manipulated in order to promote mass atrocity.

## **6. Conclusion**

Half a century ago, Raphaël Lemkin observed that “War [...] is a vast field for application and creation of new words.”<sup>56</sup> Lemkin had in mind the kind of openly derogatory names and slogans that facilitate a “shift from innate human kindness to hatred of foreign nations.” But his observation applies equally to the obfuscatory Nazi language rules I have used in this paper to illustrate my basic claim about the role that manipulation of social norms can play in precipitating, or prolonging, mass atrocities.

Some may wish to see know whether other historical cases of mass atrocity support this same thesis. I do not have space to provide detailed descriptions of other instances of manipulation of social norms here; however, I can mention some examples discussed by other scholars. Elisabeth Jean Wood, who studies sexual atrocities during wartime, considers two possible explanations for mass rape that seem to be connected with social norms, and may indicate manipulation of such norms. One case she discusses, that of Soviet soldiers’ rape of German women during the final phase of World War Two, may partly be explained by the activation of revenge norms amongst Soviet soldiers.<sup>57</sup> Another, more general explanatory hypothesis Wood considers focuses on the introduction (or activation) of strong norms of masculinity and masculine behavior within military units – which can easily be understood as manipulation, even if the end in sight on the part of the manipulators is not mass rape, but rather battlefield courage.<sup>58</sup>

Wood’s review of possible explanations for large-scale sexual atrocities second suggests one important direction in which the account of manipulation of social norms offered in this paper could be expanded. Another direction in which this line of research

might be taken concerns the beneficent manipulation of social norms, undertaken with the aim of preventing mass atrocities. Consider for example a scenario discussed by Mark Osiel, also involving military units.<sup>59</sup> Osiel points out that in some cases norms of comradeship or fraternity may discourage soldiers from giving evidence against other members of their units in war crimes cases. Although in itself this does not seem to be a case of manipulation of social norms, Osiel's account opens the possibility that this problem might be averted by the manipulative activation of other honor norms commonly circulating within military units, such as norms prohibiting reckless or wanton displays of violence. Alternatively, new norms might be manipulatively introduced in order to combat this problem – though it would need some argument to show why the manipulative, rather than the non-manipulative, introduction of such norms is warranted.

I believe this idea of the beneficent manipulation of social norms for the purpose of preventing or providing accountability for atrocities points to an important line of inquiry, one I have written about elsewhere.<sup>60</sup> Unfortunately, I do not have space to develop that line of inquiry here. In this paper, I have argued that the manipulation of social norms may play a role in the precipitation or prolongation of mass atrocities. I first described the distinguishing features of social norms, and explained how those features create the conditions for the possibility of two different types of manipulation of agents. Next, I offered some remarks on the concept of mass atrocity, and noted that, although scholars of social norms have hinted that this theoretical framework might help to shed light on atrocities, they have done little to substantiate this claim. Finally, I provide a detailed discussion of Nazi language rules, arguing that this historical case provides a clear illustration of the manipulative introduction, and perhaps also activation, of social norms in the context of mass atrocity.

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KEYWORDS: Mass Atrocity; Social Norms; Norm Transformation; Manipulation; Hannah Arendt; Language Rules; Adolf Eichmann

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<sup>1</sup> Leading recent studies of social norms include: Cristina Bicchieri, *The Grammar of Society: The Nature and Dynamics of Social Norms*, New York: Cambridge University Press, 2006; Nicholas Southwood, "The Authority of Social Norms," in Michael Brady (ed.), *New Waves in Metaethics*, New York: Palgrave-MacMillan, 2010, 234-248; Nicholas Southwood and Lina Eriksson, "Norms and Conventions," *Philosophical Explorations* 14, no. 2 (2011), 195-217; Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World*, New York: Cambridge University Press, 2011; and Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society*, New York: Cambridge University Press, 2008, 185-203. These recent investigations of social norms draw heavily on works of an older generation, including David Lewis, *Convention*, Malden, MA: Blackwells, 2002 [Orig. Pub. 1969]; Edna Ullman-Margalit, *The Emergence of Norms*, New York: Oxford University Press, 1977; and H.L.A. Hart, *The Concept of Law*, New York: Oxford University Press, 1961. A major recent contribution to this literature, which I was not able to consult in time for this paper, but which incorporates material from several of the articles by Southwood and Eriksson cited here, is Geoffrey Brennan, Lina Eriksson, Robert Goodin, and Nicholas Southwood, *Explaining Norms*, Oxford: Oxford University Press, 2013.

<sup>2</sup> This feature may be thought to distinguish social norms from other types of norms, most notably moral norms, which are supposed by many (though not all) philosophers to issue prescriptions or prohibitions that are in some sense *universal*.

<sup>3</sup> Nicholas Southwood has provided an extensive discussion of this feature, and claims it provides the basis for distinguishing social norms from properly moral norms. Southwood argues specifically that it is the grounds of social norms, rather than either the form of such norms or the content of such norms, that suffices to distinguish them from properly moral norms. Cf. Nicholas Southwood, "The Moral/Conventional Distinction," *Mind* 120, no. 479 (2011), 773-791.

<sup>4</sup> Exactly how many members of a group must believe in and/or actually engage in a practice in order to provide adequate grounds for a social norm is a significant question, which has proved particularly tractable for scholars employing an empirical, experimental approach to social norms. Cf. Bicchieri 2006 176-209. Also

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Cristina Bicchieri, *The 2012 Descartes Lectures*, Cambridge University Press, Forthcoming.

<sup>5</sup> Many different possible distributions of beliefs and intentions across a group may suffice to support a social norm. The appropriateness of any specific distribution in any specific case must be an empirical question. Cf. Bicchieri 2006, especially Chs. 2, 5 and 6; Herbert Gintis, *Social Norms as Choreography*, *Politics, Philosophy, and Economics* 9, no. 3 (2010); Southwood and Eriksson 2011, 201-208.

<sup>6</sup> In this regard social norms are not unlike moral, legal, or perhaps even epistemic norms, which also create standards of accountability within the populations in which they circulate. What is most important for present purposes is that the standards created by social norms can sometimes diverge from, or even directly contradict, the standards created by other kinds of norms.

<sup>7</sup> Margaret Gilbert builds such a wide view of standing to enforce into her basic account of social rules. Cf. Gilbert 2008, 190-192.

<sup>8</sup> See e.g. Ken Binmore, *Natural Justice*, New York: Oxford University Press, 2005, 1-19; Gaus 2011, 170-181.

<sup>9</sup> As noted above, Nicholas Southwood contends that social norms rest on different grounds from moral. Cristina Bicchieri offers a different, motivation-based account of the distinction between social and moral norms in Bicchieri 2006, 20-21. I should note that a full understanding of these four major features of social norms depends on current philosophical and scientific work on norm psychology and normative cognition. Particularly important in this regard is the role of linguistic or environmental cues in guiding or altering the course of norm cognition, by supporting the categorization of situations, and calling attention to certain apparent norms (legal, moral, social, or otherwise), while simultaneously drawing attention away from others. I discuss these points in Sections III and V below.

<sup>10</sup> Bicchieri 2006, Ch. 2.

<sup>11</sup> Cf. Cass Sunstein and Richard Thaler, *Nudge*, New York: Penguin Books, 2009.

<sup>12</sup> A notable exception can be found in Susan Hurley, *The Public Ecology of Responsibility*, in Carl Knight and Zofia Stemplowska (eds.), *Responsibility and Distributive Justice*, New York: Oxford University Press, 2011, 187-215.

<sup>13</sup> Many of the most serious disagreements concern either the *ends* or the *means* of manipulation. With regard to the ends of manipulation, some theorists stipulate that manipulative acts necessarily run counter to the interests, revealed or presumed, of the persons manipulated. Cf. Robert Goodin, *Manipulatory Politics*, New Haven, CT: Yale University Press, 1980, 13-19. Others argue that manipulation need not entail any setback to the interests of the manipulated persons; rather than construing all such persons as *victims* of manipulation, theorists who take this view suggest that at least some of those targeted for manipulation are not harmed thereby. Cf. Sarah Buss, "Valuing Autonomy and Respecting Persons: Manipulation, Seduction, and the Basis of Moral Constraints," *Ethics*, 115, no. 2 (2005), 224; also Marcia Baron, "Manipulativeness," *Proceedings and Addresses of the American Philosophical Association*, 77, no. 2 (2003), 48. With regard to the means of manipulation, many theorists draw an analogy between manipulation and lying, and some go so far as to build some form of deception into their definitions of manipulation. Cf. Claudia Mills,

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“Politics and Manipulation,” *Social Theory and Practice* 21, no. 1 (1995), 103-107; Goodin 1980, 8-13. Others deny that manipulation must always work through deception. A final major point of dispute concerns the moral valence of manipulation. Some authors define manipulation in such a way that it is always morally wrong. Others argue that manipulation is always *pro tanto* wrong, but is in some cases justified, all things considered. Finally, some prefer a conception whereby manipulation is, in itself, morally neutral.

<sup>14</sup> Perhaps the claim that any normatively significant instance of manipulation must be inter-agential, i.e. must involve acts or processes initiated by some agent(s) and directed at some other agent(s), might qualify.

<sup>15</sup> Naturally, different philosophers spell out this capacity differently. I will not attempt to address here questions about whether the notion of guidance or control better captures the capacity in question, nor whether the kind of control in question should be understood as actual or merely “virtual” control.

<sup>16</sup> The capacity to be guided in the particular way that agents are by descriptive and normative considerations presumably entails both particular perceptual powers, as well as particular abilities with respect to intertemporal intention and action. I cannot provide a full account of these powers and abilities here.

<sup>17</sup> This point is sometimes put in a shorthand manner by saying that manipulation is a necessarily intentional action; I think that pointing out the asymmetry between the manipulator and the manipulated in terms of autonomy, and compromised autonomy, captures the point somewhat more clearly.

<sup>18</sup> By speaking of “relevant considerations” here, I am courting certain theoretical questions. One question concerns whether I am invoking an internal, subjective, or an external, objective notion of relevance. Another question concerns how my notion of “relevance” relates to the notion of “salience” widely used within the literature on social norms. In response to the second question, I am using the term “relevance” specifically in order to avoid invoking the technical sense of the term “salience” used by David Lewis in discussing social conventions (cf Lewis 2002 [1969]). In response to the first question, I clearly have to reject flat-footed internalist (or subjective) accounts of relevance, since on such views one could not speak of manipulation, in the sense of withholding relevant considerations, at all. Less clear is whether I should favor a purely external (objective), or a more sophisticated, subjunctive internalist account of relevance. The latter would speak in terms of considerations agents *would* deem relevant *were* they apprised of them. I am attracted to the sophisticated internalist view; however, I believe the particular cases of manipulation I shall consider here could be preserved on both the externalist and the sophisticated internalist views of relevance.

<sup>19</sup> This kind of “hounding” bears some connection to the hypothetical example described by Joseph Raz. Cf. Joseph Raz, *The Morality of Freedom*, New York: Oxford University Press, 1988, 374-376. This should not be taken to imply that my account of autonomy, or of the ways in which it can be compromised, is the same as Raz’s.

<sup>20</sup> Cf. Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*, Washington, D.C.: Brookings Institution Press, 2008; 11-13.

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<sup>21</sup> Organizers of mass atrocities sometimes intentionally weed out potential participants who display such tendencies. Cf. Benjamin Valentino, *Final Solutions: Mass Killing and Genocide in the 20<sup>th</sup> Century* (Ithaca, NY: Cornell University Press, 2004), 42.

<sup>22</sup> David Luban, "A Theory of Crimes Against Humanity," *Yale Journal of International Law* 29 (2004), 97-98.

<sup>23</sup> Of course explanatory accounts of participation in atrocities do not restrict themselves solely to considerations of moral, legal, or social norms. Other prominent explanatory factors discussed by various theorists include categorization, dehumanization, and direct, forcible coercion. For an exemplary extended account of categorization in the context of mass atrocity, cf. Kristen Renwick Monroe, *Ethics in an Age of Terror and Genocide*, Princeton, NJ: Princeton University Press, 2012. For discussion of the importance of direct, forcible coercion in the Rwandan Genocide, cf. Scott Straus, *The Order of Genocide*, Ithaca, NY: Cornell University Press, 2008.

<sup>24</sup> Cf. Bicchieri 2006, 20n10; Binmore 2005, 51-52; Gaus 2011, 232-235.

<sup>25</sup> Critical discussions of Arendt's "trial report" are themselves too numerous to list exhaustively; Cf. Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven, CT: Yale University Press, 2001), 109-113, 173-182; Doron Rabinovici, *Eichmann's Jews: The Jewish Administration of Holocaust Vienna, 1939-1945* (Malden, MA: Polity 2011), 194-203; Raul Hilberg, *The Politics of Memory*, Chicago: Ivan R. Dee, 1996, 147-157.

<sup>26</sup> Cf. Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York: Penguin Books 2006 [Orig. Pub. 1965], 85-87, 108-109, 126. Also *idem.*, "Thinking and Moral Considerations: A Lecture," *Social Research*, 38, no. 3 (1971), 417-418.

<sup>27</sup> Cf. Mark Osiel, *Making Sense of Mass Atrocity*, New York: Cambridge University Press, 2009, ch. 10.

<sup>28</sup> Arendt 2006, 85.

<sup>29</sup> Arendt had three main sources of information concerning the use of language rules within the various organizations to which Eichmann was connected. First, she had access to the transcript of the pre-trial interrogation of Eichmann by Israeli police inspector Avner Less. This interrogation lasted eight months; the transcript runs to 3,564 pages. Arendt received a copy of this interrogation, which was submitted as evidence by the prosecution at Eichmann's Jerusalem trial. Her copy is now archived together with the rest of her papers at the Library of Congress. Cf. "Police Examination of Eichmann (in German)," Hannah Arendt Papers, Boxes 52 and 53, Hannah Arendt Papers, Manuscript Division, Library of Congress, Washington, D.C. This document can also be accessed freely online. Last accessed on 11/15/2012 at: <http://memory.loc.gov/ammem/arendhtml/mharendtFolderP03.html>.

\_\_\_\_\_ Arendt's second source of information concerning the Nazi's use of language rules was the Eichmann trial itself. Besides attending a significant portion of the trial in person, Arendt possessed two copies of the complete trial transcript, prepared through simultaneous translation for reporters at the Jerusalem court. One (heavily annotated) copy is in German, the other (apparently not annotated) is in English.

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The English language transcript is available in hard copy at Minutes of Sessions (English), Boxes 48-50, Hannah Arendt Papers, Manuscript Division, Library of Congress, Washington, D.C. The German language transcript is available in hard copy at Minutes of Sessions (German), Boxes 51-52, Hannah Arendt Papers, Manuscript Division, Library of Congress, Washington, D.C. Both can also be accessed freely online. Last accessed on 11/13/2012 at:

<http://memory.loc.gov/ammem/arendhtml/mharendtFolderP03.html>

The final major source of Arendt's information concerning Nazi language rules was the secondary literature on the Nazi genocide, above all Raul Hilberg's lengthy book *The Destruction of the Jews of Europe*. Arendt acknowledges her reliance on this book in the bibliography that appeared in the original 1961 edition of her book, as well as in the "Postscript" appended to the 1964 edition. Hilberg himself was unhappy with the way Arendt used his work; his 1996 memoir, *The Politics of Memory*, contain a highly critical discussion of Arendt's many unacknowledged borrowings from *The Destruction of the European Jews*. Cf. Hilberg 1996, 147-157; also Nathaniel Popper, "A Conscious Pariah," *The Nation*, April 19, 2010, last accessed on 11/14/2012 at

<http://www.thenation.com/article/conscious-pariah#>.

<sup>30</sup> Arendt 2006, 86.

<sup>31</sup> *ibid.*

<sup>32</sup> Cf. Victor Klemperer, *The Language of the Third Reich*, Michael Brady (trans.) (New York: Continuum 2006); also Iris Forster, *Euphemistische Sprache im Nationalsozialismus* (Bremen: Hempen Verlag, 2009).

<sup>33</sup> Michael Townson, *Mother Tongue and Fatherland: Language and Politics in German* (Manchester: Manchester University Press 1992), 120-162. See also Thomas Pegelow Kaplan, *The Language of Nazi Genocide: Linguistic Violence and the Struggle of Germans of Jewish Ancestry* (New York: Cambridge University Press, 2009).

<sup>34</sup> Towson 1992, 145.

<sup>35</sup> Thomas Kaplan also focuses on the Propaganda Ministry in his book *The Language of Nazi Genocide*, but, more so than Townson, draws attention to the conflicting policies and aims adopted by this segment of Nazi bureaucracy and by other divisions, such as the offices charged with making racial categorizations. Cf. Kaplan 2009, especially chapter 4.

<sup>36</sup> Towson 1992, 142.

<sup>37</sup> *ibid.*, 143.

<sup>38</sup> Claudia Koonz, *The Nazi Conscience* (Cambridge, MA: Harvard University Press 2003), 179-180.

<sup>39</sup> *Ibid.*

<sup>40</sup> State of Israel, Ministry of Justice (eds.), *The Trial of Adolf Eichmann: Record of the Proceedings of the Jerusalem Court, Vol. IV* (1993), 1746-1747. Volumes in this nine-volume series will afterwards be abbreviated *TAE*.

<sup>41</sup> *ibid.*

<sup>42</sup> Christian Gerlach, "The Eichmann Interrogations in Holocaust Historiography," *Holocaust and Genocide Studies* 15, no. 3 (Winter 2001), 428-452.

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<sup>43</sup> Cf. Bicchieri 2006, 13-15, 190-193.

<sup>44</sup> Cf. Henry Friedlander, "Nazi Crimes and the German Law," 15-34 in Nathaniel Stoltzfus and Henry Friedlander (eds.), *Nazi Crimes and the Law*, New York: Cambridge University Press, 2008.

<sup>45</sup> Some language rules might never have had the conditional quality of social norms; some might have been conditionally followed at first, but later followed unconditionally as they took on independent value for the users. One possible source of value would be if the rule in question advanced the self-serving biases of participants in atrocities, such as the desire to conceive of oneself as virtuous rather than depraved. Thanks to Kai Spiekermann for raising this point.

<sup>46</sup> Arendt 2006, 86.

<sup>47</sup> Immediately after the quotation cited, Arendt observes that Eichmann, because of his general linguistic peculiarity, must have been "an ideal subject for 'language rules.'" *ibid.*

<sup>48</sup> It might be argued that Arendt does offer a more general theory of the kind of moral occlusion or obfuscation which she believes Eichmann's biography illustrates. This is the theory of "non-thinking" (or "thoughtlessness") presented most elaborately in her 1971 essay, "Thinking and Moral Considerations." I do not have space here to consider the interesting question of how Arendt's general account of "non-thinking" can be connected to her specific claims about language rules, or whether her picture of (Eichmann's) "non-thinking" supports my interpretation of language rules as (manipulated) social norms. Cf. Arendt 1971.

<sup>49</sup> Thanks to Ryan Muldoon for emphasizing this point.

<sup>50</sup> Cf. Bicchieri 2006, 57; 93-94.

<sup>51</sup> For references by the Israeli prosecutors and Jerusalem judges to Nazi "camouflage" or "camouflage terminology," see *TAE* I, 79-80, 84, 488; II, 571, 629, 866; IV, 1431-1433, 1685-1686.

<sup>52</sup> Kaplan 2009, 5.

<sup>53</sup> *ibid.*, 13.

<sup>54</sup> Theorists of social norms stress that it is a mistake to suppose that the functions currently performed by social norms are the same as, or provide sound evidence concerning, the reasons for which those norms originally arose. Cf. Southwood and Eriksson 2011, 215n30.

<sup>55</sup> Such a strategy of drawing attention to the terms in which actions should be described would presumably not have worked on perpetrators involved directly in carrying out the killing operations. Thanks to Cristina Bicchieri for pressing me on this point.

<sup>56</sup> Raphaël Lemkin, "Introduction to Genocide," in Steven Leonard Jacobs (ed.), *Lemkin on Genocide*, Lanham, MD: Lexington Books, 2012, 21.

<sup>57</sup> Elisabeth Jean Wood, "Sexual Violence During War: Towards an Understanding of Variation," in Ian Shapiro and Stathis Kalyvas (eds.), *Order, Conflict, and Violence*, New York: Cambridge University Press, 2008, 324-325.

<sup>58</sup> *ibid.*, 339. Wood herself expresses skepticism about the power of this masculinity-based hypothesis to explain variation in sexual violence, at least in its current versions. She notes, "the militaristic masculinity approach does not specify well



what mechanism underlies its link to sexual violence, whether armies inculcate new norms, provide incentives to reward compliance without internalization, or recruit only those attracted to militaristic practices.” If my analysis is correct, than one theoretical possibility is that armies do manipulatively introduce norms to alter the actions of their members, e.g. in order to dull responsiveness to certain kinds of battlefield risks, but that such manipulatively introduced norms may ramify and lead to changes in other kinds of decisions and actions, including acts of sexual violence.

<sup>59</sup> Cf. Osiel 2009, ch. 10.

<sup>60</sup> Paul Morrow, “Social Norms in the Theory of Mass Atrocity and Transitional Justice,” Unpublished Doctoral Dissertation, Ch. 5.