

CRIMES AGAINST HUMANITY AND THE MORAL COMMUNITY
Some Strawsonian Reflections

Laurence Thomas

All sorts of things can kill a person—a violent storm, a fire, or a falling tree. However, only a human being can murder a person. In his seminal essay “Freedom and Resentment,”¹ P. F. Strawson held that considerations such as the one just advanced make it impossible not to have certain attitudes, which he referred to as reactive attitudes, towards human beings and only human beings. Human beings, Strawson held, are capable of exhibiting good will or ill will towards another. Or any rate, it is not possible at a practical level for human beings not to regard one another in this way. I shall defend in this essay a very simple thesis, namely that if the notion of crimes against humanity is to continue to have the moral import that it had when introduced, then certain things need to be true, namely that the most informed members of the world community need to have the appropriate reactive reactions with regard to those acts that constitute a crime against humanity. My strategy shall be to bring out that the notion of crimes against humanity has deep Strawsonian moorings.

That said, a caveat is immediately in order. Identifying the criteria by which something counts as a crime against humanity has proved to be a formidable task. There at least three paradigm examples of crimes against humanity: the wholesale murdering of a people, of which the Holocaust is regarded as the most salient example; the enslavement of a people, of which American Slavery is regarded as the most salient example;² and the wholesale raping of women, which took place in Bosnia. The challenge comes with moving beyond these paradigm cases without including every wrongdoing that could be committed against a population-at-large. The matter is hardly settled by appealing to the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations which, as the Declaration’s title suggests, enumerates rights that human beings in society have simply in virtue of their humanity. For this document, in addition to condemning mass murder, slavery, and rape as a form of ethnic cleansing, also specifies (in Article 23) that everyone has a right to equal pay for equal work. No doubt few would

¹ In his *Freedom and Resentment and Other Essays* (Methuen & Co., 1974).

² But it could be a mistake to so view American Slavery; for slavery had a long history in the Islamic world prior to its arrival in the United States. See Shaun E. Marmon (ed.), *Slavery in the Islamic Middle East* (Princeton, NJ: Markus Weiner Publishers, 1999). As the editor notes, while blackness was not officially linked to slavery, “. . . black Africans were clearly identifiable. Their very presence in the Muslim Middle East “was largely attributable to slavery, and thus to former unbelief”. Black skin thus came to be equated with sin of unbelief and the status of slavery” (ix). See especially in this volume John Hunwick’s essay “Islamic Law and Polemics over Race and Slavery in North and West Africa”.

disagree with this assertion. Just so, few would place unequal pay on the same moral plane as the three paradigm cases mentioned above. Though sweatshops are sometimes regarded as a form of slavery, few take this practice to be on the same order as American Slavery. To state the obvious, if every inequality is said to be on the order of American Slavery or every killing is on the order of the Holocaust, then the term crime against community becomes vapid.

Furthermore, although crimes against humanity are utterly despicable, not every utterly despicable act constitutes a crime against humanity. If parents were to have sex with their child before sacrificing her or him to their god, their behavior would be truly despicable. Yet, it would not constitute a crime against humanity. Again, most serial killers do what we regard as utterly despicable, owing both to what they do but to the methodical way in which they go about doing it. But we do not constitute serial killing as crimes against humanity.

An important aspect of crimes against humanity, in addition to having as their aim the despicable harm of others, is that this aim is publicly sanctioned by the government of the nation in which the crimes are committed.³ Moreover, the governmental sanctioning of this aim meets with sufficient public approval. This gives other institutions in that nation a license that they would not otherwise have to engage in such crimes. I should point out that in order for behavior to be publicly sanctioned it is not necessary there be a law that permits such behavior. It suffices that citizens can engage in such behavior, even if it is contrary to the law, without fear of legal reprisal. Once upon a time a white in the United States could have lynched a black without fear of any form of legal reprisal. Only as a joke would someone have said "I am going to report you to the police", since everyone knew that police were, at the very least, indifferent to such things. Now, this way of putting things enables us to that the sex scandal of the Catholic Church in the United States was absolutely despicable without having to say that the scandal constituted a crime against community. There was neither public nor governmental approval of such behavior. Indeed, there is a real sense in which Catholic officials did not want to know that they knew.

A crime against humanity, then, is a despicable wrongdoing that targets an identifiable group, where the wrongdoing in question governmental and public approval. I shall not defend the view of crimes against humanity that I have just presented, except to say that it accords very well with the way in which we use the term. We do not regard every atrocity committed by a group as a crime against community; and the explanation for that I believe that there is neither governmental nor public approval of the behavior in

³ The publicity condition is take from Kurt Baier, *The Moral Point of View* (Cornell University Press, 1958).

question. If a small religious group starts slaughtering Jews and blacks, we would regard this as an atrocity. If a nation were to do this with public approval, we would consider it a crime against community. This difference is this. Ideally, the state is the husbandry of moral values and the protector of the basic rights of all within its borders. Accordingly, there is all the difference in the world between a small group of individuals committing an atrocity and the state doing so. For when the state does so, it abrogates its moral role as the husbandry of moral values and the protector of the basic rights of all within its borders. The notion of crimes against humanity speaks to the failure of the state in this regard. Not so with every wrong that occurs within a state. It goes without saying that there can be borderline cases. This should not trouble us, as that is true with many aspects of morality. For example, it is in some instances manifestly clear that a person was morally courageous. But needless to say, there are other times when it is not.

Before moving on, a caveat is in order. We have the idea of a nation; and we have the idea of a people. Thus, we have great clarity that the Palestinian people exist even if we are far less clear as to whether a Palestinian state actually exists. It is possible for a people to have some semblance of a nation. They have their practices and their customs. Indeed, they have ways of regulating and enforcing behavior among themselves. Accordingly, I want to say that a people can commit crimes against humanity. In a like manner, I want to say that, as with nations, groups of individuals among a people can commit atrocities without those atrocities counting as crimes against humanity, as the group acts with the endorsement of the people in the manner indicated above.

I. Strawsonian Reflections

As is well-known, Strawson's project was essentially a Kantian one. He held that human beings cannot fail to see themselves as having free agency; and he used the reactive attitudes to illustrate this. Resentment and gratitude, for example, are among the reactive attitudes that human beings experience. And Strawson's seminal point is that the proper object of these attitudes can only be creatures capable of free agency—human beings for sure. The object of the attitude of resentment is the ill-will that flows from the free agency of a human being; the object of gratitude is the goodwill that flows from the free agency of a human being; and for Strawson, neither ill-will nor goodwill can flow from a creature who is incapable of free agency *and* the self-reflective capacities that comes with free agency. So, *a fortiori*, ill-will and goodwill cannot flow either from inanimate objects or causal outcomes not involving creatures capable of free agency. Only creatures capable of free agency can exhibit moral timbre, as I shall often say in referring to either goodwill or ill-will.

Roughly, a person acts with goodwill or ill-will towards another if, respectively, she acts to benefit or to harm another and wants it to be the case that her behavior in question benefits or harms the person in question. This wording, inspired by Harry Frankfurt,⁴ allows for the attribution of goodwill or ill-will to a person, even though the individual does not accomplish the benefit or harm that she set out to accomplish. As Strawson notes, there can be a myriad of reasons for why failure of outcome may occur. In the case of a benefit, it could be that two people independently set out to save an individual's life, but one arrived before the other. In the case of a harm, it could be simply that something went wrong at the last minute. Perhaps the trigger on the gun became stuck or an exceedingly loud crack of thunder frightened the person just as he was pulling the trigger causing his aim to be off. On the other hand, a beneficial (harmful) outcome does not entail goodwill (ill-will) merely because the individual's behavior is a part of the sequence of events that resulted in the outcome in question. The wrongful gunshot wound in the arm which results in a medical examination that turns up a brain tumor has turned out, all things considered, to be rather beneficial, though goodwill on the part of the assailant was certainly absent. By contrast, a person has hardly acted with ill-will if his public display of appreciation and praise for someone so animates a jealous third party that the third party shoots and wounds the individual who is the object of this public display of appreciation and praise.

So much is obvious. What is significant for our purposes is this. Assessments of goodwill and ill-will are an unshakable feature of interpersonal interactions among human beings.⁵ There is no way to opt out even momentarily, just so long as we have agency: on the one hand, we cannot conceive of our own actions toward another as being devoid of moral timbre; on the other, we cannot conceive of the actions of others towards individuals as being devoid of moral timbre. Necessarily, to act towards another is to act with either goodwill or ill-will. To be sure, both goodwill and ill-will admit of a continuum. So not all assessments regarding the moral timbre with which a person acts towards another are equally weighty. Politeness generally stands as an expression of goodwill; however, it is not on a par with charity or laying down one's life for another. In the other direction, inconsiderateness may be understood as involving a measure of ill-will; yet, inconsiderateness as such can be a long ways from ruthlessness and viciousness. There is no task so small that moral timbre cannot apply to it, though often enough there are instances when the outcome is more important than whether it is brought about with goodwill or ill-will. Sometimes, a supervisor may not care whether her employees are "hot under the collar" just so long as they accomplish the task at hand. Likewise, parents do not always care their

⁴ See his "Freedom of the Will and the Concept of a Person," *The Journal of Philosophy* 68 (1971).

⁵ I have developed this line of argument at length in my essay "Morality and a Meaningful Life," *Philosophical Papers* 34 (2005).

child is angry over having to perform a certain chore just so long as the child performs it. These things are true at least up to a point, any rate.

Before moving on, let me be clear about what is being claimed. My thesis is that we cannot opt out of assessing the moral timbre of actions, because (with rare exception) it is invariably relevant to us whether a person acted with goodwill or ill-will. And as rational self-evaluating creatures that matters to us. The idea, then, is that assessing the moral timbre of human behavior is not some biological disposition, on the order of the fear of snakes or spiders, say, that we have but would be happy ever so happy not to have if only could bring about that state of affairs. Quite the contrary, the very nature of human action is that we do not want to forgo making such assessments.⁶

II. Judgments and Moral Timbre

On the basis of what do we hold that the practice of making judgments regarding the moral timbre of a person's behavior is warranted? The answer lies in the notion of choice.⁷ Leaving aside cases in which a person is indifferent, and so would be perfectly comfortable determining which option she should take by the toss of a coin, it is a conceptual feature of choices freely made that they reveal what a person values. Thus, if a person freely chooses *A* over *B*, when presented with nothing other than the choice between *A* and *B*, and there is nothing else to be taken into account, then we are conceptually compelled to conclude that she prefers *A* over *B*. Of course, a person may choose *B* over *A* in order, for example, to satisfy mother. But then precisely what we know is that the person values satisfying mother. It is important to bring out here that choosing to satisfy mother is not thought to be a choice that is unfree, even though it is typically understood that considerable social pressure attaches to making mother happy. Social pressure as such is not thought to make a choice unfree. Only social pressure that comes with a threat, as is sometimes the case, makes a choice unfree because then such pressure counts as a case of coercion.⁸ This is so although we can often understand why a person accedes to various forms of social pressure. Thus, Joel may not like fighting. In his community, though, a man who is unwilling to fight is regarded as a sissy; and it may very well be that Joel would rather fight than be thought of as a sissy.

⁶ This second point is, I believe, implied in what Strawson says in "Freedom and Resentment," though I do not see that he explicitly advances this line of argument.

⁷ In writing this section, I owe much to Jean-Pierre Dupuy, *Avions-nous oublié le mal?* (Paris: Bayard, 2002), especially ch. 3 "Anatomie du 11 septembre 2001".

⁸ The classic account of coercion is offered by Robert Nozick, "Coercion," in his *Socratic Puzzles* (Cambridge, MA: Harvard University Press, 1997).

Typically, social pressure presents us with an alternative that we would rather not have as part of the choice-set. But a choice between *A* and *B* is no less free, hence no less an indication of what a person values, merely because we would rather be choosing between *A* and *C* instead. Suppose, for instance, that Rachel is stranded on a desert island. The choices she is faced with in this context may very well not be to her liking. She may not like having to catch her own food or to build a fire in order to keep warm, and so on. Yet, she is perfectly free to do these things; and if she does these things rather than something else, we may rightly infer that she values doing precisely these things as opposed to the things that she did not do. Nor is a choice unfree merely because it has consequences that we do not welcome. Notice that in catching her own food, Rachel must also contend with unwanted scavengers. This, of course, annoys her to no end. But once more, it would be absurd to think that this renders her unfree to catch her food and, therefore, that she does not value doing so. Anyone who drives a car for pleasure trips has to spend money for gasoline and has to expend gasoline in order to make the journey. Presumably, neither is a welcome consequence of driving. Just so, these facts alone does not render the choice to drive unfree; nor, accordingly, do they cast any doubt whatsoever upon the claim that an individual values driving for pleasure trips.

I do not presuppose that all values are commensurate. Rather, I suppose that our choices reveal value,⁹ because they are no less unfree, merely on account of the fact that the choice-set from which we must choose contains options none of which we would have ever wanted in a choice-set presented to us. That is, from the fact that a person wishes with all her heart that she did not have to choose between *A* and *B*, it does not at all follow, given that she is presented with only these two options, that she does not value *A* over *B* or conversely. Thus, to offer a concrete example inspired by the story of Job. One imagines that Job may very well have wish that he did not have to choose between his wealth and his integrity. He may never have envisioned that one day he would be confronted with such a choice. But, alas, he is confronted with precisely that choice; and he chooses. If he chose integrity, it would be quite natural looking back over his life to say that he valued his integrity over his wealth, without in any way implying that he was delighted to have to been confronted with this choice-set.

The story of Abraham provides us with another illustration of such a choice-set. Bearing in mind that human sacrifices were a common part of pagan religious traditions, he was asked to choose between sacrificing his son and serving God.¹⁰ The very power of the

⁹ Following Michael Stocker (with Elizabeth Hegeman), *Valuing Emotions* (Cambridge University Press, 1996). Their argument is that emotions reveal value. I have merely extended that idea to choices.

¹⁰ Whilst I have not seen it said anywhere, though surely someone has noted this, it seems to me obvious that what we have in the Abraham story is the end of human sacrifices in the name of religion. This was

story, if that is the word for it, lies in the fact that Abraham is presented as being willing to sacrifice his son in order to serve God. Just so, it is implausible to think that Abraham was delighted with this choice-set; nor does the story invite the reader to think such a thing.

I do not intend to offer an account of when a person is free or unfree to choose. That would be quite beyond the purview of this essay. But the point of the preceding discussion was not to offer such account, but rather to draw attention to the fact that we can have freedom of choice and, therefore, choices reveal value, even when the given choice-set does not contain any options that the person would prefer to have or even if a choice has consequences that a person does not welcome. What this means, then, is something that everyone knows but which is no less sublime on that account, namely that we invariably infer from how people treat us the way in which or the extent to which they value us, because we invariably see their treatment of us as a matter of freedom of choice on their part. To be sure, we can sometimes be mistaken and, of course, people are sometimes deceptive. However, people are rarely if ever mistaken in this regard over the long run and deceptions rarely go undetected forever. This is especially so where physical well-being is involved. For either a person makes it very clear that he means no harm or he is not clear about that; and then his ambiguity itself becomes alarming. A person willfully causes an individual physical harm or he does not. And if a person is being deceptive with the hopes of getting the other to let her guard down, there will certainly not be any deception with respect to the harm itself. There are rather limited circumstances under which a person can cause an individual significant bodily harm unintentionally, and the circumstances are even more limited if we restrict ourselves to unintentional harms not owing to negligence.

I have just claimed that we invariably infer from how people treat us the way in which or the extent to which they value us. The other side of this coin, to be sure, is that people invariably know by their actions the extent to which they value others. It is very nearly inconceivable that someone should think that she is being extremely kind when in fact she is being cruel or conversely. Contrary to what one might think, this is all quite relevant to the topic of crimes against humanity, as I shall now try to show.

III. The Moral Community and Crimes Against Humanity

First of all, the very nature of such crimes rule out the possibility that they could be something that the perpetrators do unintentionally, fanciful philosophical cases aside. Second, the nature of such crimes rule out the possibility that the perpetrators could think

Judaism's quite unique contribution to religion. Monotheism facilitates the end to human sacrifices because if the one and only God does not require such sacrifices, then that surely has to be the end of the matter; whereas with multiple gods, there is always the possibility of making the ultimate offering in order to win favor in one god's eyes should entreaties with another god have proven futile.

that they are bestowing a significant benefit upon the victims. Third, and finally, the nature of the crimes does not license the conclusion that a just punishment is being handed down. Together, these considerations invite the conclusion that no one who commits crimes against humanity could fail to know that this is exactly what she or he is doing. Nor, therefore, could such a person fail to grasp that by his actions he is displaying unadulterated ill-will towards another. In a word, when a person commits a crimes against humanity the vicious moral timbre of his actions are not only extremely transparent to the victims, but they are extremely transparent to the agent of such behavior.

We are almost in a position to tie a number of things together. But first an observation of a very different kind is in order, namely that the concept of crimes against humanity seems to be a politically neutral concept, at least as far as the paradigm cases go. By this, I mean not only the platitude that the concept applies equally regardless of political ideology (such as capitalism, communism, or socialism), but that such crimes can be committed by those who a people who are oppressed as well as by those who are oppressors. To be sure, we typically imagine oppressors being the ones committing crimes against humanity. It is simply false, though, that only oppressors can commit such crimes, even if it is true that they are better equipped to commit certain crimes of this sort. For instance, an oppressed people can, with great ingenuity and success, ambush innocent civilians among their oppressors, and then rape and murder them. It is irrelevant that the oppressors engage in analogous behavior. For the wrongs of the oppressors do not permit an oppressed people to act with impunity from moral criticism, contrary to what some seem to think nowadays. In particular, an oppressed people cannot excuse themselves from such crimes in the name of self-defense. This is especially so if innocent civilians are the target of their acts.

Needless to say, the preceding remarks have direct implications for the Middle East conflict. I want to state rather explicitly that it is a consequence of what has just been said in this essay that both sides, Israelis and Palestinians, are capable of committing crimes against humanity against the other side. Neither side has suffered so much that it can do whatever it pleases, including targeting and murdering innocent civilians (children among them) without being open to the charge of crimes against humanity. The supposition that suffering grants immunity in this regard is a most horrendous outcomes of one aspect of contemporary socio-political thought—a most inexcusable case of excusing evil. This one can say without supposing for a moment, as indeed I have not, that one side is right and the other side is wrong.

We can now tie a number of things together. Sometimes the moral timbre of a person's actions is transparent to him but opaque to others. Of course, the converse can be true as well, but that need not concern us. Alas, it is a striking feature of crimes against

humanity that their moral timbre of utter ill-will is equally transparent to those who become informed about them. One cannot know that a person has committed crimes against humanity and, at the same time, wonder whether the individual meant anyone any harm, any more than one can know that a person is a strict vegetarian and, at the same time, wonder whether the individual eats beef. When the moral timbre of a person's actions is opaque, then there can be good reasons for proceeding with caution even though one has good reason for suspecting the worse. Not so, however, when the very transparency of the moral timbre of a person's actions reveal the worse. And it this consideration that poignantly raises the spectre of Strawson's marvelous argument.

It is a foregone conclusion that individuals who are the object of crimes against humanity will experience resentment towards those who commit those crimes. For the moral timbre of such crimes is that of manifest ill-will; accordingly, on Strawson's view, the failure to exhibit resentment would reveal some sort of profound cognitive failure. But what about third-party individuals, hence individuals who are neither the victims nor the perpetrators of such crimes, who have been made aware that such acts were committed? To state the obvious, third-party individuals should display unqualified disapprobation of such acts. Suppose, though, that nothing of the sort happens—that third-party individuals are either indifferent or express approval. Then we have what I shall a secondary-wrong against the victims for which the corresponding secondary-resentment is in order. Let me explain.

Imagine LT witnessing someone, say, Joan, performing the vicious act of cutting off Willard's arm at the elbow. Joan had deliberately bound and gagged LT; so there was nothing that he could do to offer Willard help. Willard, of course, will be quite angry at and resentful of Joan. All the same, Willard's moral assessment making will not stop there. To be sure, Willard will understand all too well why LT did not intervene to stop Joan. LT's innocence in the matter of the lost arm is beyond dispute. Just so, it is not possible, at least if Willard is psychologically healthy, for Willard to refrain from having a set of expectations regarding LT's moral assessment of what happened. Willard will expect LT to think that Joan had done a morally despicable thing to him (Willard), and to be outraged over the fact that he (Willard) had been harmed in this way. That is, Willard will expect LT to acknowledge emotively the wrong that he (Willard) had suffered at the hands of Joan. The absence of an emotive acknowledgement from LT will constitute a morally incongruous state of affairs for Willard,¹¹ because it will be tantamount to a denial or, at

¹¹ I cannot here stop to distinguish between emotive acknowledgement and mere cognitive acknowledgement. As I am understanding the difference, the former entails the latter but not conversely. Also, emotive acknowledgement affirms in a way that mere cognitive acknowledgement does not, because an emotive acknowledgement carries in its wake a moral judgment regarding the wrongfulness or rightfulness of what was done, whereas a cognitive acknowledgement does not necessarily do so. For a cognitive acknow-

any rate, an absence of confirmation on LT's part of the horrible moral experience that Willard suffered. It is a deep fact about our humanity that we often look to others who are in the position to do so to confirm what we already know.

Suppose a student smacked a professor in front of the class. The professor might very exclaim in front of the students "Hell, I have just been smacked! Did you see that?" Well, the professor knows that she has been smacked and she knows that the class of students saw it, since the event took place before their very eyes. Had the smacking occurred while the student and the professor were alone together in her office, the issue of confirmation would not arise; and the professor would not be any more or less convinced that she had been smacked. But the event occurred in the classroom before the entire class; and this gives students a moral power, if you will, in that they can either confirm or not confirm what had happened. And it is not possible for the injured to be indifferent to how or whether that power is exercised. We want the affirmation, where affirmation here is to be understood as a form of emotive acknowledgement.

It goes without saying that being informed that an egregious wrong was done is not the same thing as witnessing it. Nonetheless, when the evidence is incontrovertible, then the opportunity for confirmation in the form of emotive acknowledgement can still arise. To know for a fact that, for example, 100 people were raped and murdered by whomever is to know something quite significant. Thus, to be informed of certain facts is to acquire a moral power to confirm or not to confirm the conclusions that they unequivocally support. Strawson eloquently argued that we cannot be indifferent to a person's harming us, given our belief that this was an exercise of free will on the person's part. I merely note that, in addition, we cannot be indifferent to whether or not those suitably informed confirm the harm that we have suffered, given that this, too, is an exercise of free will on their part. We rightly feel wronged when informed persons choose not to confirm the wrong that we have suffered; and we resent them for it. This is because the refusal on the part of persons, of their own free will, to acknowledge emotively an egregious wrong about which they have been suitably informed necessarily has a moral timbre to it, and that moral timbre is one of considerable ill-will. Crimes against humanity are among the most egregious harms that one group of human beings can commit against another group. The very nature of these crimes is such that there is little if anything to doubt in terms of either what has happened or who the victims are. So, surely ill-will can be the only explanation for the refusal to acknowledge such crimes emotively.

ledge can be a mere reporting of the facts. I can report, and so merely acknowledge cognitively, the fact that Joan killed Willard and leave the audience wondering whether or not I am glad Joan did so. Not so with an emotive acknowledgement.

Needless to say, ill-will can take many forms, one of which is political expediency. This, on my account, Muslims or Jews show ill-will if for the sake of presenting a unified front to the world, they refuse to acknowledge the crimes against humanity committed by Muslims against Muslims or Jews against Jews. There is no political cause so righteous or just that it is permissible for a people to commit crimes against humanity against their very own people. Nor, *a fortiori*, can there be a political cause so righteous that an oppressed people are entitled to commit such crimes against their enemy.

I am reminded here of Randa Ghazy's novel *Rêver la Palestine* in which the frustration and destitution of Palestinian people becomes the justification for suicide bombings in the name of Allah.¹² What is striking, and no one seems to have called attention to this, is that hate is also said to be justified in the name of Allah. Regarding the novel's hero, we find the following words on the next to the last page:

il hait / il hait / ne demandez pas quoi, il hait, en ce moment, il hait la mort et il hait l'amour ./ l'amour qui le fait souffrir / il hait les soldats / il hait chaque Israélien qui vit à la surface de la terre / c'est une haine inconditionnelle, irrationnelle, qu'on ne peut expliquer, justifier / mais non plus critiquer" (p. 199).¹³

It seems to me that one of the most important lessons of modernity that must be embraced by all religions is that appealing to the Almighty is a most fulsome excuse for committing wrongdoing. This is surely the lesson learnt by Catholicism and Christianity in general. Jews were once considered infidels by Christians, and so people essentially deserving of whatever wrong that was done to them. Christian extremist who think that way these days are roundly condemned by both the world community and the Christian community. Unfortunately, there remains sectors of Islam that fully embrace the idea of killing in the name of Allah.¹⁴ That has to change.

¹² (Paris: Flammarion, 2002), which was the center of controversy for a while. See "Polémique entre le CRIF [Conseil Représentatif des Institutions Juives de France] et Flammarion," *Le Monde*, 29 November 2002 and "Dreaming of Palestine, Teenager writes a Novel," *The New York Times*, 29 November 2002.

¹³ [translation] "He hates / he hates / don't bother asking what he is hating at the moment. he hates death and he hates love / the love that makes suffer / he hates the soldiers / he hates each Israelian soldier who lives on the face of the earth / this hate is unconditional, irrational. not to be explained or justified / but not to be criticized either".

¹⁴ For a discussion of these matters, see Farhad Khosrokhavar, *Les Nouveaux Martyrs d'Allah* (Paris: Flammarion, 2002). In my essay "Innocence, Genocide, and Suicide Bombings," in John K. Roth (ed.), *Genocide and Human Rights* (Palgrave Publishers, 2005), I have shown that suicide bombings can be the formal equivalent of attempts at genocide. For if indeed the practice of randomly killing anyone, including the innocent, who constitutes the "other" can be justified, then we are without a formal difference between that practice and genocide.

IV. The Moral Meaning

This brings me to the moral of this essay. For all the world, it increasingly looking as if whether or not third-parties acknowledge that an act is a crime against humanity depends on their antecedent political allegiances, the group which they want to be the victor. Thus, with the Middle East Conflict, one expects Jews and friends of Jews to see and be concerned with only the horrendous acts of Arabs, regardless of what Jews do, and one expects Arabs and friends of Arabs to see and be concerned with only the horrendous acts of Jews, regardless of what Arabs do. Yet, in this very conflict, nothing on the face of this earth would be more stunning, nothing could be further from the truth, than that either all Arabs or all Jews living in the Middle East are innocent. This, in effect, is to play favoritism with the concept of crimes against humanity. In the short run, there may very well be a victor. But the victory will surely be a Pyrrhic one. This is because playing favorites with the concept of crimes against humanity eviscerates it of its moral force. The paradigm cases of crimes against humanity are indisputable horrors—indisputable on two accounts. For one, no morally decent person can deny egregiousness of the wrong in question. For another, the evidence that the wrong in question has taken place is manifestly obvious. The paradigm cases leave no room to play favorites. Accordingly, the choice to play favorites with the concept of crimes against humanity is, on my view, a profound act of ill-will. And trust and harmony in the world is absolutely impossible against the backdrop of ill-will.

Strawson brilliantly observed that we cannot avoid having certain sentiments, given the assumption that we human beings are free agents. The reason for this, I have argued, is that free choice reveals value. If anything is a free choice that reveals value, playing favorites with regard to evil is. Alas, the value we reveal by playing favorites with the concept of crimes against humanity, leaves us with a world in which moral value itself has less value than we need it to have in order to have the harmony that only basic trust in one another can sustain. Not only for ourselves, but for posterity. There are no victors when we play favorites with the notion of crimes against humanity.

In an increasingly subjective world, moral objectivity yet has an unequivocal foothold in reality. The reality of crimes against humanity makes this manifestly clear.