Enemies of All Humankind

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THE INSTITUTIONAL FRONTIER: A NEW TYPE OF CRIMINAL

The rise of the human rights regime after World War II occasions one of the central breaks in the interpretation of the legal fiction of hostis humani generis. The human rights regime rests on two bases after the war. First is the United Nations’ “Universal Declaration of Human Rights,” which in 1948 explicitly formulated a new consensus on what is legitimate (that is, civilized). Second is the Nuremberg trials of 1945–46, which helped specify the illegitimate Other against whom violence can be exercised legitimately. The hostis humani generis fiction was used in the Nuremberg trials and successive trials of Nazis (especially Adolf Eichmann, who was famously cast as an archetypal committer of crimes against humanity) to help formulate the link between an inherently just principle and its illegitimate Other in a single proceeding. The unobtrusive experimentations with the legal fiction in Nuremberg were a careful initial attempt to create new ways to use hostis humani generis.

The postwar international framework of human rights responded to the “crushing impact of the war [that] reconfigured two of the most enduring constructions of the Enlightenment, the individual and the nation-state” (Borgwardt, New Deal, 7–8). These reconfigurations were met with adaptations of the law, in particular with the establishment of the human rights regime that testified to a new “openness to large-scale institutional solutions” by the administration of President Franklin Roosevelt. There was a place for hostis humani generis in this new legal context. The League of Nations’ Committee of Experts for the Progressive Codification of International Law’s Draft Provisions for the Suppression of Piracy (Bingham et al., “Draft Provisions”) had already achieved two things for the twentieth-century legal interpretation of hostis humani generis. First, it stated that the entire tradition of the enemy of all humankind as a random perpetrator of violence referred to the pirate exclusively, and not to crimes such as the
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slave trade or crimes against humanity. Second, the document’s definition
classified piracy as a crime that, in a global context defined by the uni-
versal premise of national statehood, occurs only rarely, if at all. With pi-
racy and random attacks safely compartmentalized away—along with the
implied tradition of criminals as bloodthirsty, unthinking beasts that had
informed legal constructions of criminals for centuries (see Evans, Rituals,
365; Olson, Criminals as Animals)—the potential use of the legal fiction
of hostis humani generis could be rethought in the spirit of the “Dignity of
Man,” to use Richard Hooker’s term (quoted in Locke, “Second Treatise,”
277; see also United Nations, “Universal Declaration of Human Rights”).1
The result was an understanding of the enemy of all humankind as a per-
petrator who deliberately targets, and seeks to destroy, the human essence
of his victims through crimes against humanity. The motive, and no longer
the unpredictability, of the attack becomes central to the understanding of
hostis humani generis in human rights law.

The crime most associated with hostis humani generis is a new addi-
tion to the catalogue of international crimes, the category of crimes against
humanity. The term “crimes against humanity” was used for the first time
in 1904, by Theodore Roosevelt (Borgwardt, New Deal, 226). In accord-
ance with the prevailing legal properties of hostis humani generis, crimes
against humanity are crimes that meet three criteria: they can occur both
during war and in peacetime; they are part of a concerted, conscious effort
to destroy a way of life; and their targets are the innocent—that is, people
not actively and officially engaged in hostilities (Frulli, “Crimes against Hu-
manity,” 334–37). The fact that crimes against humanity were associated
with crimes such as genocide, rather than with piracy, removed the obstacle
of enforceability that had hampered defenses against the slave trade in the
nineteenth century and allowed the construction of those who committed
crimes against humanity as hostis humani generis.

While the main objective of the Nuremberg trials and the Atlantic Char-
ter was to establish a new principle of just war, crimes against humanity
took the logical next step beyond this context of warfare. And hostis hu-
mani generis was used precisely because enemies of all humankind could be
encountered in wartime as well as in peacetime. In proceedings such as the
Eichmann trial, it was thus a stated goal to separate crimes against human-
ity from war crimes (Addis, “International Community,” 135).

Like piracy before the seventeenth century, “crimes against humanity”
was a general category that included a long and perpetually expanding list
of specific crimes, including specific crimes as different as torture, apart-
heid, extermination, enslavement, enforced disappearance, unlawful depor-
tation and imprisonment, rape, sexual slavery, enforced prostitution, enforced
pregnancy, and enforced sterilization. Within this large and diverse group of crimes, torture was soon to emerge as the central, problem-defining crime against humanity. As debates of the United Nation’s Consultative Assembly in 1949 make explicit, UN delegates used the crime of torture to characterize crimes against humanity in general as “inconsistent with civilised society” and as “incompatible with civilization” (quoted in Peters, *Torture*, 146–47).

Torture dramatized the issues of legitimacy and agency that the discussion of Elaine Scarry’s work in part 3 outlined: the torturer, imagined as the inhuman vehicle of a regime, illustrated which kind of illegitimacy (namely, a totalitarian one) made torture meaningful as a crime against humanity. Acts of torture that indicated a state of oppression in a nation-state were called “offences against heaven and humanity” simultaneously committed by the torturer and the nation-state (quoted in ibid., 146). The rejection of torture by the use of these terms “underlined the eternal truth which we must all remember; that barbarism is never behind us, it is underneath us. It is our task to see that it does not come to the surface” (quoted in ibid., 147–48).

In the decolonizing postwar international order, the barbarian sovereign is the totalitarian state—a nation-state, but not a democratic one. This sovereign Other to international law is exemplified by the chief beneficiaries of the Third Reich during the Nuremberg trials (Bassiouni, “Universal Jurisdiction”; Kontorovich, “Piracy Analogy”). The centrality of the totalitarian regime as a barbarous Other is illustrated by the most famous trials that used hostis humani generis to position the defendants as criminals against humanity: the aforementioned trial of Eichmann and, in the United States, the trial of Américo Peña-Irala, a Paraguayan inspector general of police who was accused of torture and convicted in 1980. The characterization of these people as enemies of all humankind is directly derived from the specific illegitimacy of the regime they faithfully and officially represented during their crimes. Eichmann in particular was made immortal as the prototypical committer of crimes against humanity because of his unquestioning acceptance of the Nazi regime’s perspective, despite his knowledge of its perspective’s heinous implications (Arendt, *Totalitarianism*, 360–61, and *Eichmann*, 48–49; see also Margalit, *Decent Society*, 49–50). Likewise, an important argument for the right of the US Court of Appeals for the Second Circuit to hear the case *Filártiga v. Peña-Irala* was that the act of torture committed by Peña-Irala reflected an official position of the Paraguayan government toward its citizens in general, and that through his acts of violence Peña-Irala willingly chose to perpetuate an illegitimate form of rule (Aceves, *Anatomy of Torture*, 47). The totalitarian conspiracy in these cases consists of the creation of a Leviathan whose central objective is to render significant portions of the population permanently innocent—namely, all
those who, unlike Eichmann and Peña-Irala, have not undergone a prae-
donic transformation into an empty and violent extension of the regime.

As discussed in part 3, the understanding of totalitarianism as a categ-
ory opposite to the civilization that is threatened from “underneath” was
most famously established by Arendt’s 1951 *The Origins of Totalitarianism*
and was made more explicit in her reports of the trial of Adolf Eichmann,
published as *Eichmann in Jerusalem* in 1964. In contrast to earlier com-
mentators such as Peter Drucker (*Economic Man*), Arendt points out that
the totalitarian Leviathan is not the inherent expression of any specific ideol-
ogy, such as fascism (*Eichmann*, 176), but that totalitarianism instead is the
realization of an ideology characterized by an “eager[ness] to generalize”
(ibid., 156) and “a ruthless desire for conformity at any price” (ibid., 175).
She goes on to argue that this kind of ideology is nothing less than morally
evil and can render even “neutral” desires—such as to conform or, perhaps,
to commit violence—acts of evil. In a radio interview with Joachim Fest in
1964, Arendt elaborated on her famous characterization of Eichmann as the
epitome of the “banality of evil.” In the course of the conversation, Arendt
and Fest discussed Eichmann as a “new type of criminal” (“Dummheit,” 38),
whose motivation for crimes against humanity—the overarching desire to
belong and to function efficiently—is not in itself evil but a “neutral” human
motivation that is rendered evil only by the individual’s unwillingness, and
perhaps inability, to think beyond the immediate demands of institutional
functionality. Rather than considering the justice of institutional objectives
themselves, such criminals insert themselves into the regime as “fragments”
of institutional space and thus refuse to consider how those subjected to
institutional efficiency are affected—or even destroyed—by it (ibid., 39). It
is this refusal to accept the responsibility for heinous institutional doings de-
spite knowledge of them, Arendt suggested, that was established as criminal
during the Nuremberg trials and was then identified as the basis of criminal
conduct during the Eichmann trial (ibid.).

Arendt thus conceptualizes totalitarianism as an invasive regime designed
exclusively for the benefit of elites and their minions who aggressively and
randomly turn against other humans. While the totalitarian regime is argua-
ibly the result of revolution, the totalitarian revolution is based not on law but
on the will of a regime that views humans as the malleable components of an
emerging totalitarian Leviathan, rather than recognizing them as individuals.
Totalitarianism, in Arendt’s sense, is characterized by a theoretical separation
between the illegitimate regime and the innocent populations abused by its
premises. The innocent victims of totalitarianism are thus both the population
that the regime claims to represent and the population that it externalizes and
destroys. The Nazi regime, for instance, is separated from both the people
who were tortured and murdered as a direct result of fascist ideology and the so-called good Germans, who could be viewed as the noninvolved population and whose existence was presupposed in the policies of the United States during the postwar occupation of Germany (see Lockenour, “Black and White”).

Totalitarianism, Arendt’s reasoning continues, exploits accidents of history to establish a regime based on the illegitimate exploitation of just national or institutional structures (rather than just wars, as in Hugo Grotius) and the violent abuse of innocent populations inside national borders (rather than noncombatants across war zones). Instead of capitalizing on the imperial weakness on the margins of empire, the barbarian is thus present in the industrial nation-state as an in-between zone, threatening to rise from “underneath” the institutions that are evolving toward civilization, and misleading them toward totalitarianism (Alexander, “Social Construction,” 229).

Adolf Hitler’s rise to power exemplifies this vision of the new totalitarian Other to humankind. Hitler hollowed out rather than replaced legitimate state structures, to an extent that allowed him to take over the position of the sovereign, and to rely on a monopoly of force that was based on the structures of the Nazi party long before they spread to the police or the military (Agamben, *Homo Sacer*, 121–23; Baehr, Arendt, *Totalitarianism, Social Sciences*, 45; Hornung, *Das totalitäre Zeitalter*, 68–69; Jackson, “Opening Address,” 1:123–25; Shirer, *Aufstieg und Fall*, xv). Hitler’s rise to power, enabled by the state-within-a-state structures of the Nazi party, is a vivid example of an illegitimate totalitarian Other as a parasitical and virus-like ideological disease that may affect any nation-state. The rise of totalitarianism in the United States was not at all considered unthinkable, especially during World War II (Palevsky, *Atomic Fragments*, 128–30), and this may at least partly account for the essentialist “race war without race” waged by and within the United States after the war (Medovoi, “Race War Within,” 165). This ideological struggle was informed by a “racism of interiority that constructs its target populations with reference to their creeds, thoughts, and loyalties rather than their blood, color, and physiognomy” (ibid., 168).

As I noted in the discussion of the torture debate above, the problem exemplified by Eichmann was that totalitarianism required a radically different praedo than the classic racialized barbarian. The totalitarian regime, according to Arendt’s model, is able to turn parts of the captive populations into totalitarian praedones and transforms them into something permanently unrecognizably and shockingly Other. I touched on this possibility above, in the context of MacSwain’s development in Dashiell Hammett’s *Red Harvest*. In a discourse of human rights that systematically focuses on representing and defending innocence produced by violence, the praedo produced by violence becomes a painfully likely possibility.
Recognizing this general human ability to be transformed not just into an innocent but also into a praedo constitutes a radical innovation in the interpretation of the hostis humani generis constellation, and its importance cannot be overstated. In the course of the twentieth century after World War II, the relationship between praedo and innocent was conventionalized as one of mutually constitutive transformation. The totalitarian state was then defined by its reliance on only two kinds of subjects: praedones who commit, and the innocent who are the potential targets of, a generalized destruction of human life. This definition of totalitarianism as an inherently illegitimate order constituted one side of an essentialist divide. On the other side stood foundational piratae and interpreting representatives of civilization, who together represented a different vision of order: a sovereignty that identified violence against human beings in general as a form of undue subjection, and that relied on perpetual acts of foundational piratae's counterviolence against totalitarian tendencies around the globe. Foundational piratae and interpreting representatives of civilization together ensure the perpetual progress toward civilization in a frontier-based nation-state, and in the First World in general.

This neat division of the four relevant figures of the hostis humani generis constellation into two central relationships that define two different and existentially opposing orders can be considered an attempt to manage the overlap between the violence committed by the foundational pirata and that committed by the perpetrator of crimes against humanity. If even the most evil acts are originally neutral, it is vital to specify the kind of rule that allows people to become the source of good rather than a symptom of evil. Thus the explicit characteristic of a good nation-state, such as the United States, becomes its ability to institutionally enable a foundational relationship between pirata and representative of civilization within national territory, whereas the mass transformation of national citizens into innocents and praedones cannot be part of the national project.

The task of human rights law, which is to enable any human being on the planet to “become what one already is,” (Slaughter, *Human Rights Inc.*, 26) thus assumes a consequential double meaning. Both totalitarianism and civilization allow people to become what they already are, and the distinction between them is not made easier by the normalization of mass atrocities committed against the innocent that returning war veterans, in particular, were all too well aware of. Both the best and the worst are inherent to the human being, but they are ontologically separated by the Cold War claim that US institutions always bring out the best in humans, and totalitarian regimes bring out the worst.

Kurt Vonnegut was a veteran of World War II and had been a prisoner of war in Dresden when the city was firebombed in 1945 (Klinkowitz, *Literary...*)
Disruptions, 36). Vonnegut made his first public mention of his personal experience with massified warfare in the second edition of Mother Night. That edition, published in 1966, included a new introduction that revealed Vonnegut’s presence on the ground during the firebombing. The first edition of 1962, entering the market as a cheap pulp paperback, received no critical attention whatsoever and was a flop in terms of sales (Shields, And So It Goes, 173). Not until the second edition was published was there critical recognition of the novel. The new introduction of 1966—not to be confused with the editor’s note, in which Vonnegut already appears as a fictionalized editor figure who authenticates the confessions of the narrator, Howard W. Campbell Jr.—is routinely included in later editions of the work.

Mother Night (hereafter abbreviated in the citations as MN) is composed in the form of a fictional meta-autobiography. Ralph Clare has characterized it as a conflation of “the confessional genre with a light parody of the spy genre” (“Worlds of Wordcraft,” 70). With the exception of the editor’s note, which is written from the point of view of a fictionalized Vonnegut, the entire novel is narrated by Campbell, the protagonist, who is “an American by birth, a Nazi by reputation, and a nationless person by inclination” (MN, 3). The text alleges that Campbell produces his memoirs in Jerusalem as a fellow inmate of Eichmann, who was being tried there at the time of the novel’s writing. Campbell awaits his trial for crimes against humanity and offers his memories for the academic research on “Nazi villainy” being conducted by Israeli researchers and supported by the state of Israel (MN, 3).

The novel is divided into forty-five very short, thematically titled chapters, and moves back and forth through the various parts of Campbell’s life. Campbell comes to Germany as a child; becomes a sentimental playwright; and marries Helga Noth, a German actress. The Nazis rise to power, and the Campbells rise with them. Campbell becomes a famous radio demagogue as well as a Nazi propagandist under Joseph Goebbels. Simultaneously, however, he is recruited as an American spy and uses his Nazi radio program to transmit coded messages to the Americans throughout the war. His wife disappears on the eastern front, and Campbell hides out in New York after the war. His lonely undercover life is eventually exposed by a Russian double agent. In the New York part of the plot, Campbell is idolized as an upright hero by what Philip Tew calls “a hodgepodge of American fascists” (“Mother Night,” 17) and meets Helga’s younger sister, Resi, who poses as his vanished wife. After much intrigue and confusion that exposes various characters’ conflicting and overlapping allegiances to the United States, Russia, Nazi Germany, and Japan (MN, 59), Campbell is brought to Israel to await trial.

In the final pages of the novel, Campbell receives a letter from his American intelligence recruiter that confirms Campbell’s unwavering allegiance
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to the United States throughout the war. This unexpected confirmation of his status as a US agent rebuts the charges of crimes against humanity being made against him. Campbell’s reaction to the news is not triumph but suicide: “Tonight is the night I will hang Howard W. Campbell, Jr., for crimes against himself” (MN, 175). The 1966 introduction retrospectively offers an overarching interpretive motto (or, as the introduction calls it, a moral) for Mother Night as a novel: “We are what we pretend to be, so we must be careful about what we pretend to be” (MN, vii).

On a basic level, the novel is structured by essentialist dichotomies as they are conventionalized by the spy genre: the United States here; Nazi Germany and Soviet Russia there; and spies as the representatives of their governments in-between, with the double agent as a particularly clear-cut pirata figure. As Clare rightly notes, however, the book actually belongs to the confessional genre, which immediately undercuts the essentialist dichotomies evoked by the spy genre. In his confessions, Campbell does not focus on the difference between nations or political orders, but on paranoia and schizophrenia as interrelated states of madness that characterize an overall grotesque world. Correspondingly, the book does not focus on episodes that narrate the protagonist’s character development, but instead on those that offer episodic glimpses into the multifaceted horrors and absurdities of the environments of war and alienation that dominate Campbell’s life. Partly because many factors that influence his life are initially (and sometimes remain) unknown to Campbell, he admits to being an unreliable narrator, despite his stated goal of telling the truth (MN, 21, 37, and 102).

The novel was conceived after a conversation Vonnegut with a naval intelligence veteran at a cocktail party. According to Vonnegut, the veteran explained that “what you have to realize is that all these people are schizophrenics. They have to be insane . . . because otherwise they would either blow their cover or simply die of fright. He went on to say that someone ought to make a spy movie about what spies are really like. So I wrote a book about it” (quoted in Reilly, “Two Conversations,” 204). As in the cocktail party anecdote, Mother Night does not use the terms “schizophrenia” and “paranoia” in their medical sense. Instead, both terms are used to describe a continuum that ranges between an individual predisposition, which may indeed be a medical condition, and a state caused by external influences, such as a biographical and historical situation (for schizophrenia, see MN, 18, 37, 62, 116, 127, 133, 137, 146, and 148; for paranoia, see MN, 43–44, 47, 147, 160–62, and 164).

In the novel, paranoia requires the ability to believe in the natural existence of stark dichotomies and refers to the conviction that dichotomies must be violently protected and maintained. In a much-quoted passage, this
paranoid condition is squarely equated with a totalitarian mind-set (MN, 145–46). “Paranoid” ideologues of all varieties—be they members of the Nazi high command, a Jewish underground fighter, a fascist activist, a capitalist engineer, a German or American policeman, an American soldier, or “the bureaucratic Genghis Khan” and “Man of the Century” Eichmann himself (MN, 8–9, 10, 17, 58–59, 64, 102–3, 111, 154–55, and 160–64)—can honestly believe in the righteousness of their deeds even when their actions are ideologically inconsistent, and when their protection of dichotomist standards causes them to commit heinous acts of violence.

Vonnegut maintains that paranoia never stops at dichotomist borders such as national borders and specific cultural allegiances, but produces these alleged borders in the first place (see, for example, MN, 103). Even though historical Nazi figures such as Hitler, Goebbels, Rudolf Höß, or Eichmann are cited as the purest epitomes of such a paranoid or totalitarian mind-set, the most developed characters of the novel that represent this mind-set are Americans: the fascist Reverend Dr. Lionel J. D. Jones (who is described as clinically paranoid and to whom the novel’s famous totalitarianism passage refers) and the antifascist former soldier Bernard B. O’Hare, who captures Campbell as a Nazi criminal and who “thought of himself as St. George and of me [Campbell] as the dragon” (MN, 160).

Schizophrenia, in contrast, is described as the ability to live in a paranoid world, and to “be” or “pretend to be” many things at the same time (MN, vii). Like paranoids, schizophrenics act contradictorily and heinously, but they do so without the ability to incorporate their actions into a legitimating dichotomist mind-set. “I’ve always known what I did,” confesses Campbell. “I’ve always been able to live with what I did. How? Through that simple and widespread boon to modern mankind—schizophrenia” (MN, 116). Schizophrenics, in Vonnegut’s sense, survive because they radically disassociate themselves from their actions and the illegitimacy of those actions. The “schizophrenic” Campbell is able to reflect on what he has done and condems the horrors he has committed, but his reflection does not entail any inclination to act otherwise, or indeed any possibility of doing so. This construction of a nuanced reflexivity that does not, on the whole, result in legitimate behavior, provocatively varies Arendt’s theoretical focus on self-reflexive moral agency in her definition of a “new type of criminal.”

Campbell’s schizophrenia is described as the result of a normative orientation toward what Wendy Brown has called the “prepolitical” (States of Injury, 181). In the context of his marriage, Campbell refers to the love between his wife and himself as a “nation of two,” whose “territory[, which] we defended so jealously, didn’t go much beyond the borders of our great double bed” (MN, 30). Since this love is so self-absorbed, the lovers are
capable of opportunistically inserting themselves into any context that allows them to remain together—love leads to martyrdom only when opportunism can no longer protect the lovers from paranoid persecution (MN, 29–30, 149). Indeed, the possibility of using violence legitimately exists for the schizophrenic as soon as he is directly attacked by the paranoid—the martyrdom of the female character, Resi Noth, who dies for love in the face of persecution (MN, 149), is complemented by the one moment of violence of the male character, Campbell, who successfully defends himself against a paranoid’s attempt at vigilantism (MN, 163–64).

There is no dichotomist difference between paranoia and schizophrenia in *Mother Night*. Rather, they are considered to be the two major possible ways to react to an overarching experience of unspeakable horror caused by totalitarianism and massified warfare (see Broer, *Sanity Plea*; Clare, “Worlds of Wordcraft”; Tew, “*Mother Night*”). The difference between the two conditions of paranoia and schizophrenia is a degree of awareness, and these conditions are more generally tied together as complementary symptoms of war. To a certain degree, one may choose whether one is paranoid or schizophrenic, since it is possible to either close one’s eyes to heinousness or to leave them open—but this is not much of a choice. Tom Marvin relates this general observation to the marginal figure of Andor Gutman, one of the Israeli guards during Campbell’s imprisonment in Jerusalem and a former concentration camp inmate. In Auschwitz, Gutman had “volunteered” for the job of a corpse carrier, “whose duties were to shepherd condemned persons into gas chambers” (MN, 6–7). Like Campbell, Gutman recognizes his guilt without quite understanding his own choice to become guilty in the first place. Marvin concludes that Campbell’s “story suggests that it is possible to be a victim and a villain at the same time, and this is how Campbell chooses to portray himself in his confessions. . . . Being a “victim” and an “agent” does not excuse either Gutman or Campbell, but it does suggest that conventional notions of guilt and innocence are inadequate to deal with the complexities of human behavior” (“Who Am I,” 234).

Marvin’s continuum of villain and victim can be tied back to this book’s language of praedo and innocent, figures that centrally constitute each other in the construction of totalitarianism. The paranoid can be easily considered a praedo of totalitarian logic across ideological demarcation lines, yet Vonnegut suggests that, in contrast to the paranoid praedo, there is no easy definition of innocence. A character like Gutman is both an innocent and a praedo, as he has inserted himself as a cog in the wheels of the same institutional killing machine that seeks to destroy him. Gutman and Campbell do not have a way of capturing or even expressing the extent of their guilt because their role as praedones is determined by their *unthinking* acceptance of totalitarian orders.
Their own belief that they are nevertheless guilty points toward a strong moral position that underlies Mother Night. The fact that the narrative universe and all the characters in it are not only violent but also guilty subtly reinterprets the idea of a wilderness that is chaotic, brutish, and like a state of nature, and mixes the language of the state of nature with the Lockean idea of war as a state that is inherently illegitimate, insane, and deviant. To recognize how this underlying moral position is made accessible to the reader, it makes sense to review the few passages in the novel in which Campbell steps out of the cynical elusiveness of his schizophrenic disassociation, and makes clear value statements (see also Vonnegut, “Humanist”).

And one thing she [a fervent Nazi] did to me was make me deaf to all success stories. The people she saw as succeeding in a brave new world were, after all, being rewarded as specialists in slavery, destruction, and death. I don’t consider people who work in those fields successful. (MN, 75)

Say what you will about the sweet miracle of unquestioning faith, I consider a capacity for it terrifying and absolutely vile. (MN, 103)

“Look at you! Came to kill evil with your bare hands, and now away you go with no more glory than a man sideswiped by a Greyhound bus! And that’s all the glory you deserve!” I said. “That’s all that any man at war with pure evil deserves. There are plenty of good reasons for fighting,” I said, “but no good reason ever to hate without reservation, to imagine that God Almighty Himself hates with you, too. Where’s evil? It’s that large part of every man that wants to hate without limit, that wants to hate with God on his side. It’s that part of every man that finds all kinds of ugliness so attractive. It’s that part of an imbecile,” I said, “that punishes and vilifies and makes war gladly.” (MN, 164)

These passages reflect a clear condemnation of paranoia wherever it occurs: in the general cultural atmosphere of Nazi Germany, as in the first two quotes, or in the grandiose attitude of O’Hare, the fanatic American antifascist and the addressee of the speech in the third quote. This final passage is particularly interesting because it is preceded by an act of legitimate violence that Campbell commits in self-defense against O’Hare, and because the formulation of this lecture clearly marks the paranoid position as an essentialist one. In singling out O’Hare as the addressee of such a speech (and the recipient of a legitimate beating), the scene points to something interesting. Throughout the novel, the essentialist O’Hare speaks to Campbell exclusively as a representative of “pure evil” (MN, 163), but we also learn that only the thought of, and speech to, Campbell gives O’Hare’s own life meaning (MN, 162). Only in addressing Campbell as a Nazi does O’Hare’s essentialist position become recognizable, but because O’Hare is nothing
more than Campbell’s pathetic stalker, the essentialist perspective is exposed as a resource chosen by the desperate and damaged. O’Hare clings to Campbell by hating him. When discussing the novel in terms of the hostis humani generis constellation, then, it is particularly important to consider to whom the equally desperate schizophrenic Campbell speaks—or rather confesses.

An argument can be made that in *Mother Night*, the constellation of hostis humani generis is not laid out in the plot, as in earlier examples discussed in this study, but across the metafictional frames of the novel (Häsner, “Indexikalität,” 78) that emphasize not the content but the function of Campbell’s confession. Campbell’s fictional confession is explicitly mediated by two gatekeepers who are both invested in the defense of human rights, not in the context of Cold War binaries but for the sake of a nuanced consideration of individual fates. The maxim in the preamble to “Universal Declaration of Human Rights”—namely, that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind” (United Nations, “Universal Declaration of Human Rights”)—is also the defining premise of the novel. Like the declaration, *Mother Night* works to legitimize a political and legal regime designed to protect human rights. The novel essentially uses hostis humani generis as an aesthetic resource to suggest that war inevitably breeds despair, that the desperate inevitably speak, and that they either speak hatefully (like the paranoid O’Hare) or confessionally (like the schizophrenic Campbell). The human rights regime is legitimated as the proper institutional context for confession, and thus as the only constructive way of dealing with an entire generation’s despair.

The first gatekeeper is the direct addressee of the book, the historical figure Tuvia Friedmann. In the novel, Friedmann’s staff helps Campbell in the writing of his memoirs, doing research into his life to help make his personal memory legally and historically relevant (MN, 3). Correspondingly, the first of two relevant frames consists of the Israeli prison space as the fictional site of writing and as the contextualizing raison d’être of the text as a confession to crimes against humanity (a humanity that, importantly, includes Campbell himself).

I argued above that in *Native Son* the retelling of Bigger Thomas’s story by his lawyer serves to recontextualize an act of murder as a foundational intervention calling on the legal system to return to its civilized premises. Campbell’s confession to the law (MN, 122; see also MN 87, 105, 106, 117, and 137) achieves a similar civilizing effect of transforming violence into a foundational intervention. However, it is not the law that is to be transformed—it is the world that has gone mad and now has to be led back to the existing language and terms of the law.

As in *Native Son*, in *Mother Night* retelling the story of a perpetrator
draws attention to the violence that informs an entire insane narrative universe that has created the already condemned protagonist. Through the mode of confession in Mother Night, the incomprehensible violence of a limitless and grotesque narrative universe can be made accessible to prevailing categories of legitimacy and illegitimacy and, ultimately, the law. Importantly, in contrast to the situation in Wright’s novel, the crime against humanity in Mother Night is so elusive that its punishment can be undone by the single stroke of a pen (MN, 172–75). The protagonist, however, does not accept the possibility of acquittal because only his fatal punishment maintains the possibility that the confession will be a foundational intervention. He accordingly sentences and kills himself in his prison cell.

This conscious usage of literary form as an enabling element of legitimacy claims is made particularly explicit by the second gatekeeper, the “editor” Kurt Vonnegut who is also a fictionalized historical figure (as explained above, Vonnegut as the editor appears in the fictional editor’s note that is part of the text from the start and is not identical with the retrospectively added 1966 introduction). The editor confirms that the confessions of Campbell, a writer who “admire[d] form” (MN, 119), have a specific function: to subject an insane world to the careful consideration of justice. “The demands of art alone were enough to make him lie,” the editor relates, but “lies told for the sake of artistic effect . . . can be, in a higher sense, the most beguiling forms of truth” (MN, ix). If literal-minded paranoia can produce a mad world, the metafictional confession of a detached schizophrenic who accepts death for justice (rather than for love, as Resi does) can help initiate a sane world.

Two realms are constructed as distinct via the boundaries of the metafictional frame. One realm is mad and evil and is described as a cautionary example to the other, civilized realm, which must hear the confession and defy the temptation to become mad. In Mother Night, the contrasting realms directly correspond to contrasting approaches to violence and language. The legitimate institutional approach (the human rights regime, specifically the Jerusalem court) does not speak but institutionally enables perpetrators to confess and victims to testify. In contrast, the illegitimate institutional approach (committers of mass warfare and representatives of any paranoid security apparatus) is associated with the language of brutalizing propaganda; here, both perpetrators and victims are shouted down and condemned to silence. The civil societies of both the United States and Israel are constructed as conceivable institutional enablers of civilization because these countries adhere to the universal and international principles of human rights. Their ability to listen before they interpret is the central resource through which their transformative reactualization by a foundational pirata (Campbell) is deemed possible.
Civilization is very explicitly constructed as a civil society informed by a functioning respect for human rights, understood as a respect for nuance and complexity. It is for this reason that the structure of *Mother Night* allows Campbell to speak to the reader of a novel on behalf of the “spirit” of human rights law, in Jeremy Waldron’s sense ("Torture," 1748). The protagonist becomes recognizable as a pure woman pirata because he formulates overarching civilizational values in an imperfect context of crime and punishment—whose imperfection is, in this case, not dramatized by a sentence that is too harsh but by one that is too mild (*MN*, 20 and 175). At the outermost frame of the novel, the reader him- or herself is included as a potential representative of civilization, who may help strengthen and uphold a legitimate human rights law that acknowledges the possibility of guilt even beyond enforceable notions of criminality. The democratic reader is called on to defy the likes of Jones and O’Hare both individually and institutionally—for instance, by positioning him- or herself against a “paranoid style in American politics” (Hofstadter, “Paranoid Style”).

Campbell is a pirata not because he conflates inconflatable elements within nationalist dichotomies mapped out in the plot (even though as a double agent, he does that, too). He is a pirata because he, the repentant committer, conflates the mute violence of madness with the sane platforms for individual speech that are provided by a regime based on a humanist usage of legal and aesthetic language. Campbell remains implicated by totalitarianism yet accepts his punishment—even when it cannot be enforced by anyone other than himself.

To be such a foundational pirata, Campbell can only be “in possession of his own soul” (Broer, *Sanity Plea*, 56) at the moment when he hands his memoirs to the editor and his body to the law that has legitimate authority over him—at the moment, in other words, when his confessions are written down, and when he himself allows his speaking presence to be fully replaced by the interpreting presence of not one but two representatives of civilization (even though only one of them, “Vonnegut” himself, appears in this function within the text, and thus absorbs the role of “Friedmann” in his editorial voice). Campbell as a foundational pirata offers his entire life up for civilizational interpretation and flatly refuses to live without a civilizing judgment appropriate to the complexity of his human voice, whose misuse for conformist propaganda is also his crime (*MN*, 175–76).

This construction of the confessing perpetrator is contextualized by a more general shift in the treatment of the experience of violence in literature. Many US veterans took advantage of the GI bill to study creative writing in college. Literary writing, like psychotherapy, was seen as a cultural resource for formulating notions of guilt and trauma in institutionally integrated
ways. After the hardening exposure to war, “the process [that the veterans] underwent on campus was one of ‘softening,’ a subtle transition from the silent suffering of trauma into the controlled pathos of literary recollection” (McGurl, *Program Era*, 61). It is notable that Mark McGurl, when explaining the institutional purpose and individual effect of these writing programs, speaks of “suffering” and “trauma” rather than of guilt and violence, which is a general tendency in the postwar cultural construction of the US veteran as someone who has suffered, rather than committed, the horrors of war. Later chapters in this part of the book will return to the discursive construction of such a strangely passive soldier, as the sole focus on (American) soldiers’ suffering would constitute an important element of the essentialist interpretation of the hostis humani generis constellation in later decades.

In *Mother Night*, this focus on suffering alone is rejected, especially via the characterization of the self-pitying O’Hare. Instead, as Marvin pointed out, Campbell’s confession explicitly combines the perspectives of the perpetrator and the victim. The centrality of the combination of the perpetrator’s confession and the victim’s testimony is further emphasized by the addition of the 1966 introduction, which explicitly—and, as noted above, for the first time—relates Vonnegut’s personal experience of the firebombing of Dresden. In the introduction, Vonnegut expresses bitterness about the fact that mass atrocities committed by Americans were practically ignored in public discourse after World War II, even though he suggests that any reactualization of national legitimacy would require the acknowledgment of responsibility for those atrocities.

In the novel, the illegitimacy of mass warfare is transcended by the act of confession and martyrdom for offenses against the “inherent dignity” of humankind (United Nations, “Universal Declaration of Human Rights”). Campbell becomes in his confession all of what he has always been—a totalitarian praedo; an innocent produced by violence; and finally a foundational pirata whose confession opens up the possibility of the existence of representatives of civilization in the world, despite all the horrors that have been committed. However, as the belated addition of the introduction indicates, Campbell can assume this liberating role for the nation only if all of his incarnations within the constellation, not just those of the traumatized innocent and the foundational pirata, are accepted as American roles. The introduction’s interpretive motto—“We are what we pretend to be, so we must be careful about what we pretend to be” (*MN*, vii)—does not refer to the protagonist alone; it also cautions the reader about his or her complicity in the totalitarian horrors elsewhere, and his or her responsibility to uphold the values formulated by the human rights regime.

In other words, Vonnegut uses the hostis humani generis constellation
to draw attention to his claim that mass state violence of whatever nature threatens to transform people into praedones and/or innocents, and that, therefore, mass atrocities cannot be the means of legitimate violence at all. Only those who are untouched by experiences of violence and oppression and who also have a normative orientation toward human rights as a secular City of God, may remain untainted by a City of Man whose “neutral” amorality has made the institutionalized world mad and evil—whether this evil lies in the neutrality of bureaucratic functionality, of ambitious dreams of success and accomplishment, or of the very capacity to believe (see Papelevsky, Atomic Fragments, 128–29). The entire trajectory of the novel suggests that, when faced with massified warfare, neither human nor nation can resist being transformed into a praedo and/or innocent. While it is the individual’s responsibility to become a pirata who gestures toward a more legitimate future, the nation is responsible for providing the institutional grounds for reactualization by strengthening the structuring influence of the human rights regime as the proper place for a planetary representative of civilization. In other words, it is the responsibility of the nation to recognize any foundational intervention in the first place. Foundational reactualization in this form cannot take place without the willingness to engage in the meta-institutional reflection on the nation’s own guilt that is demanded by Arendt and dramatized by Vonnegut.

This meta-institutional reflection on US acts of mass destruction not only remains culturally absent but is actively overridden in Cold War America, prompting Vonnegut to address this problem explicitly in the 1966 introduction. Vonnegut concludes that the United States as a nation has ceased to be different because it ignores figures like Campbell in their roles as foundational piratae. Campbell’s suicide cannot offer a path toward civilization if his interpreters do not take up the responsibility of being representatives of civilization. The prophetic final words of the novel are: “Goodbye, cruel world! Auf wiederssehen?” (Until we see each other again?) (MN, 176; German spelling mistake in original).

The United States would indeed see Campbell again. At the time of Mother Night’s first publication in 1962, the Vietnam War had already been raging for seven years. Like the earlier Korean War, the Vietnam War was conceptualized as a way to contain totalitarian communism in the world. The Vietnam War demonstrated, rather than renegotiated, an already pre-determined essentialist constellation: as a proxy war between the United States and the Soviet Union, it served as a symbolic actualization of a struggle of good versus evil, American democracy versus communist totalitarianism, in “Indian Country” (Greiner, Krieg ohne Fronten, 203; my translation). Since the conventionalized use in World War II of weapons of mass destruction,
space—in terms of territorial advancement along delineated battle lines—became decreasingly relevant as a measure of warfare. In Vietnam, this was true even for man-to-man combat on the ground. “In contrast to World War II and Korea,” Charles Neu points out, “Vietnam was a war without a front, without any clear direction or momentum, in which progress was measured by the number of enemy troops killed rather than by the amount of territory gained. Combat had a circular quality; American units would often patrol the same territory over and over, engaging in fleeting contacts with the enemy, or take an objective and then abandon it” (“Vietnam and Transformation,” 17).6

The identification of the enemy solely by his agency and allegiance (rather than, for instance, his position in relation to spatial battle lines) soon turned into a constitutive problem. The interpreting American soldier, exposed to a mad universe, proved unable to distinguish the praedo from the innocent. When charged with his involvement in the My Lai massacre, William Calley famously argued that the command had essentially defined the enemy as everyone who was not an American soldier: “When my troops were getting massacred and mauled by an enemy I couldn’t see, I couldn’t feel and I couldn’t touch, nobody in the military system ever described them as anything other than Communism [sic]. They didn’t give it a race, they didn’t give it a sex, they didn’t give it an age” (quoted in Glover, Humanity, 60).

The My Lai massacre of 1968 forcefully evoked the comparison to Nazi crimes that had been suppressed in the context of the atom bomb twenty years earlier. Especially against the backdrop of the recent Eichmann trial, the events at My Lai appeared to be a mixture of two things: the result of the unquestioning obedience of a good soldier that followed the same logic as Eichmann’s infamous reasoning in his defense, and a radical degradation of American soldiers into committers of crimes against humanity, a transformation previously described as the effect of totalitarianism alone (Glover, Humanity, 60–63; Varon, Bringing War Home, 99).

As the Eichmann trial had famously established, crimes against humanity were never just the crimes of the individual perpetrator: they allowed conclusions to be made about the government in whose name the perpetrator acted.

The multiplying charges of systematic, predatory massacres of the innocent now positioned the United States government as a potentially totalitarian regime that had illegitimately usurped authority over an American civilization that stood for different values, in Leo Szilard’s and Vonnegut’s sense.

The counterculture movement, which is most famously associated with these interrogations of the Vietnam War’s legitimacy, thus did not invent or initiate but rather revived a charge of barbarous illegitimacy against the US
presidency and security apparatus. This charge had been latent since the firebombings of Dresden and Tokyo, and especially since the bombings of Hiroshima and Nagasaki. When the charge of illegitimacy was voiced in the spirit of Campbell’s confessions—for instance, when American soldiers who had served in Vietnam began to present themselves as criminals in the language of the human rights regime (A. Hunt, *The Turning*, 55–76)—it mattered little that such voices were few, even within the counterculture movement. Reactions were strong because the charges were plausible according to the logic of hostis humani generis constellation, and because they were further reinforced by the “seismic shock” (Franklin, *Vietnam*, 122; see also Marcus, “Götterdämmerung,” 55) of realizing that in Vietnam, the United States shared the fate usually reserved for the barbarian within the essentialist model: it withdrew from the contested territory. In a way, this end of the Vietnam War narratively rubber-stamped the construction of the United States as a potentially barbarous Other.

In response to such an enormous assault on national claims to civilization, followers of the frontier-inspired counterculture movement were identified as “un-American” domestic praedones by the rising neoconservative movement (Bader, *Neokonservatismus*, 14). As the counterculture movement’s cultural impact peaked in the 1970s, the ensuing societal shifts fostered a public backlash to the counterculture movement and “generated widespread [popular] belief in evil. The popular conviction posited inherent wickedness not in actions or temptations but in specific people” (Cusac, *Cruel and Unusual*, 110). Groups that were considered nonwhite, organizationally “different,” or both, were singled out as classes of “unreachables” (ibid., 123 and 125) or “undesirables” (Pateman, “Race, Sex, and Indifference,” 151) in American society.

Those under attack lashed back: the 1970s witnessed increasingly widespread and articulate charges that essentialist views were at odds with “a set of [frontier] ideals based on the capacity of people to transform” (Cusac, *Cruel and Unusual*, 110). Positions hardened, and both sides of the debate accused each other of constituting an inherently totalitarian (meaning invasive, Other, and normatively un-American) threat to the nation on the basis of different interpretations of the same constellation.

Meanwhile, in international law, the frontier model of civilization remained the solid basis of any conventional understanding and use of hostis humani generis. The legal fiction had been transformed into a vehicle to link human rights law and criminal law. Because criminal law was traditionally perpetrator-oriented, human rights law used hostis humani generis (as a legal fiction) to accommodate the perpetrator requirement in its own, ultimately victim-oriented, framework. Hostis humani generis, in this context,
helped identify an individual perpetrator as the representative of a collective of faceless oppressors. This was especially true for crimes against humanity, which always by definition had to be linked back to a concerted campaign of harm. The construction of specific people as praedones thus became necessary to establish a basis for the creation of representational (legal) agency on behalf of the victims. In accord with the precedents of the Nuremberg and Eichmann trials, US courts implemented this position in national law. The watershed case of *Filártiga v. Peña-Irala* explicitly rendered torturers hostes humani generis to make them liable in the United States (Kaufman, “Opinion”).

*Filártiga* thus both provided a national precedent for the implementation of universal jurisdiction over praedones as defined by the frontier model of civilization and specified that barbarous ideology and the abuse of institutional structures are necessarily intertwined (Orentlicher, “Future of Universal Jurisdiction,” 227). The interpretation of perpetrators in human rights–related cases since *Filártiga* has affirmed those American political traditions that allow for the possibility of totalitarianism within state institutions in general, but qualify that US institutions may claim to be exempt from the charge as they institutionalize human rights law instead. *Filártiga* constituted the high point of this interpretive tradition in twentieth-century American law; it seemed to create the conditions for cathartic martyrdom on behalf of an internationalist nation in the spirit of Campbell.

However, the dichotomist environment of the Cold War instead resulted in a radical rethinking of these constructions in law. The innovative legal use of hostis humani generis after World War II was fundamentally interrogated, and the search for alternative interpretations of the legal fiction began. These alternative interpretations sought to exchange the use of the legal fiction to expose illegitimate state structures with interpretations of hostis humani generis that corresponded more with the unreachables and undesirables in the nation.