

The Use of Rape as a Weapon of War in

Bosnia-Herzegovina: 1991 - 1995

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During the Cold War, it was an easy assumption for the United States and European powers to make that the nature of warfare had changed during the twentieth century. Developments in technology would deter all but the most drastic attacks. International laws developed in the half of the century would hold people accountable for their wartime behavior and limit the suffering of war. Warfare came to look like the Persian Gulf conflict from the point of view of the United States, in which the US took multilateral action, backed by the international law of United Nations mandate, and requiring minimum casualties of United Nations forces. This war was also cleanly technological. This short war, justified with international law, from a Western perspective, was to be a model of post-Cold War warfare.

However, the next spring, in April 1991, the dissolution of Yugoslavia offered another model of post-Cold War warfare. This series of wars were fought over boundaries between ethnic groups. A major tool used in the conflicts was the creation and manipulation of ethnic prejudices. Warren Zimmerman, the US ambassador to Yugoslavia at the time stated, "The breakup of Yugoslavia was a classic example of nationalism from the top down."¹ The style of warfare within Yugoslavia was a contrast to the technological and international Persian Gulf War. The wars between "rump" Yugoslavia, or Serbia-Montenegro², and Croatia and Bosnia-Herzegovina included paramilitary fighting, a military culture with a tendency towards brutality,

¹Scharf, Michael. Balkan Justice: The Story Behind the First International War Crimes Trial since Nuremberg. Durham, Carolina Academic Press, 1997, p. 25.

²Serbia-Montenegro is currently called Yugoslavia in order to maintain partial membership in the United Nations. Following the precedent set by Russia continuing the USSR's UN membership, Serbia-Montenegro claimed that it should continue to be a member state as Yugoslavia. Yugoslavia is currently suspended from the General Assembly, but maintains a mission in New York City and participates in other United Nations activities.

using forms of technology from knives to missiles, and a policy of "ethnic cleansing" that the international community has labeled genocide. Civilian populations were the overwhelming targets of ethnic cleansing. The wars in the former Yugoslavia demonstrate that the "New World Order" could also easily be based on the nationalism of small groups purposefully employing guerilla tactics targeting civilian populations and committing acts that are in gross violation of international law.

Ethnic cleansing is a term that came out of Yugoslavia³. It refers to a policy of Serbian "rump" Yugoslavia to remove Muslims and Croats from territories the Yugoslav federal army and Bosnian Serb paramilitaries seized during the conflict. Ethnic cleansing meant that Muslims and Croats were killed, deported, and driven out of the territories. The Commission of Experts created by the UN resolution 780 (known as the 780 Commission) to investigate war crimes in the former Yugoslavia defined ethnic cleansing as "rendering an area wholly homogeneous by using force or intimidation to remove persons of given groups from an area." The means of ethnic cleansing have been, "murder, torture, arbitrary arrest and detention, extra-judicial executions, rape and sexual assault, confinement of civilians, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property."⁴ Of these

³During World War II, Germany set up a fascist puppet state in Croatia, which at that time included the territory of Bosnia-Herzegovina. During WWII, many Croats of Serbian ethnicity were killed at the Jasenovac concentration camp in Croatia. At the time, a government official stated, "We shall slay one-third of the Serbian population, drive away another third, and the rest we shall convert to the Roman Catholic faith and thus assimilate into Croats. Thus we will destroy every trace of them and all that will be left will be an evil memory of them" (Scharf, 1997, p. 23). Michael Scharf quotes another government official saying that he "urged that the territory under his control be 'thoroughly cleansed of Serbian dirt'"(p. 23). Scharf attributes these comments and vocabulary as the creation on the term ethnic cleansing.

⁴Interim report of the Commission of Experts on the Former Yugoslavia, quoted in Scharf, p.

war crimes, rape and sexual assault in these wars have especially shocked the international community and become symbolic of the excesses of ethnic cleansing. For the first time, the international community must come to an understanding of rape within a political and wartime context.

According to the United Nations, ethnic cleansing is a form of genocide, and war criminals in this conflict have been indicted for crimes of genocide. However, in the definition of genocide in the Convention on the Prevention and Punishment of the Crime of Genocide (United Nations General Assembly resolution 260, 9 December, 1948; entered into force on 12 January 1951), the parameters of genocide are narrower than the methods of ethnic cleansing used in Croatia and Bosnia-Herzegovina. Article II of the Convention states,

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

The Convention was written with the precedent of Nuremberg in mind and with a definition of genocide that was shaped by the Holocaust. This definition of genocide partially describes what happened in Croatia and Bosnia-Herzegovina, but it fails to encompass all of the tactics ethnic cleansing employed.

The 780 Commission lists rape and sexual assault as means of ethnic cleansing. This was a strategic use of rape - rape for political ends. The rapes in the wars between rump Yugoslavia

and Croatia and Bosnia-Herzegovina received a new level of international attention. These rapes have become the first to be dealt with by the international community and international law as major war crimes and crimes against humanity. However, rape during war and the political use of rape is not a new phenomenon; it is a crime that has been neglected by public awareness and legal redress.

During the Cold War, the political use of rape in places such as Peru⁵ never captured international attention, in part, because the internal conflict, while central to regional security, was not a struggle involving the Cold War camps. Widespread, systematic rape and forced pregnancy in the Bangladesh war of secession from Pakistan was acknowledged by international law, but accountability for crimes was traded for national independence. This area was also outside of Cold War concerns. International law has often been used for the political agendas of those in powerful positions. International priorities have obscured the existence of these crimes against humanity.

During the twentieth century, four times as many civilians as soldiers have been killed in wars, and since World War II, ninety percent of deaths in war have been civilian. Since World War II, it has been estimated that a million women have been raped in wars.⁶ These are statistics

⁵Rape was used in Peru in areas under heavy military occupation due to the internal conflict with the Shining Path. While reports of rape by Peru's military have been widespread, reports of rape by the Shining Path, the government's guerilla opposition, are rare. Human Rights Watch Women's Rights Project. The Human Rights Watch Global Report on Women's Human Rights. New York, Human Rights Watch, 1995, p. 78.

⁶Seifert, Ruth. "War and Rape: A Preliminary Analysis." in Alexandra Stiglmayer ed. Mass Rape: The War against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994, pp. 54-72, p. 63.

that run counter to Western conceptions of modern warfare. Tactics that target civilians and cause massive casualties offend our idea of war governed by international law. Although rape has not been prosecuted as a war crime until the Tribunal on the former Yugoslavia, rape is a war crime that especially seems to violate our sense of war conducted within limits of humanitarian law.

The laws of war and human rights law have developed along separate lines but have increasingly come together in the form of humanitarian law, which protects certain human rights in wartime. Human rights law originated in such documents as the French Revolution's Rights of Man or the United States' Bill of Rights. The concept of universally applicable, inalienable rights of a person began to be set down in international law with the formation of the United Nations after World War II. The Universal Declaration of Human Rights, which became part of the charter of the United Nations in 1948, is the most important document in international human rights law and is the basis for a wide-ranging set of treaties. These treaties do not deal with human rights in wartime but with the human rights violations perpetrated by states against their citizens generally at peacetime.⁷

Rape is a human rights abuse, but one which international law has disregarded because it is seen as the act of a private citizen. "Women are typically raped not by governments but by what are called individual men. The government just does nothing about it. This may be tantamount to being raped by the state, but it is legally seen as 'private,' therefore as not a human rights violation. In an international world order in which only states can violate human rights,

⁷Human rights law has not been immediately shaped by the experiences of war with the exception of the Convention on the Prevention and Punishment of the Crime of Genocide.

most rape is left out."⁸ The Convention on the Elimination of All Forms of Discrimination against Women refers to the civil rights of women but not to women as the particular targets of rape. The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment states:

Article 1: For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him or an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Rape fits this definition of torture under many circumstances. It is used to inflict mental and physical suffering, based on gender discrimination, and often perpetrated by a person acting with at least tacit state consent. The rapes in the former Yugoslavia definitely fall under this definition.

⁸MacKinnon, Catherine. "Rape, Genocide, and Women's Human Rights." in Alexandra Stiglmayer ed. Mass Rape: The War against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 183-196, p. 193.

Human rights law is limited during a time of war. Certain derogable⁹ rights are waived. The laws of war were developed to protect prisoners of war, the treatment of armies, and to limit the violence of war to what was considered its legitimate theater between armies and the laws of war and humanitarian law govern in wartime. The laws governing war have developed during the twentieth century to limit the extent of legitimate violence. The laws of war were developed to protect prisoners of war, the treatment of armies, and to limit the violence of war to what was considered its legitimate theater between armies. Humanitarian law is a newer body of law. The International Committee for the Red Cross created the term in the 1950s to distinguish between breaches of the Geneva Convention and other types of war crimes. Humanitarian law "aims to ameliorate the adverse conditions of war for civilians and combatants, as well as to limit the level of destruction aimed at property, cities, and weapons."¹⁰ It is a breach of humanitarian law to target a civilian population with a campaign of violence, to purposefully destroy historical monuments or civilian infrastructure, or to starve a civilian population by destroying its food supply or farm land.

As Liz Philipose points out, from a human rights perspective, the existence of war crimes (breaches of the laws of war) or of crimes against humanity (breaches of humanitarian law) may be in itself problematic. These laws set limits to the use of violence, thereby implicitly

⁹States ratifying international human rights treaties have the right to do so with exceptions and stipulations formally submitted at the time of ratification. Certain articles are considered non-derogable - and the ratification of the treaty while taking exception to those articles is considered in violation of the spirit of the entire treaty and must stand as written. During times of war, many human rights treaties are violated with legal legitimacy, but non-derogable rights cannot be violated under any circumstances.

¹⁰Philipose, Liz. "The Laws of War and Women's Human Rights." *Hypatia*, fall 1996, p. 52.

sanctioning its use. International wartime law, therefore, has at times tacitly accepted rape as well as other forms of wartime violence.

As stated above, humanitarian law condemns acts of war that unduly affect or target civilian populations. It protects, at certain levels, the human rights of noncombatants during armed conflicts. Our sense of the protected nature of civilian populations in war is reflected in the development of humanitarian law and its growth toward covering the full body of human rights. The International Criminal Tribunal for the Former Yugoslavia considers rape a crime against humanity. The growth of major abuses of these legal codes shadows the integration of human rights laws into our conception of the proper conduct of warfare. The virulence with which humanitarian laws are broken needs to be matched with enforcement and prosecutions.

The existence of bodies of law to govern warfare reflects our attitudes towards how war should be conducted. The wars in the former Yugoslavia used ultra modern technology as well as tools such as the knife and weapons targeting noncombatants such as rape. In doing so, the concept that modern warfare exclusively engages modern means was rendered invalid. Modern technologies as well as guerilla tactics were used to contravene the basic spirit of the laws of war and humanitarian law.

The wars in the former Yugoslavia have not been modern in the sense of the constructions of international law. Serbian, and to a lesser extent, Croatian and Muslim troops used both the tools of technology and international diplomacy while their strategies were aimed at a civilian populations and breaking down the boundaries of the legitimate sphere of battle.

With its dizzying array of means, from the knife to rape to starvation to the smart bomb, from orders by fax to orders by scream, from well-fed international negotiations between well-dressed British lords and well-mannered Serb war criminals in Geneva to the boiled potatoes and chilblains of the refugee camps, this war turns out to be, in addition to

everything else, also the ultimate in citational practice, in historical collage. . . . This eclectic reality, this mortal sea of paradox, this undoing of history in the name of brute aggression, is truly a postmodern war.¹¹

While rape is not consistent with modern warfare, it is a crime of continuing importance within these wars, and of increasing importance in international interpretation.

These wars point to a neglected reality. If the wars in the former Yugoslavia portend a post-Cold War order, civilian populations in places such as Rwanda may continue to be overwhelming targets of violence, salient issues may center on fine points of identity, and rape may be a more public and widespread weapon of war. One reason for the breakdown of international law's understandings of war is that the goals of the wars in former Yugoslavia led logically to a need to subdue not the enemy's army and political apparatus, but the enemy's population and location.

Redefining Rape

The desire for one South Slav ethnic group to gain territorial control over much of the former Yugoslavia motivated the genocide in Bosnia-Herzegovina and Croatia. Rape was a major tool of ethnic cleansing, and ethnic cleansing was a method of defining and enforcing identity. The centrality of rape in ethnic cleansing demonstrates the importance of considering not only ethnic but also gender identity when trying to understand this war. In order to try to understand ethnic cleansing, rape must be included in the arsenal of genocide. As one refugee related to Beverly Allen, "We have fled not from bombs and bullets but from rape and the

¹¹Allen, Beverly. Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and

knife."¹²

Analyses of these rapes must avoid applying conceptions of rape embedded within the common sense of our own society. The experiences of the victims of sexual assault may further analysis of rape already in existence, but these experiences and testimonies must also be allowed to form the basis of new approaches to rape analysis if that is necessary for proper understanding. Due to the need for broader analysis, efforts to understand these crimes on their own terms are essential. Furthermore, these crimes merit scrutiny and, if it is possible, the victims deserve justice.

There is an important task in defining rape in such a way that the definition is both truthful and allows rape a rightful place as a war crime, a crime against humanity, and a human rights violation. The first step in this process is to recognize rape as a crime of violence. It is a crime of violence with sexual form, not an act of sex with a violent form.

Croatia. University of Minnesota Press, 1996, p. 42.

¹²Allen, p. 81.

[Rapes] are acts of extreme violence implemented, of course, by sexual means. Studies show that rape is not an aggressive manifestation of sexuality, but rather a sexual manifestation of aggression. In the perpetrator's psyche it serves no sexual purpose but is the expression of rage, violence, and dominance over a woman. At issue is her degradation, humiliation, and submission.¹³

This distinction between the form and function of rape is not a subtlety, but a crucial distinction in our ability to deal appropriately with rape and to minimize its usefulness as a weapon or war.

The first step in this process may be to deal with definitions of rape. Traditional understandings of rape have conditioned us to accept it as a natural, if undesirable, occurrence. A sexual understanding of rape leads to an assumption that the ultimate problem with the violent act is with the perpetrator as isolated from the rest of society. The problem lies not with society but with the rapist and his expression of sexuality. Rape has been seen as a sexual crime of a man forcing intercourse with a woman. If the goal of rape is the sexual act, then the motivation for rape is sexual gratification. The violence and control of the act of rape become secondary in this definition. This understanding of rape is especially applied to rape during war. Women in enemy territory have often been raped in large numbers. Common sense understandings of this type of rape have been that sex is a part of the soldier's rewards for the battle. Thinking of wartime rape in terms of sex and not power or violence, misrepresents the political dimensions of the rapes. Rape's relationship to other tools of "ethnic cleansing" in former Yugoslavia are lost.

Rape is often used as a political tool of control over populations.

¹³Seifert, p. 55-56.

Human Rights Watch investigations in the former Yugoslavia, Peru, Kashmir, and Somalia reveal that rape and sexual assault of women are an integral part of conflicts, whether international or internal in scope. We found that rape of women civilians has been deployed as a tactical weapon to terrorize civilian communities or to achieve "ethnic cleansing," a tool in enforcing hostile occupations, a means of conquering or seeking revenge against the enemy, and a means of payment for mercenary soldiers.¹⁴

In order to understand this type of war crime, it is important to move away from a sexually defined conception of rape. Rape in war cannot be removed from the relationships between the perpetrator and the victim. Rape in a battle or violent context cannot be considered without that context. During war, a civilian and a soldier; an unarmed person and an armed person; a child, an elderly person, or a woman and a young soldier have specific relationships that cannot be put aside. This is especially true when armies target civilian populations. The view of rape as an act motivated and defined by sex cannot account for these relationships.

¹⁴Human Rights Watch p. 1.

However, this sexually defined view of rape does more than simply hinder a necessary understanding of rape as a political or tactical weapon. A sexually defined view of rape also prevents victims of rape from receiving justice. The punishments for rape within peacetime and operating on a sexualized view of rape can be less harsh and perpetrators can be less often prosecuted¹⁵ (within a North American and European context).¹⁶ During war, rape has been nearly invisible in an international setting. Rape has been handled within military courts and in national courts in times of war, but it has never, until the International Criminal Tribunal for the Former Yugoslavia, been a war crime and punishable under laws of war. During war, rape has been historically overlooked. Partly a problem of source materials to guide an analysis, the wider repercussions of rape have not been analyzed from a historical perspective. However, human rights organizations and feminists have begun to analyze rape as a strategic weapon.

Rape is not equivalent to all acts of violence. It has specific functions that depend upon a socially constructed reality in the mind of the rapist and the victim of rape that imbues the act with social meaning and allows it to affect the community of the victim. The act of rape itself, the violence that occurs between the perpetrator and the victim, is an act of control. The fact that rape is overwhelmingly perpetrated by males to females stems from the fact that the social meaning of masculinity is often one of power over women, or people gendered as feminine. The

¹⁵A sexualized definition of rape may be reflected in practices such as bringing a rape victim's sexual history into play in a court room or denying the reality of rape within a marriage.

¹⁶Rape has also been defined as a crime against other men, who have control over women. As such, rape is a crime against honor or property. Under such a definition, the severity of punishment varies wildly and depends greatly on the social constructions of gender of each culture as the defining element in the relationships between men and women.

act of associating femininity with a person subordinates them in a society organized around a gender hierarchy. The rape of a man is to disempower that man, to gender him as feminine. The act of raping a woman or a man is one of twisting patriarchal power.

During the wars in the former Yugoslavia, rape and sexual assault became routine components of torture. Rape causes severe emotional trauma. Few acts can violate a sense of personal security as rape does. The word torture does well to describe this mingling of physical and psychological injury. It also removes rape from loaded, sexualized terminology. However, it does not describe the extent to which a community can be disrupted by the breaking of taboo and the violation of the conventions of social relationships. Rape is a weapon in war precisely because of gender constructions in which the community is invested.

Beyond the relationship of the perpetrator of rape and the victim, the crime has repercussions throughout the community. The psychological violence of rape is easily spread to other parties. Secondary victims of rape are perhaps more common in the former Yugoslavia than rape victims, and many rape victims are also secondary victims. Many women were raped in front of friends or family, or close by with their knowledge. A secondary rape victim has been psychologically hurt by such witnessing. Many women were also raped in public. The purpose of public rapes is also central to the relationship between rape and ethnic cleansing. Due to the gender-power relationships that are part of the violation of a rape, a rape can also be a violation to an entire family or an entire community. Often within a functioning patriarchy, the masculine contribution to a community is greatly affected by men's ability to take care of, provide for, and protect women and children. Raping a woman, raping many women, and raping women in public undermine men's ability to uphold these masculine roles. Rapes demonstrated a loss of

power or control to entire communities.

The reality of rape as a crime of violence in war is made clearer when it is understood as the major, but not only, component in a category of gendered crime within the wars in former Yugoslavia. There are several types of rape that were used as a part of ethnic cleansing. Women of all ages, elderly women, and children were raped. This occurred in addition to the rape of women from the ages of fifteen to thirty five, who were the majority of the victims of rape in the wars. Another crime that involves rape but is not equivalent to rape is the use of forced pregnancy. The potential victims of forced pregnancy are a very specific set of people: women of a certain age group and reproductive capacity. Forced pregnancy involves rape, but the violence and the message of control are enhanced in this crime. Generally, however, each of these separate forms of rape is capable of being misunderstood as occurring naturally against women, as being crimes of a sexual nature, of being crimes of sexual excess. This argument can also apply to the rape of men, which was also a weapon in the wars in former Yugoslavia. However, crimes such as forced incest, forced homosexual sex among prisoners, sex crimes aimed at religious figures, or forced castration become much more difficult to see as crimes that are carried out in order to bring sexual pleasure to the perpetrator. Each of these was also weapons in the wars.

These crimes share the characteristics of rape in their effects on the victims and on the communities of the victims. They inflict severe physical trauma. During the wars, men generally died from the castrations. They were also often accompanied by other forms of violence, as were most of the rapes. These crimes were also violations of gender constructions central to patriarchy. Sexual taboos were broken as a part of systematic violence, and these acts

also inflicted the type of psychological damage of rape, a violation of personal control and integrity in a fundamental sense, and similar damage to the community unable to maintain its own codes of proper functioning. Violence with a sexual mode of operation and aimed at gendered understandings of personal integrity should be understood as one general type of violence.

Rape and Identity

An understanding of weapons of war aimed at gendered identity constructions reinforces an appropriate understanding of the wars in the former Yugoslavia. These wars were fought for ethnically homogenous territory. The international community accepted and even legitimized an understanding of the wars on this level. Both the failed Vance-Owen peace process and the Dayton Accords partitioned Bosnia-Herzegovina into ethnically controlled cantons, or "entities." The Dayton Accords are based around the "51 - 49 plan" in which the Bosnian Serb entity controls nearly half of the former Bosnian territory. This plan granted Bosnian Serbs nearly all of the territory their armies took illegally during the war in Bosnia-Herzegovina.¹⁷

Identity played a central role in the wars. "The essence of the Serbo-Croatian war was . . . the fear of Yugoslaviness. [Sic]"¹⁸ Yugoslav identity would force Serbian, Croatian, Muslim, and other ethnic identities into secondary importance, and the wars between Serbia and Croatia and Serbia and Bosnia-Herzegovina were based on the re-imposition of ethnic identity as

¹⁷By 1994, Serbs controlled roughly fifty-five percent of Bosnia. In 1992, when Bosnia-Herzegovina received international recognition as an independent state, Bosnian Serbs comprised thirty-one percent of the population.

¹⁸Jovic, Dejan. "Sex and War: Penis as a Weapon" in *South Slav Journal*, spring 1997, p. 61.

paramount. The case of Bosnia-Herzegovina is especially important with this consideration in mind. There is no Bosnian ethnicity. Bosnia was defined as a multiethnic member of the Yugoslav federation. The Muslim ethnic group was defined because the Islamic people, predominantly living in Bosnia, have no ethnic markers which separate them as a people. Muslims were overwhelming the victims of ethnic cleansing.

Identity was perhaps the most salient element of these wars. It was also a strategic tool in the instigation of the wars. Nationalist sentiments, always at issue within Yugoslavia, were brought to the forefront after Tito's death in 1980 and were manipulated through the media in the time leading up to and during the wars. The use of gendered violence suggests that ethnic identity cannot be considered as isolated from the entire construction of identity. Identity cannot be isolated under discrete headings of ethnic or gender or any other category. It must be considered as holistic. This led to the use of rape and other forms of gendered violence as another form of ethnic cleansing. Gender construction and relations are as much a part of a culture as an ethnic or religious identity.

The Tribunal

For the first time, in the International Criminal Tribunal for the Former Yugoslavia, the international community has included rape as a crime against humanity. This is due to the international attention given to the mass rapes in Bosnia-Herzegovina and Croatia, made possible by the international women's movement. For the tribunal, the definition of rape within these wars is problematic and full of possibilities. The tribunal must deal with scant international precedents of rape in war. It also has the burden of being a primary shaper of future international legal precedents dealing with rape. Essentially, this process serves to define

rape's significance and its place in the wars.

The tribunal is also the primary source of justice for victims of rape in Bosnia-Herzegovina and Croatia. The definition of rape that operates at The Hague must be true to the experiences of the women, children, and men who were victims of sexual torture. It is a project of great importance to try to balance the experiences of rape of the victims in this war with our previous understandings of rape and rape during war. This balance will reflect the justice served and our evolving understandings of rape used as a weapon.

Questions remain as to the nature of the rapes within the wars of former Yugoslavia. Do the feminist definitions put forward about rape in war deal with rape in ways that are appropriate to these wars? Will the international tribunal deal with rape effectively? Do we understand what happened? Is justice possible?

History of the South Slavs Leading to the Wars

The word Yugoslav means "South Slav." The Balkan region is made up of many Slavic ethnic groups that are separated mostly by international history. Catholic Slovenia and Croatia were within the Austro-Hungarian Empire while Bosnia-Herzegovina, Serbia, Montenegro, and Macedonia were under the Ottoman Empire. This history has created a region with three major religions and several ethnic divisions. Between the turn of the twentieth century and World War II, the dissolution of the two empires controlling the region left the area without stable political cohesion. The Balkan wars of 1912 and 1913 overthrew the Ottoman Empire in that region. King Alexander ruled an independent Serbia. After the fall of the Hapsburg Empire in World

War I, King Alexander unified the area and called it the Kingdom of Serbs, Croats, and Slovenes, commonly known as Yugoslavia, the Kingdom of the South Slavs.

King Alexander's monarchy did not provide a secure alliance among the Slovenes, Croats, and Serbs. A Croatian nationalist movement quickly emerged and by 1929 had the support of fascist Italy. The Ustasa¹⁹, as it was known, was responsible for the assassination of King Alexander in 1934. The regency for his underage son proved less able to provide strong leadership, and the country dissolved. In 1940, a Croatian (which geographically included Slovenia and Bosnia-Herzegovina) Nazi puppet state was established. During World War II, the atrocities committed against the significant Serbian minority within the Ustasa state were some of the worst of the war. (Among these, the Jasenovac concentration camp is particularly notable.) The "Chetnick" Serbian resistance was quickly disavowed by the Allies for its violence in Yugoslavia, and the communist partisans eventually prevailed to rule the post-war Yugoslavia in 1946.

This recent history is echoed by the recent wars in former Yugoslavia in its style and in the resurrection of the ethnic markers. However, while the communist rule did not make every Yugoslav forget the atrocities of World War II, the causes of the recent wars do not lie solely in a history of inter-ethnic warfare and a memory of resentment. But, the ethnic structure that never was completely reconciled with the communist-created Yugoslav identity did serve as a unifying point of belonging, organizing, rallying, and historic memory that helped shape the recent wars.

¹⁹Ustasa means "uprising."

Josip Broz Tito led a communist Yugoslavia that was independent and highly militarized. Yugoslavia broke with the Soviet bloc in 1948 and Tito helped establish the non-aligned movement in 1956. With its position between the Eastern and Western blocs, security became a major issue. "Total National Defense" required universal military service for males, and soldiers were trained in guerilla tactics. The Yugoslav National Army (JNA) was the third largest military in Europe. The sense of threatened status helped to provide a sense of unity in Yugoslavia, and helped Tito create a Yugoslav identity. "As much as anything else, the Soviet threat provided the glue which held Tito's Yugoslavia together."²⁰

²⁰Scharf, p. 24.

The communist state reinforced a single Yugoslav identity with the secret police, the UDBa. With UDBa enforcement, attempts were made to federalize Yugoslavia and to quash ethnic tensions. "Until his death in 1980, Tito adamantly opposed nationalism in the republics and strongly forbade all its manifestations."²¹ However, with the recent history of war left unreconciled, there remained an undercurrent of ethnic tension. Serbs dominated the upper levels of the UDBa and certain other government posts. "[Aleksander] Rankovic [the minister for the interior and the UDBa chief] had Serbs put into all mid-level and higher-level posts within the Croatian police, justice department, and administration, and he pursued a similar policy in Bosnia-Herzegovina."²² Political predominance came from Serbia while economic predominance came from Slovenia and Croatia. This imbalance later influenced the break up of the Yugoslav state and identity.

A Yugoslav identity was forged within a system of seeming equity. A Yugoslav identity was key to the success of a communist South Slav state because it would provide a basis for political cohesion. This identity also relied on the economic success of the communist state. Without the political unity of Yugoslav ethnicity, there would be little reason to invest in such an identity, given the political climate of the Cold War and the lack of history of that identity. By 1991, when Yugoslavia began to dissolve formally, a Yugoslav identification was associated with urbanity and with some economic privilege. "Decades of dictatorship created sectors of privilege and oppression that now are being renegotiated by means of war and genocide. People

²¹Allen, p. 19.

²²Stiglmyer, Alexandra "The War in the Former Yugoslavia" in Alexandra Stiglmyer ed. Mass Rape: The War against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 1-35, p. 13.

who consider themselves 'Yugoslav' may have been privileged under the regime, for example. People whose identities are nation-specific may not."²³ It is also associated with places of ethnic cohabitation, and there may have been significant overlap here with an urban component. "In 1981, 1,200,000 persons defined themselves as Yugoslavs in the ethnic sense, and the largest number of those people lived in the regions of Croat-Serb cohabitation in Croatia, Vojvodina, and Bosnia and Herzegovina."²⁴

This is one reason why Bosnia-Herzegovina was a strategic position for Serbian nationalists. Bosnia-Herzegovina remained the one republic of Yugoslavia that was not created around an ethnic majority but a plurality of Muslims, Serbs, and Croats. The "Muslim" designation of ethnicity was not created until 1974. To be Bosnian was a geographic, not an ethnic, distinction. Before the wars of dissolution, the European Community sponsored a plan to stem potential conflict and cantonize Bosnia-Herzegovina into ten ethnically homogenous areas. The newly elected Bosnian president Alija Izetbegovic stopped the plan in 1992, insisting on a multiethnic Bosnia-Herzegovina. During the war, the government of Bosnia-Herzegovina was the only one of the former Yugoslav republics to maintain a multi-ethnic political stance.

In 1966, Tito removed Rankovic from the government. This move coincided with increased organizing along ethnic lines.

²³Allen, p. 8.

²⁴Jovic, p. 61.

After his fall, demands for national self-determination were heard in all the republics: Bosnian Muslims demanded recognition as a people and received it; a short time later, Kosovo Albanians demanded more autonomy and received it; the Macedonian Orthodox Church declared itself separate from the Serbian Orthodox Church; Slovenes protested the lack of investment in the republic; and in Croatia a national movement emerged that even included the Croatian [communist] party leaders. They decried above all the 'economic exploitation' of Croatia, which was traced back to the hegemony of Belgrade.²⁵

Assertion of political and economic rights of ethnic groups began appearing as early as the 1960s. In 1971, Tito put down the "Croatian Spring," a movement which demanded autonomy for the republic. By 1974, a new constitution granted greater power to the republics. After Tito's death in 1980, another federalist adjustment shared the presidency on a rotating basis between the eight republics. The political federalism coincided with economic decline. In 1980, foreign debt was tabulated for the first time and reached \$19 billion. The country was having difficulties making payments to the International Monetary Fund for industrialization loans and just before its break-up refused an IMF austerity package in return for loan restructuring. The inflation rate was twenty-seven percent. "The catastrophic economic situation propelled Yugoslavia toward disintegration."²⁶

²⁵Stiglmyer, p. 12.

²⁶Stiglmyer, p. 14.

After Tito's death, nationalism became an increasingly powerful force in Yugoslav politics. Serbian nationalism became progressively more assertive. Slobodan Milosevic came to power in 1986²⁷ as the leader of the Serbian communist party, and later became the president of the Serbian republic in 1987. He took control of the radio and television stations. In 1988 supporters of Milosevic took political control of the independent entities of Kosovo and Vojvodina, and the republic of Montenegro. Xenophobic rallies were held in Serbia and Montenegro relating to the Kosovo Albanians and the Croats. When Croatian and Slovenian communist leaders protested the political takeover of Kosovo, Vojvodina, and Montenegro they were called "enemies of Serbia."²⁸ In 1990, Franjo Tudjman came to power in Croatia with the right-wing nationalist party, the Croatian Democratic Union, or HDZ. Nationalist symbols from the fascist Ustasa state, such as the red and white checker pattern now on the Croatian flag, were resurrected. Serbian and Croatian nationalism, fueled by means of the tightly controlled media, were not abated by the growth of oppositional nationalism in either republic.

In 1991, Milosevic blocked a Croatian from becoming the president of Yugoslavia under

²⁷The same year that the Serbian Academy of Arts and Sciences published an infamous paper. It has become a significant marker of recent Serb nationalism. The paper critiques the Yugoslav constitution from a Serbian nationalist perspective claiming that Serbia had been a victim of economic domination by Slovenia and Croatia and discussing "physical, political, legal and cultural genocide," of Serbs in Kosovo.

²⁸Stiglmayer, p. 15.

the lawful rotation of the federal presidency. This sparked a series of events that led to declarations of independence, international recognition of those states, and wars between Yugoslavia and Slovenia, Croatia, and then Bosnia. After the December 1990 elections in Croatia that brought Tudjman to power, groups of Croatian Serbs began an armed uprising and took several villages. Against this background, Slovenia and Croatia both held referenda and both declared their independence on June 25, 1991. In March, 1992 (the month that a United Nations peacekeeping team was sent to Croatia), after a referendum, Bosnia-Herzegovina declared its independence. It achieved international recognition a month later.

In November 1991, Bosnian Serbs led by Radovan Karadzic declared their autonomy, and quickly thereafter announced a plan that claimed sixty-two percent of the territory of Bosnia-Herzegovina for that Bosnian-Serb state. Although Serbians made up only thirty-one percent of the population, the logic for the claim was that the new state had a right to territories not only where Serbs were a majority but anyplace there were Serbs living. This was echoed in Milosevic's insistence that Serbia lies anywhere that there are Serbian graves, which extends the theoretical claims or ambitions of Milosevic's nationalists all over former Yugoslavia.

In 1986, the same year that Milosevic became party leader in Serbia, quiet purges of non-Serbs began to take place in the Yugoslav National Army. Prior to the outbreak of war, seventy percent of the generals in the JNA were Serbian. The activities in the main body of the army began with tactics such as non-advancement, but grew to be more violent, although generally non-Serbian recruits were killed in strange accidents instead of with more overt means. A Zagreb based mothers' organization, Bedem Ljubavi, Wall of Love, was formed and held demonstrations in Belgrade for the right to withhold sons from military service. Beverly Allen,

the only American scholar to publish a book on the rapes in the former Yugoslavia, believes that this marked the beginning of ethnic cleansing, long before the actual political events that set off the wars.²⁹ Such activity was the groundwork for the use of the JNA during the wars against Croatia and Bosnia-Herzegovina.

The troops that were responsible for the attack on Bosnia-Herzegovina were extremely varied and relied on JNA weapons and equipment.

²⁹Allen, p. 50-53.

[They] consisted of 80,000 to 100,000 soldiers of the Yugoslavian Federal Army who had been moved to Bosnia-Herzegovina from Slovenia and the unoccupied two-thirds of Croatia, volunteers from the ranks of the Bosnian Serbs, and the army of the paramilitary groups directed from Belgrade - for example, the Chetnicks of Vojislav Seselj, head of the ultra-nationalistic Serbian Radical Party and a deputy in the Serbian parliament, of the Tiger group of the former Belgrade mafia boss Zeljko Raznajatovic, called Arkan.³⁰

Belgrade armed the paramilitaries, who enjoyed access to JNA caches of weapons throughout Bosnia-Herzegovina and Croatia. Milosevic provided funding to local militias in Bosnia beginning at least in September 1991. Also, according to Borislav Jovic, the former commander of the JNA, Milosevic began in January 1992 to transfer all Bosnian Serbs back into Bosnia-Herzegovina. In order to escape a UN embargo, in May 1992, rump Yugoslavia began removing JNA troops from Bosnia-Herzegovina. However, before this happened, eighty-five percent of the army there was demobilized, leaving equipment and weapons behind. Ratko Mladic, the Bosnian Serb military commander, led a new army, the VRS, made up of local Bosnian Serbs, demobilized JNA soldiers, and Serbian paramilitaries. The VRS continued to receive support and orders from Belgrade.³¹

The United Nations established an arms embargo against the entire former Yugoslavia once the wars began in 1991. This embargo left the national army, the third largest in Europe, in good condition to wage a war against a virtually unarmed Bosnia. The wars began on July 2, 1991 when the JNA marched into Slovenia after independence was declared. The fighting was brief, lasting only until July 27. In Croatia, the JNA also asserted itself when independence was

³⁰ Stiglmeier, p. 17.

³¹ Scharf, p. 28.

declared. Towns along the coast and in the east adjacent to the Serbian border in Slavonia were shelled and besieged. A third of Croatian territory was seized. In April 1992, war erupted in Bosnia-Herzegovina. By 1994, Serbs held over half of the territory in Bosnia-Herzegovina. Ethnic cleansing was carried out in seized territories in both Croatia and in Bosnia-Herzegovina. By August 1992, the international community was forced to acknowledge the existence of concentration camps within Bosnia. Serb forces carried out campaigns of ethnic cleansing which included killings, torture, deportations, holding non-combatants in camps, and killings in camps.

By August 1995, the fighting and genocide had reshaped territories of the three countries enough to allow for boundaries to be drawn along ethnic lines. The Dayton Peace Accords began negotiations in November 1995 after NATO began enforcing UN mandates against siege artillery and no-fly zones. The Accords split Bosnia-Herzegovina into three entities along ethnic lines. Fifty-one per cent of the territory would be under Bosnian Serb control and be free to associate with rump Yugoslavia. Forty-nine percent of the territory would be under the control of Muslim and Croatian entities, and a federal presidency would be shared between the three groups. The multi-ethnic Bosnia-Herzegovina that Alija Izetbegovic had insisted on before the wars was lost in this compromise.

Identity and Rape

Although Yugoslavia dissolved around ethnic lines, this does not mean that ethnic breakdown in Yugoslavia was inevitable. Given Yugoslavia's internal economic tension and international debt as well as the lapsing political cohesion once provided by Tito, there are other

important factors in the breakup. Ethnicity provided a format to express dissent and provided some solidarity in chaotic times. "Perhaps the search for identity by waging war against an evil enemy is not the cause, but rather is simply the result of the collapse of the People's Republic of Yugoslavia, so long held together by an artificial ideology and police power, the result of anxiety, uncertainty, and confusion about a gloomy future."³² Identity - ethnic, religious, or gender - is not constantly salient. Ethnic political potency was built by people with political agendas using nationalist platforms. The communist rhetoric that had once guaranteed authority was discredited. Nationalism was built through politics and the disinformation of the media monopolies. Ultimately, nationalism and ethnic hatred were built by ethnic cleansing. Neighbors who had lived together for years were convinced beyond a doubt that their neighbor of another ethnicity was the enemy through these acts of violence.

My Bosnian-Herzegovinian and Croatian informants have often insisted that their national or 'ethnic' identities, which over decades of national unity had taken on a secondary status, assumed new values when the military violence began in 1991. A tolerant, multicultural attitude had characterized many of the cities of Yugoslavia in general, Bosnian cities in particular. . . . Their communitarian attitude came from other identities, what might be considered class topographic ones, mostly as city dwellers or as farmers. When the first shots were fired, however, people learned that their 'ethnic' identity could now determine whether they were to live or to die.³³

Ethnic cleansing forced nationalist identities, defined by one side as significant, to be the reality for all groups. This threat was tremendously useful in redefining boundaries between

³²Parin, Paul "Open Wounds: Ethno psychoanalytic Reflections on the Wars in the Former Yugoslavia." in Alexandra Stiglmayer ed. Mass Rape: The War against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 35-54, 1994, p. 48.

communities. Ethnic cleansing was the tool of nationalists to further their territorial goals and a tool of politicians to consolidate their credibility and power.

³³Allen, p. 7.

Nationalists mobilized ethnicity, but it was not the only component of identity that was used by ethnic cleansers. Identity is holistic, and during the wars, ethnic, gender, and religious identity were all attacked. All of the social, cultural, and material ties that serve to hold a community together were under fire from ethnic cleansing. In Bosnia-Herzegovina particularly, where communities were often multi-ethnic and therefore especially targeted by ethnic cleansing, all taboos and social norms were violated. In this country where neighbors were nearly as close as family, breaking bonds between neighbors and driving some out while recruiting others required extreme measures. A large part of any social fabric is the set of gender relations, family relations, and gendered conceptions of duty and work. Gender³⁴ was an ideal locus of attack. The use of rape as targeted violence attacked both gender and ethnic identities. "In combination with 'ethnic' and religious identities, sexual and gender identities often determine whether one is raped or not, whether one lives or dies."³⁵ Although ethnicity was the significant factor of political importance, ethnic cleansers never removed gender identity as separate and untouchable. Gender was part of the identity of an individual as the target of violence, and in this war every facet of a person was open to attack.

What this meant during the course of the war was rape and other forms of sexual assault on a massive scale. Estimates are that 20,000 (European Community estimate) to 50,000 (Bosnian government estimate) women were raped in Bosnia-Herzegovina and Croatia. It is important to note when quoting these types of statistics, that rape within these wars is especially

³⁴Sex is the biological categories of man and woman, while gender connotes the social meanings of sex within a cultural context.

³⁵Allen, p. 26.

difficult to quantify given the lack of access to victims, the lack of knowledge of the fate of many victims of the war, and the fact that in every culture around the world, rape is an extremely under-reported crime. Many victims from these wars will not speak of their experiences. Perpetrators were of all ethnicities, and not all rapes were within the pattern of ethnic cleansing. However, Serbian forces perpetrated the overwhelming majority of the rapes against Muslims and Croats as a part of ethnic cleansing. The 780 Commission, in their final report summary in 1994 stated,

236. The reports contained in the Commission's database identify close to 800 victims by name or number. An additional 1,673 victims are referred to, but not named in reports of victims who indicate that they have witnessed or know of other similar victims. Additionally, there are some 500 reported cases which refer to an unspecified number of victims. The victims' ages, as reported, range from 5 to 81 years old, with the majority of victims below 35 years old. The reported cases identify some 600 alleged perpetrators by name. In other cases, victims refer to a specific number of perpetrators but do not identify them by name. In those cases of unidentified perpetrators, about 900 perpetrators are referred to. Of all the reports received, about 800 contain general information, identifying some perpetrators as soldiers, police, paramilitary, special forces, etc. The alleged perpetrators include military personnel, special forces, local police and civilians. About 80 per cent of the reported cases specify that they occurred in settings where the victims were held in custody.³⁶

While it is important to acknowledge that all sides of the conflict committed rape, the rapes analyzed here are those that were a part of ethnic cleansing and therefore used deliberately as weapons of war, perpetrated by Serbian forces. United Nations experts, non-governmental organizations, and many scholars agree that rape was not an incidental part of ethnic cleansing but was organized and planned. At the very least, Serbian authorities condoned rape by ignoring

³⁶Bassiouni, Cherif, and committee. *United Nations Commission of Experts Report on Grave Breaches of the Geneva Conventions and Other Violations of International and Humanitarian Law Committed in the Territory of the Former Yugoslavia*. New York: United Nations, 1994.

the crime and allowing it to continue. At most, it was part of a widespread, premeditated attack on civilian populations. The Tribunal at The Hague has indicted Radovan Karadzic and Ratko Mladic, the political and military Bosnian Serb leaders. There has also been heated debate over the potential indictment of Slobodan Milosevic as an architect of ethnic cleansing, “. . . it would become apparent to the prosecutors that Milosevic was the mastermind who was ultimately responsible for the war and atrocities in Bosnia.”³⁷ Rapes were ordered. It remains in question at what level they were ordered and how that might be proved. It is safe to say that the rapes were mass rapes and weapons of war used as the result of policy.

Because the rapes reflect the fact that every element of identity was targeted by ethnic cleansing, it is also important that not all rapes or sexual assaults were equivalent, but were tailored to inflict the most damage on the community. This means that some women were forcibly impregnated, some women were publicly raped, and some women were subjected to other forms of sexual torture. The 780 Commission noted the methods used to maximize the effectiveness of the rapes.

³⁷ Scharf, p. 89.

250. Common threads run through the cases reported whether within or outside of a detention center. (a) Rapes seem to occur in conjunction with efforts to displace the targeted ethnic group from the region. This may involve heightened shame and humiliation by raping victims in front of adult and minor family members, in front of other detainees or in public places, or by forcing family members to rape each other. Young women and virgins are targeted for rape, along with prominent members of the community and educated women.³⁸

The act of violence also impresses on the perpetrator a breach between the rapist and the victim.

Rapes also took place that furthered no goals for ethnic cleansing other than to convince and further impress upon the soldiers that these people were the enemy, the other, dehumanized.

These rapes included rapes in forced brothels that most often led to the deaths of the women.

The fact that much of the testimony stresses that the rapes were ordered sometimes reflects that soldiers would not have raped without orders and fear of reprisals. The dehumanization of rape affected not only the victims and their communities but also the perpetrators. Rape offered its own identity formation, and the boundaries between the groups were redrawn.

Historiography of Rape

Mass rape and the use of rape for political purposes are not new to war. During the twentieth century, mass rape in war has been a common occurrence. Huge numbers of women were raped in Belgium and France in the beginning of World War I, in the ghettos in Germany (rape during detention) and in other territories occupied in the east by the Nazis preceding and during World War II, in Berlin at the close of World War II by the Soviets, in Nanking by the Japanese in 1937, in Vietnam by the United States forces. Rape evidence was given to the courts

³⁸Bassiouni and committee.

at Nuremberg and rape was included in the charges against Japanese forces at the Tokyo trials. Rape was a specific charge listed in the Control Council Law number 10, which gave national courts rights to try World War II war crimes after the close of Nuremberg. Despite instances of well publicized and often overwhelming numbers of rapes, in none of the instances noted above was rape considered as an act of war or treated as such by war historians.

The issues involving rape in war are not limited to the fact that the number of rapes is often so large. Rapes have been put to the purpose of war itself. Susan Brownmiller cites in her history of rape Against Our Will a text which describes the rape of a Huguenot women subsequently forced to convert to Catholicism in France in 1567 during a civil war. She also sights the well documented systematic rapes of Scottish highland women in 1746, during a war in which the English tried to break down the highland clan system. During the Bangladesh war for independence, some analysts thought that the mass rape in this war was so widespread that rape must have been part of the Pakistani strategy. It has also been put forward that forced pregnancy was used in order to change the ethnic makeup of Bangladesh. In these accounts, the purposeful use of rape, mobilized around holistic identity, is central. However, the use of rape to break down identity and community during war has been ignored by war historians.

All of the larger elements involved in the rapes in Bosnia-Herzegovina and Croatia have historical precedent. Strategic and mass rape are confirmed, if quiet, elements of many wars. Forced prostitution is also a common event. For instance, the Japanese and Germans during World War II forced women into brothels. However, this is the first time that the international community has focused attention on rape as a war crime. Between the Nuremberg trials, in which rape was swept under the rug, and the Tribunal for the former Yugoslavia, feminists have

begun to analyze rape and bring it into focus as an important locus of analysis. This has slowly begun to affect history's treatment of rape in war.

Historiographical Treatment of Rape

Historians of warfare have generally treated rape, if they deal with it at all, as incidental to the main action of war. Susan Brownmiller states, "A casual reader of history quickly learns that rape remains unmentionable, even in war. Serious historians have rarely bothered to document specific acts of rape in warfare, for reasons of their own scale of values and taste, as well as for lack of hard and fast surviving proof."³⁹ Histories including rape are rare but increasing in number in recent years. Rape in war now receives international attention in many contexts, from the acknowledgement of Japanese abduction of Korean women during World War II, to the public outcry over the mass and genocidal rapes in former Yugoslavia and Rwanda. This public acknowledgement follows a wave of feminist writings on rape that were made possible by the women's movement. Against Our Will, written in 1975, is considered the first history of rape, and it includes a chapter on the use of rape during war.

Definitions of rape whether in peacetime or war are an important starting point for any discussion of rape. Historically, rape has been understood as a crime of property or of honor against a community or a man.

³⁹Brownmiller, Susan Against Our Will. New York: Simon and Schuster, 1975, p. 40.

Rape was treated primarily as theft [historically, in European legal codes], as a property offense, but one perpetrated against *men*. The crime was principally that of stealing or abducting a woman from her rightful proprietors, normally her father or husband. . . . Rape destroyed her property value on the marriage market, and, because defloration polluted, heaped shame on her family.⁴⁰

This view of rape as a crime of property is important to bear in mind in any discussion of rape.

It sheds light on the ramifications of a rape on the community as a whole and on a victim of rape within a community. Women are often shunned due to social constructions based around this understanding of rape. These social meanings empower rape as a weapon of war.

This definition is part of our common sense on rape. The historical significance of rape under this definition has been, for some analysts, to demonstrate the general sexual state of a society. A high instance of rape may be taken to reflect a society that is very controlling of sex and sexual purity. Rape becomes a sexual release at times where there is no other outlet for it. Porter labels this "hydraulic reductionism." This conception of rape has been generally rejected by mainstream analysts of rape. However, it still informs conceptions of rape during war. Rape during war provides soldiers, confined for long periods of time in an atmosphere of limited sexual opportunity, sexual release.

Historians of war have begun to analyze the ways in which wars are gendered, and these gender conceptions have proved useful for propaganda purposes. Rapist soldiers were evil Huns who violate women, who during wartime take on the sacred aura of hearth and home. In the case

⁴⁰Porter, Roy. "Rape - Does it have a Historical Meaning?" in Sylvana Tomaselli and Roy Porter eds. Rape. Oxford: Basil Blackwell Inc., 1986, p. 218.

of the rapes in Belgium in World War I, the fact that these rapes were so well publicized and used as propaganda at the outset of the war actually led to skepticism among historians as to their significance or validity. The rapes and the propaganda they inspired are worthy of study as separate subjects.

Rape is a crime which is especially difficult to understand as a crime of war, as opposed to a crime that occurs as a result of the lawlessness of war. A historical debate over rapes in World War I demonstrates an association of rape with a less controlled and a more guerilla style of warfare.

Toward the end of 1914, the strategy of warfare underwent a revolutionary change.

Historians agree that war was 'modernized:' stationary trenches, barbed wire, machine guns, gas and gas masks replaced the concept of the maneuvering, marching army. From the best information available it appears that the incidence of rape and other weapons of terror employed by the German Army dramatically dropped off at approximately the same moment in time.⁴¹ The meaning of this correlation is the subject of debate. Regardless, it may demonstrate a construction of "modern" warfare as more constrained by the laws of war and thus less apt to target civilian populations. In such a construction, rape is not a part of "modern" warfare.

Rape has been a common, but unacknowledged, element of conceptions of war. "Rape and pillage" were the normal acts of conquering soldiers. Mass rape is sometimes committed by disciplined and well trained troops. This supports a connection between wartime rape and peacetime rape motivated by the enhanced misogyny of the military. Rape is also associated

⁴¹Brownmiller, p. 42-43.

with less conditioned troops. The Soviet forces responsible for the mass rapes during the fall of Berlin in World War II were the second, less well trained, wave of troops.⁴²

Feminist Analysis of Rape

Rape as a historical phenomenon has come into mainstream discourse from the feminist movement. However, just as unquestioned definitions of rape as a sexual act shape the treatment of rape and limit its analysis, feminist definitions may also prove limiting. Most feminist analyses of rape occur in a Western context and are based on concerns rape in peacetime. Mass rape and rape in war have not been analyzed for their own sake.

Feminist analysts of rape have rightly defined rape as an act of violence that conforms to patriarchal standards. Rape defined as a sexual act is the act of someone who cannot conduct themselves within the sexual limits society condones. Rape defined as an act of violence cannot be understood as the result of the problems of an individual but must be looked on as a widespread phenomenon with some causes rooted in society.

⁴²Brownmiller, p. 65-72.

Rape legitimized patriarchy. As an act, it brutally subordinates women to men's will; as a menace, it constantly polices women's behaviors, limits their freedom and fosters patriarchy's ideology that women need male 'protection.' . . . So, rape (according to this view) is not the aberration of 'weirdoes' but is socially functional and historically charged with meaning; it is not the sickness of perverts, but the sickness of patriarchy.⁴³

Within the feminist discourse, rape has become historically meaningful as a tool of patriarchy.

⁴³Porter, p. 217.

However, such a discourse is generally framed by rape within peacetime, and feminist understandings of rape in peacetime have been problematically applied to rape during wars. The feminist analysis of rape is as an act which supports and is supported by patriarchy. Rape is a part of a social construction of machismo and misogyny, and rapists are, according to Susan Brownmiller, the "shock troops" of patriarchy. Feminists point out that rape is an expression of gendered power structures that exist even without sexual violence. Applied to rape during war, this overlaps with the definitions of rape as a sexual release. Rapist soldiers do not participate in an act against an enemy or an act of war. Rape in war is placed in the context of peacetime gender relationships. Susan Brownmiller states that, "even if few men actually commit acts the law calls rape, all men are potential rapists. Given the opportunity - e.g. as soldiers in an army of occupation - men will indeed rape."⁴⁴ The claim is that the male constructions of machismo and misogyny are heightened in wartime soldiers. Mass rape during war is claimed to occur due to the extremities of gender construction in wars.

Wartime "hydraulic reductionism" joins with a feminist analysis of rape to create a misunderstanding of rape during war. Rape is naturalized, made to seem possibly more likely in war but not caused by war.

Rape is more than a symptom of war or evidence of its violent excess. Rape in war is a familiar act with a familiar excuse. War provides men with the perfect psychological backdrop to give vent to their contempt for women. The very maleness of the military . . . confirms for men what they long suspect, that women are peripheral, irrelevant to the world that counts, passive spectators to the action in the center ring. Men who rape in war are ordinary Joes, made unordinary by entry into the most exclusive male-only club in the world.⁴⁵

⁴⁴Quoted in Porter, p. 218.

⁴⁵Brownmiller, p. 32.

This argument rests on the false assumption that violence against women is not part of the pattern of violence within the war, that rape could be peripheral to the war for the soldier, or that this act could be analyzed in a context removed from the war. This view prevents dealing with rape as a war crime and a targeted, purposeful act within the wartime spectrum of violence.

Rape in war is not a crime of a soldier losing control. It is properly viewed as a crime against humanity. Political, wartime rape is not a natural consequence of war but another tactic against an enemy or a defeated people. "Rape in war has been obscured from public view by our assumptions about the hyper-masculine nature of soldiering and of rape as a crime of sex rather than a crime of violence."⁴⁶ Rape can be made to seem normal because it is universalized. All rape is sexual or all rape is reproductive of patriarchy. In some circumstances both of these ideas obscure the reality of the violence.

The conception of rape in war as incidental to the war but central to gender relationships may be appropriate in certain wars or in certain battlefields. However, the use of rape as a weapon of war does not conform to this theory. Rape as a weapon of war is not a phenomenon invented in the former Yugoslavia, but other uses of rape in this way may not have provoked attention as a war crime because of the naturalizing ideas of rape. The rapes in the former Yugoslavia were not about the reproduction of patriarchy but were aimed at selectively tearing patriarchy down. In order to do so, sexual taboos were broken, and these acts consisted predominately of the rape of women by men but did not stop there. Men, minors, and older

⁴⁶Lantos Tom, "In Opposition to Violence Against Women - Marking International Women's Day" extension of remarks, *Congressional Record*, March 17, 1998, p. E393.

people were also the victims of sexual assaults. These acts were also used as weapons of war, but because rape is thought of as the natural (if unacceptable) act of a man against a woman, this wider type of sexual violence is unaddressed. The sex specific analysis of rape helps to reproduce the violence of rape. New understandings of rape are necessary to understand the rapes in these wars.

Historiography of Rape in Bosnia-Herzegovina and Croatia

Much has been written on the nature of the rapes in Bosnia-Herzegovina and Croatia. In general such writings try to understand rape within the feminist discourse. The rapes in Bosnia and Croatia are explained by referring back to feminist definitions of rape during peacetime.

Jadranka Cigeli [A Bosnian Croat held at a concentration camp during the war] told me that the rapes she suffered are different from other, 'ordinary' rapes. I agree. . . . But all rape is related in that it derives from a system of dominance and subjugation that allows, and in fact often encourages, precisely the violent crime of rape as a way of maintaining that system.⁴⁷

There is some usefulness to this approach. The crime of rape is not a crime that can be understood as separate from any society and patriarchy. At the same time, the rapes that occurred in the former Yugoslavia should not, for the sake of a foreign agenda, be pushed into definitions that do not actually describe the meanings of those rapes.

⁴⁷Allen, p. 39.

Catherine MacKinnon wrote a much-quoted and seemingly common-sense definition of the rapes of the former Yugoslavia: "The rapes in the Serbian war of aggression against Bosnia-Herzegovina and Croatia are to everyday rape what the Holocaust was to everyday anti-Semitism: both like it and not like it at all."⁴⁸ This appropriately evokes the genocidal aspect of rapes as well as the fact that the rapes made use of an everyday prejudice and applied it to an expanded form of violence. However, MacKinnon establishes a hierarchy of rapes with the rapes of ethnic cleansing in the former Yugoslavia on the top. This is a dangerous place to begin to study this violence. It lessens the seriousness of peacetime rape, rapes within the wars not connected to ethnic cleansing,⁴⁹ and other forms of victimization during the wars. It seems less than fruitful to begin to try to understand war crimes in this quantitative way. This type of argument seems to ignore the real problems of individual victims in order to try to make sense of a definition of rape that is unchanging from wartime to peacetime. The crimes were complex and should be looked at as such, but dealing with many crimes does not necessitate placing one above the other as more hurtful or serious.

Another common basis of analysis is that the rapes in Bosnia-Herzegovina and Croatia should be dealt with in a way that will be beneficial for women around the world and in peacetime. This is an eminently understandable sentiment, and the international attention given

⁴⁸MacKinnon, Catherine. "Turning Rape into Pornography: Postmodern Genocide." *Ms.*, vol. 4, no. 1; July-August 1993, pp. 24-31, p. 24.

⁴⁹This is a politically troublesome stance. By labeling only those crimes that were committed as part of ethnic cleansing as most serious, the war crimes committed by the Croatian and the Bosnian armed forces can be seen as lesser crimes. This is problematic in a war in which all sides committed serious breaches of humanitarian law and because she is an attorney from the United States, and some in the U.S. have been accused of anti-Serbian bias.

to these rapes should be expanded to include violence against women and sex crimes in general.

The elision of genocide and rape in the focus on 'genocidal rape' as a means of emphasizing the heinousness of the rape of Muslim women in Bosnia is dangerous. Rape and genocide are separate atrocities. . . . To emphasize as unparalleled the horror of genocidal rape is factually dubious and risks rendering rape invisible once again. . . . This combination of the particular and the general is critical if the horrors experienced by women in Bosnia are to be appreciated and if that experience is to have meaning for women brutalized in less-known theaters of war or in the byways of daily life.⁵⁰

From a similar perspective, Beverly Allen argues that to emphasize the differences of the rapes in the former Yugoslavia provides a Westerner with the ability to distance one's self from the crimes and to ignore the ways in which violence against women can be universal. Unfortunately, these writers may be missing important points about the rapes specific to these wars. To say that the rapes in Bosnia-Herzegovina and Croatia were different from other rapes does not mean that we necessarily diminish the crime in every other place. To say that the rapes were not more serious than other crimes or that they are not at the tip of a hierarchy of sexual violence does not diminish the seriousness of these rapes. The definitions of rape should grow in complexity with its study in different areas and at different times. It is necessary to expand understandings of rape to solve these types of dilemmas.

The rapes in the wars of former Yugoslavia must be analyzed for their own sake and because of concern for these specific victims of rape and torture, not because of concern for

⁵⁰Copelon, Rhonda. "Surfacing Gender: Reconceptualizing Crimes against Women in Time of War." in Alexandra Stiglmayer ed. Mass Rape: The War Against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 197-218, p. 198-199.

theory or for people outside of this context. Some, but not all, elements of the feminist understandings of rape do ring true in these wars. The rapes in the former Yugoslavia are the same as every other rape in that they are an expression of violence between the perpetrator and the victim, and the society can continue to do violence to the victim of rape. However, the rapes in the former Yugoslavia are also not like rapes that occur everywhere else. The physical and psychological traumas of the rapes are compounded by many other injuries that are inflicted on the victims of rape. Multiple forms of trauma are difficult to separate from one another in the mind of a victim.

If other traumatic experiences have taken place in addition to the rape itself, the post traumatic stress disorder symptoms are much more pronounced. In nearly all our patients, the rape is part of a many-layered trauma whose other components may include a stay in a camp, the loss of one or several beloved people, separation from family members, the loss of a home, physical abuse, insults, death threats to the victim or her family, the loss of material goods, and so forth.⁵¹

The other elements of genocide and their impact on the trauma of rape in the victim change the context of the rapes. This multi-layered trauma, while it is not, thankfully, replicated often, does not make the rapes unique, it merely points to the extreme context of the violence. It also helps to point out that every rape in any context is both like and not like any other rape. It is important not to lose track of each individual and her or his entire circumstance.

The rapes in the former Yugoslavia were systematic, a major tool of ethnic cleansing, the

⁵¹Folnegovic-Smalc, Vera. "Psychiatric Aspects of the Rapes in the War against the Republics of Croatia and Bosnia-Herzegovina." in Alexandra Stiglmayer ed. Mass Rape: The War Against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 174-179, p. 177

large part of a pattern of sexualized and gendered violence, and a tool for reinforcing ethnic boundaries in the minds of the perpetrators and the victims. It is difficult to separate the different crimes involved: genocide, rape, detention, and other forms of torture. These crimes must be treated separately in a legal sense, but each should be a part of an analysis of the rapes. The context of these wars is of a campaign waged against civilian populations for genocidal purposes. This cannot be ignored and plays a part in most of the testimony given by survivors of rapes and other tortures from these wars. The facts of these testimonies will force the expansion of our understanding of the use of rape as a weapon and of wartime rape.

Testimony

The use of testimony is the best way to come to understand the rapes in these wars. The testimonies include details that statistics or quantitative analysis would miss, and they also portray the event's emotional character that should never be removed from the analysis of rape. The use of testimony can be damaging in many ways. Unfortunately, the reader may be overwhelmed by details of extremely violent events and to shut off from the subject. Subjecting a reader to emotional trauma involves walking a fine line. The reader should be protected from being violated herself or himself. The use of a narrative format may also change testimony from an account into a story and take away from the seriousness of the crime. The use of testimony may continue to violate a person who is exposed as a victim and who is sanctioned by her or his family or community for the experience. It is also essential not to reduce a person to being only the victim of a crime. The experience of the war is difficult to compartmentalize, and a victim of

violent crime is also an individual and should always be treated with respect.

The number of testimonies from rapes in the wars in Bosnia-Herzegovina and Croatia is limited by the access people had to the victims of torture and rape, by the restricted access that many victims might have to channels to make their stories public, and by the fact that rape and sexual assault are crimes rarely spoken of in public. Testimonies that have already been published or used by non-governmental organizations are free for public use and reading. But, it is still important to treat the accounts delicately. Many very violent details are often included in the testimonies but do not serve any purpose other than to impress upon the reader the extent of the violence of these acts. It may be possible to omit these details or be selective of the details included for analysis in order to protect both the reader and the victim from sensationalism.

Much testimony was obtained by foreign journalists or scholars who visited refugee camps in Croatia or away from the front in Bosnia-Herzegovina and inquired whether there were women there who were raped and would share their experiences. This is a selective method of data collection.

Journalists and TV crews would come always with the same question: "Are there any women here who were raped?" I mean, as if one could divide women between those who were raped and those who weren't! As if they were in some sort of display! Generally, it bothers me when someone says raped women. Abused women, women victims of war, find some other appropriate term. But raped women, that hurts a person, to be marked as a raped woman, as if you had no other characteristic, as if that were your sole identity. Raped women sounds horrible, doesn't it?⁵²

The methodology may have selected for only rape victims and overshadowed other important elements of sexualized crime. It may also have been an invasion of privacy for the women who

⁵²1996Jacobson, Mandy; Jelincic, Karmen, *Calling the Ghosts*, Bowery Productions: Women Make Movies, 1996. Quoted: Nusreta Sivac, held at Omarska.

did actually give statements.

Alexandra Stiglmayer obtained testimony by going into refugee camps and requesting interviews. Stiglmayer did not have protracted contact with the women. In some cases, this does not make for problematic testimony, but in other cases, the method seems invasive and to continue the violence of the crime. Rape robs people of their control and of their sense of privacy or integrity. Testimony should be taken with the need for privacy and control in mind. Stiglmayer discusses this in regard to an interview conducted with a twelve-year-old girl and her mother.

Velvida is still a child. . . . As always, I inquired in the refugee camps about victims of rape, and this little girl was introduced to me. During the whole interview Velvida looked at me quietly and kindly, with wide eyes. Like a good schoolgirl she answered every question, but she never uttered more than three words. Once in a while she wept softly; I didn't notice it until I saw a tear running down her cheek. . . . The interview itself was one of the most unpleasant I ever conducted. I felt like a criminal while I pressed the little girl, who did not speak very much, with questions about her rape, and I was glad when the interview was over.⁵³

Often this sort of outreach was the only way to find rape victims and record the stories.

However, the style of obtaining information described by Stiglmayer may continue the violence for a girl such as Velvida.

There is another tact which has been taken in some works on the subject. Fran Peavey, who worked with Bosnian refugees, published a volume of poems, letters, and other writings of women Bosnian refugees. Her more long-term connection with victims of all types of violence convinced her that the most appropriate way to deal publicly with the rapes was to allow the

⁵³Stiglmayer, Alexandra. "The Rapes in Bosnia-Herzegovina." in Alexandra Stiglmayer, ed., Mass Rape: The War Against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 82-169, p. 111-112.

women to express themselves while maintaining privacy. In her collection, women are not treated as only rape victims with no other experience of significance.

To know these women is to know dignity in the face of tragedy. To ask whether specific women were raped would border on disrespect. Even though media accounts of the strategic use of rape in this war gave names, ages, and where each woman was from, no one from the 'I Remember' project would ask such questions or divulge such information. Part of the task of these women was and is to rebuild their sense of privacy, and of respectability.⁵⁴ Peavey has a luxury of representation in a personal and long term relationship with the women who wrote for the book, and she did not write on rape specifically.

Beverly Allen chose not to use any testimony. Her concern was generally the difficulty of writing with testimony without either doing violence to the reader with the details or doing violence to the victim by not being able to portray the event appropriately. Her decision was to not use testimony and to try and avoid the representational problems associated for both reader and the giver of testimony.

⁵⁴Peavy, Fran ed., I Remember; Sjecam Se: Writings by Bosnian Women Refugees San Francisco: Aunt Lute Books, 1996, introduction.

I am faced, therefore, with choices of the utmost importance, for the realities I shall represent are of a highly problematic nature: they are atrocities that obliterate even the most vestigial bonds of any social contract. My challenge in representing them is to do so without repeating in any way the harm those atrocities have already perpetrated; nor must I adopt misleading forms or reproduce the dynamics of permission and prohibition, of power and subjugation those atrocities are soaked with.⁵⁵

Allen's struggle with representation of rape is one faced by each person reading or using the testimony. Whether or not testimony is reproduced, decisions based around this representation will affect the argument.

All of this considered, it seems that the violation of testimony is a necessary sacrifice. Testimony is also empowering. The more public rapes are, the more the violence perpetrated by a community enforcing a taboo of silence is lessened. The more public the rapes are, the better equipped the International Tribunal is to deal with rape as a weapon of war. If testimony is made public, the legitimacy lent to a victim's private suffering by public awareness may help in a process of recovery.

⁵⁵Allen, p. 31.

In the beginning, I had the reruns of my own film. There was a period of self questioning before me. To stay silent or to speak . . . If I stay silent, how moral would that be? When I remember the night when I was taken out my own broken bones start to hurt. If I speak, how good is that for me? I would actually have to expose myself. In the beginning, the need to tell the truth was strong. And I hoped we would speak out. Other women arrived from Omarska. I organized them and told them that we had to tell the truth, no matter how painful it was. Now I am in the role of the confessor. Without the live witness, one can only speculate about the crime. The crime has not been filmed with a camera: it is only recorded in the memory of the witness. In order to expose the crime, you violate the witness. You don't force her, of course, you beg her to speak, but you do make her live through it again.⁵⁶

Another woman held at Omarska also emphasizes the sacrifice of giving testimony as well as the necessity of making that sacrifice. "I always say, it's a new shock every time you talk about it, but I feel some kind of obligation, toward all those women, friends of mine who are now gone, who were killed in the camp, toward all those people who were dear to me, and who are now gone, If the story is not told, then no one will know about it, right?"⁵⁷ There is no better way to come to an understanding of these crimes than to try to come to terms with the words of those who have decided to come forward. The people who lived through the war have to be the guide of all research, and although there are many ways in which testimony should not be used, its careful use is important. To have testimony available and provided by women or men with this force to tell the truth and sacrifice for the truth is a compelling reason to try to use the testimonies.

The existence of testimony from rape victims from the former Yugoslavia also corrects a problem of historiography. A part of the silence on rape during war is the lack of documentation

⁵⁶Jadranka Cigeli, held at Omarska, quoted in *Calling the Ghosts*.

⁵⁷Nusreta Sivac, quoted in *Calling the Ghosts*.

of rape before the twentieth century and the unwillingness to use the evidence available during the twentieth century.⁵⁸ Any attempt at understanding rape as a war crime must incorporate the use of available evidence and a willingness to bring rape into the mainstream of historical analysis. Testimony is an important tool for historians, and to ignore testimony or to consider it too gruesome for use is to continue the historiographic silence on rape.

The Nature of the Rapes

⁵⁸Rape testimony was not presented in open court during the Nuremberg trials partly due to the fact that the prosecution considered it too upsetting.

There are many classifications of the rapes in the wars of former Yugoslavia, typologies that list from three to eight distinct forms of rape as part of ethnic cleansing. The important elements are fairly straightforward. Women were raped in public places in villages or towns to be ethnically cleansed. Women were raped in concentration camps with both men and women prisoners as a part of gender-specific torture in a place where all of those being held were subjected to torture. Women were also held in female-only camps, and rapes there often preceded killings or forced pregnancy. The most important element is that this was systematic. Rape occurred throughout Bosnia-Herzegovina. Rapes of similar natures were carried out by the JNA, the varied paramilitary groups, and certain civilians present in Bosnia-Herzegovina and Croatia. The rapes were not random attacks but often took place under similar circumstances or with other similar breaches of humanitarian law. These were not only mass rapes, rapes on a large scale. These were systematic rapes, rapes for a reason and with a plan. "Sexuality is merely 'politics by different means.'"⁵⁹ Rape as a weapon of war implies the deliberate use of the shunning of the victims by the community, of the controls on sexual purity of young women that are especially strong in rural former Yugoslavia, of the extreme breach of any neighborliness or shared history of rape, and of all of these factors overlaid on the extreme physical control demonstrated by detention, rape, and especially by forced pregnancy. Rape did not just occur; it was used to frighten the victims' communities, to break down cohesion between neighbors and among families, to intimidate secondary victims and to control primary victims of rape.

252. In Bosnia, some of the reported rape and sexual assault cases committed by Serbs, mostly against Muslims, are clearly the result of individual or small group conduct

⁵⁹Jovic, 1997, p. 60

without evidence of command direction or an overall policy. However, many more seem to be a part of an overall pattern whose characteristics include: similarities among practices in non-contiguous geographic areas; simultaneous commission of other international humanitarian law violations; simultaneous military activity; simultaneous activity to displace civilian populations; common elements in the commission of rape; maximizing shame and humiliation to not only the victim, but also the victim's community; and the timing of rapes. One facet in particular that leads to the conclusion is the large number of rapes which occurred in places of detention. These rapes in detention do not appear to be random, and they indicate at least a policy of encouraging rape supported by the deliberate failure of camp commanders and local authorities to exercise command and control over the personnel under their authority.

253. These patterns strongly suggest that a systematic rape policy existed.⁶⁰

A policy of rape is a tool in ethnic cleansing, and therefore rape functioned in these wars not only as a breach of humanitarian law but also as a part of genocide. The rapes shaped the mentality of the victim, the community, and the perpetrator. To use that mental control in addition to the physical control gave the Serb nationalists, and to some extent Croatian nationalists, an important weapon for ethnic purity.

Holistic Identity and Rape

⁶⁰Bassiouni and committee.

Women were raped during military maneuvers in the areas around their homes or when Serb nationalist forces occupied an area. Women were raped in public when troops came through villages and they were raped in their homes, often with family members or neighbors either forced to watch or nearby. In some places, Bosnian Serb paramilitary forces would enter a village and apply terrorist tactics to the population: beatings, killings, and rapes. The Yugoslav Federal Army, JNA, would enter the village in the following few days and offer to let the non-Serbian population leave on the condition that they would sign over their property to Serbian authorities. A similar pattern would be for local Serbian nationalists to take control of the area. Similar humanitarian law abuses would take place.⁶¹ Men would be beaten, deported, killed, and women would be raped. These rapes would often be repeated and would often be gang rapes.

In regions where Bosnian Serb forces retain absolute control over territory, rape is used as one of many terror tactics to force the flight of the non-Serbian population from the areas.

Serbian soldiers attacking houses in the Banja Luka area have raped women and girls in their homes, and sometimes in the presence of family members. I.T., a married woman with two children, describes how she was raped: "On the third of May 1993, a group of Serbs came to our house; they all wore uniforms of the Serbian Army. I was on the second floor when they surrounded the house, broke the main entrance and came upstairs. I was in the bedroom with my children and our neighbors - a husband, his wife and their daughter. The Serbs wore black ski masks which covered their faces, but in spite of that, I recognized Miso Trivic our neighbor who was in the Serbian Army; he used to come into the shop where I worked for many years. . . . The name of the second man was Sinisa Milovic; the third man I don't know. . . . My husband and children were in the adjoining room while all this was happening."⁶²

This was an effective tool to force people to leave their homes. Often, it was believed that the women and children would not be directly harmed by the armed forces, and the rapes were the

⁶¹1993 report by Mazowiecki, special rapporteur to former Yugoslavia, quoted in Allen, p. 152.

⁶²Human Rights Watch, p. 14-15.

factor that precipitated evacuation.

[My husband] said he did not want to leave, although most of the people had left our village by that time. I was not aware of the fact that somebody would provide for us in this way [i.e. As in the refugee camp]. I thought we would be hungry. That's why they did it, so that we would have to leave. The next morning, after that all had happened, my man signed everything of ours over to them, just so they would let us leave.⁶³

⁶³K.S. quoted in Human Rights Watch, p. 14.

These rapes in villages were attacks on the entire community of non-Serbs. Nationalists used ethnic-specific language and markers in order to make the rapes an attack on a specific ethnic community and not the entire village. This was a deliberate use of gender roles and of the special status of women and children as protected. "Soldiers or police can succeed in translating the attack upon individual women into an assault upon their communities because of the emphasis placed in every culture in the world on women's sexual purity. It is the premium placed upon protection and control of women's purity that renders them perfect targets for abuse."⁶⁴ Women were often the majority populating an area. Men had fled based on the assumption that women would not be targets of violence but men were unsafe. Nusreta Sivac was taken to Omarska, a concentration camp outside of Prijedor in Bosnia, because she had not fled a few days before with her husband. "I had insisted that he leave (her husband got out on the 22, she returned her ticket) thinking that no one would touch the women."⁶⁵

⁶⁴Human Rights Watch, p. 3.

⁶⁵quoted in *Calling the Ghosts*, 1996.

Local Serb involvement, either at the beginning of the terrorism in occupied areas, or during the later course of the occupations, meant that women would often know their rapists personally. Such knowledge increased the terrorism of the rapes. If women were threatened after the rapes, knowing the perpetrator increased this threat. "24. Many women will not talk about their experience of rape for fear of reprisals. Many women interviewed by the team of experts personally knew, or know the names of, the men who had raped them. Some were reluctant to tell the experts the names of the perpetrators because of fear of their own and their family's safety."⁶⁶ It also struck home the message that this is done with impunity and that old social cohesion is lost. If rape is understood as an act of dehumanization, then the message of separation, and accompanying risk, is very strong when victims know their rapists. This was the case when there was public knowledge of rapes, and the fear those rapes produced was generalized to the whole Serbian population. "During the day, the Serbian neighbors greet you and pretend that everything is as usual, but at night, these very same people shoot at windows and raid houses."⁶⁷ It is more poignant when a victim of violence is in regular contact with a perpetrator and it is clear that the pre-war relationship has been irreparably altered. "Those guards, most of them I knew personally, I knew them by their first and last names. Before the occupation we had coffee together at work, talked, now they pretended that they didn't even know us."⁶⁸ It is most dramatic when that previous personal relationship is used by the rapist.

Some of the local Serbs wore black stockings on their heads to disguise their faces

⁶⁶Mazowiecki, quoted in Allen, p. 151.

⁶⁷K.S., quoted in Human Rights Watch, 1995, p. 14

⁶⁸Nusreta Sivac, quoted in *Calling the Ghosts*, 1996

because they didn't want to be recognized. [Nevertheless,] I recognized many of them. [They were] colleagues - doctors with whom I worked. The first [man] who raped me was a Serbian doctor named Jodic. I had known Jodic for ten years. We worked in the same hospital. I would see him every day in the employees' cafeteria. We spoke generally, "Hi, how are you." He was a very polite, nice man. Another doctor whom I had previously known also raped me; [this man was] Obrad Filipovic. I wasn't allowed to say anything. Before he raped me he said, "Now you know who we are. You will remember forever." I was so surprised; he was a doctor!⁶⁹

Knowing one's rapist provides intimate knowledge of the fact that what had previously been socially significant was no longer valid. While ethnic groups would interact without a thought to ethnicity or religion prior to the war or the outbreak of nationalism, now there could be no recognition. What was one community was split along ethnic lines and one side was subjected to all forms of violence. Personal knowledge of those carrying out the violence takes any meaning out of the one's relationship with them before the war.

⁶⁹B., quoted in Human Rights Watch, p. 18.

The same purpose of ethnic division was served when rape victims did not know their perpetrators. In communities with mixed ethnicity, ethnic cleansing would be a failure if the attack wasn't directed specifically against one ethnic group and not the other. "The superior who is ordering them says, 'She has to know that we are Chetniks. She has to know this is our land. She has to know that we're commanding, that this is our Greater Serbia, that it'll be like this for everyone who doesn't listen.'"⁷⁰ Acts of violence were carried out with symbolic ethnic markers. This included tattoos and other forms of mutilation.⁷¹ In rapes, the most common form of ethnically marking the violence was to use ethnic slurs during the rape. "He kept cursing at me and shouting: "Where is your [Bosnian President] Alija [Izetbegovic] now?" He called me an Ustasa. I thought it was the end of me. But then, he left. I do not know why he did not kill me."⁷² Ustansa was a common slur against Croats, and it refers to the fascist Croatian state during World War II. ". . . J. was then beaten by these men. The men called J. an Ustasa and said she needed to give birth to a Serb. 'Then she would be different,' they said."⁷³ Many of the slurs incorporated both sexually and ethnically based slurs. The vocabulary used against Muslims was different, but kept this pattern. "They said we were at war now, there wasn't any law and order anymore; they shouted curses: 'Fuck your Turkish mother' or 'Death to all Turkish sperm.'"⁷⁴ Hearing these things during a rape left the victims with little doubt of why she was

⁷⁰Haris, a Bosnian Serb soldier, quoted in MacKinnon, p. 79

⁷¹Helsinki Watch. War Crimes in Bosnia-Herzegovina. New York: Human Rights Watch, 1993, p. 253-256.

⁷²K.S., quoted in Human Rights Watch, p. 13.

⁷³Human Rights Watch, p. 20.

⁷⁴Mirsada, quoted in Stiglmeier, p. 109.

being raped and which elements of her identity were under attack.

Ethnic slurs were often used in conjunction with gendered slurs. This is an indication of the fact that the women were raped not because they were women, not because they belonged to men of the enemy ethnic group, and not because they were of the enemy ethnic group but due to all three of these factors. "Other means are used to psych up the perpetrators. Survivors attest to the rapists' use of ethnic-based expletives (such as "Ustasha") as well as sex-based ones ("bitch," "whore," and so forth). It would seem from the ethnic- and sex-based expletives in particular that the perpetrators are raping because the women are Muslim or Catholics just as much as because they are women"⁷⁵ There was no need to keep the attacks specific to any one element of a person's identity. The effectiveness of the attacks was increased by the thoroughness with which the victims were mentally affected.

Religious symbolism was a common element in rapes. Women were made to defile Islamic religious symbols or to make various sorts of gestures to Orthodox symbols. "Haltingly Kadira tells what was done to her. Once she was forced to urinate on the Koran."⁷⁶ Again, associating religious-based humiliation with violence, "sometimes they brought prayer beads, and I had to say Islamic prayers and they beat me."⁷⁷ Or, in mock forced conversion preceding a rape,

So I was sitting in front of him naked, and thinking now he was going to rape me. But he sat there, naked too, took his big Serbian cross in his hand and said, "Kiss this cross!" I thought, well that's the end of me. I took the cross and kissed it. "Kiss it three times!" I

⁷⁵Allen, p. 98.

⁷⁶Stiglmeier, p. 118.

⁷⁷Senada, quoted in Stiglmeier, p. 132.

kissed it once, twice, three times. "Cross yourself!" I'd never crossed myself before and didn't know how you do it.⁷⁸

⁷⁸Hasiba, quoted in Stiglmayer, p. 128.

Many Mosques and Islamic historical sights were destroyed in Bosnia during the war. Religious figures were sometimes the targets of sexual violence. In one town, troops took villagers to watch as the local Imam was forced to desecrate the mosque and then forced to rape a teenager from the town.⁷⁹ In another Bosnian town, people were again rounded up by the troops and forced to watch the soldiers gang rape the Hadji's daughter. Her father was among those forced to watch.⁸⁰ Religion was not spared as a target of violence. Religious symbols were used, similar to ethnic slurs, to make the point of separate communities during rapes. "They said they wanted to drive us out, that there shouldn't be any more Muslims in Europe."⁸¹

There is debate among feminists on whether women are raped during war because they are women, because they are the enemy, or for revenge on enemy men. If women are raped because of their sex alone, this is because rape is a sexual release. If women are raped due to their enemy status or their connection to enemy men, this is because rape is an act of violence against the enemy. Clearly, women are raped during wars due to their enemy status. Soldiers raping women of their own country or partisan affiliation would need to be analyzed using a different framework. Again, rape is an act of violence, and widespread rape during war is a part of the violence of that war. However, it is impossible to segment identity into boxes such as

⁷⁹Gutman, Roy. A witness to genocide : The 1993 Pulitzer Prize-Winning Dispatches on the "Ethnic Cleansing" of Bosnia. Macmillan Pub. Co., 1993, p. 78.

⁸⁰Stiglmayer, p. 82.

⁸¹Ifeta, quoted in Stiglmayer, p. 121.

ethnicity, religion, or gender and analyze these things in isolation of each other. The women of Bosnia-Herzegovina and Croatia were the victims of this type of violence because of their entire identity. Again, if the violence associated with ethnic cleansing that is not immediately related to the deportation or killing of a population is about dehumanization, it makes sense to use every avenue possible in order to dehumanize. Every person is susceptible to dehumanization at each point of identity, and sexual violence was therefore a tool of ethnic cleansing.

A Weapon for the Mind

The fact that rape was a tool of ethnic cleansing is even clearer when it is considered that eighty percent of the women raped by JNA or Serb irregulars were held in detention at the time of the rapes. There were women raped in concentration camps that held both men and women and women raped in camps that were exclusively for women. These camps were both women-only detention centers at which forced pregnancy was also committed and forced brothels in which the women were generally killed after a period of time.

Detention centers were both makeshift and very organized. Some were simply gathering places in the occupied towns where people were initially rounded up and taken. Rapes in these mixed sex camps were common.

40 . . . another Muslim woman reported how some of the ethnic Serbs in her village rounded up the Muslims and took them to a primary school where she was detained with 12 other women and about 400 men. "The soldiers would come every evening around midnight, drunk and dirty. This went on for about two months. Some of them were my neighbors, and some of them I did not know, from Serbia. There was a room with five or six men in it. They would all rape one woman and then take her away and bring in another woman. All 13 of us were taken there; the youngest was ten years old." . . . 41. One ethnic Croat woman was detained in a Serb-controlled camp with 34 other women and a large number

of men. She reported that all 34 women in the camp were raped.⁸² Women were often kept separately from the men in these camps. A common pattern would be to bring a woman out by herself to a place where she would be raped several times. Women were sometimes identified by name. The women were generally called out to be raped on a very regular basis, sometimes nearly every night.

⁸²Bassiouni and committee.

Forced brothels were also common. The notorious Sonja's just outside of Sarajevo was a converted restaurant that functioned as a forced brothel during the entire siege of Sarajevo.⁸³ Women held in forced brothels were not detained in camps as a part of ethnic cleansing but were arrested or taken there by soldiers. Most women died in these camps. Two to three hundred women were detained at the Vilina Vlas hotel in Bosnia, and most are currently listed as missing. The Bosnian government speculates that they were killed and their bodies were thrown into the Drina River, the border between Serbia and Bosnia.⁸⁴ Alexandra Stiglmayer interviewed two women who were held in the hotel for one night. One, Muniba, reports that when she resisted her rapist initially, he responded, "It's an honor to belong to me. We could've thrown you in the Drina or into a quarry."⁸⁵

These brothels were not part of the material means of ethnic cleansing. The acts that materially contributed to the ethnic cleansing were the murders. Why, then, hold women to rape if rape were not serving a purpose to ethnic cleansing? Rape affects the mindset of the rapist. Divisions between the communities are driven home both to the victim and the rapist, and many soldiers were ordered to rape. Borislav Harek, a Bosnian Serb irregular soldier, was arrested, tried, and sentenced to death by the Bosnian government for war crimes including rape. He visited Sonja's in Sarajevo, and reports his experiences there.

George (interviewer): Tell me what happened.

⁸³The vocabulary used here is somewhat problematic. It is often called forced prostitution, and it is an established pattern in wars. The use of the word prostitution does imply some element of compliance, and although the description of this type of rape is difficult without reference to prostitution vocabulary, I have tried to avoid the phrase "forced prostitution."

⁸⁴Stiglmayer, p. 122.

⁸⁵Stiglmayer, p. 122.

were
Borislav: We had an order to go the restaurant Sonja in Vogosca. We were told that we
going to rape girls there.
G: Who told you this?
B: My captain. The commander of our unit. So as to increase the morale of our fighters.
. . .
G: Was it good for your morale?
B: Not at all. And before that and after that I had to go to the front lines, so it was the
same
for me. . . . It was a stupid thing to do. We hadn't any fights, and that is why it was
worthless.
G: So what did you think of this order?
B: They would have sent me to the worst front line in Trebinje in Herzegovina, or sent
me to
jail.
G: They would not have killed you?
B: I cannot say that. But I knew they would have taken away the house that they had
given
me.
G: They had given you a Muslim's house. . . . So you got to the restaurant, and what did
you see?
B: It had a guard in front of it, and the girls were in the room. . . .
G: How many girls?
B: Sixty. . . .
G: What happened next?
B: I know that they were killed afterward. . . .
G: Why did you do it?
B: Because I had those guys with me [three other men with whom he raped one woman].
I
guilty.
we
had to listen to the order, or I would have to face consequences if I did not. . . . I felt
But I didn't want to say anything or to show it to the others. . . . When they finished and
were still in the restaurant, Miro Vukovic told us to kill her. Because they did not have
enough food or space, and they wanted to bring new girls into the restaurant. So we should
kill her. . . .
G: Now you grew up here, right? You had Muslim friends.
B: Yes, my brother-in-law is a Muslim.
G: Had a Muslim ever hurt you in any way?
B: No. No. They only helped me. They were helping me all the time.
G: How could somebody who grew up with Muslim friends, who had Muslims in his
family,
how could he grow up to treat Muslims this way?

B: I don't know.⁸⁶

Harek describes the forced brothels such as Sonja's as places where troops were ordered to go expressly in order to rape. He also describes unease about the rapes, especially the first rape he committed there, and fear of what would happen to him if he disobeyed orders. Rape was also a tool that shaped his way of thinking and his conception of community. He grew up in a multi-ethnic community, and it was necessary to convince Serbs from multi-ethnic communities where the new lines of society should be drawn.

⁸⁶Stiglmeier, p. 148-152.

Many Bosnian Serbs were forcibly mobilized, and many soldiers were not prepared for the ferocity of ethnic cleansing. A Muslim doctor in the Trnopolje camp near Prijedor claimed that soldiers were initially upset with the organization of the war. "As a doctor I was considered an authority, even by the Serbs, and in the first days many Serbian soldiers came to see me in the camp. They wept, they came to cry their heart out, and they asked for apaurin [a sedative]. "What's going on here?" they kept asking."⁸⁷ Accounts from women sometimes mention that local Serbs were not as brutal and occasionally protected women from rape. (Although other accounts attest to the fact that local Serbs were also sometimes the most brutal torturers.) "He [a mobilized Bosnian Serb] couldn't do anything about being in the army. Every Serb had to join; all of them were mobilized, they all got weapons, uniforms, they had to fight with the other guys. If someone refused he got sent to KP-Dom [the local men's camp, a former jail] in Foca."⁸⁸ Forced mobilization was followed with indoctrination (in addition to the indoctrination of the television station from Banja Luka, broadcast throughout northern Bosnia). Two Bosnian Serb soldiers, forcibly mobilized, left the Serbian army and were captured by the Croats and held. Both report that they were forced to kill and to rape.

⁸⁷Jusuf Pasalic, quoted in Stiglmayer, p. 89.

⁸⁸Fatima, quoted in Stiglmayer, p. 105.

I was outside the camp area . . . and two men came to get me. . . . They had on the usual camouflage uniforms, short hair and black knitted caps with the insignia of the White Eagles [a paramilitary group]. . . . They were from Serbia; you could hear that from their dialect. They came to get me to butcher three men. They led them outside and gave me a knife. I said I'd never done anything like that, and I couldn't do it. . . . I felt terrible. Then they cursed my mother and my father: "What kind of a Serb are you anyway? We traveled four or five hundred kilometers to fight here in Bosnia, and you're not even a real Serb!" Then I had to kill the other two (after they had demonstrated on the first victim). They said, "If you don't butcher them, we'll butcher you." I never thought I would ever do such a thing. . . . They said I wasn't a real Chetnik and now I would have to prove to them if I was at least a real man. They led me into a room in the camp halls. . . . They said, "Here are twelve broads for you." The women were already there when I got there, and five or six soldiers came in too. I was supposed to rape the women. Some of them were young and some were older . . . from twelve to maybe twenty-four years old. I figure they were Croatians and Muslims. . . . But I was afraid, and I didn't have an erection. . . . They cursed our mothers 'cause I hadn't turned into a real man and said what a disgrace it was that they'd come from so far off just to fight for us. . . . The Chetniks were doing a lot of yelling, making animal noises, whistling: "Oh looky there, that's supposed to be a man! That's no man, that's a sissy." And they were bragging about how they raped the women themselves, how much fun they had with these twelve women the day before. At the end they said they'd forgive me this time, but not next time. And then they let me go.⁸⁹

Rape was a useful tool for indoctrinating soldiers who felt that they must rape and were drawn into the logic as the victims of rape were. Cvijetin Maksimovic claims that the rape is part of the terrorism to force people to leave. "This expulsion and all, it's made the Serbian people in Bosnia into haters, its sown hatred. The killing and the raping were supposed to teach us to hate."⁹⁰ The rapes demonstrated to these rapists, who would not have thought they could do such things before the war, that there were legitimate targets for this behavior. The rapes

⁸⁹Cvijetin Maksimovic, quoted in Stiglmeier, p. 156-157.

⁹⁰Cvijetin Maksimovic, quoted in Stiglmeier, p. 158.

demonstrated who was within the communities and who was not. They reshaped the communities.

A similar point can be made for rapes preceding killings in detention centers. Rapes took place in an atmosphere where women were called out and repeatedly raped on a regular basis. The detention, torture, and killing of unarmed civilians are the essence of ethnic cleansing. The material contributions were made only by the deportations and the killings. At these camps, rapes served the purpose of indoctrinating soldiers. They also were centers where the local civilians would sometimes come. Dusko Tadic, the first man to be tried by the International Tribunal at the Hague, committed rape, sexual mutilation, torture, and was instrumental in the ethnic cleansing of Prijedor, a city in northeast Bosnia surrounded by three concentration camps. Tadic visited Omarska, one of these camps, and committed war crimes there, but he was not a soldier or a member of a paramilitary organization. He was a civilian who was able to access the camp and take part in ethnic cleansing because of his involvement in local Serbian nationalist politics. Omarska served to indoctrinate more than soldiers. The rapes in this camp served those purposes, and they also served to intimidate the people in the camp that might escape the killings and to control those who were in the camps being tortured. "Camps instill fear in everyone - women, men, children, old people, young people. The purpose is to scare them to death so that they never get the idea of wanting to return to their homeland again. That is why there are murder, torture, and rape in the camps."⁹¹ Rape in detention camps enforced mental control over the targeted populations and over the soldiers.

⁹¹Stiglmeier, p. 87.

Rape and Other Sexual Torture

Rape and torture were tools used to expel people, to control their minds and to convince them that their homes were no longer safe. Torture in sexual form was not limited to rape. There was a pattern of gendered violence that made use of sexual taboos to which both sexes were subject in order to break down community and to demonstrate the amount of control that was possible over the population. There was forced incest, mutilation, rape of very young children, forced homosexual acts among men captured by Serb irregulars, and many castrations. These are the same types of crimes as rapes and should be considered and researched with rape as serious breaches of humanitarian law. These crimes also carry the social stigmas accompanying rape victims but have a less of a support network for victims. These crimes were used in the same way as the rapes, to demonstrate power and control and to humiliate. Rape is not a crime that normally happens to women, and acknowledging other forms of sexual violence and sexual violence against men will help to de-naturalize rape.

Tadic was involved in the most infamous case of torture during the war, which involved forcing one detainee at Omarska to castrate another who died from his wounds. There are several accounts of this act, as well as accounts of similar acts. Castrations were a high-profile sexual abuse of men in these wars. The castrations were carried out by other men held by the soldiers, and this heightened the psychological impact of the torture. "250 d. Castrations are performed through crude means such as forcing other internees to bite off a prisoner's testicles."⁹² Castrations were a part of other forms of sexual violence against men. "'About four thousand male Croats were sexually abused at the height of the Serbian aggression on Croats,'

⁹²Bassiouni and committee.

Vjesnik [a Zagreb newspaper] quoted sources at the International Court for War Crimes in The Hague. Actually, 11 percent of all victims were totally or partly castrated, while all were humiliated, in order to destroy their personalities."⁹³ The use of other forms of sexualized violence demonstrates that women are not raped in war only as women without reference to other elements of identity. The purposes of these other forms of violence and sexual torture are similar to those of rape, and gender constructions can be used as a weapon against every person.

⁹³Jovic, p. 57.

The form of gendered violence that was most prevalent, aside from rape, was forced pregnancy. This crime is separate from rape, and it refers to the repeated rape with the aim to impregnate women. Many women were held for several months until they became pregnant and then until their pregnancies were viable. Although there were comments included in many slurs that women should or would give birth to Serbian or Chetnick babies, the rapes which actually led to forced pregnancy took place in camps holding women only. "41. . . Another ethnic Croat woman was detained in a 'special house' where she was raped by several men every night for approximately two months. 'Every night she could hear screams and cries of other women.' She reported that, while raping her, the men were shouting: 'You will have a Serb child.' She also reported being told that, if she were pregnant, she would be 'forced to stay there until six months of pregnancy.'"⁹⁴ Alexandra Stiglmayer collected testimony from three women held in a women only camp in Dobojo, in northern Bosnia. The camp was the gymnasium at the local high school. The women claim that as many as two thousand women were held there.

We couldn't move without stepping on somebody. There might even have been 2,500 women. . . . They really should've turned the lights on in the gym, but we were in the dark. There wasn't any light, it was dark. We hardly knew when it was daytime or nighttime. And then they'd come and pick out women, take them away to classrooms so they could rape them. They looked for the women with little lights, flashlights. . . . They went according to a list. . . . God, what horrible things they did. They just came in and humiliated us, raped us, and later they told you, "Come on now, if you could have Ustasha babies, then you can have a Chetnik baby too."⁹⁵

Evidence for the intent to impregnate goes far beyond the use of this type of verbal intimidation.

Gynecologists were brought to examine women in such camps, and pregnant women were given

⁹⁴Bassiouni and committee.

⁹⁵Kadira, quoted in Stiglmayer, p. 116-119.

special treatment.

Women who got pregnant, they had to stay there for seven or eight months so they could give birth to a Serbian kid. They had their gynecologists there to examine the women. The pregnant ones were separated off from us and had special privileges; they got meals, they were better off, they were protected. Only when a woman's in her seventh month, when she can't do anything about it anymore, then she's released. Then they usually take these women to Serbia.⁹⁶

At another camp,

⁹⁶Stiglmayer, p. 119.

The guard also brought a man who they said was a gynecologist to the school and submitted the younger women to gynecological exams. Recalls B.: "A gynecologist would come to the hall, to one of the classrooms. They told us that he was a doctor, but I'm not so sure. . . . Only the younger women would see the doctor. I think they were checking to see if we were pregnant because he would say, 'You're not pregnant.' the Serbs said to us, 'Why aren't you pregnant?' Once they brought girls not older than seventeen into the hall. They were clean and dressed nicely. They said, 'See how well we treat them. They are pregnant.' . . . I think they wanted to know who was pregnant in case anyone was hiding it. They wanted women to have children to stigmatize us forever. The child is a reminder of what happened.⁹⁷

Women were usually held in these camps until they could no longer receive a safe abortion.

Many women did become pregnant and were released before being held these several more months. The UN rapporteur in the former Yugoslavia reported that in 1992 he had received one hundred and nineteen counts of forced pregnancy and that, in general, pregnancy occurs once in one hundred rapes.

⁹⁷Human Rights Watch, p. 19.

Forced pregnancy is a separate crime from rape, although the two are intimately connected. "In our view, the forcible impregnation of women, or the intention to so impregnate them, constitutes an abuse separate from the rape itself and should be denounced and investigated as such."⁹⁸ Forced pregnancy is a form of violence that has extreme psychological consequences⁹⁹ and can be accompanied by suicidal tendencies or violent impulses towards the child. ". . . Many survivors attempt third-trimester abortions or to commit suicide. Barring that, many attempt to kill their babies at birth. . ." ¹⁰⁰ Forced pregnancy is about the control of a woman for the rest of her life, and the control of her body in an extreme form.

There is speculation among writers around the nature of this crime. Forced impregnation is a crime that can be committed only against women who are able to have children and not using birth control. Rape has sex-specific characteristics that generally apply to the crime but are not absolute. Rape is overwhelmingly committed by men against women. It is an easy but erroneous assumption that rape is naturally a crime that must be committed by men against women. The only person who can become the victim of forced pregnancy is a woman capable of bearing a child. Forced pregnancy is has sex, age, and other requirements in the victim that rape does not. This has led to the conclusion that forced impregnation necessarily suppresses in the mind of the perpetrator the identity of the woman other than as a sexual vessel. Again, identity is split to reveal that because the potential victim was so necessarily specific for this crime, it must mean that the targets were also narrowly specific. Because the victims were told that they

⁹⁸Helsinki Watch, p. 21-22.

⁹⁹Folnegovic-Smalc, p. 177.

¹⁰⁰Allen, p. 98-99.

would give birth to Serbian babies, it is assumed that this was the important feature of the crime for the rapist and that the rapist believed that the babies would belong to his ethnic group.

Any child produced by such forced impregnation, unless that child is raised by its Serb father in a Serb community, will be assimilated to the cultural, ethnic, religious, national identity of the mother. To call such children 'Chetniks' or little Serb soldiers' is clearly a blatant, though highly motivated, stupidity. Serb 'ethnic cleansing' by means of rape, enforced pregnancy, and childbirth is based on the uninformed, hallucinatory fantasy of ultranationalists whose most salient characteristic, after their violence, is their ignorance.

Finally, in terms of sex, and this is perhaps its greatest significance, the Serb policy equation whereby impregnation by rape equals genocide depends entirely on the rapists' capacity to deny any identity of their victims other than that as a sexual container. Here is genocidal rape's most bizarre paradox: if the Serbs want their formula to work, it must be implemented with persons whose ethnic, religious, or national identities have been erased. It must be performed on women who have, for purposes of the Serb father equals Serb baby equation, no identity beyond sex - on women, that is, who in theory *no longer bear the marks of ethnicity, religion, or nationality that the Serb military and the Bosnian Serbs used to justify their aggression in the first place.*¹⁰¹

This type of analysis is tempting. Allen here has associated rape with the purpose of childbearing, and then gone on to say that the logic from the perpetrator's point of view is impossible. That is correct because the salient points about forced pregnancy are the same as those referring to rape. By saying that women become sexual vessels stripped of other identity Allen is trying to explain why the rapist thought that the children would be Serbian. This is not the point. The point of forced pregnancy is about violence and torture. It is about physical control: I control you to this extreme extent. The babies that resulted didn't matter, and the use of this type of language during rape was for the psychology of the rapist and the victim, not a reflection of reality. The more a victim accepted that she could be alienated from her child in this way, then the greater the violence done to her when she did become pregnant. The woman

¹⁰¹ Allen, p. 96-97.

was not erased of identity in the mind of the rapist; if that were possible, there would be no need for further violence. The point of gender-based crime is to break down a sense of personal integrity and a sense of community. The violence to the community depends on the woman's symbolic importance there as a mother and continuer of the community in that capacity. There is a Bosnian Muslim proverb that says, "As our women are, so also is our community."¹⁰² The message of forced pregnancy is that we can control you physically, and we can control the destiny of your community. Whether or not this is true depends on the extent to which the victims of the act are convinced of it, not whether the perpetrators believe it to be true.

¹⁰²Zalihic-Kaurin, Azra. "The Muslim Woman." in Alexandra Stiglmeier ed. Mass Rape: The War Against Women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press, 1994 pp. 170-173, p. 171.

Just as soldiers were convinced of the boundaries between the ethnicities, so were the victims. Rape drove people away from their homes and made them feel unsafe ever returning. Jadranka Cigeli and Nusreta Sivac, now living in Zagreb, claim that they could no longer feel safe living in Prijedor: that they would never go back.¹⁰³ Part of the reason why return would be impossible is because in many areas, the Serbs who took control of the area are now in legitimized political control of the area. Also, victims, like the Bosnian Serbs, have been taught to hate. "I don't really trust anybody anymore; I've gone through too much. I'm really doing fine now compared with the way I was before. I don't know. . . . Of course there were a few decent people who helped us or at least tried to help us, but there were so many of the other kind."¹⁰⁴ Or, more virulently stated, "'They're all the same for me. For me, the word 'Serbs' means 'all of them.' They're all of them ready to do the most horrible things.'"¹⁰⁵ The rapes were successful tools for physically displacing people as well as establishing psychological boundaries to reinforce the displacement. Whether the rapes were directly related to the material means of ethnic cleansing or not, they were a strategic tool of the wars.

Justice

I FORGIVE
I IMAGINE
And I attack

¹⁰³*Calling the Ghosts.*

¹⁰⁴Fatima, quoted in Stiglmeier, p. 111.

¹⁰⁵Sadeta, quoted in Stiglmeier, p. 96.

And I withdraw
I am silent
I shout
I tell
I pray
I swear
I FORGIVE¹⁰⁶

¹⁰⁶Sena, quoted in Peavey, p. 29.

The crimes of rape and other forms of sexual violence are effective tools for ethnic cleansing because they purposefully break the boundaries of what is acceptable violence, and purposefully attack civilian communities in order to shock, to create hatred, to control physically and mentally, to torture. These crimes are effective in ethnic cleansing because they are such gross breaches of the spirit of the Geneva Convention. If war crime laws have been established to set boundaries to legitimate contexts of violence, then the style of warfare practiced in the former Yugoslavian wars makes use of those mental boundaries by breaking them. While this type of crime created turmoil within Croatia and Bosnia-Herzegovina, it left the international community unsure of how to address the breaches. The international community chose several routes in dealing with this conflict. The first was to impose the embargo. The second, much later response was to use limited military force in order to give leverage to negotiators for a ceasefire. The third was developed throughout the wars and is the response of international law. The United Nations established the International Criminal Tribunal for the Former Yugoslavia in May 1993, and the judges met for the first time at The Hague in November. The Tribunal covers four areas of war crimes that occurred any time after the fighting broke out in the spring of 1991. These are Grave Breaches of the Geneva Conventions of 12 August, 1949; Violations of the Laws or Customs of War; Genocide; and Crimes against Humanity.¹⁰⁷ Rape is listed once in these categories as a crime against humanity. The process of international law undertaken by the United Nations and now the Tribunal at The

¹⁰⁷The difference in this configuration between the breaches of the Geneva Convention and crimes against humanity are that the Geneva Convention section covers more treatments of prisoners and land, and crimes against humanity refer to the treatment of civilian populations. An area of controversy is the fact that a grave breach is nonderogable, and some feel that rape should be included as a grave breach for that reason. See Philipose, 1996, p. 49-50.

Hague can be said to address justice in ways that the other international responses did not. Attempts at addressing the manner in which the war was conducted were minimal in peace negotiations¹⁰⁸ and the negative impact of the embargo on the fighting did not change the policy. The international community's response to the breaches of law (as opposed to their response to a declared state of war) was to reaffirm and strengthen the codes that were violated during the wars in the Tribunal.

For rape as an international war crime, the Tribunal is a breakthrough.¹⁰⁹ Furthermore, it is listed as a crime against humanity, defined in the Tribunal's statute as including "the following acts committed against any civilian population in times of international or internal armed conflict; murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution on political, racial and religious grounds, and other inhumane acts."¹¹⁰ While rape is not included in either the section of grave breaches or with genocide, it is included with acts of

¹⁰⁸A human rights section was included in the Dayton Accords, but has yet to be fully implemented. Due to the fact that international negotiators were forced to deal with the designers of ethnic cleansing, men who have for the most part been indicted by the Tribunal, insistence on human rights was seen as dangerous to peace talks. Occasionally, this was a concern brought up to criticize the establishment of the Tribunal. see Scharf, 1997, p. 44

¹⁰⁹Rape was not independently charged in the Tokyo Trials, although it was discussed in the judgment. Amnesty for rapes in Bangladesh was traded for independence.

¹¹⁰UNGASC, 1993, resolution 827, article 5

violence and discrimination that lead to a proper understanding of rape. The inclusion of rape has set a precedent that has allowed rape to be charged as a war crime in the trials coming out of Rwanda.

The Tribunal does establish the right to prosecute people for crimes which they were responsible for but did not necessarily commit personally. Article 7 of the statute of the Tribunal states: "A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 through 5 of the present Statute, shall be individually responsible for the crime." This article allows for the punishment of those who planned, conducted, ordered, or failed to punish and thereby allowed the activity of ethnic cleansing. It is not realistic to hope that every rapist in the wars can be caught and punished. However, this article may allow some of those responsible to take greater responsibility for those crimes.

Unfortunately, this has yet to be meaningfully enforced. On March 9, 1998, Dragoljub Kunarac, a former Bosnian Serb irregular commander, pled guilty to rape at The Hague. He is the fourth man to be charged at the Tribunal, and the first man ever to plead guilty to a rape charge in an international court. He pled guilty to personally raping, but pled not guilty to charges that would hold him responsible for rapes under his command. The court may drop the other charges in order to sentence him for the rape. In one sense this would be a victory, however, dropping the charges of greater responsibility could set a dangerous precedent for later charges.

The personal responsibility of individuals is very important for a sense of justice coming out of these wars. Ethnic groups as a whole were vilified and persecuted in these wars, and a

process of acknowledging personal responsibility would establish the international attitude that not all Serbs or Croats or Muslims can be held responsible for the war crimes. This is an important attitude to establish in the region, where the peace is fragile and the politics remain organized around nationalism.

The question remains how to guarantee justice to people victimized by sexual violence. The potential for complete justice at the Tribunal may be limited. The question of justice for individual victims is inevitably tied up with the emotional processes of dealing with the rapes. Many women felt the need for revenge. Revenge comes in many forms, but several rape victims interviewed by Alexandra Stiglmayer spoke of wanting to join the army. "I think the main reason I put on a uniform is to get revenge. When I was still there I just wanted to get away, at any price. But now . . . we have to get even somehow, not in the same way, no, 'cause then we'd be no better than they are, but somehow."¹¹¹

I know I can't join the army. I was thinking about it, but I'm the only one who can help my mother and look out for her later on. 'Cause I don't know where my father is or if he'll ever return. If it weren't for her I wouldn't have to think very long about taking up a gun. I'm not a brave girl really, but in this case I would be. Maybe I'd be brave because revenge is spurring me on. . . . But since I know I can't take up a gun, I'll at least tell about what they did. These things are really happening.¹¹²

This is another important reason to share testimony and use stories. It is part of a process of dealing with the rapes to share the stories, and it is one of the only avenues of action for displaced women.

In the beginning I was in a state of shock. I felt the need for revenge, and the only way to get

¹¹¹Razija, quoted in Stiglmayer, p. 99.

¹¹²Sadeta, quoted in Stiglmayer, p. 96-97.

revenge was by collecting testimonies. I thought that by making them public, I would be able to get revenge. I began to work as a fieldworker, a data collector in the Croatian Information Center. We work with other governmental and non-governmental organizations dealing with war related issues particularly with victims of war in this area. Recognition of our work will come when its goal is achieved: when those who are responsible for this war are brought before a court. There is a possibility that the International War Crimes Tribunal will start functioning. In that case, the effects of this work will be seen much sooner. Our work must be a warning for the future, and then slowly, the hatred I felt at the beginning began to subside and I started to listen to the testimonies in a new way. Now I am in the role of the confessor.¹¹³

The question that remains is whether or not justice can be achieved through either retribution or truth-telling and the international Tribunal. The extremity of the violations may be beyond any justice. Can there be any justice once things such as these are done? It may be possible that the official system of justice can put more useful energy into applying its work to prevention, into building a system of international law strong enough to play a role in prevention and in peacemaking.

Conclusion

The wars in the former Yugoslavia break down all of the codes of war and human rights that were built up by the international community after the last appearance of genocide in Europe during World War II. It is tempting to think of these wars as being a throw-back to a style of war conducted without the aid of technology and the limits of international law. The opposite is true; those codes, and others that created a social order within the communities of Bosnia-

¹¹³Jadranka Cigeli, quoted in *Calling the Ghosts*.

Herzegovina and Croatia, were tools of the war. The conceptions of decency and basic rules for the treatment of humans were used as weapons. The understanding of a limit makes the breaking of that limit more powerful. On a community level, the limits broken were the limits patriarchy places on the sexual conduct of the people. Rape and other forms of sexual violence demonstrated a will to use these social norms for violent ends and knowledge of those norms that only neighbors could provide. On a national level, the norms violated were those of the broader Yugoslav identity established in Tito's Yugoslavia and based in part on ethnic tolerance. On an international level, those norms were of the uses put to violence and modern weaponry and the treatment of an unarmed civilian population. All of these norms were breached with each act of ethnic cleansing.

The rapes that took place in these wars brought rape in war to international attention, and brought about its explicit redefinition within the laws of war. Definitions of rape, how to address it and ultimately how to think of it, have been the subject of public debate. Although much of this debate, especially in the United States, has been framed by feminists, the definitions of rape still need to expand in order to encompass all aspects of the rapes of the former Yugoslavia. Every person trying to come to terms with rape must allow the facts of that case to speak for themselves, and to allow the history of rape to inform the context of the crime. Neither definition of rape as sexual crime or rape as a tool of patriarchy fits here. Gender and patriarchy were used to further goals of ethnic purity. Rape and other forms of sexual violence demonstrated control: control over a social context and ability to humiliate; control over physical integrity and processes up to and including forcing a woman to carry a child; control over a community unable to physically protect itself or shield itself from an attack on its social

meanings; control over a person's mind and self-worth.

Understanding can contribute to justice or prevention or the process of dealing with the rapes, just as misunderstanding can contribute to furthering the violence. In dealing with the realities and trying to come to understanding, the overwhelming facts of the rapes can be put into a new context and it may be possible to see some forms of resolution emerge. "The former Yugoslavia is a great place to learn about hope. In the face of an absurd war, with barbarous acts of the worst kind, there are groups of courageous people, mostly women, working to heal physical and emotional wounds, to learn and teach practices of nonviolent conflict resolution, and to protest the war."¹¹⁴ The ability to try to understand and to learn in good faith on the part of the international community may help to rebuild some forms of social meaning that will also bring prevention and ultimately justice.

¹¹⁴Peavey, introduction.