

# The Paradox of Genocidal Rape Aimed at Enforced Pregnancy

*Claudia Card. The Southern Journal of Philosophy. Memphis: 2008. Vol. 46 pg. 176, 14 pgs*

## Abstract (Summary)

A more complex answer to the question of why the vulnerability of Muslim communities was identified in this way, which would be responsive to these issues, is that the relevant vulnerable spot was actually the religious and social concerns of Muslim men for the women and children of their families, especially adolescent women, who could be presumed to be virgins, not yet married, sexually innocent.

*Copyright Southern Journal of Philosophy 2008*

## 1. The Problem and Its Background

A little more than a decade ago, a powerful short book appeared with what was then the provocative title: *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia* (Alien 1996). It was written by Beverly Allen, director of the humanities PhD program at Syracuse University. In that book she introduced the term "genocidal rape" to describe rapes that were done as policy for the purpose of genocide by Serb military forces in Bosnia-Herzegovina and Croatia in the early 1990s. One policy, aimed at enforced pregnancy, poses a logical puzzle. "How," asks Alien, "can rape, forced pregnancy, and resultant childbirths, the production of new persons, be genocide, the annihilation of a people?" (Alien 1996, 92). To answer that question, she reconstructs how Serb rapists might have thought they were producing little Serbs. Yet, as reflection soon reveals, the belief that they were producing little Serbs does not make good sense. My project here re-examines the paradox that Alien articulated and places it in the context of the general question of how war rape can be genocidal, whether aimed at pregnancy or not. Drawing on Alien's amazing insight that sperm so used can and should be regarded as a weapon of biological warfare, I then propose a way to show how rape aimed at enforced pregnancy could indeed be genocidal. And I do so without relying on her conjecture that perpetrators may have thought they were producing little Serbs.

Clearly, there were Serb policies of systematic rape that had a military intent. Those policies were in violation of International Humanitarian Law. Alien quotes an Italian journalist Giuseppe Zaccaria, who summarized the minutes of a meeting of Serb army officers held in a Belgrade suburb in late 1991. He notes that the officers adopted an explicit policy to target women and children as the most vulnerable part of the Muslim religious and social structure. Journalist Zaccaria writes:

Our analysis of the behavior of the Muslim communities demonstrates that the morale, will, and bellicose nature of their groups can be undermined only if we aim our action at the point where the religious and social structure is most fragile. We refer to the women, especially adolescents, and to the children. Decisive intervention on these social figures would spread confusion among the communities, thus causing first of all fear and then panic, leading to a probable [Muslim] retreat from the territories involved in war activity. (Alien 1996, 57; emphasis and bracket are Alien's)

This plan was referred to by the officers at this meeting as the Brana plan. It went into effect immediately.

That this plan was endorsed by military officers is apparently key to distinguishing the Serbian rapemorally, politically, and militarily-from retaliatory rapes that were committed by Bosnians and others. Not all war rapes are committed with genocidal intent. Not all war rapes aim, as policy, to destroy the groups to which victims belong. Yet it may not be clear that the aim described at the meeting summarized by Zaccaria actually is destruction of the target groups.

What did the Serbian officers mean when they identified children and women, especially adolescents, as the most vulnerable spots in social and religious structures of Muslim communities? Two answers occur to me. The simplest and perhaps most obvious answer is that women and children are almost always unarmed, and they are probably not trained to fight. And so they are vulnerable in the sense

that they could not put up very much effective resistance. But, then, why would the officers say, "especially adolescents"? One might expect adolescents to be better able to put up resistance than younger children or older women. And why would the Serb officers locate this fragility of Muslim communities in its "religious and social structure"? A more complex answer to the question of why the vulnerability of Muslim communities was identified in this way, which would be responsive to these issues, is that the relevant vulnerable spot was actually the religious and social concerns of Muslim men for the women and children of their families, especially adolescent women, who could be presumed to be virgins, not yet married, sexually innocent. The whole community was then vulnerable to being manipulated through these concerns of its men. Adolescent women were an especially vulnerable part of the community with respect to their sexual innocence: they had something to lose that could be considered precious to the future of the community. They were no doubt vulnerable in the first sense as well (that is, they would most likely be unarmed and untrained in physical defense).

Allen identified three forms that the ensuing mass rapes took in three different kinds of localities. In the first instance, military forces "enter a village, take several women of varying ages from their homes, rape them in public view, and depart." Several days later, soldiers from the army "arrive and offer the now-terrified residents safe passage away from the village on the condition they never return" (Alien 1996, 62). In the second form of military rape, persons held in "concentration camps are chosen at random to be raped, often as part of torture preceding death" (63). These tortures and murders can, of course, also be used to terrorize. But they can serve other functions, as well, such as rewards for and bonding among rapist soldiers (Stigmayer 1993, 160-61). In the third form of military rape, women are imprisoned in rape/death camps and raped "systematically for extended periods of time" either as torture preceding death or as torture leading to forced pregnancy. Pregnant victims are then "raped consistently until such time as their pregnancies have progressed beyond the possibility of a safe abortion," at which time they are released (Alien 1996, 62). This last kind of case, in which the goal appears to be unabortable pregnancies that result from Serb rapes, is the kind of case that becomes Alien's focus. "Genocidal rape aimed at enforced pregnancy," she writes, "would seem to be a peculiarly Serb contribution to the history of atrocity" (92).

Perpetrators understood the Brana plan as ethnic cleansing. I have always found that use of the term "cleansing" to be grating. It seems a diabolical way to describe a very dirty project, a perfect example of Orwellian "doublethink" (Orwell 1949). But the term "ethnic cleansing" has entered reference works and so seems here to stay.

How is ethnic cleansing related to genocide? Ethnic cleansing, according to a 1993 report to the security Council by the United Nations Commission of Experts, is defined as "rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area" (Gutman and Rieff 1999, 136). Its characteristic method is terror created through "killing, destruction, threat, and humiliation" (ibid.). The idea that ethnic cleansing can be genocidal requires some argument and clarification. It is not just obvious that ethnic cleansing is a euphemism for genocide, given the possibility that those removed from a territory may survive the removal and become re-established elsewhere.

Historically, ethnic and religious groups have been eliminated from a territory by means of expulsion. Ordinarily, destroying a group goes beyond merely expelling it from a territory. The expulsions by Spain of the Jews in 1492 and later of the Moriscos, a Muslim group, in 1609 are not commonly cited by historians as genocides, although many Spanish Jews and many of the Moriscos were in fact killed during these purges, a great many entire communities were destroyed, and there is a case for regarding these purges as ethnically, not just religiously, motivated (Netanyahu 2001; Lea 1901/2006). The only difference between such expulsions and "ethnic cleansings" would appear to be that the territory remaining was not so much ethnically homogeneous as religiously homogeneous. (That would appear to make it "religious cleansing"-if anything, an even more grating concept.)

And so a further question arises regarding the characterization of any of the Serbian rape policies as genocidal: if the point of the policies was to intimidate the Muslim population into leaving, why should we regard those policies as any more genocidal than the expulsions of the Moriscos, or earlier, of the Jews, through edicts by Spain? Or should we actually regard all of these policies as genocidal? Allen

does not probe this kind of question. Her focus is on the enforced pregnancy policy. But a clear answer to the question of how a policy of war rape can be genocidal might help to answer the question of how rape aimed at enforced pregnancy can be.

## 2. What Is Genocide?

Allen characterizes as genocidal all three of the forms of military rape that she has described. Her claim is that they fit the definition of the 1948 international Genocide Convention. Yet it is not really so clear that they do fit under any of the acts enumerated in that convention's definition. The Genocide Convention defined genocide as follows: "any of the following acts committed with the intent to destroy, in whole, or in part, a nation, 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" (Robinson 1960).

As this definition is worded, the intent need not succeed. Yet clearly harm is done if any of the enumerated acts is committed. Any of those acts that are committed with the requisite intent is sufficient to ground a charge of genocide. The definition does not say explicitly that these are the only acts that might ground a charge of genocide. But neither does it provide a general way to identify other acts that might ground such a charge.

Allen invokes this definition of the UN Genocide Convention. She asserts that "All forms of genocidal rape constitute the crime of genocide as described in Article II of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide" (Allen 1996, 63). There surely were many killings of Muslims (clause "a"), and the rapes by Serbs of Muslim women and girls caused mental and bodily harm to those women and girls (clause "b"). Were those rapes done, however, with the intent to destroy, in whole or in part, the ethnic or religious group to which the rape victims belonged? The Brana plan may seem closest to clause "c," which is "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" because the Brana plan was to intentionally inflict conditions of life calculated to "spread confusion among the communities," to demoralize and destroy the will to fight. But was the intent of the Brana plan to destroy Bosnian Muslims as a group? Or was it, rather, the more limited project of disabling and expelling Bosnian Muslims? If the destruction of a group is a clearly foreseeable consequence of measures taken in order to disable and expel members of that group, then it will not quite do to say that destruction of the group was unintended even if destruction was not an ultimate aim. To use Kantian language, the foreseeable consequence of destruction of the group belongs in the material maxim of the rapists' actions in that it indicates in a morally relevant way what the perpetrators are willing to do.<sup>1</sup> The Genocide Convention's definition could, and I think should, be amended to accommodate that point. Instead of saying simply "with the intent to destroy, in whole, or in part," it could be amended to say "either with the intent to destroy, or with the reasonably foreseeable consequence of destroying, in whole, or in part, a nation, ethnical, racial or religious group."<sup>2</sup> Whether it should be so amended is currently one of the controversies surrounding the Genocide Convention's definition of genocide.

But is it reasonably foreseeable that dispersal, demoralization, and confusion will result in "physical destruction" of the group? "Physical destruction" sounds to many readers (for example, to genocide scholar and sociologist Helen Fein) like mass murder or massive interference with biological reproduction or maybe even with the links between reproduction and socialization (Fein 2002, 74-90). There were indeed mass murders. And socialization of the next generation of Bosnian Muslims was massively thrown into chaos. It is also true that there are other ways to physically destroy a community than to kill its members or to hinder their biological reproduction. When a group is expelled rapidly, significant property is inevitably left behind, and it is not clear that those forced to flee will ever be able to recreate the physical bases of their communities or to recreate the institutions definitive of their communal life that require a material basis. That, of course, is also the predicament of many expelled groups, such as the early seventeenth-century Moriscos and the late fifteenth-century Jews of Spain.

Helpful light is thrown on what sorts of conduct can reasonably be counted as genocidal by the work of Raphael Lemkin, who introduced and defined the term "genocide" in his 1944 book *Axis Rule in Occupied Europe*. He understands the term "genocide" "to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves" (Lemkin 1944, 79). Elsewhere, he understands potential targets of genocide to include racial or ethnic and religious groups as well. Lemkin's approach is not quite the same as that of the Genocide Convention. Unlike the convention, Lemkin does not understand genocide as consisting in any of a set of enumerable acts, each of which might have the intent to destroy a group. Rather, Lemkin understands genocide as an overarching plan, and it is to the plan, rather than to specific acts carrying it out, that the requisite intent attaches. Lemkin sees genocide as a process with stages that take place over an extended period of time and that utilize many techniques. Particular activities furthering such a plan take their genocidal character from that of the plan to which they contribute. Thus, military rape as a weapon can become genocidal when it contributes to a larger plan that has a genocidal aim. The question then becomes how it can make such a contribution.

Lemkin enumerates and discusses several techniques of genocide under the headings of the political, social, economic, biological, physical, religious, and moral. He illustrates each of these kinds of techniques with Hitler's actual policies in various countries of occupied Europe (Lemkin 1944, 79-90). A genocidal plan, as he understands it, might be put into effect more or less fully. Thus, Lemkin recognizes degrees of genocide.

But one may wonder whether Lemkin's approach is too loose. Is it in danger of counting too much as genocidal and thereby diluting the special moral seriousness of genocide? Fein worries about metaphorical uses of the term "genocide" and complains that the concept is in danger of becoming banalized by being applied to such things as race-mixing (Fein 2002, 74). She argues that we should distinguish genocide from nongenocidal assimilation even if that assimilation is imposed. She maintains, for example, that Hitler's plans for peoples who were genetically related to Germans (such as the Dutch, Luxemburgers, and Norwegians) differed from his plans for non-Germanic peoples (such as Poles and Jews) in that the plans for German-related peoples were not genocidal (Fein 2002, 76-77). Rather, they involved an assimilationist policy of "Germanizing" through the imposition of techniques that Lemkin calls political, social, and economic, and through such cultural measures as requiring the speaking of German and prohibiting other languages to be taught in the schools. In contrast, Hitler regarded Poles and Jews un-Germanizable. Only their soil, he said, could be Germanized, not the people.

I find, however, that Lemkin's text does not clearly distinguish Germanizing from genocide, as Fein wishes to do. Lemkin's text can be read as suggesting that the Dutch, for example, were simply targeted for a lesser degree of genocide. And so the question naturally arises: what is at stake in the wish to distinguish forced cultural assimilation from genocide? Is it really only the extent of the harm that is done by the policy in question? Or is there something about the nature of the harm that is at stake here? I return to these questions below.

The issue of overinclusiveness arises also for the Genocide Convention's definition in regard to the words "in whole, or in part." Since members can be understood as parts of the groups of which they are members, any intentional killing destroys part of all the groups to which the victim belonged. Of course, not all intentional killing is motivated by hostility based on the victim's group identity (or identities). One might argue that killings that are not so grounded should not be interpreted as intended to destroy a group, even in part. But if all killings motivated by hostility based on the victim's group identity are admitted to be instances of destruction of a group in part, then, it appears that, according to the Genocide Convention's definition, all hate crime murders are genocides. But that result surely is overinclusive.

To respond to these concerns regarding the scope of genocide, I want to invoke the thesis of my earlier paper "Genocide and Social Death" that central to the concept of genocide is destruction of social vitality (Card 2003). I borrow the concept of social death from Orlando Patterson (Patterson 1982). Patterson used the term "social death" to describe the condition of slaves, who lacked social standing and were cut off from their cultures of origin (or those of their forebears). Slaves who were not

only socially dead but-as he put it-natally alienated were actually born socially dead-cut off from kinship ties in both directions, to forebears and to progeny.<sup>3</sup> The argument of my 2003 paper was that central to genocide, whether homicidal or not, is the social death of its victims. What I meant was that victims are stripped as members of the target group of the social identities that gave meaning to their lives and that would ordinarily also have given meaning to their deaths. Not all mass murders do this. Nor do all group expulsions have so severe a consequence. The bombings of September 11, 2001, for example, did not. Those who would maintain that the Spanish expulsions of the Moriscos and earlier the Jews were not genocidal would have to hold, on this view of genocide, that these expulsions did not strip those who were expelled of their social identities, that it did not rob their lives of meaning.<sup>4</sup> Conversely, those who might want to argue that these expulsions were genocidal could be expected to argue that indeed they did.

A continuing philosophical problem for definitions of genocide that do not make homicide essential to that concept is how to clarify the differences between genocide and cultural assimilation, especially forced assimilation. The assimilation of one group into another may result in the destruction of both groups as they were originally. Does that mean they are destroyed "as such"? Even if assimilation is forced by one group on another, if assimilation is successful, members of neither group become socially dead. That may be reason enough to want to distinguish forced assimilation from genocide. The social identities of those who are forced to assimilate are forcibly changed, at least as those identities are perceived by others. If the assimilation is successful, those who are assimilated are not left with socially meaningless lives. And yet, forced assimilation is not always successful. The self-perceptions of many do not track the change in their socially perceived identities. Perhaps in such cases, there is an argument for regarding forced assimilation as genocidal, for those who are not successfully assimilated really do suffer a loss of meaning to their lives that they may be unable to replace with a new kind of meaning that would give to their lives some genuine social vitality.

To address Alien's problem of the paradox of genocidal rape aimed at enforced pregnancy, we may not need to answer such questions further than to note that Lemkin's looser approach to the concept of genocide need not be interpreted as so loose that it banalizes the concept. It can be supplemented by making explicit the idea of social death as either a primary goal or a clearly foreseeable result of genocidal processes. As social death, unlike physical death, can have degrees, so genocide, unlike homicide, can have degrees. In any case, as Alien notes, the forced pregnancies in Bosnia-Herzegovina, unlike those inflicted on the ancient Sabine women, were certainly not aiming at assimilation (Alien 1996, 91).

Lemkin's idea of genocide as an overall plan that tends to be carried out in stages and with a variety of techniques remains a useful idea for explaining how military rape can be genocidal. The escalating forms of terrorism-from the humiliation of public rape to torture preceding murder to exerting control over the future of communities by tampering with the production of the next generation-can all be techniques employed in a plan that has the clearly foreseeable consequence, if not the explicit aim, of destroying a people, not by assimilating those who were members of that people and substituting a new coherent social identity for the old one, but by throwing into chaos the social identities of members of the group.

### 3. The "Logical Glitch"

Beverly Allen finds that genocide by impregnation has, as she puts it, a "logical glitch." To return to our opening question, "how," she asks, "can rape, forced pregnancy, and resultant childbirths, the production of new persons, be genocide, the annihilation of a people?" (Alien 1996, 92). It would appear, on the face of it, to be just the opposite. To explain, she reasons as follows. The intent of the Serbian rapists appears to have been to produce Serb children. Serb perpetrators, she reasons, may have thought that the presence of these children would change the identity of the next generation and that it would thereby alter the identity of the community to something more Serbian and possibly even swell its numbers. Some rapists are alleged to have gloated over the fact that they were forcing Muslim women to bear "little Chetniks" or Serb children.

Yet, as Allen points out, the child born of military rape contains genes of both biological parents, and if raised, that child will most likely be raised by its mother, if she survives, and will consequently take on whatever culture is then hers. In terms of biological parentage, the child will be as much non-Serb as Serb, and the child's culture will almost certainly not be Serbian. The upshot is that this reconstructed rationale for the rapes does not, of course, make good logical sense. Yet she suggests that this line of thought may nevertheless have been the rationale.

What Allen finds paradoxical is that military rape aimed at enforced pregnancy in the rape/death camps was apparently committed with genocidal intent. The 1948 Genocide Convention did not anticipate that acts of rape might be committed with intent to destroy a group. Although the definition explicitly mentions measures intended to prevent births within the group, it does not mention measures intended to produce births by members of the group. Even if we follow Lemkin in holding that it is the overall plan to which particular techniques contribute that has the genocidal intent, not necessarily each technique itself, the question remains how this particular technique can contribute to the overall plan rather than undermine it. Taken at face value, a plan to produce births seems contrary to genocide, as it appears to increase rather than decrease the target population. What, other than the logically faulty reasoning of producing little Serbs, could make such a policy appear genocidal to its perpetrators?

One answer, which Allen seems to find offensive, is that forcibly impregnated Muslim women would be rejected by their families and communities as ruined. With so many women ruined, communities would collapse. Susan Brownmiller, in her famous chapter on war rape in *Against Our Will*, cites reports that in 1971 "more than 200,000 Bengali women had been raped by Pakistani soldiers" and that "by tradition, no Moslem husband would take back a wife who had been touched by another man, even if she had been subdued by force" (Brownmiller 1975, 7879). Thus it appears that forced pregnancies could become genocidal because of misogynous cruelties of the culture to which the women belong. I do not know whether Brownmiller was right about Bangladesh in the 1970s. But Allen finds that kind of rationale insensitive to the Muslim cultures that were targeted in Bosnia-Herzegovina in the 1990s. Nor is it clear that such misogynous practices would explain the significance of the enforced pregnancy policy, as opposed simply to policies of rape. Yet, however offensive to contemporary Muslim cultures, Serb rapists may in fact have believed that Muslim culture was just that misogynous, or they may have projected misogyny from their own culture onto Muslim culture.

Allen's own solution to the logical glitch is to reconstruct how the rape-pregnancy policy could appear to its designers and executors to produce little Serbs. The 1948 Convention requires only that the enumerated acts be committed with a certain intent. It does not require that the intent succeed. Allen makes sense of the intent by supposing that in the perpetrators' eyes, victims were stripped of all social and cultural identity and perceived by their assailants only as sexual receptacles for the sperm of Serb rapists. Only Serb identity, if any, could then be transmitted to progeny.

Yet, if it is a problem to rely on perpetrators' false beliefs regarding sexist cruelty in Muslim culture, it should be equally a problem (although a different kind of problem) to rely on their false beliefs regarding biological reproduction. A better explanation of the genocidal nature of these policies would not rely on the ignorance or stupidity of their perpetrators. And a better explanation is available if the prolonged torture of repeated rape during the enforcement of pregnancy really did dehumanize its victims, turning survivors' lives into something less than human—in other words, if such torture imposed a social death on its victims, if, to borrow and expand Hannah Arendt's imagery from her account of "total domination," it turned them into living (and gestating) corpses (Arendt 2000, 119-45).<sup>5</sup> Repeatedly raping Muslim women and forcing them to bear unwanted children is a form of torture that might well be expected to dehumanize the women who endured it.

If such abuse foreseeably produces or contributes to social death, we need not rely on faulty logic in authors and executors of the Brana plan to explain its genocidal intent. Whether the perpetrators thought they were producing little Serbs is irrelevant. What counts is the attack on the social meanings of the lives of the women they tortured.

Repeated and brutal rapes can be sufficiently traumatizing that survivors may not welcome future sexual relationships. In that way, even the enforced pregnancy policy could have a longrange consequence of decreasing, rather than increasing, a target population. Allen does not explicitly use that argument. But it is one of the ideas that is suggested to me by her radical and ingenious claim that when military rape is used to produce and enforce pregnancy, sperm actually becomes a weapon of biological warfare. There need be no logical glitches in this concept.

#### 4. Sperm as a Biological Weapon

That enforced pregnancy uses sperm as a biological weapon is the most interesting and insightful idea I have encountered regarding genocidal rape. Surprisingly, Allen presents this idea in her chapter on remedies, not in her chapter called "Analysis" (Allen 1996, "Remedies," 103-32; "Analysis," 87-101). Her reason to present it in the chapter on remedies appears to be that there exist international conventions against biological weapons that might be invoked in response to genocidal rape. But Alien seems actually to be ambivalent between two views. One is that "the faulty logic of Serb policy views sperm in genocidal rape precisely as an agent of biological warfare" (Alien 1996, 129; my emphasis). The other is that, Serb logic aside, she can "begin to show how serious genocidal rape is, and how universal a menace it might be, by determining, as [she encourages] the judges of the United Nations International Criminal Tribunal to do, that it is a crime of biological warfare" (123). Let's go with the second view, namely, that genocidal rape can be viewed, and should be viewed, as a crime of biological warfare. If we factor the idea that genocidal rape really is biological warfare into the analysis of the crime, that analysis can be used without relying on faulty logic in the authors and executors of the enforced pregnancy policy to support the charge that the policy is genocidal.

The idea of sperm as a biological weapon presents its own puzzles, however. Biological warfare is usually understood as military use of bacteriological or viral organisms that make people sick fairly quickly with diseases that are so contagious that they spread rapidly through a population. The diseases tend to produce death, permanent disability, or disfigurement, making it impossible for the target people to defend itself. As Alien notes, the military appeal of biological weapons is that they can destroy a people, or a people's will to fight, without destroying the inhabited territory. She also notes some of the classic dangers of such weapons, which explain why these weapons are not used oftener. Even if they do not destroy the territory, the irreversible dispersal of organisms of biological warfare may make that territory uninhabitable for a long time, depending on how long it takes the bacteria or viruses to run their course and die out. Further, disease-causing biological organisms are not fine-tunable weapons that can be made to target specific individuals. And they are not easily controlled once they have been unleashed in a population. Finally, there is the danger of blow-back: the wind can literally blow the organisms back into the faces of those who would use them.

Sperm need not literally make rape victims sick and die. It is not contagious. It need not produce death, disability, or disfigurement, although it can (especially in an era of HIV). Still, like disease, death, and disablement, rape and enforced pregnancy can destroy the morale of a people, especially if inflicted on its youth who represent its hopes for the future. If the objective is to undermine the will to fight, mass rape and enforced pregnancy might contribute to that end as effectively as infectious disease. Classically, soldiers are motivated to fight to protect their homes, families, and the futures of their communities. If families become direct targets, what then is left to protect? What can sustain the will to fight? Direct attack on civilian women and children seems designed to motivate the men to cease fighting as the only way to protect what, if anything, would remain of their families and their ability to shape their futures. But the cost of achieving that end was genocide, the destruction of a people, at least in part, in very substantial part. In Hitler's Final Solution, genocide was an end in itself. In Bosnia-Herzegovina, genocide became the price the Serb military was willing to pay for ethnic cleansing.

Allen argues, interestingly, that the use of sperm as a weapon fits the conception of biological warfare that is found in international documents in that a product of a living organism (the rapist) is used to attack a biological system (the reproductive system) in members of the enemy population. Although this attack need not produce illness, it is designed to produce social chaos. It surely succeeded in Bosnia-Herzegovina. Sperm need not carry the HIV virus or other STDs in order to be toxic. It need not

harm the reproductive system, considered from a physiological point of view. But it surely does use the reproductive system against the people. Sperm so used becomes a social and psychological toxin, poisoning the futures of victims and their communities by producing children who, if they survive, will remind whoever raises them of their traumatic origins in torture. Mass rape aiming at enforced pregnancy is intended to create an unwelcome new generation that will be the responsibility of rape victims and any future community to which they may belong.

In fact, Allen notes, many of the impregnated women attempted third trimester abortions, suicide, or infanticide, and others simply walked out of the hospital room leaving the newborn behind, or they tried to find someone less traumatized to raise it (Alien 1996, 99). In such ways, they thwarted some of the intent of the enforced pregnancy policy. But the intent nevertheless makes sense. And, in accord with Lemkin's idea that genocide is an overall plan involving many strategies, the Brana plan was not the only strategy implemented by the Serbs in its project of "ethnic cleansing."

Allen notes that sperm is free of the classic disadvantages of bacterial and viral biological weapons. Unlike bacteria and viruses, sperm is easily containable, storable, preservable, and deliverable by means of men's bodies. It needs no (other) special equipment. If rape and enforced pregnancy are effective in terrorizing a people into evacuating a territory, sperm as a weapon does not risk making the territory uninhabitable. It can be delivered with accuracy to a specific target. Finally, there is no danger of "blow-back," or so it might seem. A Croatian woman noted, however, that even though the rapists cannot be impregnated, the next generation might grow up to seek revenge. Alien adds: on whom they would be motivated to seek revenge will depend on how they are raised (Alien 1996, 132). There may be "blowback," after all.

Combining Lemkin's idea that genocide is a complex plan that utilizes several techniques with Alien's idea that rape aimed at producing enforced pregnancy is a kind of biological warfare, the Brana plan can be seen to be genocidal without relying on the idea of producing little Serbs (even if some rapists did think they were doing that, or joked about the idea). On the contrary, thinking of the next generation as Serbian would bring the policy closer to assimilation than to genocide, which was clearly contrary to the Serbian intent. It is enough that the moving cause and half the material cause of the existence of that generation was a mortal enemy. It is enough that those progeny are therefore largely unwanted and yet the responsibility of those who do not want them, that they are a permanent reminder of their origins in torture, that their identity is problematic, and that women who gave birth to them are so traumatized that they may never regain the desire to engage in sexual relationships or to procreate further. All that is enough to sustain the claim that military rape aimed at enforced pregnancy contributed to an overall plan of ethnic cleansing that was also genocidal in its intent, not merely a policy of expulsion.

#### **[Footnote]**

##### Notes

Thanks to Steven Nadler, John Niles, Robin Schott, Lissa Skitolsky, David Sorkin, and Thomas Safley for helpful comments on earlier drafts; to the Society for the Philosophical Study of Genocide and the Holocaust for the invitation to try out these ideas at the 2006 meeting of the Society for Phenomenological and Existential Philosophy; and to the Institute for Research in the Humanities for helpful discussion at a lunchtime seminar. This version has not been substantially modified since I received Ann Cudd's thought-provoking comments, presented with this paper at the Spindel Conference, October 18-20, 2007, in Memphis. But endnotes 1, 2, and 4 have been added for clarification, and my future work on this topic will benefit greatly from the Spindel Conference discussion and Ann Cudd's comments.

1 For Immanuel Kant, the material maxim of an action is a general statement of its intent, what one is willing to do (Kant 1996, 56, 73). My claim here is that one's intent should not be confined to the action and its purpose or aim but should also include reasonably foreseeable consequences, as they indicate in a morally relevant way what one is willing to do.

2 Such an amendment would be the simplest way to indicate, without getting into controversies regarding what to include in the concept of "intent," that reasonably foreseeable consequences that one is willing to bring about might be genocidal.

3 I here set aside the controversies over whether Patterson exaggerated the extent of social death under American slavery, whether there were significant slave cultures, and the extent to which social death may be reversible.

4 A life can be robbed of the meaning that social identities contributed to it without being left entirely

meaningless, if not all the meanings a life can have are dependent on the maintenance of social vitality. Nevertheless, the loss is profound. Thanks to comments from Eva Kittay in the discussion of this paper at the Spindel Conference for stimulating further thought on this issue.  
5 Arendt uses the expression "living corpses" (Arendt 2000, 32).

#### [Reference]

##### References

- Allen, Beverly. 1996. Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia. Minneapolis: University of Minnesota Press.
- Arendt, Hannah. 2000. The portable Hannah Arendt. Ed. Peter Baehr. New York: Penguin.
- Brownmiller, Susan. 1975. Against our will: Men, women, and rape. New York: Simon and Schuster.
- Card, Claudia. 2003. Genocide and social death. *Hypatia* 18, no. 1: 63-79.
- Fein, Helen. 2002. Genocide: A sociological perspective. In *Genocide: An anthropological reader*, ed. Alexander Laban Hinton. Maiden, MA: Blackwell.
- Gutman, Roy, and David Rieff, eds. 1999. Crimes of war: What the public should know. New York: Norton.
- Kant, Immanuel. 1996. Practical philosophy. Trans, and ed. Mary J. Gregor. Cambridge, UK: Cambridge University Press.
- Lea, Henry Charles. 1901/2006. The Moriscos of Spain: Their conversion and expulsion. Philadelphia: Lea Brothers and Co.; unabridged facsimile edition Elibron Classics, 2006.
- Lemkin, Raphael. 1944. Axis rule in occupied Europe: Laws of occupation, analysis of government, proposals for redress. Washington: Carnegie Endowment for International Peace.
- Netanyahu, Benzion. 2001. Origins of the inquisition in fifteenth century Spain. 2nd ed. New York: New York Review Books.
- Orwell, George. 1949. Nineteen eighty-four. New York: Harcourt, Brace.
- Patterson, Orlando. 1982. Slavery and Social Death: A Comparative Study. Cambridge, MA: Harvard University Press.
- Robinson, Nehemiah. 1960. The Genocide Convention: A commentary. New York: Institute of Jewish Affairs, World Jewish Congress.
- Stiglmayer, Alexandra, ed. 1993. Mass rape: The war against women in Bosnia-Herzegovina. Lincoln: University of Nebraska Press.