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## “He Would Kill Me With His Penis”: Genocidal Rape in Rwanda as a State Crime

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Genocidal Rape in Rwanda as a State Crime

Abstract

Only recently have critical criminologists begun a systematic exploration of genocide, war crimes and crimes against humanity as state crimes (Kramer and Michalowski 2005, Mullins and Rothe 2008, Haveman and Smeulers 2008). This paper contributes to that growing literature through examining the nature and dynamics of sexual violence as it occurred during the 1994 Rwandan genocide. It draws upon empirical examination of events depicted in transcripts of trials held before the International Criminal Tribunal for Rwanda. It qualitatively examines the role of leaders in producing mass sexual assaults. It explores how sexual mutilations were more intense expressions of what the genocide’s local leaders hoped to accomplish through the use of rape in the event. It also explores long-term results of victimization for survivors. Finally, this paper then uses an integrated theory of state crime (see Mullins and Rothe 2008, Rothe and Mullins 2006, 2008a) to illuminate the causal forces at play on multiple levels of analysis in producing the sexual violence specifically within the broader genocide.

Despite its ubiquity, sexual assaults which occur during military conflicts have received little systematic criminological attention. The use of sexual assault as a weapon in a genocidal event has been examined even less frequently. Recent genocides have displayed a marked use of wide-scale sexual violence as a central technique in the broader attempt to eliminate a category of people. In the late 20<sup>th</sup> and early 21<sup>st</sup> centuries, this practice is seemingly omnipresent. Both genocidal events in the former Yugoslavia exhibited systematically structured and coordinated sexual assaults (Card 1996, Salzman 1998). In the Darfur region of Sudan, numerous media and human rights organizations have presented calls for action to stop wide spread rapes throughout the region, especially those being committed by the Janjaweed militias (Amnesty International 2004; Medecins Sans Frontieres 2005, Human Rights Watch 2008).

There is a body of international *legal* scholarship which examines the ways in which international courts, especially the International Criminal Tribunal for the former Yugoslavia (ITCY) and International Criminal Tribunal for Rwanda (ICTR), have come to frame rape as a tool of genocide (see Eboe-Osuji 2007)<sup>1</sup>. However, this work's intent is the exploration of a legal concept and how individuals are held legally culpable for their actions, not to understand rape during wars or genocides specifically in the criminological sense. Some political scientists have broached to topic (Butler et al. 2007, Sharlach 1999, 2000, Wood 2006). With the exception of Wood's piece, these works have either focused too much on individual motivations (Butler et al 2007) or feminist theories (Sharlack 1999, 2000). Within criminology, little has been written on this topic (for an exception see Mullins and Rothe 2008). This absence is problematic due to the high levels of physical, psychological and social harm that wide spread sexual assault causes.

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<sup>1</sup> This movement was not driven by purely legal concerns. These changes in international law were driven by global women's NGOs putting pressure on these legal organs. See Wonders and Danner (2006) for a discussion of the role in feminist NGOs in framing contemporary international law.

For example, during the Rwandan genocide of 1994 between 250,000 and 500,000 women were raped; between 10,000 and 60,000 Muslim and Croatian women were raped in the first Yugoslavian genocide of the early 1990s; 200,000-400,000 Bangladeshi women were raped by Pakistani soldiers during the 1974 civil war (Sharlach 2000). Those are only three conflicts of the later 20<sup>th</sup> century. Such wide-spread criminal violence calls out for criminological attention.

This paper explicitly frames genocidal rape during the 1994 Rwandan genocide as a state crime, drawing upon an integrated theory of state criminality to illuminate etiological elements. Building upon prior work both in state crime studies and the burgeoning criminology of violations of international criminal law (see Mullins and Rothe 2008, Rothe and Mullins 2008a), it explores state culpability for the use of mass rape as one tool of the Hutu elite's attempt to eliminate the Tutsi population. It also examines two subcategories of sexual violence and how they played into general goals within the genocide. It not only extends the literature on state crime by adding to existing work on genocides, it is one of the few attempts that examines women's victimizations and issues. While there are a few exceptions (i.e., Caulfield and Wonders 1993, Wonders and Danner 2006, Wonders and Michalowski 2001), state crime scholars have essentially ignored these issues. This paper attempts to begin filling in that gap.

### **Genocidal Rape**

The sexual assault of women within combat zones and occupied territories is one of the not-so-secret elements pervasive within the history of warfare. It has been recorded in essentially every war in human history. The most wide-spread (though empirically unverified) explanation is the so-called the "pressure cooker" theory of rape in war (see Butler et al. 2007, Gottschall 2004, Seifert 1994). Here the sexual violence is explained as a combination of biological drives for sexual release combined with the innate stresses and chaos that soldiers experience during

and after combat. This idea has its root in Brownmiller's (1975) landmark work on rape. In this book, she suggests that all wars produce rape because war becomes a fulcrum for masculinity enactment. Such a hostile enactment of gender is the focus of soldier-soldier hostilities; once a given engagement is finished, the women in the occupied territories then become the site for a similar process. Brownmiller then links such violence to a masculine psychology of violence and domination. While a valid examination of the nature of power dynamics played out in conflict zones, this approach does not adequately explain the widespread nature of the events or the *systematic* use of rape as a weapon within war and genocide events. Specifically, it ignores the reality of the formal organization of sexual assault in the genocides of the former Yugoslavia and in Rwanda. Further, sociologically-grounded work on rape and gender has established strong cultural factors (Scully 1992) as well as broader macro-level social conditions (Sanday 1981, Baron and Straus 1989, Whaley 2001, among many) as instrumental in generation of sexual violence in general, in genocides specifically<sup>2</sup>.

Perusal of journalistic and historical sources documents the frequency of rape in military events. As the Red Army moved into Germany, they raped approximately 100,000 women; Axis troops also raped women as they conquered territories. The war also saw widespread sexual slavery. At least 50,000 women served in brothels throughout Axis held territory. The Japanese Imperial Army also established brothels for its troops, enslaving more than 200,000 women, mostly Koreans taken early during activities in the Asian theater (Wood 2007). However, the use of rape as an orchestrated tactic of warfare is generally unrecorded until the 20<sup>th</sup> century<sup>3</sup>.

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<sup>2</sup> Indeed the work on rape within civil contexts is voluminous and need not be recited here, but suffice to say that it has theorized more 'routine' sexual violence in a more complex manner.

<sup>3</sup> Still, though, there is debate. The first two world wars produced systematic documentation of rape associated with the conquering of an enemy territory (see "The Molotov Note" 1946, Morgan 1916; Ryan 1966). While a multitude of officers acknowledged its existence, there has been no essential proof that it was used purposefully as a tactic of

However this does not mean it was not common before—it just wasn't thoroughly recorded, discussed, or examined. Absence of documentary evidence does not mean an absence of a phenomena.

Genocides also produce high levels of sexual violence. Discussions of this highly organized form of mass rape emerged in the aftermath of both Rwanda and the former Yugoslavia. For example, in the former Yugoslavia, Serb troops engaged in opportunistic rapes as they moved through Croat and Muslim towns and villages. They also set up detention centers, where women of all ages were gang raped as well as raped until they became pregnant. Those women were often held in captivity until the pregnancies were too far advanced for abortions ( Bracewell 2000, Diken and Laustsen 2005, Salzman 1998, Sharlach 2000). In the post-colonial African context, rape has been as pervasive as in any conflict (Mullins and Rothe 2008). Due to the high rate of HIV/AIDS in many of these nations, the rape serves as a transmission episode and the inevitable death sentence which the disease brings. Some evidence exists that in Rwanda, HIV positive men purposefully raped women to transmit the disease (Scharlach 1999, 2000).<sup>4</sup> When looking at the manifestation of rape in association with recent atrocities, we see an intensification of the nature and scope of sexual assaults on female civilian populations. These scenarios that go beyond the individualistic scenario of men satisfying their immediate sexual desires in a forceful demonstration of hypermasculinity. In such cases, rape has been used as a tool of terror and of population elimination—here I use the term genocidal rape to categorize such events. This term originates in explorations of sexual violence occurring during the

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war. The real question is whether officers knew of it and knew they couldn't (or wouldn't) stop it, or whether officers saw it as an essential tool in a population's demoralization as a part of the early stage of an occupation.

<sup>4</sup> While the HIV/AIDS issues is essentially important to any discussion of Africa, space prevents extensive exploration of here. For the purposes of this paper, deliberate HIV infection is one of many ways rape becomes a weapon within the Rwandan genocide.

genocide in Serbia and Kosovo. During these wars, rape was used as a wholesale tactic and weapon in the conflict, with some military units being expressly charged with raping women and girls in villages and camps (See Bracewell 2000, Diken and Laustsen 2005, Salzman 1998).

For the purposes of this work, genocidal rape is defined as a systemically organized military tactic of terror and genocide. It is used to generate fear in subdued populations, humiliate the population (both men and women), derogate women (through spoilage of identity), and create a cohort of mixed-ethnic children to maintain the humiliation/spoilage/domination. Such a use of sexual assault is an orchestrated tactic of warfare or genocide. Fear of rape is a common emotion that all women near or within a combat zone experience; the widespread existence of this type of assault clearly enhances the stresses and anxieties all ready experienced by civilians. Genocidal rape capitalizes upon this and elevates assaults to a tactic of terrorism. Another primary motivation for mass rape is the humiliation of male community members. Often men were made to watch as their wives and daughters were assaulted; isolated reports of soldiers forcing men to rape their own daughters have also emerged (see Chang 1997 for a discussion of this in China).

Derogation and identity spoilage of the rape victims are another set of key motivators behind genocidal rape events. Again due to strong strains of patriarchy within the cultures, unmarried women who have been raped are typically no longer looked upon as potential wives—the rape has destroyed their marital desirability. Further, they can also in turn be shunned by family members and have nowhere to turn for survival. Such women will either starve or live the rest of their lives in highly marginal social positions (e.g., begging, prostitution, etc). Such conditions are genocidal as they increase the overall death toll related to the genocidal event, even if indirect.

Finally, as seen in the former Yugoslavia and post-war Bangladesh, such wide-spread rape often produced a birth cohort of mixed ethnic children. The effects of this are two-fold. First, it provides a long lasting reminder of the humiliation and derogation of the people as whole. The children that survive to birth and into youth are a constant symbol of the genocide experience. Second, as the children and their mothers are often outcasts from their kin groups because of the assaults themselves, this enhances the social disorganization of villages and cities which now bear the burden of either caring for or ignoring this new underclass of community members (Diken and Laustsen 2005; Salzman 1998). Thirdly, in societies where lineage membership is determined via patrilineal parentage, the children in question are members of the father's and not the mother's ethnic group. In effect, this can change the symbolic ethnic group membership of a community and further work towards the elimination of a population (Bracewell 2000; Card 1996; Salzman 1998).

In a recent paper, Wood (2007) provides an excellent examination of the variation of sexual violence during wars. She finds that in some conflicts rape was wide-spread (i.e., the Rwandan genocide and the Sierra Leonean civil war). Other conflicts show much less sexual violence (i.e., the Israel/Palestine conflict, the Peruvian and El Salvadorian civil wars). Her descriptive work also establishes the opportunistic nature of some rapes, while others are the product of systematic military tactics. She advocates an implicitly mutli-level analytical model examining individual, group and social factors to explain this variations. While she does not provide a theory specifically to explain this variation, she does provide a series of potential hypothesis, some of which will be drawn upon later in this paper.

While important, this work in general neglects the role of the state in the sexual violence. Genocidal rapes are orchestrated and encouraged by state agencies and state actors. They are produced by more than lenient commanders and over-stimulated men. Such wide-spread victimization of women and girls is rarely epiphenomenal to a genocide event (or a war event for that matter) but rather one of many weapons used to achieve the goals of a military mission. In Rwanda, rape was one of many tools used to eliminate the Tutsi population. This paper will examine the organized nature of the rapes and how they were part of the broader genocide program. It will then draw upon an integrated theory of state crimes and violation of international criminal law (see Mullins and Rothe 2009a, 2008, Rothe and Mullins 2006, 2008a), to illuminate the causal factors behind the use of sexual violence within the Rwandan genocide of 1994. Before that, however, a discussion of state crime is required.

### **State Crime**

Studies of crimes committed by states have been steadily maturing as a subfield within criminology. While definitional debates continue to rage in the area following Chambliss (1989, 1995), I adopt a definition of state crime grounded within international law<sup>5</sup>. To wit, a state crime is any action that violates international public law, and/or a states' own domestic law when these actions are committed by individual actors acting for, or in their capacity as, an agent of the state, regardless of personal economical, political, and ideological interests.

It is only recently that critical criminologists have begun to examine war crimes and crimes against humanity as a form of state crime (i.e., Mullins and Rothe 2008, Haveman and Smeulers 2008, Rothe and Mullins 2008a). As these actions are committed by state actors (i.e.,

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<sup>5</sup> While there is an active debate on the proper definition of state crime, space limitations restrict engagement with it here.

regular military) or state surrogates (i.e., irregulars like militias), mass sexual assaults during genocidal events as explored here clearly fall within the purview of the above definition.

Individual soldiers drawing upon rape as a tactic of population elimination do so in their capacity as armed state agents. Further, they tend to do so with direct orders from, or at least the encouragement of, their commanders in the field. As this paper will show, these were neither random nor disorganized events.

### *Theoretical Model*

This paper uses the integrated theoretical models of state crimes and of violations of international criminal law presented in Mullins and Rothe (2008a) and Rothe and Mullins (2008a). This theory built upon early works of Kramer and Michalowski (1990), Kauzlarich and Kramer (1998), Rothe and Mullins (2006). The current statement of this theory emphasizes the inherent complexity of state crimes, thereby allowing a precise pin-pointing of key forces and how they interact within a specific criminal event or context (see Figure One). It takes four elements seriously on all levels of analysis. Crime events are produced by a combination of motivation and opportunity elements influencing social actors<sup>6</sup> decision making processes; those processes are then further influenced by extant constraints and controls before an action is or is not committed. These four catalysts can function at all levels of analysis: international, national (macro), meso and micro.

[Figure One About Here]

### *Motivation*

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<sup>6</sup> Social actors, as established within the state crime literature overall, include individuals, organizations and states.

This theory emphasizes the centrality of motivation—psychological, social and cultural—in producing a criminal event. Especially for an exploration of genocidal rape, I do not see a drive to either mass violence or sexual violence as being an innate predilection merely requiring control. Motivation is the constellation of the general and specific drives that lure and entice a social actor toward offending. Specific motivating forces can include the enhancement and/or maintenance of political power, personal or organizational economic gain access to valuable natural resources, religious factors, or revenge. General motivations can include factors such as political marginalization of a specific group or party, which can result in specific motivating factors including political or economic gain. Further, especially within a genocide, ethnic divisions can lead to specific motivation including revenge and/or the destruction of the reified ‘dehumanized other’.

### *Opportunities*

Opportunities are those social interactions where the possibility for a crime to be committed presents itself to a motivated offender (see Felson 1998). Being a state (or being in control of one) strongly enhances the ability to create and capitalize upon criminal opportunity. Even the poorest countries have tremendous amounts of human and financial capital to draw upon for crime commission; the desirability of drawing upon illegal means will be even more tempting when legal means of accomplishing the goals are absent, blocked, or constrained (Rothe and Mullins 2006). Further the inaction of local or international bystanders will also facilitate the generation of opportunity (see Grunfeld 2008).

### *Constraints*

Constraints are those social elements that stand to potentially make a crime either riskier or less successful; offenders must navigate around a constraint (Rothe and Mullins 2006). These are envisioned by the theory as taking several forms: international reactions; political pressures; public opinion; international social movements; oversight from agencies such as the United Nations; political pressures; media scrutiny; and socialization. They serve as potential barriers before or during an act. Nonetheless, states are often in unique positions to both navigate around extant constraints and/or to neutralize the power they represent. A constraint's ineffectiveness does not negate its presence. Minimally, additional actions are required by the criminal actor which led to additional costs, be they real or perceived. Further, the power of constraints to stymie criminal actions can be enhanced by examining how states negotiated prior constraints.

### *Controls*

A control is a *complete* blockage to an act or when a criminal penalization is *ideally* inevitable after the fact (Rothe and Mullins 2006). Typically, such negative consequences will take the form of formal social controls such as laws and/or regulations that can act as deterrents or provide accountability, punishment, or sanctions. Within events of state crime, controls are often absent or if present, their influence diminished. States can suspend, change or fail to enforce their own laws in such situations. While the growing body of international law holds the possibility of acting as a strong control, currently application is weak and piece-meal. The International Criminal Court has very limited resources and a limited jurisdiction (both in terms of geography and substantive law, see Rothe and Mullins 2006).

### **Methods**

This paper draws upon data derived from court records of the International Criminal Tribunal for Rwanda. The ICTR maintains a public judicial records database which includes all

indictments, redacted transcripts of all trial proceedings, evidence exhibits, and court rulings, be they trial or appeal outcomes. These records are made available in both French and English. This data base contains rich descriptions of the nature and dynamics of the 1994 genocide. This information is not necessarily representative of events and witness/victim perceptions; it provides the prosecutorial construction of the events and the defense's response to the construction. As with any court proceedings, the prosecution was interested in presenting a narrative of events which established *actus reus* of the accused<sup>7</sup>. Witnesses who testified were those that the ICTR was able to locate and interview and who were willing to appear in the trial. They may or may not be representative of the general Rwandan population and their experiences of the genocide may or may not be representative of the general experiences of the violence of 1994.<sup>8</sup>

In total, the ICTR produced 73 individual indictments. Due to the clustering of some indictments into single cases, 52 total trials have been carried out or are slated to be carried out.<sup>9</sup> By examining the indictments, 22 people charged with sex crimes were identified (see Appendix One). Of those individuals, 14 of the trials were completed with available records, 7 trials are in progress and 1 person still awaits trial. Once identified, cases involving charges of sex crimes were then examined for the availability of records in the public judicial records database. Thirteen cases had available records (those trials completed or on appeal).

The trial transcripts were searched for proceedings which deal with sexual violence—this was done through the examination of Daily Case Minutes in the ICTR archives and by searching

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<sup>7</sup> *Mens rea* was not as essential here, as the ICTR ruled that establishment of motivation was not necessary for conviction.

<sup>8</sup> There are numerous sources which suggest that these trial testimonies do present an accurate and valid depiction of the sexual violence (see Nowrojee 1996, Sharlach 1999, 2000, UNHCHR 1998, Wood 2007)

<sup>9</sup> This does not include the 1 case transferred to national jurisdiction, 3 individuals released, 3 who died before trial and the 18 individuals still at large.

each day's English redacted transcripts. Once those days were identified, they were downloaded and printed out. Then, the trial transcripts were coded qualitatively to uncover themes and meanings presented within them. Primarily, the accounts of victims and witnesses were emphasized<sup>10</sup>. A total of 48 separate incidents of sexual assault were coded. Due to vague descriptions, it is not possible to determine the total number of victims within the incidents, though the number per incident ranged from 1 to 6. The unit of analysis here is the specific incident of sexual violence.

During primary coding, transcripts were treated as qualitative interviews. They were read and coded for major themes concerning the dynamics of the sexual violence as they occurred and for the emic meanings ascribed to the events by the witness. Where available, offender motivation and meanings were coded. However, it should be noted that these understandings were primarily the construction of the prosecution and witnesses, as defendants typically denied the actions in question. Secondary coding involved rereading the transcripts and identifying sub-themes to better understand the nuances of the sexual violence.

### **Explorations and Examinations**

The Rwandan genocide of 1994 also saw wide spread sexual violence. As Wood would predict (2007), some of the rapes were opportunistic—individuals taking advantage of the existing social disorder—or were instances of sexual slavery—involving a woman imprisoned to act as a soldier's 'wife' or to provide sexual services to a group of men (see Mullins 2008)--much of it was a directed part of the genocidal events that swept the nation during the late spring. While the data examined here are shaped by their initial purpose—providing evidence in a

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<sup>10</sup> While offender perceptions are also crucial to understanding the nature and dynamics of sexual violence in the trial the defense would simply deny the accused was involved.

trial—the events depicted clearly show that sexual violence was an organized aspect of the Hutu attempt to eliminate their Tutsi neighbors. Local leaders encouraged the use of rape to instill terror in the population, as a form of murder itself, and to urge their troops onward to violence. Many of these leaders led by example by being the first participant in gang rapes. However, leaders could be prosecuted by the ICTR for sex crimes if they didn't personally engage in the raping. If they encouraged or oversaw events, this was enough to produce an indictment, and in some cases, convictions. Jean-Paul Akayesu, *Bourgmestre*<sup>11</sup> of Taba *commune*, the first individual to be convicted of sexual violence by an international tribunal, never personally participated in an assault. However, testimonies made it clear that he was not only aware of crimes as they occurred, but actively encouraged them. To explore how these events played out in the Rwandan genocide as a directed part of the genocide, I will proceed to discuss specific instances recounted before the ICTR.

Testimony given by a female Hutu resident of Taba *commune* during the Akayesu trial establishes the command-centered nature of the sexual violence in that community. The witness described seeing a secondary school student made to stand naked and do 'gymnastics'<sup>12</sup> in front of a crowd of *Interhawme*<sup>13</sup>. The goal of the behavior was the humiliation of the girl herself, as well as the community overall. Public nudity is seen as shameful and humiliating in Rwandan culture. In making a teenager stand naked before them, the militia men were displaying their power by showing outright contempt for their victims. After watching the girl for a time, Akayesu broke up the assembly and redirected them to their broader work (killing), but in doing

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<sup>11</sup> The political organization of Rwandan breaks the territory down into *Prefectures*, when are then broken down into *Communes*. *Bourgmestre* is the political executive of a *commune*.

<sup>12</sup> This is the translation term used in the English version. It is also rendered as 'exercises' and 'marches' elsewhere.

<sup>13</sup> This was the militia group organized by the military to carry out much of the genocide. It translates as "those who fight together" and compose primarily of disposed Hutu youth (Prunier 1995).

so told the assembled men “[m]ake sure that you sleep with this girl.” The student was then taken between two houses and gang raped.

This is only one of several instances presented in trial testimony showing Akayesu ordering his men to engage in sexual assault. In other instances, he would demand men under his control commit rape, saying, “[y]ou can never tell me now you do not know what Tutsi women taste like.” There was no question who was in charge during these events; there was no question as to whether or not Jean-Paul Akayesu was aware of them either. As a representative of the Rwandan state (such as it was during the genocide) and head of local governmental bodies, these acts were done not simply with governmental authorization, but as state action. Taba was not the only commune to see widespread sexual assault, nor was Akayesu the only leader of the on-the-ground genocide to encourage troops to rape.

During the trial of Juvenal Kajelijeli, *Bourgmestre* of the Munkingo *commune*, a female victim described Kajelijeli extolling his troops to continue their violence the murderous and sexual violence as the Hutu swept Munkingo. She testified, “I heard him say that they [the *Interhawame*] should forcefully rape them [female Tutsi seeking shelter] and then kill them, that he had to separate the good grain from the bad ones.” The witness was soon attacked by four *Interhawame*, two held her legs while she was raped by a third. This was repeated so each attacker could have a turn. The third to rape her told her “I would like to taste the Vagina of a Tutsi woman.” The fourth refused to rape her. He looked at her, said “I cannot fall on a Tutsi,” and then put a cigarette out in her vagina and kicked her before he wandered off to rejoin the killing happening elsewhere in the *commune*. As with the first example, we see the chief executive of a municipal region not only organizing the violence, but commanding troops to rape as they kill.

Sylvestre Gacumbitsi, *bourgemestre* of Rusumo *commune*, director of the violence within his *prefecture*, planned a ruse to bring women and children out of hiding. Promising safety to Tutsi in hiding if they came to the village center, he intended anything but. When women arrived with their children, the *Interhawame* rounded them up. In front of the group of assembled captives, Gacumbitsi publicly told his troops—in front of the victims— “rape Tutsi girls that had always refused to sleep with Hutu.” He simultaneously commanded and motivated his men to commit rapes as a form of redress for perceived past injustices committed against the Hutu people. One witness was raped during this event by three men, testifying that they were saying that they

hated [Tutsi] and now they were going to freely take advantage of us...they meant that Tutsi women and girls didn't like Hutu men and refused to marry them. And they said now they could do everything they wanted with us...[they] stuck me and then raped me and afterward they thrust a stick of a tree, a branch in my vagina.

Unlike Akayesu, Gacumbitsi was also personally involved in sexual victimizations. After the gang rape described above, the victim was brought before Gacumbitsi, who ordered her taken to a house. Once there, “he took out a pistol...he said he wasn't going to waste a bullet...he said he was going to kill me with his penis...he took a police man's weapon [a truncheon]...he raped me with that weapon” then with his penis. When he was finished, he told the victim “go and others shall kill you.” While there is no evidence as to whether or not the central organizers of the genocide included such sexual violence in their overall plans, it is clear that as the genocide was occurring on the ground, local political leaders across the country were both encouraging and commanding their troops to use rape as a weapon in the killing.

Not all genocide leaders (or genocidal rapists) were government figures. Alfred Musema was director of the Gisovu Tea Factory in Kibuye *Prefecture*. As the genocide unfolded, he took an active role leading the *Interahamwe* in areas of Bisesero and Gisovu *communes*. On 13 May, 1994, while leading a group of 30 *Interahamwe*, Musema flushed six women out of their hiding place in some bushes off the road. As the witness recounted to the ICTR, “we thought we were going to be killed in the bush,”(source) so they revealed themselves to the Hutu forces. After forcing them into a line, Musema selected a 25 year old Tutsi woman who was eight months pregnant. Telling his troops that “he would give them an example as to what to do with the women...the young men should take the Tutsi women and see how they are made” he raped the women then stabbed her in the throat. After their leader was finished, the militia men fell upon the rest of the women, “rap[ing] them and after raping them, they stuck some pointed sticks into their private parts...those who did not die were finished off either with clubs or with machetes.” After the initial sexual assault, Musema spent the time his men were raping the other five women shooting at men trying to flee into the near-by hills. As with the other cases, this example shows how the sexual violence was part and parcel of the rest of the violence. It was neither separate nor distinct, as seen by Musema’s actions. Thus, we can clearly see that the state directed these acts of sexual violence. Yet, to get at the overall reasons that such a tool would be used (instead of outright killing and killing alone), we need to explore a couple of subthemes in the data which get at specific intents and effects of the mass rapes.

A second aspect of the sexual violence involves its strongly symbolic nature. The intent of the assaults was not merely to appease the sexual appetites of the killers. As one woman testified before the tribunal in the Akayesu trial, “these rapes were designed to humiliate us.” Not only were the victim’s accounts presented to the ICTR filled with ethnicist language, they also

recounted many stories of sexual mutilation which occurred after the sexual assaults, often leading to the death of the victim in question. These were actions which were encouraged and directed by *commune* leaders, enhancing the all ready strong motivational forces driving the genocidiers. It also served as a form of terror directed both toward the still surviving Tutsis as well as the population in general, establishing the genocides' total control of the lives and bodies of the victims.

As seen in some of the trial transcripts excerpted above, many of the rape victims were killed as part of the rape itself. As seen in the above testimony against Musema, many times they were slain by having sticks or spears thrust into their vaginas. While not all women who were assaulted in this way died, many did. An *Interhawame* soldier testified in the Kajelie trial that, "I saw these two people rape a girl...I saw them rape her and after that they used a spear to pierce her and they also pierce her sexual organs...I saw [them] cut off [her] breast...after cutting the girl's breast off he [Kajelie] sucked it." This was not a rare occurrence during the genocide, with several accounts of such behavior emerging in the trial narratives. As earlier, here we see the director of the genocide in a given area using his own actions as an example of how to deal with female Tutsi as the killing raged.

Another witness described hiding in the bushes and watching a group of *Interhawame* rape a woman and leave her dead. After the soldiers left, the witness walked over to the site of the crime and found that "they had slit her throat, torn her skirt and thrust a stick in her genitals. About ten meters away...I also found a body...the legs were apart and the body of her child...was placed on her genitals, as if she was being force to have sexual intercourse with the mother." Such sexualized violence in addition to the rape itself highlights the intensity of the ethnicist and gendered emotions driving the genocidiers and framing their behaviors. The bodies

left on the road serve to further remind survivors of their imperiled status and of the Hutu's absolute disdain for them.

The trail of Mikaeli (Mika) Muhimana, Counsellor for Gishyita *commune* in Kibuye *prefecture*, uncovered an incident which strongly displays how the gendered and sexual disdain was symbolically displayed in certain killings<sup>14</sup>. Specially, the death of a Tutsi policeman referred to as Charles was mentioned in many of the testimonies. As the killing came to Gishyita, Charles fled with many of the Tutsi and hid in the Bisesero Hills. He was captured by *Interhwame*, led by Muhimana, and brought into town. One witness recounted:

After the arrest of a Tutsi, the drums were beaten and people ran up to see what was happening...so I ran up and went to Gishyita. I realized that he [Charles] has been castrated and they had hung his genitals on a lance...I went up after the others, and people were saying that he had been satrated. And when I arrived at the scene, I realized that his genitals were being exhibited...[Muhimana] was present. The *bourgmestre* was also present, as well as other local authorities...After having—hanging the genitals of Charles on a spear, they said, ‘Any Tutsi that would be found out would suffer the same fate.’...I heard him [Muhimana] give the order [to display the genitals].

The symbolic power is not subtle. By castrating a symbol of Tutsi civil authority, the destruction of Tutsi power to protect citizens is writ large to the assembled crowd, as is the emasculated nature of the Tutsi community.

As the data examined are post-event, they allows us to examine some long-term affects of the genocidal rapes. Many victims were ostracized, while others suffered long-term reproductive health issues due to their assaults. A witness against Juvenale Kajelijeli discussed her injuries

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<sup>14</sup> This was not the only instance of such behavior. Several similar events appear in the ICTR transcripts.

and their long term effects, “As for wounds, they were many. I had wounds a little everywhere, including my sexual organ. In fact I was bleeding a lot from my sexual organ. And even today I continue to bleed....when I think of it [the rape] it saddnes me and I feel ashamed of it.” She also testified that her husband died in the genocide and she had neither remarried nor had sexual relations again due to the physical and psychological ramifications of her attack.

A witness testifying in the trial against Alfred Musema, experienced many of these factors simultaneously. She stated,

I have some trauma in my stomach because I continue to bleed and I cannot be treated....I cannot get married any longer...To be able to get married, you have to be physically fit. You have to be able and capable, I am no longer fit...I was sent to Kigali for treatment. But then, when I didn't have enough money, I went back to my area and because I am poor I cannot get adequate treatment.

There are multiple things going on here. When the witness refers to her stomach, she is referring to her uterine/genital area<sup>15</sup>. She is incapable of intercourse, and thus unmarryable. Also, she was severely injured on her arms and shoulders, thus incapable of the physical work required of women in Rwandan domestic economics. Finally, her lack of economic resources prevented adequate post-victimization medical treatment, enhancing the long term disability effects of her assault.

The above discussed scenes from the Rwandan genocide are typical of those found in the trial transcripts. They strongly establish the leadership's culpability in uniting sexual and homicidal violence during the genocide. The witnesses before the ICTR also provide ample

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<sup>15</sup> Rwandan cultural demands of feminine modesty prevent direct discussion of sexual anatomy, while some witnesses would use the terms 'sexual organ' when directed to by court officials, many uses euphemisms

evidence that the genocide's leaders shaped a specifically gendered and sexual tone to some aspects of the killings that occurred. As the women testified, the violence they experienced was not simply a 'pressure-cooker' release—sexual violence a core tool of the genocide itself. These events were neither spontaneous nor scattered, but systematic. They served to keep Tutsi populations in terror and served as a constant reminder of the totally debased state which Tutsis now occupied. This paper now moves toward a theoretical examination of sexual violence within the genocide.

### **Discussion**

As mentioned at the start of this paper, little attempt has been made to explore sexual violence in wartime in general or sexual violence within genocide specifically. No one has explored these events as state crime. As shown in the preceding section, the sexual violence of the Rwandan genocide was a central tactic used within the attempt to eliminate the Tutsi population. Here, I will apply an integrated theory of state crime and violations of international criminal law (Mullins and Rothe 2008; Rothe and Mullins 2006, 2008, 2009) to these violences. While an artificial division, I will also focus my explorations on the specifically sexual aspects of the violence. Even though an part of the overall genocide in Rwanda, I will to make no additional analysis of the causes behind genocide itself. Excellent discussions of the genocidal overall exist (see Berry and Carol 1999, Mullins and Rothe 2008, Prunier 1995, Rothe, Mullins and Sandstrom 2008) and as such an attempt is beyond the scope of this paper.

#### *International Level*

At the International level, there is little evidence to suggest there were specific motivational or opportunity aspects which influenced the utilization of sexual violence in the Rwandan genocide. While some of the genocidal program in the former Yugoslavia preceded the

Rwandan events in time, there is nothing to suggest that Rwandan planners drew any inspiration from the events in Serbia. Considering the ubiquity of sexual violence in military actions, such a modeling is not necessary. Further, the nature and organizations of the sexual violence in these two genocides was different. Elements novel to the Serbian events were not replicated in Rwanda (i.e., public broadcast of filmed rapes as pornography, the use of distinct rape brigades and the threatening of soldiers who refused to enact the rapes). While extensive propaganda existed, some of which presented negative images of Tutsi women (Sharlach 1999) nothing specially called for sexual violence.

Similarly absent, *though* influential, were real constraints or controls in place at the international level. The international response to Yugoslavia did not occur until well after the Rwandan genocide was over (NATO intervened in 1999, possibly in part due to Rwanda). While international observers had seen the increasingly ethnicist and genocidal political and media rhetoric being produced by extremist Hutu, no actions were taken. Further, numerous conflicts raged throughout Africa during the preceding decades (see Rothe and Mullins 2008b for a list of conflicts and responses), only attracting international attention when global powers saw a personal interest or usefulness in the outcome. When interventions happened, they tended to be in the form of aiding one party or another, not in punishing atrocities. In the realm of international law, the Nuremberg and Tokyo tribunals were long past. While *The Convention on the Prevention and Punishment of the Crime of Genocide* had been in existence since 1948, genocides had come on gone without its invocation (i.e., Stalin's purges, Cambodia, Bangladesh, and Bosnia). Specifically, as noted above, sexual violence would not be deemed prosecutable as a part of *genocide* until the ICTR itself was adjudicating Akayesu's case long after the events themselves. While rape was criminalized by existing Humanitarian and Human Rights Law,

there were no standing institutions to prosecute such violations. No international criminal tribunal had been held since the Nuremberg and Tokyo tribunals after World War II.

Additionally, such prosecutions had never occurred in an African context. Both in terms of the general genocidal violence and the specifically sexual violence, there was little in play at the international level which would either act as a constraint or a control on these actions. Prior and existing international forces suggested that the genocidairs would have impunity for their acts.

### *Macro-level*

At the macro level, economic crises not only motivated the genocide in general (see Mullins and Rothe 2008, Rothe, Mullins and Sandstrom 2008) but sexual violence specifically. With the loss of economic resources and opportunities, especially amongst the Hutu peasantry, masculinity itself was challenged. Traditional adult pathways toward the establishment of maleness vis a vis economic and occupational status (see Jefremovas 1991) were increasingly problematic or unavailable. Encouraging such men to engage in sexual assault, taking what they would otherwise be unable to earn, played off this tension. Further, the direction of this toward Tutsi females further enhanced the existing ethnic/class division within the society. Not only were the men able to symbolically claim what had been denied to them due to economic means—masculine dominance and position—they were also able to claim, at least briefly, this status on members of an economically superior caste. I provide evidence above showing the leader's specific exhortations to the men to take what had been long denied them. These broader economic and ethnic aspects heightened the motivation to engage in sexual as well as homicidal violence.

Gender also lies at the core of why sexual violence was embraced as part of this genocide event. In patriarchal societies, one can undermine the legitimacy of men through attacking their

women. Similar to its neighboring societies, Rwanda possessed a strong set of gender codes fixing the male as not only the power wielder of the household but whose masculinity can be judged by the degree to which he provides for and protects the women within the household. At the time of the genocide<sup>16</sup>, there were two acceptable mainstream gender positions for women within the society: the daughter—virginal and timid in interactions with those outside of the household, especially men and the wife—whose value and virtue was measured through her fidelity and obedience (Jefremovas 1991). As with many male-dominated societies, women were blamed more for sexual indiscretion than men, with women held responsible morally for even nonconsensual sexual activity. Thus, the sexual assault of Tutsi women becomes a dual pronged attack on Tutsi men: it highlights their inability to fulfill hegemonic masculinity's demands as protectors with simultaneously denying women the ability to fulfill the desired demands of emphasized femininity. This sort of violence symbolically and culturally undercuts a central pillar of social organization underlying family and economic realms; it destroys far more than individual people, but attacks some of the Tutsi's key cultural principles.

Sexual mutilations, be they of men or women, are the most extreme form of this gendered destruction. The literal bodily destruction and ownership of sexual anatomies taken from dead bodies symbolically constitutes the strongest denial of agency (or, the strongest imposition of pure victimhood) both specifically on the victim in question and the community as a whole. Desecration of corpses in this highly gendered manner is the ultimate expression of control and power. Not just of military or ethnic power, but of gendered power as well. The castration of Charles, an authority figure representing the Tutsi state in his *commune*, represents the complete

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<sup>16</sup> Due to the large number of fatalities, Rwanda's sex-ratio is now significantly skewed and will no doubt produce changes in gender roles and positions.

control the Hutu genocide represents. Politically, economically, sexually, and gender-wise, the Tutsi have been utterly dominated and disempowered.

As explored above, victims of sexual assaults often found themselves outcasts from what remained of their communities. Many of the rape victims who testified before the ICTR explained how their husbands or their families rejected them after hearing of the sexual victimization. Due to the kinship structures of Rwanda's culture, this left them not only homeless and without families at a time when they strongly needed social and emotional support, but also without a political or economic social place. While those who testified survived the experiences, there is no way to accurately determine how many did not. In the context of a genocide however, such social ostracization is an important response as it assures that even if the genocide itself is not fully successful (i.e., not every Tutsi and Tutsi sympathizer dies) it has lasting effects directly and indirectly on the victims. The stigma (of individuals, families and communities) lasts long after the killing has stopped. Another lasting sexual effect of the rapes was continued reproductive health issues. Many of the female victims mentioned that they still had pain in their genitals, abnormal menstruation, or were sterile as a result of the attacks. As examined in the conceptualization, this too extends the effects of the genocide beyond the specific event. If a large enough portion of the Tutsi women who survive the genocide itself are sterile, then their ability to reconstitute themselves as a population is compromised.

As the driving force behind the homicidal and sexual violence was those in control of the apparatus of local and state government, established constraints and controls were not in effect. There was no potential of adverse media, public or legal attention for engaging in widespread sexual violence during the months of the genocide. In fact, as established above, these

constraining and controlling structures were used to encourage the attacks. Impunity reigned on the ground and any potential macro level constraints or controls were absent.

### *Meso-level*

At the meso-level, the strongest motivators came from authoritarian pressures. As explored above, sexual violence was not only encouraged, it was ordered. Also, in many instances, it was modeled by leaders themselves. There was no doubt in the minds of the rapists that their behaviors were acceptable in the eyes of their superiors or their comrades in arms. Drawing on broader propaganda of Tutsi repression of Hutus which had been building for years with the Rwandan media and cultural consciousness, it took little but a few words and deeds for the local leadership to transfer a broader push to get rid of Hutus entirely to be specifically translated into sexual violence and mutilations.

Further, the means to engage in these crimes were provided by being part of the *Interhawame*. The numerical superiority and clear control the militia established on the ground as the genocide was underway allowed genocidaires to engage in essentially any activity they wished. Further, the group context spurred individuals on to follow the directives of their officers and engage in the sexual violence. Rarely did reports in the transcripts emerge of reluctance on behalf of the militiamen to rape<sup>17</sup>. Deindividuation and group think in all likelihood shaped the ways in which individuals perceived their participation in the mass homicidal and sexual violence.

As with other levels of analysis, potential constraints and controls were absent during the time of the killing. Rather, these mechanisms were directed toward getting men to engage in the

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<sup>17</sup> In fact, only one example emerged of a soldier refusing to participate in a gang rape was discussed above, when the *Interhawame* extinguished a cigarette in the victims vagina and walked away

violence not deter them from it. On the ground commanders encouraged the rapes. Extant traditional values and authority structures were twisted in such a way as to make the sexual violence desirable, not deplorable. As examined at the macro level, gendered norms of conduct drove motivation for the sexual assaults; such factors would have been reinforced within the unit-based groups that the paramilitaries acted within.

### *Micro-level*

For some of the troops class and gender based retaliation was a motivating factor. Oftentimes leaders urged troops on with calls to ‘take’ what had long been denied to them—sexual access to Tutsi women. As Akayesu and others told their troops, often in full view of the victims, “Never ask me what a Tutsi tastes like.” Thus, on the micro level many of the gendered forces discussed on the macro level came into play within the individual decision-making processes of *Interhawame* and community killers.

At this level, the pressure-cooker theory may apply to partially explain the acts of single men, though even at this level, it does not explain everything. Some of the sexual violence discussed in the data explored was opportunistic and no doubt for some of the rapists there was a cathartic release of socio-culturally generated tension toward the Tutsi. Aggression produced by macro level forces and focused by propaganda toward Tutsis (especially Tutsi men at the start of the genocide), no doubt spilled over onto Tutsi women in some cases. However, even on the micro-level there are better explanations of individual behavior. Not only were many of the paramilitaries following the orders and models of their leaders, the definition of the situation established by commander’s actions and discourses created a social space establishing the moral correctness of the rapes and mutilations. Directly and indirectly, the genocidaires, especially the

*Interhawame*, found themselves on a social terrain demanding sexual and homicidal violence of them.

Those social forces which might be expected to constrain or control the behaviors explored here were absent, thereby facilitating the behavior through removing previous boundaries on behaviors. Any norm or value set extant in Rwanda before the genocide was suspended for the course of the event. Further, as explored throughout this paper, those very mechanisms which might have reduced the number of sexual attacks or punished them were turned towards demanding men commit them. Laws were suspended; community pressures toward other forms of behavior were eclipsed by the intensity of immediate social peers and situations. Impunity reigned, facilitating opportunistic sexual assaults.

### **Conclusion**

Counter to Gottschall's (2004) claim that there is no evidence that wartime sexual assault is orchestrated or bounded by social contexts, this paper has presented systematic evidence of rape being used as a specific weapon of war within the 1994 Rwandan genocide. While the evidence presented here is selective—women testified before the ICTR who had experiences that fit the story the prosecution sought to tell—and we must be careful of overgeneralization from it. Yet, the victim narratives present evidence that it was not merely an *ad hoc* tactic used spontaneously by men during the broader homicidal violence. It was specifically modeled and encouraged by leaders on the ground during the genocide. Specific evidence has not emerged suggesting that these tactics were decided upon by the Hutu elites directing the genocide itself. However, by the time the genocide was underway, local leaders had decided to include rape as a weapon of destruction.

Drawing on influences at all levels of analysis, the sexual violence physically and symbolically played into the broader Hutu attempt to destroy the Tutsi population. It acted to specifically kill many women, as well as to demonstrate Hutu superiority and sexual annihilation of the Tutsi people. This paper has provided empirical exploration and theoretical explanation of the role sexual violence played in the 1994 genocide. Yet, it is only a small step in the broader attempts to understand genocides and other episodes of mass atrocity in general and sexual violence within them specifically.

Overall, criminologists have tended to ignore genocides, war crimes and crimes against humanity. While critical criminologists have done a better job in exploring these types of state-led offenses as well as other types of state crime, there is still much to be done in mainstream and critical criminology and legal studies on these topics. The role of sexual violence and other gendered issues have all but been ignored even by those who work in these areas. Additionally, despite a wealth of archival sources available from the international tribunals, criminology has not thoroughly examined these data and applied our unique lens to these events. Criminology has much to say about these sorts of events, hopefully as state crime studies continue to grow and it will incorporate more of these international and supranational crimes (see Haveman and Smeulers 2008).

Additionally, this paper has directly addressed the victimization experiences of women. While in general state crime has been hesitant to develop a full blown victimology (see Kauzlarich 2008, Kauzlarich et al. 2001), it has expressly ignored women's issues and experiences (save Caulfield and Wonders 1993, Wonders and Danner 2006, Wonders and Michalowski 2001). This paper adds a feminist-inspired analysis of gender and power to the

extant body of work on state crime. While this work has always been implicitly gender-aware, hopefully future work will also be explicitly so.

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## **Appendix One**

Individuals Indicted by the ICTR on Sexual Assault Charges (\*=transcripts analyzed in this study)

*Awaiting Trial*

Jean Baptiste Gatete

*Trials in Progress*

Augustin Bizimungu

Augustine Ndindiliyimana

Francois-Xavier Nzuwonemeye

Innocent Sagahutu

Edouard Karemera

Mathieu Ngirumpatse

Jospeh Nzirorera

*Cases Completed*

Tharcisse Muvunyi (on appeal)\*

Jean Paul Akayesu\*

Paul Bisengimana\*

Sylvestre Gacumbitsi\*

Juvenal Kajelijeli\*

Jean de Dieu Kamuhanda\*

Clement Kayishema\*

Mikaeli Muhimana\*

Alfred Musema\*

Eliezer Niyitegeka\*

Joseph Nzabirinda\*

Laurent Semanza\*

**Figure One: Integrated Theory of International Criminal Law Violations**

<b>International Level</b>	<b>Motivation</b>	<b>Opportunity</b>	<b>Constraints</b>	<b>Controls</b>
	Political Interests	International Relations	International Reaction	International Law
	Economic Interests	Economic Supremacy	Political Pressure	International Sanctions
	Resources	Military Supremacy	Public Opinion	Economic Institutions
	Ideological Interests	Complementary Legal Systems	NGOs/Social Movements	
			Oversight	
<b>Macro Level</b>	Structural Transformations	Availability of Illegal Means	Political pressure	Legal Sanctions
	Economic Pressure	Control of Information	Media scrutiny	Domestic Law
	Political Goals	Propaganda	Public Opinion	
	Ethnogenesis		Social Movements	
	Anomie		Rebellion	
<b>Meso Level</b>	Organizational Culture and goals	Communication structures	Internal Oversight	Codes of Conduct
	Authoritarian Pressures	Means availability	Communication Structures	
	Reward Structures	Role specialization	Traditional authority structures	
<b>Micro Level</b>	Socialization	Group think	Socialization	Legitimacy of Law
	Individual Goals and ideologies	Diffusion of Responsibility	Obedience to Authority	Perception of reality of law application
	Normalization of Deviance	Perceived Illegal Means		Personal Morality
	Definition of the Situation			

(From C.W. Mullins and D. L. Rothe 2008)