

## **Gender and Genocide\***

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## Abstract

All genocides are gendered. They differentially affect men and women, they enact socially constructed meanings of biological differences, and they constitute gender relations in the post-genocide period. By ignoring the impact of gender on genocide, we erase the significance of many atrocities. We miscount victims (including the deceased) and make errors in dating the endings of genocides. We write laws that mis-define genocide. These realizations are relatively new. In this paper we discuss how they came into being; why the study of gender and genocide is important to criminology and international law; and, less directly, why the study of genocide is important to genocide studies.

All genocides are gendered events. Not only do they affect men and women differently; they also enact socially constructed meanings of biological differences and contribute to the constitution of gender relations in the post-genocide period.<sup>1</sup> If we do not recognize the impact of gender on genocide, we cannot grasp the significance of an exterminatory effort. We cannot understand what it was about the target group that threatened the genocidists. We do not know how to count victims, including dead victims. We make false assumptions about when the genocide ended, closing it off too soon; and we may overlook relevant evidence of genocidal intent. These realizations about the gendered nature of genocide--and its consequences--are relatively new. This paper traces how they came into being. It shows why the study of gender and genocide is important to criminology and international law. Less directly, it suggests why the study of genocide is important to gender studies.

Research on gender and genocide began with the Holocaust, the archetypal example of this crime. Two additional cases have also profoundly affected this area of inquiry. The genocides in Bosnia and Rwanda shifted the question of gender beyond Holocaust studies to genocide studies more broadly. This paper will focus on landmark work in these three cases to provide a review of the literature on gender and genocide. In particular, it will chronicle three important strides made in the scholarship on this topic: discovery of sex differences in genocide, recognition of the necessity to distinguish between sex and gender, and analysis of the role of gender in international law.

### **I. The Discovery of Sex Differences in Genocide**

Until relatively recently, genocide scholars in most fields made few distinctions among victims in terms of either sex or gender; instead they took a seemingly universalist approach, speaking of

genocide victims in general. This approach was heavily influenced by beliefs about the Holocaust, which was long understood as the paradigmatic genocide and also as an event that affected men and women very similarly. Jewishness, in this view, was the primary factor that elicited Nazi brutality, over-riding all other victim characteristics such as sex, gender, and age, and to study differences among Holocaust victims was to trivialize the event. In 1998, however, Dalia Ofer and Lenore Weitzman published an edited collection on *Women in the Holocaust* that questioned these assumptions. Their book includes chapters probing ways in which women and men were treated differently by the Nazis and experienced the Holocaust differently. According to Ofer and Weitzman, by assuming that the experiences of men represent the *universal* experience of the Holocaust, scholars actually give us an incomplete picture of the event. The premise of their volume is that asking questions about differences in the experiences of men and women can lead to a richer and more finely nuanced understanding of the Holocaust.

There was some pushback against research on sex differences among genocide victims, especially by Holocaust scholars who felt that making such distinctions was somehow inappropriate and petty, given the enormity of the Nazis' crimes. Genocide scholar Lawrence Langer, for example, objected to research on sex distinctions among Holocaust victims that argued, or seemed to argue, that female victims suffered more or were tougher than males. "As for the ability to bear suffering," he writes, "given the unspeakable sorrow with which all victims were burdened, it seems to me that nothing could be crueler or more callous than the attempt to dredge up from this landscape of universal destruction a mythology of comparative endurance that awards favor to one group of individuals over another" (Langer 1998: 362). Despite such objections, however, scholars continued to investigate sex differences in the Holocaust and other genocides as well.

Two articles in particular broadened the questions asked about the Holocaust to other cases of genocide. In 1994, the political theorist Roger Smith published “Women and Genocide: Notes on an Unwritten History,” arguing that “if we are to understand the nature, history, forms of victimization, and consequences of genocide, we must include the experience of women as women” (Smith 1994: 316), experience that, in Smith’s view, often differed radically from the experience of male victims. Traditionally, Smith continued, women were not killed but rather raped and enslaved. A few years later the sociologist Helen Fein (1999) published “Genocide and Gender: The Uses of Women and Group Destiny” in which she, too, recognized that traditionally, genocides left the men dead but the women raped and incorporated as slaves, concubines, or spouses into the victorious group. But in more recent times, Fein argued (p. 49), that ancient pattern has begun to shift, with females of the victim group being slain along with the men or, when raped, being raped for instrumental reasons--“as a tactic serving strategic war aims (as in Bosnia and Rwanda).”

Smith and Fein were both asking about sex differences among genocide victims. They used the word “gender,” but their emphasis fell on “women,” meaning humans whose biology defines them as females. (“Gender,” on the other hand, is often used to refer to the socially constructed roles, experiences, and expectations that are associated with sex but in fact differ from group to group, culture to culture, man to man, and woman to woman.<sup>2</sup>) This emphasis on sex, as opposed to gender, was typical of research on women during the 1990s, although even then, distinctions between sex and gender were starting to appear.<sup>3</sup>

## **II. The Discovery of Gender Differences in Genocide**

Scholars’ increasing ability to distinguish, analytically, between sex and gender coincided with two genocides, in the former Yugoslavia and Rwanda, which demonstrated to the entire world the

enormous impact of gender on genocide. No longer was it possible to pass off mass rape during war as the result of pent-up sexual urges of the perpetrators. Rather, the rape camps of the Serbs, and the vast scale of rapes by the Hutu, together with horrific sexual mutilations by both groups, proved (in the words of Ruth Seifert [1996: 37]) “that in some cases rape was employed as a means to achieve political-military ends” (also see Copelon 1995). Rape could no longer be dismissed as a spoil of war; it was clearly being used to destroy a targeted group. Scholars began calling this “genocidal rape.”<sup>4</sup> (We discuss the legal consequences of this recognition of genocidal rape in the next section.)

Recognition of genocidal rape coincided with another realization: that, as historian Elisa von Joeden-Forgey (2012a: 92) writes,

there are many crimes of rape that happen during genocidal processes[:] . . . systematic mass rape, forced maternity, rape as a means of murder, and sexual torture, gang rape, coerced rapes between family members, sexual mutilation, forced prostitution, sexual slavery, rape in rape camps, women forced to ‘marry’ *génocidaires*, and so forth.

This realization set off an explosion of new analyses of the gendered nature of genocide, including analyses of the specific gender beliefs of the perpetrator and victim groups. Violent conflicts are social processes that are carried out collectively and therefore must have collective meaning. Seifert, for example, locates the sexual violence in the former Yugoslavia in the context of militarization of men’s work and closing off of public roles for women, along with a new emphasis on women’s role in the “biological regenerat[ion] of the nation” (Seifert, 1996: 41). She states that “although there is a national aspect to it (i.e., *Bosnian* women are raped by *Serbian* men) . . . the fact is also that *women* are raped by *men*, which means that the incontestable reality of tortured female bodies is translated into male power.” She cites Jalusić (1992: 18) in

saying that the everyday climate of the former Yugoslavia was characterized by "an all-encompassing men's world; you can smell it in the air, that sense of fraternity, that heroism. It is not just uniforms, it is even the spirit that smells of the military," while at the same time, "where women used to function as workers and had their place at least in the nonpolitical, semiofficial sectors of the [Yugoslav] socialist system, they have now tasks more important and more 'natural' than policy-making" (Seifert, 1996: 41). The socially-constructed gender roles of both men and women contributed to severe, public violence against women--and men as well.

Several scholars have also produced excellent studies of gender in the Rwandan genocide. Adam Jones (2002) looks at the "gender crisis for younger Hutu men" (p. 66), who in the early 1990s were landless and unemployed and thus lacking prospects for a better future or marriage. Militias and the work of genocide solved these men's problems, giving them a purpose in life, power, drinking companions, and a sense of camaraderie. "You can get free beer," one recruiter said. "Come with us tomorrow [to kill Tutsi] and then you can join us at the bar" (Jones, 2002: 69). Jones quotes another Rwanda scholar, Gérard Prunier, who observes that for marginal Hutu men, "the genocide was the best thing that could ever happen to them. . . . They could steal, they could kill with minimum justification, they could rape and they could get drunk for free. This was wonderful" (Jones, 2002: 68). Jones and Prunier both believe that the Hutu leaders who engineered the genocide took full advantage of this crisis in masculinity.

Another author, Jean Hatzfeld, through interviews with Hutu men imprisoned for rape and murder of Tutsi, produced a graphic picture of masculinities in a soccer group that played and drank together before the genocide, swung their machetes together during the genocide, and went to prison together thereafter. "We no longer saw a human being when we turned up a Tutsi [hiding] in the swamps," a prisoner told Hatzfeld (2003: 47-48). "The hunt was savage, the

hunters were savage, the prey was savage--savagery took over the mind. Not only had we become criminals, we had become a ferocious species in a barbarous world." These young killers assumed the masculine hunter role of their grandfathers.

Gender, as von Joeden-Forgey writes, may shape genocide from start to finish:

The gender question in genocide goes well beyond the experiences of women and girls, the perpetration of gender-based crimes (against both men and women), or even the comparative study of the experiences of men and women. Rather, it involves examining the network of gendered relationships that go into creating groups . . . and how ideas about creative power inform annihilative violence." (von Joeden-Forgey 2012a: 91.)

There is a great need for research in this area--and rich opportunity for it, because each genocide is likely to be driven by different assumptions about gender (Carpenter 2002).

Rapid advances in gendered analyses of genocide notwithstanding, again there was pushback. Some came in the form of a new term, "gendercide," proposed by the Canadian political scientist Adam Jones (2004), who used it to refer to sexually-discriminatory genocides. Although Jones speaks of "gender," he defines it solely in terms of biological sex, and therefore defines "gendercide" as "gender-selective mass killing": "the killing of only men" or "the killing of only women." His focus, in particular, is on the mass killing of men, especially those of battle-age, as he argues this is the most common, but also most neglected, form of gendercide. For example, Jones describes the gender-selective detention and mass killing of Albanian men in Kosovo as gendercide. One problem with Jones's conceptualization is that it conflates sex with gender (Carpenter, 2002), as he argues that these men were killed *because* they were men (a biological, rather than social reason). It is in fact difficult to think of genocides in which men were selected for mass killing *solely* because they were biologically men (or women *solely*

because they were biologically women). Jones (2004) himself cites a source which describes how Kosovo Albanian men were all suspected of being terrorists: a social, or gendered, reason for extermination, rather than a biological one.

Another problem with Jones's "gendercide" neologism is that he measures the severity of genocides in terms of immediate deaths, which is not the best gauge. As Catharine MacKinnon points out, "peoples are also destroyed by certain acts short of killing" (2006b:209). With its exclusive focus on mass killing, Jones's measure rules out genocidal rape and its long-term consequences, which can include eventual death for a group's women and culture. The big problem is not that gender scholars have neglected men's deaths (as Jones argues); it is that we still know so little about the influence of gender on genocide. While Jones is correct that we *do* indeed need more research on male genocide victims, mainly we need to better understand genocide *per se*, including how it is affected by gender.<sup>5</sup>

### **III. Gender and International Criminal Law**

Recognition of gender as a social force led to the realization that law itself is gendered (e.g., Smart 1989). Many feminist legal theorists have focused on reform of the laws of rape, a crime that for centuries had been defined so as to throw suspicion on the victim and protect the perpetrator--and thus to perpetuate gender inequality. Their analysis led to important modifications to remove or at least alleviate gender bias in rape laws (Caringella, 2009).

More recently, the crime of rape has again forced a rethinking of gender and criminal law, this time in the arena of international law against genocide and war crimes. This change was linked to what Nicola Henry (2011) refers to as the "victim movement in international justice," a new phase in international humanitarian law characterized by attention to victims of atrocity crimes. After the Holocaust, the International Military Tribunal at Nuremberg (1945-

1946) relied largely on documents rather than victim testimony (Karstedt, 2010). In addition to the absence of victims from this justice process, discussions of gender (and women) were also missing. The Charter of the Tribunal made no mention of sexual violence, leaving out discussions of the reproductive experiments and forced sterilization to which many women were subjected (Henry, 2011). Nuremberg's successor, the International Military Tribunal for the Far East (better known as the Tokyo Tribunal; 1946), did a better job at addressing sexual violence. It prosecuted the Rape of Nanking as an aggressive act of war that had included approximately 20,000 cases of rape (Yoshida 2006). But the Tokyo Tribunal was still selective in its inclusion of gender-based crimes, ignoring the sexual slavery of thousands of "comfort women" (Cole, 2010). In the criminal tribunals for the former Yugoslavia and Rwanda, however, survivors of sexual violence were included in international war crimes trials for the first time.

The International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) assisted in shifting the view of sexual violence from an inevitable byproduct of war to a weapon of war. One way in which the ad hoc tribunals accomplished this was through the redefinition of rape and sexual violence. But these changes began slowly. Although the ICTY rejected certain gender assumptions in its definition of rape (i.e. rejecting a force-based definition of the crime and including coercion as a factor), in some ways, the tribunal defined rape quite traditionally, in terms of body parts and by maintaining the aspect of consent. According to it, rape is

the sexual penetration, however slight, either of the vagina or anus of the victim by the penis of the perpetrator, or any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator, where such penetration is effected by coercion

or force or threat of force against the victim or a third person. (ICTY, 1998, *Prosecutor v. Furundzija*: par. 185.)

The ICTR produced a new definition of rape and sexual violence :

The Chamber defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. Sexual violence, including rape, is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact. . . . Threats, intimidation, extortion and other forms of duress which prey on fear or desperation may constitute coercion. (ICTR 1998: par. 38.)

This definition is remarkable in two ways. First, in a marked departure from traditional definitions, it does not require penetration or even mention body parts but rather focuses on “physical invasion of a sexual nature,” thus broadening the definition of rape and sexual violence to include acts in which, for example, a woman is forced to watch while militiamen gang-rape her daughter. Second, it says nothing about consent, a term in traditional rape law that assumed the victim might have wanted to be sexually violated; rather, the ICTR focuses on “coercion” and the context (i.e. conflict) in which the sexual violence occurred.

Another way in which the ad hoc tribunals made progress in regard to sexual violence is by ruling that sexual violence may be understood as a means to accomplish other crimes. In addition to establishing rape as a crime against humanity, several cases of the ICTY pioneered the approach of using rape to satisfy elements of other crimes: namely, sexual violence as an act of torture (the *Celebici* and *Furundijza* cases) and as a form of enslavement (the *Kunarac* case) (Cole, 2010). Moreover, the ICTY also recognized the need to protect victim-witnesses of sexual violence (*Tadic* case), acknowledged the traumatic consequences of such experiences

(e.g. post-traumatic stress disorder) for survivors (*Furundijza* case), and included cases of sexual assault against men (ICTY 1997; also see <http://www.icty.org/sid/10314> . However, it was not until the first-ever conviction of genocide by the ICTR, in 1998, that sexual violence was recognized as an integral part of the destruction of a group.

Jean-Paul Akayesu, a prominent local official in the Rwandan prefecture of Gitamara, was charged with 13 counts relating to genocide, crimes against humanity, and war crimes. Akayesu pleaded not guilty to the counts of sexual violence and rape, claiming “that he never heard of them and considers that they never even took place” (ICTR 1998: par. 11). This was not the smartest position to take in the wake of the Rwandan genocide, which was already notorious for vicious and widespread rape. Numerous witnesses contradicted Akayesu. The ICTR concluded (1998, par. 51) that rape and sexual violence are:

one of the worst ways of inflicting harm on the victim as he or she suffers both bodily and mental harm. . . . (A)cts of rape and sexual violence . . . were committed solely against Tutsi women, many of whom were subjected to the worst public humiliation, mutilated, and raped several times, often in public, in the Bureau Communal premises [where Akayesu worked] or in other public places, and often by more than one assailant. These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction . . . of the Tutsi group as a whole.

In sum, the court recognized the role of rape and sexual violence in gender domination. Akayesu was convicted of genocide and crimes against humanity. The *Akayesu* court was able to break so radically with traditional definitions of rape and to recognize Tutsi women as the target of genocidal violence because one of the three judges, Navanethem Pillay, was a feminist who

understood the role of rape, as well as the traditional *law* of rape, in maintaining gender inequalities.<sup>6</sup>

The UN Genocide Convention (1948) mentions neither sex nor gender, categories not yet recognized as legally relevant to genocide at the time it was formulated. Rather, it defines genocide as acts “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” The Rome Statute of the International Criminal Court (2002) holds more promise for convicting those who in the future may use rape and other forms of sexual violence as a tool of genocide (also see Pilch 2009, esp. p 172-173).<sup>7</sup> Influenced by the jurisprudence of the ICTY and ICTR ( Lawry, Johnson, and Asher 2013: 247) the ICC includes as crimes against humanity rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other grave forms of sexual violence (ICC 2002: Article 7). Moreover, the ICC formally recognizes the distinction between sex and gender, stating that “the term ‘gender’ refers to the two sexes, male and female, within the context of society” (ICC 2002: Article 7, #3). This holds the door open to prosecution of gender-based crimes against humanity. In the future, efforts may be made to update the 1948 legal definition of genocide in light of later understandings of sex and gender, and perhaps even to create “a separate gynocide protocol or convention” (MacKinnon 2006).

Less momentarily but also importantly, in the future we may also see more use of social science evidence in prosecutions of genocidal sexual violence. As John Hagan and colleagues show, “Social science evidence, unlike traditional modes of evidence, can demonstrate the roles of the physical perpetrators of genocide acting together in horizontal relationships, as well as establish the indirect participation of perpetrators through vertical relationships, linking higher-level defendants in a chain of command of superior responsibility” (Hagan, Brooks, and Haugh

2013: 278). In fact, social scientists (Hagan and Morse 2013) have recently proposed a new term--*state rape*--to denote sexual violence perpetrated by state (or state-linked) actors. The new term, although it does wash out gender dimensions of genocidal sexual violence, may establish new grounds for prosecuting states for sexual violence (Hagan and Morse 2013).

#### **IV. Future Work on Gender and Genocide**

Our shortlist for further research on gender and genocide includes four recommendations: we should include gender in all studies of genocide; focus on men and masculinities as well as on women and their enactments of gender; review the history of genocide in light of gender; and pay more attention to the intersectionality of gender with other factors such as race.

First, we should start including gender in all studies of genocide. No human event occurs in a gender-free environment, and recent research indicates that gender plays a central role in many of these extreme human events (Pohlman forthcoming 2014; von Joeden-Forgey 2012a; cf. Bock 1998). Research focused on gender may lead to a redefinition of genocide by, for example, encouraging us to include women among its victim groups, even if they are not killed but rather raped, enslaved, and absorbed into the victorious group so that nothing of the victim group remains. Gender research may also lead us to rethink our assumptions about when genocides begin and end. If they begin with raids to steal girls and women, and end with enslavement of women and children, then how should we calculate their beginnings and endings? Has the Rwandan genocide ended, or will it end when the last woman deliberately infected with AIDS during rape has died? Or when the last child born of Hutu rape dies? Von Joeden-Forgey (2012a: 94) argues that “Definitions that focus too much on massacre--mass bodies, mass graves, distinct moments of mass murder--erase almost completely the history and experience of women victims and therefore obstruct deeper and more penetrating understandings of the crime.”<sup>8</sup> Genocide

research that includes gender may also lead us to recalculate our counts of victims. As Helen Fein pointed out (1999: 44), “acts that do not result in death have not been taken seriously in estimating the toll of victims by students of genocide.” And by including gender in our analyses, we will become more sensitive to the gender constitution of post-genocidal societies.

Our second recommendation is to make a concerted effort to focus on men and masculinities as well as on women and femininities. Masculinities have considerable explanatory power. Adam Jones (2004, 2008) was certainly right in urging more attention to sex-selective massacres of boys and men; sexual violence against men also merits close study. As noted earlier, unemployment plus a lack of future prospects thwarted the masculinities of young Hutu men in the early 1990s, leading them to welcome membership in militias (Jones, 2002). Later, when they began to rape and sexually mutilate Tutsi women, Hutu militiamen may have been propelled by what von Joeden-Forgey (2012b) calls “genocidal masculinity,” an ecstatic and liberating, albeit transitory, sense of masculinity that she defines as both “revolutionary and anti-patriarchal” (p. 82). Genocidal masculinity--or at least homosocial bonding (Jones 2008: 247)--helps explain the intense camaraderie among the Hutu soccer team killers described by Jean Hatzfeld in the passage cited earlier. In other genocides, masculinities have played other roles. For example, during the genocide in former Yugoslavia, Serbs raped women in front of their husbands in order to humiliate and emasculate the men. In some cases, the Serbs literally emasculated men, as in the infamous case where Duško Tadić and others forced a male prisoner to bite off another detainee’s genitals (ICTY 1997). Very little research has been done on the types of masculinities deployed in death squads, such as the NKDV executioners who in 1940 killed the 22,000 Poles buried in the Katyn forest. As these few examples indicate, in studying

genocide we need to better understand the gendered enactments of men as well as women, perpetrators as well as victims, and these will vary from group to group.

Third, we need to reexamine histories of genocide in light of gender. Roger Smith (1994) and Helen Fein (1999) both assumed that historically, genocide had followed the pattern of kill-the-men-and-rape-and-assimilate-the-women-and-children, although both also noted that the pattern seemed to be changing. It may indeed be true that historically, genocides followed that pattern, but we won't really know until we reassess genocides of the past in light of gender. We wonder if genocidal rape really *is* a recent innovation, as some of the recent literature seems to assume. The Ottoman pogroms that preceded the Armenian genocide evidently involved something very like genocidal rape, as did the rapes during the Armenian genocide itself, when Ottomans and Kurds attacked along the "deportation" routes. If we do enough historical research, we may find more continuity than change in genocides through history, at least in terms of rape. Moreover, we may gain access to the gendered fears, compromises (e.g., Hájková 2013), and torments of genocide victims.

Fourth, we would like to see more study of the intersections of gender with other social factors during genocide (Carpenter, 2002). Feminist standpoint theory recognizes that there is not a universal experience of all women. Standpoint scholars recognize that women hail from a diverse range of class, cultural, and racial backgrounds, inhabit many different social realities, and endure oppression and exploitation in many different ways (Brooks, 2007). In the study of genocide, the most influential of these other factors may well turn out to be race/ethnicity, and we already have a good model for such research in Hagan and Rymond-Richmond's (2009) study of Darfur, in which Arab Janjaweed militias, in "wraparound sunglasses [and] display[ing] weapons," (p. 206), attacked African villages, shouting racial epithets as they raped and killed.

In Rwanda, erotic fantasies about Tutsi women fueled Hutu men's sexual violence (Nowrojee 1996). An example of the intersection of gender with age can be found in the slaughter at Srebrenica, where not only adult men but also boys were massacred because the latter might grow up to avenge the violence. (Similar logic has led to the killing of young males of the targeted racial or ethnic group in many genocides.) Gender again intersected with age in the Armenian genocide, in which girls considered most beautiful were selected for sexual depredation (Bell, forthcoming).<sup>9</sup> Gender intersected with socio-economic status in the case of the prostitutes whom the Nazis sent to concentration camps; some of these women were re-victimized when they were assigned to brothels servicing the prisoners. Gendered intersectionalities appear to be an exceptionally fertile area of genocide research.

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To conclude: In the years ahead, examining genocide from the perspective of gender is likely to transform genocide studies and even genocide prosecutions. It will force a redefinition of genocide and perhaps a formal revision of the UN's Convention on Genocide to recognize a fifth category--gender--in addition to the four groups already protected by the UN (those defined by nationality, ethnicity, race, and religion). It will also force us to find new ways to count genocide's victims, one that goes beyond what Kaiser and Hagan (forthcoming: 3) call "the hegemonic focus on killing" to include both victims who outlive the immediate violence and those who are harmed by gender-based atrocities. We will have to rethink how we date the termination of genocide. Perhaps we will learn why men are the chief perpetrators, how perpetrators pick their victims, and how their tools of destruction are gendered. We may have to

rewrite the history of genocide. The list could go on, but I think it is clear that gender analyses have the power to radically revamp the study and prosecution of genocide.

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Notes:

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<sup>1</sup> For the last point here, we are indebted to Laura Sjoberg.

<sup>2</sup> While there are other ways of defining the difference between biological sex and gender, we are using the definition that appears most frequently in the literature on genocide and gender.

Moreover, the International Criminal Court has adopted this definition (Article 7, #3).

<sup>3</sup> In fact, both articles make a start toward distinguishing between sex (“woman”) and gender, Smith (1994) on p. 323 and Fein (1999) on p. 59. Ofer and Weitzmann (1998) were among the first to distinguish between sex and gender, and their collection remains a model for its willingness to include discussions of various dimensions of the issue. For another conceptual trailblazer, see Copelon 1995.

<sup>4</sup> According to Jones (2008: 232), “Catharine MacKinnon seems first to have deployed the concept of ‘rape [as] a genocidal act,’ in her 1994 essay “Rape, Genocide, and Women’s Human Rights,” Harvard Women’s Law Journal 5: 9-12.

<sup>5</sup> In a 2002 article, Adam Jones bitterly laments research on gender and genocide that focuses on female victims, and he charges feminist scholars with something close to malfeasance: “[S]uch commentary as exists on gender and genocide has tended to *actively suppress* the male experience, with the aim, in most cases, of increasing the sympathy and policy attention extended to female victims. Such an approach should be seen as a betrayal of the spirit of human rights work” (Jones, 2002: 87; emphasis in original). Here, too, Jones does not recognize women as

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genocide victims unless they are killed: “If males tend to be disproportionately targeted in genocide, then women tend to be disproportionately the survivors ” (2002: 88). This refusal is especially strange as Jones is here writing about the Rwandan genocide, whose rape victims can hardly be described as “survivors”: many of them died of wounds; others, deliberately infected with AIDS, have also died; and those who remain alive suffer ostracism as well as, in many cases, the pains of raising children born of rape (Nowrojee, 1996).

To be fair, however, we should note that Jones seems to have relinquished his insistence on the concept of “gendercide.” In his 2008 overview of the historiography on gender and genocide, he recognizes problems with the concept, and in his 2012 edited collection, the term “gendercide” is mentioned only once, by a contributor (Drummond, 2012: 106).

<sup>6</sup> For later progress of the ICTR in prosecuting rape, see Bianchi 2013.

<sup>7</sup> However, the Rome Statute defines rape as penetration by force, threat of force, or coercion, turning its back on the *Akayesu* court’s more enlightened definition, which does not require penetration or even physical contact.

<sup>8</sup> Also see Jones 2002: 87: “‘gendering’ genocide can provide powerful insights into the outbreak, evolution, and defining character of genocidal killing.”

<sup>9</sup> Also see Carpenter 2002, who writes (p. 94) that “we must better conceptualise the interrelationship between gender and age. Too much gender theory has treated males and females as oppositional categories, assuming that gendered power has a static, unidirectional flow. . . . In truth . . . , age categories (child, youth, adult, elder) intersect and even constitute gender

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categories (woman, women-and-children, battle-age male, woman of child-bearing age). With this in mind, sex-disparities in power become highly contingent.”