

Rape and Enforced Pregnancy as Femicide: Comments on Claudia Card's "The Paradox of Genocidal Rape Aimed at Enforced Pregnancy"

Ann E. Cudd
University of Kansas

1. Card's Main Claims

Claudia Card's fascinating paper argues for the claim that military rape that is followed by enforced pregnancy, when pursued as a policy, is a genocidal plan and a form of biological warfare. The paper focuses on the paradoxical sounding question: How can enforcing pregnancy—which guarantees the birth of a child—be at the same time an act of genocide—which is normally defined as the death of a people? In addition to resolving this paradox, Card's paper offers us more insight into the question of how rape itself can be an aspect of genocide. In this comment paper, I will briefly rehash these ideas in order to seek clarification of the notion of social death that she relies on. I will then explore the idea that this special sort of biological warfare might better be described as femicide, as aspects of the global war on women.

Genocide is defined by the UN as "any of the following acts committed with the intent to destroy, in whole, or in part, a nation, ethnical, racial, or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group." Card clarifies and amends this definition in three ways: first, by clarifying the notion of the intent required; second, by considering the acts as components of a plan; and third, by clarifying the type of unique harm that is involved with genocide.

One problem with this definition of genocide is that an actor's intent is often difficult to discern by either an outsider or the actor herself. The outsider is in a much better position to determine whether the act had foreseeable consequences that are bad, and to hold the actor responsible for foreseeing those consequences and hence avoiding them. This allows us to focus on the harm from the perspective of the victim's sufferings, yet also

preserves a way of holding the actor responsible for them, even if the suffering was not the direct motivation for the action. Card thus claims that a charge of genocide requires only that the acts committed would have the foreseeable consequence of destroying, “in whole, or in part, a nation, ethnical, racial, or religious group, as such.”

A second problem with the definition is that it seems to judge individual acts, and when taken in isolation, it is difficult to see any one act as causing the destruction of a people. Genocide is made up of lots of individual acts that, taken together, amount to the destruction of a people. But it is notoriously difficult to argue that individual acts are amounting to genocide. It makes more sense to talk about a plan in which many such actions fit, so that even the individual soldier killing an individual civilian with the foreseeable consequence of this person’s death, could fit into a plan whose foreseeable consequence is the destruction of a people. Card cites the inventor of the term “genocide,” Raphael Lemkin, as having introduced this insight, although it seems to have been lost in the UN definition. Thus, she argues, genocide involves an overall plan that results in foreseeable destruction of a people, and so military rape can become genocidal when it contributes to a larger plan that has the foreseeable consequence of destruction of a people.

A third problem for the definition of genocide is to defend the claim that actions that are not mass killings can still be genocidal. Card argues that what is special about genocide and differentiates it from other massive killings or rape is that it causes not only or not exclusively physical death but also social death. In her 2003 *Hypatia* article entitled “Genocide and Social Death,” Card refers to Orlando Patterson’s (1982) analysis of American slavery, in which he argued that slaves were natally alienated and thereby suffered from what he termed social death. Ripped from their homeland and tribes, continually bought and sold without regard to their kin connections, the slaves lost their cultural identity, their heritage, and their intergenerational connections, to such a degree that they were unable to pass along or build traditions, projects, even languages of earlier generations.¹ Card summarizes that “social vitality is destroyed when the social relations—organizations, practices, institutions—of the members of a group are irreparably damaged or demolished” (Card 2003, 69). While this is characteristic of slavery, she argues that it is also essential to all forms of genocide, even those that consist of massive killings (such as the Holocaust) and do not involve natal alienation. She argues that “the very idea of selecting victims by social group identity suggests that it is not just the physical life of victims that is targeted but the social vitality behind the identity” (76).

The Brana plan involved Serb soldiers raping young Muslim women and enforcing their pregnancies until the fetuses could

not be aborted. Card's analysis of this plan as genocide requires her to show that either it was explicitly intended as an outcome or that it was part of a plan that foreseeably would result in social death and the destruction of the community of which they were members. Let us unpack two aspects of the analysis in this case: social death and destruction of the Bosnian Muslim community.

2. Enforced Pregnancy as Causing Destruction of the Community and Social Death

In the course of her paper, Card presents four possible ways the Brana plan's policy of enforced pregnancy can be made out as part of a genocidal plan of the Serbs. First, the resulting children could be seen as Serbs because of their genetic origin. Thus the Muslim women would be bearing the children of their enemies, who would replace other Muslim children who might have been born at the time or soon thereafter. Card rejects this as the explanation, as she must on her definition of genocide, since it is the foreseeable consequences that matter, not the subjective intent of the perpetrators.² Since the children would not in any reasonable sense be Serbs (they would have half their genetic makeup from a Serbian father, but that would make them probabilistically speaking indistinguishable from a child from a Bosnian father), that cannot be a consequence, regardless of what the rapists or the raped women think.

Where the people are visibly quite different, however, this could be an explanation of how rape and enforced pregnancy might be genocidal. There are reports of the Darfur rapes of the very dark skinned Fur, Zaghawa, and Masalit women by the lighter skinned Arab Janjaweed militia that indeed the point is to dilute the population of the dark skinned tribes by lightening the skin of the children (Amnesty International 2004). In this case, the resulting children might actually be considered to be of a different people because of their highly visible skin color, and in a way that no socialization could alter as it presumably could in the case of the similar looking Serbs and Bosnians.

Second, the raped women (particularly those who have born children from rape) could be expected to be stigmatized and ostracized and, in this way, eliminated from the society. This explanation would fit into Card's analysis of genocide if, indeed, the women are ostracized, but it does not explain why the plan involved enforced pregnancy rather than simply rape. Card is right to dismiss Beverly Allen's concern that this is an offensive way to blame the victim culture, since it implies that they are extremely sexist. What matters, as Card points out, is whether it is true (but not whether the soldiers simply think it is true for the same reason that we rejected the first explanation). Now

it might be objected that this couldn't happen in large numbers in any community because, facing the prospect of having no women, the men would find a way of redeeming these women. However, this objection ignores two things that we know about cultures. First, cultures change very slowly and not often due to intentional planning, although that possibility cannot be categorically ruled out. That it makes no sense (and is extremely harmful) to genitally mutilate women, for instance, does not lead to the end of the practice. Second, individuals will do what is in their individual interest, and so there has to be a worse expected outcome for man to pursue a "decent" wife than the expected outcome of taking a raped woman. Many individual men will not take the chance of appearing deviant or without honor and so will take the gamble that they will find a decent woman. Just look at the fact that in some cultures there is an 80:100 ratio of women to men,³ and this ratio is imposed repeatedly by men, despite the fact that 20 percent of men will be wifeless because of this ratio. Each man who participates presumably believes that he (or his sons) will not be in the 20 percent of wifeless men.

Furthermore, we know from Amnesty International reports of the Darfur mass rapes that it is at least sometimes true that women who are raped are ostracized (Amnesty International 2004). They are treated even worse if they are then pregnant as well, since being pregnant while unmarried is often treated as a crime even if it results from rape. This suggests that women are sometimes treated even worse if pregnant, and this could explain why those with genocidal intentions might go the extra mile to enforce pregnancy after rape.

The third way that the Brana rape/enforced pregnancy plan might destroy the community is if raped women are unwilling or unable to reproduce the next generation. If they are made physically unable to reproduce, or mentally traumatized and unable or unwilling to have sexual intercourse or give birth, then the next generation will be seriously reduced or eliminated. Surely enforcing pregnancy after the rape makes the experience even more traumatic. Thus rape and enforced pregnancy might actually lead to the physical destruction of the community.

Fourth, the existence of unwanted children who are the product of rape by the enemy could cause social chaos to the extent of destroying the culture and institutions of the society.

Without looking at the actual facts of a particular situation of rape/enforced pregnancy, there is no way to rule out any of these explanations; any of them might have been part of the foreseeable consequences of such a plan. While in the Brana plan the first of these is probably not true, since there is little if any visible difference between the children of Serbian rapists and those who were fathered by Muslims, the evidence from

Darfur suggests that at least the first three of these consequences are taking place. In Darfur the enforcement of pregnancy also seems to be quite a bit easier, since abortion is rare. The sanitary conditions are very poor for any sort of surgical intervention, and tradition, religion, and law all conspire against this option for women.

One might ask, and people who are skeptical of the reports of these mass rapes or of including the mass rapes under the label “genocide” do ask, if genocide is the aim, why not just simply kill the women? Isn’t this a better means to commit genocide, both because it is a more certain outcome and because it is easier to shoot someone in the head than to rape her and then keep her alive and in custody as an enemy, preventing her from aborting herself? Does this not suggest that mass rape is not part of a genocidal plan but rather a “natural” response to heightened aggression and lack of social structure and oversight? Isn’t rape in other words the effect of war and not an intentional plan?

It is one of the distinct advantages of Card’s analysis that it can respond to this skepticism and show that rape is genocidal. On her view we may consider the intention as including the foreseeable consequences. This sort of rape is the foreseeable consequence of unleashing male soldiers against a hated enemy against the background of domestic rape, misogyny, and sexism. Thus, rape still fits the definition of genocide even if it is in some sense natural.

Furthermore, this objection does not adequately account for the plan of enforced pregnancy. Why would men subject women to this additional torture? At this point a different sort of “natural” or biological argument might be invoked, namely, the sociobiological argument that men would be motivated to do this to ensure that their genes are propagated. That would not explain why they enforce pregnancy in these women and not in women of their own group (unless, of course, they do enforce those pregnancies) or groups that they are not fighting. That would not explain why they allow other men of their own group to rape rather than insisting that only their own sperm penetrates. Finally, even if the sociobiological argument has some merit, it still is the case that this kind of torture is difficult to carry out and requires a plan that can be foreseen to have the consequences of social death. Enforced pregnancy must be part of an intentional plan and not merely an immediate, natural reaction. It could be the case that their superiors are relying on some natural aggression to inspire some of the rapes to begin with, (although at least some of the perpetrators report that they are coerced into raping (see Card 2002, 128–29), but beyond that initial aggressive reaction, there must be a quite unnatural plan that the superiors would have to force their soldiers to follow.

3. Genocide as Involving Social Death

I turn now to consider Card's claim that genocide essentially involves social death. At some points in her paper, as well as in her earlier article that she and I have referred to, Card uses this term to speak of harms done to individuals qua group members. Of the socially dead she writes: "victims are stripped as members of the target group of the social identities that gave meaning to their lives" (182). On this individualist understanding, an individual suffers social death if he or she is unable to connect to a community that supplies traditions, norms, languages, and an identity as belonging to that community that supplies meaning for the individual's life. The slave who is ripped from his homeland and sent by ship to a faraway place where he is forced to work for and live among people he does not know or recognize as kin or neighbors is socially dead. The Holocaust victim whose family is destroyed and who can no longer recreate the community in which she lived may be socially dead. However, this rules out cultural assimilation as a form of genocide whenever the individuals find new meaning in their new culture. The old group identity has been destroyed, but a new one takes its place and individuals find meaning in the new culture.

At other times, though, Card writes of social "chaos" as the harm that ensues from enforced pregnancy. For example, in discussing the rape and enforced pregnancy plan she writes, "Although this attack need not produce illness, it is designed to produce social chaos" (187) by producing an unwelcome new generation. This is the last of Card's explanations, where social chaos is the special harm involved, produce this sort of group harm. In her book, *The Atrocity Paradigm*, Card writes, "Another way [to eliminate a people] is to destroy a group's identity by decimating its cultural and social bonds" (2002, 126). This statement comes in her chapter on "Rape in War," and it begins a discussion of sexual enslavement. I wonder whether Card counts social chaos or the breaking of cultural and social bonds as a second sense of social death and as one that happens essentially to a group rather than to individuals. An important question for individualists and liberals is whether this latter type of social death, which amounts to a group harm of the ethnic group from which the women come, is resolvable into individual harms, but I won't consider that further here. Rather, I want to pursue the issue of what sexual enslavement, rape, and enforced pregnancy do to women as a group, not an ethnic group with bonds and relations that can be fractured but, rather, as a nonvoluntary group that exists in the categorization and stratification that humans make according to the perceived sex of the individuals.

4. Social Death of Women and Femicide

Femicide is a term that was reintroduced to the feminist literature (Caputi and Russell 1990) in the wake of the mass murder of women in Montreal by Marc Lepine—the mass killing of women *because* they are women. I would like to explore whether femicide could be usefully deployed in a broader sense, as genocide is used in a broader sense to include acts or plans that are not mass killings but have other essential and evil features in common. In particular, I wonder whether rape and enforced pregnancy is rightly considered a kind of femicide, and indeed, whether it might not even be a better way to describe the Brana plan than as a genocidal plan. By femicide, I will mean the systematic and global dehumanization of women. Thus in femicide women are not necessarily killed, but they are dehumanized, made into something less than human, possibly through death. On analogy with Card's analysis of genocide, a charge of femicide does not depend on determining the intentions of the perpetrators but, rather, in assessing whether they are intentionally carrying out a plan that has the foreseeable consequence of maintaining the subordination of women and the impossibility of women's culture or autonomy.

As we have seen, women often suffer from social death after rape and enforced pregnancy, by the treatment they subsequently receive in their own culture. "Non-virtuous women are promiscuous women and women who have been raped. In many societies, once lost, a woman's virtue can never be recovered. Sexual violence thus devastates women because it excludes them from both the private and public life" (Duggan and Abusharaf 2006, 633). Is social death an essential part of femicide, though? If we mean by social death the breaking of cultural and social bonds or social chaos, then women cannot socially die *qua* women. But if we mean by social death being stripped of the social identity that gives meaning to life, then femicide may essentially involve this. People tend to see themselves foremost as human beings and as members of some cultural group. Practices that target women for dehumanization indicate that they are categorized as women first in the eyes of the men who dehumanize them. They are not human beings or Muslims or Fur, but women to be raped, reproducers to be forced to reproduce. Femicide, I submit, forces a break between the self-perception of women as full members of their cultures and their perception by men as merely women.

On this understanding of femicide, rape and enforced pregnancy is a common and effective plan. In fact, raping and enforcing pregnancy is more effective than killing them to remind women that they are mere reproducing beings. So perhaps the plan is better described as femicide than genocide.⁴

However, a femicide can also be a genocide, if it is the women of a culture who are targeted. But we can note that the victim culture can make the femicide worse by stigmatizing and ostracizing the women, thus thoroughly robbing them of any external connection to the self-perceived identity as full members of the culture. Or the victim culture can counter the femicide by re-assimilating the women into their culture and re-forming the cultural bonds that externalize their self-perception and convincing them that the perpetrators' treatment of them was a blow to the culture rather than to the women *qua* women.

If this analysis of enforced pregnancy as femicide is right, then that helps us make sense of other practices. Femicide is reinforced by domestic enforcement of pregnancy through prohibition of abortion and contraceptives, control of sexuality by males, lack of reproductive health care, and compulsory heterosexuality, to name a few. These practices all send the message to women that they are mere reproducers, not worthy of full membership in their culture as human beings, but only the reproducing auxiliaries of the culture. These practices, or at least some of them, are global practices and constitute a global war on women. In this war, sperm could be said to be a biological weapon, but I have to confess to a discomfort with that phrase. Sperm has, after all, peaceful uses, while it is hard to see what the peaceful uses of smallpox or other biological agents would be.⁵

One might object that women are under the condition of forced assimilation, which Card says does not necessarily cause social death since changing social identities does not leave one without a social identity. However, Card also noted that in some cases of forced assimilation "the self-perceptions of the [assimilated] do not track the change in their socially perceived identities" (183). I would argue that is what happens in the case of enforced pregnancy that amounts to perceiving women as dehumanized reproducers, even while they are self-perceived as human beings. This accounts for why women often claim that they are not harmed as much as they are by the many practices of femicide: they see themselves as fully human and deny the social perception of them as reproducers, slaves.

5. Is Femicide an Evil?

If there are so many practices that constitute femicide, though, does this banalize the term? Is femicide on this construal an evil? According to Card's definition, the distinction between a mere injustice and an evil turns on whether the harm is unbearable. "An injustice becomes an evil when it inflicts harms that make victims' lives unbearable, indecent, or impossible, or that make victims' deaths indecent" (Card 2003, 66). Clearly the genocidal forms of rape and enforced pregnancy meet this standard of evil.

Genocide is always an evil. But does the denial of abortion meet the standard of evil? It seems clear that being denied an abortion does not always make life unbearable. If there are other social supports for the woman, then having an unwanted child is not a catastrophe, although the pain and suffering ought not be minimized either. Ironically, it is precisely in those cases where enforced pregnancy is so normalized that it is both most oppressive and most bearable. Should we say that femicide is sometimes an evil and sometimes only an injustice, or is it better to restrict the concept of femicide to the class of evils and say that sometimes enforced pregnancy is merely oppressive? I believe that Card would have us go in the latter direction. My point here has been to offer the term femicide as another way to describe the genocidal rape and enforced pregnancy of the Brana plan, in order to remind us how the whole plan fits into the larger scheme of the global dehumanization of women that transcends ethnic and national boundaries.

Notes

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¹ In discussion, Bill Lawson questioned whether social death is characteristic of the slave populations, given their forms of resistance to slavery. While it is important to stress how resilient the slaves were in their response to the evil of slavery, it is also important not to underestimate the horror of the harms inflicted on them by robbing them of their traditional cultures, languages, and social connections. Social death names this harm, even though it might be said that they, like Holocaust survivors, were sometimes or even often able to create a new social life.

² Card disagrees with this strong reading that discounts entirely the intent of the perpetrators. On her view, there must be an intent that at least includes the foreseeable consequences, even if those consequences are just the acceptable by-product of the maxim for action. However, it does seem that intent alone cannot make a plan genocidal.

³ According to the *2006 CIA World Factbook*, the countries of Oman, Bahrain, Samoa, United Arab Emirates, Kuwait, and Qatar all have ratios of 80:100 or lower.

⁴ In discussion, Ann Ferguson objected to naming a genocidal rape/enforced pregnancy plan as a femicide, since the men of the culture are also harmed by their women's treatment. While the men are harmed in some sense, there is a clear difference between those cultures that seek to reintegrate the women and those that shun them. In the latter, the men use the harm to the women as a way of maintaining their dominance. There is also a clear difference between being the one who is raped and forced to bear a child versus having

one's wife or other female relative undergo that treatment, although the relevant question is whether that harm prompts grief and sorrow for the victim or dishonor. If the reaction is dishonor, then the perceived harm is to the dominant status of the male, and this emotion, I argue, is a part of the overall global dominance of men.

⁵ Card pointed out in discussion that there is a peaceful use of bacteria and viruses, namely, in making vaccines. But of course those uses are to enable us to fight off bacteria and viruses.

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