

# Mass rape: a crime beyond comprehension

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## Summary

The author's main point is that human mind is capable to comprehend the crime of mass rape neither in the form of law nor in the form of philosophy (ethics). Article hence inquires metaphysical roots of the evil, as well as of the good, in order to answer the question what mass rape actually means. One begins from the premise that fear lies in the basis of raping. Analysis continues relying on Aristotle's conceit of the virtue and, consequently, of the virtue of courage as a mean state in relation to the deficiency of courage and the excess of courage as vices. Author concludes that two forms of raping exist: one stemming from the fear of woman (as the deficiency of courage) and the other springing from the deficiency of any fear (as the excess of courage). In order to get rid of the evil, including the one in the form of raping, man needs Fear from ultimate Judgment. For that reason, the author maintains, it is courageous to admit that law and philosophy are not able to know substantial cast of evil and mass rape as its emanation.

**Keywords:** *mass rape, law, ethics, virtue, vice, fear.*

*"How terrible it will be for those who think they are wise!*

*How terrible for those who think they are really clever!"*

Bible, Isaiah 5, 21

## Introduction

International Herald Tribune, as well as the most of world's media, published on the 18<sup>th</sup> of November, 2006, short news from Fort Campbell, Kentucky, that a U.S. soldier was sentenced to 90 years in prison for raping a 14-year old Iraqi girl and then killing her and her family<sup>1</sup>.

In October 2005 Norwegian television, the NRK, and most likely no any other, broadcasted interview with Mrs Jasmina Omerovic, who states that she was raped between 500 and one thousand times at the beginning of the war in Bosnia-Herzegovina<sup>2</sup>. Jasmina was raped for the

first time in 1992, two days before her 20<sup>th</sup> birthday, before her children, before her mother-in-law, before her husband. It were elite Serb, Arkan's soldiers. Ever since, she served as slave, only for being raped. She was freed after one year so as she was ransomed for 5.600 DM by a friend of her parents, a Serb. When she met her husband, who escaped from camp in Serbia, he promised not to ever ask her about the things about which she was not able to speak then. She kept silence up to 2001. Then she began to speak and now she speaks about that to the entire world...It is not known if any of hundreds of her rapists have ever been sentenced.

These two cases raise the elementary question: what actually is a *mass* rape? Although it appears as self-understandable, for the difference from an 'ordi-

<sup>1</sup> *GI gets 90-year term in Iraq rape and murder*, "International Herald Tribune", November 18-19, 2006, p. 7.

<sup>2</sup> Tasic, Dzevad, (interview) *Zivot nakon pakla*, "Bosanska posta", Godina/År 11, Nr. 23,11. novembar 2005, str. 10-11.

nary', individual rape is apparent, these two cases demonstrate that the difference is not only phenomenal. Is it possible to understand the meaning of this syntagma at all, if one does not previously ascertain what *rape* as such is? Then, is there chance to grasp the mere essence of rape as long as we do not know what *crime* as such is? And, eventually, can human mind reckon on understanding what the rape of a woman thousand times or the rape of thousand women is, without knowing the virtual answer to the fundamental *moral* question, and the question of *human nature* as well: what is the *evil*? And such a question obviously is not elementary.

### Law facet of crime: punishment and impunity

Law deals with phenomenal (empirical) side of rape and mass rape and approach it in a partial way. For that reason one should not expect that the law makes a conceptual, that is notional distinction between rape and mass rape. It explains the ways in which the cases of rape, respectively mass rape, in Iraq and Bosnia, were judicially treated. The crimes in Iraqi and Bosnian case have something in common, but also that that makes them specific.

On the one hand, what links the Iraqi with Bosnian case is the blatant fact that *rape* is in question in both cases. Distinction is neither in the fact that American soldier committed the crime of murder other than raping. Many raped women in Bosnia were also killed. Mrs Omerovic was lucky, or unlucky - as she says, to survive. On the other hand, there are three differences between these two cases: a) empirical difference; b) punishment; c) judiciary systems.

a) In Iraqi case it was about rape, in Bosnian one it was about *mass* rape. If

there is no difference, the attribute would exist neither. The language sometimes, luckily, helps us to express even what we do not comprehend. Intrinsic difference is, however, even empirically shocking enough. Admittedly, it is still uncertain where the boundary dividing individual from mass rape runs, albeit the difference between the Iraqi and Bosnian case is plain. Rape of one woman by a soldier is, clearly, an individual raping. However, if numbers matter, which number determines raping as mass rape? Rape of thousand women by thousand soldiers or the rape of thousand women by one single soldier? If we continue using the same criterion, the number, we can come to the absurd dilemma: whether raping of one single woman by thousand rapists is mass rape at all? Bosnian case demonstrates that even such an absurd dilemma stood indeed before the law. And it was about the most brutal and the most blatant form of mass rape. The numbers, though relevant, however, are not determining.

b) The difference in punishment of American soldier and Serb soldiers is even more shocking. The difference is absolutely disproportional to the empirical impression about the weight of crimes and contending to the most formal logic.

Where crime is obvious, or proved, as lawyers would say, the punishment must be response to crime; where the difference in the *weight* of crimes is obvious, the difference in the *volume* of punishment must exist. The punishment should hence be the *indicator* of crime and its weight. In our case, in the case of difference between individual and mass raping, an

enormous punishment for mass rapists must be the indicator of the weight of their crime in relation to punishment for the perpetrator of individual rape. Why? Simply because one plus one is double more than one - which means that thousand is just as much as so many times more than one. Consequently, Mrs Omerovic's rapists should have got punishment proportional to the punishment of American soldier who got 90 years in prison.

On the contrary, rapists of Mrs Omerovic have not been punished at all. From all of this, quite logically again, one must reach an entirely contending conclusion. If punishment is any indicator of the weight of crime, as it should be, then the crime committed against Mrs Omerovic, though mass one, for it is thousands (thousand times committed), is not heavier than the crime committed by the American soldier. Moreover, whereas none of thousand rapists has ever been punished, then their crime does not count as crime. Furthermore, if one follows this logic, then rape of 1000 women, or 20.000 women, something what also took place in Bosnia, would be even minor crime than the crime committed against Mrs Omerovic. If one gathers by punishment, as it should be, for the most number of women's rapists in Bosnia went with impunity, then the crime of mass rape there ceased to count as crime.

*Ergo*, as the law is not capable to distinguish between rape and mass rape, so the punishment can not be taken as reliable indicator of the difference. Since the difference in punishment in our case is in inverse ration to phenomenological difference between these two crimes, one can

come to the conclusion that the law can even be misleading.

- c) In our searching for the difference between the rape in Iraq and mass rape in Bosnia, and on the basis of punishment as indicator, let us reach for one more argument, before approaching final conclusion. There is, namely, one more difference between these two cases. In the first one, the punishment was pronounced by *American* court, in the second, where punishment lacked, *Serbian* (or *Bosnian*) court, *Serbian* (or *Bosnian*) prosecutor and *Serbian* (or *Bosnian*) investigator, should be in charge.

Our aim, naturally, is not to speak about the difference between American and Serbian legal systems. It would be as to corroborate that thousand rapes are thousand times worse than one rape. The reader has not to undergo Mrs Omerovic's experience in order to grasp it. Even less is our goal to prove the superiority of American judiciary system in relation to Serbian (or Bosnian) one. It would be even opposite to our basic intention. Our problem is neither American nor Serbian, nor any other specific judiciary, but judiciary in general and punishment and law as such. The purpose of these lines is *only* to indicate that *punishment* as such can not be reliable indicator of crime because the *law* as such is not capable of ascertaining what crime and its weight is. To reach such a purpose, both American as well as any other legal system could serve. Of course, it is about the self-built image of the law and its unlimited ability to access final wisdom.

What the law lacks, when investigates, prosecutes and sentences crime, and for the reason of which punishment can not

serve as an indicator of crime, is the comprehension of the evil, evil as such, not evil in a specific form but the evil in general, i.e. pure evil. Pure evil is evil that does not recognise itself as evil. Pure evil does not know that it itself is evil. For that reason pure evil perpetuates, multiplies and outgrows into mass crime. When a good man perpetrates crime, or when man realises that he committed crime, then he feels repentance, has pricks of conscience, admits crime, and even demands punishment for himself. Perpetrator recognising his crime as crime has perception of punishment as his right. Socrates says that the person who does injustice and is not punished, is more unhappy and more miserable than the person who does injustice and is punished. Punishing is not only the right of society, in order to protect itself from criminals, but the right of criminals as well. Yet, crime that is recognised as crime is likewise crime. Crime that society recognises as crime punishing it, or crime that is recognised by mere perpetrator demanding even punishment, is still only a specific form of crime. Neither society that punishes nor criminal who has pricks of conscience, thus, do not know what crime as such is.

By this, by common feature of law that it can not recognise crime in general, American and Serbian legal systems are equal. What links, in spite of enormous difference, American legal system pronouncing the punishment of 90 years for raping, with Serbian legal system, which pronounces punishment for mass rape neither, is that both behave *as if* they know what rape, mass rape, therefore crime, and evil is.

In the first instance, 90 years in prison punishment proves that American legal system is *certain* about what the evil is, for it punishes rape as the emanation of

evil. In second case, for which, I presume, readers understand it is only taken here as a paradigm for common state of affairs in legal systems dealing with mass rapes in Bosnia, it is either about the absence of punishment or absolutely inadequate legal treatment of such a sort of crime. The lack of punishment, as well as punishment, confirms that Serbian legal system is also certain it *knows* that rape enhanced into mass rape – either multiplied rape of one woman or rape of mass of women – is not an emanation of evil.

Legal system pretending to know what rape is, as is the case with American one, is also supposed to know what mass rape is, and that it is enormously heavier crime than individual rape. If this is so, if one assumes that *American* legal system, which knows what the rape is, also knows that mass rape is crime, then why such a crime perpetrated in *Bosnia* goes with impunity or without adequate punishment? Those chief responsible for all rapes in Bosnia, and all other crimes, are, though, still at large, unpunished. A mass rape performed in the U.S. would be sentenced proportionally to the punishment for individual rape. Does this mean that mass rape counts as crime for American legal system only if it is American crime? Does it mean that the crime of mass rape having taken place in Bosnia does not count as crime for American legal system alike as for Serbian legal system? Can a legal system in specific form be just without being legal system in general? Alike as every specific crime is *eo ipso* crime as such?

The fact that American legal system has punished American soldier for the crime of rape with 90 years in prison, does not free that specific legal system from the responsibility of impunity for the same, but multiplied, crime of Serbian soldier.

Moreover, such a punishment does make the system even more responsible for this sort of crimes regardless where they take place. However, the fact such a crime is not its concern, for the system does not undertake adequate moves to investigate, to prosecute and punish such a crime in Bosnia, approves that neither the punishment pronounced to American soldier springs because the system *knows* what crime as such is, but *as if* it knows what it is. Pronouncing punishment to American soldier American court proves it knows what crime committed by American soldier is; remaining silent towards the crime of mass rape having been committed by Serbian or n soldiers, that very same system blatantly demonstrates that it does not know what the crime of rape as such is.

Nothing changes if the thing is observed only from a pragmatic standpoint. Let us assume that the American legal system has, by punishing the American soldier, exclusively acted in order to protect American society from crime. If the soldier did not get 90 years or was not punished at all, while the war in Iraq is still waged, many of his comrades could have committed same crime, and he himself perhaps could have continued raping and killing. What is even worse, the soldier could have continued to do so at home, in the U.S. This is perhaps indeed only reason why the American court so drastically punished American soldier, and not in Iraq, but at home, in the States. And yet, this inevitably raises the question: why does American legal sys-

tem deem that crime committed in Bosnia, or anywhere else, could not have same effect on American society, and that mass rape in *Bosnia* is, nevertheless, an *American* matter as well? If the theory of chaos matters, American citizens should feel rather insecure in the wake of crimes committed and unpunished in Bosnia. Will the impunity of the crime of mass rape, just like the impunity of individual rape having perpetrated by the American soldier, not encourage criminal behaviour in the U.S. and imperil the security of Americans? After all, whole world, including the U.S., already now has problems with criminals who committed crimes in Bosnia. They are endeavouring, currently as ordinary peaceful citizens, to attain the citizenships of many states, or have already got it. Of course, Serbia and those parts of Bosnia-Herzegovina where criminals walk with impunity will have such problems the most, but this is taken for granted. The price for passivity and silence of specific, national legal systems, though, will also be paid by citizens in many countries, even in those where rapists do not hide<sup>3</sup>.

Human conscience in its *law* form, therefore, can not exactly answer our question on mass rape. Have some other forms of conscience the capacity to face this question? Before raising the question whether human mind as such can comprehend the crime of mass rape, let us ponder if it can be done by philosophy, ethics specifically, whereas it deals with the good in general<sup>4</sup>.

<sup>3</sup> "The notion of extreme violence is an index pointed against events that we should not hide and in relation to which we cannot remain indifferent." Consuelo Corradi, *Identity and Extreme Violence. Some Elements for a Definition of Violence in Modernity*, in R. Cipriani and A. Cavalli (eds.) *Issues and Trends in Italian Sociology*. Rome: Scriptaweb, 2007 (forthcoming).

<sup>4</sup> The partial character of law conscience has eventually been confirmed in the recent ruling of the International Court of Justice in The Hague. The court namely decided (13:2) that the massacre in Srebrenica had been genocide, separating thereby even the undividable – the massacre in Srebrenica from the genocide perpetrated – in *Bosnia*. <http://news.bbc.co.uk/2/hi/europe/6399319.stm>

## Philosophical (ethical) facet of crime: the pathological and the normal

For the sake of lacking the *conceit* of crime, as demonstrated by the two paradigmatic cases, the law often makes also mistake in precise assessment and punishment for specific cases of crimes. It is philosophy that, namely, deals with the general. Ethics as a discipline of philosophy, however, deals with the *good*. With the universal and the supreme good, first of all. The problem standing before us is, however, the *evil*. Moreover, we are interested in evil as such, for one can not understand any crime in specific form without it. Can the evil be the subject of philosophy, ethics respectively? Can human mind in its ethical form answer the question on mass rape?

It seems that also ethics, as a form of, though, human knowledge, approaches human, including the one who does crime, from an anthropophilic standpoint. This is to say, from a standpoint freeing human to some extent from the responsibility for what he does as criminal. After all, it is just ethics, underlining that it primarily deals with the good, which prejudices that human is determined by the good first of all, and much less by the evil, for it is what is an aberration, deviation and even the perversion of human. From that point of view, the perpetration of crime is pathological, while non-doing crime is normal. Philosophy, or ethics, rather leaves the pathological over to psychiatry and psychology, keeping the privilege to deal with the normal, i.e. the good, for itself<sup>5</sup>. However, what if it is not so, and if

both, the good as well as evil, in whichever proportion, define human? *In medias res*: what if crime-doing is a normal, and not only a Nazi, Stalinist or the Balkan phenomenon?

Human conscience on the level of pre-conceptions and prejudices likes to say so: crimes are done by humans, but only in their pathological, that is Nazi, Stalinist or the Balkan form. We can find the reasons to ask aforesaid question in mere experience: pathological types among humans undoubtedly perpetrate crimes – they torture, rape, kill – but commonly those individual ones. Mass crimes, including rapes, however, are not organized and committed by sick people.

One expects from philosophy, and ethics in particular, to provide a somehow more reliable answer about anthropological roots of crime, thus about the dilemma of man: are crime and evil the normal or the pathological? Let us try to find such an answer in Aristotle, thus not only the classic of ethics but also, according to some, the founder of psychology.

Speaking about practical philosophy as “philosophy about human matters”<sup>6</sup>, Aristotle has in mind *ethics, economics and politics*. What makes philosophy *practical* is just the fact it deals with human. It means that both ethics and economics and politics can count of being practical only in so far as, while researching human being, deal with the realization of human being.

Whereas man is the purpose of his entire acting, and practical philosophy in particular, in all three stated disciplines, it is very important to ascertain what

<sup>5</sup> Esad Bajtal, *Filozofski korijeni psihologije*, Svjetlostkomerc, Sarajevo 2006, p. 104.

<sup>6</sup> Danilo Pejovic, *Aristotelova praktična filozofija i etika*, Predgovor, in Aristotel, *Nikomahova etika*, Globus, Zagreb 1988, p. V, Eth. Nic. X, 10, 1181 b 15.

man is. As the purpose of himself, or as self-purpose, human is the supreme good. That is why ethics focuses on man, i.e. the supreme good. Both economics and politics deal with man too, for the purpose of both economics and politics is human. For that reason both economics and politics deal with the good, for the reason of which both are also ethical or philosophical disciplines. For Aristotle, economics is the skill of running household (family or state's, all the same), the goal of which is not accumulation of fortune but "genuine or natural fortune", and this comprises of "having which is enough for good life", and which "does not include unlimitedly many things"<sup>7</sup>. As such, economics is practical philosophy, thus ethics too. Good shoemaker, for he makes shoes for human's good life, does not only make shoes, but human as well contributing to his good life. Politics is also practical. Moreover, as shoemaker does an individual good by making shoes, so statesman does the supreme good for he makes laws that do the good to all citizens. So, as the purpose of shoemaker's work is not only shoes, but good life of human, so the purpose of politics, or legislature in this occasion, are not only good laws but good citizens as well<sup>8</sup>. As such, politics is also ethical. From this one can conclude that the purpose of ethics, that is the science on good, as well as economics and politics, is not only to *know* what the good as such is - good shoes or good state, but to *make* human (in terms of *praxis*) good human.

Regrettably, as one can presume, economics and politics are the spheres of life in which the most of injustice takes place and does the most of the evil. It is so because neither economics nor politics in reality have much neither of the practical nor of the philosophical, i.e. ethical, in itself. Long since, the goal of economics is no genuine fortune, therefore fortune which is enough for good life and which does not embrace unlimitedly many things. The goal of "economics" is, mainly, and today in particular, a fortune without limits, for the reason of which only some can enjoy it, while many do not have enough for life either, let alone for good life. For that reason neither the life of those who have unlimitedly much is good; instead of enjoying in life they find pleasure in surplus<sup>9</sup>. For such an "economics" ancient Greeks had a specific term - they named it *chrematistics*<sup>10</sup>. Something similar happens in politics: one makes laws which divide us into those to whom these laws do not do only good but very good, and those to whom these laws do less or none good, laws which divide us on majorities and minorities, on 'Greeks', i.e. citizens, and those who are either refugees (Aeschylus), foreigners (like in Athens), Scythians or barbarians. Shortly, politics makes laws dividing us into the first, second, third or 'n' class citizens, at times laws which make us totally outlawed. Then, neither economics nor politics most often are disciplines of practical philosophy, which is to say that they do not do the good, either in the form of good shoes or in the

<sup>7</sup> Aristotle, *Politics*, A. I, 1256b 26, 30; Džemal Sokolovic, *Kapital i socijalizam*, IDP Sarajevo, 1991, p. 22.

<sup>8</sup> Aristotle, *The Nicomachean Ethics*, Penguin Books, London 2004, II, 1103 b 5.

<sup>9</sup> Aristotle, *The Politics*, A.I, 1258a 5.

<sup>10</sup> Marx started his criticism of capitalism in *The Capital* beginning with Aristotle's definition of chrematistics. Marx, Karl, (1974) *Capital*, Moscow: Progress Publishers, p. 150, footnote 2.

form of the just state. On the contrary, it is just "economics" and "politics" which make people accustomed to vices exciting evil in us and making bad people from us.

Why is this so? In all appearances, everything is wrongly because the performers of both ethics and economics and politics are simply *humans*. Man, namely, is not given by nature to be either good or evil<sup>11</sup>. What defines and determines man is *freedom*. It appears that herein lies the source of (all) our problem(s). If freedom is determining, then man can accumulate fortune unlimitedly or make laws which are not good, or not to apply good laws. As free, man can kill, or even kill himself<sup>12</sup>. As such, free, he can also rape, and even perpetrate mass rape, something even Hegel, having spoken about controversial (dialectical) character of freedom, and terrorism springing from freedom, was not able to forebode<sup>13</sup>.

In a word, freedom stands behind every human's crime. And yet, crime, including raping, appears almost axiomatically only as the *pathological*. However, woman is also human and as such also determined by freedom, and in her case, as well as in the case of man, freedom implies right not to accept sexual relation, let alone in a violating form. For that reason Hegel, alike as Aristotle when speaks about genuine fortune, warns that freedom can not be without limits. In order to be freedom it has, just like fortune, to be genuine one. For, as unlimited fortune obstructs other people to obtain genuine fortune – thus, fortune which ensures people a good

life, so too freedom without limits, including sexual freedom, confines the freedom of other people. Prostitution, unchastity, pornography are the forms of unlimited sexual freedom that confines the freedom of other people to enjoy sexual life as a kind of good life. Rape is the most vulgar form of unlimited freedom, and therefore it is the threat to sexual freedom and the right to genuine sexual life. And also something much more. That is why rape, as the jeopardy of freedom, is crime *per se*, but also the highest crime *per se*.

Although human is the subject of practical philosophy (ethics, politics and economics) for thousands of years, it seems as if he is not becoming better but, contrary, worse and worse. Human stands behind harder and harder crimes, alike as he stands behind economics in its perverted form of chrematistics, or behind politics in its perverted, leviathan form. Human obviously misuses freedom transforming it into an absolute freedom. So it happens both: as it is a natural and normal (genuine) thing to have shoes or to live in community with other people, so too it is natural to possess unlimited number of shoes or to exploit other people, including those living in same State, for it is matter of human freedom. Absolute freedom embraces as a mean state so the extremes as well, that is both virtue and vices as well. Nowhere this controversial cast of freedom is demonstrated as apparent as in sexual relation. As sexuality is a natural thing, more natural than the good coming from shoes and the supreme good coming from communality in state, so it hap-

<sup>11</sup> Aristotle, *Nic. Eth.*, 1103a 18-b2; 1106 a 10.

<sup>12</sup> G. W. F. Hegel, *Osnovne crte filozofije prava*. Uvod, Logos, Sarajevo 1989, p. 35-45

<sup>13</sup> Džemal Sokolovic, *G.W.F. Hegel o G.W. Bushu i Osama bin Ladenu (U stvari, o slobodi i terorizmu)*: [http://users.skynet.be/orbus/zbornik/oslobodi\\_i\\_terorizmu.htm](http://users.skynet.be/orbus/zbornik/oslobodi_i_terorizmu.htm); "Zarez", Zagreb, br. 178., 20.04. 2006: [http://www.zarez.hr/178/z\\_sadrzaj.htm](http://www.zarez.hr/178/z_sadrzaj.htm).

pens that this the most natural human relationship, in a society which rests on perverted economics and perverted politics, perverts itself into different forms, and even rape and mass rapes, thus pure evil. With raping, and mass raping in particular, not only the natural, or the most natural, becomes evil, but the evil becomes natural.

Bosnian case demonstrates that mass rape is not crime only because it is *mass* one. Sexual relationship is natural thing and the matter of good, and even, as many would today say, healthy life. Sexuality is hence the matter of right to freedom. However, as the right to unlimited number of shoes in a society of mass consumption is a matter of absolute freedom, that is a jeopardy against someone's freedom, thus non-freedom or negative freedom (Hegel), so too the right to sex without consent of other person is perverted freedom or negative freedom. So the state, i.e. legal system - no matter whether Serbian or American one, which does not punish rape only because it is mass rape, inaugurates absolute freedom of raping. If American legal system punishes the crime of rape aiming to reduce the number of rapes, only because the rapist is an American, then it has to count that the impunity of the crime of mass rape, wherever it happens, will conduce the augmentation of the number of rapes in America. If Serbian legal system does not punish the crime of mass rape only because raped women are non-Serbs, then it has to count that Serb women will soon be imperilled and not only by those who used to rape Bosniak women.

If the only difference between Iraqi and Bosnian case is - massiveness, for the sake of which the difference in punishment as well, then only conclusion which can be drawn is: once a crime be-

comes mass one, thus widely accepted form of (a)social behaviour, then it becomes *normality*. And the normal is not punishable in any society. Where all thief, it is hard to find a judge; where one rapes in mass, it is impossible to know who might be next victim. Where freedom is absolute, limitless, even in a limited period of time, it is hard to imagine that anyone's freedom will remain un-jeopardized. The author of these lines has recently (ten years after the war in Bosnia) spent some time in Foca, the town in Eastern Bosnia, where mass and horrible sexual crimes against Muslim Bosniak women took place. I talked to local Serbs who did not take part in these crimes. Today, when non-Serb women do not live there any more, Serbs themselves are scared for *their* own women, *their* own sisters, *their* own daughters. They are afraid of the normality of raping. Regrettably, they, just like American legal system, insensitive to crime and victim as such, react similarly: they perceive crime only in a specific form. While rapists were raping *one's other* women, sisters and daughters they did not react properly and timely. In a society where crime became normality, crime can even become a preferable and appreciated manner of behaviour. In order for crime to become normality some extraordinary circumstances are required. Mass rape committed in war makes rapists - unfortunately and contrary to any common sense and ethics, heroes. It approves that even mass rape, taking place in war, is a part of politics, admittedly conducted by very specifically other means. Although it corresponds to the reality, Karl von Clausewitz's definition of war is actually the most senseless definition of politics and the aberration of its genuine ethical meaning. The war is no any

politics, but a perverted politics, just as raping, and mass raping in particular, even committed in war, is perverted manifestation of sexuality – having nothing in common with true sexuality. The crime of rape is a continuation of politics as crime. For that reason the war is not an extenuating state, but aggravating circumstance<sup>14</sup>.

Behind such a state of affairs in economics and politics, mere ethics can not stand entirely innocent. If ethics, as *practical* philosophy, is the art (skill) of the realization of good human, then it is responsible for the state of both economics and politics. As in consumption societies fortune is not a shame, but the shame is poverty, and in perverted states it is matter of prestige to belong to majority, while it is shame and the subject of stigmatization being member of a minority group, so too mass rape committed in war is not shame but the matter of honour – national, military, church of one's other – depending on behalf of whom the war is waged. Ethics taking the war as an extenuating circumstance for rapist is like a law punishing the rapist of children less (milder) than the rapist of grown up women<sup>15</sup>: they both engender humans accustomed to raping and inaugurate raping as a normal manner of behaviour. They both ethics and law do not even endeavour to justify raping by pronouncing it pathological.

Under the circumstances in which economics became chrematistics, and politics or statehood transformed into the leviathanism of majority, it is illusionary to expect from ethics to be practical

philosophy. This is what we have already found out. We are now interested to know whether ethics is able to *comprehend* what the evil or crime is, and consequently to *comprehend* what the crime of rape and the crime of mass rape are. If ethics did not succeed to make human good, as it turned out to be obvious in both economics and politics, can one say that ethics at least learned what the good is?

It is good to be reminded that the purpose of ethics, according to its own (Aristotle's) acknowledgement, is not only to know what goodness is, but how to *make* good humans. So, the best proof that ethics, just like law, *did not* comprehend what the good is, after so many years since humans got laws, is the fact that they did not cease to violate them and stopped being evil.

Then, whether ethics comprehended what the *evil* is?

How one can expect from ethics to comprehend what the evil is if it comprehends the good neither, something what is supposed to be easier comprehensible? The good is namely limited, while the evil is unlimited, as Pythagoreans claim. "It is easy to miss the target and difficult to hit it."<sup>16</sup> If the good is the target, and all other is bad or evil. "For men are bad in countless ways, but good in only one."<sup>17</sup>

In all appearances, people, thus, even as philosophers, are not able to know what the evil is, or crime, and the crime of rape or mass rape either. If humans would be just only by being humans, then neither laws nor judges, neither

<sup>14</sup> Džemal Sokolovic, *How to Conceptualize the Tragedy of Bosnia: Civil, Ethnic, Religious War or...?*, War Crimes, Genocide & Crimes Against Humanity, Volume 1, no. 1, (Jan. 2005): 90-101 (<http://www.war-crimes.org>).

<sup>15</sup> *Barnevoldtekt straffes mildere*, an interview with Cecilie Gulnes, "Bergens tidende", 10. december 2006. <http://www.bt.no/innenriks/article322531.ece>.

<sup>16</sup> Aristotle, *Nic. Eth.*, II, 1106 b, 30.

<sup>17</sup> Unknown author, according to Aristotle, *Nic. Eth.*, II, 1106 b, 35.

philosophers ethicists nor their moral judgements would be necessary. It is taken for granted that people would then judge themselves. For if people would know what evil is they would do that neither. The fact that people do the evil demonstrates that they are evil. Just like they prove they are good only by doing the good. And the fact they do both the evil and the good, proves that they are conscious of neither the former nor the latter. And yet, although imperfect we need both the law and the ethics for the sake of both legal and moral punishment.

Mistakes in punishments, as those in our two cases, so too in those moral ones<sup>18</sup> corroborate, however, that humans need ultimate (the Last) Judgment as well.

### Metaphysical (anthropological) facet of crime: human or satanic

Man is only species doing the good and the evil. From this one might conclude that the origin of both the good and the evil is anthropological. It has already been said that people are neither good nor evil by nature, but they become such by doing the good or the evil<sup>19</sup>. If people are given to be neither good nor evil, and though become such, then the origin of the good and the evil is determined by the causes standing outside of man. Man is, namely, a metaphysical being the reality of which is not only physical, situated only on this side of the world. For that reason it is necessary, and without being in contradiction to the principle of exactness in science at

all, to raise the question of metaphysical facet of both the good and the evil.

Aristotle himself had to acknowledge, searching for the Good, that it can not be approached without leaning on God<sup>20</sup>. "With unseen enthusiasm Aristotle outlines the supreme human good as a meeting point of man with God; as a man he remains man, but for a moment at least he is being similar and close to the divine being...", Danilo Pejovic says<sup>21</sup>. Although I deem, unlike Pejovic, that human can be similar to God for the moment neither – not because it would not be good, but because it would not be good that God gets anything human – it remains to believe, as Aristotle says, "that the first principle and cause of what is good is precious and divine"<sup>22</sup>. If man is not the cause of good, then it remains for him to *believe* that he knows what the good is, and to *believe* that he knows what he *does*. This dissent that man has capacity of being the cause of good, even when he does it, is necessary in order to believe that human deeds have no only divine, but also sheytan's (satanic) the first principle and cause. If the good is God's gift, then, the evil also must be of metaphysical origin. To perpetrate crime, inclusively the crime of rape or mass rape, is a satanic act. For the sake of that, it is impossible for human, apart from his mind - both legal and philosophical one, to answer the question what the evil is, why he does it, and eventually *what* he does when rapes. For, as it has already been said, the rape is sexual act. And sexual relationship is human's natural relationship. Moreover, it is the most natural relationship

<sup>18</sup> Aristotle, *Nic. Eth.*, II, 1105 b, 10.

<sup>19</sup> Aristotle, *Nic. Eth.*, II, 1106 a 10.

<sup>20</sup> Aristotle, *Nic. Eth.*, I, 1099 b 10, 1102 a 35.

<sup>21</sup> Danilo Pejovic, *Aristotelova praktična filozofija i politika*, Preface, in Aristotel, *Nikomahova etika*, p. XXXVI.

<sup>22</sup> Aristotle, *Nic. Eth.*, I, 1102 a 35.

as pairing is prerequisite of *life*. And life is a *miracle* about which human, as well as about any other miracle, does not know and can not know anything essential. As a condition of life survival sexual life is, however, production of *individual* life or life in a *particular*, specific form. None living being, neither human, is capable of producing life as such, but only individual life in a specific form. For that reason, the life as such, and thus life in every specific and individual form as well, is miracle.

Death, however, is not miracle. All living beings die; many kill in order to survive. Human is also the cause of death of other living beings. As long as the death of other living beings is the condition for life, which is to say, as long as life is the purpose of killing, even killing is part of natural process of survival and production of life.

However, human also kills when the purpose is not survival, when he wages wars, commits genocides or kills himself. The death the purpose of which is not life is not natural process any more. Such a death, killing without life as its purpose, is crime. Only as such, the death also is miracle about which he does not know and can not know anything. Human can not know why he kills when he does not kill for the sake which is not life. Such a killing is crime against life. And yet, suicide and the crime of murder, including mass murder, is crime against *individual* life or life in a *specific* form, say the extermination of an animal species, or the bombardment of Guernica, or Holocaust, or genocide against an ethnic or religious group, as it has recently happened in Bosnia. These are all grim mass crimes. Yet, none of these crimes is the crime against the *life as such*.

Human, regrettably, is capable of the

crime above all crimes, that is the crime against the life in general, life as such.

Man is only being that rapes, and in certain circumstances even massively rapes. Although rape is itself a sexual relation, just raping is the crime against sexuality as a prerequisite of life. Raping hence is a perverted sexual relationship. However, the perversity of raping is not a specific form of perversion, but *perversion as such*. Sodomy is, say, perversion which is determined as such by the *subject* of the relationship. However, the rape of woman, thus a subject of sexual relationship as such, that is the rape of the most natural subject of sexual relationship, is the perversity of the *relationship* itself. In a subject-object relationship in which woman is supposed to achieve the highest degree of happiness giving the same degree of happiness to man, woman becomes an object. Sometimes the victim, as demonstrated in Iraqi and hundreds of Bosnian cases. But, the ultimate victim of raping is mere relationship of sexuality as prerequisite of life. Or, to be entirely precise: the victim of raping is *life as such*. Woman is prerequisite of life, she is the subject of the relationship even in such a subject-object relationship, as pairing is. The purpose of the rape of woman, however, is her hatred towards herself as the subject of life. For that reason the rape of *woman* is *eo ipso* the crime against life as such.

Can one imagine anything worse than raping woman? Since recently, I thought it is impossible. Since forced pregnancies of raped women in Bosnia had taken place, however, I realised that miracles over miracles also exist. As the crime is miracle, and raping is crime over crimes, so the intention of keeping raped women pregnant, or raping of young girls, is miracle over miracles. Such a miracle is out of reach for hu-

man mind. Luckily, there is nothing divine in it. This is satanic miracle.

Metaphysical answer to our question on rape and evil is unavoidable in order to reach genuine comprehension. And genuine comprehension means in this case the renouncement of evil and raping. As any idea of the good is pointless as long as people persistently do not give up of doing evil, so too the comprehension of the evil as evil begins only when it triggers us of doing the good. In order to lose the habit of doing evil, the *Fear* is necessary. It is true that fear is, admittedly, the source of aggressiveness and as such the originator of evil. However, the *absence* of any fear, or fearlessness, is the source of absence of the conscience about difference between the good and the evil. Then it happens that man who does not fear of anything, perceive the good as the evil, or even worse, the evil as the good. So, as fearless man accumulates limitless fortune, or builds perverted state in the form of tyranny, oligarchy or dictatorship of majority, so fearless man rapes instead of making love as well. Different legal and ethical relationship towards raping in the two cases from the beginning, have already raised the question whether rape is *vice* or *virtue*. To face it we have to probe the role of fear in both the renouncement from vice and getting accustomed to virtue.

Given the one who rapes does it either from *fear* or from *fearlessness*. For the sake of that it seems that raping is not in connection only to fear but to courage as well. The courage is, along with justice, one of the fundamental virtues in Aristotle's ethics. Aren't rapists, hence, indeed courageous boys, and mass rapists, actually, heroes, as some state? The courage

is virtue, and as such, in tune to Aristotle's definition of virtue, it is a *mean state* between two *extremes*: the excess of courage and the deficiency of courage. Both extremes are vices, as bigger as distant from the mean state. Because of that the question recurs: who are rapists? Those with the excess of courage or those with the deficiency of courage? Or, perhaps, those who are courageous in the mean state? In other, but more provocative words: is the rape a consequence of vice or moral virtue?

I am of the opinion, and on the basis of Aristotle's teaching on virtues and vices, there are two forms of rapes and two sorts of rapists.

Raping is always a sort of aggressiveness, and aggressiveness is the outcome of fear. What is rapist afraid of? Woman! Rapist raping from fear of *woman* must and can come to woman only if he degrades and *negates* her as a woman. Raping appears to be only manner to approach woman for one who has no courage to have woman. The one who fears of everything, and woman too, and at times the most of woman, i.e. rapist, is a coward. "The man who exceeds in fearing is a coward. He fears the wrong things and in the wrong way..."<sup>23</sup>. The rape of coward is thus the sort of rape springing from the vice of deficiency of courage.

Raping as a sort of aggressiveness can stem from deficiency of fear as well, and deficiency of fear is always the excess of courage. For wise people the trouble does not come solely from deficiency but from excess too. *Magister dixit*: the excess of courage is also a vice. Those who rape are often "rush men", those who exceeds in fearlessness<sup>24</sup>. And the man who is

<sup>23</sup> Aristotle, *Nic. Eth.*, 1115 b 30.

<sup>24</sup> Aristotle, *Nic. Eth.*, 1115 b 25.

“afraid of nothing” is either “maniac or insensate”<sup>25</sup>. That is why one can say for rapists of this sort something one can not easily understand. Rapist who is afraid of nothing is not courageous, because courageous is man “who fears right things for the right reasons...”<sup>26</sup>. The rape of rash man is thus the rape stemming from fearlessness. For that reason one can say also for him that he does not rape because he is courageous, for courageous men always fear of right things and for right reasons.

It comes up, nevertheless, that the excess of courage is nothing but cowardice either. In fact, so it happened and confirmed in practice as well. Man with the excess of courage, the rash man, is often “both a boaster and pretender to courage” and “he wishes to seem as the courageous man”<sup>27</sup>. It happened that a rapist in Bosnia, having wanted to *seem* as courageous man before both the husband and children of intended victim, and before his soldiers – failed, remained impotent, and then, furious and disgraced, fired off full clip of his revolver to the abdomen of victim, as if she was guilty because he *was not able* to rape. Luckily, the woman was saved by surgeons. One should stress – Serb surgeons, so that one would not think that raping is a Serb ethnic phenomenon. Readers understand, I am sure, that I speak about rape as a satanic phenomenon when I speak about Serbs’ rapes of Bosniak women as well.

Rapists the vice of whom is the fear of women, are thus the actors of common, individual rapes. Rapists the vice of whom is the excess of courage, thus those who are afraid of nothing, are

however the actors of mass rapes. It is hard to say, for I do not speak from the standpoint of woman but a man – and the one who, I maintain, is not afraid of women, and is afraid of them for right reasons and from those right ones, but it seems to me that the latter sort of raping is worse than the former. The difference perhaps does not exist from the standpoint of a raped woman. Hence, I hope they do not mind my speculative approach.

This is why the Fear is important and the faith in supreme (Last) Judgement and last Punishment are necessary from both ethical and legal standpoint. For the sake of those courageous in order to have something to be afraid of – the “right things for right reasons...”, i.e. Him. Likewise, this is why it is the highest courage, therefore – the highest virtue, to acknowledge that we, humans, can not know what the evil and raping are, as long as we do not acknowledge that the evil and raping are beyond comprehension. Man will never know everything and the most he can comprehend is the acknowledgment of the existence of un-comprehensible. For that reason the revelation of the faith - that what deals with un-comprehensible, thus the acknowledgment of the frontiers that human mind can achieve - is the highest form of comprehension.

I wish I have at least a bit helped those who think they know what the evil is and where the cause of the evil lies, to acknowledge that everything can not be comprehended. And, in believing so, they find it so easily and point to it. In order not to be threatened by the biblical menace. Man has to accept the existence

<sup>25</sup> Aristotle, *Nic. Eth.*, 1115 b 25.

<sup>26</sup> Aristotle, *Nic. Eth.*, 1115 b 15.

<sup>27</sup> Aristotle, *Nic. Eth.*, 1115 b 30.

of the reality embracing what will never be known and is un-comprehensible. Human being who does not consent that would be a God. And gods among humans, as we know that very well, are not so rare phenomenon.

## Conclusion

The question: Can human mind comprehend the cast of the evil and crime?, is not raised thus for cognitive reasons only. The acknowledgement of inability to comprehend the evil and crime is needed to grasp that it can take place where it is "normal" not to happen as well. It is taken for granted that only Germans could have committed Holocaust; it is normal that something like that could not have been conducted by those who had exterminated both civilised and uncivilised indigenous peoples of the New World. It is taken for granted that recent crimes in Bosnia could have taken place only on the Balkans; it is normal that something like that could not happen in Western Europe. I, however, do not know why mass rapes occurred in Bosnia, for I believe that rapists were neither Serbs nor Orthodox, and neither

because they are Balkan boys, but because the evil, rapes and mass rapes, are satanic acts, and the this one does not know for ethnic, religious, race, ideological or state boundaries. I am thus not afraid of saying that I do not comprehend only because I believe. Owing just to the fact that I do not know what the evil is, I know that such a crime can occur anywhere else. Unlike prejudicial British diplomat, the adviser of Lord Owen, and formerly the U.K. ambassador to Belgrade, Sir Peter Hall, who knows everything while writing to his Prime Minister: "Prime Minister, the first thing you have to know about this people is that they like going around cutting each other's heads off."<sup>28</sup> Sir Hall, of course, did not know that the number of homicides in his the then host country, including Serbia, while he was serving there as the ambassador, according to the U.N. data<sup>29</sup>, was lower than in his own country. Whereas he knows everything, for he knows why crimes occur in the Balkans, he does not need faith either.

It is, however, good to know that there is something one can not comprehend. That is what gives sense to the Fear as well: "The fear of the Lord is the key to this treasure."<sup>30</sup>

<sup>28</sup> Brendan Simms, *Unfinest Hour, Britain and The Destruction of Bosnia*, Allen Lane, The Penguin Press, London 2001, p. 241.

<sup>29</sup> John B. Allcock, *Explaining Yugoslavia*, Hurst, London 2000, p. 383.

<sup>30</sup> *Bible*, Isaiah 33, 6.

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