

**What is the Evil in War Crimes?**

**The Ethical Requirement of Burial and its Transgression  
During the War in Bosnia and Herzegovina**

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“I will fence your grave when I return”

—Mrs. Osmanovic in “A Cry from the Grave”

"The detaining authorities shall ensure that internees who die while interned are honorably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized."

—Article 130, Geneva Convention Relative to the Protection of Civilian Persons in Time of War

#### **I.**

During the war in Bosnia-Herzegovina, the Bosnian Serb army deliberately targeted civilian funerals. In Sarajevo, men were shot by snipers while preparing graves. Religious leaders took refuge from the aggressors' shelling by jumping into graves while saying prayers. Women and children were wounded or killed by shells targeted at them while throwing dirt into a grave at service (FAMA 1997). Massacres during funeral ceremonies sometimes occurred, often preventing family members from burying their dead. Entire communities were forced to abandon their deceased on streets or in fields. The aggressors then grotesquely discarded the bodies into pits or mines – mass graves. But the term “mass graves” is a misnomer, because mass graves are not graves: religious ceremonies and social rituals were not performed.

In modern times, the significance of the burial ceremony is often taken for granted. Since the dawn of society, there have been human burials. Even if modern men and women do

not ponder the meaningfulness of the ritual, as long as there is a society, the ritual will exist. What, then, is the meaningfulness of the funeral ceremony? And what does it mean to transgress this inviolable custom? This brief essay will address these two questions in connection with crimes against humanity committed during the war in Bosnia-Herzegovina.

## II.

The anthropologist Clyde Kluckhohn defines a funeral as "a symbolic assertion that a person is important not only to his immediate relatives but to the whole group" (1964:136). However the rite may be conducted, funerals are symbolic rituals; they reflect cultural patterns. In general, the cultural pattern represents the ethical spirit of the human species.

Emile Durkheim says that "It is no longer out of affection that we mourn the dead, it is out of duty" (1975:15). Emotional trauma and social instability are components of the human burial. The funeral provides comfort during times of great emotional distress; the funeral reassures the community of continuity after suffering a profound loss. But, ultimately, it is duty that makes the burial rite necessary for individuals as well as society; the funeral exemplifies the ethical spirit of the human species, a spirit that G. W. G. Hegel (1977: 457-82) formulates as divine law in *The Phenomenology of Mind*.

When committed to a strict empirical ideology, social scientists express ambivalence toward the universality in the variety of burial customs throughout social history. Human burials have empirical significance in human history; they serve as historical markers for the evolution of human society (Sokecki 1971). They exemplify recognition of the distinctiveness of the human species in relation to other species. Animals, that is, do not perform symbolic rituals; animals communicate with non-symbolic signs. The burial is perhaps the first meaningful ritual in the history of the human species. The ritual defines the human species as what it is. Herein lies the ethical content of the human burial. The burial, not death, acknowledges and recognizes human beings as who they are.

In performing the burial rite, human beings are not merely conscious of their life-activity. They are self-conscious, and this distinguishes human beings from animals. As Karl Marx says, human beings are not one with their life-activity. During the burial ceremony, the life-activity of the individual and the community in relation to the individual is the object of reflection. The burial ritual represents the human species because of its particular self-consciousness. On this point, the anthropologist A. L. Kroeber writes:

When prehistoric skeletons are found in the position in which death might take place, the presumption is that the people of that time abandoned their dead as animals would. If, on the other hand, a skeleton lies in tact with its arms carefully folded, there is little room for doubt human beings had arrived at a crude recognition of the difference between flesh and spirit. (1923:171)

Human beings are not able to ignore the cessation of activity and the lapse of consciousness. Human beings are impelled to take special action in the face of this situation. Kroeber theorizes, “Even to say that Neanderthal man did not know whether his dead were dead implies his recognition of something different from life in the body, for he recognized of course that the body had become different” (1923:171).

At an empirical level, death represents a problem. Death is experienced as the enigmatic cessation of consciousness. Thus, death threatens the continuity of the community's life. At a theological level, death represents a challenge. Death evokes self-consciousness. The one whose consciousness has ceased to exist nevertheless continues to be in some form, if only in the memory of those who are alive and the history of the community. Death evokes the recognition that human beings are not only flesh, but also spirit.

Hegel resolves the tension between the empirical and theological understanding of the human burial. With the burial service, the right of consciousness asserts itself over and against nature. When the prayer, “You are dust and to dust you shall return,” is said, the prayer grants nature its right over the deceased, over the flesh of the deceased. At the same time, the prayer denies nature its right to subsume the person entirely. By its special action, the prayer denies nature its right to subsume the spirit of the person. Here is what

the burial ritual signifies. “You are dust and to dust you shall return” lifts the spirit of the person out of the clutches of nature even as it grants nature its legitimate claim to the body of the person. Hegel, the abstruse philosopher, writes lucidly on this expression of the ethical spirit, an ethical spirit expressed in every period in every culture.

The family keeps away from the dead this dishonoring of him by the desires of unconscious organic agencies and by abstract elements, puts its own action in place of theirs, and weds the relative to the bosom of the earth, the elemental individuality that passes not away. Thereby the family makes the dead a member of a community which prevails over and holds under control the powers of the particular material elements and the lower living creatures, which sought to have their way with the dead and destroy him. (1977:472)

The disposal of the corpse has never been a matter of expedience or practical function. Kluckhohn writes, “It is truly amazing that no known group has ever adopted the functionally simplest mode of disposing of its dead – merely abandoning corpses or disposing of them without a rite of any sort” (1964:134). The very phrase, “disposal of the corpse,” belies the symbolic action that accompanies the burial. While the burial ritual is performed with varying degrees of complexity and religious concerns, there is always a ritual, a ritual whose symbolic content shows dignity and respect for the individual as well as the human species.

### III.

What, then, does it mean to transgress violently and sadistically the burial ritual? In the documentary “We Are All Neighbors,” narrated by Tone Bringa, there is this report from a refugee in her own country.

“All slaughtered. No one was left alive. They set fire to everything that was good in our lives. Everything destroyed . . . everyone slaughtered and killed. They didn’t allow us to bury the dead. They were left.”

“Not allowed to bury the dead?”

“No. Some tried to bury their relatives but they couldn’t. Three days they tried, got wounded, but they wouldn’t let them. So the bodies decomposed in the streets and in the fields. That’s how it is.”

This horrific experience occurred too frequently during the war in Bosnia; it occurred so frequently that it has perhaps not been adequately reported or addressed. The evil described here is both obvious and unthinkable. Evil is not an abstract concept; the term 'crimes against humanity' is not a mere slogan. Evil is constructed in everyday life and experienced directly by human beings.

The crime against humanity that the refugee reports is not merely a matter of preventing the family from burying its dead. This description is too euphemistic. The crime is a matter of forcing the family to abandon its dead despite the family's making every effort and taking every risk to do otherwise. Duty requires the family to provide a burial for its dead, and this duty is immutable even when it puts the family in harms way.

The exercise of this duty represents the ethical spirit of the human species, something innate in every moral community. If the family is unable to perform this duty, a sense of remorse arises. No matter how blameless the family is, if a funeral ceremony for a loved one did not occur, there is a feeling of deep regret. This remorse does not reflect an absence of the ethical spirit in the family. Indeed, the opposite is true. The deeper the ethical spirit is within the family, the deeper the remorse if the family is unable to bury a loved one. This profound tragedy grips many Bosnians after the war; it is imperative to comprehend and to redress the character of this tragedy. Minimizing the tragedy is not a solution morally or practically.

#### **IV.**

What, then, is the evil in war crimes? In *Magic, Science, and Religion*, Bronislaw Malinowski makes this point: "In the tending of the corpse . . . the nearest relatives . . . always show horror and fear mingled with pious love, but never do the negative elements appear alone or even dominate". (1954:48) With the burial ritual, the negative elements and fears never appear alone, never dominate. In *The Elementary Forms of Religious Life*, Durkheim says that "it is because rites serve to remake individuals and groups morally that they are believed to have a power over things" (1915:414), and his point

reinforces the argument here. The crime that occurred in Bosnia was not only the murdering of countless civilians. The crime was also the attempt to create a strictly negative response to death within the family and to allow this negative response to dominate. The crime was the attempt to destroy the family by violating the inviolate duty of the family. The stronger this ethical spirit was within a family, the greater the violence that was needed to mangle this ethical spirit. If the family believes that it has forsaken its duty to its dead, the family has trouble recovering from its loss. Through no fault of its own, the family lapses into fear for its very being.

Thus, war crimes represent radical evil. In his book, *The Fate of the Earth*, Jonathan Schell writes the following:

Evil becomes radical whenever it goes beyond destroying individual victims (in whatever numbers) and, in addition, mutilates or destroys the *world* that can in some way respond to – and thus in some measure redeem – the deaths suffered. (1982:145)

In the attempt to make it impossible for families to continue as families no matter where they came to be located, there is radical evil. In the attempt to create a negative fear that would destroy the being of the family, where the being of the family is its embodiment of the ethical spirit of the human species, there is radical evil.

Genocide is perhaps an inadequate term to describe the activity of “ethnic cleansing.” The term may not even match the character of ethnic cleansing. “Sociocide”—to kill a society—is a term not found in the dictionary. The neologism, though, may be a more accurate term to describe the character of ethnic cleansing in Bosnia. A statement from Schell shows how genocide leads to sociocide.

When crimes are of a certain magnitude and character, they nullify our power to respond to them adequately because they smash the human context in which human losses normally acquire their meaning for us. (182:145)

The social is the human context in which life has meaning for us; to destroy this context is to destroy society.

Throughout most of the war, the media depicted conditions in Bosnia as analogous to a Hobbesian jungle. It indicated that the only cardinal virtues in Bosnia were force and fraud. The story line was typically “Might is right” or “Every man for himself.” Social commitment, the media suggested, was absent. Although sociocide was attempted in Bosnia, it is important to recognize that it failed and to address why it failed. Comments from the anthropologist, Malinowski help establish this argument.

We have seen already how religion, by sacralizing and thus standardizing the other set of impulses, bestows on man the gift of mental integrity. . . in all this religion counteracts the centrifugal forces of fear, dismay, demoralization, and provides the most powerful means of reintegration of the group’s shaken solidarity and of the re-establishment of its morale . . . religion here assures the victory of tradition and culture over the mere negative response of thwarted instinct. (1954:53)

Most Bosnians survived an unconscionable war with the gift of mental integrity, a gift inherited from the religious traditions and cultural customs of the community. See the noble writing of Rusmir Mahmutcehajic (1999; 1994) on this subject. It would be wrong to say that during the war, the observing world saw only the horrific conditions of the war. The observing world also witnessed what Malinowski calls the gift of mental integrity in the actions of Bosnians, both political leaders and everyday citizens. Despite its modern sensibility, the observing world implicitly respected and admired the gift of mental integrity that Bosnians, drawing upon their inheritance, exemplified. The observing world also lamented the absence of this gift of mental integrity among world leaders responding to events in Bosnia.

In the documentary “The Siege,” produced by International Fama (1997), Vlado Raguz, Director of the Funeral Services Company, tells how formidable it was to provide funerals for the dead during the siege of Sarajevo. Coffins were not available, so wardrobes were used. To transport the deceased from their homes to the mortuary and then to the cemetery, petrol had to be purchased from black marketers at thirty Deutsche



Marks a liter. Under impossible, inhumane circumstances, 15,000 people were buried with proper ceremonies during the siege. The social commitment of the community in Sarajevo accounts for this unsung achievement. The community in Sarajevo retained its ethical character during the siege despite the most vicious circumstances and despite the world's betrayal of the community. The social fabric of the community was not shredded; The testimony of everyone in FAMA's "The Siege" bears witness to this truth. Drawing upon their intellectual traditions, social scientists need to address as best as they can the significance of these testimonies, if only for the integrity of their traditions. Such is the responsibility of intellectuals today.

## V.

I would like to conclude by noting three promising points that follow from this study. Through personal testimonies, the documentary "A Cry from the Grave" depicts many of the issues discussed in this essay. To pursue one, there is a pressing need to identify the remains of the deceased, and it helps to recognize the reason for the labor that goes into meeting this need. Identification is important in order to allow for the possibility of a proper burial. If identification of the body has not taken place, it is difficult to hold a funeral ceremony. Here is the double-bind in which the survivors of Srebrenica in particular are caught. The longer the identification process takes, the harder it is to escape the double-bind within which the family is caught. The ethical spirit of the family is stymied; it yearns to perform its duty for the dead, but it cannot if the remains of the deceased are not first properly identified. A radical feature of the war crimes in Bosnia is the aggressors' effort to make it impossible to recover the remains of the dead. "It lays a special obligation on the people of the future to deal with the crime, even long after its perpetrators are themselves dead" (Schell 1982:161).

The second suggestion is that it is important for the other countries to draw upon their particular social history in order to understand and, more importantly, empathize with the situation that Bosnians suffer. For example, the POW-MIA movement in the United States remains an emotional one, although it has been years since the Vietnam War ended

The underlying issue is the duty of families to bury their sons who died in a foreign war as well as the responsibility of the U.S. government to assist families in this regard. The tenacity of this issue for Americans reflects the ethical spirit of American families who lost sons as well as the sensitivity of U.S. society toward this ethical spirit. The issue is not whether the Vietnam War was right or wrong. The issue is simply the right of a family to exercise its duty. The right is not based on a family's affection for the lost member, which is not to say that affection is not a feature of the situation. The right is based on the family's duty to the lost member and its never-dying affection to perform this duty. The POW-MIA movement is still a political issue; black flags are still displayed by families and at parades throughout the country. This fact can be used to predict how the much greater tragedy in Bosnia will not disappear with the passing of time. The right of the family to assert itself over and against the forces of nature that subsume the remains of an individual never fade.

The third suggestion stems from the fact that this study has applied the knowledge on burial rituals in the social sciences in a positive or reconstructive manner. The knowledge can also be applied in a critical manner. In 1991, Orthodox Serbs throughout former-Yugoslavia gathered to view Tsar Lazar's remains. The bones of this legendary Serbian hero were passed around monasteries in former-Yugoslavia, places that were claimed as Serbian lands. Orthodox Serbs celebrated this journey as a holy national rite (Silber and Little 1996:71-72). It is important to reflect on the political significance of this public action and the degree to which it was a contributing, if not causal, factor to the Bosnian war. Displaying the remains of Lazar through Yugoslavia evoked and transfigured the ethical spirit of Serbian families. Serbian families came to see their ethical spirit as grounded in their ethnicity rather than their citizenship. What Hegel calls divine law became the dominate ethical spirit among the Serbian people, and this fermented nationalism. Family and state became indistinguishable. In identifying only with the ethical spirit of the family through this holy public rite, the Serbian people forgot their ethical spirit as citizens of former-Yugoslavia. The Serbian people became blind to another ethical spirit that Hegel calls human law. Human law represents the rights of citizens and the authority of the state. Justice is the substance of human law. Nationalism

displaces human law with divine law. Here was the latent function of this event in 1991. The event usurped the ethical spirit of the state, human law, by co-opting the ethical spirit of the family, divine law.

As we learn from reading the Greek tragedy, *Antigone*, the burial ritual is the only time that the ethical spirit of the family takes precedent over the ethical spirit of the state. Antigone must bury her brother despite the edicts of Creon. Nationalism is an unhealthy collective sentiment because it seeks to displace the superiority of human law, the ethical spirit of the state (which is justice) with divine law permanently. In doing so, nationalism destroys both the family and the state. In 1991, the public ritual of displaying the remains of Lazar throughout former-Yugoslavia helped disfigure the ethical spirit of the Serbian people as a group. Intuitively, all citizens of former-Yugoslavia sensed the potential evil in this rite and the horror it foretold.<sup>1</sup>

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<sup>1</sup> We may ask as well to what degree does the recent reburial of the Serbian poet, Jovan Ducic, in Trebinje, Bosnia, in 2000 copy the reburial of Tsar Lazar in 1991? Does this event attempt to continue to usurp the ethical spirit of the state, human law, by co-opting the ethical spirit of the family, divine law? What did mean for Kostunica, the Serbian President, to attend this funeral before visiting Sarajevo? As head of state, Kostunica is obliged to acknowledge human law, the authority of the state, before divine law. This does not deny his right to defer to divine law; it does, though, deny his right to privilege Divine Law, the Divine Law of the family, over and above the Human Law, the Human Law of the State. We still have much to learn and much to teach.

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