Children of Wartime Rape – The New *Homo Sacer*
How does Agamben’s *Homo Sacer* contribute to the understanding of children of wartime rape?

Introduction

Agamben’s (1998) *Homo Sacer* is both criticised and praised across fields today. While some argue the validity of arguments through Foucault’s work on biopolitics, others are trying to explain groups of people through concepts found in his book, such as Bare Life. In *The Birth of Social Medicine* Foucault (2000) argues that biopolitics marks a new era in modernity since it places human life at the centre of all activity; thus biopolitics allows for “the biological, the corporal [to matter] more than anything else” (137). Giorgio Agamben’s approach to biopolitics in *Homo Sacer* gives a more pessimistic view since the argument that the separation between *zoē* (bare life) and *bíos* (political existence) allows for the exclusion of certain individuals from the political sphere. With recent influxes of immigrants and refugees, however, one can argue that this separation is more obvious than ever (Fitzpatrick, 2001; Rajam and Grundy-Warr, 2004; Diken, 2004) since we have communities that are not part of our political sphere and hence are ostracised to live separate from society at large. In recent years, the concept of bare life has also been applied to terrorism (Diken and Laustsen, 2002) and sex offenders (Spencer, 2009), as well as refugees. This paper is going to argue that there is another new *Homo Sacer* that is emerging, and that is the children of wartime rape. In particular, the aim is to redefine Agamben’s *Homo Sacer* away from the idea of a politicised bare life but to an individual that doesn’t belong in the *bíos* or the *zoē* and has fallen through the cracks of the international community, thus existing in the shadows of both peace and conflict.
Interpreting the Current Literature

Agamben’s (1998) notion of the Homo Sacer draws on the Ancient Greek terms of zoe and bios, emphasising that in order for a person to be a perfectly functional member of the society one needs to be politically involved, hence in the bios. Agamben defines the Homo Sacer, or sacred human, as a non-citizen and a form of bare life that can be taken away without punishment but cannot be used for religious sacrifice. This definition has not been altered through various critiques and applications of the concept throughout the literature, and what this paper aims to do is prove that the true definition of the Homo Sacer today, is not an indistinction between the political and biological/bare life, but someone whose life is completely devoid of any political consideration.

Lemke (2005) criticises the work on the basis of the inexistent clear distinction between zoë and bios which in turn leads to the inability to analyse hierarchies in the camp itself (8). According to Agamben, however, this indistinction is crucial since “it can […] be said that the production of a biopolitical body is the original activity of the sovereign power” (1998:6). Hence, the creation and manipulation of bare life falls upon the sovereign as well, irregardless of whether this is an authoritarian state or a liberal one. Despite the unclear contrast between what or who is excluded Agamben’s Homo Sacer is defined by “lacking almost all rights and expectations that we customarily attribute to human existence […] , they [come] to be situated in a limit zone between life and death, inside and outside, in which they [are] no longer anything but bare life” (1998:159). It is this definition that has sparked the interest in modern forms of bare life and recognising it with regards to Twenty-First Century problems. The lack of clarity where the zoe starts and where the bios takes over is why Agamben’s concept is so difficult to apply to real identity groups in today’s world, and provides room for the argument that children born as a result of wartime rape can be modern Homines Sacri if we focus on the notion of camp and the idea that a bare life is one that is invisible.

Norris (2005) argues that the result of Homines Sacri “is the paradox of a sacrifice that is dedicated to no legal or religious end […] but which participates in and affirms the economy or logic of the legal/religious system” (10). This can be seen in some of the recent forms of bare life such as irregular migrants, terrorists, Jews in World War
Il concentration camps, sex offenders and even street gang members in the United States.

Looking at the case of refugees and immigrants as *Hominem Sacri* is not a new concept, and Rajaram and Grundy-Warr (2004) look at irregular migrants as depoliticised figures. Their study looks at the analogy that Agamben’s *Homo Sacer* provides for these figures as they are “denied human rights taken for granted by citizenry” (1998:57) in South-East Asia and Australia. They see the power of the sovereign over bare life exercised over the immigrant’s “lives, livelihood and dignity” (58). Agamben’s camp can also be seen with relations to refugees, with accommodation-centres being present trying to separate them from the rest of the society. Diken (2004) sees asylum seekers “as an installation of the ‘homo sacer’, the ultimate biopolitical subject whose life is stripped of cultural and political forms” (83). The exist in a state of limbo where they are only left with bare life since both their own political identity and the identity of the host country has abandoned them. This is crucial to the overall understanding of the post-Nazi camps, where although social pressures do not allow for mass killings in refugee camps there is still a separation of the citizens from the refugees and are still treated as a “privileged object [of] humanitarian biopolitics” (Žižek, 2002:91). Fitzpatrick goes on to explain that the essence in which bare life is ‘bare’ is that it can be taken away without the law’s authority, and while he also echoes the views of previous literature on refugees the same concepts of biopower can be seen with terrorism.

Van Munster (2004) goes so far as to argue that “terrorist are in fact not considered a legitimate party in [...] war” (148) and hence they are not granted a prisoner of war status once detained. It is also argued that by keeping many of the detainees in Guantanamo not only are they not under the jurisdiction of the American criminal justice system but they are also excluded from the bios into the camp where power can be exercised over them. Through Foucault’s view of biopolitics as power, it can be deduced that the use of risk management techniques on terrorism suspects is a way of “taking control of life and the biological processes of man-as-species” (Foucault in *Society Must Be Defended*, 246-247) since these *Hominem sacri* are subjected to surveillance in order to analyse behaviour norms within the group (Van Munster, 2004:150). In *Zones of Indistinction* Diken and Laustsen (2002) take a
broader approach to examining terrorism with regards to Agamben, and while relating the concept of terrorism back to camp, they are more focused on the technologies of biopolitics that emerge to control the population when terrorism is a threat to national security.

Magma (2009) offers a different approach to the theory, especially while looking at terrorists, and captured suspected terrorists in Guantanamo. While he agrees that “the body of the prisoner is likened to a body abandoned by the law that can be killed but not sacrificed” (419), he also states that for the Guantanamo Bay prisoner the true exercise of power over bare life is that they are forced to live. This can be seen as the ultimate form of biopower, since the prisoners are not only stripped of any form of political life and do not fall under any criminal jurisdiction, but in fact their life is forcibly prolonged so that the sovereign can retain the power over them.

Spencer (2009) takes the traditional arguments presented for terrorism and refugees a step further, and applies it to sex offenders (defined as paedophiles by the author) in the United States. He argues that existent processes of civil commitment and community notification create the bare life of a sex offender, because (s)he “is [a] life deemed impure, dirty or accursed” (224) and hence can exist under the ban of society. Furthermore, once sex offenders are made public, they are further demonised and “while not officially sanctioned, this exposure of sex offenders’ whereabouts and identity offers an informal licence to vigilantes to expel sex offers physically from communities” (233); because they exist outside of the bìos they are not entitled to any protection from the law and in most cases will not get it even if sought out.

These are the most common cases of the “new” Homo Sacer and contemporary examples of Agamben’s concept of bare life and how it becomes politicised. One area that has received surprisingly little attention is wartime rape. Weitsman (2008), Diken (2004), and Schott (2010) have all looked at the way that rape during wartime is used as a political weapon in order to emancipate communities. In the Development Dialogue, Schott even goes a step further and looks at forced impregnation as a further way of politicising warfare and how forced impregnation creates the ultimate bare life for the woman herself. Although the concept of rape as a weapon of war can be traced back through history, and after the conflicts in Rwanda and Bosnia and Herzegovina
it has gained more attention, surprisingly little is written about the children of wartime rape victims. This paper is going to not only look at the rape victims themselves as a form of bare life but is going to argue that the child of a wartime rape victim is the ultimate *Homo Sacer* whose life has been not only stripped of all its social and cultural meaning but because they are ostracised by three distinct communities, they live in a perpetual camp.

**The Politics of Wartime Rape**

While rape during war is not necessarily a new phenomenon, mass rape only really emerged as a consequence of war in the 20th Century (Card, 1996). In the 1990’s with war rape taking place in enormous numbers, it was defined for the first time during the Rwanda tribunal as “a physical invasion of a sexual nature committed on a person under circumstances which are coercive” (Gladstone, 2002 in Schott, 48). This marked a major step in recognising the growing problem of mass rape, but also allowed for gender crimes to be explicitly names as crimes against humanity. Former Yugoslavia, Rwanda and the Democratic Republic of the Congo are just a few of the examples where mass rapes during wartime were used to “undermine national, political and cultural solidarity, changing the next generation’s identity, confusing the loyalties of all victimised survivors” (Card, 1996:8). Ultimately, the removal of the victim’s identity through rape camps is what makes the identity of the children born as a result crucial to the understanding of peacebuilding and reconciliation in ethnic conflicts. Rape as a weapon of war is not only meant to exercise authority over the physical body but it is in fact a long term solution that divides the victim from their identity group because they are then seen as dirty and damaged.

Feminist literature has been criticised in claiming that rape is a weapon of war due to the reason that understanding rape in the context of war is dependent on feminist conditions such as the category of gender and the connection of an analysis of gender through emancipation (Kirby, 2012:6). According to Kirby, in order for rape to be viewed as a systematic weapon of war, feminist accounts have to be looked at as modes, and thus looks at the instrumentality where “wartime sexual violence becomes an extension of politics in the sense that it is one tool among many adopted by self-interested actors” (11). This critique, while valid to an extent, is not concerned
with the politicising of bare life and instead looks at sexual violence as “an end in itself, with the sole purpose of creating pain, occasionally having a purpose” (Levi, 1989:83). While this may be the case for rape during wartime, a clear distinction needs to be made between singular cases, and mass rape. Mass rape and forced impregnation have become strategies of war closely linked to ethnic cleansing with an “aim at the destruction of a community” (Schott, 2010:64). It is believed that war rape is “used to displace a population, securing their ties to home and community” (Schott, 56) and is “an integral part of strategic ethnic cleansing” (Diken and Laustsen, 2005:112). Dismissing the theory that rape can be politicised and used as a weapon on war can have serious repercussions on current, on-going conflict as it would take away the discourse that surrounds not only wartime rape but also the consequences of it and it’s repercussions on peacebuilding. Dolan (2010) argues that “the ‘rape as a weapon of war’ explanation for sexual violence in Eastern DRC has become one of the main building-blocks of the international community’s response” (11) and dismissing this would revert the progress that has been made.

Further politicisation of wartime rape has to do with identity and segregation. Diken and Laustsen (2005) argue that rape, during the war in Bosnia and Herzegovina, provided distinct groups in which people belonged” Serbs, Muslims, and Croats. Furthermore, if the victim of rape is not ostracised by the community, often times they will separate themselves because she will often see herself as an object that is ‘dirty’ and morally inferior (113). The most common form of mass rape is the rape camps that were heavily prominent during the war in Bosnia, where Muslim women were taken to be tortured, raped and forcefully impregnated by Serbian soldiers. In the camps women were not only deprived of their individuality but the sovereign power (the soldiers) had control over their most basic human needs, such as when to go to the bathroom or when to sleep; the biological body is indistinguishable from the political and thus creates bare life (Schott, 2010). While Foucault discusses sexuality with regards to biopower and the politicisation of sex, in the rape camps power is not only inflicted over sexuality but it also turns the concept of birth into an image of death.

Diken and Laustsen (2005) describe this process of segregation as “abjection”, stating that “the abject is a sign of a prior animal existence that threatens our identity
as humans” (116). This is the same notion that Agamben talks about when describing the Homo Sacer; these women are turned into object through rape and they no longer belong to any political sphere since “rape in a patriarchal culture has a special potential to drive a wedge between family members” (Card, 1996:11). Although rape camps were prevalent in Bosnia and Herzegovina, this aspect of segregation and abjection was also present in other parts of the world. In Rwanda, mass rape was also used as a form of genocide but what was specific about the case is that violence was predominantly aimed at women even before the genocide (Weitsman, 2008). It is estimated that 90% of women and girls that survived the genocide were in fact sexually abused. Figures also show that the Tutsi women that did in fact survive are the exception since rape was only a precursor to murder. Like in Bosnia and Herzegovina, the patriarchal structure of society increased the violence against women because shame was not only left with the victim but it also “[humiliated] the husband and may [have caused] a desperate ‘acting out’ through which the victim is punished a second time” (Salzman in Diken and Laustsen, 2005:117) effectively creating a bigger divide between the community and the victim.

Forced impregnation became a trademark of rape camps in Bosnia and it was a way to ensure that the community remained divided. Once women were impregnated, they we're forced to stay in the camp until they would no longer be able to have an abortion and once it is born it becomes “an alien and disgusting object” (Diken and Laustsen, 2005:113). Once the woman is forcibly impregnated and gives birth, the child becomes a reminder of the torture and in some cases is killed by the family, thus bringing death to life.

**Children of Wartime Rape as the New Homo Sacer**

“A generation of children of hate”, “children of shame”, “children of bad memories”, “children of hate”, “children of dust”, “unwanted children”, “little killers”, “the intruder”; these are just some of the phrases used to describe children born to victims of wartime rape (Weitsman, 2008). They have become the quintessential Hominès Sacri, although they live in a state of distinction between the zoë and the bios.
After the forced impregnation in rape camps in the 1990’s came a generation of children that has been left in the shadows. Carpenter (2007) defines children of wartime rape as “persons of any age conceived as a result of violent, coercive, or exploitative sexual relations in conflict zones" (3). They are subjected to “a number of abuses such as infanticide, abandonment, social discrimination, statelessness and malnutrition” (Seto, 2015:172) by their immediate family, their community, the sovereign and the international community. While Seto does write about children of wartime rape as Hominés Sacri, she specifies that they are politicised and because of that they are ostracised and a form of bare life whose “death or punishment is not recognised because their […] lives never] existed to begin with” (2015:177).

Through the exploration of bare life and the Homo Sacer within this essay, it has emerged that while the Homo Sacer does exist in a state of exception, this does not mean their life is necessarily politicised. In the state of exception there is no special law but rather “the suspension of the juridical process itself” (Agamben, 1942:4) hence the taking of a life does not carry the repercussions it generally would. This effectively depoliticises the life of the Hominés Sacri because they do not belong to the bios that has been terminated by the state of exception. Especially while looking at modern day conflicts, the sovereign becomes merely a concept since its definition as possessing the legitimate use of force is discredited; as was the case in former Yugoslavia, Rwanda, Darfur, the Democratic Republic of the Congo and many others. Children of wartime rape have never actually become the subject of political power, they are in fact invisible to politics and their community. Because they are not politicised, they are excluded from “the protections offered by international law, such as the children’s rights regime” (Seto, 2015:172) because they do not belong to any society. The case presented is not true of all children that are born as a result of wartime rape; in certain families and communities this particular child is treated as any other however this is not the majority of cases that have been reported.

Children of wartime rape are ostracised by three communities: (i) their family, (ii) the national community they have been brought up in and (iii) the wider international community. Through the exploration of these three communities with relations to children of wartime rape, I will demonstrate that they are a version of Homo Sacer that
has not been explored to date, because not only are they not worthy of life, but in the case of the international community they are also not worthy of death. Based off of Barth’s (1969) hierarchy of identity, the analysis aims to show that children of wartime rape have no identity group to belong to, starting with the very basic – their family, and ending with the international community that bypasses them while trying to restore peace to the areas.

Children born of wartime sexual violence are first are foremost ostracised by their immediate family, because they are a constant reminder of a trauma. The mother’s life was politicised during the time of conflict and the result of that is a body that is regarded as a “child of the enemy” (Seto, 2013:174; Weitsman, 2008:565). Their identities are constructed even before they are born, since “they embody both self and other” (Weitsman, 2008:566); however, once they are born they become linked to the paternal identity. This means that the child inherits the father’s ethnic identity and that the father’s violence is embedded in their ethnic code, meaning that ultimately a newborn baby is labeled as “evil” before it even comes into the world (Seto, 2015:174). The end result is a child that is shunned from the mother’s community, and does not belong to the community of their unknown father thus leaving them in a state of limbo. Seto’s biggest argument for presenting the child of wartime rape as the Homo Sacer is that there is no repercussion of the numerous infanticides committed on these children. Infanticide during wartime is a common phenomenon throughout the world, and not only with children that are born as a result of wartime sexual violence but as a way of both protecting the child from war atrocities and as a way to end wars (Schepers-Hughes and Sargent, 1998). The main argument for this paper is that the child of wartime rape is indeed the ultimate form of bare life because they are obscure and not only are they not worthy of life, but they are also not worthy of death because they are left in limbo.

The second community that shuns children of wartime rape is the immediate community and the national government. While in No Place for a War Baby, Seto (2013) argues that children of war are used in order to demonstrate the power of the sovereign and a way to exercise power of the population; in this depoliticised version of bare life the child is not only excluded from the law but also forgotten by it. The
children are associated with the paternal identity and hence they do not belong to the community and are unrecognised by the state because the act that has created the life is based in conflict (Watson, 2007). This is where a parallel can be drawn between refugees as Hominies Sacri and children of wartime rape. Their national identity is not one that they can associate with because the larger community where they should belong, does not want them.

The international community has marginalised children of wartime rape and they have thus remained understudied and under-represented in NGO’s and international organisations. Watson states that “international discourse […] can care less for children, because their mothers [are supposed to] care more” (2007:25); this is due to the belief that notions of motherhood will prevail irregardless of the conception of the child. Children of wartime rape are also deemed unworthy of access to basic human rights, not because their life is being controlled by the sovereign but because they exist outside of the sphere of national or international law. McEvoy-Levy comments on the absence of children born as a consequence of wartime rape as an entity that “reside[s] in the space between the lines recognising rape as a weapon of war, a tool of genocide, and a gross violation of human rights” (2007:149) but none-the-less they are never defined.

Implications

By arguing that children of wartime rape have been depoliticised, and thus become the new Homo Sacer I hope to look at how they have fallen through the cracks of three distinct communities and in what way can an understanding and exploration of them bring a more rounded view of peacebuilding and reconciliation. Constructivism and critical security have enabled for these analysis to be done by allowing a more comprehensive framework and methodology to enter the sphere of Internal Relations. With the emergency of constructivist theory, we can not only question the methodologies provided by realism and liberalism but have allowed a significant shift to occur within the study of the international arena itself, thus enabling to look at the state not as a unitary actor but as a group of individuals that guide and lead the state towards action. The turn of the 21st century has changed the way International Relations have been studies, states are less concerned with sovereignty but more
concerned with cooperation, as international institutions around the world show. We are no longer looking at Balance of Power, as posed by Waltz (2010), but are instead aiming towards a more humanitarian approach to conflicts, with R2P, human rights law, and humanitarian intervention. This enables for scholars to shed light on communities that have otherwise been forgotten, such as children of wartime rape, but it also poses risks for the concept of sovereignty; for if in the name of humanitarianism and peace, other states can intervene in domestic politics, we have to wonder how long until cases like Iraq and Afghanistan become the norm and weaker states no longer have a say. Looking at children of wartime rape, despite the strides in international legislation, they are not acknowledged, which means that there is still a long way to go until we are able to claim that the humanitarian intervention and human rights law that we have created on paper, is of any use to the people that need it the most.

In the case of children of wartime rape, peacebuilding can be seen as a tug of war between the truth, and forgetting in order to move away from the past. Todorova (2009) looks at this concept in relation to the war in Bosnia and Herzegovina, and while her findings conclude that a post-conflict reconciliation in the region requires both forgetting and remembering the past, this is a very simplistic approach to peacekeeping after ethnic conflict. In order for reconciliation to really work where rape was used as a weapon of war there needs to be a better approach to the discourse of rape, victims and children born as a result of sexual violence. Despite the recent upsurge in literature surround children of wartime rape, there is still no attempt to re-integrate them into society. By accepting these children into their communities, and understanding the basics of identity, a community doesn’t have to decide whether they want to forget or tell the truth, instead they can accept the past and help build the future not only for themselves but for a new generation in their community that has been ostracised and discriminated since their birth. This would mean that the Homo Sacre would once again be integrated into the political sphere of ordinary citizens, and would be able to exercise their rights as such.

Diken and Laustsen have argued that “war rape is perhaps the clearest example of an asymmetric strategy” (2005:11) and children that are born as a result of sexual
violence during conflict can be seen as a gateway to the understanding of the future of asymmetric warfare (126) and providing a better insight into reconciliation. Understanding not only what drives the combatants to commit acts of rape and sexual violence but also understanding the consequences of identity and segregation can contribute to human security in order to establish the necessary regulation through international law.

While children’s security in the international agenda seems to be addressed through the UN Convention on the Rights of the Child, children that are a product of wartime sexual violence are not represented under it because they do not fit under the Western construct of childhood (Reynolds, 2000:146). Furthermore, the inclusion of children that do no fall under the idyllic construct of childhood seems to be farfetched because it challenges the existing discourse (Watson, 2007). Even if there was a potential for incorporating children of wartime rape into international legislation, and provide them with opportunities for development, the enforcement of humanitarian law is incredibly weak and hence it would take generations for the status quo to change and accept these children as a member of society. Watson argues that through addressing issues of non-belonging and segregation in children of wartime rape, not only can the protection of those children be implemented under international law, but there can also be an improvement in the protection of women from systematic rape (25). This has broader implications for the overall security agenda, since they can aid in the reconstruction process of post-conflict societies by helping bridge identity gaps. By legitimising the voices of children of wartime rape, and their existence there is a direct impact on the perpetrators that often move on with their lives and not reminded of their criminal past. This would hopefully lead to the prosecution and imprisonment of combatants that engaged in systematic rape. However, the case has been presented that often times combatants are merely following orders; in order to prosecute and charge the decision makers a legislation similar to RICO can be applied internationally. This would mean that military officials would be held responsible for the orders they give to combatants as well as their deeds.

Bringing children of wartime rape to the forefront of the humanitarian and security debate would not only legitimise their existence, but it would also remove the stigma
around them and contribute to their general acceptance to society. By encouraging a wider discourse on the subject of rape as a weapon of war and its consequences, children of wartime rape would no longer belong in the margins of society and law.

**Conclusion**

The concept of the *Homo Sacer* has been used to explain various vulnerable groups that reside outside our political sphere. Looking at the prosecution of Jews in Nazi Germany, refugees and irregular migrants, terrorists and sexual offenders all offer an understanding of a bare life, a life that belongs neither here nor there and thus can be terminated without any repercussion. The paradox of this definition lies in the state of exception however, a state where there is no law and hence law cannot govern what happens to bodies. If killing anyone carries no repercussions, then what separates the *Homo Sacer* from the ordinary citizen?

I have argued that through looking at children born from wartime rape, there is another possible way to look at the *Homo Sacer* and bare life. Instead of looking at the indistinction between the political and biological, we need to examine the consequences of being a life that is devoid of any political consideration because the mere existence of that life is a reminder of being subjected to a deprivation of a normal existence. By framing the child of wartime rape as a *Homo Sacer*, through their exclusion from society rather than the politicisation of their life, one can see that their segregation from their families, community, as well as the international community not only leaves them without an identity but also makes them invisible.

The lack of literature on children of wartime rape is an important gap that needs to be addressed within the concept of peacebuilding and reconciliation because they belong to both sides of the conflict in theory, but are not recognised by either. Although the existing literature explores the use of rape as a weapon of war, the consequences of that weapon are left untouched. Critical security can help fill in this gap and thus build a more complete understanding of asymmetric warfare, human rights culture and reconciliation. Furthermore, children of wartime rape in themselves present an interesting case for the study of identity not only because they have been marginalised.
in theory but also because it poses a key question of nature versus nurture. As a *Homo Sacer* they are devoid of their own identity, however, posing a question into how these children identify themselves can help unwrap some of the major stigma surrounding them and contribute to the overall theory of identity and violence.

If Agamben's *Homo Sacer* is a werewolf, living between the forest and the city and not belonging in either, then children of wartime rape are those same outcasts who “[dwell] paradoxically within both while belonging to neither” (Agamben, 1998:105) and are disregarded by the international community.
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