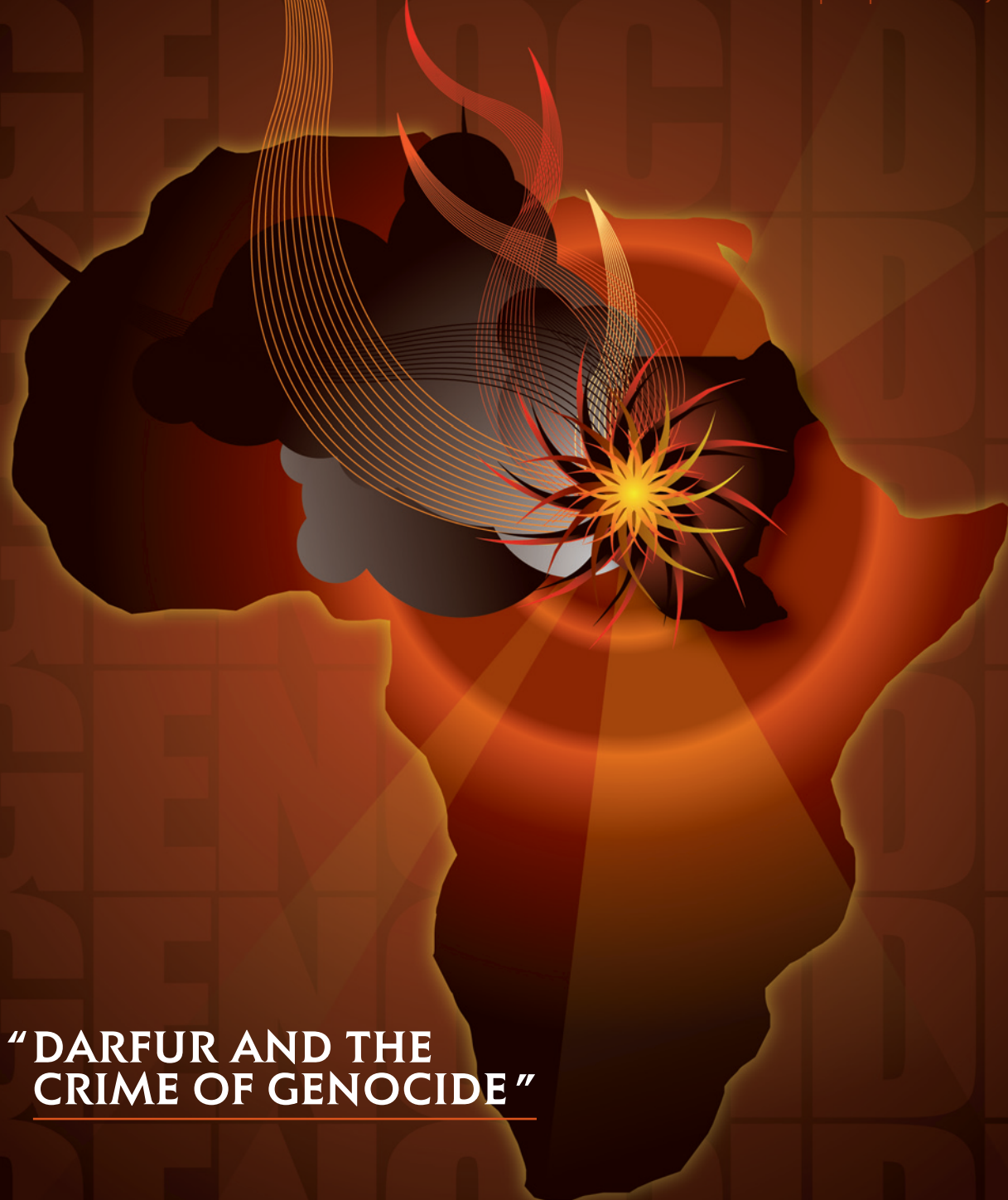


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**"DARFUR AND THE
CRIME OF GENOCIDE"**



John Hagan

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Hagan has published widely in the areas of adolescent criminology, international criminal law and war crimes. His books include *Mean Streets: Youth Crime and Homelessness* (with Bill McCarthy, 1997), *Northern Passage: American Vietnam War Resisters in Canada* (2001), and *Justice in the Balkans* (2003). Hagan and collaborators have published on genocide and war crimes in Darfur in the *American Sociological Review*, *Criminology*, *Annual Review of Sociology*, and *Science*.

Darfur and the Crime of Genocide

For many years the American Bar Foundation has been a leader in rigorous, empirical research on law and its impact on society. Its Research Professors, from a variety of social science disciplines as well as law, are in the forefront of their fields.

In contrast to scholars who focus on legal doctrine, jurisprudence or pure theory, ABF researchers test theoretical understandings of socio-legal issues by amassing and analyzing social data. Critically analyzing the function of law through the lens of their social science specialties and in relation to carefully gathered data, they often bring new understanding to pressing legal and social issues that impact individuals and groups in the United States and around the world.

It is in this research tradition that ABF Research Professor John Hagan and co-author Wenona Rymond-Richmond have written *Darfur and the Crime of Genocide* (Cambridge University Press, 2009), a major scholarly attempt to understand both the ongoing violence in the western region of the African nation of Sudan as well as the international response to that violence. Since beginning their research in 2005, Hagan and collaborators Rymond-Richmond,

Alberto Palloni, Patricia Parker, and Heather Schoenfeld, with support from the ABF and the National Science Foundation, have produced several articles on various aspects of the conflict in Darfur. In 2006, for example, Hagan and Palloni published “Death in Darfur” in *Science* magazine, a ground-breaking article that established a reliable, fact-based estimate of a “floor” figure of casualties in Darfur. More recently, the December 2008 issue of the *American Sociological Review* led with Hagan and Rymond-Richmond’s “The Collective Dynamics of Racial Dehumanization and Genocidal Victimization in Darfur,” while in August 2009 the *American Journal of Public Health* will publish a study by Hagan, Rymond-Richmond, and Palloni on the racial targeting of rape. In *Darfur and the Crime of Genocide*, Hagan and Rymond-Richmond bring this work as well as unpublished research together in a full-length book.

Since 2003, the Darfur region of western Sudan has been embroiled in a conflict between Sudanese government forces, government-backed “Janjaweed” militias, and Darfuri rebel groups. Black African agricultural villagers in Darfur have been attacked—by way of gunmen on horseback or in jeeps, and by aerial bombing—by the largely Arab government and government-supported militias, resulting in hundreds of thousands of deaths and millions of

displaced people. Hundreds of villages have been destroyed, the land taken over by nomadic Arab herders. Refugees from the violence have been placed in poorly protected and poorly funded camps within Darfur or have fled to similar camps in neighboring Chad, resulting in a human rights crisis on a massive scale.

“The Sudanese government and its proxy militias are engaging in a “collective punishment of African villagers,” that is “dramatically disproportionate and collateral to” any threat posed by the insurgency.”

The authors make a strong case that what has been happening in Darfur is, in fact, genocide. They marshal evidence to show that, rather than acting purely in self-defense against the rebel insurgency, the Sudanese government and its proxy militias are engaging in a “collective punishment of African villagers,” that is “dramatically disproportionate and collateral to” any threat posed by the insur-

gency. In fact, Hagan and Rymond-Richmond’s analysis of the data allow them to argue that the timing, location and circumstances surrounding attacks on hundreds of thousands of Darfuri villagers since 2003—as well as the specific nature and scale of those attacks—involving killing, rape, other forms of sexual violence, racial insults, and confiscation or contamination of property and natural resources, amount to an intentional state-sponsored genocide.

Reflecting the multifaceted nature of the crisis it seeks to understand, *Darfur and the Crime of Genocide* is at once a documentation of atrocities against civilians in Darfur, a recounting of the United States government’s response to the atrocities, a sociological analysis of the dynamics of genocide both generally and in Darfur, a critical historical analysis of the academic discipline of criminology, and a call for greater involvement of criminologists in the prosecution of genocide. “Why,” Hagan and Rymond-Richmond ask in the book’s Prologue, “is criminology—the science of crime—so slow to study the ‘crime of crimes’?...Why is race so central to the explanation of the genocidal scale of the death and rape in Darfur? Why is genocidal violence such a long-lasting threat to human security both within and beyond Darfur?...What can the science of criminology contribute to the understanding of genocide as

a basis for responding more responsibly to this ‘crime of crimes?’”

Beyond the academic discipline of criminology, the book is of relevance to the legal community. As Hagan and Rymond-Richmond state, in the early years of this century the United Nations “hosted a World Summit that mandated ‘collective action’ in response to an emerging legal norm of the ‘responsibility to protect.’ This collective responsibility evolved out of the language of the Genocide Convention and its requirement that ratifying nations act to stop ongoing mass murders.” The United States and other western nations have yet to fulfill this promise in Darfur. Yet, the evidence presented in the book, and the techniques used to amass and analyze it, provide a starting point for legal actors and criminologists to work together in recognizing genocide as it occurs, clearing the way for timely intervention and prosecution in the interest of international justice.

THE ATROCITIES DOCUMENTATION SURVEY

Hagan and Rymond-Richmond’s main data source is the Atrocities Documentation Survey (ADS), commissioned in 2004 by the United States Department of State and conducted by the Coalition for International Justice. This survey, which interviewed randomly-chosen Darfuri

refugees in Chad, was “one of the first large-scale victimization surveys designed specifically to substantiate charges of genocide,” according to Hagan and Rymond-Richmond. The Department of State found it necessary to conduct such a survey because non-governmental organizations (NGOs) had been only belatedly allowed into Darfur and then to survey deaths from malnutrition and disease but not from the violent attacks themselves. From the interviews with 1,136 refugees—a statistically valid sample of the 2.2 million Darfurians affected by ongoing violence—“interviewers coded up to twenty crime incidents per household in sufficient detail to support potential courtroom claims.” Initially, Hagan and Rymond-Richmond use the ADS and other survey data to calculate a preliminary estimate of mortality in Darfur. Later in the book they use extensive background information gleaned from victim interviews to conduct a fine-grained analysis of the geographic distribution as well as the causes of, and circumstances surrounding, violent attacks against civilians in the region. Taken together, Hagan and Rymond-Richmond’s findings provide the building blocks for a dynamic sociological theory of genocide.

In 2004 then-Secretary of State Colin Powell used the ADS as evidence to support his claim that genocide had occurred in Darfur.

In testimony to the United States Senate Foreign Relations Committee, Powell provided the following partial summary of ADS refugee interviews:

- 81% reported their village was destroyed.
- 80% reported their livestock was stolen.
- 67% reported witnessing or experiencing aerial bombing.
- 61% reported the killing of a family member.
- 44% witnessed or experienced a shooting.
- 33% reported hearing racial epithets during attacks.

As Powell testified, the ADS interviews showed, “a consistent and widespread pattern of atrocities: killings, rapes, burning of villages committed by Jingaweit [or Janjaweed] and government forces against non-Arab villagers...This was a coordinated effort, not just random violence.” Yet, since Powell’s use of it, the ADS has been little cited or studied. In *Darfur and the Crime of Genocide*, Hagan and Rymond-Richmond confirm and elaborate Powell’s finding of genocide, through their painstaking analysis of the ADS data, which they call “an historically unprecedented and uniquely rich source of neglected evidence for an urgently needed advancement of both science and justice goals in Darfur.”

THE CRIME OF CRIMES

The term “genocide” was coined in 1943 by Raphael Lemkin, a Jewish lawyer who fled his native Poland for the United States in 1940, and who campaigned tirelessly for the development of international criminal laws concerning war crimes. The term was institutionalized in the 1948 UN Convention on the Prevention and Punishment of Genocide, which was ratified by the United States only in 1988. Article II of the Genocide Convention defines genocide as: “any of the following five acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group:

- 1) killing members of the group
- 2) causing serious bodily harm to members of the group
- 3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- 4) imposing measures intended to prevent births within the group
- 5) forcibly transferring children of the group to another group”

Based on information from the ADS, Hagan and Rymond-Richmond identify a pattern of nine elements that characterize the attacks on villages. These include:

- 1) a background of tension between Arab and Black groups in Darfur
- 2) the arming of Arab Janjaweed militias by the government, starting in the 1990s
- 3) government bombing of African villages
- 4) ground attacks via horses, camels or motorized vehicles on villagers
- 5) the racial animation of the attacks
- 6) attacks involving sexual violence
- 7) the confiscation of property
- 8) displacement of people
- 9) the resettlement by Arab groups on land previously held by Black African tribes

Hagan and Rymond-Richmond state that “the nine elements we described... in Darfur are variants on the[se] five legal elements” that constitute genocide.

According to Hagan and Rymond-Richmond, act number 3—making collective life unsustainable—is the most all-encompassing of the five legal elements. Taken together, the victim accounts in the ADS make it clear that “the Sudanese government and the Janjaweed militia created circumstances and conditions intended to destroy the group life of Black Africans in Darfur: not only by killing but also by raping, stealing livestock, looting food, destroying food stores

and seeds, poisoning wells, displacing people from their homes and villages, and then, in many cases, preventing or interfering with follow up humanitarian care and assistance.”

THE RACIAL SPARK

While the ADS testimony provides moving, harrowing first person accounts of the violence in Darfur, Hagan and Rymond-Richmond’s findings were based on the statistical analysis they performed on the ADS interviews. By using research tools standard in sociology and criminology they extracted and quantified data from the interviews, allowing them to identify meaningful patterns in the violence. From these patterns they were able to elaborate a process through which certain members of Sudanese society came together, identified “others” as undesirable elements, and attempted to eliminate them.

As a first step Hagan and Rymond-Richmond read each victim’s attack account and coded whether the attackers were Sudanese government forces, Janjaweed or a combination of the two. Crucial to the analysis was whether or not the victims heard racial slurs or epithets shouted by the attackers. Typical epithets during attacks consisted of statements such as “This is the last day for blacks,” “We will destroy the black-skinned people,” “Kill all the slaves,” “Kill all the blacks,” “You are black and

you deserve to be tortured like this,” etc. Many other details, such as the age, gender and tribal affiliation of victims, location and timing of attacks, settlement density, whether or not rebels were present in villages attacked, and the presence or absence of certain powerful government or

defense counter insurgency strategy).” The analysis also revealed that racial epithets were more likely to be heard when government forces and Janjaweed militias attacked in concert, especially in villages that were in densely populated areas. In Darfur, population density correlates with

genocide. The government officials and militia leaders...are the agents who use their social skills and efficacy in igniting and directing this racial spark, whereas the racial epithets constitute their intentionally directed vocabularies of motive. This transformative action mediates supremacist

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The evidence presented in the book, and the techniques used to amass and analyze it, provide a starting point for legal actors and criminologists to work together in recognizing genocide as it occurs, clearing the way for timely intervention and prosecution in the interest of international justice.

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militia leaders among the attackers were recorded or coded.

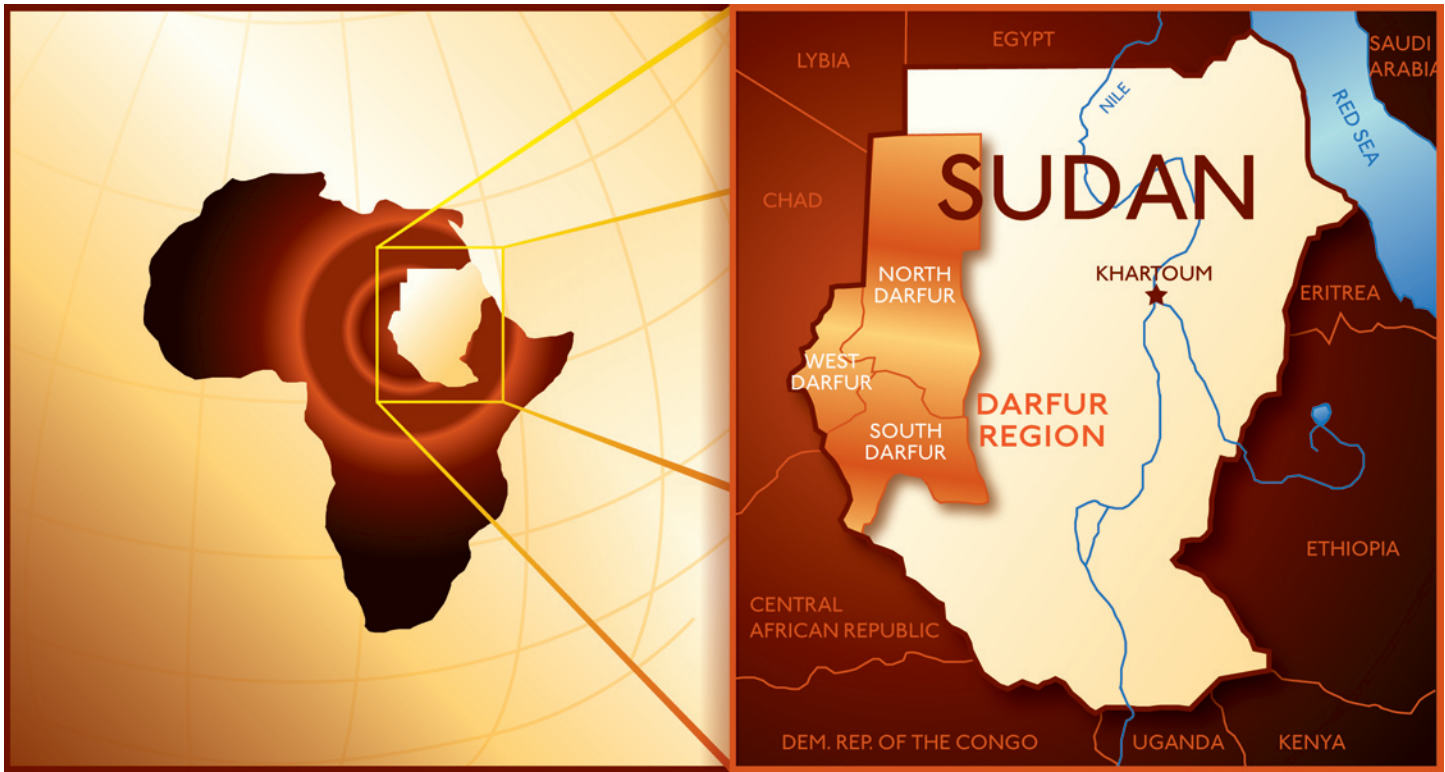
By performing hierarchical linear modeling—a cutting-edge social science method for studying collective behavior—on these statistics, Hagan and Raymond-Richmond were able to document the nature, timing, and circumstances of the attacks. Of even more importance to their argument, they were also able to determine the likely intent of the attackers. The statistical analysis revealed that racial epithets were more likely to be heard when rebel forces were absent from villages, a finding that “strongly suggests the direct racial targeting of civilians, rather than suspected rebels (i.e., in a more legally justifiable self-

fertile, productive land. The destruction of villages and the removal of inhabitants in these areas are thus most destructive to collective life of Black Africans in Darfur.

Racial epithets were also more likely to be heard when government or Janjaweed militia leaders were present at the attacks, implying that the leaders played an important role in drawing on and magnifying pre-existing tensions between Arabs and Blacks in Darfur. As Hagan and Raymond-Richmond explain, “we see racial epithets as forming the spark that transforms the specific forms of racial intent...into...collective racial intent, or collective targeted fury and frenzy, that often characterizes

and dehumanizing ideologies in the social formation—from the states of mind and actions of individuals—of the collective violence of the genocidal state.”

Hagan and Raymond-Richmond identify the Sudanese government as criminally responsible for stoking collective genocidal action in Darfur. They state, “the Sudanese government integrated the Janjaweed into its military strategy in the interests of maintaining its control over Darfur. The government could enlist the Arab Janjaweed because these landless nomadic groups needed grazing land for their herds. These circumstances formed the ecological context of a collective action and opportunity



structure that used an ‘us’ versus ‘them’ crisis framing of collective racial motivation and intent to direct the unfolding of genocidal victimization in Darfur.”

The identification of intent is extremely important in determining the occurrence of genocide and in the eventual prosecution of those responsible, Hagan and Rymond-Richmond explain. Without a specific intent to destroy a group, collective violence against individuals or groups amounts to “crimes against humanity,” a lesser charge. Thus, Hagan and Rymond-Richmond’s identification of a specific racial intent behind a large proportion of the attacks against villagers is

a crucial piece of information in understanding the nature of the violence in Darfur.

WHILE CRIMINOLOGY SLEPT

As the violence continued in Darfur after its commencement in 2003, the international community became aware of its nature and scope mainly through the work of public health researchers who documented conditions in refugee camps. Though the documentation of genocide was not their focus, until recently these workers were the only witnesses to the effects of human rights abuses in Darfur. While important and impressive in its own right—and very effective

in reducing disease and malnutrition within refugee camps—the data collected by public health workers is of limited value to researchers and advocates who work to raise awareness of genocide in a timely and accurate manner. Hagan and Rymond-Richmond outline these limitations and explain why public health researchers have worked almost alone in this field until recently.

In the decades following World War II, American sociologists developed self-report survey techniques to study social behavior. The methodology, in conjunction with other survey techniques, was used in the 1990s for empirical research on mortality and morbidity among refugees from war

and other civil conflicts. Yet, because this research—unlike the more recent Atrocities Documentation Survey—was undertaken by public health workers rather than by criminologists, evidence of war crimes was a by-product that had to be extrapolated, rather than a focus of the studies. Because public health researchers aim to document current health

The academic discipline of criminology, for its part, has come late to the empirical study of genocide and to the construction of a theory of genocide. If genocide is the “crime of crimes” the authors ask, why has criminology been so slow to study it? The answer to this question is complex, and centers on the interplay of academic and geo-politics over the

Soviet Union were dividing the world into competing regions in which neither world power particularly thought it plausible or advantageous to have international rules of law.”

The consequences of criminology’s failure to develop the study of genocide are at once academic, practical and moral. Criminology “bears a disciplinary responsibility

“**The Atrocities Documentation Survey is “an historically unprecedented and uniquely rich source of neglected evidence for an urgently needed advancement of both science and justice goals in Darfur.”**”

conditions—with the goal of saving those who have survived to get to refugee camps—and because they must often work in conjunction with regimes that may themselves be committing war crimes, in what the authors call a “compromised strategic embrace”—they may miss evidence and numbers that help document instances of genocide, and may feel constrained in how they characterize the nature of humanitarian crises. As a result, the authors conclude, there is “a tendency for health-oriented researchers to underreport violent deaths in what these researchers designate as ‘complex humanitarian emergencies.’”

last sixty years. Hagan and Rymond-Richmond outline how Sheldon Glueck, a Harvard criminologist and law professor wrote extensively and presciently on war crimes in the wake of World War II and the Holocaust. Yet, this period of his career was short lived and soon forgotten by criminologists. While a number of factors played into the delay of the development of a theory of genocide and international criminal law, the authors explain, chief among them was the Cold War division of the world into competing “spheres” of Soviet and American influence. As the authors state, during the Cold War, “the United States and the

for [its] neglect” of “war and human rights crimes,” the authors state. And yet, as Hagan and Rymond-Richmond argue, because of its particular focus and methods, “a criminological perspective can succeed where a health perspective failed to provide a full empirical foundation, theoretical understanding, and legal assignment of responsibility for violence and victimization that violate international criminal law.” Criminology’s “crime victimization approach” to genocidal violence can complement research done by public health workers and demographers.

THE CONTRASTING CRIMINOLOGY OF KOSOVO

By way of contrast to Darfur, Hagan and Rymond-Richmond discuss the human rights and humanitarian emergency in Kosovo in the spring of 1999, when Serbian military and paramilitary forces expelled most of the Albanian population of Kosovo across the border into Macedonia and Albania, killing some 12,000 civilians in the process. The authors cite Kosovo as an instance in which international organizations responded quickly “to the underlying human rights issues,” of an international crisis, thus furthering the goal of public and legal accountability.

As the crisis unfolded, various governmental agencies and NGOs, including Physicians for Human Rights, the CDC, Human Rights Watch, the American Bar Association Central and East European Law Initiative (ABA-CEELI) and the American Academy for the Advancement of Science, extensively documented refugees in real time, using agreed upon sociological methods to arrive at a consensus on the nature and scope of the humanitarian emergency. In several cases these agencies shared data, combining their individual studies to arrive at estimates of the death toll. In one instance, timely data collection by Albanian border guards, the Office of the UN High Commissioner for Refugees and the

Albanian Emergency Management Group enabled sociologist Patrick Ball to establish that refugee flows followed ethnic cleansing operations by Serbian forces, not NATO bombing raids, as had been claimed by Slobodan Milosovic during his trial at the International Criminal Tribunal for the Former Yugoslavia (ICTY).

There are several reasons why the documentation of human rights

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abuses worked very well in Kosovo. In many cases refugees were in relatively good health and were adequately nourished, allowing interviewers to focus on the violence they had suffered. The events of the spring of 1999 comprised the third Balkan war, so outside agencies and governments were well prepared for humanitarian work. That the events unfolded on the doorstep of Europe meant that NATO, the Organisation for Security and Cooperation in Europe, and the United States government were

directly involved. The United States, for its part, sent twenty-two lawyers and investigators to work at the ICTY. As Hagan and Rymond-Richmond state, “the United States...played a leading role in bringing a legal criminological perspective to the data collection effort in Kosovo.” Finally, the actions of outside parties, including the NATO bombing campaign and the indictment of Slobodan Milosovic by the ICTY during the humanitarian emergency encouraged interviewing of refugees in Macedonia and Albania; additional refugees were interviewed as they returned to Kosovo after the halt to the bombing and the entry of NATO troops, allowing for extensive documentation. These factors, as well as the relatively short time frame in which they played out, allowed for what Louise Arbour, the chief prosecutor at the ICTY called, “real-time” investigation and prosecution.

FLIP FLOPPING ON DARFUR

“But Africa is not Europe, and Darfur is not Kosovo,” the authors state. Because the majority of Darfuri refugees fled to internal displacement camps within Sudan, where conditions were deplorable, and because the Sudanese government initially denied access by health or human rights organizations, a massive health emergency developed. NGOs did not collect data on human rights

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violations inside Darfur, as they’d done in Kosovo, nor did the U.S. government or the ICC collect data within Darfur. Barred from access to refugees by the Sudanese government, the United States Department of State conducted the Atrocities Documentation Survey in camps in neighboring Chad. Of greater consequence, however, “the American government did not maintain its support for the ADS.” The authors state that “by the time Condoleeza Rice replaced Powell as Secretary of State, the ADS lost its priority in the formation of State Department policy on Darfur.”

According to the authors, as time unfolded, the U.S. government “flip flopped” in how it characterized the crisis in Darfur. While in 2005 a general consensus had been reached among international researchers—informed in part by Hagan’s findings—that the death toll in Darfur was between 180,000 and 400,000, under Rice’s new leadership the State Department issued a statement that between 60,000 and 146,000 ‘excess deaths’ had occurred in Darfur. The term ‘genocide’ was no longer

used by the State Department to characterize events in Darfur, and uncited sources, not the ADS data, were used to create the new casualty figures. The State Department estimates were picked up by the news media, which began to report “tens of thousands” rather than “hundreds of thousands” of deaths in Darfur.

Hagan and Rymond-Richmond surmise that the State Department’s estimates of the Darfur death toll fell because of over reliance on health-based surveys of refugees. However, they also uncover the possible role of international politics and diplomacy in the Department’s characterization of the situation in Darfur. Around the time the State Department was issuing its new estimate of the death toll in Darfur, it was also flying Sudanese general Salah Abdullah Gosh to Washington, D.C. for talks with CIA officials interested in working with Sudan in the war on terror. Sudan had provided sanctuary to Osama bin Laden in the early 1990s; the U.S. government wanted to learn more about these years and to increase joint

counterterrorism efforts between the two countries.

GLOBAL SHADOWS

In the final chapter of the book, Hagan and Rymond-Richmond depart from their main focus on the documentation and dynamics of genocide to examine some of its societal consequences. They bring an innovative, comparative global perspective to the chapter by arguing that the research of criminologists, who study the life course outcomes of socially excluded (e.g., homeless, incarcerated) people in North America, can shed light on analogously excluded people (displaced, dispossessed) in the global South. “In particular,” they state, “we argue that there are lessons from the experiences of homeless youth and families in the Global North that can make the Global South, including the life prospects of the displaced and dispossessed in Darfur, more understandable.” Thus, the best of recent life course outcomes research in criminology and sociology can be applied to the Global South to further our

understanding of the consequences of the violence in Darfur.

In this chapter Hagan and Rymond-Richmond draw on Hagan's expertise in adolescent criminology to examine the social effects of genocide, especially for young male survivors in Darfur. They note that, as in the northern hemisphere, punitive and stigmatizing labels and policies "often produce enduring criminal careers." The collective racial stigmatization and punishment of Black Africans in Darfur not only create numerous disrupted families and orphans, but also youth who use violence to negotiate their path in life. Indeed, Hagan and Rymond-Richmond point out, the rebel insurgency includes many youth and young adult males, the younger of which are more violence prone than older rebels. As the violence continues, older rebels, killed in government and Janjaweed attacks, are replaced by less experienced and less risk-averse adolescents, continuing the spiral of violence. Criminological research reveals a similar pattern in the northern hemisphere, where "gangs recruit youth for their loyalty, fearlessness, willingness to take risks, and readily renewable availability," the authors explain.


Though Hagan and Rymond-Richmond note that some rebel groups in Darfur predate the current conflict, their statistical analysis of the available data indicates

increasing rebel activity over time, coinciding with a period during which Black African families in Darfur increasingly came under attack by government forces and Janjaweed militias. The resulting deaths, disappearances and disruption to families "led to increased rebel recruitment and activity," the authors argue.

The authors acknowledge the many differences in both kind and degree between the experience of genocidal victimization in Darfur and the problems of youth in the Global North. Nevertheless, they make a strong case that, as the U.S. National Academy of Sciences noted in a report on youth in 1993, "life course challenges exist for high-risk youth throughout the world." Hagan and Rymond-Richmond argue that "these separate but related problems of youth constitute an urgent research agenda," to which criminologists can make a valuable contribution.

CONCLUSION: THE RESPONSIBILITY TO PROTECT

Hagan and Rymond-Richmond remind readers at the book's conclusion of the United Nations World Summit's recent mandate for a legal norm of the "responsibility to protect." They specifically state that "criminology shares in the responsibility in a parallel way to that of the United States and the United Nations, to

develop and advance knowledge and public awareness about genocide." As they demonstrate in the book, the discipline of criminology has developed techniques and methods that are uniquely well suited to illuminate both the scale of genocidal actions and the intent behind those actions. The perpetrators of genocide can be countered by the collective efficacy of well-informed, concerned citizens, academics and governments. 

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