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**HAGUE CONFERENCE: SOCIAL SCIENCE RESEARCH SEEN TO PLAY KEY
ROLE IN BUILDING INSTITUTIONS OF INTERNATIONAL CRIMINAL LAW**

**Innovations in evidence gathering can help hold leaders accountable for sexual
violence and genocide**

At an International Colloquium on Sexual violence as International Crime, U.N. High Commissioner Navanethem Pillay told judges, prosecutors and officials from international courts and social scientists to “bear in mind that for sixty years we had nothing, no mechanism for international justice.” In just fifteen years, she said, there has been tremendous development with the Ad Hoc courts on

Yugoslavia, Sierra Leone, and other countries. Now we have the International Criminal Court.

The 3-day conference, which took place in The Hague, concluded on June 18, 2009 and was convened by the [Center on Law and Globalization](#) co-director [John Hagan, PhD](#), recipient of the 2009 Stockholm Prize in Criminology for his work on the causes and prevention of genocide in Darfur and the Balkans, and co-director [Charlotte Ku, PhD](#), University of Illinois College of Law, in cooperation with the Grotius Center for International Legal Studies, Leiden University Campus/The Hague and The International Victimology Institute, Tilburg (INTERVICT), Tilburg University

International courts now take sexual violence seriously, said Kelly Askin, of the Open Society Institute and conference participant. After World War II the tribunals heard much testimony on rape but did not pursue it in its own right. Since the mid 1990s the tribunals for the former Yugoslavia and Rwanda have incorporated rape directly and indirectly in more than forty cases. The International Criminal Court now has sexual violence as a central component of the indictments against President Omar al-Bashir and others.

But, said International Criminal Court Prosecutor Moreno-Ocampo, with the ICC “our goal is to go even further.” He welcomes the interventions of social scientists to push forward the frontiers of international criminal justice. “One of our goals,”

he stated to the Colloquium, “is a case with no witnesses, no victims. We want to use methods,” he said to the social scientists, “that you are developing, such as statistical analysis. We must refine how to use your tools,” he said.

The Colloquium heard several ways that social science evidence can build cases and international justice institutions. John Hagan, Co-Director of the Center on Law and Globalization, reported on the Atrocity Documentation Survey conducted by the U.S. State Dept under Secretary of State Colin Powell. Hagan used the survey to document the chain of command involved in the Government of Sudan’s responsibility for sexual violence that is connected to genocide.

Hagan’s in-depth analysis takes three steps to reach up the chain of command and establish evidence for genocide: First, data show that when Sudanese troops join with Janjaweed militias, sexual violence is linked to race. The more racial epithets among the attackers, the more there are violent sexual assaults. Second, the fact that government troops are regularly involved demonstrates that the government has knowledge of the assaults and participates in them. This strongly indicates command responsibility. Third, the connection of race to rape establishes a link between sexual violence and genocide.

Another empirical approach uses surveys of health and human rights to show the extent of harms in repressive situations. Lynn Lawry, U.S. Department of Defense, and Chen Reis, World Health Organization, have conducted

population-based surveys in Sierra Leone, Iraq, and Liberia. Among the most surprising results of these surveys is the finding in Liberia that approximately one-third of men combatants experienced sexual violence. The level for women was even higher.

To use these new forms of data, says University of Chicago Professor Tom Ginsburg and Co-Director of the Center on Law and Globalization, it will be necessary for judges of international courts to create new law. Innovations may be necessary to enable courts to use different kinds of social science data. Social science evidence may also be particularly valuable for strengthening public opinion to support international courts, such as the ICC.

Moreno-Ocampo told the Colloquium that “my office will find those who made the policy of genocide” and who financed genocidal actions. To do that, said I.C.C. Senior analyst Xabier Agirre, it is necessary to take three steps: to get a level of description of the patterns of a crime; then, to correlate the crime with the working of the command structures that produced it; then to explain what caused it. To establish the gravity of the crime, he said, we need descriptive statistics to show that the crime is grave, that its scope warrants the intervention of the International Criminal Court which intends to take on only the most serious cases.

About the Center on Law and Globalization

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