

- INTERNATIONAL VICTIMOLOGY INSTITUTE TILBURG -

**VICTIMOLOGY AND HUMAN SECURITY;  
AN INTERDISCIPLINARY APPROACH**

**Research programme  
INTERVICT - Tilburg University**

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## 1. GENERAL SCOPE OF THE INSTITUTE AND THE RESEARCH PROGRAMME

The Faculty of Law and the Faculty of Social Sciences of Tilburg University have launched an international and multidisciplinary research institute for Victimology: The International Victimology Institute Tilburg, abbreviated as INTERVICT. Victimology, or the academic study of victims and victimization, is a relatively young branch of academic research. Its objective is to gain knowledge on victims of crime, abuse of power, and disasters. Victimologists try to find out the underlying causes and why these people became victims. Other topics include the rights of victims, the psychological effects of victimization, the help provided to victims, and the social reactions to victims. Victimology also studies traffic accident victims, environmental criminality, and compensation for damage.

From its inception, victimology has adopted an interdisciplinary approach to its subject matter. Contributions are being made by experts from fields as diverse as academic lawyers, criminologists, clinical and social psychologists, psychiatrists, political scientists, and economists. Victimology also maintains a strikingly international profile. Despite its relatively brief tradition of some 50 years, it is well established and has been acknowledged as a special and identifiable area of academic research. There are specialized international (refereed) journals for victimology; there is a World Society of Victimology and there are a number of regional and national Societies of Victimology comprising many hundreds of researchers active in this field.

INTERVICT aims to develop and implement a large scale interdisciplinary research program in order to make significant contributions to the available body of international victimological knowledge. A second objective is to raise the quality of research in this field. The research program is composed of three subsections. Sub-program A concerns the role of victims in the legal system; sub-program B addresses the psychological aspects of victimization and victim assistance; and sub-program C deals with victimology in relation to human security. The following sections provide further information on the context of these three sub-programs and the specific studies to be carried out. The list of studies referred to in this document is not exhaustive. For instance, INTERVICT will also contribute to the further development of comprehensive handbooks on victimology. The projects listed should be considered as main examples of ongoing work. INTERVICT will solicit contracts for more and additional projects (e.g., in the field of human safety, major traffic accidents and natural disasters) and will seek cooperation with colleagues (e.g., from economics, theology and medicine) to extend the scope of research.

It is important to emphasize that all three sub-programs interrelate and that the results of one particular study could influence the findings of another study carried out by INTERVICT. The interdisciplinary approach of the research program ensures that proper research is performed into all aspects of victimization, which will ultimately contribute to preventing or reducing instances of victimization across the world and to limiting the effects of victimization on victims and their families, including economic costs, pain, and mental suffering.

## 2. SUB-PROGRAMMES

### 2.1. Sub-programme A - Victims and the Legal System

#### *Context*

Since the mid-1980s of the past century, several international instruments have been issued defining basic minimum rights victims should have in the criminal justice system.<sup>1</sup> Many subsequent publications have demonstrated that it is extremely difficult to actually achieve the objectives of these instruments. Quite often, the legal provisions (the “law on the books”) are adapted, but the “law in action” remains more or less unchanged. More research is therefore needed with regard to effective implementation strategies: what works, and why? In the area of criminal procedure, projects will be carried out in order to find the best way of balancing the rights of victims of crime and the rights of the accused. In the same context, it is of paramount importance to learn more about the phenomenon of “repeat victimization”. A relatively small number of victims appear to be suffering from a disproportionately high percentage of cases of criminal victimization. It is obvious that this issue is both theoretically and practically challenging as it has direct implications for policy-making.

Furthermore, subprogram A will pay specific attention to victims’ rights within an international criminal justice system, namely the International Criminal Court. The Rome Statute, adopted in 1998, is a treaty that sets up an International Criminal Court (hereafter ICC). It entered into force in July 2002. The Court is the first permanent international tribunal which is empowered to prosecute individuals, not States, accused of genocide, war crimes or crimes against humanity. Its jurisdiction also includes the crime of aggression.<sup>2</sup> The court is to be complementary to national judicial systems and will be able to assume jurisdiction only after it determines that a national system is unwilling or unable to prosecute the crimes relevant to the Statute. The Statute has been hailed as ‘a milestone in Victimology’.<sup>3</sup> Compared to the procedural rules governing previous International Tribunals (like the former Yugoslavia and Rwanda), the main improvements are in extending the protection of victims, expanding their participation, and in better provisions on reparation.<sup>4</sup> The main attraction of the Rome Statute, though, is that it offers a more universal model of how the legal system can respect legitimate victims’ rights without prejudice to a fair trial for the accused. It transcends the well-known differences between the existing legal traditions, by introducing a procedure which could be agreed upon by representatives from the common law systems as well as from the civil law

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<sup>1</sup> United Nations: The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985). Council of Europe: the Recommendation on the Position of the Victim in the Framework of Criminal Law and Procedure (1985). European Union: the Framework Decision on the Standing of Victims in Criminal Proceedings (2001).

<sup>2</sup> It should be noted, however, that the States Parties must adopt an agreement setting up a definition of aggression and the conditions under which the Court could exercise its jurisdiction. A review conference will be held in 2009, during which the matter will be discussed.

<sup>3</sup> Marc Groenhuijsen, International Protocols on Victims’ Rights and some Reflections on Significant Recent Developments in Victimology, in: R. Snyman & L. Davis (eds.), *Victimology in South Africa*, Pretoria: Van Schaik Publishers 2005, pp. 333-351. See also M.S. Groenhuijsen & R.M. Letschert, *Compilation of International Victims’ Rights*, Wolf Legal Publishers, 2006.

<sup>4</sup> Sam Garkawe, Victims and the International Criminal Court: Three Major Issues, *International Criminal Law Review*, 3, pp. 345-365, 2003.

heritage. On top of that, the Statute with its corollary Rules of Procedure and Evidence<sup>5</sup> have introduced unique requirements in selecting staff. Every official that could come into personal contact with victims must be trained in victims' issues; for instance, in selecting staff, including judges, attention has to be paid to their expertise in the field of sexual violence. These are major steps forward and it might turn out to be the best model so far to reduce risks of secondary victimization.

The establishment of the ICC and its specific focus on victims' issues raises several questions which deserve further research by our Institute. Two topics will be highlighted; victim participation and victim reparation.

There is a volatile debate on "restorative justice" and mediation. Many victimologists have argued that restorative justice is a new paradigm which is destined to replace the repressive paradigm of the current criminal justice system. INTERVICT aims to make a major contribution by analysing the epistemological status of restorative justice as a concept and as a means to reform existing practices. The same is true for the actual meaning of "procedural justice". To what extent is victim satisfaction determined by the outcome of a proceeding or by the way the victim has been treated during the procedure preceding the outcome or decision?

Lastly, but not least, INTERVICT will include extensive studies on the position of the victim in private law (both substantive and procedural law). This is an area of research which has been remarkably neglected by the international community of victimologists. By contrast, the Tilburg University Department of Private Law has undertaken many projects – e.g., on cases of personal injury – yielding knowledge on how to minimize transaction costs and to reduce the adverse effects of civil litigation. These projects will be further elaborated within the framework of INTERVICT.

#### *A.1 Philosophical, political, and comparative explorations on the status of the victim in criminal proceedings*

As soon as criminal procedure is partly aimed at reparation, the question arises under what conditions this goal may be reached or promoted, and which obstacles arise. The tendency towards an 'urgent' criminal law or an 'interventional criminal law' puts pressure on traditional criminal law, although it cannot be said that the traditional criminal discourse is obsolete. It is important to make maximal use of empirical research data to continuously monitor the practices of criminal procedure, in order to prevent frictions and 'adverse effects' by means of institutional and legal adjustments. This is not only a pragmatic approach (cutting a knot or taking an emergency measure), but it often also means a reflection on fundamental questions that require making choices on the role and meaning of criminal law and criminal procedure.

An important question to be answered is how criminal procedure can be legitimized. In this context, it is by now obvious that the victim (and his relatives) constitutes an important element in society. The legitimacy of the criminal justice system has various aspects: think of the structure of and reasoning in judicial decisions, the dismissal policy and its explanation (arguments and the ways these arguments are communicated), the public prosecution service

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<sup>5</sup> The Rules of Procedure and Evidence set out general principles and clear descriptions of specific procedures underpinning and supplementing the provisions of the Statute. They are subordinate to the provisions of the Statute.

publicity policy, quality guarantees for the public prosecution service and prosecutors and judges. Here again, questions and choices of legal politics, philosophy and ethics are at stake. In this respect, it is also essential to pay attention to international (legal) developments. On the basis of the preceding observations, the aim of the research project is analysing the current law with regard to bottlenecks concerning the role of the victim in the criminal justice system.

#### A.2 *Victim rights and the role of the public prosecution service on paper and in practice*

In the past two decades, nearly all modern criminal justice systems have been reformed on behalf of victims of crime. In most jurisdictions, changes have been achieved by introducing new rights for individual victims. Victims' requirements have now been taken into consideration in various ways, which has led to a reconsideration of the way criminal proceedings are conducted. The adoption of the 2001 *EU Framework Decision on the Standing of Victims in Criminal Proceedings* is a significant development in promoting the rights of victims of crime across Europe. The Framework Decision aims to contribute to the protection of crime victims as it forces Member States to bring their legislation in conformity with the measures guaranteed in the Framework Decision. However, in reality, the effectiveness of the implementation measures that the Member States have introduced or that already existed within their legislation is still unclear. It is therefore necessary to understand whether and how these rules function in practice. Bearing in mind that there are many circumstances in which laws and legal procedures, or the behaviour of legal actors, produce outcomes for individuals that are harmful or anti-therapeutic even when the intention was to produce a positive outcome, it will not be enough to approach the new law reforms in relation to victims without taking into account the consequences they will have for their emotional life and psychological well-being. This kind of multidisciplinary approach is called 'Therapeutic Jurisprudence'. Previous studies about victims' satisfaction with their treatment by legal authorities have shown that despite several legal reforms, the satisfaction level was still very low. Especially the victims' perception of the public prosecution service was negative.

The use of the existing complaint procedures for victims nowadays shows that much dissatisfaction still exists. As the public prosecution service performs a function that is important and meaningful to those crime victims whose case is brought into the criminal justice system, this study will highlight their legal obligations in relation to the victim. By using a therapeutic jurisprudence approach, it might be possible to improve the effectiveness of the services offered by the public prosecution services. On the other hand, it should not be forgotten that putting too much stress on the wellbeing of victims of crime might compromise the rights of the accused to a fair trial. Therefore, while analysing ways to improve the services offered to victims, it maybe also be necessary to reconsider some of them in order to strike the right balance.

The study will be done in a comparative way. The three jurisdictions that will be studied are the Netherlands, England & Wales, and Scotland. The main aim of this study is to develop a set of empirically validated recommendations which will enable the public prosecution service to use a victim-focused approach without prejudicing the rights of the accused, in both civil and common law-based systems.

To achieve a high standard of crime victim protection, not only on paper but also in practice, the role of the public prosecution service is essential. By using a therapeutic

jurisprudence approach, this study will reveal in what way victim rights in criminal proceedings, which the Public Prosecution Service has to guarantee in light of the EU Framework Decision, are translated into practice. In addition, this study will improve the knowledge about the effectiveness of the means used to meet victims' needs. Furthermore, it will be explored to what extent the protection of the interests of victims versus respect for the legal protection of the accused is indeed compatible.

### *A.3 The 2001 EU Framework Decision on the Standing of Victims in Criminal Proceedings: Experiences and perceptions of crime victims across the Member States of the Union*

On 16 February 2004, the European Commission published an evaluation report on the implementation of the EU Framework Decision, based on reports of the Member States on the legal and institutional implementation of the Decision. The evaluation concluded that implementation had been fully satisfactory in none of the Member States. The evaluation did not assess the operational implementation of the Decision as experienced and perceived by actual crime victims. Through an empirical study among recent crime victims, data will be collected on the operational implementation of the Decision. The impact of the legal implementation of the Framework Decision on its operational implementation will also be analysed.

In 2005, Gallup Europe/UNICRI conducted the International Crime Victims Survey (ICVS) in each of the old fifteen Member States of the EU with samples of 2,000 victims per country. The ICVS questionnaire contains a set of follow-up questions for those recently victimized by crime about their experiences with treatment by the police, the availability of specialized support, and their need of such support. On average, information will be available on the experiences of 200 or more recent victims of serious crime per country. The data will be analysed with a view to obtaining a rough first indication of the Framework Decision's operational implementation, to be presented at the opening conference of INTERVICT in June 2006.

Gallup has asked all ICVS respondents to agree to a possible second interview. This means that, for each country, samples will be available of roughly 200 persons known to have been victimized by serious crime in 2004/2005 who can be re-interviewed in more detail about their experiences with the police and the courts. Such a study will allow a focused examination of the operational implementation of key elements of the 2001 EU Framework Decision, *inter alia*, practices concerning the right to be treated with recognition and respect, to be notified of progress in the criminal proceedings, to be given a hearing in court, to privacy protection, to be assisted in obtaining compensation from the offender and/or from the State, and to receive specialized social support.

A questionnaire will be designed that covers all key elements of the Decision to be used in telephone interviews with identified crime victims. The study will provide a detailed assessment of the Decision's operational implementation as perceived by the core beneficiaries (crime victims). The extent of the operational implementation will be analysed against the background of the legal implementation as assessed in the EU evaluation report of 2004.<sup>6</sup>

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<sup>6</sup> The study will be conducted in cooperation with Gallup Europe, Victim Support the Netherlands (Slachtofferhulp Nederland) and the European Forum for Victim Services.

#### *A.4 Implementing and complying with the UN Basic Principles of Justice for Victims of Crime and Abuse of Power*

In 1985, the UN General Assembly unanimously adopted the Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power. Twenty years after its adoption, it can be argued that the principles contained in this Declaration have been poorly implemented in national legislation and policies. This part of the program will analyse what steps should be taken to turn the Declaration from paper to practice. It will be analysed whether, among other things, a Convention on the Rights of Victims could stimulate implementation of and compliance with the basic principles. If this question is answered in the affirmative, some major issues will come to the fore. For instance, should such a Convention have sections on information, participation, restitution, compensation, services? Should it have a section on victimization prevention? Should it have a section on monitoring implementation (such as the EU Framework Decision)? Should it have a special committee (such as the UN Committee on the Rights of the Child for the Convention on the Rights of the Child)? Should it have a provision for remedies for individual victims? How will it relate to the Transnational Organized Crime Convention and the Optional Protocol on Trafficking? How would it relate to the International Criminal Court? Several of these questions were discussed during an expert meeting held at INTERVICT in December 2005. A group of widely recognized international victimologists met in Tilburg to discuss these issues, which resulted in a Draft Convention on the Rights of Victims.

#### *A.5 Victims' rights and the International Criminal Court*

##### *Victim Participation<sup>7</sup>*

Crime is a violation of the human rights of the crime victim. Crimes against humanity represent the most heinous crimes and constitute a gross violation of the dignity of those victimized. International human rights instruments, such as the Universal Declaration of Human Rights, protect basic human rights such as participation, due process, material well being, equality, and peace. Viewing victims' rights as human rights implies an inclusive approach that promotes victim participation in the criminal justice system without restricting defendants' rights.

The International Criminal Court deals with some of the most serious human rights violations including genocide, torture, rape and slavery. One of the major innovations of the International Criminal Court is the integration of victims in the criminal justice process. The Rome Statute of the ICC and the Rules of Procedure and Evidence contain specific references with respect to the role of victims including notification, reparation and participation. Unlike the Ad-hoc Tribunals for the Former Republic of Yugoslavia and Rwanda, where victims' only role is one of witnesses for the prosecution, the ICC allows victims to also participate as interested parties. However, the Statute and Rules of Procedure and Evidence do not specify just how victim participation is to be put into practice. This is left up to the Court to determine. There is a great deal of ambiguity as well as lack of clarity regarding the

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<sup>7</sup> The study will be conducted by Ms. Dr. Jo-Anne Wemmers, visiting researcher of INTERVICT in 2007.

mechanisms applicable to victims' participation and rights. A key question for the ICC is how to apply victims' rights.

A primary concern with respect to the implementation of the Rules and Statutes with respect to victims is secondary victimization. Authorities must strive to avoid unnecessarily augmenting victims' suffering through insensitive procedures that fail to take into account their impact on victims. Yet once new practices are put in place they are hard to change. Therefore it is highly important that, from the outset, the implementation of victim-related measures is done with careful consideration of the possible impact on victims.

This part of the research programme will firstly analyze the implementation of victims' rights within the context of the ICC. It examines the opinions of those working at the ICC with respect to victim notification, reparation and participation. In addition, it explores procedures found in national criminal justice systems that promote the integration of victims and which may be useful for the ICC. The study lies on the axis of law (international and criminal), psychology and victimology, focusing on the psychological impact of laws and procedures on victims of gross violations of human rights.

The results of this study will enhance our understanding of how the ICC applies the rules and procedures with respect to victims. This information will aid in assuring that victims' rights are respected and that victims have a clear idea of what they can expect from the Court. This in turn will enhance victims' satisfaction with the Court, reinforcing their sense of justice and thereby underpinning the legitimacy of the Court and promote victim cooperation with it.

### *Victim Reparation*

Specific emphasis will furthermore be put on the concept of victim reparation and the ICC. The ICC reparation regime is applauded as the first international attempt to provide reparations to victims of international crimes. However, the reparation regime may turn out to be a dead letter, as the provisions on reparation are very open and the effectiveness of the ICC reparation regime is highly dependent on the political will of the States Parties to the ICC Statute. In its current form, the ICC reparation regime is by far not clear enough. Complex legal technicalities arise from the new reparation regime, which are not contemplated by the ICC Statute and Rules of Procedure and Evidence, although it is likely that the new reparation regime will have a major impact on the course of justice before the ICC. This part of the research aims to analysing the legal and political problems blocking a strong and just ICC reparations to victims' regime.

#### *A.6 Civil and criminal anti-stalking measures: An empirical analysis of their effectiveness*

Although the Dutch legislator has opted for the criminalization of stalking by inserting Article 285b into the Penal Code in July 2000, it remains unclear whether this action has had a positive effect on the prevention or reduction of stalking behaviour. Prior to the criminalization of stalking, other means to combat stalking were developed, such as the civil restraining order or mandatory psychiatric hospitalization. The question is whether the inclusion of a penal

provision has an additional value alongside these instruments. So far, only a few studies have focused on evaluating the implementation of the criminal anti-stalking measures. What is lacking mostly is a proper effectiveness evaluation of all anti-stalking measures. INTERVICT will try to fill this gap and will investigate the effectiveness of these measures, criminal and civil, legal and non-legal, from the perspective of the victim. The main question to address is whether the existing anti-stalking measures are effective in reducing the stalking behaviour from the perspective of the victim.

It is vital to investigate the effectiveness of anti-stalking measures because stalking behaviour imposes a great strain on the private lives of the victims. Most of the victims' lives are turned up side down, their character may change drastically, and some even show symptoms of post traumatic stress or other psychological complaints. Stalking is not undeservedly often referred to as "psychological terror". Victims are afraid to go out, pick up their phone, or even go to work because they might encounter their harasser. Their entire lives are influenced by the stalking. Questions that therefore need to be answered are: Have the measures, according to the victim, had any effect on the stalking? How do they feel about specific methods and what are positive or negative side-effects?

The ultimate goal is to be able to make suggestions for enhancing the effectiveness of anti-stalking remedies and, in doing so, contribute to an improved protection of stalking victims. Furthermore, this study will make it possible to systematically categorize all advantages and disadvantages of a certain remedy. Victims and their legal advisors will find it easier to gain insight into their situation and will be better able to decide which method they wish to apply to their case.

Two case studies will be conducted in the Netherlands and Scotland. Several research methods will be applied, but the main source of information will come from interviews held with victims. The idea is to interview the same number of victims from the following categories: those that have obtained a restraining order, those that have tried to get the offender convicted, those that have acquired both, and those that have not used any civil or criminal measures at all. Subsequently, follow-up meetings will be organized in order to give a proper indication on the long-term effects of a measure. The same method of research will be applied in Scotland, a country that has consciously chosen not to draft a criminal anti-stalking provision, but instead opted for the improvement of the enforcement of civil remedies. If the civil remedies in Scotland turn out to be more effective than those in the Netherlands because of this strict enforcement, this would provide vital information on how to improve the Dutch approach to stalking.

#### *A.7 Confidentiality in the process of victim-offender mediation*

Mediation has rapidly conquered the world of ideas in procedural law. This holds true for areas as diverse as family law, contract law, labour law, and even administrative law. Unsurprisingly, it is equally true for criminal law and criminal procedure, where victim-offender mediation has acquired a special dimension as being part of the larger movement of 'restorative justice'.

Mediation in penal matters is defined as a process in which the victim and the offender are enabled, voluntarily, to participate actively in the resolution of matters arising from the crime through the help of an impartial third party or mediator. Victim-offender mediation can be found in three different forms. Sometimes it is used as a means of diverting

cases from the formal court system. When more serious crime is at stake, mediation cannot be considered as an alternative to inflicting punishment by a competent court. In those instances, mediation can still have a role in addition to ordinary court proceedings. If this occurs during the pre-trial stages, the results of the mediation can play a role in sentencing. In the most serious cases, mediation usually only comes into play after conviction and sentencing, when the offender is incarcerated.

These three forms of victim-offender mediation exist in many modern jurisdictions. It is striking, though, that, in most of these criminal justice systems, mediation still lacks a statutory basis. Formal statutory provisions are scarce and, when existent, show many gaps. This is all the more remarkable, since there are a number of international protocols calling for the establishment of clear principles and rules governing the practice of victim-offender mediation. The EU Framework Decision on the Standing of Victims in Criminal Proceedings (March 2001) exhorts Member States to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure (Art. 10). The Council of Europe issued a more elaborate set of principles in Recommendation R(99) 19 of the Committee of Ministers to Member States Concerning Mediation in Penal Matters (September 1999), as did the United Nations in the draft Declaration of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (July 2002).

A feature common to these international protocols is the requirement of confidentiality. It is generally assumed that the process of victim-offender mediation is facilitated by adopting this principle. Accordingly, all those involved in mediation (i.e., the victim, the offender, the mediator, and trusted third parties) are supposed to remain silent about matters brought forward during the mediation process. Although it obviously has many advantages when the contents of the mediation process are not disclosed indiscriminately, the question arises as to possible exceptions to the principle of confidentiality. The study focuses on this question. Several solid reasons for considering exceptions present themselves.

First, it could be argued that victims and offenders should be free to discuss the process they are involved in with friends, relatives and other supporters. They should not feel isolated by being unable to share such a significant experience. Next, the question is whether an acceptance of facts, or even an admission of guilt by the offender made during the mediation session, could be used as evidence in subsequent criminal proceedings on the same matter. Thirdly, similar doubts may be raised in connection with civil litigation (tort) following victim-offender mediation. In addition, the issue will be addressed whether the lack of agreement reached in mediation may be used as a justification for a more severe sentence in subsequent criminal justice proceedings. Other aspects of mediation which might possibly not be protected by confidentiality could include any further crime, for example, any threat of further violence which occurs during the mediation process. It is at least questionable whether it is appropriate to preclude the behaviour of the offender during mediation as a factor to be taken into account in subsequent sentencing decisions.

Hence the central problem to be examined in the proposed project is to what extent, and on what grounds, exceptions should be made to the strict rules of confidentiality which emanate from the basic principles governing the process of victim-offender mediation.

#### *A.8 Modelling access to justice for victims*

Victims of crime, accidents, and disasters need justice, but this comes at a price. The usual approach to issues of access to justice is qualitative and limited to the major issues of access to courts and access to legal aid. The main goal of this study is to develop a quantitative and more encompassing framework for access to justice issues. Justice can be modelled as a sum of just outcomes in the widest sense (for instance, compensation, certain behaviour by the perpetrator such as an apology, acknowledgement of the plight of the victim) and just elements in a procedure (voice, respect, etc., during formal and informal proceedings). The costs (also in the widest sense) for the victim of obtaining justice are often substantial. These costs consist of out-of-pocket expenses (fees of lawyers and experts), but also of time spent in obtaining justice and of resources that cannot be used during this process. Emotional costs are common as well and will be taken into account in the framework.

A framework for assessment of access to justice can be helpful in several ways. It can be used to:

- establish the current state of access to justice in a given procedural setting;
- predict the use of procedures, assuming that victims make a rough cost-benefit analysis before using any available procedures;
- assess the suitability of procedures for victims with different needs, income levels, or life styles;
- assess the effects of improvements in procedures and the priorities in such improvements;
- monitor the suitability/effectiveness of procedures over time.

The framework will be built on the basis of economic (cost/benefit) theory, combined with insights from (economic) sociology, psychology, sociology of law, negotiation theory, and conflict management theory. The contours of such a framework were developed by Barendrecht & Kamminga 2005. Comparable work is being carried out by the WODC (Klein Haarhuis, Kroes 2006) and the Verweij Jonker Instituut (Lünnemann 2005, in print). The aim of this program is to combine these insights and build on them. This approach is internationally unique. So far, access to justice has hardly been modelled by economic methods. The access to justice literature tends to be socio-legal in character and efforts to assess all costs of access to justice are scarce (Parker 1999 gives a useful overview). Economists (mostly those connected to the World Bank) have concentrated on access to justice indicators, easily accessible variables that can indicate the level of access to justice in countries. Some researchers (De Soto 1990, 2000) have researched the actual costs of access to justice in specific settings (protection of property). Combining the research efforts of Dutch scholars in this area, leading to a "The Hague Model of Access to Justice", will be a worthwhile enterprise.

#### *A.9 Victims of identity theft: Vulnerabilities and the Dutch identification infrastructure*

This project will study the challenging new phenomenon of identity theft and the implications for victims. This new type of crime reveals itself in a variety of ways, with or without the use of technology and has become a significant societal problem in various countries around the

world, in particular the United States. It is often claimed that this crime will become a threat to Dutch society as well. However, this claim has never been adequately substantiated, let alone that thorough research has been conducted into the question whether the situation in the United States (i.e. the vulnerability of US identification schemes to identity theft) can be compared to the Dutch. Also, sufficient knowledge is lacking to establish in what ways the position of a US victim of ID-theft is similar to that of a Dutch victim. As a result, we do not know whether the threat of identity theft in The Netherlands requires different ways of dealing with the problem than the ways chosen in the US government in recent years. This means that we are in need of an adequate understanding of the specific position of victims of identity theft in The Netherlands, which is – in brief – the key aim of this project. The *central question* is twofold: first, what are - drawing from earlier experiences in the United States - the actual risks of people becoming a victim of identity theft in The Netherlands, given the characteristics of identification schemes, the techniques and procedures used in The Netherlands as well as relevant social and cultural factors? Second, what is the impact of these risks on victims of identity theft and what should be the subsequent (regulatory) reaction to protect people from becoming a victim of this crime or helping victims in dealing with the consequences of the crime?

#### *A.10 Compensating victims' losses*

People incur losses when they become a victim of crime; for example because their purse gets stolen, their clothes get ripped, and the experience of fear and pain. In this project we study how these losses should be handled and we do so from a law & economics perspective.

The great majority of legal scholars, lawyers and judges, and, probably, citizens appear to assume that victims should be provided with fair compensation through tort law. Although this may seem logical for many of us, it also raises a lot of questions, for instance; what is fair compensation? And how do you compensate non-economic losses like fear and pain? Many scholars try to find an answer to these questions by studying the market of insurance; after all: suing for damages and buying insurance are both ways of shifting losses after an incident (although insurance is not as time- and money consuming as a court case). The most interesting and especially puzzling result of this comparison is that although victims sue for financial compensation of both economic- and non-economic losses, they only buy insurance against economic losses. Why is that? How can this be explained? And what are the consequences for victims whose case never gets solved? Should they be compensated by the state, or might the fact that they do not buy insurance be an argument for not compensating them at all?

By doing an in-depth study of literature and based thereupon, empirical research we hope to provide satisfactory answers to above mentioned questions by the end of our project.

#### *A. 11 Legal developments in the EU in the field of violence against women and children*

Against the backdrop of current developments within the European Union towards harmonization of national legislative systems in Member States, there is a growing sense of urgency to address the issue of legislation on violence against women and children. It

represents a wide spread form of crime that constitutes a profound threat to the safety and well being of a substantial number of citizens. Based on various international human rights norms (most notably: European Convention on Human Rights, UN CEDAW convention, notably General Recommendation 19), member states in the EU are required to develop an adequate legal response in this respect. Within Europe, the Recommendation (2002)<sup>5</sup> on Violence against Women has been issued by the Council of EU Ministers of Justice, calling upon all Member States to adequately address violence against women. A comprehensive legal response is vital in order to state public values and norms and provide victims with provisions that guarantee access to justice. Criminal law, but also civil and administrative law, offer important instruments for governments to take up this responsibility. Available research has indicated that current legislation in this field within the EU is rather scattered, incomplete and in many cases not in compliance with obligations that flow from international human rights law. Furthermore it has been observed that a wide gap exists between law in the books and law in action in many EU countries. Even where *de jure* legal provisions exist, the available effective protection and support of victims is often *de facto* limited due to a failing implementation of the law or lack of available infrastructure. This touches on the wider issue that is one of INTERVICT's core concerns: addressing limitations of victims' access to justice.

In this project we will analyse transnational developments in existing legislation in the EU in the field of violence against women and children, and based on this analysis we will develop recommendations for future developments. The first phase in the project consists of an EU-wide comprehensive mapping survey of existing legislation in the field of violence against children and women (including EFTA-States, Candidate and Western Balkan States). The outcome will be a comprehensive typology of legislative approaches within the EU, connected to the legislative obligations that flow from a human rights perspective. This will allow us to identify promising directions and gaps at the national and EU levels. Phase 2 will comprise of in-depth case studies, for which existing data and research materials on the impact and/or evaluation of legislation and legally based intervention and support programmes will be analysed. This project aims to make a substantive and empirically based contribution to a descriptive and normative analysis of legislative developments in the EU in this field, and to identifying and analyzing structural bottlenecks in various parts of the legal system that in practice enhance or hamper victims' access to justice.

## **2.2. Sub-programme B - Psychological Aspects of Victimization and Victim Assistance**

### *Context*

A psychological perspective is used as a basic and common frame of reference for sub-program B studies examining the impact of criminal victimization. It should be noted, however, that psychological impact will not be conceptualized with a narrow focus. The concept will be employed in a broad and comprehensive manner, and will therefore entail the traditional focus of traumatic stress studies in terms of DSM IV defined posttraumatic (and particularly chronic) psychopathology (e.g., PTSD and Panic Disorder), but also the criminological notion of fear of crime, effects relating to professional career development, and multiple unexplained physical symptoms (MUPS). In terms of methods, the preferred design

adopted is prospective and longitudinal in nature. Moreover, when possible, controlled field-experimental studies will be conducted.

The common focus of studies relating to victim support is not only to develop, advance and validate victimologically informed theory, but explicitly also to develop and cross-validate tools that can be used by (volunteer and professional) support providers. From an applied perspective, the focus will be on risk assessment and risk management tools. The ultimate goal of these studies is to enhance the quality of victim support and mental health intervention, on the basis of a screen-and-treat approach ('triage'; 'risk guided intervention'). Empirically, the predictive validity of risk assessment tools will be examined. Two dimensions of risk will be examined in particular, namely (1) risk of chronic coping failure and (2) risk of repeat victimization. Tools will relate both to victims of crime in general, and to specific subgroups of victims, e.g., victims involved in domestic violence (including children witnessing interparental violence). The focus of risk management is on restoring these victims' objective (e.g., preventing repeat victimization) and subjective safety (e.g., in terms of preventing chronic coping failure). The development and implementation of evidence-based intervention is a key target.

#### *B.1 Innovation of victim assistance schemes*

This part of the program concerns innovation of victim assistance schemes, with an eye to dual screening and preventive assistance. The basic problem to be addressed is that while most victims of crime show a remarkable resilience and capacity to recover, a small, but substantial, number of victims exhibit persistent, and sometimes even chronic symptoms of coping failure (e.g., posttraumatic psychopathology). Hence, it is of paramount importance to identify these vulnerable or susceptible victims, who are obviously in need of external support, in as early a stage as possible. This requires longitudinal research on the predictive quality and diagnostic validity of existing screening models. When these vulnerable victims have been identified, new methods of assistance need to be developed in order to prevent long-term psycho-somatic symptoms. Projects will focus on cross-validating recently developed tools, such as the Scanner and the Radar, and on further refining these instruments (e.g., the development of short versions). The feasibility of implementing these tools in police and support organizations will be explored. In terms of preventive intervention, a series of experiments will be conducted examining the impact of support programs, explicitly based on cognitive-behavioural principles. The feasibility and effectiveness of providing support via the internet ("e-support"; on-line support), particularly in the form of structured trauma writing (e.g., counterfactual writing assignments) will also be examined.

#### *B.2 The cross-over: A social-psychological approach to victims within the criminal justice system*

Victimology is a multidisciplinary approach to the study of victims and, as such, draws on various source disciplines of which criminal law and criminology, on the one hand, and social psychology and psychotraumatology, on the other, are the most influential.<sup>8</sup> This distinction

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<sup>8</sup> See Winkel, Slachtofferhulp bij hardnekkige klachten, Inaugural Lecture, Free University Amsterdam, 2002.

between 'law-related' and 'trauma-related' disciplines has a strong influence on the way that research concerning victims of crime is conducted and on the concepts used in the evaluation of victims' experiences.

Two observations are significant. First, the concepts used by the two camps may overlap (fear of crime versus anxiety, for example), but their relationship has not been the subject of systematic research.<sup>9</sup> Second, the distinction between disciplines maps onto the distinction between research concerning victims' experiences within and outside the criminal justice system. This means that the framework used may differ between victims depending on the apprehension and further prosecution of the offender, but also serves as a major obstacle for the evaluation of the differential contribution of criminal law to goals that lie outside the criminal justice system.

Two major developments in criminal justice have generated the necessity for an integrated framework for the evaluation of victims to the fore. First, there is the notion of therapeutic jurisprudence. This is the study of the role of the law as a therapeutic agent.<sup>10</sup> Although its main focus in criminal justice is the offender, the idea that the criminal procedure can have anti-therapeutic effects on victims is not new. The term secondary victimization describes this effect of the criminal justice system in this respect. Although this phenomenon has been the subject of research in the last few decades,<sup>11</sup> research evaluating secondary victimization using techniques drawn from social psychology and psychotraumatology is in fact scarce.<sup>12</sup> The possibility that the criminal justice instruments may have a therapeutic effect for victims has received less attention. There have been a number of studies assessing the victims' satisfaction with and experience of procedural justice,<sup>13</sup> but the relationship between these concepts and therapeutic effects is mostly assumed, not assessed.

The second major development is the introduction of procedures and instruments within criminal justice that specifically target victims' emotional life and psychological well-being. This is the case with various types of the Victim Impact Statement. In the Netherlands, for example, the oral victim impact statement is specifically intended to provide some emotional benefit to the victim delivering the statement.<sup>14</sup> Within restorative justice, 'emotional restoration' of victims is a central concept and, according to various authors, participating in victim-offender mediation or a family group conference can have a major therapeutic impact on victims.<sup>15</sup> However, evaluation research concerning victim impact statements and restorative justice suffers from the same problem as research concerning the criminal justice

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<sup>9</sup> See Winkel, 2002.

<sup>10</sup> See Wexler & Winick, *Law in Therapeutic Key: Developments in Therapeutic Jurisprudence*, 1996.

<sup>11</sup> For example, see Maguire en Corbett, *The Effects of Crime and the Work of Victim Support Schemes*, 1987.

<sup>12</sup> For an exception to this rule, see Orth & Maercker, *Do Trials of Perpetrators Retraumatize Crime Victims?*, *Journal of Interpersonal Violence*, 19(2), 2004.

<sup>13</sup> See Shapland et al, *Victims in the Criminal Justice System*, 1985, and Wemmers, *Victims in the Criminal Justice System*, 1996.

<sup>14</sup> For a further elaboration of this aspect of Victim Impact Statements, see Roberts and Erez, *Communication in Sentencing: Exploring the Expressive Function of Victim Impact Statements*, *International review of Victimology*, 10, 2004.

<sup>15</sup> See Strang, *Repair or Revenge?*, 2002 and Daly, K., *A Tale of Two Studies, Restorative Justice from a Victims' Perspective* *Restorative Justice: Emerging Issues in Practice and Evaluation*, 2005.

system in general. There is a more or less complete absence of evaluation research that uses concepts and techniques derived from social psychology and psychotraumatology.<sup>16</sup>

The underlying project is an attempt to provide the solution to a number of the problems addressed above. One of the aims is to develop an integrated framework for assessing the experience of victims of crime with the criminal justice procedure. The framework will contain elements derived from law, like procedural and distributive justice, but also from social psychology, like anger rumination, forgiveness, self-blame and vicarious blame, and future control. The framework will be put into practice empirically, in a number of evaluation studies concerning victim impact statements and restorative justice. The project will generate a better understanding of victims' experiences with these instruments as well as insight into the relationship between victims' assessment of justice and the social-psychological effects of criminal proceedings on victims.

### *B.3 Domestic violence*

Two main issues will be studied within the framework of the program concerning domestic violence. The first is structured risk analysis. Domestic violence is, by its very nature, a prime example of a crime leading to repeat victimization. The question is how to predict in what circumstances the likelihood of repetition is affected. Researchers in various countries have developed different risk assessment models. Additional research is needed to further determine the validity of these instruments and to extend the scope of these models to include the victimization risk for family members other than spouses (i.e., children). The second issue is how to respond to instances of domestic violence. Experience shows that a strictly punitive policy does not yield encouraging results. It is believed that a more theoretical re-examination of the assumptions on the origins, the nature, and the dynamics of violence is needed in order to establish an evidence-based policy to deal with this matter. The predictive (and incremental) validity of SARA<sup>17</sup> – police version, ODARA, DAS, and other CTS-based risk assessment tools, including the recently suggested SABRA, will be studied, using longitudinal designs.

### *B.4 Promoting a safer society*

One of the policy priorities of the incumbent Dutch administration is to promote a “safer society”. Remarkably, this policy lacks any kind of foundation in terms of victimological analysis. Yet, such an analysis is urgently called for. The project therefore provides a fundamental re-assessment of the status and the role of victimization surveys as a tool for shaping or legitimizing policy. The basic concept to be studied in this connection is “fear of crime”. It appears that, in the existing academic literature, an important distinction is underestimated; i.e., qualitative differences between crime victims and other citizens in their perception of fear of crime. This might require new and improved methods of employing victimization surveys, based on psychometrically validated instruments to measure coping strategies after the criminal incident has occurred. An important victimological refinement is to

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<sup>16</sup> For a further elaboration of this observation, see Opdebeeck, Vervaeke and Winkel, *Bemiddeling in het strafrecht, Het Recht van Binnen*, 2002.

<sup>17</sup> SARA: Spousal Assault Risk Assessment Guide; ODARA: Ontario Domestic Assault Risk Assessment tool; DAS: Danger Assessment Scale; SABRA: Spousal Assault Broad Risk Assessment.

distinguish type A and type C fear of crime. Studies will be conducted testing and validating this distinction. Moreover, the type A/C categorization appears to provide a conceptual bridge between criminological and traumatic stress studies. Initial evidence suggests that type A and type C require different kinds of intervention.

#### *B.5 Prominent victim-related issues*

INTERVICT plans to generate expertise by conducting meta-analyses (of a narrative as well as a quantitative kind) on topics which feature prominently in public debates. We refer to items like victim-offender confrontations, statement validity analysis (SVA), recovered memories, stress inoculation training, and victim impact statements.

#### *B.6 Job career and life course effects of victimization*

Victimization has many short-term and long-term effects. There is only scarce empirical evidence on the effects of victimization on the victim's job career and life course. In this project, Dutch longitudinal panel data are used to study these effects, including the impact of victimization on sickness absenteeism, inflow into disability or unemployment benefit schemes, job changes within the company or external mobility (both voluntarily and involuntarily), dismissal, loss of income, divorce, etc. The project requires that existing data sets, notably those of Statistics Netherlands (CBS), are interlinked. The focus is on victims of violent crime. In the second part of the project, a number of interviews will be conducted with victims and staff of victim support organizations to approach the research topic from a more qualitative point of view. A third part of the project aims at international comparison and at the feasibility of producing an international (e.g., European) dataset.

#### *B.7 Victimization related PTSD: symptomatology and intervention*

##### *B.7.1 Job-related stress, critical incidents and trauma*

Post-traumatic stress disorder (PTSD) has been associated with exposure to crime, critical incidents or critical life events. With time, victims may experience nervousness, depression, fear of a repeat attack, turning the event over and over in one's mind, blaming oneself, inability to sleep and (for some of them) the development of post-traumatic stress disorders (PTSD) (Maguire, 1991). PTSD symptoms are to be organized into three distinct symptom groups: (1) symptoms of re-experiencing event or intrusion, (2) avoiding and numbing symptoms such as avoidance of stimuli that has been associated with the traumatic event and (3) arousal symptoms including difficulties sleeping, concentration problems and irritability (Falsetti & Resnick, 2000). This research focuses on the empirical and theoretical research concerning the prevalence of psychological disorders (e.g. PTSD, relational problems) among police officers, security officers, warders and vulnerable professional groups. Furthermore, empirical and theoretical research on the influence of personality dimensions, social attitudes and biological factors on the development of deviant behaviour will be done (Together with dr. Stijn Vanheule, Ghent University, Belgium).

##### *B.7.2 Research synthesis and research on therapeutic outcome*

Systematic review in the area of criminal and non-criminal victimization. This review has the following goals: (1) to present the evidence to date effective in reducing the negative psychological (emotional, behavioural or cognitive) after-effects of crime and negative experiences among victims; (2) to assess the academic rigour of the studies included in the review and list the outcome measures used to evaluate interventions to support victims of crime or victims of critical incidents; (3) to assess the gaps in this research area and make recommendations for further research; (4) to give information to policy-makers and the academic world. In our theoretical research, we follow the Campbell Collaboration to create rigorous systematic reviews of research establishing high quality evidence on “what works” in social and behavioural interventions and public policies with a focus on crime and justice and social welfare. In our empirical research, we compare randomized versus non-randomized trials, high versus low quality trials. Finally, our last tool is to develop, translate and validate psychological instruments for measuring traumatic experiences and risk assessment/management (*In collaboration with drs. Annelies Daalder, WODC, The Hague and dr. Stijn Vanheule, Ghent University*).

#### *B.8 The interrelationship of victimisation in the home and public violence and the impact of gender and ethnicity*

Two forms of violence currently receive increasing attention: violent and aggressive behaviour of male juveniles in the public domain, in the Netherlands notably by adolescents of Moroccan decent, and violence in the home on the other hand. Public display of violence of Moroccan juveniles is definitely on the increase as is consistently indicated in recent criminal statistics. Although we encounter hypotheses on a higher prevalence of domestic violence against women in Moroccan families, empirical prevalence data on violence among ethnic minorities are inconclusive in this respect. In research on family background of juvenile delinquency the interrelationship between these two forms of violence have so far not been systematically studied. In this project we will bring these two issues to the foreground, and contextualise them with regard to studying their relationship with wider family-dynamics that in research come forward as either related to victimisation of women and/or to violent behaviour of adolescents. The project aims to compare Dutch and Moroccan groups of juveniles (matching re. age, social class/educational level and history of public violent and/or aggressive behaviour), with respect to experiences in family of origin with domestic violence in the home (against father, mother, siblings by any family member), gender attitudes in general and attachment styles .

Using a theoretical developmental studies perspective on attachment (Bowlby) and its impact on problem behaviour, which has a solid tradition of research already, we aim to complicate and further its understanding in linking it in our study to investigating the impact of domestic victimisation on attachment with regard to ethnicity and gender. The aim is to provide a reliable evidence base to further our understanding of the psycho-dynamics, and their possible cultural specificity or lack thereof, that might foster both victimisation of women and violent behaviour of adolescent males.

### **2.3. Sub-programme C - Human Security in Relation to Victimology**

#### *Context*

In the recently adopted outcome document of the UN World Summit (September 2005), Member States have agreed to the responsibility of the international community to take international action in cases of grave violations of human rights ('the responsibility to protect'). This agreement, together with the establishment of the International Criminal Court in The Hague (see subprogram A), reflects the growing sensitivity to collective victimizations of people by serious forms of abuse of power and terrorism. A key concept in the new international discourse on security is 'human security' (in Dutch: menselijke veiligheid). In the report of the UN-sponsored Commission on Human Security (2002), the concept is defined as the protection of ordinary people against threats to the very core of their lives. Domains of human security include: personal security, such as intra-state conflicts and violent crimes, environmental security, food security, and economic security (extreme poverty). Proponents of the concept typically take the victims' interests and perceptions as their point of departure, emphasizing protection and prevention over reaction and advocating empowerment of citizens to fend for themselves. The use of the concept also typically invites holistic analyses of apparently distinct phenomena.

By selecting human security as a sub-theme for a dedicated research program on victimology, the attention will be focused on the changing nature of criminal victimization in a globalizing, increasingly interdependent world and its implications for criminal and international law. The growing sensitivity to collective threats to human security presents in itself a suitable topic for scholarly reflection. An important feature of emerging forms of criminal victimization such as those by international terrorism and organized crime is its collective nature. This nature poses theoretical and practical problems for conventional criminal justice responses. Special attention will also be given to the inter-linkages between various forms of collective victimization and the overlap between vulnerability to be victimized by different types of threats. Specific items for inclusion in a specialized research agenda on victimology and human security include:

- victimological aspects of trafficking in persons, especially women and children, and of counter measures;
- criminal victimization and reconciliation in post-conflict situations;
- the impact of organized crime and corruption on societies, including on the most vulnerable sectors;
- the national and international response to large-scale disasters or other threats to personal safety.

All these topics require a careful assessment of the complex social realities involved and their broader social contexts as well as an analysis of international best practices in protection/prevention and support for victims.

### *C.1 Human security and victims' rights*

This part of the research program will focus on the history of human security, searching for the traditions and processes from which current ideas and practices evolved. In order to place 'human security' in a wider chronological framework, it is necessary to define it in a broad and timeless way. It is defined as a comprehensive (i.e., non-geopolitical) and people-centred (i.e., not state-centred) security concept, based on historical antecedents. The historical period under scrutiny is the 16<sup>th</sup> century: the time when the formation of the modern law of nations began. Both legal practice and doctrine will be analysed and, where possible, combined. Two main topics are relevant for the application of international law in pursuit of human security in the context of history: post-conflict situations and the protection of human beings through and during war.

- **Post-conflict situations:** Since time immemorial, peace agreements in whatever form have included stipulations about the restoration of the rule of law and of rights, not only of the States and bodies politic involved, but also of individuals. Research will be done into the treatment of individuals' rights in peace agreements. These include both stipulations about the restoration of injured rights and measures to prevent harm in the future.
- **Security through and in war:** In the past, as in the present, the use of armed force (war, intervention) has been justified in terms of securing vital interests, values, and rights, such as human security. Justifications of wars and intervention will be analysed in order to see which non-geopolitical and people-centred values, interests, and rights the international community has thought vital enough to protect through the use of armed force from the 16<sup>th</sup> century to the present. This will show how the contents of a comprehensive and people-centred concept of 'human security' evolved and changed over time.

The study will explore historical antecedents of human security in international legal practice from the late 18<sup>th</sup> century to the present. The purpose is to unearth what human values and interests were considered vital by the 'international community' and thus deemed worthy of protection in different periods. In order to do so, the justification of use of force by States and/or by the international community will be analyzed. The focus will be on cases where use of force was justified in terms of the protection and enforcement of human security or the seeking of retribution, compensation, and restoration of harm done to rights the aggressor claimed to enforce. These justifications will be evaluated in the light of then existing international law and reactions by third States.

### *C.2 The impact of victimological risk factors at individual and collective levels; Secondary analyses of the International Crime Victims Surveys*

The International Crime Victim Survey (ICVS) started in 1998 and has since developed into the world's largest comparative project on criminal victimization risks of individuals and countries or cities. It has to date been carried out in seventy-five countries from all world regions once or more, collecting information on victimization experiences of over 300,000 respondents, interviewed in the period between 1988 and 2004. The primary objective of the

ICVS is to achieve a more reliable count of the actual numbers of crimes committed than the ones based on official measures ('dark numbers of crime'). To that end, the surveys collect information on victimization experiences of individual persons which are *aggregated* to national or city-based victimization rates per 100,000 population.

In many other areas of social research, analyzes using sophisticated statistical techniques have revealed how social factors exercise their influence on individuals directly at the individual level as well as through their impact on the dynamics at meso or macro levels. For example, social class impacts on educational attainment directly at the individual level as well as through its collective influence on the functioning of schools. The special features of the ICVS datasets allow the application of similar multi-level analyses to explore how various known risk factors of criminal victimization operate at micro and macro levels.

According to lifestyle/exposure theories on individual victimization, persons possessing certain risk factors such as wealth and young age run enhanced risks to become victims of crime. It is also understood that the level of crime in cities or countries is at least partly determined by the presence of sufficient quantities of suitable targets of crime (criminal opportunity theory). If more persons in a country possess certain vulnerable characteristics, this feature alone can drive up levels of crime by attracting more offenders. In countries with younger populations and/or more persons possessing motor cars or other suitable targets of crime, levels of crime tend to be higher. Some key victimological risk factors then seem to determine victimization risks of individuals through their direct impact at the individual level – influencing target selection – as well as through their impact on the criminogenic dynamics at meso or macro levels by attracting larger pools of offenders to the local or national environment. This theoretically plausible phenomenon of multi-level effects of victimological risk factors has not yet been thoroughly researched.

One concrete example can illustrate the likelihood of such assumed multi-level effects of victimological risk factors. Individual persons using anti-theft or anti-burglary devices to protect their cars or houses can significantly diminish their individual risks to be victimized. In addition, if, and only if, the collective use of such measures surpasses certain, as yet undetermined, upper limits, levels of specific types of property crime will fall, further diminishing individual risks of people living in those environments. Through a multi-level analysis of the relationships between the use of such devices and victimization risks using data from the multi-country and multi-year ICVS dataset, new insights can probably be gained into the impact of self-protection at individual, regional, and national levels. The analysis may even allow identification of the critical values after which collective effects of victim-related risk factors kick in. Since data are available from widely different cultural families, the analysis may also give insights into the possible conditionality of such effects on specific cultural settings, e.g., in the Asian context, collective effects may be restricted due to different 'rationalities' of criminal behaviour.

The study will systematically analyze possible multi-level effects of known victimological risk factors such as young age, personal wealth, lifestyle, and gender in different cultural settings. Analyses will be conducted at three levels: individuals, cities or local regions, and countries. Data of the ICVS may be supplemented by data from other datasets such as the World Values Studies. In addition, the following specific topics will be studied through multi-level analyzes:

- Ownership of vehicles as a risk factor of general theft and of vehicle-related thefts, also in relation to the gradual introduction of built-in anti-theft devices in cars.
- The use of anti-burglary devices and rates of completed and attempted burglaries
- Gun ownership as a risk factor of violent crimes. Preliminary findings on European data show that owners of firearms are more at risk to be victimized by violent crimes; this result is probably caused by the risk-seeking lifestyle of gun owners. The strength of this relation depends greatly on the gun ownership levels in the country: effects are larger in low gun ownership countries. Whether this result holds up globally will be empirically tested.
- Immigrant status may increase the risk of being criminally victimized through exposure to 'hate crimes'. This risk factor may show multi-level effects if, as can be assumed, the occurrence of 'hate crimes' is positively but not necessarily linearly related to the size of immigrant communities in cities or countries.

### C.3 *Environmental justice in Europe*

Environmental justice can be defined as the fair treatment and meaningful involvement of all people regardless of race, colour, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.<sup>18</sup> The fact that environmental justice, especially in the United States, is an important issue in law and policy is based on the assumption that weak groups in society bear a disproportionate share of environmental pollution, i.e., that there is an unequal distribution of victimization. These groups may suffer more from the negative consequences of governmental or individual companies' decisions than others. In addition, weaker groups in society may have fewer opportunities to participate in the decision-making process and in (other) legal procedures, for instance, judicial review, because of a lack of knowledge, skills, and money (to hire legal or environmental experts). As a consequence, decisions negatively affecting their health can be taken without their involvement. Government institutions in the US are cautious not to invoke accusations of taking decisions that harm a specific group in society. They financially assist local communities (for instance, through 'environmental justice grants'), they integrate environmental justice concerns into the policies on various topics (health, economics, social environmental), they conduct social impact assessments,<sup>19</sup> and there is even a National Environmental Justice Advisory Council.<sup>20</sup>

Since the 1990s,<sup>21</sup> a tremendous amount of academic research into environmental justice has been carried out in the United States. Most of the research is of an empirical nature, and it is often interdisciplinary (law, economics, social sciences). In the last few years, much of the research that was done in the past (often showing that indeed blacks, native Americans, and poor people often live near hazardous sites or in otherwise polluted areas) is criticized for its weak (academic) quality. However, high-quality research does show remarkable patterns of environmental *injustice*, at least at a regional level.

<sup>18</sup> This definition is used by the US Environmental Protection Agency (EPA), cf. the EPA website on Environmental Justice, <<http://www.epa.gov/compliance/environmentaljustice/>>.

<sup>19</sup> See the special issue of *Impact Assessment and Project Appraisal*, Vol. 21, No. 1 (March 2003).

<sup>20</sup> <<http://www.epa.gov/compliance/environmentaljustice/nejac/>>.

<sup>21</sup> In the 1970s and 1980s, research on this topic was carried out as well, but most of it was politically oriented research by a political movement, not meeting scientific standards. Cf. W. Bowen, An Analytical Review of Environmental Justice Research: What Do We Really Know?, *Environmental Management* Vol. 29, No. 1 (2002), pp. 3-15.

In other parts of the world, similar types of research has been carried out, for instance, in South Africa.<sup>22</sup> In Europe, however, similar research is scarce, if not absent.<sup>23</sup> Environmental justice appears to be much less of an issue in the political debate than in the US. The words 'environmental justice' cannot be found at all in any of the millions of documents on the website of the EU. Why is this? Does environmental injustice not exist in Europe? Or do we think it does not exist? Or is that we simply do not know due to a lack of research?

Cases in which environmental justice seems to be a factor are abundant. The famous 2002 decision by the European Court of Human Rights in the *Öneryildiz* case is an example. The Court held the Turkish authorities responsible for the death of thirteen family members of Mr. Öneryildiz and the destruction of their property as a consequence of a methane gas explosion in the municipal rubbish tip of Istanbul. These people lived in rudimentary dwellings that had been illegally built in the zone surrounding the rubbish tip, which ultimately developed into the slums of Ümraniye. In the Netherlands, the Overschie area in Rotterdam, located close to one of the busiest freeways in the Netherlands, provides another example. Here, many of the existing legal air quality standards, which are based on World Health Organization data, are violated because of the high density of the traffic, causing severe health problems and early death in a large number of people. Although the standards have been laid down in legislation (EU Directives and national air quality legislation), the various competent authorities do not apply them.<sup>24</sup> Another Dutch case is the 2000 explosion of a fireworks factory, killing 22 people, all living in one of the poorest neighbourhoods of the country. Most of the residents did not even know there was such an installation in their neighbourhood. Research showed that the various competent authorities, although not responsible for the cause of the explosion itself, had made a series of mistakes that allowed an extremely dangerous situation to develop.

The project aims to bring the results of more than a decade of research into environmental justice in the US to Europe. On the basis of what has been achieved in US academia, a first start will be made with empirical research into the existence or non-existence of environmental injustice in the EU. This project furthermore aims to provide a solid basis for scholars and policymakers in Europe for future research and future policy decisions involving environmental justice. To this end, the project has two objectives:

- Compiling and analyzing US academic legal (or multidisciplinary with a legal component) research into environmental justice, and describing the state of art of this research, focusing on the legal factors determining environmental justice.
- Undertaking a first empirical study into specific cases in Europe on the basis of the knowledge gathered under the first part of the project (analyzing the US research). Cases have yet to be selected.

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<sup>22</sup> D.A. McDonald, *Environmental Justice in South Africa*, Athens/Cape Town 2002.

<sup>23</sup> An exception is the Environmental Justice Program by the Budapest-based Center for Environmental Law and Policy (CELP). The program is focused on Central and Eastern Europe, cf. CELP's website: <<http://www.cepl.ceu.hu>>.

<sup>24</sup> Only in 2005, after a series of court decisions blocking new projects leading to a further increase in emissions, national and local authorities seemed to adopt a more active approach towards restoring the air quality.

#### *C.4 Countering trafficking in persons: The victim's perspective*

In the past ten years, trafficking in persons has become a major priority of the world community as evidenced by the UN Protocol, which entered into force in 2003, several EU decisions, and US legislation establishing the Trafficking in Persons Office within the State Department. International organizations such as the IOM, ILO, UNICEF and UNODC have all initiated global programs against human trafficking and regularly publish global trend overviews.

In many countries, the movement against human trafficking is driven by broader radical political agendas such as the elimination of prostitution. Action against human trafficking can also be a disguised form of opposition against immigration. It seems important to critically examine both official anti-trafficking policies and the actual practices and their outcomes from the victims' perspective. Newly introduced policies may have unintended consequences for the victims and actually deteriorate their situation. Victim-witnesses, for example, may be used instrumentally by police and prosecutors without due attention to their long-term personal interests. Repressive action against prostitution as such may drive the phenomenon underground, with adverse consequences for the women involved. In its first phase, the project will revisit key documents and reconstruct the ideological agendas behind the new policies. Subsequently, the available literature on the implementation of the new policies will be scrutinized from the perspective of the victims. Special attention will be given to the outcomes of the divergent policies of countries such as the US, Sweden, and The Netherlands, for example by analysing the reports of the Dutch Independent Parliamentary Rapporteur on Human Trafficking and of the US Trafficking in Persons Office.

#### *C.5 African indigenous peoples: From victimization to empowered actors*

The plight of numerous African communities/populations/peoples perceived as indigenous figures at the forefront of the most recent human rights and humanitarian agendas. Inscribed in the global movement dedicated to promoting and protecting the rights of the most disadvantaged and marginalized groups in various countries on cultural distinctiveness grounds, the indigenous movement in the African context is making progresses, despite being rooted in the continent's colonial history, the decolonization process, and the early years of African independences.

Cultural, organizational and socio-economic distinctiveness of African indigenous groups constitutes a ground for their victimization by dominant groups or elites in current Westphalian-modeled African States. The evolving national, regional, and international processes for protection of indigenous peoples' rights face multiple challenges in Africa due to factors intrinsically linked with the continent's historical process of state formation, assimilationist state policies and the correlated rejection of cultural distinctiveness. This project aims at assessing the needed empowerment measures in addressing violations of indigenous peoples' collective rights, including their cultural distinctive identity rights, taking into consideration their integration in national settings. By displaying the tolerated, if not institutionalized, victimization of indigenous peoples in various African States, the study will pay particular attention to the appropriateness of proposed or adopted empowerment measures with regard to the special needs and aspirations of relevant communities.

Different agendas – ranging from governmental projects to IGOs, NGOs, and Indigenous Groups Associations advocacy – are put forward in furthering the rights of indigenous peoples. As formal tribute and subscription to humanitarianism and indigenous peoples' cause sometimes veils other (politically motivated) agendas not necessarily rhyming with the real interests of the concerned populations, the study will critically assess – through selected case studies – their suitability in contextual settings of particular indigenous peoples. Ultimately, it will appraise the right balancing between advocating a right for a separate cultural development, on the one hand, and participation right of indigenous peoples in political, social and economic national processes, on the other. More importantly, economic rights of indigenous peoples which can be found back in the UN proclaimed – but still vague, 'soft law' – Right to Development will be contrasted with indigenous traditions and cultures often perceived as medieval and inherently hindering the realization of these rights.

#### *C.6 Compensation for disasters; The role of the Government*

When disaster hits, mass casualties and losses are a likely result. Literature mainly concentrates on issues from a legal or law and economics point of view. This project offers a different perspective, namely that of the victims' point of view. The first goal of this research is to examine the needs of victims of disasters in general. The output is a non-exclusive list of needs of victims, based on literature research. The second goal is to use the list of victim's needs as a framework to analyse four possible types of post-disaster government involvement. Though compensation is offered by insurance, social security and tort law, post-disaster government involvement has increased in the area of compensation, care and responsibility. The four types of government involvement which will be analysed are governmental civil liability, aftercare policy, political accountability and government disaster compensation.

### **3. INSTITUTIONAL CONTEXT AND INTERNATIONAL COOPERATION**

INTERVICT is an independent interfaculty institute composed of academics in the field, supported by Tilburg University and by private and public institutions with an interest in INTERVICT's research topics. Tilburg University is the legal entity under which the Institute operates. Within Tilburg University, the Faculty of Law is the coordinator of INTERVICT.

The Institute aims to cooperate with respected partners in the field of victimology, both nationally and internationally. Several contacts are already in place with the World Society of Victimology, the Tokiwa International Victimology Institute, the European Forum for Victim Services, the European Association of Psychology and Law, the US National Organization for Victim Assistance, and several national victim support organizations. Additional contacts will be intensified with respected partner universities and other research centres. INTERVICT has furthermore set up a visiting research fellow program which enables scholars and practitioners to use the facilities and resources of INTERVICT to develop or implement a research project in the field of victimology.

### **4. RESEARCHERS**

The following researchers are currently affiliated to INTERVICT:

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