Toward a new criminology of genocide: theory, method, and politics

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Most books on genocide are descriptive historical essays portraying the history of conflict, the evolving political-economic conditions, and the cultural context within which to understand the dynamics of key events. They provide a crucial foundation for understanding contemporary acts of genocide, but their conclusions, drawn in the absence of scientific rigor, explicit social theory, and systematic analysis of data, leave empirically minded social scientists skeptical. Enter *Darfur and the Crime of Genocide*, John Hagan and Wenona Rymond-Richmond's (2009) stunning analysis of genocide in Darfur based on quality survey data and sophisticated methodological tools. These two highly skilled empirical sociological criminologists were given full access to a remarkable survey commissioned by Secretary Colin Powell, for the purposes of estimating the extent of atrocities in Darfur and assessing whether such atrocities rise to the level of genocide. The result is an outstanding analysis that conceptualizes genocide as collective action, uses the survey data in creative ways to show how such collective action is incited by racial intent, and builds a case that the events in Darfur are acts of genocide in need of prosecution by the International Criminal Court. In this review, I will summarize the important arguments and analyses made in the book, identify a few possible shortcomings, and conclude with some recommendations for the criminological study of genocide.

Darfur and the Crime of Genocide opens with an introductory chapter that frames the issues about genocide, provides a prelude of the arguments to come, and describes the contours of the Darfur conflict, which, the authors argue, sums to genocide. Chapters 2 and 3 speak to an audience of criminologists and, while interesting, are nevertheless peripheral to the main thesis of the book. Chapter 2 describes the early role that Harvard law professor and criminologist, Sheldon Glueck, played in researching international

law, war crimes, and the Nuremberg trial, and offers speculation of why he abandoned the research area for more conventional studies of delinquency. Chapter 3 points out the limitations of using a public health paradigm for conducting basic research on war crimes and international humanitarian crises (particularly for the purpose of establishing legal responsibility and estimating the consequences of the crisis) compared to a criminological perspective.

The major contribution of the book is found in chapters 5, 6, and 7. Here the authors embark on three ambitious goals: to develop a theory of genocide based on criminological and collective action theory, provide empirical support for the theory using statistical models and survey data, and use the results of the analysis to support an accusation of genocide against the government of Sudan. These chapters capitalize on the Atrocities Documentation Survey (ADS), conducted by the US State Department in the summer of 2004. Commissioned by Colin Powell, then US Secretary of State, the objective of the survey was to provide a map of the nature and scope of the violent atrocities being carried out in Darfur and, specifically, to discern whether the atrocities rose to the level of genocide. Hagan and Rymond-Richmond marshal evidence from these data to adjudicate on the conflicting conclusions drawn by Powell, who addressed the Senate Foreign Relations Committee in late 2004, concluding that 'genocide has been committed in Darfur and that the Government of Sudan and the Jingaweit bear responsibility', and by a comprehensive report from the United Nations, which concluded that the '*actus reus* of killing, or causing serious bodily or mental harm, or deliberately inflicting conditions of life likely to bring abut physical destruction' was present, but did not rise to the level of genocide because 'genocidal intent appears to be missing' (ICID, 2005: 4). Hagan and Rymond-Richmond demonstrate that the ICID report was incorrect on this legal point. Moreover, in their words, Powell's recommendation that the short-term practical contribution of the USA should be to 'do everything we can to increase the number of African Union monitors' was a 'disturbingly modest response to genocide', given George W. Bush's campaign pledge that genocide would not occur under his watch (Hagan and Rymond-Richmond, 2009: xix).

The empirical linchpin of *Darfur and the Crime of Genocide* is the State Department's ADS; thus, it deserves careful evaluation. The ADS did not directly sample respondents from Darfur villages – the Sudanese government would not allow it. Instead, it sampled from the 200,000 refugees in Chad who fled Sudan during the attacks on Darfur villagers prior to 2004, which, of course, raises the question of how representative refugees are of non-refugees (for evidence on this issue, see Hagan and Rymond-Richmond (2008)). Setting that question aside, the survey appears well executed, using a multistage cluster sampling design on 20 refugee settlement camps, personal interviews by appropriately trained interviewers, and flexibility for probes and queries. Of the 1132 respondents, 932 were geo-coded to their villages of origin in Darfur; thus, these individuals are nested within 22 settlements. The data are used to estimate the number of deaths due to

genocide, build a case that the atrocities in Darfur constitute genocide, and test a theory of genocidal violence.

Hagan and Rymond-Richmond's theory of genocide draws on criminological theory, including Sampson et al.'s (1997) theory of collective efficacy explaining neighborhood variation in crime, Sutherland's (1973, 1947) differential social organization theory explaining aggregate crime rates, and my own attempt to show that when differential social organization is viewed dynamically, it becomes a theory of collective action in which access to resources and collective action frames play key roles (Matsueda, 2006). Hagan and Rymond-Richmond focus on *organization in favor of crime* and draw on the writings of Coleman (1990) in specifying a multilevel model (the 'Coleman boat') in which a macro-level relationship is explained by a micro-level causal process. They argue that, at the macro-level, the Sudanese genocidal state is a function of two intersecting events: competition for land and resources between Arabs and black Africans and a state-led, pro-Arab ideology emphasizing the supremacy of Arab Muslims over African Muslims. The macro-level constructs (competition and ideology) produce two conflicting, meso-level, locally organized interest groups: Arabs (Janjaweed and the Sudanese government) and black Africans (Zaghawa, Masalit, Fur, and Jebal). According to Hagan and Rymond-Richmond, individual members of the Arab groups, having internalized the racist ideology, engage in violent acts accompanied by dehumanizing racial epithets – micro-level purposive action consistent with their interests in the competition for land and resources. Moreover, such individual actions coalesce into collective action, including collective violence, rape, and other atrocities, justified by a collectivized racial intent, culminating in a 'fanatical fury'. This collective action, which occurs not only with the tacit knowledge, but also active participation of the Sudanese state, creates widespread genocidal victimization. For Hagan and Rymond-Richmond, collective action constitutes the crucial micro-to-macro link in Coleman's model.[1]

Hagan and Rymond-Richmond creatively use the concept of social efficacy to explain the crucial role of Janjaweed militia leaders in fostering collective acts of genocide. These military leaders, particularly Musa Hilal, are already in positions of authority, well networked, and skilled leaders. Thus, as Coleman (1990) argued, in a disorganized situation, a charismatic leader can be the instrument through which members are able to mobilize into collective action. The term 'social efficacy' refers to the social skills of a person whose location in the social structure (a network node) make her particularly adroit at mobilizing others into action (Matsueda, 2006). The military leaders prove instrumental in mobilizing Arab militia, and, in particular, promoting a racist collective action frame to justify mass killing, rape, and other atrocities.

Hagan and Rymond-Richmond (2009: 10) show that the racial epithets derived from the collective action frames dehumanize Africans in stark and disturbing terms: 'You donkey, you slave, we must get rid of you' and 'We will kill all men and rape the women. We want to change the color. Every

woman will deliver red. Arabs are the husbands of these women.' These epithets, uttered by individuals, reflect a collective action frame that constructs grievances as collective, dehumanizes Africans (the 'them' versus 'us'), and justifies horrific attacks. Moreover, when uttered, they constitute an emergent property of the aggressing group, a collective racial intent to eliminate the dehumanized enemy and incite individual Arabs to act criminally and with impunity.

Hagan and Rymond-Richmond test hypotheses from the theory with the ADS data. They specify a traditional contextual effects regression model, in which individual reports of racial epithets heard and victimization severity witnessed during the violent sweeps are regressed on individual characteristics, attacking groups, rebel activity, and settlement characteristics. The model is estimated within a random-effects, multilevel framework to control for dependence of individuals within settlements and allow for cross-level interactions.[2] The results indicate that racial epithets are reported more often when Sudanese forces and Janjaweed militia attack together, particularly in densely populated settlements. They also reveal that victimization is more severe when individual racial epithets are uttered, when Sudanese forces combine with Janjaweed, when women are attacked, when aggregate (collective) racial epithets are greater, and when collective racial epithets are uttered in the presence of bombing by Sudanese forces. The authors conclude that collective racial intent is greater when Sudanese and Janjaweed forces collaborate and that victimization is more severe under collective racial intent, especially when accompanied by bombing.[3]

What is fascinating about the use of racial intent in mobilizing organization in favor of crime is the nature of race and ethnicity in Darfur. Hagan and Rymond-Richmond term race and ethnicity a 'social construction', and note that years of intermarriage have eliminated most prominent physical features distinguishing Arabs from black Africans. Even the term 'Arab' appears to have multiple meanings (Mamdani, 2009). Thus, the constructed category of 'race-ethnicity', which lacks a physical referent and appears to be invoked instrumentally at times when it is politically expedient for either side (Prunier, 2005).

For Hagan and Rymond-Richmond, the evidence of collective racial intent is the missing piece for defining the atrocities of Darfur as genocide: the individual and collective (including government) racial intent constitutes genocidal *mens rea* and, together with previously established evidence of *actus reas*, demonstrates genocide by the Sudanese government and Janjaweed militia. This parallels Edwin Sutherland's (1949) efforts to get crimes committed by corporations recognized as criminal acts, albeit under his term 'white collar crime', and prosecuted accordingly. Hagan and Rymond-Richmond call on the International Criminal Court (ICC) to intervene and bring perpetrators before the court on charges of genocide.[4]

From the standpoint of differential social organization, the conclusions of Hagan and Rymond-Richmond, along with the activities of groups such as Save Darfur and commentators such as Nicholas Kristof, are all part of

an emerging global *organization against genocide*. By bringing international attention to the conflict, using genocide as a collective action frame, helping to mobilize nongovernmental organizations, the UN and the ICC, and organizing against the Sudanese government and the Janjaweed militia, these actors are contributing to collective action against genocide. In unusually stark terms, Hagan and Rymond-Richmond's work illustrates the social theorist Anthony Giddens's (1987: 20) notion of the 'double hermeneutic', in which social science research findings 'enter constitutively into the world they describe'.

These events raise very complex and difficult issues for a criminology of genocide. Hagan and Rymond-Richmond adopt the legal definition of genocide under Article II of the 1948 Genocide Convention: 'deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part'. Legal scholars, however, have criticized the clause 'or in part' for failing the principle of specificity in law. The historian Gérard Prunier (2005: 155) has persuasively argued for simply dropping the clause, which implies that Rwanda was genocide, but Darfur would qualify as ethnic cleansing, which he defines as 'massive killings of a certain section of the population in order to frighten the survivors away and occupy their land but without the intent of killing them all'. Even if 'genocide' is the correct label, intervention by the ICC faces thorny issues of sovereignty and enforcement (Chirot and McCauley, 2006).

In presenting their empirical case for genocide against the Sudanese government, Hagan and Rymond-Richmond give short shrift to alternative explanations of the crisis in Darfur. This shortcoming is particularly apparent in the curious concluding chapter, in which the authors draw parallels between the homeless and disenfranchised in Toronto, incarcerated African Americans in the USA, and displaced Africans in Darfur. A more satisfying discussion, on scholarly and policy grounds, would address competing interpretations of the Darfur conflict.[5] Different interpretations of the crisis in Darfur call for specific responses, each of which is deeply embedded in the politics of the day. Indeed, Kofi Annan has been reluctant to use the term 'genocide', knowing that he would be held accountable to act, but would lack sufficient resources to act decisively. The USA has been reluctant to have the ICC pursue 'war crimes' aggressively, given its own dubious record in Iraq. Many Africanists are, for political reasons, opposed to the ICC taking aggressive positions toward African nations. The argument parallels critiques of the legal system in the USA by critical criminologists, who argue that the social contract might provide justice in an ideal egalitarian world, but in reality, inequities by class, race, and gender result in the legal system favoring the powerful over the disadvantaged in society. Similarly, Africanists argue that an international court might provide justice in an ideal world of equality among nation-states, but in the contemporary world, it is dominated by powerful, economically developed nations. The ICC is accountable to the UN Security Council, which is dominated by permanent member nations (the USA, Britain, China, France, and Russia),

most of which have had a hand in Darfur's politics as colonial powers, supporters of specific regimes, or suppliers of arms.

The historian and African specialist, Mahmood Mamdani (2009), perhaps the most vociferous critic of external intervention in Darfur, argues that the crisis in Darfur is principally a political conflict over land and resources that has a long, sordid history, in which both sides have periodically been guilty of atrocities. Furthermore, he argues, by invoking the term 'genocide', outsiders (particularly Westerners) have arbitrarily chosen to impose a foreign notion of 'good' versus 'evil' on ethnic groups involved in political and economic struggle, to ignore the complexity of 'race-ethnicity' in Darfur, resulting in the demonization of one side (Arab Muslims), and to echo a familiar response from the Bush administration's war on terror. Mamdani argues that the emphasis on genocide and use of the ICC to prosecute Sudanese government officials is misguided because it draws attention away from a fundamental solution: finding an *internal political solution* to the conflict, one that will share power and divide land and other resources in an agreed-upon, equitable way.

Hagan and Rymond-Richmond's theoretical model actually provides some support for such a policy. A key exogenous force in their models is the competition for land and resources that, historically, is at the root of the Arab–African conflict. It follows that eliminating the role of the Sudanese state in the conflict may reduce the volume of atrocities in the short run, but may do little to alter the long-term political conflict, which could again flare up into crisis in the absence of a political solution. This is not to say that the ICC has no role in addressing the conflict. That role, however, is likely no panacea, and should be critically examined in light of global politics. Criminologists deeply understand the limitations of purely legalistic solutions to complex social problems. A multipronged strategy, focused on the multiple levels identified by Hagan and Rymond-Richmond (global, nation-state, local institution, and collectivity) should also identify root causes and devise policy to alter those causes, using political solutions, increases in communication, and the bolstering of civic institutions (see, for example, Chirot and McCauley, 2006).

Hagan and Rymond-Richmond have convincingly argued for a new criminology of genocide and have provided an exemplary empirical study for the new enterprise. They have shown that, for genocide, it is not enough to examine social disorganization (weak organization against crime), but rather, attention must be paid to organization in favor of crime, as it dynamically unfolds through collective action. Such action is intertwined with conventional organization in complex, historically specific ways. But the criminology of genocide must go further and critically evaluate the limitations of legal responses to genocide, examine the politics behind definitions of genocide, and demystify the political dynamics in which economically dominant nation-states at times seek to manipulate international legal institutions and principles so that their parochial interests are portrayed as the interests of all. Given their work on inequality, law, and justice, who better

than Hagan, Rymond-Richmond, and their colleagues (for example, Hagan, 1989; Hagan and Peterson 1995; Peterson et al., 2006) to tackle this question?

Notes

1. Coleman (1990) specified the formation of social capital as a key micro-macro transition. Applied to organization in favor of crime, this includes positive externalities stemming from reciprocated exchange, pertinent information about the costs and returns relating to crime, norms and sanctions and authority relations necessary to solve coordination problems, and the appropriation of social organization created for a noncriminal purpose to facilitate criminal activity (see Matsueda, 2009).
2. Note that if the respondents' reports of racial epithets and victimization severity are taken as fallible measures of the true rate of epithets and victimization of their settlements, the coefficients of the individual-level model would be interpreted as 'bias parameters', showing the effects of having disproportionate characteristics of respondents (for example, age, gender, and tribe) in a given settlement (see, for example, Sampson et al., 1997).
3. One is left to wonder what the analysis would reveal if members of the Sudanese government and Janjaweed militia were interviewed for their views on the conflict. This, of course, is a major limitation of the research design.
4. In April 2009, the ICC issued an arrest warrant for Omar al Bashir, President of Sudan on five counts of crimes against humanity and two counts of war crimes. The judges ruled that insufficient evidence existed to charge al Bashir with genocide, but left the door open for the prosecution to propose an amendment charging genocide if new evidence were identified.
5. On this point, Prunier (2005: 152) provides an instructive summary of four competing interpretations of the Darfur conflict: (1) it was an ongoing ethnic conflict over land and resources exacerbated by drought; (2) it was a counterinsurgency gone awry, occurring when the Sudanese government lashed back at successful insurrections (a position adopted by the African specialist, Alex de Waal); (3) it was deliberate ethnic cleansing by the Sudanese government to maintain its political control, by empowering Arabs at the expense of Africans; and (4) it was genocide, perpetrated by the Sudanese government, who armed Arab Janjaweed militia to eliminate black Africans.

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