

## THE ESCAPING JUSTICE PROJECT.

Project leader: Joris van Wijk

2011-....

No additional funds

The current system of international law holds that perpetrators of genocide, crimes against humanity and war crimes should never 'never get away with it'. Most of the world's states are obliged to take a two-stage approach when there are indications that a perpetrator of international crimes has sought refuge in a third country: exclude the person from Refugee Protection and ensure prosecution takes place.

Two important treaties are at the foundations to this doctrine.

1. **No safe havens.** Article 1F of the 1951 Refugee Convention states that any person with respect to whom there 'are serious reasons for considering' he or she has committed a crime against peace, a war crime or a crime against humanity shall be excluded from refugee protection.
2. **No impunity.** The 1998 Rome Statute states that 'the most serious crimes of concern to the international community as a whole must not go unpunished' and that perpetrators of these crimes should be prosecuted, either nationally or internationally.

That's the objective. But is it put into practice? The aim of the *Escaping Justice Project* is to empirically assess to what extent parties to the above mentioned treaties are able and willing to implement this two stage approach in actual reality. It envisions to answer rather straightforward - but academically challenging - questions, such as:

- How and how often are persons excluded from Refugee Protection?
- How and how often are excluded persons (successfully) prosecuted?
- What are the ramifications of (lack of) exclusion and/or prosecution?
  - On individuals?
  - On society?

A multidisciplinary approach is taken and a variety of research methods is applied, ranging from file analysis and taking surveys to discourse analysis and (expert) interviews. Unique to this approach is the empirical focus. So far, most (academic) studies on this topic were limited to legal and normative issues.

The *Escaping Justice Project* neither promotes nor rejects exclusion or prosecution. It intends to take an objective, non biased and value free approach, 'merely' aiming to record if exclusion and prosecution takes place, when it takes place, what the effects are and which dilemma's exist.

Results of the project will be published in academic journals and presented at academic conferences. Significant findings are circulated in popular media, distributed among practitioners and discussed in

workshops and on conferences with key-actors such as representatives of Immigration Boards, NGO's, investigators, prosecutors and judges.