

THE VICTIMOLOGIST

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NEWSLETTER OF THE WORLD SOCIETY OF VICTIMOLOGY

The Implementation of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: The Belgium State of Affairs

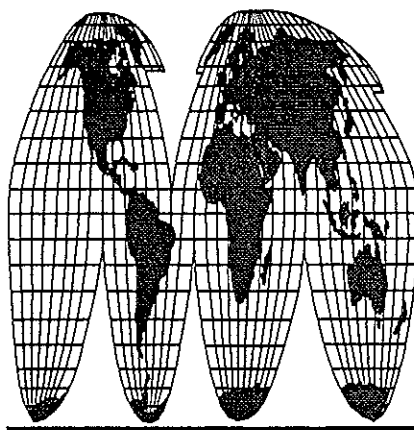
Luc Robert and Kris Vanspauwen

Belgium has made enormous progress when it comes to rights for victims. Various horrific incidents hastened the otherwise very time-consuming legislative process. The Dutroux case in particular accelerated and boosted initiatives through the legislative institutions. As Brienen and Hoegen mention in their voluminous study of comparative victimology, the position of victims in Belgium has improved to the extent that it ranks among the best in Europe¹. Academics with good contacts in the field of victim assistance started with interesting projects, some of which have already been approved as a general practice. The dynamics between academics and policy makers has opened the door to improvements and remediation of malpractices. We will briefly explore some initiatives for victims of crime in Belgium and touch upon problems that still need to be handled.

Federalisation

Belgium as a country has a rather short history, being independent since 1830. Nevertheless, it is quite a shaky history with ups and downs in political struggles, leading to steps towards a federalisation in the 1980's. The Kingdom became a federal state in 1993, dividing the country in 3 regions and 3 communities, keeping a federal government for the "general Belgian issues". After a merger of the governments of the Flemish community and the Flemish region, 6 governments

are today ruling (parts of) the country. The incomplete federalisation and the distribution of competences result in problems of coordination and cooperation and a lack of consistency for many issues. For instance, social welfare, including victim support, is



The position of victims in Belgium has improved to the extent that it ranks among the best in Europe.

an exclusive competence of the 3 communities, while the federal Minister of Justice has to take care of the judicial victim policy. Cooperation Agreements between the communities concerning the provision of assistance to victims (1999) search to counter problems and should contribute to a more coherent Belgian victim policy.

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Growth Without Boundaries?

Otmar Hagemann

The 10th International Symposium on Victimology held in August 2000 in Montreal was the biggest event of its kind. Approximately 1300 participants attended plenary sessions on:

- Rights and Obligations Toward Victims,
- Assistance to Victims and Secondary Victimization,
- Ethical Questions in the Field of Victimology,
- Prevention of Victimization, and
- Victims and the Media.

Authors presented approximately 350 papers from 40 different countries. The workshops were arranged around nine different themes, and there were constantly 15 parallel workshops held. So it was hard to choose between parallel workshops and it would be completely impossible to discuss all of the workshops in detail.

My impression from the workshops is that the emphasis was on restorative justice. In my opinion this shows that victimology and criminology are very closely related - in this discourse the victim perspective meets abolitionism. Consequently Nils Christie was the most quoted author at the symposium. However, there is no agreement on the meaning of restorative justice.

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Sensitizing politicians

In the last two decades, several cases have made the foundation of the Belgian state shiver. Among them was the Dutroux case, in which children were kidnapped and some of them murdered. This case led to a mass demonstration on October 20th, 1996. Approximately 300,000 Belgians took to the streets, protesting against the way the Belgian criminal justice system dealt with crime. Both the police forces and the judiciary were severely criticized by the public. These criticisms exerted great pressure on the Belgian government. Although victims of crime were not unknown to the policy-makers, the Dutroux case served as a catalyst for several initiatives. The attention for victims has since stayed in the spotlight of policy-makers.

Yet, many problems of victims of crime were already known before and some legislative initiatives were already taken, but still needed a push in the back in order to pass through parliament. In 1993, Peters and Goethals (Catholic University of Leuven) already mentioned the growing attention for victims of crime in Belgium in their reader on victimology².

So it would be far from the truth to assume that there was absolutely nothing at all for victims of crime. In the aftermath of the 'Dutroux scandal', under public pressure and constant guarding of the media, laws were passed in a tempo unknown to our legislative institutions. The victim became a party not to be put on the sidelines any longer when dealing with crime. Hopefully this official recognition and political awareness will not lead to the victimologists' fallacy Groenhuijsen warns us against: a flow of laws should be accompanied by constant attention for issues of implementation³.

One of the guardians of the situation of victims in Belgium – and acknowledged as a partner of the government in policy-making – is the National Forum on Victim Policy, established on June 16th, 1994. Its main tasks are: to coordinate the community-based victim policies, to serve as an advisory body, making recommendations for improvements to the Minister of Justice, and help in the preparation of new legislation regarding victims of crime. The Forum published a Strategic Plan on a National Victim Policy in 1996, laying the foundation for a National

Victim's Charter (which still has to be published).

Information and Assistance

Apart from the Netherlands, Belgium is the only European country which prescribed 'informing victims' as one of the duties of its police officers (s. 46 Police Act 5 august 1992). Police officers, taught about victims in the police schools (section 16 UN Decl.), should treat victims respectfully (s. 4 UN Decl). Apart from their own knowledge about the criminal justice system, police officers can rely on a wide array of brochures to inform victims of their rights. Further, they can provide victims with the addresses of victim support services or contact those services themselves on behalf of victims (s. 15 UN Decl.). A special feature of our police force(s) is the second contact with the victim (s. 17 UN Decl.). Arranged by a regulation (Guideline OOP15ter), the police contacts victims of certain types of crimes some time after they reported the crime. In 1992, victim units were established. They assist individual police officers with their individual duties regarding victims.

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From The Editor's Desk ...

In this issue of *The Victimologist*, we continue our series on the implementation of the UN Declaration in countries around the world. This time the spotlight is on Belgium. In their article, Luc Robert and Kris Vanspauwen discuss the treatment of victims in Belgium. Their article relies heavily on the excellent study by Marion Brienen and Ernestine Hoegen on the implementation of the Recommendations of the Council of Europe. The authors conclude that the recent upsurge of attention for victims following the Dutroux case, has been important for the implementation of the UN Declaration in Belgium. And while considerable progress has been made in Belgium, there remains much to be done in terms of policy evaluation and comparative research.

The year 2000 marked the 15th anniversary of the UN Declaration, a fact

that was celebrated at the 10th International Symposium on Victimology in Montreal in August. A review of the symposium, written by Otmar Hagemann, is included in this issue of *The Victimologist*.

At the symposium the new Executive Committee was introduced to the members of the WSV. A letter to the members from the new president, Gerd Kirchhoff, is included in this issue.

As the new president, Gerd Kirchhoff has temporarily resigned from the Editorial Board of *The Victimologist*. The members of the Editorial Board wish him every success in his role as president of the WSV.

There have been other changes made to the Editorial Board as well. Paul Omaji, from the School of Justice and Business Law at Edith Cowan

University in Australia is a new member of the Editorial Board. Also, Marisa Canuto, graduate student at the School of Criminology at the University of Montreal, Canada has joined the Editorial Board as assistant to the Managing Editor.

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Victimological Websites

By Gerd Ferdinand Kirchhoff

There are several good victimological Websites available on the Internet.

1. <http://www.world-society-victimology.de>

The website of the world society of victimology, your society, is <http://www.world-society-victimology.de>. This website is paid for by WSV and directed by Gerd Ferdinand Kirchhoff, President of the WSV. Here you find everything that is made by the WSV and its members. It contains the "In House News" of the WSV, and a little more, like the news of the national societies of victimology whom we invited as our members. Everything you would like to put on the Internet, as a member of WSV is welcome to be sent here. However, if you want to reach a wider network with your research plans and calls for assistance, then you are in better hands with the excellent professional website <http://www.victimology.nl>

2. <http://www.victimology.nl>

This is the internationally oriented victimological website of the Dutch Ministry of Justice in close cooperation with the United Nations Office for Drug Control and Crime Prevention and the World Society of Victimology. The project Manager and Webmaster is Ron van Kaam whom we all know as organizer of the 1997 Amsterdam Symposium and co-editor of its proceedings. While it is closely connected to the WSV and has links to the WSV website, it serves a wider and different public. It contains not only victimologically relevant documents of the United Nations; it has lots of important international victimological information, a research register and an excellent news service. The website serves as a powerful tool in the dissemination of victimological publications including the UN Handbook on Justice for victims, intended as an aid for practitioners working in the field, and the UN's Guide for Policymakers on the Implementation of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

3. [193.175.49.2./scripts/vitimology/index.asp](http://193.175.49.2/scripts/vitimology/index.asp).

The WSV Victimological Bibliography (WSVBib) has now its home on the Internet. It is available under the provisional address [193.175.49.2./scripts/vitimology/index.asp](http://193.175.49.2/scripts/vitimology/index.asp). It contains some 1800 victimological references and is meant in the first place to open the works and research results of WSV members to the world of victimology.

It is housed by the University of Applied Science Lower Rhineland Library and is developed and directed by Prof. Dr. Gerd Ferdinand Kirchhoff. The Library of the University in Mönchengladbach provides Webwork. It is still in an experimental phase. Characteristic is the multilingual keywords through which the database is opened. Students can search in their native language - and this then opens the wide world of victimological literature. WSVBib features English and German summaries of the books or articles. This it is meant to be useful in countries where inter-library loan systems are not yet as well developed. The library in Mönchengladbach will try to fulfill the needs of those students who do not otherwise have access to the material. This is a great service to spread victimological knowledge.

This WSVBib has an interactive input page - so if you have written and published an article or a book, you can fill out the input form and send it to the WSVBib for inclusion. In this way, the bibliography will be as good as the authors who write victimological texts make it.

In the next issues of the VICTIMOLOGIST we will continue to introduce useful websites in the field.

Letter from the President

Dear fellow victimologists,

It is this time of the year again ... a time to look back and to remember what was important in the year 2000.

The Xth International Symposium on Victimology was the most successful event for the World Society of Victimology in the last year. Attracting over 1300 participants, the WSV Vice President Irvin Waller and his co-chair Arlene Gaudreault brought home a perfectly organized and very successful symposium. The World Society of Victimology Executive Committee congratulates them both on their success.

The symposium was a success for the society as well: more than a hundred new members took advantage of the special entry conditions at the symposium and joined the World Society of Victimology. A heartfelt welcome to all of them!

A special thanks goes to those members of the Executive Committee whose term ended in Montreal. Outgoing as President and Executive Committee member was Jan van Dijk. The Executive Committee acknowledges the great merits of this president who chaired the 1997 Symposium in Amsterdam, who reactivated the newsletter of the World Society of Victimology, appointed the Research Committee and led the society to its current strength. In his position at the United Nations in Vienna, I am sure, he will continue to be a very important support of the goals of our society. Aglaia Tsitsoura has represented the society at the Council of Europe, and I am grateful that she continues to be the leader of our representation at this body. Ewa Bienkowska during her now expired term on the Executive Committee was very successful in promoting victims' issues in Poland. Thanks to all of you!

A special thanks goes to the Chairman of the Research Committee, Marc Groenhuisen, and to its members. This committee has worked on a direction-giving document which has been submitted for adoption by the Executive Committee.

The appointments for the current term of all committees of WSV will be made in due time at the Executive Committee meeting in Dubrovnik, May 2001.

I am grateful for the good work the co-editors of THE VICTIMOLOGIST have done in the past. Jo-Anne Wemmers will continue to be Managing Editor, joined by Paul Omaji and Elmar Weitekamp. I will leave the editorial group.

The EC elected officers in Montreal and co-opted three new members. This is the new team serving in the Executive Committee:

Gerd Ferdinand Kirchhoff,
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Kumaravelu Chockalingam,
Vice President
Helen Reeves,
Vice President
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Vice President
John P.J. Dussich,
Secretary General
Paul C. Friday,
Treasurer
Rika Snyman,
Chair of the Symposium 2003

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Paul Omaji,
Editorial Board, The Victimologist
Hans Joachim Schneider
Irvin Waller,
Liaison Person to the United Nations
Elmar Weitekamp,
Editorial Board, The Victimologist
Frans Willem Winkel

The WSV will continue to work on the important international tasks, in the United Nations, the ISPA and the Council of Europe. I am very pleased that Irvin Waller accepted to serve as Liaison Person to the United Nations, giving the WSV the advantage of his expertise and experience.

During the symposium in Montreal, it became apparent that WSV has been very successful in promoting the teaching of victimology. In Adelaide already we had the first well attended workshop on „Teaching Victimology“. Since 1984 we have taught victimology in the Post Graduate Course on Victimology, Victim Assistance and Criminal Justice in Dubrovnik. The Third Asian Post Graduate Course will soon take place in Mito, Japan, organized by John Dussich, the Secretary General. Vice President Maria de la Luz initiated the first Latin American Master Study in Victimology of the National Institute of Penal Science in Mexico Ciudad. WSV members Chockalingam, Dussich, Friday, Kirchhoff, Separovic, and Waller serve as curricular consultants for the programme. The Secretary General convenes a postgraduate victimology course in San Salvador for February 2001. The Institute of Victimology in Sarajevo cooperates with Dean Bakic in the Faculty of Criminalistic Sciences of the University of Sarajevo on the development of a Master Course in Victimology and Restorative Justice, with Elmar Weitekamp and myself as consultants for curriculum development. And from the Montreal Symposium Workshop on Teaching Victimology (convened by Sarah Ben David, Albert Hauber and myself) the seventy participants gave a clear mandate to WSV to come up with guidelines and recommendations for curriculum development in victimology. It seems to be apparent: it is time to continue to firmly establish our science in the lecture halls around the world. I call upon you, the members of WSV, to join forces in working on this task.

*For the year 2001,
my best wishes for you
personally!*

Sincerely,

Gerd Ferdinand Kirchhoff,
President

(Continued from page 1)

Some of the speakers looked upon it as a modern and more flexible version of criminal justice, others expressed their hope that it will replace it some day. Nevertheless all of the disputants agreed on some qualities of restorative justice:

- That it has a much longer tradition than we often think of and especially compared to the criminal law,
- That it contains many elements used to settle conflicts in indigenous cultures, and
- That it is less abstract and thus closer to non-experts (all people, victims) than criminal law.

With regard to the restorative justice discourse, the distinction between criminology and victimology seems to vanish. Current victimology seems to be defined narrower than earlier concepts. Nearly all contributions seem to define a victim more or less in legal terms. I do not perceive the old conception of a general victimology of Mendelsolun, which deals with all types of victims (e.g. illnesses, catastrophes or accidents). Suffering and overcoming negative consequences of victimization are still main problems, but today's victimologists have no difficulties in identifying the boundary between bad luck and intended inflicted pain (crime). It seems that rather than reaching *beyond the boundaries* of criminology, victimology remains within it.

Coming back to the plenaries, the keynote speakers pointed to several fields, which still offer a lot of work for all of us. Marlene Young appealed to the young generation not to give up the search for peaceful, multi-cultural societies despite the preceding century of genocide. Kristiina Kangaspunta from the United Nations Centre for International Crime Prevention in Vienna taught us about trafficking in women and children. Rivka Augenfeld criticized our Western societies for their treatment of refugees, who often are victimized again after escaping torture and misery. Helen Reeves dealt with secondary and repeated victimization and informed us about preventive efforts of the British legislation. Graeme Simpson from South Africa argued that political changes do not necessarily lead

to a better treatment of former victims: many of the former political victims are now labelled as criminals and many of the former offenders will never be dealt with legally after making their contribution in front of the Truth and Reconciliation Commission. Ezzat Fattah confronted many activists in the victim support organizations with his hypothesis that they are creating a more punitive societal climate and that they are contributing to moral panics. Although Marc Groenhuijsen rejected this accusation in his final report, I would like to ask the readers, if there is not reason to be critical against every single action from the victim movement.

The topic of responsibility is raised in the plenary session on victims and the media. Frank Ochberg, who works as a consultant for the FBI and governmental institutions regarding traumatising events, focused on the media. On one side he dealt with the secondary victimization of victims and their families resulting from media coverage of crime stories, on the other with the risks of journalists being victimized during work. There is more sensitivity for the coping problems of victims today and there are special trainings for journalists in this respect, but victimologists should not damn the media for taking a neutral standpoint. This was also the message of Gilles Gougeon, a journalist who has been incarcerated twice during his career. He insisted that it cannot be the task of journalists to express solidarity with victims and he underlined this warning by giving an example of a disinformation campaign of women from Kuwait during the war against Iraq. Other speakers took a different position. Thérèse Daviau asked whether victims and the media could fight a war against violence together. And Kim Phuc Phan Thi told us her story as „the“ victim of the Vietnam War. Her photo of the young girl running down the street naked while trying to escape napalm bombs has become very widely known and the photographer, Nick Wood, saved her life because she got the necessary medical treatment. But she also stressed the fact that she became a public person and her life changed forcibly several times since then. It was very impressive to hear this woman describing her victimization and I wish her every success in her recent appointment as a UNESCO-ambassador of peace.

In addition to the scientific program some honours took place and we had a Ceremony of the 15th Anniversary of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. This showed that our young academic subject has already achieved something to be proud of, an enduring effect on the world outside of our circles/organization. Wednesday afternoon was used for meeting practitioners in the fields of psychiatry, violence against women, prison system, and police.

At the end of the congress several people were honoured: Wesley Skogan and Paul Z. Separovic the well known established professors, and Juan A. Nel, Johan Kruger (both from South Africa) and Jesus Trujillo (from Spain). The former president of the WSV Hans Joachim Schneider was honoured by a Festschrift, which was presented by the newly elected president Gerd Ferdinand Kirchoff. For those of you who like to plan their travels far in advance, the next congress will be held in August 2003 in Durban, South Africa.

5th International Conference on Restorative Justice

POSITIONING RESTORATIVE JUSTICE

16-19 September 2001

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For more information please contact:
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Despite all initiatives, problems still occur. Individual police officers might rely too much on the members of the victim units and neglect their duties towards victims. Uniform training on victim assistance for police officers and the necessary funds to have police contact victims after having reported the crime are but two of the problems that still have to be addressed.

In 1996, reception and information services were installed at the prosecutor's office and the courts. Apart from their referral function, the justice assistants, operating these reception and information services, should assist victims with the flow of information during the criminal process. Having access to the legal file, justice assistants can inform victims about developments in their case. Since 1998, the Franchimont Act provides victims access into their legal file in the pre-trial phase, whereby they can ask justice assistants for help. Despite improvements at the level of the judicial policy (s. 4, 6a, 6c, 14, 15 UN Decl.), reluctance of magistrates to inform victims remains.

Victim advocacy groups ask for the right of the victim to meet the magistrate in charge of their case in the pre-trial phase, mainly to be informed about the progress in the case. There is no specific training of magistrates when it comes to victims.

As for imprisoned offenders, when their case is dealt with by the Conditional Release Committee, some categories of victims will be contacted systematically to ask for their opinion (s. 4, 6a, 6b, 6d and 17 UN Decl.). The law instituting these Committees (1999) clearly mentions that the Committee will take the demands of victims into account. One of the issues victim advocates put forward is the fact that, until a possible release of the offender, no attention is given to the victim in the sentencing phase.

In 1999, within the scope of a reformation of the judiciary, the so-called Houses of Justice are set up in the different judicial districts (currently, 11 of the 27 Houses are launched). The mission includes providing a human approach for victims in the criminal justice system. Moreover they have to facilitate the accessibility in the contacts and negotiations with judges, prosecutors, lawyers and offenders.

Restitution and Compensation

The ways to obtain restitution in Belgium have evolved in the last decade. The law on Penal Mediation of 1994 is a good example, whereby the public prosecutor can dismiss any case which is not punishable by imprisonment of 2 years or more. In these cases he can propose four combinable conditions or measures, reimbursement or reparation being one of them. A penal mediation requires the acknowledgement of the facts by the offender, and a free consent of both parties. (s. 5, 7, 8, 9 UN Decl.).

The criminal process itself does not include restitution to the victim. Victims can join the criminal proceedings as a civil claimant during every stage of the trial, explicitly expressing the wish to receive compensation for damages from the offender. Other requisites have to be fulfilled too. In order to obtain restitution, they can also start a case against an offender as a private prosecutor (s. 5 UN Decl.). Examples of problems related with restitution are: victims have to pay the costs of their lawyer in order to obtain restitution; and they have to enforce the payment of restitution themselves.

In 1985 a Fund for Victims of Intentional Violent Crimes was established. It was at first very discriminatory, but the reform Acts regarding State Compensation of 1997 facilitated the application procedure, enlarged the sums a victim may get and increased the number of victims who can apply to the Fund (s. 12 UN Decl.). Still, the State Fund does not give victims an automatic right to be compensated. The Committee which decides upon the compensation, has a discretionary power regarding the claims. A lot depends on the financial situation of the applicant. This is a serious limitation for victims of crime. Nowadays projects are going on, such as the installation of a Compensation Fund for Victims of Juveniles. They will hopefully provide additional possibilities to obtain compensation (s. 13 UN Decl.).

Conclusion

In the last two decades, but especially in the last five years, victims of crime made it to the political agenda,

(hopefully) not to be forgotten again. Having in mind the attention for victims (by legislator, by advocacy groups, by academics and by "the public"), one can guess that Belgium will remain among the leading countries of Europe regarding the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Nevertheless, one may not fade away in a flush of victory, since there are still a lot of problems to deal with and several issues to address. Moreover, it wouldn't be a surprise if some policy-decisions could be evaluated as ill-advised decisions based on public pressure after the string of scandals in the 1990's.

On the other hand we must also realize that a fully-fledged implementation of the UN Declaration is not the finishing line of a victim policy. It must be seen as a long-term process whereby evaluative and comparative research can be useful activities to (re-)adjust our victim policy.

In this overview, we only looked at the part of the UN Declaration that deals with Victims of Crime, excluding an overview of measures for Victims of Abuse of Power.

The fact of looking at a very complex situation so briefly might give a somehow distorted image of what is available for victims of crime in Belgium. In this respect, we won't refrain from referring the reader to a more comprehensive description of the state of affairs in Belgium written by Brienens and Hoegen⁴.

¹ Brienens, M.E.I. and Hoegen, E.H. (2000), *Victims of Crime in 22 European Criminal Justice Systems*, Nijmegen, Wolf Legal Publications, 105-165.

² Peters, T. and Goethals, J. (1993), *De achterkant van de criminaliteit*, Antwerpen, Kluwer Rechtswetenschappen.

³ Groenhuijsen, M. (1999), "Victims' Rights in the Criminal Justice System," in Van Dijk et al., *Caring for Crime Victims*, Monsey, Criminal Justice Press, 85-114.

⁴ Brienens, M.E.I. and Hoegen, E.H. (2000), o.c.

INTERNATIONAL REVIEW OF VICTIMOLOGY

News and Developments

From 2001, the *Review* will be published in three rather than four issues each volume. This does not signify any reduction in overall content. One of the reasons why we have made this change is to facilitate the publication of the special and themed issues which have become a recent feature. We trust that our readers will continue to derive benefit from the *Review* in its new format.

We also wish to welcome new members of the Editorial Board, and to thank those who have recently stepped down. Gil Geis, Lee Lamborn and Chris Sumner were all members of the Board from the *Review's* first volume. The Editors are grateful to them for the help and advice they gave during their years on the Board. We welcome Edna Erez, Curt Griffiths and Kathy Laster and look forward to their input to the further development of the *Review*. Readers will already know of their contribution as Guest Editors of recently published special issues: Curt Griffiths (with Gordon Bazemore) on Restorative Justice (volume 6 number 4); Edna Erez and Kathy Laster on Domestic Violence (volume 7, numbers 1-3), recently published by the *Review's* publishers in book format.

Forthcoming Issues

Volume 8.1 will contain articles on (first named author only)

- Chester Britt: *Health consequences of criminal victimization*
- Patrick Parkinson: *Statutory compensation for victims of child sexual assault: examining the efficacy of a discretionary system*
- Israel Nachson: *Truthfulness, deception and self-deception in recovering true and false memories of child sexual abuse*
- Matt Hopkins: *Once a victim, always a victim?*
- Helmut Kury: *Ageing and the fear of crime - results from E & W Germany*

Volume 8.2 will be a special issue on *Victims and Fear of Crime in Contemporary Sweden*.
The Guest Editor is Per-Olaf Wikström

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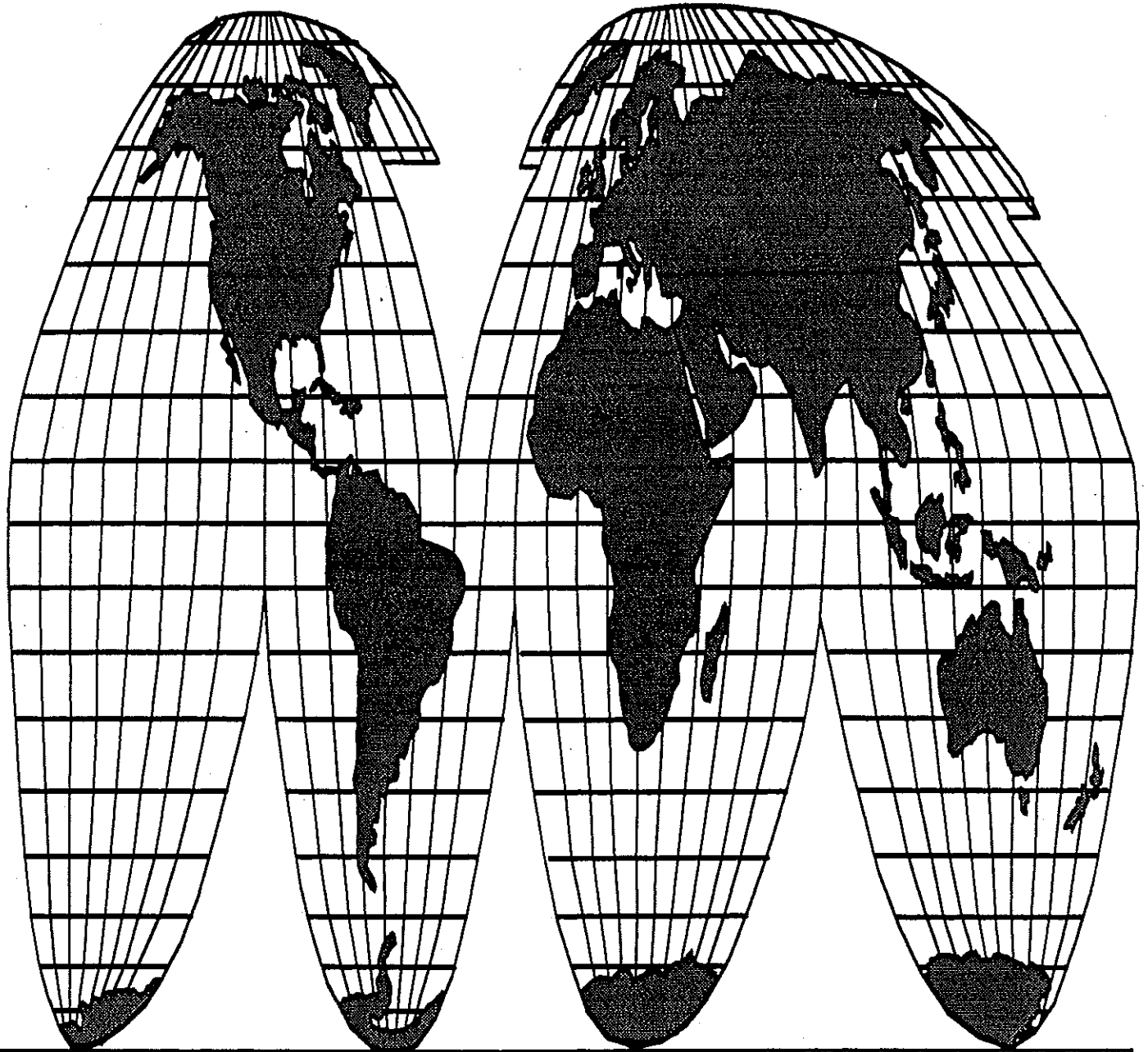
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