Journal of the American Society of Questioned Document Examiners, Inc.
Volume 23, Number 1, June 2020

International Humanitarian Law (IHL) and Forensic Document Examination[a]

Tobin Tanaka[b]

Government of Canada – Canada Border Services Agency, 14 Colonnade Road – Suite 280, Ottawa ON K2E 7M6 CANADA

It has been recognised that forensic science plays a role in international investigations of war crimes, crimes against humanity and genocide. These investigations are paramount in breaking of the cycle of violence and thereby starting the process of reconciliation needed in society. The difficulty in how to establish a cadre of forensic scientists for such needs in a timely, flexible and economic manner is not easily overcome by traditional mechanisms.

Justice Rapid Response (JRR) is an intergovernmental facility developed to offer the needed adaptability and expeditious response to such international incidents. In operation since 2009, it has a roster of over 700 experts (2019) comprised of a variety of criminal justice professionals – including forensic scientists.

This paper provides a brief overview of JRR, a background of historic cases where document examination played a part, and how questioned documents arose in more recent cases before the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL), the International Criminal Court (ICC) and the Extraordinary African Chambers (EAC).

Background

The realisation that there are limits to what is allowed in war or in conflict is not, strictly speaking a new concept, but one that in one form or another, goes back to ancient Greece or even earlier.[1] There are references to the prosecution of war criminals in medieval times; but the significant documents outlining the limits of such activities were not written until the founding of the International Committee of the Red Cross in 1863 by Henry Dunant and the first Geneva conventions of 1864.[2] The Hague Conventions of 1899 and 1907 defined the laws of war and the protection of civilians. It was recognised at that time that these documents were not perfect, nor complete; they were foundations upon which additional international customary laws could be built. Post-World War II, the four Geneva Conventions of 1949 with the three Additional Protocols of 1977 and 2006 further strengthened IHL.

War crimes and crimes against humanity may often be thought of in the context of two or more warring states, but in the past 50-60 years there have been international crimes from internal conflicts such as wars of liberation (*e.g.* Timor-Leste) or insurrection (*e.g.* Sudan / South Sudan) or the actions of individuals in former military dictatorships (*e.g.* Argentina, Chile and Greece). The internal nature of the conflicts may have contributed to the belief that IHL does not apply; however, Common Article 3 of the Geneva Conventions along with the Additional Protocol II (1977) in simple terms outline war crimes for internal conflicts.[3] Crimes against humanity may occur whether in peacetime or in war,[4] the latter being an international or internal conflict. Internal conflicts often have external influences by direct or indirect means; the delineation between insurrection, war/conflict from liberation movements and civil war is not always so clear.

[a] Based upon a paper presented at the 73rd Annual Meeting of the American Society of Questioned Document Examiners (August 2015), Toronto CANADA
[b] All comments within this paper are exclusively those of the author and do not represent any official position of JRR and/or the Government of Canada.

The former Yugoslavia, Rwanda, Darfur, the Democratic Republic of the Congo and Sierra Leone all have events in their recent histories that created some impetus for the creation and subsequent strengthening of the International Criminal Court (ICC). The Rome Statute lays out the creation of the ICC and the Articles that govern its operation; it was adopted by a UN Diplomatic Conference on 17 July 1998 and the Statue came into force on 1 July 2002 with a minimum of 60 States Parties. The ICC is based upon the principle of complementarity law: national justice systems can prosecute individuals that are alleged to have committed serious violations of IHL. In that way, the ICC is meant to complement national justice systems, it does not replace them. When national systems are unable or unwilling to hold trials then the ICC may then be the "court of last resort", but a key component of this is timing. Alleged crimes committed before 1 July 2002 would not be under the jurisdiction of the ICC and would have to be under an international *ad hoc* tribunal or a national court exercising universal jurisdiction.

Universal Jurisdiction is an important concept but only applies for the most serious crimes in IHL.[5] For some alleged crimes in international law it means that courts in one country can try someone for violations of international law that took place elsewhere, *e.g.* the Canadian trial of Désiré Munyaneza who was indicted on charges of crimes against humanity, genocide[6] and war crimes in Rwanda.[7] Whether the trials are conducted in a national or an international court, significant obstacles include conducting investigations and collecting forensic evidence; in many instances, the facilities of the nation where the alleged crimes took place are weak or nonexistent. Until recently, the reliance of *ad hoc* requests to the international community was almost the only thing that could be done to various degrees of success.

Forensic evidence in the context of IHL may be thought of as exclusively requiring the expertise of anthropologists, forensic pathologists, odontologists, biologists and scenes of crime officers. These forensic scientists may find evidence to help support the contention that there were violations of IHL. Forensic document examination may be key in addressing the question of command or superior responsibility, specifically who ordered or commanded persons to carry out violations of IHL. This is an important point to consider, documents are nearly always involved; either directly in the activities that may constitute serious violations of IHL, or indirectly by purporting to account for events. Serious violations of IHL require planning, coordination, logistics and the informing of a wide variety of people, these tend not to be undocumented events.

A Brief Description of Justice Rapid Response (JRR)

The 2019 Annual Report[8] and Leaflet[9] of JRR summarises, *inter alia,* what JRR is, the roster, deployments, vision and motivation for such a facility in the international community. JRR provides to the international community a roster of individuals who have specialised knowledge that may assist in the investigation of alleged crimes under IHL. Since JRR is not an entity under the United Nations, nor is it a governmental entity, its strength lies in the flexibility to have a standby roster of experts available to be deployed. In order to be eligible for the training to become part of the roster, the employer of the expert must be willing to agree in principle to allow the expert to be deployed. Once the certification training for JRR is complete, the expert is placed on the roster and thus may be contacted for a request that is within their expertise. At the time of the request, the expert along with her/his employer advises whether or not release for that deployment is possible.

The author of this paper is on the roster of JRR, and it was through this mechanism that he was requested to provide forensic document examination services to the Extraordinary African Chambers (EAC). Additional discussion of the EAC follows later within this paper.

History—Events of World War II

The International Military Tribunal (IMT), Nuremberg Military Tribunals (NMT) and the "Tokyo trials" (International Military Tribunal for the Far East, IMTFE) contributed to international law in many ways. They set the groundwork for later developments in international law, in particular the 1949 Geneva conventions.

Questioned documents arose immediately following the end of the war. An example of disputed documents at the NMT was the case of *USA v. Karl Brandt, et al.* where there is mention of a handwriting expert, Dr Francois Bayle. Dr Bayle, a French Naval officer and physician, provided an affidavit where his opinion regarding the comparison of numerous "Ding" and "Schuler" signatures was given.[10] His findings were "I conclude that the 'Schuler' signature appearing on Document NO-257 and the 'Ding' signature appearing on Document NO-578 and the 'Ding' and 'Schuler' signatures appearing on Document NO-265 were all written by the same person." As part of his affidavit he makes mention of studying under the graphologists Crepieux-Jamin and Carton; there is no mention why a graphologist was asked to examine the signatures rather than a document examiner.

Three examples of the questioned document issues from the World War II era are outlined in the next section. These are not presented as an exhaustive review of all cases from that time period.

The ultimate fate of Joseph Mengele in the mid-1980s was established in part from the examination of disputed handwriting as described in the accounts of David Crown[11-12] and Gideon Epstein[13]. The examinations were conducted in São Paulo, Brazil where the documents were located. The handwriting of Joseph Mengele was identified on several documents establishing in part that he was living in Brazil and also died there.

The case of John Demjanjuk occupied several legal inquiries in the United States, Israel, and Germany.[14] The primary questioned document was the Trawniki Card, a document purportedly showing that he had belonged to the Trawniki unit where he was alleged to be "Ivan the Terrible" and responsible for the deaths of thousands at the Treblinka concentration camp. The examination of the Trawniki Card in the US was described by Gideon Epstein in 1981.[15] At this time the Soviet Union was in possession of the questioned document, but made it available for examination in the US and also made it available for the trials. The allegations included that the Soviet Union forged the Trawniki Card and its genuineness was contested from at least 1985 until John Demjanjuk's death in 2012.[16]

David Crown has also described an alleged concentration camp guard case that came about in 1988. It was filed as a civil malpractice suit involving Dr Vilis Kruze who was a physician in Hawaii, and two disputed documents: Latvian Guards and Latvian Political Section documents *circa* 1941-1944. The documents purportedly show that Dr Kruze could not have obtained medical school training as he was too occupied with other matters during the war. Dr Crown described that the documents that were put forth as evidence (poor quality photocopies) were in fact copied from a Soviet KGB book published in 1963.[17]

History—1945-1990—Excluding events directly related to World War II

Post-World War II there was some effort to establish an international criminal court of some type. The United Nations created the International Law Commission to be responsible for the ongoing development of international law and is made up of experts appointed by the UN General Assembly.

Although there were intentions to create a permanent international body to hold trials, the political climate in the Cold War era did not foster agreement within the United Nations on the definition of the crime of aggression; accordingly, it was not possible to establish an international criminal court.[18]

During the era of the Cold War, significant challenges to the protection of human rights came primarily from internal conflicts (not limited to civil war or major insurrection), with external involvement or interference from other parties in many instances. For a variety of reasons, these situations could not be investigated let alone prosecuted under acceptable international standards until much later if at all. As examples, these countries experienced periods of significant violations of human rights:

Argentina (enforced disappearances[19] during the time of military rule; *circa* 1976-1983),

Cambodia (crimes against humanity, enforced disappearances, war crimes and genocide during the time of the Khmer Rouge rule; *circa* 1975-1979),

Spain (crimes against humanity during the time of Francisco Franco's dictatorship; *circa* 1939-1975),

El Salvador (enforced disappearances, crimes against humanity and war crimes during the time of the civil war; *circa* 1979-1992),

Chile (enforced disappearances during the time of Augusto Pinochet; *circa* 1973-1990),

Uganda (crimes against humanity, enforced disappearances & genocide during the time of Idi Amin's presidency; *circa* 1971-1979).

In some cases, the downfall of those in positions of power either led to amnesty under a reconciliation agreement or other measure; in other instances, those who could be investigated and/or tried fled, *e.g.* Khmer Rouge leaders after 1979.

For General Augusto Pinochet, the hand of international justice took some years to take effect. The principle of universal jurisdiction was invoked in an attempt to have him brought to justice on a variety of violations of human rights law. In the United Kingdom in October 1998, at the request of Spanish prosecutors General Pinochet was taken into custody. He claimed immunity as a former head of state, but the House of Lords ruled that this was not a valid claim and, in the end, General Pinochet returned to Chile due to declining health.[20]

The end of the Cold War in the early 1990s opened the possibility for some of these situations to see international justice slowly work its way through the investigations phase and onto the possibility of trials. It also was the decade that saw some of the worst human rights violations on such a widespread scale since World War II.

Ad hoc International Tribunals from the events in the former Yugoslavia, Rwanda & Special Court for Sierra Leone

The events that took place during the breakup of Yugoslavia, the genocide in Rwanda in 1994 and the events during the civil war in Sierra Leone were some of the most challenging for the international community. Some of the issues that were faced during the time of the events could only be partially addressed. In the aftermath, it was recognised that there was a need to bring those responsible for the crimes to justice.

These conflicts ripped apart the societies where they took place. Justice systems that remained post-conflict were fragile and/or not capable of holding trials of such complexity. Additionally, there was the need for assistance in the investigations. The United Nations established the International Criminal Tribunal for the former Yugoslavia (ICTY),[21] the International Criminal Tribunal for Rwanda[22] and agreement between the United Nations and the government of Sierra Leone established the Special Court for Sierra Leone (SCSL) in 2002.

What sets the *ad hoc* institutions apart from the International Criminal Court (ICC) is that the former are not permanent institutions; they were established to only hear cases that fall within their jurisdiction and were not meant to be permanent institutions. On the other hand, the ICC is a permanent body, but can only hear cases about crimes that took place on or after 1 July 2002 when the Rome Statute came into force. For example, the Extraordinary Chambers in the Courts of Cambodia (ECCC) agreement between the United Nations and the Royal Government of Cambodia came into force in April 2005 to hold trials for crimes that took place in Cambodia between 1975 and 1979.[23]

Forensic Document Examination Examples from the ICTY

The ICTY was established to bring to justice persons responsible for serious violations of IHL committed in the territories of the former Yugoslavia since 1991. A description of the ICTY's founding, mandate and other information including cases is available from the website.[24]

Several cases before the ICTY have involved disputed documents. In the case of *Prosecutor v. Milomir Stakić*[25], the signature of the accused on several documents that were put forward by the Prosecution as evidence were disputed. The Trial Chamber recognised the significance of the matter in the *"Order Pursuant to Rule 98 to appoint a forensic handwriting examiner"*, on 28 June 2002 Trial Chamber II:

> NOTING that the Defence for Dr. Stakić contests the authenticity of the accused's signatures as they are alleged to appear, in various forms, on certain documents included in lists 2, 3 and 4, which have been tendered by the Office of the Prosecutor ("Prosecution") in this case, ...
>
> CONSIDERING that the documents in question form an important part of the evidence before the Chamber,
>
> CONSIDERING that a determination as to the authenticity of the accused's signature may assist the Chamber in assessing the probative value to be accorded to these documents,
>
> PURSUANT TO RULE 98 OF THE RULES, HEREBY ORDERS, *ex officio*,
>
> 1. the Prosecution to appoint, if necessary with the assistance of the Registry, a forensic handwriting examiner, whose expert report, based on the broadest possible comparison

of available handwriting samples, shall be disclosed as soon as is practicable, but no later than 26 August 2002,

2. the Defence, within two weeks of receiving the expert report, to file a notice indicating whether:

(i) it accepts the expert witness statement; or

(ii) it wishes to cross-examine the expert witness.

AND REQUESTS the Prosecution to keep the Chamber and the Defence informed of the progress in relation to the preparation of the expert report, and to disclose the report, as soon as it is available, to both the Chamber and the Defence.

The importance of the document evidence was stated very clearly in the Trial Chamber Judgement of 31 July 2003:

> 14. In its evaluation of the evidence, the Trial Chamber relied primarily on documentary evidence. It was especially cautious when dealing with documents attributed to Dr. Stakić and found corroborating evidence from an expert statement under Rule 98 and/or convincing witness testimony necessary. . . .
>
> 16. . . . Pursuant to Rule 98, the Chamber . . . ordered the Prosecution to appoint a forensic handwriting examiner and a forensic document expert.

Other documents involving disputed handwriting at the ICTY involved several of the accused. For the events surrounding the Zvornik Brigade in and around Srebrenica *circa* 1995, many questioned documents were examined including logbooks, vehicle logs and other documents. Issues surrounding these documents are partly addressed in the Trial Chamber's ruling on evidence in the case of Radovan Karadžić.[26] Eight reports were provided to the Defence for Mr Karadžić; the reports address the handwriting of other accused including some of the accused from the *Popović et al.*[27] case.

The handwriting reports do not appear to be public domain documents, but the available transcripts are an interesting read for document examination issues; for example, on 25 June 2007: examination of unfamiliar languages, indentation evidence and the request to examine other entries while testifying. The 882-page judgement makes many references to document evidence.[28]

Forensic Document Examination Examples from the ICTR

The events in Rwanda during 1994 are well documented in several accounts, one account by Lt Gen Roméo Dalliere provides the moment by moment events on the ground from his perspective as the Commander of the United Nations Observer Mission in Uganda and Rwanda (peacekeeping).[29] Genocide, crimes against humanity and war crimes on a massive scale took place not only during the 100 or so days of the initial killing of 800,000 Rwandans, but it sowed the seeds for the events that took place in the Democratic Republic of the Congo (DRC) from 1996 to 2003.[30] The DRC conflict is estimated to have led to the death of three million people, the worst loss of life since the World War II conflict.

Several issues involving documents have arisen before the ICTR Trial Chambers. As one example, the stamp impressions and visas in a passport of the Accused came into question. Counsel for the Accused made an application for expert examination of the impressions, while the Prosecution counsel argued ". . . that the Chamber does not require expert testimony to determine whether the stamps appearing in the Accused's passport are those that were in use by the Nigerian Embassy in Dakar in 1994." Whether the stamp impression was the one in use during that time period was addressed outside of expert evidence.[31] In the judgement there are references to stamp impressions and how they relate to the alibi presented by the Defence.[32]

Issues about access to original documents for the purposes of photography of questioned signatures (among other things) in order to permit expert comparison were part of the decision in *The Prosecutor v. Juvenal KAJELIJELI.* Defence counsel submitted that the Prosecution should make available the original document for this purpose, notwithstanding that the document had information on protected witnesses. The Trial Chamber ordered that the sections of the original documents with questioned signatures be made available for photography purposes.[33]

Handwriting evidence regarding the agenda (diary) for Colonel Bagosora was presented at his trial, *The Prosecutor v. Théoneste BAGOSORA et al.* Different issues arose including a motion to exclude photocopies of the agenda[34] as well as recalling the handwriting examiner when additional known writings became available.[35]

Another diary in question in the matter of *The Prosecutor v. Pauline NYIRAMASUHUKO et al.* was addressed by the same handwriting expert as the *BAGOSORA et al.* case. The Prosecution sought to have the Trial Chambers ". . . appoint an expert to analyse the handwriting in the diary and the handwriting in the samples of letters written by Pauline Nyiramasuhuko . . . ," to which the Trial Chamber did not appoint an expert but ". . . the Trial Chamber is of the view that the Prosecution may wish to follow up this matter, and hereby grants the alternative prayer," thus allowing the Prosecution to seek expert evidence to compare the handwritings.[36] To add to the complications there were legal arguments about adding the expert evidence on handwriting to the witness list.[37] This trial is complete and a brief review of the judgement disclosed many other questioned document issues in the 1568 page judgement under appeal as of May 2015.[38]

The ICTR Appeals Chamber appointed an expert to examine questioned handwritings that were purportedly from a Witness EB (his/her name was probably not specified for witness protection reasons) to ". . . assist the Appeals Chamber in assessing Witness EB's credibility;" and it ordered that the original of "Document E" be made available to the expert.[39]

As another example, but this one occurring outside of the matters in the Chambers, the ICTR itself was served with suspect documents regarding billing and attestations of membership to the Paris Bar. The latter was done to demonstrate that a staff member was indeed a lawyer when they were not. The Investigations Division of the Office of Internal Oversight Services of the United Nations (ID/OIOS) conducted an investigation into the matter resulting in the removal of the Defence counsel for the Accused Gratien KABILIGI, among other measures.[40]

Special Court for Sierra Leone (SCSL)

The Sierra Leone civil war (1991-2002) garnered much publicity in the international community. Put in simple terms, there were three main groups in conflict: the Sierra Leone Revolutionary United Front (RUF), Armed Forces Revolutionary Council (AFRC), and the Civil Defence Forces (CDF). All groups were involved to varying degrees in systematic violations of IHL that were widespread and ongoing.

A total of 13 persons were indicted by the SCSL, including Charles Taylor as former president of Liberia. Charles Taylor is no stranger to civil war as he was the leader of the National Patriotic Front of Liberia (NPFL) from 1989-1997. In 1997 when he became President, he provided support to the RUF and the AFRC.[41]

At his trial several documents were in dispute: signatures on many documents including military promotions, meetings, letters stating surrender, diamonds, "salute reports" and others. The issue as to whether the typewritten documents could have originated from the RUF, as typewriters were not in all RUF locations, also arose.[42]

Notwithstanding the disputed issues, no expert evidence on document examination was given at his trial:

> 206. The Trial Chamber recalls that where objections were made regarding the authenticity of certain documents, the Trial Chamber admitted the documents on the basis that that [sic] any considerations relating to the authenticity of documents went to weight, rather than admissibility. In many cases, the Prosecution and/or Defence were either not able to prove authorship, or the authorship of the document is in dispute. In a few cases, it was alleged that the documents had been forged. No experts testified regarding handwriting or signatures, although these were disputed in the case of several documents.[43]

The International Criminal Court (ICC)

The ICC is a treaty based entity; its jurisdiction extends to a State Party that has signed the Rome Statute.[44] Citizens of a State Party are under the jurisdiction of the ICC when the national court systems are either not capable of or unwilling to prosecute violations of IHL. It is also important to note that violations of IHL committed on the territory of a State Party are also under ICC jurisdiction. Situations can be referred to the ICC at the request of States Parties; for example the Government of Uganda made a referral of the situation in Northern Uganda which led to the first cases before the ICC (*The Prosecutor v. Joseph Kony, Vincent Otti, Raska Lukwiya,[45] Okot Odhiambo and Dominic Ongwen).[46]* After referral and investigation the warrants of arrest were made under seal on 8 July 2005 with the warrants unsealed (made public knowledge) on 13 October 2005.

Aside from States Parties, the UN Security Council can also refer a situation to the ICC for investigation. As examples, the situation in Darfur, Sudan was referred on 31 March 2005,[47] and the situation in Libya was referred on 26 February 2011.[48]

The Prosecutor may request permission to proceed with an investigation under Article 15 in the Rome Statute. This is what happened in the situation in the Republic of Kenya (ICC-01/09).[49]

With regard to disputed documents, two examples from the situation in the Democratic Republic of the Congo bear mentioning; *The Prosecutor v. Mathieu Ngudjolo Chui* (ICC-01/04-02/12) and *The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04-01/06). School documents were said to be forged by one witness in the first case (P-279 refers to Prosecution witness 279, his/her name is not used to protect witness identity in public domain documents):

> 178. …in order to continue his studies and to having provide false information regarding his age in order to be accepted into the demobilisation programme for adults. P-279 also admitted to attempting to appear older when giving his date of birth as 30 August 1984 for the issuance of his voter's card. . . .
>
> 179. For this reason, the Chamber does not intend to rely upon a school document pertaining to the age of his sister which was issued at the behest of the Defence for Germain Katanga, to which the Prosecution mounted a robust challenge. [50]

More references about disputed documents are made in the case with Mr Lubanga Dyilo. By way of background, the use of child soldiers is a violation of IHL and school records among other documents may establish the age of the persons alleged to have been recruited. In the judgement at paragraph 419 with added emphasis in bold typeface for this paper:

> 419. P-0297 gave evidence on the schools he attended between 2004 and 2006, following his studies and his recruitment as a soldier. However, the documentary evidence tends to indicate that someone with his identity attended one of those schools in October or November 1997 (when he was allegedly living elsewhere). The prosecution argues document EVD-D01-00144 "proves nothing" because it is "nothing more than several pages stapled together" and because, in contrast to other pages, the school year is missing from the top of the page the defence contends is relevant for P-0297. The Chamber does not accept these submissions. **The relevant document contains the school's official stamp on each page and, although the school year does not appear on the material page, there is no credible evidence to support the contention that it is a forgery, and particularly that the relevant page (3315) was improperly inserted or that the relevant entry (number 24 on the list) is false.[51]**

In affirming the importance of forensic science in ICC cases, the Office of the Prosecutor established a Scientific Advisory Board from a wide geographic and diverse selection of forensic scientists on 25 June 2014. According to the press release "The Board will provide recommendations to the Prosecutor on the most recent developments in new and emerging technologies and scientific methods and procedures that can reinforce the capabilities of the Office in the collection, management and analysis of scientific evidence . . ." Annual meetings will take place under the elected Chair, no specific mention is made of document examination however the members of the Board include multi-disciplinary organisations with a broad range of forensic sciences.[52]

Extraordinary African Chambers (EAC)

The EAC was established in August 2012 to "... prosecute and try the person or persons most responsible for crimes and serious violations of international law, customary international law and international conventions ratified by Chad, committed in the territory of Chad during the period from 7 June 1982 to 1 December 1990."[53,54] That time period corresponds to that of the presidency of Hissène Habré. In that time period several internal conflicts as well as external conflict with neighbouring Libya took place.[55]

Hissène Habré's government was overthrown in 1990, at which time he went into exile in Dakar, Senegal. Several attempts to have him tried in different courts under the principle of universal jurisdiction took place but the ruling from the International Court of Justice (ICJ)[56], along with a long term effort by a number of people eventually resulted in the establishment of the EAC.

During the Habré presidency the *Direction de la Documentation et de la Sécurité* (Directorate of Documentation and Security) (DDS) was part of the state security mechanisms within Chad. Many years after he went into exile many documents were found in the abandoned headquarters of the DDS. Several documents had handwriting in question that were subjected to examination.[57] Several limitations were present, most notably the copy quality of some of the documents. Nonetheless, the comparison between questioned and known writings could be conducted on most of the documents, and a translated report from English to French was issued on the findings. In person testimony with interpretation was given to the Trial Chamber on 21 September 2015 at the *Palais de Justice* in Dakar, Senegal.

Conclusion

Data compiled at the end of 2018 from the United Nations High Commission for Refugees (UNHCR)[58] reported a record 20.36 million refugees[c], and a record 41.125 million internally displaced persons (IDPs).[d] This does not include individuals who have formally sought asylum, nor stateless persons and others who have been afforded protections. Although some of the IDPs have been forced to relocate due to natural disasters such as extreme weather, there has never been more people seeking protection from violence and armed conflict.

International justice can play a part in the long term resolution of conflicts and attempting to quell retribution; as outlined briefly, forensic document examination can make a contribution to such ongoing efforts. It would appear that there will be no shortage of work for the forensic document examiner in IHL matters; to that end, it is vital that efforts in capacity building be made on a variety of fronts.

References

1. William A Schabas, *An Introduction to the International Criminal Court (Fourth Edition),* pages 1-2, Cambridge University Press, 2011, ISBN 978-0-521-15195-5

2. International Committee of the Red Cross - Founding and early years of the ICRC (1863-1914) https://www.icrc.org/en/document/founding-and-early-years-icrc-1863-1914 [accessed 6 June 2020]

3. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (revised and expanded edition)*, page 420-422, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

4. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (revised and expanded edition)*, page 135-136, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

5. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (revised and expanded edition)*, page 274, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

6. Genocide is defined by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide as, ". . . any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group." https://www.ohchr.org/EN/ProfessionalInterest/Pages/CrimeOfGenocide.aspx [accessed 6 June 2020]

7. R. c. Munyaneza, 2009 QCCS 2201 (CanLII), available at http://canlii.ca/t/240j1 [accessed 6 June 2020]

8. 2019 Annual Report Justice Rapid Response, Geneva and New York, available at https://www.justicerapidresponse.org/wp-content/uploads/2020/04/JRR_Annual_Report2019.pdf [accessed 6 June 2020]

[c] UNHCR defines: "Refugees include individuals recognised under the 1951 Convention relating to the Status of Refugees; its 1967 Protocol; the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; those recognised in accordance with the UNHCR Statute; individuals granted complementary forms of protection; or those enjoying temporary protection. Since 2007, the refugee population also includes people in a refugee-like situation."

[d] UNHCR defines: "Internally displaced persons (IDPs) are people or groups of individuals who have been forced to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights, or natural or man-made disasters, and who have not crossed an international border. For the purposes of UNHCR's statistics, this population only includes conflict generated IDPs to whom the Office extends protection and/or assistance. Since 2007, the IDP population also includes people in an IDP-like situation. For global IDP estimates, see www.internal-displacement.org."

9. *Justice Rapid Response Leaflet (October 2019)*, Justice Rapid Response, Geneva and New York

10. Harvard Law School Library *Nuremberg Trials Project: A Digital Document Collection. The Thirteen Nuremberg Trials*, http://nuremberg.law.harvard.edu/documents/192-affidavit-concerning-the- handwriting?q=author:%22Francois+Bayle%22#p.1 [accessed 6 June 2020]

11. David Crown, *The Identification of the Handwriting of Josef Mengele,* Journal of Forensic Science, Vol 32(1):110- 117, Jan 1987.

12. DA Crown, *Practical aspects of the Mengele handwriting examination,* Journal of the Forensic Science Society, Vol 27:5-11, 1987.

13. Gideon Epstein, *Examination of the Josef Mengele Handwriting,* Journal of Forensic Science, Vol 32(1):100-109, Jan 1987.

14. *Obituary: John Demjanjuk*, BBC News online, https://www.bbc.com/news/world-europe-13345166 [accessed 6 June 2020].

15. Gideon Epstein, *The Trawniki Card - The Role of the Forensic Document Examiner in Modern War Crime Trials,* ASQDE, Houston, TX, USA, 16-20 August 1981.

16. New York Times, 18 March 2012 edition, *John Demjanjuk, 91, Dogged by Charges of Atrocities as Nazi Camp Guard, Dies,* https://www.nytimes.com/2012/03/18/world/europe/john-demjanjuk-nazi-guard-dies-at-91.html [accessed 6 June 2020]

17. David A Crown, *The Curious Case of Dr. Vilis Kruze, Alleged Concentration Camp Guard,* ASQDE, Ottawa, ON, Canada, September 1993.

18. William A Schabas, *An Introduction to the International Criminal Court (Fourth Edition),* pages 8-9, Cambridge University Press, 2011, ISBN 978-0-521-15195-5

19. "Enforced Disappearances" or "Disappearances" is when a person is taken into custody/arrested in a secret manner, and then is incarcerated and/or murdered. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (second edition),* pages 165-166, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

20. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (second edition),* page 274, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

21. *About the ICTY,* https://www.icty.org/en/about [accessed 6 June 2020]

22. United Nations Security Council Resolution 955 (1994), http://unscr.com/en/resolutions/doc/955 [accessed 6 June 2020]

23. Introduction to the ECCC, https://www.eccc.gov.kh/en/introduction-eccc [accessed 6 June 2020]

24. International Criminal Tribunal for the former Yugoslavia, https://www.icty.org/ [accessed 6 June 2020]

25. *Prosecutor v. Milomir Stakić,* IT-97-24-T, International Criminal Tribunal for the former Yugoslavia, available at https://www.icty.org/case/stakic/4 [accessed 6 June 2020]

26. *Prosecutor v. Radovan Karadžić,* IT-95-5/18-T, International Criminal Tribunal for the former Yugoslavia, available at https://www.icty.org/x/cases/karadzic/tdec/en/091109.pdf [accessed 6 June 2020]

27. *Prosecutor v. Popović et al.*, IT-05-88-T, International Criminal Tribunal for the former Yugoslavia

28. *Prosecutor v. Popović et al.*, IT-05-88-T, International Criminal Tribunal for the former Yugoslavia, available at https://www.icty.org/x/cases/popovic/tjug/en/100610judgement.pdf [accessed 6 June 2020]

29. Lt Gen Roméo Dallaire (ret'd), *Shake Hands with the Devil: the failure of humanity in Rwanda,* Vintage Canada Edition, 2004, ISBN 978-0-679-31172-0

30. Roy Gutman et al. (editors), *Crimes of War: What the Public Should Know (second edition),* pages 126-131, W.W. Norton & Company, 2007, ISBN 978-0-393-32846-2

31. *The Prosecutor v. Augustin NGIRABATWARE,* ICTR-99-54-T, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/20120723-dco-9954-02-en.PDF [accessed 6 June 2020]

32. *The Prosecutor v. Augustin NGIRABATWARE,* ICTR-99-54-T, International Criminal Tribunal for Rwanda, available at https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-99-54/trial-judgements/en/121220.pdf [accessed 6 June 2020]

33. *The Prosecutor v. Juvenal KAJELIJELI,* ICTR-99-44A-T, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/doc37276.PDF [accessed 6 June 2020]

34. *The Prosecutor v. Théoneste BAGOSORA et al. (Military I), ICTR-98-41-T*, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/20070411-dco-9841-02-en.pdf [accessed 6 June 2020]

35. *The Prosecutor v. Théoneste BAGOSORA et al. (Military I), ICTR-98-41-T*, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/doc57211.pdf [accessed 6 June 2020]

36. *The Prosecutor v. Pauline NYIRAMASUHUKO et al.*, ICTR-97-21-T and ICTR -98-42-T, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/doc57431.PDF [accessed 6 June 2020]

37. *The Prosecutor v. Pauline NYIRAMASUHUKO et al.*, ICTR-97-21-T and ICTR-98-42-T, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/doc58043.PDF [accessed 6 June 2020]

38. *The Prosecutor v. Pauline NYIRAMASUHUKO et al.*, ICTR-98-42-T, International Criminal Tribunal for Rwanda, available at https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-98-42/trial-judgements/en/110624.pdf [accessed 6 June 2020]

39. *Ferdinand NAHIMANA et al. v. The Prosecutor,* ICTR-99-52-A, International Criminal Tribunal for Rwanda (In the Appeals Chamber), Decision of 27 March 2007 "Second Order Extending the Scope of the Examination by the Handwriting Expert Appointed by order of 7 February 2007"

40. *The Prosecutor v. Théoneste Bagosora et al.*, ICTR-98-41, International Criminal Tribunal for Rwanda, available at http://ictrcaselaw.org/docs/doc58711.pdf [accessed 6 June 2020]

41. *Evan a 'Big Man' Must Face Justice Lessons from the Trial of Charles Taylor*, Human Rights Watch, 2012, ISBN 1-56432-912-7

42. *The Prosecutor of the Special Court v. Charles Ghankay Taylor,* SCSL-2003-01-T, Trial transcripts 9-10 July 2010, pages 44119-44319

43. *The Prosecutor of the Special Court v. Charles Ghankay Taylor,* SCSL-2003-01-T, Trial Chamber II, Judgement, 18 May 2012, available at http://rscsl.org/Documents/Decisions/Taylor/1283/SCSL-03-01-T-1283.pdf [accessed 6 June 2020]

44. *Rome Statute of the International Criminal Court*, Published by the International Criminal Court, The Hague, The Netherlands, ISBN 92-9227-227-6, also available at https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf [accessed 7 June 2020]

45. Proceedings against Mr Lukwiya were terminated on 11 July 2007 due to his death on 12 August 2006, ICC-02/04- 01/05-248, https://www.icc-cpi.int/CourtRecords/CR2007_03469.PDF [accessed 7 June 2020]

46. Mr Ongwen surrendered to ICC custody on 16 January 2015 and made an initial appearance on 26 January 2015; https://www.icc-cpi.int/Transcripts/CR2015_01748.PDF [accessed 7 June 2020]

47. United Nations Security Council Resolution 1593 (2005), https://www.icc-cpi.int/NR/rdonlyres/85FEBD1A-29F8- 4EC4-9566-48EDF55CC587/283244/N0529273.pdf [accessed 7 June 2020]

48. United Nations Security Council Resolution 1970 (2011), https://www.icc-cpi.int/NR/rdonlyres/081A9013-B03D- 4859-9D61-5D0B0F2F5EFA/0/1970Eng.pdf [accessed 7 June 2020]

49. International Criminal Court, Pre-Trial Chamber II, *Situation in the Republic of Kenya,* ICC-01/09, https://www.icc-cpi.int/kenya [accessed 7 June 2020]

50. *The Prosecutor v. Mathieu Ngudjolo Chui*, ICC-01/04-02/12, Judgement (translated from French) of 18 December 2012, available at https://www.icc-cpi.int/CourtRecords/CR2013_02993.PDF [accessed 7 June 2020]

51. *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, Judgement of 14 March 2012, available at https://www.icc-cpi.int/CourtRecords/CR2012_03942.PDF [accessed 7 June 2020]

52. *The Office of the Prosecutor of the International Criminal Court Establishes a Scientific Advisory Board,* Press release ICC-OTP-20140627-PR1022, available at https://www.icc-cpi.int/Pages/item.aspx?name=pr1022&ln=en[accessed 7 June 2020]

53. Celeste Hicks, *The Trial of Hissène Habré : How the People of Chad Brought a Tyrant to Justice*, pages 67, 70, Zed Books Ltd, 2018, ISBN 978-1-78699-183-6

54. *Statute of the Extraordinary African Chambers*, Article 3, Dakar, Senegal (unofficial translation from French to English from Human Rights Watch)

55. Celeste Hicks, *The Trial of Hissène Habré : How the People of Chad Brought a Tyrant to Justice*, pages 15-44, Zed Books Ltd, 2018, ISBN 978-1-78699-183-6

56. *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgement, International Court of Justice, p.422, 20 July 2012, ISBN 978-92-1-071147-0

57. Celeste Hicks, *The Trial of Hissène Habré : How the People of Chad Brought a Tyrant to Justice*, pages 73, 100, Zed Books Ltd, 2018, ISBN 978-1-78699-183-6

58. UNHCR Statistics The World in Numbers, http://popstats.unhcr.org/en/overview#_ga=1.1490737.1410439585.1452783218 [accessed 7 June 2020]