



F30 The International Criminal Court and the Forensic Science Community

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Learning Overview: After attending this presentation, attendees will be familiar with the International Criminal Court and understand the role of the forensic science community in matters of the court.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by familiarizing attendees with the court and the role of forensic science in court prosecutions.

Brief Synopsis: International criminal prosecutions of the International Criminal Court (ICC) use forensic evidence. A Scientific Advisory Board (SAB) of the Office of The Prosecutor (OTP) oversees this evidence. It is thought by some that the Academy should participate in this board.

The ICC is the product of the Rome Statute, which was adopted in 1998 and went into force in 2002.¹ The ICC is located in the Hague, Netherlands. The ICC follows in the tradition of the Nuremberg trials, and the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) tribunals. Unlike these *ad hoc* predecessors, the ICC is a permanent standing fixture.²

The ICC is an international organization (IO), independent from, but associated with, the United Nations (UN). The International Court of Justice (ICJ) is the primary judicial organ of the international community for settling civil disputes between nation-states, while the ICC prosecutes criminal cases.

Through prosecution of crimes against humanity, the hope is that the ICC will be an instrument of world peace. It is the court of last resort for the most serious crimes of concern to the international community. Specifically, the court has jurisdiction over genocide, crimes against humanity, war crimes, and crimes of aggression. The Statute allows the ICC to prosecute crimes committed on the territory of a court member or by a national of a court member. A member state may refer a situation, the UN Security Council may do so, and the prosecutor may, under the so-called *proprio motu* power, initiate an investigation. The ICC accepts cases when national judicial systems are unable or unwilling to prosecute. The ICC will not prosecute persons under the age of 18 years.

The ICC is governed by the *Assembly of State Parties*, which consists of representatives of the current 123-member states. Many of the world's major powers are not members, citing national sovereignty concerns. The ICC consists of four organs: The Presidency, The Chambers, The Office of the Prosecutor, and The Registry. The ICC is dependent upon cooperation of nations to do its work; it has no police force of its own.

The ICC has had to establish its own criminal law, but to date does not yet have a well-developed and robust body of evidence law. Forensic evidence is used in the prosecutions. A Forensic Science Section was created in the Office of the Prosecutor. Dr. Eric Baccard was the first head of the Section. Forensic pathology and forensic anthropology were the primary scientific evidentiary disciplines, but now digital evidence and satellite imagery play a larger role. The American Association for the Advancement of Science (AAAS) has recently published recommendations with regard to geospatial evidence.³

The creation of a Scientific Advisory Board (SAB) was recommended by Dr. Baccard in 2005 and 2007, and then was incorporated into the recommendations of the Human Rights Center of the UC Berkeley Law School in 2012. A planning meeting was held in 2013. The inaugural meeting of the SAB was held in 2014. Dr. Duarte Nuno Vиейro was elected the first SAB Chair. The SAB is composed of the Presidents, or their designees, of 18 international forensic and legal medicine associations. The SAB membership does not include the American Academy of Forensic Sciences (AAFS); as the AAFS is the largest international forensic science organization, this seems unfortunate.

Reference(s):

1. International Criminal Court website: <https://www.icc-cpi.int/Pages/Main.aspx>.
2. AAAS website: *Geospatial Evidence in International Human Rights Litigation: Technical and Legal Considerations*, <https://www.aaas.org/report/geospatial-evidence-international-human-rights-litigation>.
3. Bosco D. *Rough Justice: The International Criminal Court in a World of Power Politics*. Oxford University Press, NY, NY, 2014.

International Criminal Court, Human Rights, Crimes Against Humanity