Introduction

Throughout history, humanity has witnessed atrocities committed against individuals or populations, principally as a result of political, cultural or racial issues. During the twentieth century, millions of innocent lives were lost as the result of such events as the Holocaust and the Cambodian “killing fields” [1,2].

It is during this period of history that the international community evolved processes of instituting justice by the means of proposing and ratifying legal proceedings and institutions where they could be reasonably applied. The road towards establishing an International Criminal Court has not been a smooth one, but in the context of the twenty-first century it has finally become a reality.

The present article is intended to illustrate how these processes have evolved over time, and how the roles of the forensic archaeologist and anthropologist have become integral elements in the investigation of crimes on behalf of inter-governmental and non-governmental organizations by searching, recovering and identifying the human remains of those who have perished.

The Twentieth Century

During the twentieth century, the world witnessed large-scale abuses that were perpetrated against a variety of groups and individuals that claimed millions of lives. In part, these situations came to be as a result of governments inflaming ethnic, racial, national, geographical, and religious sentiments. Such abuses are still prevalent today, being the result, in part, of the manipulation of information through the media, and by carefully fanning the flames of deep-seeded sentiments [3].

Included within the multitude of atrocities committed in the past century are tens of thousands killed under orders from General Francisco Franco during the Spanish Civil war [4] and the Holocaust perpetrated by the Nazis involving the extermination of the Jews, and a sizeable percentage of the Polish population who were either put or worked to death in the gulags under the instructions of Stalin and the People’s Commissariat for Foreign Affairs (NKVD, later known as the KGB) [5,6]. Other examples include the crimes carried out in Ethiopia for 14 years under Mengistu’s leadership after the monarchy was overthrown in 1974, and the “killing fields” of Cambodia that were filled with approximately 3 million victims of Pol Pot’s Khmer Rouge regime between 1975 to 1979 [7] (Figure 1). The results of “Operation Condor”, directed by the Chilean Pinochet regime, claimed over 100,000 victims, comprised political prisoners or enemies of the state who were tortured and killed during his dictatorship between 1973 and 1990 [8]. Nearly 3,000 politically persecuted Argentinians succumbed during the “dirty war” from 1976 to 1978, while in Guatemala during the 1980s, the Mayan population was persecuted resulting in the deaths of thousands of individuals, while others have been removed from their properties or have simply “disappeared” [1,8]. The conflict in the Balkans during the 1990s claimed the lives of thousands of Muslims and other groups within the former Yugoslavia (Figure 2). Finally, the genocide carried out against the Tutsi population in Rwanda from April to June of 1994 is widely considered to have had a greater intensity than any other act perpetrated in recent times, simply due to the immense volume of lives that were extinguished in such a relatively short period of time [7,9].

Not all of such incidents have received the same amount of coverage in the media or have been acted upon robustly in order to prevent their occurrence, as a result of political motivations and what happened to be of interest in the world at the time. Additionally, in many of the cases, the guilty parties have walked away from such acts without suffering any substantive legal consequences. Nonetheless, those cases that have received a wider coverage have served collectively to create a greater public awareness with regard to human rights violations [3,7] and in turn the public has, at times, demanded that legal channels be pursued in order to arrest the impunity with which such crimes are often committed.

The Katyn tragedy

The massacre of 15,000 individuals comprising officers of the Polish military and the intellectual elite of Poland, occurred within an area of Soviet territory know as the Katyn Forest, where mass graves were created in order to conceal the crime. Events leading to this act were put into motion during August of 1939, when the political situation in Europe was extremely tense, with the next World War on the horizon. Hitler and Stalin signed a mutual Non-aggression Pact, which was intended to partition between the two the Baltic States, Finland, Poland and Bessarabia. During early September of the same year, Poland was invaded by Germany, with the Soviet Union sending the Red Army into the same country soon afterwards. Following the invasion, the Boundary and Friendship Treaty was signed, which specified no toleration with regard to uprising within Poland.

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Key words Forensic science, human rights, atrocities, Katyn, international community, forensic archaeology, forensic anthropology.
Figure 1 One of the information centres in Cambodia. (Courtesy of Ms Chloe Spencer.)

Figure 2 One of the many cemeteries along the roads of Kosovo.

Figure 4 One of the bodies being autopsied in the field. Note the entrance bullet wound at back of the head. (Property of the Polish Library, London.)

Figure 3 Execution and burial site at Katyn. (After Mackiewicz 1951, p 143.)
causing significant proportions of the Polish population to be sent to the gulag-detention camps within the Soviet Union, where over one and a half million Poles died as a result of overwork, starvation, cold and sickness, while others died in labour camps and as prisoners of war [5,6,10,11].

As the invasion continued in 1939, the Polish military infrastructure was not able to withstand the effects of the German Blitzkrieg, and the country soon fell, in spite of mutual agreements with Britain and France who were treaty-bound to defend Poland if it came under attack [5]. The 15,000 officers and members of the Polish intellectual elite in question were detained in three major camps: Kozielsk, Starobielsk and Ostashkow, which were all abandoned monasteries in Russia. Of these individuals, approximately 8,000 were never accounted for, and roughly 400 were later found alive. Between April and May of 1940, the three camps were dismantled and ceased to exist [5,12]. It was after the spring of 1940 that the families of those detained, as well as the Polish officials, wanted to know the whereabouts of these prisoners since they had not been heard of since their initial disappearance [5,13,14].

When Germany invaded Russia in June of 1941, the latter was in an isolated position politically and strategically, and was in desperate need of allies. It was then that the Soviet Union signed an agreement with Poland that granted amnesty to the Polish people, the return of prisoners and initiated a mutual undertaking to join forces in order to fight the common enemy of Germany. As the prisoners were released, it became evident that many were missing. Only approximately 400 of the officers that had originally disappeared were left alive; these had originally been taken from three camps and sent to Povlishchev Por, and finally to camp Grizhovitz, where they were eventually liberated during 1941 [5,12,13].

After searching for the missing officers, it became apparent that they were not detained in a German or Russian labour camp, and were certainly not in Poland. Searches and letters to governmental officials produced no positive results; the war was continuing and there was confusion as to the whereabouts of the hundreds of thousands of people that had gone missing. When questioned, the Soviet government indicated that they had been released, but that they had no idea as to what might have happened to them. The Soviets were evasive with their responses, even to top officials that were conducting the search [5,13].

In the summer of 1942, some of the Polish prisoners who were part of German labour units learned about executions carried out in the Katyn forest, near Smolensk, and the subsequent burial of the bodies in the woods upon Goat Hill (Figure 3). They dug up some of the areas, and uniformed bodies were discovered. However, they could not continue with their search, and many witnesses were afraid to speak out [15].

Early in 1943, German officials present in the Katyn forest area were informed by locals about the killings and what was known: rumours of soldiers having been executed in the area, and how they witnessed Polish soldiers arrive in the vicinity by train and then transported by trucks to an area known as Goat Hill. However, the soldiers never returned, and it was indicated that shots had been heard, and that man-made irregularities had been discovered in the soil. Eventually, some formal testimony was given on the matter. The area in question was shown to officials, and consisted of a wooded hilly area within Katyn forest, along a road that led to the People's Commissariat for Foreign Affairs' retreat home, where executions had taken place for many years. The area had been guarded by the Soviet authorities since 1918, but in 1940 it had become more so. Executions had become more frequent, and as a result, locals chose to avoid the area [13,5,12].

Further investigations resulted in the discovery of several mass graves. Aware of the murders, Polish officials requested the intervention of an international organisation in order for neutral personnel to investigate the findings, e.g. the International Red Cross in Geneva. The German Red Cross also wished to be involved, and the latter was willing to provide the necessary infrastructure in order to conduct the investigation. The International Red Cross was willing to participate in the investigation, provided that all parties concerned agreed to it, meaning the German Red Cross, and the Polish and Soviet governments. But the Soviets refused to participate, accusing the Germans of the massacre, and in turn, the Germans duly accused the Russians. In view of the circumstances, the German Red Cross invited representatives of the Polish Red Cross and journalists and individuals from across Poland to participate in an international committee. Experts in forensic medicine from various European countries, excluding Germany, were also encouraged to attend. The investigators were given the infrastructure and freedom to do the necessary work. They were primarily asked to determine the identification of the victims, the causes of death and when the killings occurred [5,11,12,15].

During March of 1943, once the ground had thawed out, the German authorities conducted the exhumations. The bodies were discovered packed tightly together, face down and in most cases resting in several layers, with the largest grave containing over 2,000 bodies. All had been shot at close range in the back of the head with a pistol, and most had their heads covered with their own coats. Some were mummified, while others had their hands tied back and their mouths filled with sawdust. Others exhibited fractured mandibles and bayonet wounds. The clothing found upon the corpses was typical of that associated with uniforms of the Polish Army [5,15,16].

The bodies were examined in the field as they were discovered (Figure 4); some of the personal belongings indicated that they were executed during March and April of 1941. Evidence of this relies on the entries in the diaries, dated letters and newspapers discovered with the bodies. Additionally, young coniferous trees had been planted in the area, which were subsequently examined by a forestry inspector, whose opinion was that the trees in question had been planted three years earlier. Spent pistol cartridges within and outside of the graves were of 7.65 mm calibre and were of German manufacture [5,11,16].
While examining the corpses, it became evident that the individuals had all been shot at the base of the skull at close range, with the exit usually being at the level of the forehead. All individuals had been killed in the same style by expert shooting, which appeared to have been accomplished in a systematic manner [5]. A total of eight mass graves were discovered, containing a total of 4153 individuals, of which approximately 2,850 were eventually identified, based upon the personal documents found in relation to the bodies. Some individuals happened to constitute a considerable part of the list of missing prisoners from camp Kozlisk. The rest could not be identified by name, but their respective ranks were known based upon the uniforms that they wore [4,16]. After their examination, records were made of all items in association with the bodies. The individuals were subsequently reburied in a new grave with the Polish Red Cross present. Their report was forwarded to the German Reich Health Department in June of 1943. After the fact, the group dissolved and no monetary compensation was received. The German information bureau then published a document called: "The Official Statement Concerning the Mass Murder of Katyn" [5]. Based on the forestry investigation, dates found in some of the personal documents, and the condition of the individuals that were examined, it was estimated by the investigating committee that the executions were carried out three years prior to the investigation commencing. Under this finding, it also was pointed out that Germany had not invaded the Soviet Union until 1941, and that the German ammunition in question had been sold to the Soviets several years previously. It was stated that the available evidence indicated that the Russians had committed the crime. The Polish Red Cross independently arrived at the same conclusions [5,12,13]. Although the actions taken by the German officials in assembling an international investigating committee, and the subsequent report of the International Medical Commission was revolutionary at the time with regard to investigating a massacre by independent personnel, it should be noted that the investigators were present at the site for only two days at the end of April 1943, and performed nine post-mortem examinations [5]. When the Soviet Union took control of the Katyn area in September of 1943, it organized the "Extraordinary State Commission for Ascertaining and Investigating the Crimes Committed by the German Fascist Invaders and their Associates", which was run by the USSR Supreme Council during November 1943. At the beginning of 1944 this Commission created in turn a "Special Commission" with all-Soviet personnel, and which did not visit the scene or examine evidence that was discovered there. The corpses were then re-exhumed during early 1944, and the results were published in a booklet after four months of work. The findings from the Soviets indicated that Germany was now responsible, as the "personal items" were planted in the bodies to alter the dates, since no newspapers were discovered that were dated more recently than 1940, and that the victims had been residents of German POW camps. They did not address why some 400 had been set free, with the balance having "disappeared", why the inquiries conducted by the Polish people before the discovery of the graves had received evasive responses from the Soviets, or the suggestions that the rest of the individuals may have gone somewhere else and had not made their way back to Poland. Their story, it was felt, had many inconsistencies [5,11,13,14,15,16]. During the Nuremberg trials, the Katyn massacre was not given prominence, as it was difficult to make a strong case against Nazi Germany, although Soviet prosecutors tried their best to do so [5,13,14]. There were, however, repercussions against some of those who participated in the International Medical Commission. One individual, Prof. Naville of Switzerland, was questioned during 1946 by the Swiss Grand Council, upon the instigation of a member of the Swiss Communist Labour Party. During 1945, another Commission member, Dr Markov of Bulgaria, withdrew his signed statement within the report presented to the International Medical Commission. Bulgaria was then under Soviet occupation, and was at the time trying German war criminals. Under fear for his life, Dr Markov rescinded his findings, and his indictment was dropped. At the conclusion of the Nuremberg Trials of 1946, Dr Markov did the same when questioned about his involvement [15]. In 1950, ten years after the killings had occurred, the 82nd Congress of the United States appointed a Select Committee to address the Katyn massacre and their findings indicated that the People's Commissariat for Foreign Affairs had conducted the killings [14]. Since then, the Russian government has acknowledged their involvement and responsibility in the Katyn massacre. Although the investigation of the Katyn massacre is far removed from the work carried out by modern forensic teams, it can be considered to be one of the first examples of the utilization of international experts in order to investigate a serious breach of human rights and arrive at an impartial verdict of the events. **Human Rights and the International Community** The events that took place during World War II served as a catalyst for the creation of a series of legal proceedings and institutions, which served to define and implement the rights of individuals, and to judge those responsible for the crimes committed against the same. Historically, states not individuals were held accountable for atrocities that were committed. However, this changed during 1945 with the advent of the London Agreement, which established the military tribunal at Nuremberg in order to prosecute German officials at the conclusion of World War II. It is at this point in time that the offence defined as "crimes against humanity" was ratified, which not only holds responsible those individuals who have perpetrated the crime, but also acknowledges the severity of such manner of crimes as being an offence to the rest of civilization [2].
The concept of human rights also had its inclusion into legal terminology during the 1940s. In December of 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights in the form of resolution 217 A (III). This resolution contained specific articles pertaining to the rights of individuals under various circumstances, and was widely accepted by the international community [1].

The legal consequences to those who commit human rights abuses, usually fall into three categories: genocide, crimes against humanity and war crimes. The concept of genocide has its roots during the 1940s when Raphael Lemkin, a Polish born Jewish attorney, proposed the crime of genocide in 1944. Lemkin felt that terms used to describe the atrocities committed against the millions of civilians during the extermination camps and ghettos by the Nazi during World War II did not accurately describe the reality of the complete destruction of religious or social groups. In order to attain their intended objective, there had to be careful planning on behalf of the perpetrators in order to gain the extermination of the group in question on a large scale. Although particular actions may not be governmentally sponsored, the authorities carry a degree of responsibility in order for such occurrences to succeed on such a large scale, and in a systematic manner [3,7,17,18]. As a crime of international relevance, it was accepted in 1948 by the General Assembly of the United Nations, after the Convention for the Prevention and the Punishment of the Crime of Genocide came into effect in 1951 [8]. Although the term has evolved and changed in the manner of what is included within its parameters, the basic tenets always apply: when there is intent to destroy partially or in totality a national, ethnic, religious or racial group, by killing the members of the group or causing serious bodily or mental harm, affecting the quality of life, preventing births and transferring the children from the group in question to another group. What sets apart this crime from others is intent [8,18].

In general terms, crimes against humanity can be described as those crimes committed in a widespread and methodical way against a specific group, with full knowledge on behalf of the perpetrators. Such acts include murder, torture, extermination, slavery, apartheid, disappearance, or the persecution of a group on grounds such as political, religious or national grounds [3,18]. War crimes today indicates two types of category: international armed conflict which includes the appropriate conduct to be carried out among the combatants and the type of weapons not allowed in an armed conflict; and non-international armed conflicts. Such legislation is intended to protect the military as well as the civilian population, including rape and related crimes and also attacks to peacekeeping missions and humanitarian help amongst others. War crimes, unlike genocide and crimes against humanity, may be manifested as incidents that are isolated and not conducted by a large group [7,15,17]. As has happened with the term human rights, the legal concepts of these crimes have changed through time [1,18,19].

But it was not until the 1990s that international tribunals were created through the United Nations Security Council, when the International Criminal Tribunal for the former Yugoslavia (ICTY) was set up in 1993, and the International Criminal Tribunal for Rwanda (ICTR) was established during 1994 [2,3,19], allowing the legal processes to be conducted in an impartial environment, and those who conduct the investigations and give statements will be free to do so without any fear of reprisal.

At the beginning of the twenty-first century the International Criminal Court became a reality after the United Nations sponsored the Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held in Rome in 1998. The Rome Statute was received with an overwhelming amount of votes in favour. Its creation allows the court to have jurisdiction over crimes committed worldwide that are of such magnitude that they are deemed to be of international concern, and which have been perpetrated by individuals after July 2002, when the Statute was ratified. It is expected that national courts will deal with cases as they arise, but if it is not possible, or if they are unwilling to do so, then the International Criminal Court can step in [18].

This court should not be confused with the International Court of Justice that deals with issues concerning countries, or the tribunals for the Former Yugoslavia or Rwanda, which possess a limited geographical scope [18].

**Forensic Archaeology and Anthropology**

As a product of the phenomenon of globalisation, there now exists a worldwide consciousness with regard to the abuses committed against specific groups, courtesy of the mass media and the World Wide Web. Not only is there more awareness, but also in turn there has been a more public outcry demanding that questions be answered and justice be done.

It is also due to this phenomenon that non-governmental organizations (NGOs) have sprung up from various nations in order to provide, among many services, humanitarian aid and to aid in an impartial manner in the investigation of alleged violations of human rights [19]. These organizations, although part of a team effort, serve to facilitate the investigations needed on behalf of the inter-governmental organizations (IGO) like the United Nations, by setting up the needed infrastructure, and organizing and conducting the work at hand.

As part of these efforts, forensic archaeologists and anthropologists form an integral part, contributing their skills in the search, recovery and identification of human remains, work that is often a result of civil war and international armed conflicts. These professionals deal with the results of the aftermath, with the ultimate goal being to help bring justice to the victims and enabling the surviving relatives to go through the rites of passage of grieving and finally laying their loved ones to rest.

Several forensic teams have come into existence due to the need for impartial examination of work done in the field, searching for and processing human remains, in addition to working in the mortuary. In the case of the United Kingdom, the Foreign and

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The Development of Human Rights Investigations since 1945

The Commonwealth Office has facilitated such work in the Balkans. Two recently created organizations, Centre for International Forensic Assistance (CIFA), and the International Forensic Centre of Excellence (INFORCE) serve to conduct investigations wherever they are required by utilizing professionals not only in the field of forensic archaeology and anthropology, but also for example, forensic pathologists, radiologists, exhibits officers and photographers. It is a team effort, and once in the mortuary, forensic anthropologists can help in the removal of flesh, aid in the reconstruction of fragmented remains, and also serve to create a biological profile (sex, age, stature, individual characteristics, etc.) and identify trauma present in the bones.

The work to be performed can entail long hours and working under pressure with an infrastructure that may or may not be the optimum, all dependent in part on the conditions and circumstances where the work is being carried out. For this reason, as a general rule, those who participate do so for specified periods of time, or those intending to stay for almost the entire length of the mission are granted prophylactic periods of rest.

British teams so far have contributed not only to the International Criminal Tribunal for the former Yugoslavia, but also in the manner of humanitarian aid when the identification of relatives.

In order for such work to be carried out, these teams need to be guaranteed freedom of movement in the region in question, and access to any information or documentation that aids in the work at hand. Part of the work to be conducted also depends in part on the witness statements of those who have survived the assaults. Therefore, guarantees of protection to the witnesses are a requirement beforehand. For the work to be valid, the conclusions of a report must be based on facts that come to light during the mission [18, 19, 20]. In cases where investigations are being carried out during the aftermath of the act in question, the intervention of peacekeeping forces through the United Nations or through the North Atlantic Treaty Organization may be required.

The information gathered is then passed on to concerned international organizations and the United Nations in order to create international pressure upon the country in question, and implement international sanctions to those responsible for the atrocities committed, serving to bring justice to the dead and the survivors [1].

Nonetheless, such involvement may be halted due to access being denied by the countries or governments under investigation. Those involved in such investigations may be put at personal risk. Other drawbacks with regard to the organization of an international mission are the lack of funding, political instability within affected regions, unexploded ordnance remaining as a by-product of recent military action, on-going violent confrontations and other circumstances that may put the participants in danger [20].

Conclusion
The realisation of an international body to oversee the application of justice to the victims and stop impunity has been a long road, originating from the atrocities committed during World War II and the creation of the military tribunal at Nuremberg. Fifty-eight years later the International Criminal Court has become a reality, and it is expected to enable the legal processing of many cases to become possible.

In due course forensic archaeologists and anthropologists will become even more intimately involved in the investigation of human rights abuses, especially considering the new state of international law.

References