I.   BACKGROUND

Approaches towards the investigation and prosecution of international crimes are in flux. Technology develops much faster than domestic and international legal frameworks. Cyber-criminality poses novel threats to governments, companies and traditional criminal justice systems. Forums, such as the internet, social media, and smartphones are used by individuals to commit crimes across international borders. Media providers are increasingly required to balance free speech protections with the need to curtail the spread of violence and crime through the internet. At the same time, modern technologies help to strengthen accountability. Crimes are more difficult to hide. More and more violations are documente and recorded through new technologies. This poses new challenges for investigations, criminal procedures and enforcement practices. There is a strong trend towards to the privatization of information gathering and investigation. Domestic and international courts face challenges as to how to rely on open source evidence in criminal or terrorist trials (e.g., foreign fighters). Private organizations, such as Bellingcat, have managed to reconstruct essential patterns of the MH17 attack through open-source investigation. Private entities are called to preserve material for purposes of verification or cooperation with public authorities. In Syria, international crimes have been investigated by multiple investigative entities, such as the UN mandated International, Impartial and Independent Mechanism (IIIM), the Commission for International Justice and Accountability (CIJA) and the OPCW-UN Joint Investigative Mechanism (JIM). International and domestic courts must develop new techniques to verify the reliability of open-source material and privately recorded information (e.g., videos, images) and translate it into evidence, while preserving fairness and due process guarantees. Cross-border data flows require effective cooperation and legal assistance.

This course explores these novel challenges. It starts with a discussion of the state-of the-art and challenges of combating cyber-criminality. It then explores new trends and challenges in the monitoring and investigation of international crimes through novel technologies, including evidentiary and due process challenges. It includes a discussion of the interplay of institutions mechanisms in the Syrian context. It then reviews trends and developments regarding enforcement, including universal jurisdiction. It concludes with a discussion on the changing system of extradition and mutual legal assistance.
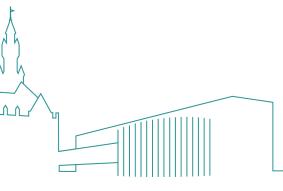
THE HAGUE ACADEMY OF INTERNATIONAL LAW

ADVANCED COURSE ON
INTERNATIONAL CRIMINAL LAW

Special focus: International Criminal Law in an Age of Innovation:
New Technologies and Changing Enforcement Strategies

Programme
12 - 16 November 2018, The Hague

International Criminal Law, New Technologies and Cyber-Crime

Morning

8.30 – 9.00 *Registration and Coffee*

9.00 - 9.30 *Welcome (Historical Reading Room)*
Prof. Jean-Marc Thouvenin, Secretary-General of The Hague Academy
Prof. Carsten Stahn, Leiden University

9.30 - 10.15 *Opening Keynote: International Human Rights Accountability in The Digital Age*
Prof. David Kaye, University of California, Irvine School of Law, UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

10.15 - 10.45 *Q & A*

Break

11.00 – 12.30 *Panel Discussion: New Technologies and International Criminal Justice: Opportunities, Threats and Challenges*
Including Prof. David Kaye; Mr. Félim McMahon, Technology and Human Rights Program Director, Berkeley Human Rights Centre; Ms. Cristina Ribeiro, Investigation Coordinator, International Criminal Court; Mr. Nigel Povoas, Special Tribunal for Lebanon

12.30 – 13.30 *Lunch*

Afternoon
13.30 - 14.00 *Introduction Round (Seminar Room)*

14.15 – 15.45 *International Criminal Law and New Technologies: An ICC Perspective*
Speaker: Mr. Gilles Dutertre, Senior Trial Lawyer, International Criminal Court

16.00 – 17.30 *Cybercrime and Electronic Evidence: Experiences from Practice*
Speaker: Ms. Teresa Magno, Vice-Chair of the Cybercrime Team, Eurojust

17.30 *Welcome Drinks*

TUESDAY 13 NOVEMBER 2018

International Crimes and New Technologies: Evidentiary Issues

Morning
9.00 – 11.00 *Human Rights Fact-Finding and Collection of Open-Source Material*
Speakers: Dr. Alexa Koenig, Executive Director, Berkeley Human Rights Centre; Mr. Félim McMahon, Technology and Human Rights Program Director, Berkeley Human Rights Centre

11.15 - 12.45 *New Technologies and Procedural Challenges (Evidence, Due Process)*
Speaker: Prof. Göran Sluiter, University of Amsterdam

12.45 *Group photo in front of the Peace Palace*

13.00 – 14.00 *Lunch*

Afternoon
14.00 – 17.00 *Discussion: Guidelines on Treatment of Open Source Evidence: State-of the art*
Speakers: Dr. Alexa Koenig and Ms. Lindsay Freeman, Berkeley Human Rights Centre;
Mr. Virgil Ivan-Cucu, EUROMED Justice

WEDNESDAY 14 NOVEMBER 2018
Crimes and New Technologies: Changing patterns of monitoring and investigation

Morning
9.00 - 10.30 *Role an of Fact-Finding and Investigative Bodies – Insights from Practice*
Speaker: Dr. Emma Irving, Leiden University

11.00 – 13.00 *Privatization of Fact-Finding and Investigative Bodies – Insights from Practice*
Speaker: Dr. William Wiley, Executive Director, Commission for International Justice and Accountability (CIJA)

13.00 – 14.00 *Lunch*

Afternoon
14.00 – 15.30 *Open source investigation: Role and Experiences of Bellingcat*
Speaker: Mr. Nick Waters, Open Source Analyst and Author, Bellingcat

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15.30 – 17.00 *Case Study Syria*
Including perspectives from:

- Dr. Dan Saxon, Leiden University (formerly UN Commission of Inquiry);
- Mr. Simon Minks, Senior National Prosecutor, The Netherlands

17.15 *Guided tour of the Peace Palace (Group 1)*
18.05 *Guided tour of the Peace Palace (Group 2)*

THURSDAY 15 NOVEMBER 2018
New Technologies and Enforcement

Morning
9.00 – 12.00 *Visit to the International Criminal Court*
- Meeting with ICC Judge Chang-ho Chung: The ICC and New Technologies in the Courtroom
- Courtroom Visit

12.30 – 13.30 *Lunch*

Afternoon
Preparation time exercise

16.00 – 17.30 *Practical Exercise*
Speaker: Dr. Emma Irving, Leiden University

FRIDAY 16 NOVEMBER 2018
Trends and Developments in the Law of International Cooperation and Assistance

Morning
9.00 - 10.30 *Experiences of the International, Impartial and Independent Mechanism on Syria (IIIM)*
Speaker: Ms. Michelle Jarvis, Deputy Head, IIIM

11.00 – 13.00 *Changing Law on Extradition and Mutual Legal Assistance*
Speaker: Prof. Mark Pieth, University of Basel

13.00 – 14.00 *Lunch*

Afternoon
14.00 – 16.00 *Criminal Investigations in a Digital World and Challenges for International Law: From Mutual Legal Assistance to Data Sharing Agreements?*
Speaker: Prof. Theodore Christakis, University Grenoble Alpes, IUF, French Digital Council

16.00 - 16.30 *Certificate Ceremony*

17.00 *Farewell Drinks*