



Jurisprudence and Legislation

Emotions and Cognition in International Criminal Justice: An Exploration from Cognitive Biases to Emotional Intelligence

Moa Lidén

Department of Security and Crime Science, UCL, UK and Law Faculty, Uppsala University, Sweden

ARTICLE INFO

Keywords:

International criminal justice
Emotion
Cognition
Cognitive bias
Emotional intelligence

ABSTRACT

Core international crimes such as genocide, war crimes and crimes against humanity are the backbone of international criminal law (ICL) and are also considered the worst atrocities known to mankind. Already with the establishment of the Nuremberg International Military Tribunal (IMT) in 1945, questions were raised as to how ICL practitioners; ranging from forensic psychiatrists to judges, are influenced emotionally and cognitively by the context in which they are working. Yet, research on such influences in practitioners' decision making has so far focused primarily on national criminal law and national jurisdictions, while ICL and international jurisdictions remain largely unexplored territory. Given the differences not only in terms of crime gravity, suspects and evidence but also the historical and political contexts, findings from national settings are not necessarily generalizable to ICL and international jurisdictions. The aim of this research is to tentatively explore the emotion-cognition interaction in ICL practitioners' decision-making processes specifically. While the paper acknowledges that there is a risk of cognitive bias and error which constitutes a threat to the rule of law, it also recognizes e.g. Emotional Intelligence (EI) as a potential promise to the administration of international criminal justice.

1. Introduction

'For these crimes no punishment is severe enough. It may well be essential to hang Göring, but it is totally inadequate. That is, this guilt, in contrast to all criminal guilt, oversteps and shatters all legal systems (...). We are simply not equipped to deal, on a human level, with a guilt that is beyond crime'

(Arendt, 1963; Douglas, 2016, p. 7)

The history of modern day international criminal law (ICL) is both long and complex (Bergsmo, 2017; Heller & Simpson, 2014; McCormack & Simpson, 1998), but one of the most important historical roots is the establishment of the Nuremberg International Military Tribunal (IMT) in 1945. Before the Nuremberg IMT, 24 defendants, including Herman Göring, were arraigned on charges of war crimes and crimes against humanity (Trial of The Major War Criminals before The International Military Tribunal, 1947).¹ As famously described by Hannah Arendt, one of the most influential political philosophers of the 20th century, the Nuremberg trials dealt with crimes of extreme gravity which, arguably, lack proportionate punishment (Bassiouni, 2013; Cryer, Robinson and

Vasilev, 2019, pp. 38–43). To the frustration of many of her readers, Arendt also argued that the perpetrators of these crimes were not necessarily malicious but rather thoughtless, and she called this the 'banality' of evil (Arendt, 1963). Clearly, the perpetrators were also evaluated by prison psychologists and psychiatrists (Agirre Aranburu, 2016). Interestingly, they had very different views about the accused. While Gustave Gilbert, a social psychologist and Austrian Jew, saw them as "narcissistic psychopaths" (Dimsdale, 2015; Gilbert, 1963, p. 139), Douglas Kelley, a psychiatrist from California, more clinical and detached, just considered them to be "creatures of their environment" (Dimsdale, 2015; Kelley, 1947, p. 139). Apart from the possibility of an emotional bias in the mental evaluations of the perpetrators, it has also been described how the trials themselves were unfair against the accused since the applicable law was designed to guarantee convictions (Cryer, 2005) and due to bias among the judges (Bianchi & Saab, 2019; Minear, 2015).

Since 1945 and up until today, similar questions have arisen not only in relation to alleged Nazi detention camp guards who face trials in their 80's or 90's (Douglas, 2016; Wagenaar, 1988) but also concerning other core crimes dealt with by for example the Nuremberg IMT's younger

E-mail address: moa.liden@jur.uu.se.

¹ Some of the others arraigned before the tribunal were Julius Streicher, Hans Frank, Rudolf Hess, Wilhelm Keitel and Baldur von Schirach.

sibling, the Tokyo IMT (1946),² the International Criminal Tribunal for the Former Yugoslavia (ICTY) (1993)³ and the International Criminal Tribunal for Rwanda (ICTR) (1994).⁴ More recently, in 2002, the Special Court of Sierra Leone (SCSL) was set up to address serious crimes against civilians and UN peacekeepers committed during the country's decade-long civil war (1991–2002). The same year, the International Criminal Court (ICC) became operative and, unlike the other Courts and tribunals, it is still operating today.⁵ A few years later, in 2009, the Special Tribunal for Lebanon (STL), sometimes referred to as the 'Hariri Tribunal', was established to hold trials concerning crimes related to terrorism,⁶ and more specifically the assassination of former Lebanese Prime Minister Rafik Hariri and 22 other individuals in an explosion in Beirut, in February 2005.⁷

Given the complexity of core international crimes, a range of practitioners in forensic, legal as well as other fields are involved in the investigations and proceedings. This includes, for example, forensic psychiatrists, crime scene investigators (CSIs), forensic pathologists, police officers, intermediaries, analysts, prosecutors and judges, jointly referred to as 'ICL practitioners' in the following. These practitioners are also involved in a range of decision-making processes such as examining mass graves or other scenes where multiple deaths have occurred following e.g. alleged terrorist attacks as well as interviewing and evaluating the testimony of suspected war criminals, genocidists, terrorists, victims and witnesses. Intuitively, it seems reasonable to believe that emotions play some role in their decision making but whether this is correct and what the more specific role is, remains unknown.

In any attempt to understand the role of emotions in decision making processes it is essential to acknowledge that emotion and cognition are not separate entities. In fact, the predominantly accepted view today, which stems from research in cognitive neuroscience, is that: "*complex cognitive-emotional behaviors have their basis in dynamic coalitions of network of brain areas*" (Pessoa, 2008, p. 148) and these "*conjointly and equally contribute to the control of thought and behavior*" (Pessoa, 2008, p. 148, p. 148). Furthermore, humans, including ICL practitioners, are not only emotional creatures with cognitive limitations etc., but they also operate within social groups such as investigative teams, and within organizations like Courts which have goals to fulfil and expectations to live up to (Lidén, 2020a). Hence, ICL practitioners' decision-making processes can be understood from the perspectives of for example cognitive, emotional/motivational, social, and organizational

psychology. Yet, this research focuses on the interaction between emotion and cognition specifically. Its aim is to tentatively explore the emotion-cognition interaction in ICL practitioners' decision-making processes. By doing so, this research also aims to inspire future data collections.

There are several examples of historical as well as ongoing cases which have generated emotional reactions due to the nature of the crimes alone, or also due to who the suspect is as well as more general political dimensions of the cases. For example, the SCSL dealt with multiple war crimes and more specifically the conscription, enlistment and use of child soldiers during e.g. the Sierra Leonian civil war (1991–2000) (Brima, Kamara, & Kanu, ; Norman et al.; Sesay, Kallon & Gbao; Lidén, 2020b). As confirmed by the convictions in these cases, the child soldiers were often drugged and coerced by their commanders to execute amputations of the hands or arms of civilians, as well as other types of inhumane and violent treatments (SCSL Taylor, ; Brima et al.). These circumstances still today generate public outrage (Human Rights Watch, 2008). Although the cases dealt with by the SCSL and the ICC are logically and legally separate, knowledge of the conditions under which child soldiers often live, is also a partial explanation of emotional reactions prompted by the prosecution of former child soldier Dominic Ongwen before the International Criminal Court (ICC) (The Prosecutor v. Ongwen; Stauffer, 2020). Ongwen is charged with having committed child soldiering crimes himself in Uganda (2002–2005) and the Trial Chamber is still deliberating on his guilt. Yet, another example is the genocide in Rwanda (1994) which still today spurs discussions not only for the pronounced ethnical dimensions but also for the large number of brutal killings (UN ICC, 2020; Deutsche Welle, 2019; 2020). Hence, core international crimes are for good reasons described as "*unimaginable atrocities that deeply shock the conscience of humanity.*" (Preamble, Rome Statute of the ICC, 1998). Currently, there is also much political and legal debate in the media regarding the ICC's ongoing investigation into war crimes in Afghanistan, allegedly committed by for example members of US intelligence and military (BBC, 2020; ICC, 2020; Smith, 2020; The New York Times, 2020). This, and related events, resulted in a politically and legally criticized executive order issued by the former US President (Executive Order, 2020), threatening sanctions against the ICC staff. The order has now resulted in sanctions against Fatou Bensouda, the ICC's Chief Prosecutor and Phakiso Mochochoko, the ICC's Director of Jurisdiction, Complementary and Cooperation Division (Borger, 2020). When announcing the sanctions, the US Secretary of State, Mike Pompeo, stated that the move was motivated by that the ICC "*continues to target Americans*" (Borger, 2020).

However, even if the cases are likely to generate emotional reactions, ICL practitioners, not the least the legal practitioners, have duties to remain impartial and objective. For instance, the prosecutor of the ICC has a duty to investigate both incriminating and exonerating circumstances equally (Rome Statute of the ICC, Art. 54). Additionally, the accused are entitled to fair and public hearings, to be presumed innocent until proved guilty and judges are expected to be impartial (SCSL Statute Art. 13, 15, 17, ICC Statute Art. 66, 67, ICTY Statute Art. 21, ICTR Statute Art. 12,19). Furthermore, as exemplified above, not only the ICL practitioners themselves may react emotionally but such reactions are also found in the general public as well as political leaders. Such reactions may in practice impair possibilities to for example conduct effective investigations, not the least considering the consent-based nature of the Rome Statute of the ICC⁸ and that some states have opposed the creation of the Court already from the outset (Bosco, 2014; Eboe-Osuji, 2019). Hence, it is vital to understand whether and how Emotional Intelligence

² The Tokyo IMT was set up to try the leaders of the Empire of Japan for joint conspiracy to start and wage war, see the Special Proclamation, Establishment of an International Military Tribunal for the Far East, 19 January 1946.

³ The ICTY was established following the Yugoslav wars of dissolution, see the Security Council Resolution 827 (1993).

⁴ The ICTR was set up following the Rwandan genocide, see Security Council Resolution 935 (1994).

⁵ Although there are still residual courts, see for example e.g. for the ICTY: <https://www.icty.org/> and for the ICTR: <https://www.unictir.org/>.

⁶ While crimes related to terrorism are primarily to be prosecuted in national jurisdictions, the STL is the only internationalized court which has jurisdiction over terrorist acts. According to the Statute of the SCSL (Art 2), this jurisdiction is over crimes under Lebanese, not international law, although the Appeals Chamber of the SCSL has held that terrorism is already a crime under customary international law, see Appeals Chamber, Ayyash et al. case, Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charing, 16 February 2011, para. 85. Also, terrorism is acknowledged as a possible war crime, for example in the Statutes of the ICTR and the SCSL and as a crime against humanity, not in Statutes but through the ICTY Judgment in Galic, see *Galic*, ICTY TC 1, 5 December 2003..

⁷ While the ICC applies ICL as determined by the Rome Statute of the International Criminal Court, the SCSL and the STL preclude the neat distinction between international criminal law and national criminal law and are referred to as 'hybrid Courts'. Furthermore, the STL is the only Court of an international character which deals with terrorism and related offences under the Lebanese Criminal Code.

⁸ This means that the very reason ICC has any jurisdiction at all is because the State Parties granted it jurisdiction in certain situations when perpetrators of core international crimes were not, or could not, be charged in their national jurisdictions. This could be because the suspects, due to their high-status positions as e.g. political leaders or heads of states, enjoy diplomatic immunities in their home countries.

(EI), the ability to understand and predict emotional reactions of others (Goleman, 1996, 1999; Goleman & Boyatzis, 2008), can be a useful tool in practice.

To fulfil the explorative purpose, this paper first provides a definition of emotion and briefly examines how emotions relate to applicable impartiality and objectivity standards (section 2). This section entails a brief examination of how emotion and cognition are intertwined in decision making processes, and how that can create for example cognitive biases. This is followed by discussions on two topics, that is, “Emotions – A Source of Bias and Error in International Criminal Justice?” (section 3) and “Emotional Intelligence (EI) – A Promise to the Administration of International Criminal Justice?” (section 4). These discussions are based on case studies, primarily *The Prosecutor v. Ayyash et al.* from the STL dealing with crimes related to terrorism, the *Prosecutor v. Taylor* from the SCSL about for example child soldiering charges and the ICC’s ongoing investigation into war crimes committed on Afghanistan territory. Lastly, conclusions and implications for future research are outlined.

2. Emotions – What are They and How do They Relate to Impartiality and Objectivity standards?

“Everyone knows what emotion is, until asked to give a definition”

(Fehr & Russell, 1984, p. 464)

Since most humans have experienced what fear and anger, as well as other emotions, feel like, most of us also tend to provide definitions of emotion in terms of the *subjective feelings* (Fehr & Russell, 1984). From a scientific point of view, such definitions are valid (LeDoux & Hofman, 2018, p. 67), but incomplete. Both within and between different scientific disciplines, emotions are understood differently (Damasio, 2018; Nussbaum, 2001a, 2001b; Richardson, 2012) and studied differently (Ask, 2006; Bandes, 2009, pp. 133–148; Bandes & Blumenthal, 2012; Bergman Blix & Wettergren, 2018; Rossner, 2019). The definition provided below stems from the field of *Emotion and Motivation Psychology* and has been chosen primarily because, in this field, emotions have been studied using a range of methodologies from the early 1900’s, leading up to the suggested definition in the 1970’s (Hull, 1951; Miller, 1971). Following this definition, emotions are:

- 1) *subjective feelings*, that is, the sensations of fear, anger, joy etc.,
- 2) *social phenomena*, through emotion expression we send recognizable facial, postural and vocal signs that communicate the quality and intensity of our emotionality to others,
- 3) *bases for motivation*,⁹ emotions motivate us, e.g. to reach certain conclusions and/or form motivation desires to act, as well as
- 4) *biological reactions*, i.e. energy-mobilizing responses that prepare the body for adapting to whatever situation one faces (Izard, 1993; Passer & Smith, 2008; Reeve, 2018)

According to this definition, emotional influences, in for example decision-making processes, can be both conscious and subconscious as well as somewhere in between (Berridge, 2018; Damasio, 2004; Greenwald & Banaji, 2017; James, 1884; Solomon & Corbit, 1974; Zajonc, 1980). For instance, a decision maker may be aware of feeling anger or fear, but he/she is not necessarily conscious of how these emotions may make him/her motivated to reach certain conclusions rather than others (see point 3 above). In accordance with the practice from both the European Court of Human Rights (ECHR, *Hauschildt v. Denmark*, *Saraiva de Carvalho v. Portugal*, *Padovani v. Italy*) and the ICC Appeals Chamber (*The Prosecutor v. Katanga and Ngudjolo Chui*, 2009; Klamberg, 2017) legal actors have duties to *be* impartial not just *appear to be* so.

⁹ In the psychological literature this is sometimes referred to as ‘agents of purpose’ but for clarity reasons and to emphasize the connection to motivation, this has been replaced with ‘bases for motivation’ in this paper.

Supposedly, this means that legal actors should be concerned with and try to prevent emotional influences that threaten their ability to reason impartially, regardless of whether the influences are conscious or subconscious. It is the *effect* on the behavior, and more specifically, the decision-making, that is relevant. For example, a police officer who is interviewing a suspected terrorist may consciously feel angry about the committed acts, but still be unaware that this makes him/her motivated to elicit a confession from the suspect. Such a motivation, even if it is subconscious, may cause the police officer to behave in ways that contradict professional interviewing standards or even the suspect’s right to be presumed innocent. Hence, the requirements established by the ECHR as well as the ICC Appeals Chamber seem to presuppose that legal actors can take control over such influences and, by doing so, they themselves are capable of ensuring that they do not deviate from what is expected of them. Since emotion and cognition together contribute to the control of thought and behavior (Pessoa, 2008, p. 148), and biases are often operating on a more or less subconscious level, these requirements have neuroscientific limitations.

The example of the police officer highlights how emotion and cognition are closely intertwined in decision making processes and furthermore how individuals are not in control of cognitive biases. This is essential since cognitive biases often result in behaviors which deviate from impartiality or other professional standards and, thereby, they are typically perceived as threats to the administration of justice. For example, *confirmation bias*, which has been studied and found in relation to *inter alia* police officers (Lidén, Gräns, & Juslin, 2018a; Rassin, Eerland, & Kuijpers, 2010), crime scene investigators (van den Eeden, de Poot, & van Koppen, 2016), forensic analysts (Kassin, Dror, & Kukucka, 2013), prosecutors (Lidén, Gräns, & Juslin, 2018b) and judges (Lidén, Gräns, & Juslin, 2018c; Rassin, 2020) entails a tendency to more or less subconsciously attend to and emphasize information that supports an already formed hypothesis such as a guilt hypothesis (Nickerson, 1998).

There is also a range of other biases or cognitive tendencies that are potentially problematic for the proper administration of justice, such as *the anchoring effect*,¹⁰ (Tversky & Kahneman, 1974; Englich & Mussweiler, 2001), *halo and devil effect*,¹¹ (Thorndike, 1920, *sunk cost effect*¹² (Arkes & Blumer, 1985; Thames, 1996) and *truth effect*¹³ (Dechene, Stahl, Hansen, & Wänke, 2009). There is no “*judicial exceptionalism*” (Edmond & Martire, 2019, p. 664) when it comes to biases and the so-called *bias blind spot* means that humans are often unable to see bias in their own reasoning (Pronin, Lin, & Ross, 2016). Biases like these can influence perceptions and interpretations at every stage of criminal investigations and proceedings, from the commencement of the inquiry to the final verdict or even when legal action against a legally binding verdict is sought (Edmond & Martire, 2019; Lidén, 2018). While there is emerging research on the topic of bias in the context of international criminal justice (Lidén, 2020a, 2020b) there is clearly still a lot to be done.

As mandated by the requirements set out by the ECHR and the ICC Appeals Chamber, legal actors are expected to not only appear to be objective but also, in effect, be objective. It is very unlikely that a decision

¹⁰ That is, incidental numeric information, that is neither necessarily admissible nor relevant – can affect subsequent numerical estimates thereby ‘anchoring’ or tethering decision-makers to an initial value. This has been demonstrated for example in judges and prosecutors.

¹¹ That is, two opposite effect, where either positive or negative beliefs about a person are erroneously extended to other personality traits.

¹² That is, a tendency to continue an investment or take an action after a previous investment in money, effort or time has been made, even though the investment has higher future costs than benefits, also described as “throwing good money after bad”.

¹³ That is, that the repetition of statements, for example by a prosecutor in Court, automatically and unconsciously inflates perception of the truth of facts asserted in those statements.

maker will be able to exercise such control in relation to his/her own thinking and reasoning, which highlights the need to research and implement debiasing techniques. For example, research conducted with practitioners in national jurisdictions as participants suggests that changing decision maker and reducing cognitive load¹⁴ (Sweller, Ayres and Kalyuga, 2011) may be effective debiasing techniques (Lidén, Gräns and Juslin, 2018a, 2018c). More specifically, this research implies that police officers are more resistant to confirmation bias when there is a change of police officer between apprehension and the subsequent suspect interview compared to when the same police officer carry out both the apprehension and the interview (Lidén et al., 2018a). Likewise, judges seem more resistant to confirmation bias when there is a change of presiding judge between the detention hearing and the main hearing, compared to when the same judges presides both hearings (Lidén et al., 2018c). Also, the cognitive load of these actors can be reduced by for example using standardized models for suspect interviews rather than requiring the interviewer to constantly monitor that his/her questions are open-ended and neutral, since the latter is a cognitively more demanding task (Lidén et al., 2018a). Another way to reduce cognitive load is to conduct structured rather than unstructured evaluations of the evidence (Lidén et al., 2018c). It is possible that similar techniques would be effective also in the context of international criminal justice but this needs empirical evaluation.

The above begs the question; are all emotions and emotional influences potential threats to impartiality and objectivity standards? Given the nature of this question, it has not been addressed by a Court of law, but more so by legal theorists and practitioners. As acknowledged already in the 1930's by the legal realists, particularly Frank (Frank, 1930) as well as a range of more contemporary theorists (Anderson, 1996; Gigerenzer & Engel, 2006) and practitioners (Mellqvist, 2013; Posner, 1996, 2008, pp. 753–777; Sachs, 2011), there is indeed a reciprocal action between legal decision making and emotion and, importantly, this is neither purely negative nor purely positive in relation to the administration of justice. All legal decisions as well as other decisions made by practitioners working with criminal cases have a certain level of discretion. Based on an emotion it is possible that for example a judge can get an “*intuitive sense of what is right or wrong in the particular case*” (Frank, 1930, p. 844). There is a “*complex interplay of forces*” (Sachs, 2011, p. 14) and emotional reactions are not necessarily “*pure glandular secretion.*” (Posner, 1996, p. 14). An intuitive emotional response to which solution/legal interpretation is correct in a given case can stem from a legal backbone, which, while it is not part of the law as such, can in fact promote the administration of justice. Since the potential benefits of emotions in law have been recognized for approximately 90 years, it is indeed simplified or even misguiding to claim that legal actors hold an ideal of a judicial dispassion, whereby legal actors approach their work with no emotional investment or reaction whatsoever (Maroney, 2011). Furthermore, as discussed in detail in section 3, the legal community has recognized the importance of Emotional Intelligence (EI). For instance, if the police officer conducting the interview with a terrorist suspect understands the emotions felt by the suspect, he/she may be able to use that information in emotionally intelligent ways to elicit the information he/she wants from the suspect.

Surely, had a different definition of emotion been chosen, this would have an impact on which behaviors are considered relevant to study, which aspects of them to focus on, as well as how to study them (i.e., the appropriate research methods). For example, in sociological research on emotions it is often described that while emotions historically have been viewed as inherently personal, emotions are in fact socially patterned or constructed (Goffman, 1959; Hochschild, 1983; Turner & Stets, 2005) and emotions are informative of social interaction (Turner & Stets,

2005). Such a definition which emphasizes social dimensions of emotions is likely to set the focus on those precise dimensions. This is also illustrated by sociological research examining for example how judges or prosecutors use empathy in interaction with parties in legal proceedings (Bergman and Wettergren, 2016; Bergman Blix & Wettergren, 2018) questions which are often studied using methods like shadowing, observations and interviews (Roach Anleu, Bergman Blix and Mack, 2014; Roach Anleu & Mack, 2019). While valid, such focuses are clearly different than those following from the definition chosen here which emphasizes more the aspects in the borderland between the conscious and subconscious, in the interaction between emotion and cognition, which are essential for the process of making decisions. As acknowledged, this means that emotions and cognition in interaction, together with the applicable law, creates legal decisions and this reciprocal action is neither inherently a promise nor inherently a threat to the administration of justice. In the following sections, this will be discussed in more detail using case studies as a basis.

3. Emotions – a Source of Bias and Error in International Criminal Justice?

3.1. The Ayyash et al. Case

On the 18th August, 2020, the Trial Chamber of the Special Tribunal for Lebanon (STL) pronounced its long-awaited judgment in the Ayyash et al. case (STL, Ayyash). The Chamber acquitted three of the four suspects while convicting Mr. Ayyash on all charges, including *inter alia* participation in a conspiracy to commit a terrorist act to assassinate Rafik Hariri, the former Lebanese Prime Minister,¹⁵ as well as having committed a terrorist act as a co-perpetrator by means of an explosive device.¹⁶ The convictions concerned acts committed already on the 14th February 2005, that is, more than 15 years earlier. More specifically, a major explosion took place in downtown Beirut and killed Mr. Hariri as well as 22 other individuals (Bosco, 2009). Shortly after, a United-Nations fact finding mission arrived in Beirut to investigate the assassination and by December 2005, the chief UN investigator, Detlev Mehlis, had told an Arab newspaper he believed that Syria was directly responsible for Hariri's assassination. By the end of 2005, 19 suspects had been identified including 5 high-level Syrian security officials and 4 Lebanese generals. Following the so-called Mehlis report the four allegedly pro-Syrian Lebanese generals, including Mr. El-Sayyed,¹⁷ were detained and not released until almost 4 years later, in 2009. Their detention was continued despite the fact that a key witness of the report had publicly recanted his testimony saying he had been coerced (Alamuddin & Bonini, 2014, pp. 60–61) only days after another witness allegedly was paid to testify (Blanford, 2006, pp. 178–179).¹⁸

The investigation and proceedings regarding the attack in Beirut in February 2005 raise several questions regarding the emotion-cognition interaction and its importance for the involved practitioners' decision-making. For example, the management and investigation of the crime

¹⁵ The Prosecutor had charged Mr Ayyash, Mr Merhi, Mr Oneissi and Mr Sabra with having committed the crime of conspiracy, contrary to Lebanese Criminal Code, the Lebanese Law of 1958 and Article 3 (1) of the Statute, aimed at committing a terrorist act.

¹⁶ Also contrary to the Lebanese Criminal Code, the Lebanese Law of 1958 and Article 3 (1) (a) of the Statute. Mr Ayyash was also convicted for having committed the intentional homicide of Mr Hariri also as a co-perpetrator, with premeditation by using explosive materials, equivalent to approximately 2500 kg of TNT and seven other counts. For more on this see the Trial Chamber's judgment, STL-11-01/T/TC, pp. 14–16 §§ 58–65.

¹⁷ Mr El-Sayyed was the director of the Lebanese *Sûreté Générale*.

¹⁸ This witness was Zuhair Ibn Mohammed Said Saddik who allegedly was paid to testify by Rifaat al-Assad, Bashar's uncle, who still had an eye on the presidency.

¹⁴ Cognitive load is the load imposed on human cognitive resources by intrinsic and extraneous factors.

scene is likely to have been influenced by the “*fear and panic*”¹⁹ arising immediately after the explosion. According to the Deputy Inspector General’s report, the first responders, including the military, fire department and the police who rushed to the crime scene “*unfortunately failed to meet the required standards expected from them and errors were committed*” (Report by General Ashraf Rifi, 2005). For example, critical evidence was removed from the scene. This entailed parts from the vehicle believed to have transported the explosive device²⁰ which were returned “*roughly to the location at the crime scene where they had been found*” (STL, Ayyash, § 1101). Furthermore, bulldozers and heavy machinery were used to rescue victims, crime scene tape was not used appropriately, unauthorized individuals entered the scene and explosive experts were not wearing gloves or special protective clothing to prevent contamination, thereby deviating from standard practices (STL, Ayyash, §§ 1073–1108). A member of the forensic team present at the crime scene immediately after the explosion testified that the team members did not use gloves and other protective equipment since there was a chaos, they were working under difficult circumstances and their main concern was to “*find any evidence in order to preserve it and use it later on.*” (STL, Ayyash, § 1076). Unsurprisingly, the defense argued that the crime scene was severely contaminated and this casted doubt on the reliability of the evidence collected as well as the subsequent analysis of it. While the Trial Chamber noted that there were serious issues in the crime scene management and that this could have affected the reliability of some of the recovered evidence, it was “*not convinced that the gross deficiencies in the initial investigation affected in any material manner the evidence (...)*” (STL, Ayyash, § 1119). It remains to be seen whether the case is appealed and, if so, what the Appeals Chamber has to say about the crime scene management.

Certainly, following a major explosion of the kind described above, it would be surprising if professionals managing the crime scene did not react emotionally (e.g. with fear, panic, confusion) at all, not the least considering the risk of further attacks, fires etc. In fact, a survey study of 225 crime scene investigators (CSIs) operating in the US, suggests that about 1 in 10 CSI’s suffer of PTSD like symptoms (Rosansky, Cook, Rosenberg, & Sprague, 2019). Similar but not directly comparable results were found in for example Slovenian (Mrevlje, 2018) and Korean CSIs (Nho & Kim, 2017; Yoo, Cho, Cha, & Boo, 2013). These findings are anticipated given that CSIs, as well as other first responders, are repeatedly and frequently exposed to scenes of violent injury, death etc. and their work may require them to engage in fairly intricate tasks like examining, smelling, touching and collecting dead and decomposed bodies and bodily fluids (Rosansky et al., 2019). Other research suggests that exposure to a victim or a victim’s family may exasperate symptoms of trauma, and may even lead directly to PTSD (Slack, 2020; Sollie, Kop, & Euwema, 2017). It is unknown whether emotional reactions are systematically different in relation to scenes with mass casualty such as mass graves or places subjected to terrorist attacks, but this seems a relevant question to explore in the context of ICL (although similar events occur in national jurisdictions as well). Importantly, such emotional reactions should not be understood in isolation from other relevant cognitive aspects, such as what the focus of the CSIs was as well as what level of training and preparedness they had to deal with such events. In an

¹⁹ The Trial Chamber refers to “fear and panic” specifically when concluding that it had been satisfied beyond reasonable doubt that the explosions was an act intended to cause a state of terror. Furthermore, it concluded that the state of terror was not just intended for the immediate area of the attack but intended to resonate throughout Lebanon and in the regions, and its intended effects were not just confined to Mr Hariri’s supporters. Rather, the evidence of the political background to the attack shows that it was designed to destabilize Lebanon generally, pp. 2075–2076.

²⁰ The prosecution argued that a Mitsubishi Canter was at the centre of the explosion and Canter parts were found both in the crater left after the explosion, in the nearby St Georges Hotel as well as far away, for example in the Mediterranean Sea, Trial Chamber, STL-11-01/T/TC p. 423.

applied setting, it is likely that all of these components together provide the best explanation of the CSIs behaviors, including why they would deviate from standard protocol. For example, in the *Ayyash et al. case* (STL, Ayyash) as well as similar situations, the priority and focus immediately after the explosion was rescue and recovery and this would indeed contaminate the scene in itself. Also, as pointed out by the STL Trial Chamber, it is possible that insufficient training and preparedness were partial explanations for the errors committed by the first responders in Beirut (STL, Ayyash, §§ 1105–1106). It is likely that appropriate training and preparedness makes it less cognitively demanding to respond appropriately to a crime scene of this nature, and, it deserves to be examined whether this also enables more effective emotion regulation. Thus, the reasons for the errors committed in Beirut and the relative importance of emotional and cognitive factors should be further addressed.

It is also noteworthy that the investigation for nearly four years seem to have focused primarily on the four Lebanese generals, although there was no longer any substantial evidence against them. Thus, the investigation seems to have been *suspect-driven* (Wagenaar, van Koppen, & Crombag, 1993). More specifically, this connotes a tendency among investigators to presume that they have identified the perpetrators and from there on, the investigation’s only or primary aim is to confirm that this hypothesis is correct. Such tendencies manifest a confirmation bias (Lidén, 2020a, pp. 5–22) and have been noted before in national jurisdictions. However, such tendencies may be stronger in investigations into core international crimes. This is not only because of the gravity of the crimes, but also for example the added pressure to identify and charge those responsible as well as large financial investments into specific lines of inquiry (Lidén, 2020a, pp. 5–22). Under such circumstances, it is likely that investigators and others fear failure and criticism and that this fear becomes a motivation for reaching a certain conclusion, namely that the suspect(s) is guilty. One more specific manifestation of such a motivation is found in the interview with Mr. El-Sayyed, which was conducted by a police officer working for the UN. The police officer used a fairly authoritative, confrontative and guilt presumptive interviewing style, clearly at stakes with interviewing guidelines and best practices (Bull, 2014; Williamson, 2006). For example, he accused El-Sayyed of “*bull-shitting*” (STL, Ayyash, § 2238) and ascertained his authority through statements like: “*I hit the table when I want. Is it clear?*” (STL, Ayyash, § 2238). It is unknown why the police officer acted this way in this specific case, but the role of emotions, in interaction with cognition, deserves further examination. Also, these behaviors can be understood from the perspective of *neuro-politics*, a scientific field at the intersection between neuroscience and political science, investigating the interplay between the brain and politics (Schreiber, 2017). Insights from *neuro-politics* have facilitated the understanding of, for example, motivated reasoning (Jost, Nam & Amodio, 2014; Mendez, 2017). Research in this field has identified correlations between brain data and political attitudes, in the sense that such data could be used to, for example, classify (correctly) the ideology of subjects looking at non-political images (Ahn, Kishida and Gu, 2014) and to differentiate liberals and conservatives as they completed a gambling task (Schreiber, Fonzo and Simmons, 2013). Since investigations and proceedings in international criminal justice are conducted in politically very sensitive contexts, it is likely that *neuro-politics* can offer important insights also in this area.

As exemplified above, it is likely that investigations into for example terrorist acts are associated with high expectations to get those responsible convicted. As a rule, rather than an exception, these investigations are high-profile and attract enormous interest from media world-wide. The world is indeed watching. Under such circumstances and critical scrutiny, it would be surprising or perhaps even provoking if practitioners did not fear failure and criticism. A related but different angle on emotions in this regard is whether and to what extent the media contributes to so-called *moral panic*, that is, public anxiety or alarm in response to a problem regarded as threatening the moral standards of society (Cohen, 1973; Stanley, 2011). However, as will be discussed in

more detail in the next section, it is unknown whether ICL practitioners, due to the presumed added emotional dimensions, are *more emotional* than practitioners working in national jurisdictions. It is also unknown whether and how this impacts on their decision making, for example whether it makes them generally more pro-conviction, as manifested by e.g. a suspect driven investigation, or whether it can in fact make some practitioners, for example the judges who are ultimately responsible for the suspects' right to due process, become more pro-acquittal than what is mandated by their roles.

3.2. Motivated Reasoning

Following the third point of the definition of emotions, emotions such as fear of failure and criticism may motivate decision makers to reach certain conclusions rather than others (Kunda, 1990). This is also referred to as motivated reasoning. Hence, decision makers, consciously or subconsciously, feel better about and therefore prefer certain conclusions. A journalist following the Demjanjuk trial noted that the judges were unlikely to acquit Demjanjuk because: "(...) *then they really have to look into the eyes of the Holocaust survivors, the eyewitnesses, and tell them: "Your testimony is not good enough."*" (The Devil Next Door, 2019). The determination of whether a Holocaust survivor has provided a credible enough testimony is a historical example of an issue of fact and there are several similar contemporary determinations. For instance, a question that have arisen repeatedly both at the SCSL and the ICC, most recently in *The Prosecutor v. Ntaganda* (ICC, Ntaganda) is whether an alleged child soldier has been proven to be younger than 15 years old at the time of an alleged war crime. Following the many evidentiary challenges relating to the age requirement (Lidén, 2020a) and the fact that the determination potentially influences a child, it is likely that these assessments are difficult and charged both emotionally and politically (Grewal, 2012).

Also, motivated reasoning can manifest itself in any type of reasoning, including both issues of fact and issues of law. For example, an issue of law that can have far-reaching consequences for the protection of child victims of recruitment is whether a criminal syndicate, legally speaking, is to be considered an 'armed group'. This includes legal classifications of for example criminal bands (BACRIM) in Colombia (Downing, 2014) and children who participate in Al-Qaeda terrorist actions, known as the 'Birds of Paradise' or 'Youth of Heaven' (Bloom, 2019; Casey-Maslen, 2019). It is possible that out of anger against the perpetrator(s) or compassion for victim(s), legal actors will be motivated to reach conclusions, that is, make legal interpretations that favor the victims. Emotional explanations for how legal actors choose to legally classify acts have been noted in experimental research with American judges (Wis-trich, Rachlinski, & Guthrie, 2015). More specifically, judges' assessments of whether an act constituted 'Forging an identification card' under Ohio Statutes varied significantly depending on the level of sympathy elicited by the description of the defendant.²¹ It remains to be seen whether similar effects can be found in relation to ICL. Also, and importantly, if there is an influence of emotions, it is uncertain what the direction of the influence is. When it comes to the judges at the ICC, it should be noted that some, for example Robinson, who is a former officer of the Office of the Prosecutor (OTP) at the ICC, argues that the judges have a 'hypersceptical' approach to potentially incriminating evidence (Robinson, 2019a, 2019b, 2019c). More specifically, in Robinson's view, the judges look at each item in isolation, scrutinize it for any possible reason to disbelieve or downplay it, including freely inventing alternative

narratives without evidentiary support, resulting in that they are in fact more pro-acquittal than what is mandated by their roles. Vice versa, judges at the ICC argue that the OTP are more pro-conviction than what is mandated by their roles. More specifically, it has been claimed that the OTP is blinded by their hypothesis and present shaky narratives in Court, and that they, instead of systematically and carefully evaluating their case theory, are starting from the premise that their case theory is correct (*The Prosecutor v. Gbagbo & Blé Goudé*, Opinion of Judge Tarfusser).

3.3. Compassion Fade Effect

Although it is likely that emotions play a role in the decision-making processes, it is unknown whether ICL practitioners due to the nature of the cases they are dealing with etc. are *more emotional* than practitioners working in national jurisdictions. In fact, empirical studies indicate it might be the other way around. More specifically, it seems that encounters with multiple victims or prolonged exposure to persons in need may lead to permanent deficits in emphatic capacities, which is known as the *compassion fade effect* (Butts, Lunt, Freling and Allison, 2019; Cocker and Joss, 2016; Pärnamets, Tagesson, & Wallin, 2020; Sabo, 2006). It may become increasingly difficult to 'approach each case afresh and to avoid creating hierarchies of suffering which demand ever higher levels of abuse to incite sympathy' (Baillot, Cowan, & Munro, 2012, p. 6). Below is an illustration of how compassion may fade in the face of multiple emotionally loaded testimonies from different witnesses/plaintiffs. These testimonies come from Trial Chamber II, in the SCSL case *The Prosecutor v. Taylor*:

"Sesay was left as the first person in the queue and one of the rebels declared that they would amputate his arm. Sesay pleaded with the Commander to kill him instead, and the other men also stood up and pleaded. The Commander blew a whistle and many "rebels" came and surrounded the captive men, forcing them to the ground, tying them up, and beating some of them. The Commander ordered the youngest of the fighters, a boy about 13 years old, to untie Sesay and amputate his arm. The fighter attempted to cut off Sesay's left arm with an axe, but when he failed the Commander came and hit Sesay's arm with an axe twice, leaving it hanging by a small lump of flesh. The fighters then put Sesay's right arm on the log and the commander hit it once, also leaving this arm to hang by the flesh" (§§ 1310–1311).

"In the church Tholley saw the beating and raping of many "small girls" who were "not even adult" and the killing of some of them. Tholley testified that the fighters were killing the girls who refused to be raped by stabbing them with their bayonets. Tholley further testified that while she was in the church, James raped her and she became unconscious (...) She regained consciousness in a small hut in a place after Allen Town where an old woman was tending to Tholley's wounds with medicine in order to stop her bleeding" (§ 836).

"Alex Tamba Teh testified that after he heard that ECOMOG had taken over Kono, Rocky aka Emmanuel Williams shot and killed all the adult male captives at Igbaleh/Kamachende close to Koidu. Upon Rocky's order, SBUs [own addition: boys from Small Boys Unit] decapitated the men he had just killed. At Igbaleh, he saw SBUs amputating a small boy's hands and feet before throwing him into a toilet pit. At Wondehu, SBUs set five houses on fire after Captain Banya instructed them to "go and light candles." (§ 1499).

It is possible that continuous exposure to strong emotional content may make decision makers, on average, more skeptical than what they would have been had they only dealt with a single witness or plaintiff (UNHCR, 2013). Decision makers may find the content of the evidence so horrific that they are tempted to reject it as unimaginable, fabricated and therefore not credible. Although disbelief is a very human coping strategy it might undermine objectivity and impartiality. The possibility of such tendencies seems relevant for the context of ICL, not only when it

²¹ The defendant was either described as a hired killer who had sneaked into the US to track down and kill someone who had stolen drug proceeds from a cartel (killer condition) or a father trying to earn money for a liver transplant for his critically ill nine-year-old daughter (father condition). Of the judges in the killer conditions, 60% ruled that the act constituted forgery while only 44% did so in the father condition, and the average sentence was also higher for the killer than for the father.

comes to encounters or evaluation of horrific testimony but it may also have some role for example in forensic pathologists' decision making, since they will be exposed to multiple wounded victims or deceased victims when examining mass graves.

4. Emotional Intelligence (EI) – A Promise to The Administration of International Criminal Justice?

Emotional Intelligence (EI) is defined as the ability to understand and predict emotional reactions of others (Goleman, 1996). While EI is a relatively young research area (Gardner, 1993; Mayer, Salovey, & Caruso, 2008; Thorndike & Stein, 1937; Wechsler, 1940) it has already been recognized as a crucial competence for legal professionals (Alyson, 2019; Swaim Daicoff, 2012) including law enforcement personnel (Agboola Adetula, 2016; Carrel, 2019; Riddle, 2008). For example, it has been acknowledged as an important element in policing incidents (Millar, Devaney, & Butler, 2018) and as a crucial element of law school curriculum (Cain, 2004; Martin, 2014). Some argue that EI may matter more than IQ (Goleman, 1999).

EI within the context of ICL can indeed be a positive judicial resource and potentially a great promise to the administration of justice. In fact, its importance has been acknowledged by the Office of the Prosecutor (OTP) at the ICC, as it has organized training for its staff, including managers and leaders, on this topic (Haygroup, 2015; Goleman & Boyatzis, 2015). Additionally, some of the ICC statutes outlining qualifications of for example prosecutors and judges describe characteristics that resemble emotional intelligence. For instance, they state that judges and prosecutors “shall be of high moral character” and also “possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases” (ICTY Statute Art. 16 (4); ICTR Statute Art. 12, 15 (4); Bohlander, 2007; Safferling, 2012).

There are many ways in which EI may benefit the administration of international criminal justice, not the least considering that the investigations concern politically delicate and sensitive cases and that there also is a dependency on State cooperation to investigate and prosecute suspects (Hillebrecht & Straus, 2017; Ventura, 2015). Also, in these complex investigations, ICL practitioners have to try and understand the point of view of the perpetrator as well as the experience of victims. Often, this will require cross-cultural understanding, both in order to understand the evidence and to enable effective collaboration within international teams.

One of the clearest current examples of the politically delicate nature of ICL investigations is the ICC's ongoing investigation into war crimes in Afghanistan, allegedly committed by for example members of US intelligence and military (BBC, 2020; ICC, 2020; Smith, 2020; The New York Times, 2020) and the subsequent sanctions against ICC staff which have been criticized by for example the EU (Cossin, 2020; Euractiv, 2020) and the ICC itself (ICC, 2020). When the US Secretary of State, Mike Pompeo, with seemingly personal stakes in the issue as the former CIA Director (Anderson & De Falco, 2020) claimed that the ICC “continues to target Americans” (US, 2020) this was not the first time in the Court's history that such claims of certain countries or people being targeted, have been put forward. For example, after the arrest warrant against President Al-Bashir was issued in 2009 over alleged criminal conduct in the Darfur

conflict (ICC, 2009) the Rwandan President Paul Kagame commented that: “With ICC all the injustices of the past including colonialism, imperialism, keep coming back in different forms. They control you. As long as you are poor, weak, there is always some rope to hang you. The ICC is made for Africans and poor countries” (Schuerch, 2017). The claim of neo-colonialism, put forward by Kagame as well as others, is still debated today (Clarke, 2019; Schuerch, 2017; Vilmer, 2016). There is no doubt that such reactions can hamper the Court's possibilities to conduct proper investigations.²² To be able to predict and possibly divert any excessive emotional/political reactions to the Court's actions, and specifically the OTP discretion is therefore an asset.²³ This point is further emphasized by that, despite general obligations of State parties to cooperate fully with the Court (ICC Statute Articles 86, 87, 89, 93), there is a risk, as well as documented cases of non-cooperation (OTP and ICC, 2012; Report of the ICC, 2012) resulting in difficulties with executing arrest warrants, seizing evidentiary material etc.

Furthermore, EI is likely to have a role in how successful ICL practitioners are in understanding the point of view of the perpetrator. Generally, should humans not be able to understand emotions and be empathic with others, many aspects of other humans' behaviors would come across as completely incomprehensible, random or even ludicrous. Hence, EI can be important for example when investigating and evaluating alleged perpetrators' intent and/or motive. This is likely to be particularly important for crimes such as genocide which requires the specific intent to “destroy, in whole or in part, a national, ethnical, racial or religious group” (ICC Statute, Article 6) or terrorism which often, although not always, require the purpose of intimidating a population or spreading terror etc. (Cryer, Robinson, & Vasiliev, 2019, p. 330).

Similarly, to effectively communicate with victims in interviews and to elicit the information needed for successful investigation and prosecution, interviewers will need to provide social support (Bottoms, Quas, & Davis, 2007; Imhoff & Baker-Ward, 1999; Teoh & Lamb, 2013) while simultaneously ensuring they do not impact on the victim statement or side with the victim. Also inside the Court room, EI may facilitate the interaction with victims. For instance, in the Ayyash et al. case before the STL it is still today uncertain whether Mr. El-Sayyed or the other generals will receive any financial compensation for the wrongful deprivation of their liberty (STL, Ayyash). It is interesting to see how this was addressed by the Court, and particularly Presiding Judge Re who, in his Separate Opinion, described what should have been done, namely that “the detainee should have been released (...)” (Separate Opinion of Judge David Re, p. 2248) and that “They were detained long after the original reasons for their arrests had gone” (Separate Opinion of Judge David Re, p. 2243). During the proceedings he also spoke to Mr. El-Sayyed directly saying that: “Look, we do understand that there are some emotions here because of your incarceration for I think it was three years and eight months (...)” (Separate Opinion of Judge David Re, p. 2243). He also noted that: “(...) I can certainly recognize, as an independent Judge, that your detention was unlawful and it was contrary to international human rights (...)” (Separate Opinion of Judge David Re, p. 2244).

Furthermore, Judge Re also addressed specifically what he had observed from the video recording of the confrontative interview with Mr. El-Sayyed, which was conducted by the police officer working for the UN (see above section 3.1). During the hearing, Judge Re explicitly acknowledged the inappropriateness of the interviewing style, describing it as “disgraceful” and “far below international standards” (Separate Opinion of Judge David Re, pp. 2238–2239). It is unknown exactly what effect these statements had but acknowledging that errors have been committed is likely to contribute to victims' experiences of whether the errors have been effectively and justly dealt with, which seems all the more important if the errors cannot be formally and legal

²² This was also made explicit in Pre-Trial Chamber II's decision relating to Afghanistan as it stated that it is “extremely difficult to gauge the prospects of securing meaningful cooperation from relevant authorities”, that “...suffice it to say that nothing in the present conjuncture gives any reason to believe such cooperation can be taken for granted” and that the investigation “... far from honoring the victims' wishes and aspiration that justice be done, would result in creating frustration and possibly hostility vis-a-vis the Court and therefore negatively impact its very ability to pursue credibly the objective it was created to serve.”, See Pre-Trial Chamber II's Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Islamic Republic of Afghanistan, ICC-0/17, 12 April 2019.

²³ Although it is not necessarily the responsibility of the ICC to ensure that the world is not reacting emotionally to its actions, and in some situations investigations will be undertaken regardless.

acknowledged through financial compensation or similar.

5. Conclusion and Implications for Future Research

The purpose of this research was to tentatively explore the emotion-cognition interaction in ICL practitioners' decision-making processes. By doing so, the research also aimed to inspire future data collections. Although the conclusions that can be drawn from explorative research are limited, this paper has highlighted that in the context of ICL, the emotion-cognition interaction can play a role in a range of decision-making processes, entailing several different forensic as well as legal practitioners. As discussed, this can involve anything from forensic psychiatric assessments of whether an alleged terrorist or war criminal is fit to stand trial, to a judges' evaluation about whether one horrific witness statement, among hundreds or thousands of others, should be relied upon. This also means that understanding the relationship between emotion and cognition in the specific context of ICL practitioners' decision making is a massive task, probably best addressed by multidisciplinary research teams using a range of methods, including for example observations of casework and Court proceedings as well as experimental research inspired by psychological theories. As exemplified by *The Prosecutor v. Ayyash et al.* from the STL, it is likely that emotions, in interaction with cognitive factors such as attention and cognitive load, play some role for example in how first responders manage a scene after a violent explosion has just taken place and the fear and panic are tangible. Research in this area can be informative for instance for training and error prevention in the future. Since ICL investigations and proceedings involve a range of decisions and decision making is by definition a discretionary task, it also seems relevant to understand how emotions may motivate for example forensic psychiatrists, prosecutors and judges to reach certain conclusions rather than others. Also the compassion fade effect is likely to have some role, for example in evaluation of multiple horrific witness statements or in how a forensic pathologist processes a mass grave or multiple wounded victims. Although the fields of emotion and motivation psychology, as well as for example cognitive and social psychology, have already contributed to understanding of criminal processes in national settings, it seems vital to also include ICL, not the least considering the gravity of the crimes and the potentially devastating consequences of errors, ineffective investigations etc. With multidisciplinary approaches gaining ground in many legal areas, now seems the right time to take on this challenge.

Declaration of competing interest

The author has no competing interests to declare.

Acknowledgments

This research was funded by the Swedish Research Council and Ragnar Söderberg's Foundation.

References

- Agboola Adetula, G. (2016). Emotional, social and cognitive intelligence as predictors of job performance among law enforcement agency personnel. *Journal of Applied Security Research*, 11(2), 149–165. <https://doi.org/10.1080/19361610.2016.1137175>
- Agirre Aranburu, X. (2016). Obedience, responsibility, punishment. In *Paper presented at the conference "the brains that pull the triggers" second paris conference on syndrome E, 9-10 may 2016*.
- Ahn, W. Y., Kishida, K. T., Gu, X., Lohrens, T., Harvey, A., & Alford, J. R. (2014). Nonpolitical images evoke neural predictors of political ideology. *Current Biology*, 24(22), 2693–2699. <https://doi.org/10.1016/j.cub.2014.09.050>
- Alamuddin, A., & Bonini, A. (2014). The UN investigation of the Hariri assassination. In A. Alamuddin (Ed.), *The special tribunal for Lebanon: Law and practice (60-61)*. Oxford: Oxford Monographs in International Humanitarian and Criminal Law, 2014.
- Anderson, B. (1996). *'Discovery' in legal decision-making*. Dordrecht: Kluwer Academic Publishers, 1996.
- Anderson, H. S., & De Falco, R. (2020). *Pompeo's personal stake in the international criminal Court's Afghan investigation. Just security*. Available on: <https://www.justsecurity.org/70560/pompeos-personal-stake-in-the-international-criminal-courts-afghan-investigation/>. (Accessed 16 November 2020).
- Arendt, H. (1963). *Eichmann in Jerusalem: A report on the banality of evil*. Harmondsworth: Penguin, 1963.
- Arkes, H. R., & Blumer, C. (1985). The psychology of sunk cost. *Organizational Behavior and Human Decision Processes*, 35(1), 125–140. [https://doi.org/10.1016/0749-5978\(85\)90049-4](https://doi.org/10.1016/0749-5978(85)90049-4)
- Ask, K. (2006). *Criminal investigation: Motivation, emotion and cognition in the processing of evidence*. Gothenburg University Press, 2006 <https://gupea.ub.gu.se/handle/2077/676>.
- Baillot, H., Cowan, S., & Munro, V. (2012). *Research briefing: Rape narratives and credibility assessment (of female claimants) at the AIT*. Edinburgh: The University of Edinburgh, 2012.
- Bandes, S. A. (2009). *Empathetic judging and the rule of law. Cardozo law review de novo*, 2009 <https://ssrn.com/abstract=equals;1431230>.
- Bandes, S., & Blumenthal, J. A. (2012). Emotion and the law. 8. *Annual Review of Law and Social Science*, 8, 161–181. <https://doi.org/10.1146/annurev-lawsocsci-102811-173825>
- Bassiouni, C. M. (2013). *Introduction to international criminal law*. Leiden: Martinus Nijhoff Publishers, 2013.
- BBC. (2020). *Afghan conflict: US sanctions 'kangaroo' ICC over war crimes probe*. Available on: <https://www.bbc.co.uk/news/world-us-canada-53012783>. (Accessed 18 June 2020).
- Bergman Blix, S., & Wettergren, Å. (2018). *Professional emotions in court: A sociological perspective*. Routledge London 2018.
- Bergman, B., & Wettergren, Å. (2016). A sociological perspective on emotions in the judiciary. *Emotion Review*, 8(1), 32–37. <https://doi.org/10.1177/1754073915601226>
- Bergsmo, M. (2017). *The historical origins of international criminal law*. Oslo: TOAEP, 2017.
- Berridge, K. C. (2018). Evolving concepts of emotion and motivation. *Frontiers in Psychology*, 9, 1–20. <https://doi.org/10.3389/fpsyg.2018.01647>, 2018.
- Bianchi, A., & Saab, A. (2019). Fear and international law-making: An exploratory inquiry. *Leiden Journal of International Law*, 32(3), 351–365.
- Blanford, N. (2006). *Killing Mr Lebanon: The assassination of Rafik Hariri and its impact of the Middle East*. New York: Taurius, 2006.
- Bloom, M. (2019). Weaponizing the weak: The role of children in terrorist groups. In M. A. Drumbl & J. C. Barrett (Eds), *Research handbook on child soldiers (195-216)*, Edward Elgar Publishing, Cheltenham, 2019.
- Bohlander, M. (2007). The international criminal judiciary: Problems of judicial selection, independence and ethics. In M. Bohlander (Ed.), *International criminal justice: A critical analysis of institutions and procedures (325-390)*. London: Cameron May.
- Borger, J. (2020). *US imposes sanctions on top international criminal court officials, the guardian*. Available on: <https://www.theguardian.com/law/2020/sep/02/us-sanctions-international-criminal-court-fatou-bensouda>. (Accessed 13 November 2020).
- Bosco, R. M. (2009). The assassination of Rafik Hariri: Foreign policy perspectives. *International Political Science Review*, 30(4). <https://doi.org/10.1177/0192512109342521>
- Bottoms, B. L., Quas, J. A., & Davis, S. L. (2007). The influence of interviewer-provided social support on children's suggestibility, memory, and disclosures. In L. Pipe, Orbach, & Cederborg (Eds.), *Child sexual abuse: Disclosure, delay, and denial (135-138)*. Lawrence Erlbaum Associates Publishers, 2007.
- Brima, Kamara & Kanu, SCSL-2004-16-A.
- Bull, R. (2014). *Investigative interviewing*. Springer, 2014.
- Butts, M. M., Devin C Lunt, D. C., Freling, T. L., & Gabriel, A. S. (2019). Helping one or helping many? A theoretical integration and meta-analytic review of the compassion fade literature. *Organizational Behavior and Human Decision Processes*, 151, 16–33. <https://doi.org/10.1016/j.obhdp.2018.12.006>
- Carrel, A. (2019). Legal intelligence through artificial intelligence requires emotional intelligence: A New competency model for the 21st century legal professional. *Georgia State University Law Review*, 35(4), 1153–1183.
- Casey Maslen, S. (2019). Children associated with boko haram: Disassociation, protection, accountability and reintegration (452-470). In M.A. Drumbl & J.C. Barrett (Eds), *Research handbook on child soldiers*, Edward Elgar, 2019.
- Clarke, K. M. (2019). *Affective justice: The international criminal court and the pan-africanist pushback*. Duke University Press.
- Cocker, F., & Joss, N. (2016). Compassion fatigue among healthcare, emergency and community service workers: A systematic review. *International Journal of Environmental Research and Public Health*, 13(6), 618. <https://doi.org/10.3390/ijerph13060618>
- Cossin, J. (2020). *EU expresses grave concern over US decision to sanction ICC*. Jurist Legal News & Research. Available on: <https://www.jurist.org/news/2020/06/eu-expresses-grave-concern-over-us-decision-to-sanction-icc/>. (Accessed 26 March 2020).
- Cryer, R. (2005). *Prosecuting international crimes: Selectivity and the international criminal law regime*. Cambridge University Press, 2005.
- Cryer, R., Robinson, D., & Vasiliev, S. (2019). *An introduction to international criminal law and procedure*, 2019. Cambridge University Press, 467-469.
- Damasio, A. (2004). Emotions and feelings: A neurobiological perspective. In A. S. R. Manstead, N. Fridja, & A. Fischer (Eds.), *Studies in emotion and social interaction. Feelings and emotions: The amsterdam symposium (49-57)*. Cambridge University Press. <https://psycnet.apa.org/doi/10.1017/CBO9780511806582.004>.
- Damasio, A. (2018). *The strange order of things: Life, feeling, and the making of cultures*. Pantheon, 2018.
- Dechene, A., Stahl, C., Hansen, J., & Wänke, M. (2009). The truth about the truth: A meta-analytic review of the truth effect. *Personality and Social Psychology Review*, 14(2), 238–257. <https://doi.org.ezproxy.its.uu.se/10.1177%2F108868309352251>.

- Deutsche Welle. (2019). *The trauma of Rwanda's post-genocide generation*. <https://www.dw.com/en/the-trauma-of-rwandas-post-genocide-generation/a-49458872>.
- Deutsche Welle. (2020). *Icrt: A tribunal that failed Rwandan genocide victims and survivors*. Available on: <https://www.dw.com/en/icrt-a-tribunal-that-failed-rwandan-genocide-victims-and-survivors/a-51156220>. (Accessed 18 June 2020).
- Dimsdale, J. E. (2015). *Anatomy of malice: The enigma of the Nazi war criminals*. London: Yale University Press.
- Douglas, L. (2016). *The right wrong man: John Demjanjuk and the last great Nazi war crimes trial*. Princeton: Princeton University Press.
- Downing, C. (2014). Child recruitment to illegal armed groups in Colombia: Peacebuilding and development challenges. *Journal of Peacebuilding and Development*, 9(3), 33–49. <https://doi-org.ezproxy.its.uu.se/10.1080%2F15423166.2014.984580>.
- Eboe-Osujì, C. (2019). "The US and the ICC" lecture by Chile eboe-osujì, president, international criminal court, 14 November 2019 <https://www.icc-cpi.int/Pages/item.aspx?name=191114-president-stat-us-and-icc>.
- Edmond, G., & Martire, K. (2019). Just cognition: Scientific research on bias and some implications for legal procedure and decision-making. *The Modern Law Review*, 82(4), 633–664. <https://doi-org.ezproxy.its.uu.se/10.1111/1468-2230.12424>.
- van den Eeden, C., de Poot, C. A. J., & van Koppen, P. J. (2016). Forensic expectations: Investigating a crime scene with prior information. *Science & Justice*, 56(6), 475–481. <https://doi.org/10.1016/j.scjus.2016.08.003>
- Englich, B., & Mussweiler, T. (2001). Sentencing under uncertainty: Anchoring effects in the courtroom. *Journal of Applied Social Psychology*, 31(7), 1535–1551. <https://doi-org.ezproxy.its.uu.se/10.1111/j.1559-1816.2001.tb02687.x>.
- Euractiv. (2020). EU voices serious concern at US International Criminal Court sanctions. Available on: <https://www.euractiv.com/section/global-europe/news/eu-voices-serious-concern-at-us-international-criminal-court-sanctions/>. (Accessed 26 June 2020).
- Fehr, B., & Russell, J. A. (1984). Concept of emotion viewed from a prototype perspective. *Journal of Experimental Psychology*, 113(3), 464–486. <https://doi.org/10.1037/0096-3445.113.3.464>
- Frank, J. (1930). *Law and the modern mind*. New York: Brentano's.
- Gardner, H. (1993). *Frames of mind: Theory of multiple intelligences*. London: Fontana Press, 1993.
- Gigerenzer, G., & Engel, C. (2006). *Heuristics & the law. Dahlem workshop reports*.
- Gilbert, G. (1963). *The mentality of SS murderous robots*. Yad Vashem Studies.
- Goffman, E. (1959). *The presentation of self in everyday life*. London: Penguin Psychology.
- Goleman, D. (1996). *Emotional intelligence. Why it can matter more than IQ*. London: Bloomsbury Publishing.
- Goleman, D. (1999). *Working with emotional intelligence*. London: Bloomsbury Publishing.
- Goleman, D., & Boyatzis, R. (2008). Social intelligence and the biology of leadership. *Harvard Business Review*, 86(9), 74–81. ISSN: 0017-8012.
- Greenwald, A. G., & Banaji, M. R. (2017). The implicit revolution: Reconciling the relation between conscious and unconscious. *American Psychologist*, 72(9), 861–871. <https://doi.org/10.1037/amp0000238>
- Grewal, K. (2012). The protection of sexual autonomy under international criminal law – the international criminal court and the challenge of defining rape. *Journal of International Criminal Justice*, 10(2), 373–396. <https://doi.org/10.1093/jicj/mqs012>
- Hauschildt v. Denmark, ECHR judgment of 24th May 1989, 10486/83.
- Haygroup. (2015). Driving performance together. In *Emotional and social intelligence workshop*.
- Heller, K., & Simpson, G. (2014). *The hidden histories of war crimes trials*. Oxford: Oxford University Press.
- Hillebrecht, C., & Straus, S. (2017). Who pursues the perpetrators? State cooperation with the ICC. *Human Rights Quarterly*, 39(1), 162–188. <https://doi.org/10.1353/hrq.2017.0006>
- Hochschild, A. R. (1983). *The managed heart: The commercialization of human feeling*. Berkeley: University of California Press.
- Hull, C. L. (1951). *Essentials of behavior*. New Haven: Yale University Press.
- Human Rights Watch. (2008). *Coercion and intimidation of child soldiers to participate in violence*. <https://www.hrw.org/news/2008/04/16/coercion-and-intimidation-child-soldiers-participate-violence>.
- ICC. (14 August 2012). *Report of the international criminal court: Note by the secretary-general, UN doc. A/67/308. para. 9* <https://legal-tools.org/doc/f0ahnn>.
- ICC. (2020). *Statement of the international criminal court on recent measures announced by the US*. Available on: <https://www.icc-cpi.int/Pages/item.aspx?name=200611-icc-statement>. (Accessed 18 June 2020).
- ICC. (4 March 2009). *Pre-trial chamber, the prosecutor v. Omar Hassan Ahmad Al Bashir, warrant of arrest for Omar Hassan Ahmad Al Bashir*. ICC 02/05-01/09-1.
- Imhoff, C. M., & Baker-Ward, K. (1999). Preschoolers' suggestibility: Effects of developmentally appropriate language and interviewer supportiveness. *Journal of Applied Developmental Psychology*, 20(3), 407–429. [https://doi.org/10.1016/S0193-3973\(99\)00022-2](https://doi.org/10.1016/S0193-3973(99)00022-2)
- Izard, C. E. (1993). Four systems for emotion activation: Cognitive and noncognitive processes. *Psychological Review*, 100(1), 68–90. <https://doi.org/10.1037/0033-295X.100.1.68>
- James, W. (1884). What is an Emotion. *Mind*, 9, 188–205. <https://doi.org/10.1093/mind/os-IX.3.188>
- Jost, J. T., Nam, H., Amodio, D. M., & van Bavel, J. J. (2014). Political neuroscience: The beginning of a beautiful friendship. *Political Psychology*, 35, 3–42. <https://doi.org/10.1111/pops.12162>
- Kassin, S., Dror, I. E., & Kukucka, J. (2013). The forensic confirmation bias: Problems, perspectives, and proposed solutions. *Journal of Applied Research in Memory and Cognition*, 2(1), 42–52. <https://doi-org.ezproxy.its.uu.se/10.1016/j.jarmac.2013.01.001>.
- Kelley, D. (1947). *22 cells in Nuremberg: A psychiatrist examines the Nazi criminals*. London: Greenburg.
- Klamberg, M. (2017). *Commentary on the law of the international criminal court*. Torkel Opsahl Academic Epublisher. <https://www.toaep.org/ps-pdf/29-klamberg>.
- Kunda, Z. (1990). The case for motivated reasoning. *Psychological Bulletin*, 108(3), 480–498. <https://doi.org/10.1037/0033-2909.108.3.480>
- LeDoux, J., & Hofman, S. G. (2018). The subjective experience of emotion: A fearful view. *Current Opinion in Behavioral Sciences*, 19, 67–72. <https://doi.org/10.1016/j.cobeha.2017.09.011>
- Lidén, M. (2018). *Confirmation bias in criminal cases*. Uppsala: Uppsala University Press. <https://www.diva-portal.org/smash/get/diva2:1237959/FULLTEXT01.pdf>.
- Lidén, M. (2020a). Confirmation bias in investigations into core international crimes: Risk factors and quality control techniques. In B. Agirre, de Smet, & Stahn (Eds.), *Quality control in criminal investigation* (pp. 461–523). TOAEP. <https://www.toaep.org/ps-pdf/f/38-qcci>.
- Lidén, M. (2020b). Child soldier or soldier? Estimating age in cases of core international crimes: Challenges and opportunities. In B. Agirre, de Smet, & Stahn (Eds.), *Quality control in criminal investigation* (pp. 323–460). TOAEP. <https://www.toaep.org/ps-pdf/f/38-qcci>.
- Lidén, M., Gräns, M., & Juslin, P. (2018a). The presumption of guilt in suspect interrogations: Apprehension as a trigger of confirmation bias and debiasing techniques. *Law and Human Behavior*, 42(4), 336–354. <https://doi.org/10.1037/lhb0000287>
- Lidén, M., Gräns, M., & Juslin, P. (2018b). From devil's advocate to crime fighter: Confirmation bias and debiasing techniques in prosecutorial decision making. *Psychology, Crime and Law*, 25(5), 494–526. <https://doi.org/10.1080/1068316X.2018.1538417>
- Lidén, M., Gräns, M., & Juslin, P. (2018c). Guilty, No doubt': Detention provoking confirmation bias in judges' guilt assessments and debiasing techniques. *Psychology, Crime and Law*, 25(3), 219–247.
- Maroney, T. A. (2011). Emotional regulation and judicial behavior. *California Law Review*, 99(6), 1485–1555. <http://www.jstor.org/stable/41345439>.
- Martin, N. (2014). Think like a lawyer: Incorporating mindfulness, professional identity, and emotional intelligence into the first year law curriculum. *University of Arkansas at Little Rock Law Review*, 36(3). https://papers.ssrn.com/sol3/papers.cfm?abstract_id==2510469.
- Mayer, J. D., Salovey, P., & Caruso, D. R. (2008). Emotional intelligence: New ability of eclectic traits? *American Psychologist*, 63(6), 503–517. <https://doi.org/10.1037/0003-066X.63.6.503>
- McCormack, T., & Simpson, G. (1998). *The law of war crimes: National and international approaches*. Hague: Kluwer Law International.
- Mellqvist, M. (2013). *Om tro, tyckande och vetande – högsta domstolens värdering av utsagor*. Svensk Juristtidning, 2013 <https://svjt.se/svjt/2013/755>.
- Mendez, M. F. (2017). A neurology of the conservative-liberal dimension of political ideology. *Journal of Neuropsychiatry and Clinical Neurosciences*, 29(2), 86–94. <https://doi.org/10.1176/appi.neuropsych.16030051>
- Millar, A., Devaney, J., & Butler, M. (2018). Emotional intelligence: Challenging the perceptions and efficacy of 'soft skills' in policing incidents of domestic abuse involving children. *Journal of Family Violence*, 34(6), 577–588. <https://doi.org/10.1007/s10896-018-0018-9>
- Miller, N. E. (1971). *Selected papers*. Chicago: Aldine Atherton.
- Minear, R. (2015). *Victor's justice: The Tokyo war crimes trial*. Princeton: Princeton University Press.
- Mrevlje, T. (2018). Police trauma and roschach indicators: An exploratory study. *Rorschachiana*, 39(1), 1–19. <https://doi.org/10.1027/1192-5604/a000097>
- Nho, S. M., & Kim, E. A. (2017). Factors influencing post traumatic stress disorder in crime scene investigators. *Journal of Korean Academy of Nursing*, 47(1), 39–48. <https://doi.org/10.4040/jkan.2017.47.1.39>
- Nickerson, R. (1998). Confirmation bias – a ubiquitous phenomenon in many guises. *Review of General Psychology*, 2(2), 175–220. <https://doi.org/10.1037/1089-2680.2.2.175>
- Norman, Fofana & Kondewa, SCSL-04-14-A.
- Nussbaum, M. (2001a). *Love's knowledge: Essays on philosophy and literature*. Oxford: Oxford University Press.
- Nussbaum, M. C. (2001b). *Upheavals of thought: The intelligence of emotions*. Cambridge: Cambridge University Press.
- OTP, & ICC. (13 December 2012). *Statement of the prosecutor of the international criminal court, Fatou Bensouda, to the united nations security council on the situation in Darfur, the Sudan, pursuant to UNSCR 1593 (2005)*. para. 7 <https://legal-tools.org/doc/rzcsx6>.
- Padovani v. Italy, ECHR judgment of 26th February 1993, 13396/87.
- Pärnamets, P., Tagesson, A., & Wallin, A. (2020). Inconsistencies in repeated refugee status decisions. *Journal of Behavioral Decision Making*. <https://doi-org.ezproxy.its.uu.se/10.1002/bdm.2176>.
- Passer, M., & Smith, R. E. (2008). *Psychology, the science of mind and behaviour*. Berkshire: McGraw-Hill Education.
- Pessoa, L. (2008). On the relationship between emotion and cognition. *Nature Reviews Neuroscience*, 9(2), 148–158. <https://doi-org.ezproxy.its.uu.se/10.1038/nrn2317>.
- Posner, R. (1996). Pragmatic adjudication. *Cardozo Law Review*, 18(1). https://chicagounbound.uchicago.edu/journal_articles/1819/.
- Posner, R. (2008). *How judges think*. Cambridge: Harvard University Press.
- Pronin, E., Lin, D. Y., & Ross, L. (2016). The bias blind spot: Perceptions of bias in self versus others. *Personality and Social Psychology Bulletin*, 28(3). <https://doi-org.ezproxy.its.uu.se/10.1177%2F0146167202286008>.
- Rassin, E. (2020). Context effect and confirmation bias in criminal fact finding. *Legal and Criminological Psychology*, 25(2), 1–10. <https://doi.org/10.1111/lcrp.12172>

- Rassin, E., Eerland, A., & Kuijpers, I. (2010). Let's find the evidence: An analogue study of confirmation bias in criminal investigations. *Journal of Investigative Psychology and Offender Profiling*, 7(3), 231–246. <https://doi.org/10.1002/jip.126>
- Reeve, J. M. (2018). *Understanding motivation and emotion*. New Jersey: John Wiley & Sons.
- Richardson, W. J. (2012). *The heart of William James*. Harvard: Harvard University Press.
- Riddle, P. E. (2008). Leading the next generation of law enforcement through emotional intelligence. *Journal of California Law Enforcement*, 42(2008), 7–18. ISSN: 0449-5063.
- Roach Anleu, S., Bergman Blix, S., & Mack, K. (2014). Researching emotions in courts and the judiciary: A tale of two projects. *Emotion Review*, 7(2), 145–150. <https://doi-org.ezproxy.its.uu.se/10.1177%2F1754073914554776>.
- Roach Anleu, S., & Mack, K. (2019). A sociological perspective on emotion work and judging'. *Onati Socio-Legal Series*, 9(5), 831–851. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1032>
- Robinson, D. (2019a). 'The other poisoned chalice: Unprecedented evidentiary standards in the gbagbo case (Part I)' EJIL: Talk! 2019. Available on: <https://www.ejiltalk.org/the-other-poisoned-chalice-unprecedented-evidentiary-standards-in-the-gbagbo-case-part-1/>. (Accessed 3 March 2020).
- Robinson, D. (2019b). 'The other poisoned chalice: Unprecedented evidentiary standards in the gbagbo case (Part II)' EJIL: Talk! 2019. Available on: <https://www.ejiltalk.org/the-other-poisoned-chalice-unprecedented-evidentiary-standards-in-the-gbagbo-case-part-2/>. (Accessed 3 March 2020).
- Robinson, D. (2019c). 'The other poisoned chalice: Unprecedented evidentiary standards in the gbagbo case (Part III)' EJIL: Talk! 2019. Available on: <https://www.ejiltalk.org/17618-2/>. (Accessed 3 March 2020).
- Rosansky, J. A., Cook, J., Rosenberg, H., & Sprague, J. E. (2019). PTSD symptoms experienced and coping tactics used by crime scene investigators in the United States. *Journal of Forensic Sciences*, 64(5), 1444–1450. <https://doi-org.ezproxy.its.uu.se/10.1111/1556-4029.14044>.
- Rossner, M. (2019). Storytelling rituals in jury deliberations. *Onati Socio-legal Series*, 9(5), 747–764. ISSN: 2079-5971.
- Sabo, B. M. (2006). Compassion fatigue and nursing work: Can we accurately capture the consequences of caring work? *International Journal of Nursing Practice*, 12(3), 136–142. <https://doi.org/10.1111/j.1440-172X.2006.00562.x>
- Sachs, A. (2011). *The strange alchemy of life and law*. Oxford: Oxford University Press.
- Safferling, C. (2012). *International criminal procedure*. Oxford: Oxford University Press.
- Saraiva de Carvalho v. Portugal, ECHR judgment of 25th July 2017, 17484/15.
- Schreiber, D. (2017). Neuropolitics: Twenty years later. *Politics and the Life Sciences*, 36(2), 114–131. <https://doi.org/10.1017/pls.2017.25>
- Schreiber, D., Fonzo, G., Simmons, A. N., Dawes, C. T., Taru, F., Fowler, J. H., et al. (2013). Red brain, blue brain: Evaluative processes differ in democrats and republicans. *PLoS One*, 8(2), Article e52970.
- Schuerch, R. (2017). *The international criminal court at the mercy of powerful states: An assessment of the neo-colonialism claim made by african stakeholders*. Springer.
- Separate Opinion of Judge David Re, The Prosecutor v. Ayyash et al., STL-11-01.
- Sesay, Kallon & Gbao, SCSL-04-15-A.
- Slack. (2020). Trauma and coping mechanisms exhibited by forensic science practitioners: A literature review. *Forensic Science International: Synergy*, 2, 310–316. <https://doi.org/10.1016/j.fsisy.2020.10.001>
- Smith, A. M. (2020). *Dissecting the executive order on international criminal court sanctions: Scope, effectiveness, and tradeoffs. Just security*. Available on: <https://www.justsecurity.org/70779/dissecting-the-executive-order-on-intl-criminal-court-sanctions-scope-effectiveness-and-tradeoffs/>. (Accessed 18 June 2020).
- Sollie, H., Kop, N., & Euwema, M. C. (2017). Mental resilience of crime scene investigators: How police officers perceive and cope with the impact of demanding work situations. *Criminal Justice and Behavior*, 44(12), 1580–1603. <https://doi.org/10.1177/0093854817716959>
- Solomon, R. L., & Corbit, J. D. (1974). An opponent-process theory of motivation. I. Temporal dynamics of affect. *Psychological Review*, 81(2), 119–145. <https://doi.org/10.1037/h0036128>
- Stanley, C. (2011). *Folk devils and moral panics: The creation of the mods and rockers*. Routledge Classics.
- Stauffer, J. (2020). Law, politics, the age of responsibility, and the problem of child soldiers. *Law, Culture and the Humanities*, 16(1), 42–52. <https://doi.org/10.1177/1743872116660777>
- Swaim Daicoiff, S. (2012). Expanding the lawyer's toolkit of skills and competencies: Synthesizing leadership, professionalism, emotional intelligence, conflict resolution, and comprehensive law. *Santa Clara Law Review*, 52(3), 795–874. ISSN: 0146-0315.
- Swellery, J., Ayres, P., & Kalyuga, S. (2011). *Cognitive load theory*. Philadelphia: Springer.
- Taylor, Appeals chamber, SCSL-03-01-A.
- Teoh, Y. S., & Lamb, M. (2013). Interviewer demeanor in forensic interviews of children. *Psychology, Crime and Law*, 19(2), 145–159. <https://doi-org.ezproxy.its.uu.se/10.1080/1068316X.2011.614610>.
- Thames, E. A. (1996). The sunk cost effect: The importance of context. *Journal of Social Behavior*, 817–826.
- The Devil Next Door. (2019). Netflix. Available on: <https://www.netflix.com/gb/title/80201488> (visited on. (Accessed 3 March 2020).
- The New York Times. (2020). U.S. To penalize war crimes investigators looking into American troops. Available on: <https://www.nytimes.com/2020/06/11/us/politics/international-criminal-court-troops-trump.html>. (Accessed 18 June 2020).
- The Prosecutor v. Ayyash et al, STL-11-01.
- The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé. (16 January 2019). ICC trial chamber, ICC-02/11-01/15-T-234-FRA.
- The Prosecutor v. Katanga and Ngudjolo Chui. (27 August 2009). ICC Appeals chamber, ICC-01/04-01/07 OA 8.
- The Prosecutor v. Dominic Ongwen, ICC-02/04-01/15.
- Thorndike, E. L. (1920). A constant error on psychological testing. *Journal of Applied Psychology*, 4, 25–29.
- Thorndike, R. L., & Stein, S. (1937). An evaluation of the attempts to measure social intelligence. *Psychological Bulletin*, 34(5), 275–285. <https://doi.org/10.1037/h0053850>
- Trial of The Major War Criminals before The International Military Tribunal. (1947). *Nuremberg 14 november 1945 – 1 october 1946, Nuremberg, Germany*.
- Turner, J. H., & Stets, J. E. (2005). *The sociology of emotions*. New York: Cambridge University Press.
- Tversky, A., & Kahneman, D. (1974). Judgment under uncertainty: Heuristics and biases. *Science*, 185(4157), 1131.
- Ventura, M. (2015). The duty to investigate Zimbabwe crimes against humanity (torture) allegations – the constitutional court of South Africa speaks on universal jurisdiction and the ICC act. *Journal of International Criminal Justice*, 13(4), 861–889. <https://doi.org/10.1093/jicj/mqv017>
- Vilmer, J. B. J. (2016). The african union and the international criminal court: Counteracting the crisis. *International Affairs*, 92(6), 1319–1342. <https://doi.org/10.1111/1468-2346.12747>
- Wagenaar, W. A. (1988). *Identifying ivan – a case study in legal psychology*. London: Harvester-Wheatsheaf.
- Wagenaar, W. A., van Koppen, P. J., & Crombag, H. F. M. (1993). *Anchored narratives: The psychology of criminal evidence*. Harvester Wheatsheaf: St Martin's Press.
- Wechsler, D. (1940). The measurement of adult intelligence. *The Journal of Nervous and Mental Disease*, 91(4), 548–549. <https://doi.org/10.1097/00005053-194004000-00075>
- Williamson, T. (2006). *Investigative interviewing: Rights, research, regulation*. Routledge.
- Wistrich, A. J., Rachlinski, J. J., & Guthrie, C. (2015). Heart versus head: Do judges follow the law or follow their feelings? *Texas Law Review*, 93(4), 856–911. ISSN: 0040-4411.
- Yoo, Y. S., Cho, O.-H., Cha, K.-S., & Boo, Y.-J. (2013). Factors influencing post-traumatic stress om Korean forensic science investigators. *Asian Nursing Research*, 7(3), 136–141. <https://doi.org/10.1016/j.anr.2013.07.002>
- Zajonc, R. B. (1980). Feeling and thinking: Preferences need No inferences. *American Psychologist*, 35(2), 151–175. <https://doi.org/10.1037/0003-066X.35.2.151>