

THE FUNCTION OF THE INTERNATIONAL CRIMINAL COURT IN DEFENDING HUMAN RIGHTS AGAINST CRIMES

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Abstract:

Humankind had to wait for the shock of the dramatic events and gross violations of human rights in the former Yugoslavia and Rwanda for the international community to accept the idea of establishing a permanent international criminal court, which was established after the obstacles and criticisms leveled at the international military tribunals of Nuremberg 1945 AD and Tokyo 1946 AD, and the Special International Criminal Courts for the former Yugoslavia 1993 AD and Rwanda in 1994; Which centered its foundation around its submission to the logic of control, power and inequality. On this basis, the international community intensified efforts to reach the endorsement of the Statute of the International Criminal Court,

In addition to punishing the perpetrators of human rights violations and preventing crimes in the future, the court sets principles with regard to reparation for the damages suffered by the victims or in relation to them, including restitution, compensation and rehabilitation, by establishing a trust fund for the benefit of the victims in the crimes that fall within the jurisdiction of the court and for the benefit of the families the victims.

The study adopted the historical approach, the comparative analytical approach, and the descriptive approach in order to stand on the historical development of the efforts of the International Criminal Court in protecting and promoting human rights, as well as tracking the efforts and studies that accelerated the achievement of this goal, as well as analyzing and scrutinizing opinions and positions in the light of the rules of international law and decisions of international legitimacy.

Key Words: (International Criminal Court, Human Rights, Criminal Offence).

 <http://dx.doi.org/10.47832/2717-8293.22.36>

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1. Introduction:

The first permanent court to establish a treaty was the International Criminal Court, which is governed by the Rome Statute. It was designed to prosecute those responsible for the most serious crimes committed on a global scale, such as war crimes, crimes against humanity, and genocide. The work of the diplomatic conference was completed on July 17, 1998. By establishing an international criminal court and consenting to the Court's Statute, which establishes the Court as a permanent, independent institution that is not a branch of the United Nations and makes clear that States Parties are primarily responsible for the prosecution and punishment of offenders while the Court supports those efforts, way that it consists of national courts, international courts, and courts that combine features of both national and international jurisdiction. High rates of violations and civilians An effective method chosen by the international community to stop these abuses, punish those responsible for them, and bring them to justice, whether they are governments, states, organizations, or individuals, In this presentation, three sets of questions will be addressed:

- A- What is the International Criminal Court? What are some of its main features?
- b- What is the current status of the court?
- c- What are the ongoing cases and what are the lessons learned so far from the ongoing criminal cases?

2. Methodology of Study:

The study adopted the historical approach, the comparative analytical approach, and the descriptive approach in order to stand on the historical development of the efforts of the International Criminal Court in protecting and promoting human rights, as well as tracking the efforts and studies that accelerated the achievement of this goal, as well as analyzing and scrutinizing opinions and positions in the light of the rules of international law and decisions of international legitimacy.

Various literature and materials will be used. Such as books, articles, internet materials, journals and other materials in conducting current research. The research method I intend to use is document analysis. Scientific writings on this topic would be valuable for this study. On the other hand, the reports will be used to assess current trends and conditions.

2.1. Problem of Study:

After any country obtained the position of an observer state in the United Nations and until today, the leadership of countries has not turned to the International Criminal Court to hold the enemies accountable for the crimes they commit against peoples and which they are still committing, despite the fact that the recognition obtained in the United Nations would enhance the opportunity for any country to join to the Statute of the International Criminal Court.

The International Criminal Court is a permanent world tribunal created to look into, try, and convict people for the most serious crimes that the entire international community finds to be of concern, including genocide, crimes against humanity, war crimes, and aggression. Since its establishment in 2002, the International Criminal Court has played a crucial role in advancing human rights and influencing world politics. However, the establishment of the court is merely the first step in the process of bringing human rights law into force. We must evaluate the Court's effectiveness in upholding its responsibility to safeguard human rights. What do we mean by the International Criminal Court, then, is the question that the paper poses. , Has the Court been successful in implementing global human rights law? Has the Tribunal fulfilled its mandate and goals?

2.2. Purpose of Study:

This study examines the relationship between the International Criminal Court and international human rights law with regard to the role played by the court in the application of international human rights law, and discusses the interaction between international human rights law and global justice and how the court enters and ensures the existence of universal justice in human rights issues, the main objective of This study is to discuss the role played by the International Criminal Court in informing international human rights law. Other objectives of the study are to provide a critical understanding of the following:

A- Demonstrating the importance of the court's role in maintaining the security and stability of the international community, preserving human dignity and life, and sending a clear and firm message to all those who attempt to attack human rights and freedoms, or those who commit serious violations and crimes that endanger the security and stability of the world. There is a judiciary. An effective international criminal who can prosecute them and impose penalties for the serious crimes they have committed.

b- Contribute to activating the role of the court in carrying out the tasks of protecting human rights, by indicating the difficulties it faces in carrying out its role, and the restrictions that make it able to carry out this role in the best way.

C- The legal framework used by the International Criminal Court to fulfill its role in enforcing international human rights law, i.e. the Rome Statute.

d- The connection between universal justice and international human rights legislation,

e- the creation of the International Criminal Court and the necessity of such a court.

2.3. hypothesis of Study:

A- To end impunity and bring those responsible for "the most serious crimes of concern to the international community" to justice, the International Criminal Court was founded."

b- According to its statute, it is a permanent international criminal court created to uphold international humanitarian law and international human rights law by bringing cases against individuals who commit egregious violations of these laws.

c- The Court hasn't been very effective, nevertheless, despite its formation and the Rome Statute's stipulations. In order to ensure the court's efficiency in upholding human rights law, some gaps must be filled.

3. Theoretical review:

The first permanent and impartial international court to hear the most serious crimes against humanity is the International Criminal Court. It has the authority to try individuals for crimes of genocide, war crimes, crimes against humanity, and aggression that come under its purview, regardless of whether they are high-ranking government officials or troops. Nearly a century of work has gone into prosecuting those accused of such serious crimes while upholding their rights and preventing them from escaping with impunity. This court's features include (Gradoni, 2007:44):

A- The Statute of the International Criminal Court, which was adopted at the Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court hosted by the United Nations in 1998, has been described as one of the most innovative and exciting developments since the establishment of the Court.

B- It was endorsed by the Secretary-General of the United Nations at the time, Kofi Annan, and it was described as "a gift of hope for future generations and a giant step towards universal human rights and the rule of law."

C- To understand the importance of the International Criminal Court, it is sufficient to consider the crimes that fall within the jurisdiction of the Court. The crime of genocide, war crimes and crimes against humanity are crimes of concern to the entire international community and threaten international peace and security, regardless of where they were committed in the world. Therefore, impunity for the perpetrators of these crimes is a common problem not only for a part of society, but also for the entire international community. As mentioned above, the court is in some ways innovative in the field of international law. Support for victims and witnesses, an independent court structure far beyond the control of the United Nations Security Council, and recognition of sexual violence as a war crime are some of these innovative approaches. Of course, these methods are the result of dedicated international criminal tribunals. Created since World War II and the evolution of human rights law. For example, sexual violence was recognized as a war crime for the first time in the International Criminal Tribunal for the Former Yugoslavia, established by the United Nations Security Council for war crimes committed in Yugoslavia. Again, the fact that the court was not established as a "subsidiary body" under the auspices of the United Nations Security Council is a consequence of the need for the court to be independent and impartial, which is an essential component of the right to a fair trial.

d- Another important aspect of the International Criminal Court is that it only investigates real persons by accepting the criminal responsibility of individuals for crimes within its jurisdiction. To put it more clearly, the ICC judges real people and not the state, institution, or similar national or international organizations. Such a person does not enjoy immunity from court regardless of his rank and position, and can be prosecuted as long as he is not under the age of 18 (Nilsson, 2011:233).

e- The court's complementarity principle is taken into consideration when evaluating the criminal responsibility of individuals. As is well known, jurisdiction arises mainly from the sovereign right of states. A state can regulate and prosecute an act as it pleases in its laws within its jurisdiction by classifying it as a crime. This crime could be mere theft, or it could be one of the crimes that fall within the jurisdiction of the ICC, namely genocide, war crimes, or crimes against humanity. At this point where the jurisdiction of the State and the ICC intersect, the principle of complementarity will apply. According to the principle of complementarity, if the crime within the jurisdiction of the court is the subject of prosecution or investigation in the competent country, the ICC is no longer competent in this case. Therefore, the ICC will primarily wait for the state authorized to prosecute the crime to take action. However, if that country is unwilling or unable to prosecute the crime, it is accepted that the ICC can prosecute crimes within its jurisdiction (El Zeidy, 2008:212).

3.1. Human Rights:

Human rights are privileges that people have just for being themselves. One of the biggest fights in human history has been defending human rights, particularly in the West. As a result, empires fell apart, kingdoms were destroyed, and new states and governments were created. (Hulme,2005:91).

Human rights, which were previously considered an internal matter of each country, acquired an international character with increasing speed after the First and Second World Wars. Thus, the human being as an individual became a subject of international law (Schabas, 2016:202).

Human rights are a set of supreme rules aimed at protecting human value and developing the material existence of a person. Fundamental rights are a well-established constitutional term in terms of domestic law, meaning the human rights enshrined in the constitution. These rules, whose number is increasing, are not homogeneous and contain differences, changes, and features. The rules of human rights are the rules that define the relations between the state and the individual in all principles, and are considered the basis of peace and justice in the world at the international level (Susana&Katherine,2007:806).

In our time, all states accept public rights and freedoms and human rights as a supranational value. In international relations, these concepts are accepted as the concept of legitimization. Developed countries attribute their development and progress to their commitment to these values. In addition, they try to pioneer these concepts in their own

way. They argue that these concepts are not given importance or violated against the countries they want to exclude or freeze their relations in international relations as a reason. Just as they feared the "excommunication" of the Church in the Middle Ages, today's states also fear the accusation of "violators of human rights". The fact that some states or sectors have used these values for their own political interests should not distort these values (Nilsson, 2011:234). The human values that are expressed today as human rights are the shared values revealed not only by the West but also by Throughout the common civilizational history of all mankind, this importance and priority comes from the importance and priority of man (El Zeidy,2008:213).

As with the mixture of hydrogen and oxygen, a unique concept emerges when words like "human rights" come together. The concept of a human being is defined as "a being consisting of soul and body, the most developed of all creatures that communicates with words and has the ability to think and reason". Who does the concept of human include?, or rather excludes? It can vary temporally and spatially. Legally, a person is called a person (person). The concept of personality leads us to civil law. According to our civil law, personality begins at birth. Every person born as a human being has basic rights and freedoms that ensure that individual freedoms and basic rights are not trampled by the authority of the state in the field of public law and this is called entitlement (Bob,2021:39).

The concepts of "mankind", "son of man" or "humanity" (words with the same meaning are used in English: humankind, man or humanity) are encountered especially in documents made after the Second World War. Many writers have identified the concept of humanity with the "international community". Some authors refer to states with this concept. Others view humanity as "all peoples" with respect to human communities that are not yet able to represent themselves independently. In fact, humanity is a whole that includes current and future generations and has a different legal personality than states (Schabas, 2016:203).

The term right is the singular form of the word law. So the word "law" means rights. However, when we say "human rights" we do not mean "human law". The concept of human rights expresses a much broader meaning than the branch of law dealing with human rights (Schabas, 2016:201).

The concepts of "human rights", "fundamental rights" and "public freedoms" are often used synonymously and it is difficult to separate the concepts of "right" and "freedom" from each other with clear lines. to make a definition; The concept of "freedom" refers to unregulated freedom before the law. "Right" has two meanings. In its everyday meaning, it means truth and authority. In the second sense, it refers to the will and interests that are recognized and protected by the legal system (Hulme,2005:92).

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The existence of human rights pertains only to him in the state system, and the framework and scope of human rights is determined by the relationship of the individual to the state, and their rights are according to the rules of law in which they were born; It is divided into “public rights” and “special rights.” Public rights are the rights arising from public law and are divided into three “personal” rights, social and economic rights, and political rights. As for private rights, they are rights arising from private law; It is divided into different types according to its nature, theme, use and purpose (El Zeidy,2008:214).

3.1.1. Concept of Human Rights:

There is no universally accepted definition of the concept of human rights, "public freedoms", "fundamental rights" and "citizen's rights" are always used interchangeably with the same meaning. If we give a definition that shows the common points in different definitions we can say that these are the inalienable rights with which people are equal, regardless of sex, age, belief and intellect in the face of the political power with which they are born as human beings. These rights are basic rights such as equality before the law, the right to life, the right to liberty and the right to property that exist in almost every country (Nilsson, 2011:235).

Today the term “human rights” refers to all the ideal rights that should theoretically be granted to all human beings in a given developmental era of humanity, and when human rights are mentioned more rights come to mind under the headings of “should” and “goals to be achieved”. Public freedoms refer to that part of human rights recognized by the state and incorporated into positive law. These freedoms are called public because they are recognized not only for a class or a group, but for everyone (the public) without exception, and therefore they constitute a branch that regulates the relations between the individual and the state. It is clear that "fundamental rights" are often used in opposition to public liberties, which is created from the terminology of German law, 1961 it is in the constitution. However, “fundamental rights” are sometimes used in faith and colloquial language as a synonym for the concept of “human rights” (Lee,2016:69).

Since human rights are such a sacrosanct idea, practically all nations and statesmen usually declare their commitment to it in order to uphold their legitimacy. Every state usually does this in order to justify its presence on its territory. Since human rights, the

rule of law, and democracy reflect how advanced nations are now, there is a correlation between the degree to which these ideas are upheld and national power, international standing, social stability, economic prosperity, and peace. Today, when a state is accused of breaching human rights, it is regarded as a serious accusation that calls for us to employ the Middle Ages-era word "deprivation (Gradoni, 2007:48).

3.1.2. The System Created By The United Nations Treaty:

According to the Charter of the United Nations, the Economic and Social Council is the United Nations body that works directly in the field of human rights. The Economic and Social Council and its affiliated units are at the center of the work of drafting international human rights treaties. In fact, the Human Rights Committee of this Council prepared the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Established in 1947, the Commission on Human Rights can prepare reports revealing human rights violations both in the country where human rights are allegedly violated and on specific issues. The committee is also entitled to appoint special rapporteurs to investigate allegations of violations that are not based on a specific international human rights treaty (Kurtuluş,2019:146).

Since the second half of the sixties, the Commission on Human Rights began closely monitoring human rights violations in the world and examining complaints related to this issue. The Committee carries out these activities mainly through the so-called "Procedure 1235" and "Procedure 1503" which have been approved by the Economic and Social Council. In addition, there are some special procedures that can be followed depending on the situation. Having examined "information regarding gross violations of human rights and fundamental freedoms" through the 1235 procedure, the Commission on Human Rights will thoroughly investigate examples showing that such violations have become permanent, and will present its findings on this subject along with special recommendations to the Economic Council And social, and that the authority granted to the committee in the framework of this procedure is not an "investigation" authority (Hulme,2005:93).

On the other hand, Action 1503 relates to the investigations being conducted by the working group set up by the Subcommittee on Prevention of Discrimination and Protection of Minorities and Violations of Human Rights. If gross human rights violations against fundamental rights and freedoms continue. If, as a result of its examination, the working group presents such cases to the relevant subcommittee and to the Commission on Human Rights, this commission will follow two tracks. The committee will either prepare a report containing its own recommendations and submit it to the Economic and Social Council, or it will set up a separate ad hoc committee on the matter and ask it to investigate the case. For the second procedure to work, accordingly, it must be openly accepted by the State to be examined and the terms of the investigation to be carried out must be specified in agreement with it. In this case all remedies at the national level in respect of the alleged violation must have been exhausted. In addition, the violation must not have already been

subject to investigation under an international or regional agreement, or the State concerned must not have opted for another procedure in this regard under an international treaty (Bob,2021:41).

Some complaints about human rights violations submitted to the United Nations may be about serious and imminent human rights violations. In these cases, indicating that the situation complained to the relevant Special Rapporteur or working group is “urgent” requires the UN to take “urgent action”. In this way, it can be ensured that the relevant unit can be put into effect immediately and an attempt can be made by the complained state to secure the rights of the complainant (Lee,2016:71).

3.1.3. Mechanisms Provided By The United Nations Human Rights Conventions:

The Human Rights Committee is the main body of the oversight system provided for in the International Covenant on Civil and Political Rights to protect the rights enshrined in this Convention. This committee is composed of 18 independent expert members who are expected to be elected from among the citizens of the states parties. The committee meets regularly three times a year and carries out its work within the framework of the “Rules of Procedure of the Committee” (Nilsson, 2011:238).

3.1.4. The United Nations And Human Rights:

At the end of World War II, the nations that declared war on Germany and Japan met in San Francisco on April 25, 1945, and prepared the United Nations Charter (Charter) and unanimously accepted it on June 25, 1945. This founding document was published on October 24, 1945. The United Nations Treaty Composed Of 111 articles divided into 19 sections and the 70-article Statute of the Court of Justice is accepted as an "integral part" of the UN Charter. The headquarters of the United Nations is located in New York and its European headquarters is in Geneva. The original (founding) members of the United Nations are the 50 countries that attended the San Francisco Conference and signed the United Nations Charter. Today there are 192 member states of the United Nations.

The purposes of the United Nations can be summarized as follows: (a) maintaining and maintaining international peace and security, (b) developing friendly relations in the international arena, and (c) ensuring cooperation among states in all fields of international relations. (d) To be a center that coordinates the foreign policies of states (Schabas, 2016:205).

The United Nations has six main organs. these; (a) the General Assembly, (b) the Security Council, (c) the Economic and Social Council, (d) the Trusteeship Council, (e) the International Court of Justice Human rights are not explicitly addressed in the 1919 Treaty of the League of Nations General Assembly. In the preamble to the United Nations Convention on Certain Important Human Rights Conventions which entered into force on

October 24, 1945 while expressing belief in respect for fundamental human rights, dignity and worth of the individual, it is considered to develop and strengthen respect for human rights and fundamental freedoms, regardless of race, sex, religion or language, which is one of the main purposes of the United Nations. In order to achieve these goals, the treaty entrusted the General Assembly, which is the main body of the organization, with the task of making reviews and recommendations to help implement human rights and fundamental freedoms for all. The General Assembly is the basic body in which all member states participate and have equal votes (El Zeidy, 2008:216).

The General Assembly has become the most important organ of the Organization by expanding its field of action in practice. The General Assembly has the opportunity to discuss and make recommendations on any issue that falls within the competence of the other bodies, provided that it is consistent with the purpose of the treaty. However, these recommendations are not binding. If the recommendations are accepted without objection or a compromise is reached, they are indirectly binding. For example although the Universal Declaration of Human Rights is not directly binding, its provisions are applied as it is a source of various agreements over time. The decisions of the General Assembly are not legally binding. The broad powers granted to the General Assembly have made this body a platform for discussing all the problems of the world. For this reason, although they are not legally binding, General Assembly resolutions carry a weight that even large and politically powerful countries do not like (Lee,2016:72).

3.2. Rome Conference:

After World War II, the idea of establishing an international criminal court, which had been halted by the Cold War, was revived in 1989 at the request of the Government of Trinidad and Tobago. These countries suffer from problems due to drug crimes at the international level. They applied to the United Nations and requested international cooperation to investigate these crimes and prosecute the perpetrators. After this request, the UN General Assembly decided that the International Law Commission should resume its work on establishing an international criminal court, which it had begun in 1950 but could not complete, and submitted a draft statute on the establishment of the court to the UN General Assembly. During the preparatory work for the draft situation, despite fears that the situation would be put into a “long hibernation” like previous preparations as mentioned above, the end of the Cold War and the changing balance of power allowed the UN General Assembly to take another step forward (Kurtuluş,2019:147)..

After studying the draft prepared by the International Law Commission, the General Assembly decided to establish the Preparatory Commission for the Establishment of the International Criminal Court in 1995. This Commission, unlike the Commission, was open to the participation of all states, NGOs and various international organizations. And so the intended International Criminal Court was opened for discussion so that all states and the public could contribute. This committee was also tasked with making the necessary

preparations for the diplomatic conference to be held to establish an international criminal court (Bob,2021:43).

Despite the clear discussions and differences known to the Rome Conference, a large part of which was an expression of the conflict between legal systems, political backgrounds and considerations, the efforts of the United Nations were crowned with success by adopting the Rome Statute of the Permanent International Criminal Court on the seventeenth of July 1998 AD; Considering that it is the international mechanism that must undertake the trial of the perpetrators of the most serious international crimes that threaten international peace and security, and it entered into force as a collective treaty binding on its parties on the first of July 2002 AD (Darcy&Owderly,2010:39).

The preamble to the Statute explains the motivations and justifications behind the court's founding and the expectations placed in it. It notes that millions of children, women, and men have suffered during the current century from unspeakable atrocities that have profoundly shocked humanity's conscience. Recognizing that these serious crimes pose a threat to world peace, security, and well-being, and emphasizing that the worst crimes of concern to the international community as a whole must not go unpunished and that effective prosecution of their perpetrators must be ensured through actions taken at the national level as well as through Promote international cooperation (Hulme,2005:95). Declaring its intention to stop the perpetrators of these crimes from enjoying impunity and to do this in order to help avoid similar crimes, Noting that it is every State's responsibility to exercise its criminal authority for individuals who commit crimes against the world, stating that the national criminal justice systems will work in conjunction with the International Criminal Court created by this Statute, And declaring its unwavering commitment to uphold and implement international justice on a long-term basis (Nilsson, 2011:239).

3.3. Rome Statute:

Crimes: Crimes are under the jurisdiction of the International Criminal Court, which is defined as the most serious crimes, limited to genocide, crimes against humanity, war crimes and crimes of aggression. The crimes included in Article 5 of the Statute are defined in detail in the ongoing Articles 6, 7 and 837. Elements of Crime, which is one of the supplementary texts to the Rome Statute, also includes detailed definitions to aid in the interpretation and application of each offense under the Statute (Kurtuluş,2019:148).:

A-Genocide: The organization of genocide as a separate and independent category of international crimes is relatively new, especially after World War II, and with the development of visual media, the awareness of the international community of the atrocities it was subjected to and the accompanying public pressure forced states to take measures to define this crime and put it in writing. in international agreements. The Convention on the Prevention and Punishment of the Crime of Genocide, which was accepted by the United

Nations General Assembly in Paris in 1948 and opened for signature in the same year, regulated the crime of genocide in detail and became the basic text in this field through its general acceptance in international law. The important approach that this Convention provides for the crime of genocide whether committed in time of peace or in time of war" in Article 1. Thus, not only during war, but during the Second World War as in the case of Germany before the Second World War, the possibility of punishing the crimes of genocide arose genocide committed in peacetime. Another important aspect of this agreement is that it provides for the establishment of a permanent international criminal court empowered to try the crime of genocide. Article 6 of the Convention regulates the trial of persons who commit the crime of genocide "before an international criminal court that has jurisdiction in relation to the contracting states." This system is accepted as a starting point for studies establishing the International Criminal Court. The Rome Statute which established the International Criminal Court without any change in the provisions of the 1948 Convention (Shahabuddeen, 2014:1007), according to the regulation contained in Article 6 of the Rome Statute implemented with the aim of destroying a national, ethnical, racial or religious group in whole or in part; (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately altering living conditions with a view to destroying, in whole or in part, the material existence of the group (d) taking measures to prevent procreation within the group; (e) The forcible removal of children belonging to a group constitutes genocide. This definition has been incorporated into the penal codes of many countries, but actual prosecutions have rarely been conducted (Lee,2016:74).

B- Crimes Against Humanity: Although the concept of crimes against humanity began to be discussed in some reports of the Special Committees after the First World War, the definition of the crime and the prosecution of its perpetrators were only possible in the Nuremberg and Tokyo trials. The main objective of defining crimes against humanity is not to leave some crimes committed in peacetime unpunished because they cannot be considered war crimes or crimes of aggression (Bob,2021:44).

Again if we return to the example of Germany before World War II, the crime that resulted from the Nazis killing homosexuals, the elderly or communists before the war, since they are not one of the specific victim groups, the crime of genocide is not included in the definition of a war crime because it is committed at the time ladder. So the statutes of the Nuremberg and Tokyo Military Tribunals introduced the concept of crimes against humanity. The acts of willful killing, genocide, enslavement, deportation or other inhumane treatment of the civilian population, or the commission of political, racial or religious persecution in connection with crimes against peace or war crimes before and during World War II (El Zeidy, 2008:219). Just as crimes against humanity were included in the statutes of the international criminal tribunals relating to war crimes in Yugoslavia and Rwanda, there are some definitional differences between these two statutes which carry the definitions in the Nuremberg and Tokyo trials further in scope. While the Rwanda War

Criminals Tribunal provides that the crime is committed for national, political, ethnic or religious reasons, the Yugoslavia Tribunal's statute contains no such limitation. The Tribunals of Yugoslavia and Rwanda, in addition to establishing highly detailed and systematic prosecution and trial procedures in the field of crimes against humanity, with their judicial processes and decisions also constituted a reliable source for the definition and scope of this crime in relation to the Rome Statute. Crimes against humanity as defined in Article 7 of the Rome Statute include acts committed as part of a widespread and systematic attack against any civilian population, including (Shahabuddeen,2014:1009): (a) murder, (b) genocide; (c) slavery; (d) removal or population transfers carried out under duress; (e) incarceration or other physical liberty restrictions that go against international law's essential principles; (f) torture, (g) Rape, sexual slavery, compelled prostitution, compelled pregnancy, compelled sterilization, and other equally serious sexual assaults; (h) persecution of any identified group or community for reasons that are not generally shared by society, such as politics, race, nationality, ethnicity, culture, religion, or sexual orientation; (i) Forced losses; (j) the crime of apartheid, (k) any other similar act of inhumanity that knowingly results in considerable suffering or serious harm to one's bodily, mental, or emotional well-being.

Unlike the Nuremberg Statute, the ICC Statute does not stipulate that crimes against humanity must be linked to an armed conflict. Therefore, even in the absence of armed conflict, one or more of the above-mentioned acts may constitute a crime against humanity. As stated in the definition, it is sufficient for these acts to be widespread and systematic against the civilian population (Susana&Katherine,2007:807).

3.4. The International Criminal Court And Its Role In The Enforcement Of International Humanitarian Law:

The establishment of the International Criminal Court was preceded by a number of international attempts, which expressed, in one way or another, the extent of the urgent need for a permanent system of criminal justice. Given the difficulties and obstacles faced by previous international courts, efforts have been combined to reach the endorsement of the Statute of the International Criminal Court, and the role is not hidden. undertaken by the United Nations in this regard through the International Law Commission and the Preparatory Committee established for this purpose and resulted in the Statute of the International Criminal Court, which was adopted at the Diplomatic Conference held in Rome on (July 17, 1998) and entered into force with the completion of the sixty ratifications in (April 11, 2022) The establishment of the International Criminal Court constitutes a watershed stage in the development of the rules of international humanitarian law, as there is no doubt that any legal system whose provisions are to be complied with requires the presence of an independent and permanent judicial body that works to confirm respect for these provisions and determines the responsibility of everyone who He deviates from it, and

this is what the international community has been lacking for a long period of time during which a judicial apparatus of an effective level was not created to apply the rules of international humanitarian law in particular. Those related to personal responsibility for the commission of international crimes (Hulme,2005:96).

3.5. Contributions Of The Third International Criminal Court To International Human Rights Law United Nations:

As one of the reasons for the Universal Declaration of Human Rights, “the fact that the denial of recognition and contempt for human rights has caused such inhumanity as to incite the human conscience to revolt,” as well as in the preamble to the Rome Statute, “millions of children and women throughout this century. Bearing in mind that men and women are victims of unimaginable evils that have deeply affected the conscience of humanity,” the statement reveals a parallel between the founding purpose of the International Criminal Court and the goals of international human rights law. In fact, it is a revolutionary court in terms of human rights, created under the Rome Statute, considering the protection of human rights as one of the basic building blocks of the ICC's philosophy. Indeed, the International Criminal Court is one of the important barriers that prevent the perpetrators of many shameful crimes for the peace, security and well-being of humanity, and it is also a deterrent to committing these crimes in the future (Kurtuluş,2019:149).

3.5.1. The Rule Of Law And The Idea Of Serving Justice To The International Criminal Court:

According to the principle of the rule of law which is one of the principles adopted by the Court, the Court protects affected individuals in the international arena against individuals who threaten their human rights, acting sometimes as a state policy and sometimes within a project organization (Bob,2021:46), from this perspective it would not be wrong to say that The International Criminal Court is the guarantor of human rights protection. In fact the ICC is trying to ensure the protection of international human rights with the standards it is trying to implement by adhering to the Statute. In fact, the idea of human rights aims to serve the purpose of ensuring the protection of basic rights and freedoms that the state is trying to restrict, and in this direction, the International Criminal Court takes an independent, impartial and effective trial without any political purpose, and stands by individuals against the repressive policies that states try to implement as a means To achieve justice for humanity (Lee,2016:76), the requirement to serve justice (the interest of justice) for a case being investigated by the ICC is clearly stated in Article 53 of the Statute. Because justice today is also the protector of potential victims in the future (Susana&Katherine,2007:808), in fact the ICC prosecution of a criminal who violates international human rights is a huge step forward for the country and its citizens by helping to form a new government that respects human rights and believes in the rule of law By drawing a sponge into the past for the offender's country (Kurtuluş,2019:152).with the aim

of serving the rule of law and justice, the ICC not only judges the accused, but also protects the rights of the accused in line with fair trial and equality, as is clearly stated in Article 62 of the Primary law. As a matter of fact, the rights contained in the aforementioned article are of a universal nature and are as follows; The right to know the accusation, to defend oneself, the right to be assisted by an interpreter, the right to benefit from a lawyer, the right to be heard from a legal point of view, the right to a trial within a reasonable time, the right to explain one's reason before the court, the right to Not to be compelled to testify against himself, and in case of doubt, the public prosecutor must disclose this and enable the accused to benefit. From this point of view, the International Criminal Court protects the right of the accused to a fair trial by protecting the rights of the offender and establishing a precedent for a model criminal trial. The right to a fair trial, which is a first-generation right that arose in the course of historical development, is also included in Articles X and XI of the United Nations Universal Declaration of Human Rights, and it is inconceivable that the International Criminal Court, established under the leadership of the United Nations, will act against This is (Nilsson,2011:233).

3.5.2. Victim PROTECTION:

While the role of victims in courts like Yugoslavia and the Rwanda trials is limited to hearing as witnesses, the ICC has protected the rights of victims more thoroughly in this regard. Indeed, Article 68 of the Statute relates to this as well, and as clearly stated in the relevant article, in addition to ensuring the safety of the victims during the trial, an attempt is made to rehabilitate their physical and mental health and they can be rehabilitated by participating in the trial and benefiting from a lawyer or presenting their testimony. Indeed, taking important steps towards this, the Court received 4,773 applications to participate in the proceedings between 2005 and 2011, for example, 2,647 of them were provided with legal representation (Kurtuluş,2019:153). Article 75 of the Statute also regulates "compensation for victims." ", with the aim of compensating for damages caused by the court by taking action on demand or ex officio. In other words, the court not only works to punish the criminals but also tries to cover the financial losses of the victims. Given that human rights courts cannot only impose penalties and award compensation, it can be concluded that the ICC actually serves and contributes to human rights more than other human rights courts. Indeed, the fact that sanctions can be imposed in addition to compensation is a much more effective method of deterrence and prevention than compensation (Darcy&Owderly,2010:41).

3.5.3. Contributions To The "Right To Development" As A Human Right:

The idea of human rights began after the Second World War, not only as an internal problem of states but also as a problem of the entire international community which brought with it the development of rights called "third generation rights" or "solidarity

rights” (El Zeidy, 2008:212). The right to peace, the right in the environment, the right to self-determination, the right to development or development, the right to respect the common property of humanity and the right to development, and that all crimes that fall within the jurisdiction of the International Criminal Court violate the right to development (Schabas,2016:207), this situation is not directed Only towards the victim or his country, but in fact it is about all humanity (Kaboğlu,1991:40) The contribution of the court regarding the right in question can be based on Article 79 of the Rome Statute.In fact, the victims are expected to benefit from it by establishing a compensation fund, However, the purpose of using the fund was not limited to that, but extended to a broad framework, and it is possible to try to restore life to its previous state by repairing infrastructure services, buildings and other issues damaged in conflicts in the name of post-war settlement, through the fund related (Kurtuluş,2019:155). because the aforementioned fund is designed to be used for all types of indirect assistance as well as direct financial assistance to victims. A good example of this is that the fund set up in Uganda, in partnership with the Chili Pepper Producers Association, provided chili seeds and farming tools to 2,700 war victims, helping them survive (Lee,2016:76). individuals, but also for the benefit of all humanity. The right to development aims to remove the harm in question and continue the development of the member through the acceptance of the international community as one element, on the assumption that the harm to any of its members has reached everyone (Bob,2021:48), this development is not only one-dimensional in the form of economic development and economic of the individual, but also multidimensional, including states, peoples and minorities as well as political, social and cultural development (Hulme,2005:97).

3.6. Political obstacles in the work of the International Criminal Court:

We will try, through this axis, to show the most important political obstacles that prevent the International Criminal Court from performing the function entrusted to it, which emerges through the control of a political body and its blatant interference in its jurisdiction, not to mention the negative stance taken by the United States of America towards it (Susana&Katherine,2007:809).

Before the Rome Conference and during the initial preparations for the establishment of the International Criminal Court, a new and powerful aspect entered the debate. In 1995 the International Criminal Court Coalition (UCMK-CICC) was formed, led by organizations such as Amnesty International, Human Rights Watch, Parliamentarians for Global Action and the International Federation for Human Rights. The NGOs that had been operating on an organizational basis until this time acquired a highly organized structure with the establishment of the coalition and began to play an active role in the discussions. Thanks to the fact that the preparatory committee responsible for the work required to establish the ICC was open to the participation of all states, NGOs and various international organizations, the Coalition had the opportunity to monitor and, most importantly, to participate in the entire preparatory process, and the coalition that was formed of 25 NGOs

in The first stage, and it has grown rapidly since its inception and reached a structure in which the International Criminal Court, the Council of State Parties and the support of more than 2,000 organizations are formal. After the establishment of the court, the coalition increased the efficiency of the court by conducting extensive studies in the areas of raising awareness of the court and the statute (especially informing victims and witnesses) and increasing local capacities (El Zeidy, 2008:218).

4. Discuss the Results:

None of the wars during the history of mankind has been made more bloody than the first and second world wars in particular, the second world war proved to everyone that in the next world war the entire humanity can be destroyed. For this reason, and in order to prevent the recurrence of such a war, many human rights documents have been signed, and various mechanisms have been put in place in this direction. Although they were criticized at various points, the process of international criminal tribunals that began with the Nuremberg and Tokyo International Criminal Tribunals, which were set up to try the atrocities of World War II, ended with the establishment of the International Criminal Court. An undeniable fact. The penalties in question are directed against the individual who committed the crime and individual responsibility is expected. Another, albeit indirect, tool for defending human rights is the International Criminal Court. By punishing itself regardless of the offender's title, the Court, which has the power to adjudicate crimes listed in the Rome Statute, upholds justice and calms the conscience of the international community. The integrity of the rule of law is not affected. The importance of the court at this stage is demonstrated by the expectation of an effective, independent and impartial trial during the proceedings. The greatest advantage of these trials is that they punish the offender who has transgressed the morals of the whole world, acquit all people of guilt, and help establish a just government by ensuring social and political stability in the nation in which he is found. The crime has been done. The court guarantees the elimination of the impact of the harm caused by the crime on the victims or at least minimizing it by mobilizing all kinds of material and moral means, and protecting them in every way while punishing the criminal. Through the Compensation Fund, the Court also supports the right to development, a human right that actually anticipates human existence, both during and after trial. He helps not only the nation in which the crime was committed, but also all of humanity. Because all of humanity benefits from the development of the international community, which functions as an interdependent organism. As a result, the importance of the International Criminal Court, which was established as a result of the many painful experiences that humanity has gone through, lies not only in the context of international criminal law, but also; Human rights in the context of contributions to the service of justice, the rule of law, protection of victims and the right to development. As the international community continues to evolve over time, these contributions will increase and diversify, and the importance of the topic will be better understood.

The importance of an independent and effective International Criminal Court, as a necessary mechanism to ensure respect for the principles of international law, the protection of human rights and justice for victims. In the absence of another permanent and effective mechanism for the issue of persons who violate the rules of international law and commit the most heinous crimes against humanity. The International Criminal Court can play its role not only as a remedial mechanism (after the commission of crimes), but also as a deterrent preventive mechanism. They prevent the emergence of a bloodthirsty, bloodthirsty dictator. In addition, the maintenance of peace and stability of security in the world will be among the results of the existence of the International Criminal Court.

The definition of crimes against humanity contained in the Rome Statute is a new and innovative definition, as it ignores the connection to armed conflicts from the outset, and it clarifies the possibility of committing crimes against humanity in times of peace and war together. The Rome Statute defined the crimes of torture, assassination, and enforced disappearance more comprehensively than the definition of relevant human rights instruments, by separating them from the need to know the official status of the perpetrator.

Crimes against humanity take the form of acts that are committed on a large scale and systematically, so that the number of victims is often large, and therefore individual crimes committed by a person on his own are excluded from their scope, and at the same time these acts that constitute the attack must be widespread and systematic attack against any part of the civilian population), which may have taken place pursuant to a state or organized policy.

Crimes against humanity have become part of international law, whether in times of peace or war.

The Rome Statute came in harmony with international law by abolishing all forms of defense in an official capacity, as many of the crimes mentioned in the Statute are by nature crimes of leaders, and then states must either amend their constitutions or interpret them in a way that it is understood that there is no immunity granted to the perpetrators of crimes international law, which represents a sure and effective guarantee for the prosecution of serious violations of human rights, which contributes to the protection of these rights.

For victims and victims of crimes against humanity, the Rome Statute includes new conditions with regard to victims. For the first time in the history of criminal justice, victims can participate in lawsuit procedures, especially by resorting to legal representatives, and claiming compensation. In addition, the system established The Rome Statute provides a trust fund for victims, which can collect funds from fines and compensation orders issued against convicted persons.

The gap in the global legal system has been identified as an international criminal court. Only disputes between governments, not disputes between people, are heard by the

International Court of Justice in The Hague. Gross human rights crimes and acts of genocide frequently go unpunished in the absence of an international criminal court to handle individual accountability.

To put a stop to impunity, the International Criminal Court was also necessary. "Crimes against international law are done by men, not abstract entities," the Nuremberg Tribunal ruled in its ruling, and "the principles of international law can only be enforced to punish the persons who commit these crimes." With this ruling, the fundamental tenet of international criminal law—individual criminal responsibility for all individuals who engage in such crimes—was established. In this regard, the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide acknowledges that the crime of genocide may be perpetrated by legitimately in power authorities, public servants, or private citizens. In order to overcome the special courts' deficiencies in upholding human rights law. As there was no war crimes court for the atrocities in Cambodia, the creation of ad hoc courts typically raises the question of selective justice.

Because it can work more consistently thanks to being a permanent court, the ICC fills this vacuum. A special court takes time to set up. Establishing a special tribunal might take time, which can have a variety of effects. Important evidence may decay or be lost, offenders may flee the scene or change their location, and witnesses may be moved or threatened.

Future war criminals and transgressors of international human rights and humanitarian law have been deterred by the International Criminal Court. Throughout history, the majority of those who committed crimes against humanity went unpunished. Despite the World War II military tribunals and the most recent special international courts for Rwanda and the former Yugoslavia.

The study offers suggestions for various participants in the business of the International Criminal Court in the area of upholding human rights law based on the aforementioned background. The Court, the UN Security Council, states parties, international organizations, and regional organizations are some of these players. These parties involved should:

A- Inclusion of the crime of terrorism in the Rome Statute: Although there is no consensus on the definition of terrorism in international law, the Statute of the International Criminal Court must include terrorism in its scope.

B- Increasing the court's reach around the world: Even though many nations have accepted the International Criminal Court Statute, more needs to be done to make it universal. The Statute has not been approved by powerful nations like the United States of America, Russia, or China. The fact that all current investigations are being undertaken on the African continent, where significant crimes were in fact committed, unfortunately perpetuates the false notion that the Court is not impartial due to this limitation of its

jurisdiction. As a result, other nations must ratify the Statute in order to increase the scope of the court's authority.

C- Increasing state cooperation: Because they lack their own police forces, states are required to work with the International Criminal Court. Insufficient state collaboration severely harms the court's authority and effectiveness. States parties should offer political and diplomatic support in addition to the required judicial and technical collaboration. They should also avoid meeting anyone for whom the International Criminal Court has issued an arrest warrant.

D- Increasing funding for intergovernmental organizations: Priorities of intergovernmental organizations like the European Union and the African Union must take the International Criminal Court into account. The latter (of which a relatively large number of Member States have ratified the Statute) should additionally seek to adhere to the Court's rulings and to encourage and incorporate the prosecution of international crimes.

e- Enhancing the Office of the Prosecutor's investigations and prosecutions: The Prosecutor of the International Criminal Court shall critically evaluate the application and effects of the Office of the Prosecutor's policies and procedures. It is necessary to study the procedure for selecting the size of investigation teams and hiring experienced investigators.

f- Supporting national integration initiatives: The International Criminal Court has jurisdiction when national courts lack the means or the desire to genuinely investigate crimes that fall under their purview and bring the offenders to justice. Implementing this rule and starting successful prosecutions at the national level will effectively help close the "impunity gap" because the ICC exclusively prosecutes individuals who have the most responsibility for crimes committed within its jurisdiction."

g- Increasing the International Criminal Court's influence over impacted communities: The Hague-based International Criminal Court, which is far away from the crimes being looked into, is overseen by a special and extremely intricate legal framework. The Court cannot possibly hope to have an impact if it is unknown or even misunderstood, especially given how readily misinformation can be spread and how seriously its potential effectiveness is being treated. Therefore, it is crucial that the Tribunal continue and expand its field outreach efforts.

h. Encouragement of victims' effective representation and participation: One significant advancement of the Rome Statute is the inclusion of victims in legal processes. The goal is to give victims of crimes who have been overlooked by ad hoc tribunals that have heard them merely as witnesses a central place in the new system of international justice, giving them actual relevance. This component accentuates the fact that it is impossible for the ICC to rule on mass crimes that outrage people's consciences without taking the victims' needs into consideration.

i- The International Criminal Court conducts its investigations in regions of active conflict, with the protection of witnesses, victims, and mediators. The ICC employs a

number of intermediaries to speed up the course of its proceedings and because of its limited resources. Given their access to the local community, their familiarity with the languages and cultural environment, and the complex security situation that allows them to interview victims and witnesses without drawing attention to them, mediators' presence is crucial. States must enter into resettlement agreements with the court, which are frequently the only forms of protection available given the conflict backdrop in the countries of the situation, in order to contribute to the ICC's protection program.

With regard to the review of Article 16 of the Rome Statute, with regard to the international security authority in the case of the International Criminal Court, with regard to the trial before the International Criminal Court, with regard to the trial before the International Criminal Court. the international criminal court, the international criminal court, the international criminal court, the lawsuit against the international criminal court, the international criminal court, the criminal court, the international criminal court, the criminal court, the international criminal court, the international criminal court, the international criminal court, the international criminal court Or the International Criminal Court to give priority to political considerations; which impedes the proper procedures of international criminal justice; This undermines the effectiveness of international trade and establishes confidence in the protection of human rights.

Recording the lawsuit, the lawsuit, or dismissing it... according to what he deems fit. From legal reasons.

In order for the investigator to investigate the International Criminal Court to preserve human rights and responsibility; The most beautiful bush in the most beautiful in this area.

For example, in dealing with the challenges faced by transnational corporations, in dealing with the challenges, in dealing with the international challenges, in dealing with the challenges, in dealing with the international sanctions after that, the end of the conflicts . This file is lost due to its loss, which leads to legal aid.

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