

INTERNATIONAL CRIMINAL COURT AND **INTERNATIONAL LAW**

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ABSTRACT:

When one is wrong, the justice and the punishments are given by the country. But when the Country and its Government's are corrupt and involved in a wrong doing, Who or What will come to the aid of the country's citizen? This is the question having by the researcher, This paper seeks to answer the question of a country's citizens safety and wellbeing even if the government is involved in crime and what Punishments, Precautions and fines given to the country and what steps are taken to prevent it from happening again. The present study deals with the history of international courts, international laws based on evidences (Reviews and articles) , Case procedures, Rectifications and appropriate recommendations are mentioned in this study.

Keywords: International court, International Laws, Future Scope

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1. INTRODUCTION

The ICC is Inter Governmental Organization and international tribunal that sits in The Hague in the Netherlands. The ICC has the Jurisdiction to indict people for the international wrongdoings of genocide, violations against mankind, and atrocities. The ICC is planned to supplement existing national legal frameworks and it might in this way just exercise its Jurisdiction when certain conditions are met, for example, when national courts are unwilling or not able to indict criminals or when the United Nations Security Council or individual states allude examinations to the Court. The ICC started working on 1 July 2002, the date that the Rome Statute gone into compel.

The International criminal court is an intergovernmental association and international tribunal that sits in Netherlands. The ICC has the Jurisdiction to indict people for the international violations of genocide, wrongdoings against humankind, and atrocities. The ICC has four chief organs specifically the Presidency, the Judicial Divisions, the Office of the Prosecutor, and the Registry. International law is the arrangement of principles by and large viewed and acknowledged as authoritative in relations amongst states and between countries.

National law may wind up plainly international law when settlements assign national Jurisdiction to supranational tribunals, for example, the European Court of Human Rights or the International Criminal Court. Arrangements, for example, the Geneva Conventions may require national law to fit in with separate parts. The ICC is financed by commitments from the states parties. The sum payable by each state party is resolved utilizing an indistinguishable technique from the United Nations

2. OBJECTIVES:

- To study about the International Criminal Court (ICC) and its functions.
- To critically analyse the international law and the ICC.
- To understand the History of intergovernmental organization
- To understand Jurisdiction and procedures the international court's jurisdiction

3. HYPOTHESIS:

- Whether the judgment of the international criminal court and of intergovernmental organization serves as binding on other criminal courts in present situation or not?

4. REVIEWs

While state referrals appear to be less problematic with Court cooperation, some critics point to the existence of loopholes which are likely to impact negatively on the effectiveness of the Court. For example, El Zeidy in his article, “The Ugandan Government Triggers the First Test of the Complementary Principle,” raises questions regarding the Ugandan self-referral on war crimes that were committed by the Lord Resistance Army (LRA).¹⁵ While cooperation between Uganda and Court on the LRA issue is strong, Mohamed questions the time when the LRA committed the alleged crimes in Uganda which he argues does not tally with the limitations imposed by Article 11(1) of the Statute. The Rome Statute requires that only cases that were committed from 2002 when the Statute came into force could be tried by the Court. The other issue that Zeidy points out is that because Uganda represents both the territorial state and the state of nationality, issues of complementarity and waiver will further complicate the case because these issues are not conclusively addressed in the Statute or in the Rules of Procedure and Evidence.¹⁶ Although the Prosecutor has the final decision on the issue of the waiver, to either initiate an investigation or not to pursue with an investigation, these complications tend to affect the effectiveness of the Court.

David Krivanek's article

David Krivanek's article, “Prospects for Ratification and Implementation of the Rome Statute by the Czech Republic” claims that the Czech Republic has been the only EU member state that had not ratified the Rome Statute.¹⁷ The reason for non ratification is more to do with political rather than the legal aspect of the Czech constitution. The status of the Rome Statute is determined by Articles 10 & 10a of the Czech Constitution and the incorporation process requires the approval by parliament and ratification by the Czech President.¹⁸ This shows that the ICC is not above any constitution. The Czech example also shows how political pressures obtaining in a country may override and limit the needs of the international community. For example, Section 19 of the Czech Constitution provides that the Republic can exercise universal jurisdiction over genocide

and war crimes but not all crimes that are listed in Articles 6, 7 and 8 of the Rome Statute are contained in the Czech Criminal Code as crimes against humanity.

Article 13 of the Rome Statute

Article 13 of the Rome Statute stipulates that the Prosecutor of the ICC becomes engaged in an investigation after a referral by a state party, by the Security Council acting under Chapter VII of the UN Charter or the Prosecutor using his proprio motu powers under Article 15 of the Rome Statute.²⁰ If the Prosecutor believes that there are reasonable grounds to commence an investigation, he then requests authorization from the Pre-Trial Chamber to initiate an investigation. However, the Czech criminal procedure obliges the prosecutor to initiate criminal proceedings once information that a crime has been committed is available

The ICC is Inter Governmental Organization and international tribunal that sits in The Hague in the Netherlands. The ICC has the Jurisdiction to indict people for the international violations of genocide, wrongdoings against mankind, and atrocities. The ICC is proposed to supplement existing national legal frameworks and it might subsequently just exercise its Jurisdiction when certain conditions are met, for example, when national courts are unwilling or not able to arraign criminals or when the United Nations Security Council or individual states allude examinations to the Court. The ICC started working on 1 July 2002, the date that the Rome Statute gone into compel.

5. DISCUSSION - HISTORY:

The foundation of an international tribunal to judge political pioneers blamed for international violations was first proposed amid the Paris Peace Conference in 1919 after the First World War by the Commission of Responsibilities. The issue was tended to again at a meeting held in Geneva under the support of the League of Nations in 1937, which brought about the finish of the principal tradition stipulating the foundation of a lasting international court to attempt demonstrations of international psychological warfare. The tradition was marked by 13 states, however none endorsed it and the tradition never gone into constrain.

Following the Second World War, the partnered powers built up two impromptu tribunals to arraign pivot control pioneers blamed for atrocities. The International Military Tribunal, which sat in Nuremberg, arraigned German pioneers while the International Military Tribunal for the Far East in Tokyo indicted Japanese pioneers. In 1948 the United Nations General Assembly initially perceived the requirement for a changeless international court to manage monstrosities of the kind arraigned after the Second World War. At the demand of the General Assembly, the International Law Commission (ILC) drafted two statutes by the mid 1950s yet these were retired amid the Cold War, which made the foundation of an international criminal court politically doubtful.

Organs of the court:

The Court has four organs:

The Presidency, the Judicial Division, the Office of the Prosecutor, and the Registry.

Administration:

The Presidency is in charge of the best possible organization of the Court (aside from the Office of the Prosecutor). It contains the President and the First and Second Vice-Presidents—three judges of the Court who are chosen to the Presidency by their kindred judges for a greatest of two three-year terms. The current (and first female) president is Silvia Fernández de Gurmendi, who was chosen on 11 March 2015

Legal Divisions:

The Judicial Divisions comprise of the 18 judges of the Court, sorted out into three chambers—the Pre-Trial Chamber, Trial Chamber and Appeals Chamber—which do the legal elements of the Court. Judges are chosen to the Court by the Assembly of States Parties. They serve nine-year terms and are not by and large qualified for re-decision. All judges must be country nationals of states gatherings to the Rome Statute, and no two judges might be nationals of a similar state. They should be "people of high good character, fairness and trustworthiness who have the capabilities required in their particular States for arrangement to the most noteworthy legal workplaces".

The Prosecutor or any individual being examined or indicted may ask for the exclusion of a judge from "any case in which his or her fair-mindedness may sensibly be questioned on any ground". Any ask for the exclusion of a judge from a specific case is chosen by a flat out lion's share of alternate judges. A judge might be expelled from office on the off chance that he or she "is found to have submitted genuine offense or a genuine break of his or her obligations" or can't practice his or her capacities. The expulsion of a judge requires both a 66% greater part of alternate judges and a 66% lion's share of the states parties.

Office of the Prosecutor:

The Office of the Prosecutor is in charge of leading examinations and arraignments. It is going by the Chief Prosecutor, who is helped by at least one Deputy Prosecutors. The Rome Statute gives that the Office of the Prosecutor should act freely; all things considered, no individual from the Office may look for or follow up on guidelines from any outer source, for example, states, international associations, non-legislative associations or people.

The Prosecutor may open an examination under three conditions:

- At the point when a circumstance is alluded to him or her by a state party;
- At the point when a circumstance is alluded to him or her by the United Nations Security Council, acting to deliver a risk to international peace and security; or
- At the point when the Pre-Trial Chamber approves him or her to open an examination on the premise of data gotten from different sources, for example, people or non-legislative associations.

Any individual being researched or arraigned may ask for the exclusion of a prosecutor from any case "in which their fair-mindedness may sensibly be questioned on any ground". Requests for the preclusion of prosecutors are chosen by the Appeals Chamber. A prosecutor might be expelled from office by a flat out lion's share of the states parties in the event that he or she "is found to have conferred genuine wrongdoing or a genuine break of his or her obligations" or can't practice his or her capacities. In any case, faultfinders of the Court contend that there are "lacking governing rules on the expert of the ICC prosecutor and judges" and "inadequate security against politicized indictments or different misuse". Henry Kissinger says the governing rules are weak to the point that the prosecutor "has for all intents and purposes boundless attentiveness practically speaking". A few endeavors have been made to consider Kissinger

himself in charge of saw shameful acts of American remote approach amid his residency in government. Starting at 16 June 2012, the Prosecutor has been Fatou Bensouda of Gambia who had been chosen as the new Prosecutor on 12 December 2011. She has been chosen for a long time. Her antecedent, Luis Moreno Ocampo of Argentina, had been in office from 2003 to 2012.

Registry:

The Registry is in charge of the non-legal parts of the organization and overhauling of the Court. This incorporates, in addition to other things, "the organization of legitimate guide matters, court administration, casualties and witnesses matters, resistance direct, detainment unit, and the customary administrations given by organizations in international associations, for example, back, interpretation, building administration, obtainment and personnel".The Registry is going by the Registrar, who is chosen by the judges to a five-year term. The present Registrar is Herman von Hebel, who was chosen on 8 March 2013. Home office, workplaces and confinement unit.

The official seat of the Court is in The Hague, Netherlands, yet its procedures may occur anyplace. The Court is right now housed in interval premises on the eastern edge of The Hague. It plans to develop the ICC Permanent Premises in the Alexanderkazerne, toJurisdiction the north of The Hague. The land and financing for the new development have been given by the Netherlands, and engineers Schmidt Hammer Lassen have been held to plan the venture.

The ICC likewise keeps up a contact office in New York and field workplaces in places where it leads its exercises. Starting at 18 October 2007, the Court had field workplaces in Kampala, Kinshasa, Bunia, Abéché and Bangui.

The ICC's detainment fixate involves twelve cells on the premises of the Scheveningen branch of the Haaglanden Penal Institution, The Hague. Suspects held by the International Criminal Tribunal for the previous Yugoslavia are held in a similar jail and offer a few offices, similar to the wellness room, however have no contact with suspects held by the ICC. The detainment unit is near the ICC's future central station in the Alexanderkazerne.

Starting at July 2012, the detainment focus houses one individual sentenced by the court, Thomas Lubanga, and four suspects: Germain Katanga, Mathieu Ngudjolo Chui, Jean-Pierre Bemba and Laurent Gbagbo. Also, previous Liberian President Charles Taylor is held there. Taylor was attempted under the order and protection of the Special Court for Sierra Leone, however his trial was held at the ICC's offices in The Hague on account of political and security worries about holding the trial in Freetown. On 26 April 2012, Taylor was sentenced on eleven charges.

The ICC does not have its own witness assurance program, but instead must depend on national projects to protect witnesses. Jurisdiction and acceptability. The Rome Statute requires that few criteria exist in a specific case before an individual can be arraigned by the Court. The Statute contains three jurisdictional prerequisites and three tolerability necessities. All criteria must be met for a case to continue.

6. OVERVIEW OF THE INTERNATIONAL COURT

There are three jurisdictional prerequisites in the Rome Statute that must be met before a body of evidence may start against a person. The necessities are

- (1) subject-matter jurisdiction (what acts constitute wrongdoings),
- (2) Territorial or personal jurisdiction (where the wrongdoings were submitted or who conferred them), and
- (3) Temporal Jurisdiction (when the wrongdoings were conferred).

Subject-Matter Jurisdiction

The Court's Subject-Matter Jurisdiction is the wrongdoings for which people can be indicted. People must be indicted for violations that are recorded in the Statute. The essential violations are recorded in article 5 of the Statute and characterized in later articles: genocide (characterized in article 6), wrongdoings against humankind (characterized in article 7), atrocities (characterized in article 8), and violations of animosity (characterized in article 8 bis). In expansion, article 70 characterizes offenses against the organization of equity, which are additionally wrongdoings for which people can be indicted.

Territorial or Personal Jurisdiction

For a person to be arraigned by the Court either Territorial or personal jurisdiction must exist. In this manner, an individual must be indicted on the off chance that he or she has either

- (1) carried out a wrongdoing inside the Jurisdiction of the Court or
- (2) carried out a wrongdoing while a national of an express that is inside the regional Jurisdiction of the Court.

Regional Jurisdiction

The regional Jurisdiction of the Court incorporates the domain, enlisted vessels, and enrolled air ship of states which have either

- (1) Become gathering to the Rome Statute or
- (2) Accepted the Court's Jurisdiction by documenting a statement with the Court.

In circumstances that are alluded to the Court by the United Nations Security Council, the regional Jurisdiction is characterized by the Security Council, which might be more sweeping than the Court's typical regional Jurisdiction. For instance, if the Security Council alludes a circumstance that occurred in the region of an express that hosts both not move to Jurisdiction becoming gathering to the Rome Statute and not held up a presentation with the Court, the Court will in any case have the capacity to indict violations that happened inside that state.

Individual Jurisdiction

The individual Jurisdiction of the Court reaches out to every single regular individual who carry out violations, paying little mind to where they are found or where the wrongdoings were submitted, the length of those people are nationals of either

- (1) States that are gathering to the Rome Statute or
- (2) States that have acknowledged the Court's Jurisdiction by recording an announcement with the Court.

Similarly as with regional Jurisdiction, the individual Jurisdiction can be extended by the Security Council in the event that it alludes a circumstance to the Court.

Temporal jurisdiction

Temporal Jurisdiction is the era over which the Court can practice its forces. No statute of impediments applies to any of the wrongdoings characterized in the Statute. In any case, the Court's Jurisdiction is not totally retroactive. People must be arraigned for violations that occurred on or after 1 July 2002, which is the date that the Rome Statute went into effect. In any case, if a state moved to Jurisdiction becoming a party to the Statute, and in this manner an individual from the Court, after 1 July 2002, at that point the Court can't practice Jurisdiction before that date for specific cases. For instance, if the Statute went into effect for a state on 1 January 2003, the Court could just exercise transient Jurisdiction over wrongdoings that occurred in that state or were committed by a national of that state on or after 1 January 2003.

7. PROCEDURE OF THE INTERNATIONAL COURT

Trial

Trials are held under a half breed precedent-based law and common law legal framework, yet it has been contended the procedural introduction and character of the court is as yet developing. A larger part of the three judges display, as triers of certainty, may achieve a choice, which must incorporate a full and contemplated proclamation. Trials should be open, however procedures are frequently shut, and such special cases to an open trial have not been specified in detail. In camera procedures are taken into consideration insurance of witnesses or respondents and additionally for private or touchy proof. Prattle and other aberrant confirmation is not by and large restricted, but rather it has been contended the court is guided by noise special cases which are noticeable in precedent-based law frameworks. There is no subpoena or different intends to propel observers to precede the court, in spite of the fact that the court has some energy to constrain declaration of the individuals who preceded it, for example, fines.

Privileges of the accused

The Rome Statute gives that all people are assumed pure until demonstrated blameworthy past sensible uncertainty, and builds up specific privileges of the charged and people amid examinations. These incorporate the privilege to be completely educated of the charges against him or her; the privilege to have a lawyer designated, for nothing out of pocket; the privilege to an expedient trial; and the privilege to look at the observers against him or her.

To guarantee "equity of arms" amongst resistance and indictment groups, the ICC has set up a free Office of Public Counsel for the Defense (OPCD) to give strategic support, exhortation and data to litigants and their direction. The OPCD likewise protects the privileges of the blamed amid the underlying stages for an examination. In any case, Thomas Lubanga's barrier group say they were given a littler spending plan than the Prosecutor and that confirmation and witness articulations were ease back to arrive.

Victim participation

One of the considerable developments of the Statute of the International Criminal Court and its Rules of Procedure and Evidence is the arrangement of rights allowed to casualties. Without precedent for the historical backdrop of international criminal equity, casualties have the likelihood under the Statute to introduce their perspectives and perceptions under the watchful eye of the Court.

Support under the steady gaze of the Court may happen at different phases of procedures and may take distinctive structures, despite the fact that it will be up to the judges to give headings with regards to the planning and way of investment. Investment in the Court's procedures will much of the time occur through a lawful agent and will be led "in a way which is not biased or conflicting with the privileges of the denounced and a reasonable and unprejudiced trial".

The casualty based arrangements inside the Rome Statute furnish casualties with the chance to have their voices heard and to acquire, where proper, some type of reparation for their torment. It is the point of this endeavored adjust amongst retributive and therapeutic equity that, it is trusted, will empower the ICC to convey criminals to equity as well as enable the casualties themselves to get some type of equity. Equity for casualties before the ICC contains both procedural and substantive equity, by enabling them to take an interest and present their perspectives and interests, with the goal that they can shape truth, equity and reparations results of the Court. Article 43(6) builds up a Victims and Witnesses Unit to give "defensive measures and security courses of action, guiding and other proper help for witnesses, casualties who show up under the watchful eye of the Court, and other people who are at chance by virtue of declaration given by such witnesses." Article 68 sets out methodology for the "Insurance of the casualties and

witnesses and their investment in the procedures." The Court has likewise settled an Office of Public Counsel for Victims, to offer help and help to casualties and their lawful delegates.

What sort of cases does the court seek after?

The court's first decision, in March 2012, was against Thomas Lubanga, the pioneer of a state army in the Democratic Republic of Congo. He was indicted atrocities identifying with the utilization of youngsters in that nation's contention and sentenced in July to 14 years. The most astounding profile individual to be conveyed to the ICC is Ivory Coast's previous President Laurent Gbagbo, who was accused in 2011 of murder, assault and different types of sexual viciousness, abuse and "other heartless acts". Other outstanding bodies of evidence included charges of violations against mankind against Kenya's President Uhuru Kenyatta, who was prosecuted in 2011 regarding post-decision ethnic savagery in 2007-08, in which 1,200 individuals kicked the bucket. The ICC dropped the charges against Mr Kenyatta in December 2014.

Among those needed by the ICC are pioneers of Uganda's revolt development, the Lord's Resistance Army (LRA), which is dynamic in northern Uganda, north-eastern DR Congo and South Sudan. Its pioneer Joseph Kony is accused of wrongdoings against humankind and atrocities, including snatching of thousands of youngsters.

8. FINDINGS BASED SUGGESTIONS:

The introduction of ICL along a Universalist legitimate worldview and the innately political nature of inside clashes scheme against the fulfillment of an effective criminal equity extend. As opposed to adding to the determination of the fundamental auxiliary reasons for inside clashes, international criminal organizations have a tendency to cloud the issues encourage by receiving a settled 'criminal, casualty and a supernatural judge' 140 recipe. Despite the fact that international criminal equity talk conjures the privileges of influenced populaces, it fails to assess their yearnings; political or something else, regularly supplanting them with the inclinations of an evacuated 'international group'. However, ICL is seriously constrained, both by its own extension and its specific and sporadic authorization. It is badly prepared, in seclusion, to guarantee international peace and security and to advance human rights. Really equitable organizations,

then again will be a superior assurance for a conclusion to political savagery and suppression. In this way, international criminal foundations should endeavor to empower political changes along fair lines, not on the grounds that majority rules system is a practical point of ICL but since the accomplishment of the customary and basic destinations of ICL is unfathomable without popularity based organizations at the level of the country state.

9. CONCLUSION:

The court has an extraordinary capture warrant for Sudanese President Omar al-Bashir - the first against a serving head of state. At the point when Mr Bashir - who confronts three tallies of genocide, two numbers of war wrongdoings and five counts of violations as a detriment to mankind - went to an African Union summit in South Africa in June 2015, a South African court requested that he be kept from leaving the nation while it chose whether he ought to be captured under the ICC warrant.

The South African government permitted Mr Bashir to leave and in the aftermath a judge irately blamed the legislature for overlooking the constitution. The legislature thusly debilitated to leave the ICC. In 2015, the ICC started a preparatory examination concerning the 2014 Gaza struggle. The Palestinian Authority submitted proof to the court in June of what it claims were atrocities dedicated by the Israeli military. An UN report discovered confirmation of war wrongdoings by both Palestinian activist gathering Hamas and the Israeli military.

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