Status of the international criminal court: A true reflection of legal globalization

النظام الأساسي للمحكمة الجنائية الدولية: تجسيد حقيقي للعولمة القانونية

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Abstract:

The problem of achieving international criminal justice involves several substantive variables in the context of the phenomenon of legal globalization, which has reformulated the requirements of the international community without giving States the opportunity to rearrange their legal status so as to achieve the basic foundations of international criminal justice based on human rights and justice considerations in a world where the interests of States contributing to the trajectory of globalization prevail. With the establishment of the Permanent International Criminal Court, whose statute emerged after marathon negotiations in which the attractions of a globalized world competed for a number of duals such as: (national/universal jurisdiction) (sovereignty/human rights), which has led to seveal treaties, international criminal law has been the result of backlogs since the end of the First World War and the establishment of interim criminal courts, with the establishment of the Permanent International Criminal Court, whose statute emerged after marathon negotiations in which**.**

Key words: International Criminal Court, Security Council, legal obstacles, political obstacles.

Introduction:

The world knew the value of international criminal justice as a necessity only in the aftermath of the First World War, where there were many collective international attempts, under the League of Nations and even individualized, in particular France's attempts to criminalize terrorism and establish an international tribunal, following the assassination of the King and Minister for Foreign Affairs of Yugoslavia.

The international community had failed to establish institutional rules for the judiciary and international criminal law, and the Second World War had brought greater tragedies and more serious crimes, resulting in an imperative for international criminal justice through the Nuremburg and Tokyo Tribunals, whose judiciaries had been blurry in terms of the standards of justice embodied, as they were no longer the manifestation of the triumph of justice. Provisional and unquestionably biased judges of the victorious NATO States developed the first nucleus of the judiciary and international criminal law, particularly the so-called Nuremburg Principles.

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The United Nations has attempted to develop these principles through its committees. However, the realities of bipolarity and the cold war between the US and the Soviet Union at the time, as well as their allies, prevented that outcome. These views and counter-opinions continued to pass from committee to committee and forum to forum, until the Soviet Union collapsed, which coincided with several genocides, such as those in Rwanda and Yugoslavia. There was renewed hope for the establishment of a permanent criminal court, with universal criminal justice standards, after the Security Council intervened by establishing special international courts to track the perpetrators of such massacres. Reflecting the international community's various peculiarities, it preserves the idea of a permanent criminal court.

However, the world's exit from bipolarity was not towards multilateralism, but towards the unipolarity of the United States of America, which was leading the world according to a new unilateral vision that fell to its traditional allies, and the fate of the International Criminal Court is subject to the approval of the United States. Given the latter's expansionist external aspirations, whether politically, economically, strategically, or even militarily, the fate of the International Criminal Court is subject to the approval of the United States.

The Reasons for choosing this topic include a desire to emphasize that international criminal justice, despite its importance, relevance, and positive roles, continues to face challenges in terms of operational effectiveness, and that, undoubtedly, legal globalization, as a dynamic with varying effects and cumulative repercussions for the International Criminal Court, has played a significant role in both negatively and positively affecting the International Criminal Court. In terms of origin, goal, competence, and composition, the contents of international criminal justice are diverse and many. and its international efficiency is determined by the nature of regional and global variables brought about by globalization, particularly following the fall of the communist camp.

Based on the aforementioned, and given the International Criminal Court's difficult birth under American hegemony, the study's problem is as follows: how did the legal parameters of globalization affect the contents of the International Criminal Court's Statute in balancing the need for international criminal justice with the preservation of dominant States' interests?

A number of questions arise from this problem: What is legal globalization? It's manifestations and a tools? How has the International Criminal Court's Statute been changed by globalization? What factors influenced the statute's final promulgation? Is the International Criminal Court's jurisdiction impacted by globalization? What were the ramifications for criminal justice around the world?

1- Globalization of the International Criminal Court's Statute Texts:

International criminal law in the context of globalization was the result of old accumulations since the end of the First World War, a and the Second World War and subsequent international military tribunals ", through the establishment of a number of provisional criminal courts following the end of the cold war, The Permanent International Criminal Court (ICC), whose Statute emerged after Maratonian negotiations in which the marks of a globalized world emerged and competed in a number of dichotomies , such as: (national/universal jurisdiction) (sovereignty/human rights), which has led to several problems relating to the International Criminal Court's relationship with States and its relationship with the Security Council, as well as to its jurisdiction and sanctions. Through this research we will try to see the manifestations of globalization in the texts of the system itself, but before that we must look at the various conceptual problems and mechanisms associated with legal globalization.

1-1- Legal globalization - conceptual problems and mechanisms:

In this section, we will address the many and complex differences of legal globalization and then turn to legal globalization mechanisms.

1-1-1- Conceptual issues related to legal globalization:

Globalization of the economy and politics has been accompanied by an increasing tendency to amend domestic laws to fit the requirements of a globalized world to create a transboundary legal system capable of addressing the legal issues associated with increasing the interconnectedness and integration of the world, This contributed to the birth of new fields of jurists in which international and domestic law overlapped with their private and public brothers. combating cybercrime, prosecution of war criminals, disputes of free trade and electronic commerce, The protection of human rights... etc., thus contributing to the emergence of the features of today's so-called legal globalization.

Legal globalization takes place through a series of mechanisms aimed at establishing a global legal space in which both Governments and international institutions participate by modelling substantive and procedural legal norms by pursuing contractual and regulatory means to monitor and conduct this legal space of international institutions, an explicit reference to the fact that the State is not the sole and essential actor in the legal globalization framework.[†]

It should be noted that legal globalization has significant roles in ensuring the security of international trade and financial relations. and the elimination of the legal disparity that hinders such relations, and the globalization of legal norms demonstrates political will to address cross-border legal problems such as organized crime, terrorism and human rights and modernization and technology have roles to play in the development of soft and informal methods of the globalization of legal norms, Technology contributed to the creation of the so-called "global legal network"[‡]

From an ideal perspective, legal globalization incorporates universal values applicable to all actors, thus having four terms of reference: ideological reference for their affiliation with all humanity and procedural terms of reference, i.e. reference to the actors' role in defining norms, sphere of reference, i.e., affiliation to the world as a space for applying legal norms, and effective terms of reference, i.e. the applicability of norms to all around the globe.[§]

A definition of legal globalization can be inferred by relying on the economic, cultural and political connotations of globalization so that legal globalization manifests itself as the harmonization and universalization of laws, legislation and judicial application, and implementation, particularly of laws governing trade, human rights, the flow of funds and other"[**].

The phenomenon of interdependence of political and economic globalization reinforces the "dynamism of legal norms," which establishes different mechanisms applicable to the same situation within the same society. This leads to L'inter normativité, in which a set of norms conflicts or complements in order to standardize or move towards standardization of legal norms

globally. The goal of legal globalization is to establish a "universal law" that applies to all societies.[††]

The concept of "global law," or more accurately, "globalized law," has prompted two main and opposing trends: international law, which holds that universal law is independent, confirming that the process of developing legal norms is independent of national sovereignty, and non-state positive law, which arises from the various functional differentiations defined by the global community. The capacity to legislate is one of the most essential manifestations of state sovereignty, and it is the basic determinant of the legal regimes.[‡‡]

The concept of universal law also necessitates the establishment of a global government, which raises numerous concerns. The world is simply too diverse for all countries to be bound by the same set of rules. Not only is the concept of universal norms and regulations impracticable, but it is also unrealistic. The world government has been created on a foundation of minimal harmony, resulting in weak and ineffectual norms that are difficult to drop.[§§]

Regardless of the theoretical benefits of global law, its practical effects will be negative, as it contributes to the deepening of contradictions between Nordic and Southern States and does not pervert the interests and hopes of people in developing countries, as it is the product of dominant States' will, and these negative effects may extend to the country's national culture and national identity.[***]

The rise of new actors on the international level is an important aspect of the development of the phenomena of legal globalization, which exposes an overlap between "law" and "State," in the sense that States are no longer the sole "legislator." Other international law persons, such as international institutions and organizations, which were formerly the principal "addressees" of State legal norms, have been simultaneously regulated and subjected to separate legal norms at the global level.[†††]

Modern law founded on the concepts of hierarchy of standards has been adjusted in the context of legal globalization. in the face of pragmatic normative organization based on looser concepts such as flexibility and relativism, negotiation, and multiple centralization, and this trend towards new forms of regulation is accompanied by a review of the State's centrality as a producer of standards, as well as the fragmentation of international law sources and the emergence of so-called "soft law "[‡‡‡], which falls within the framework of coordination and negotiation between various parties[§§§].

Soft law is a social and legal solution to the international system's growing complexity. On the one hand, it is a vital tool for governing a globalized international society in which state-to-state solidarity has disappeared. Soft law, on the other hand, is a framework for the legal

adequacy forced by the expanding complexity of the decentralized international system, which lacks administrative capacity to interpret and enforce law, if necessary, through force.[****]

1-1-2- Mechanisms of legal globalization :

Legal globalization is achieved through a set of methods aiming at establishing a global legal environment that includes both governments and international organizations. This is accomplished by modeling substantive and procedural legal norms through contractual and regulatory means, with the task of monitoring and directing this legal space of international institutions, indicating that the state is not the sole and fundamental actor in the legal globalization framework.[††††]

Universal uniformity of law does not imply the adoption of American rules, but rather the pursuit of better selection from all systems, civil and criminal, within the system of interdependence among laws. However, legal globalization is beginning to be reflected in American practice, which promulgates a set of laws beyond federal application against States through Congress. As part of its territory, as exemplified by the 1996 Helms-Burton Act to confront besieged Cuba and the Amato-Kennedy Act to confront Iran and Libya the same year, and finally the 2003 Law on the Accountability of Libya to make its domestic laws "international laws" in the current globalist sense subject to American oversight.[‡‡‡‡]

Furthermore, the World Trade Organization (WTO), which is regarded as "Global Government," sees itself as a kind of "global legislator," despite being equipped with undemocratic structures controlled by the United States of America, which impose on Member States the compatibility of their national legislation with the requirements of free trade. The International Monetary Fund (IMF), the World Bank, and the World Trade Organization (WTO) play the role International Legal Police have seized power over the attached government in order to enforce a legal regime consistent with these organizations' goals.[§§§§]

The most important arms of legal globalization as an institutional mechanism that enables the application of globalization's legal foundations are convention mechanisms, which are embodied in the large arsenal of bilateral and collective international treaties and international organizations. The Permanent International Criminal Court and the International Court of Justice were the third type of mechanism, reflecting a strengthened legal globalization supported by the universal principles of "human right" and "state right."[*****]

1-2- Impact of globalization on the Statute of the International Criminal Court:

One of the most prominent features of the globalization of human rights is the emergence of cross-border criminal justice through the establishment of the International Criminal Court as a clear face of judicial globalization, especially after the explicit association between gross violations of human rights and the threat to international peace and security, a clear reference to

the lack of borders between all that is internal and external as one of the fundamental features of the era of globalization.

Indeed, in the context of the growing North-South divide, which has resulted in the evolution of crime and the spread of terrorism, as well as the rise of national and separatist armed conflicts, the majority of which occur in the States of the South, the establishment of the International Criminal Court is logical and even necessary.

However, because the International Criminal Court is a living reflection of the global power balance, understanding the nature and effectiveness of its work is inextricably related to examining the reality of the world in which it was founded and developed. To put it another way, since globalization is the raison d'être of international criminal justice, does it allow the International Criminal Court to play a role in accounting for human rights crimes and limiting the scope and possibility of impunity?

Despite the fact that the International Court of Justice's Statute is an international treaty based on legal values and concepts, political and ideological factors played a part in shaping the regime's final formulation. The adopted document included a compromise format aimed at bringing views closer to those of the States who had attended the Rome Diplomatic Conference. a proposed statute ", especially as the draft statute had to be rewritten several times due to substantial tensions, attractions, and discussions, Perhaps more than their attention to criminal justice regulations, the compromise approach impacted poorly on some of the texts in the system that codified the maintenance of power balances.

The International Criminal Court's jurisdiction, particularly the ratione materiae, proposed by the International Law Commission in its first draft that the Court's jurisdiction should cover all offenses covered by international conventions, was one of the problems that divided opinions. However, because genocide is the only international crime that has been agreed to be criminalized and punished, the draft was later amended in 1994 to include seven crimes: genocide, crimes against humanity, aggression, drug trafficking, crimes against UN personnel, and terrorism, but the Court's jurisdiction only excluded three crimes and defined and criminalized three acts, n addition to the crime of aggression whose definition was delayed until the Kampala Conference.[†††††]

Some great powers, notably the United States of America, objected to the provision for the crime of aggression so that the International Criminal Court's jurisdiction would not be used to combat situations of intervention under the pretext of military humanitarian intervention, and some Third World countries objected to the provision for the crime of aggression for fear of the Security Council interfering in identifying and controlling aggression.

The Statute's limited criminalization is particularly evident in the omission of a provision to address the use of nuclear and chemical weapons as war crimes, which is a step backward given that the Nuremberg Tribunal's Statute called for the criminalization of certain of them.[‡‡‡‡‡]

Many also criticize the Court's narrow ratione temporis, which has harmed the Court's international criminal justice work "As a result of the Court's lack of retroactivity, perpetrators are able to elude international criminal justice. The Court's temporal jurisdiction also raised concerns about ongoing crimes like enforced disappearance or crimes with long-term

consequences, such as international crimes ", such as the use of various types of weapons, because the Statute has not been subjected to this type of crime, particularly since international crimes have long-term material consequences.[§§§§§]

In fact, limited ratione temporis is a political choice in which the statute's drafters dictated the inclusion of the option of forgiveness or oblivion as a means of prosecuting and punishing. and open a new page by turning the page of the past, based on the assumption that the new world order is based on oblivion rather than justice, despite the fact that justice does not preclude forgiveness. but strives to tell the entire international community of the facts, as well as the victims, They are stages that must be passed before choosing forgiveness in order to mourn and go forward, therefore the truth must come before justice and the possibility of forgiveness.[******]

When it comes to ratione personae, many people argue that confining jurisdiction to solely natural persons' individual responsibility is equal to sustaining impunity. human rights," where history has proven that legal institutions and moral persons conduct more systematic and grave violations of human rights because the latter have more serious and damaging qualities and ways, particularly in the context of what part of the jurisprudence has named human rights. In addition to the advent of new international players who have proven to have done acts that may be regarded as the most serious international crimes, such as multinational corporations, "the Criminal State" has emerged.

The vagueness of the State's punishment laws is mirrored in the Criminal Court's Statute. At the Rome Diplomatic Conference, the Statute-guaranteed sanctions were a major roadblock. In particular, delegations were split between supporters and opponents of including the death penalty in the system, which was excluded in the adopted text, raising questions in the absence of explicit penalties so that each offence has a separately defined penalty. This is a flaw that clearly affects the Court's effectiveness in carrying out its judicial function.[††††††]

Article 30's text was unsatisfactory because it took a step backwards by establishing punishments that were incompatible with the gravity of the offenses by limiting the penalties to life imprisonment and temporary imprisonment for a maximum of 30 years. It also provided for supplementary penalties such as a fine and confiscation of proceeds, property, and assets directly or indirectly caused by the crime offences," all of which could be said to be reduced and incompatible with the gravity and gravity of the crimes established under Article 5 and beyond of the International Criminal Court's Statute.

As a result, international actors that participated to the drafting of the International Criminal Court's Statute have influenced it, resulting in many gaps. The Statute itself has made it an obstacle to the achievement of international criminal justice, as the Court is a jurisdictionally impaired judicial institution devoted to deficient criminal protection of human rights, due to considerations relating to political interests and States' adherence to sovereignty.

2- Demonstrations of external control over the work of the International Criminal Court:

The International Criminal Court's ambitions to establish international justice beyond "selective vengeance of the victor" have clashed with the ideological climate in which it emerged, as the Court itself is a form of "soft power" in the sense that the Prosecutor's discretion is difficult to characterize as non-political. This has resulted in a selective approach to international crimes, particularly given the complex relationship between the Security Council and the International Criminal Court, which has turned the ICC into a political tool in the hands of the "Club of Five," particularly the United States of America.[‡‡‡‡‡‡]

2-1- The Security Council's participation in the International Criminal Court's proceedings:

Views at the Rome Conference on determining the nature of the Court's relationship with the Security Council were divided between those who advocated attaching it to the Security Council International Court of Justice ", which is the view of the five permanent members of the Security Council and Israel or as a principal organ of the United Nations such as the International Court of Justice, This was the view of some European States, and among those who called for their independence and non-dependence, It is the view of most third world States, and after considerable discussions a consensus formula was reached as an independent international institution, However, with the Security Council's partial authority to interfere in the exercise of its competence and functioning.[§§§§§§]

The Rome Statute granted the Security Council the power to refer a case to the International Criminal Court for investigation by the Court's Prosecutor, as well as the Security Council's power to request the Tribunal to discontinue certain proceedings before it s legitimacy and impact on the International Criminal Court's effectiveness and impartiality[*******].

2-1-1- Authority of the Security Council to refer a case to the International Criminal Court:

During the Rome Conference, the US asked that the Security Council be the only one with the authority to refer cases to the International Criminal Court. However, the other permanent members of the Security Council have proposed that the Council engage with the States parties to the Statute and the Court's Prosecutor; on the other hand, some States and non-governmental organizations have criticized the Security Council's assignment of such authority, claiming that it could undermine the Court's independence and impartiality, affecting its role in the administration of justice, and that, by reference to the Statute, its drafters had intended for the Court's independence and impartiality to be undermined. The drafters of the Statute had taken a compromise position by referring to the Statute, which allowed both the Security Council and Member States the right to refer on the basis of article 13 of the Statute.[†††††††]

Giving the Security Council referral authority did not, in fact, jeopardize political motivation. has displayed political intent through the Darfur crisis and the question of extending

immunity to American soldiers serving outside the US, especially since the Security Council is a political instrument that is not subject to democratic decision-making criteria, As a result, he drew the Court's attention to situations that could result in international law violations. As a result, the Security Council's referral authority adopts a selective and contradictory norm.[‡‡‡‡‡‡‡]

Furthermore, the referral of a case involving crimes under the jurisdiction of the International Criminal Court by the Security Council varies from the referral of a case involving crimes under the jurisdiction of the International Criminal Court. The legal nature of the act committed is determined by the Security Council in the case of an act of aggression. making the permanent members of the Security Council the driving forces of both the legal and political systems, and identifying the offender Because the offence does not have to occur on the territory of a State party to the Regulations, the decision to transfer jurisdiction might be extended to States that were not parties to the legislation. This was represented clearly in Security Council Resolution 1593 of 2005, which submitted the Darfur case to the Prosecutor, who issued an indictment against the Sudanese President, Omar Hassan al-Bashir.[§§§§§§§]

Despite the fact that Sudan is not a party to the Statute, the Security Council's decision to refer the Darfur case to the International Criminal Court "made the decision of the International Criminal Court a political one with a lot of arbitrariness. The Court could have issued a notice of habeas corpus to the Sudanese President, but she preferred to inflame the situation for political reasons, because the big wigs in the Sudanese government wanted to inflame the situation for political reasons "Omar Hassan al-Bashir" or humanitarian concerns, but rather the resolution's deployment as a measure of political pressure against Sudan in exchange for regional benefits.[********]

2-2-2- The ability of the Security Council to interrupt proceedings:

The issue of granting the Security Council the power to defer the work of the International Criminal Court has also sparked heated debate among state representatives, with the debate being even more heated than the referral authority. Permanent members of the Security Council have argued that the International Criminal Court could obstruct the Council's efforts to maintain international peace and security. Most States thought it was irrational to subject an international judicial organization to the authority of a political entity, so removing its independence and reducing its efficacy, as well as creating legal inequity between states.[††††††††]

This authority is granted by the Security Council under the text of article 16 of the Statute of the International Criminal Court and noting that this article represents an unprecedented opportunity for the Security Council to intervene in the affairs of an independent international judicial body, by giving the Security Council the power to prevent, prosecute or stop repeatedly the investigation or prosecution of the International Criminal Court and the gravity of this article lies in the possibility of removing the most serious crimes against the international community from prosecution and bringing them into the political equation and transforming the International Criminal Court into a Security Council organ, thus placing criminal justice at the centre of the

political whims of permanent members of the Security Council, By giving a political body the right to interfere in the administration of justice[‡‡‡‡‡‡‡‡]

The Security Council's authority to request a postponement, in particular, violates the concept of complementarity in terms of its efficiency in preventing the perpetrators of crimes under the Court's jurisdiction from escaping punishment. Furthermore, the request for deferral frees States from their duty to cooperate with the Court, so delaying its work s rights are not restored for the damages experienced, and criminals are not penalized as a result of their incompetence.[§§§§§§§§]

Giving the Security Council such authority is clear to weaken criminal justice on the ground. The end of investigations and prosecutions will make people forget about the horrors caused by international crimes and give way to political bargains. The Security Council, in particular, would have been submissive to the one pole under the new international order. The International Criminal Court's role will be influenced by political and economic factors, limiting the Court's jurisdiction and disrupting its function.[*********]

2-2- Demonstrations of US hegemony over the International Criminal Court (ICC):

The evidence of American hegemony over the International Criminal Court (ICC) can be seen in its extreme influence on the contents of the Court's Statute, as well as the fact that it is not subject to the regime it has built.

2-2-1- The American predominance in the elaboration of the texts of the Rome Statute:

The decision to accede to the Rome Statute is a voluntary and sovereign decision of each State as an international treaty. no State can be compelled to join the Court without its consent, In view of the relative effects of the treaty, the Court's jurisdiction was not founded against States not parties -- in principle -- and despite the emergence of a jus cogens doctrine on the rules of the Statute as serving the interests of the international community as a whole, as obligations erga omnes (Erga omnes) does not need a State's ratification to apply in its confrontation, but reality has shown that State sovereignty has an important role to play in satisfying compliance with the Statute of the Court. Indeed, ratification of the Statute of the Court is increasing by the day, with only 06 States ratifying it in 1999, the number of States ratifying the Statute in 2018 has risen to 123, which is still low, especially since some major States have not ratified it.

States' positions on the Statute varied and there were multiple justifications for defending them. the United States of America was among the seven States that voted against the establishment of the International Criminal Court, She opposed the Charter, citing some legal arguments to try to hide real political motives. the United States was in favour of establishing the Criminal Court, if this were to be done in accordance with American requirements and wishes The United States delegation openly threatened all other delegations about the dangers of establishing the International Criminal Court without the blessing of the United States of

America. "We fear the ineffectiveness of the ICC without the United States of America..."[††††††††††]

Indeed, the United States of America succeeded in incorporating into the Rome Statute many texts and rules that are consistent with its ambitions and will. David Fischer stated on 23 July 1998 that among the objectives achieved by the United States in the Court's Statute were:

- An integrated system of national and international jurisdiction.

- Maintaining the Security Council's active role in interfering with the work of the Tribunal.

- Protection of national security information that may be requested by the court.

- Covering internal conflicts, which constitute the vast majority of conflicts.

- applicable definitions of war crimes and crimes against humanity.

- Recognition of gender topics "Masculinity and femininity"[‡‡‡‡‡‡‡‡‡]

2-2-2- The United States' refusal to submit to Rome statute:

Despite all these objectives, which the United States had succeeded in incorporating into the provisions of the Charter, it had voted against the establishment of the Court, refusing to sign the Treaty on the grounds that it was unbalanced, and her delegation, led by Ambassador "David Fisher" on his country's fears that American peacekeepers would become the subject of criminal prosecution while senior war criminals in States not parties to the Treaty were barricaded within their own States and borders, something the United States of America did not accept, but the President "Bill Clinton", by the end of his presidency , signed the Rome Statute, declaring at the same time that he did not wish to be sent to Congress for approval, recommending that his successor not ratify it.[§§§§§§§§§]

Indeed, after George Bush Jr. took office, the United States withdrew its signature on May 06, 2002, and the American argument centred on the fact that the Statute of the International Criminal Court United States of America ", constitutes an infringement of American national security and interests, as the United States has determined that the Court's existence is incompatible with American concepts of sovereignty But the real reasons for the United States to take this hostile stance are the wars it entered after the declaration of war against the Taliban government in Afghanistan on October 07, 2001, and Iraq's occupation in 2003, which necessitated the presence of American troops abroad, Consequently, the possibility of committing crimes and entering them under the Statute of the International Criminal Court[**********]

The United States of America has not only lobbied the United Nations Security Council for decisions on its citizens' immunity to the Court. and internally enacted the Law on the Protection of Members of the United States Armed Forces, which guarantees their forces' immunities,

Sanctions have been imposed on States parties to the International Criminal Court and aid has been prevented, as well as numerous bilateral agreements with many States to ensure immunity for their citizens and impunity under so-called immunity conventions[††††††††††].

Therefore, American interference in the Court's affairs and dominance style is not only through arbitrary changes of certain articles, but also in American interpretations of certain articles of the Statute, such as the American interpretation of the article. and (98) on cooperation with regard to immunity, where it has been interpreted in a manner conducive to its interests and purposes. This article is interpreted as referring to previous conventions to which States committed themselves before ratifying the Statute rather than subsequent conventions, on the basis of which the United States has begun to enter into bilateral conventions to guarantee immunity to its citizens in more than 40 States in the world.[‡‡‡‡‡‡‡‡‡]

The indications of American hegemony over the International Criminal Court have also been demonstrated by linking the relationship between the Security Council and the International Criminal Court, which has led to the establishment of selective and incomplete criminal justice, as evidenced by American behaviour in the Security Council and the way in which the Sudan and Palestine issue is dealt with. United States attempts to interfere in the competence of the International Criminal Court in a manner commensurate with the interests of the United States, Her attempts, however, were strongly rejected and threatened with collective withdrawal from the Rome Statute should the United States delegation insist on his amendments.[§§§§§§§§§]

It can therefore be said that the United States of America's attitude towards the International Criminal Court was negative and hostile because some of the texts in the Statute were not in accordance with the American vision. The United States tried to trample the texts and interpret other texts on its whims to influence the Court's work and interfere with its affairs. When it failed to announce its withdrawal, it took some action against it by concluding bilateral agreements with States parties and others. and exploited article 98 of the Statute to prevent the extradition of its nationals to the Court, It promulgated an American law for its application abroad and exerted pressure on the Security Council, such as resolutions 1422 (2002) and 1447 (2003).[**********]

Conclusion:

Finally, we find that powerful States, particularly the United States of America, have a clear and undeniable hold on the International Criminal Court's Statute, as seen by the westernization of the Court's texts and functioning processes, and we observe this dominance in the following manner:

- ratione materiae, the Court's work was limited to four categories of crimes (crimes against humanity, war crimes, crimes of extermination, and crimes of aggression), and many extremely serious international crimes, such as terrorism and arms trafficking, were excluded because they would inevitably run counter to the interests of major Powers as the world's largest arms producers and the first beneficiaries of armed conflicts, regardless of their designation.

-The agreement on a definition of the crime of aggression was postponed until the Kampala Conference, and the entry into force of this definition was subsequently postponed for a later period, an act of major States, particularly the United States, who used every means at their disposal to thwart the Kampala Conferences' efforts, for the obvious reason that the United States was the most capable of aggression against another State or States.

-The prohibition of the use of nuclear and chemical weapons as war crimes is without a doubt the most serious and devastating of all war crimes, but the perpetrator will only be one of the major States or at their instigation when they have exclusive control over this sort of weapon.

-Multinational corporations are one of the most important economic foundations in major industrialized countries, and in the absence of provisions for criminal liability of legal persons, the International Criminal Court will be unable to prosecute any infringement by such corporations if they are only allowed to prosecute natural persons, and thus they can be the unnoticed criminal hands that hold out major states' policies without much accountability.

-The absence of the death penalty in the Statute of the International Criminal Court, where States have merely ratified penal punishments up to life imprisonment, which is unquestionably disproportionate to the gravity of the offences committed in the Rome Statute, reflects Western ideology's general tendency to exclude the death penalty as a violation of human rights.

-The International Criminal Court, despite its ostensible independence, is subject to the Security Council through the referral and cessation systems of proceedings before the Court, and the Security Council, as is well known, is dominated by the five permanent members, so the Council's decisions will only serve the interests of the major powers and their allies.

-For the United States of America, the International Criminal Court's Statute has pledged to serve its interests by pressing States to support their positions while drafting texts. Through its immunity agreements with many States, it protects its citizens from any criminal pursuit outside its territory, and has made themselves an outlet for the Court from the Security Council's window s jurisdiction by not ratifying its statute, and has made themselves an outlet for the Court from the Security Council's window s jurisdiction by not ratifying its statute.

-In the face of these hegemonic manifestations of the Statute and the work of the International Criminal Court, legal globalization has not developed solutions for the promotion of international criminal justice, but rather has harmed every achievement of the international community in this area, and the Court has become dependent in some way on the interests of the major Powers, namely the United States.

- This predicament has persisted. Any attempt to suggest reforms to the Statute will ultimately jeopardize the Court's work. States actors will be unsatisfied if texts or revisions affecting their interests are included, whether they are related to the introduction of new crimes or proceedings that could hold their nationals and leaders liable to the Court.

- States are not obligated to ratify the Rome Statute, even if they encourage weaker states to do so. Because submitting to the Court's jurisdiction was optional, a State like the United States chose not to ratify the Statute in order to prevent any criminal prosecution of its citizens or officials. It also has the veto power to stop any follow-up against it if the Security Council refers it. While it could pursue others through the Council's recommendation system, it might also pursue others through the Council's referral system.

There are theoretical solutions that lie in bridging these previously mentioned inequalities. One method to do so is to rely on states with civilization and urbanization who, on the one hand, accept compliance with the International Criminal Court. At the same time, it has the power of a state in the United States. At the moment, the combined powers of EU states are all that exists. human rights," where we find these States to be reasonably moderate in their ideology or at least in terms of human rights respect, so that it might put pressure on the United States of America to embody what is ideal for international criminal justice. Other countries can contribute to this trend by refusing to sign immunity treaties that benefit American interests. However, given the fragility of international interactions and organs, this theoretical approach is realistically out of reach. Even weak states, like in the Darfur case, can be obstinate and refuse to extradite their citizens to face charges. This condition benefits authoritarian regimes that prefer not to ratify the Rome Statute in order to shield their presidents and leaders from prosecution.

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