

## *Human rights and their relationship with the Permanent International Criminal Court*

حقوق الإنسان وعلاقتها بالمحكمة الجنائية الدولية الدائمة

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### **Abstract:**

The article provides a brief analysis on the establishment and development of international human rights law, beginning with the adoption of the Universal Declaration of Human Rights in 1948, and highlighting its role in combating the atrocious crimes against humanity. And linking it to the permanent International Criminal Court, which is responsible for monitoring states and punishing individuals for crimes that may be committed against humanity. Therefore, the article begins with an evaluation of international human rights law, its stages of emergence and developments, and then moves to an analysis of the International Criminal Court and its role in following up and punishing crimes against humanity.

**Key words:** International Human Rights law; Crimes against humanity; The International Criminal Court: Rome Statute; Universal Declaration of Human Rights.

ملخص:

يقدم المقال تحليلاً موجزاً حول إنشاء وتطوير القانون الدولي لحقوق الإنسان، بدءاً من اعتماد الإعلان العالمي لحقوق الإنسان في عام 1948، وإبراز دوره في مكافحة الجرائم الفظيعة ضد الإنسانية، وربطها بالمحكمة الجنائية الدولية الدائمة المسؤولة عن مراقبة الدول ومعاينة الأفراد على الجرائم التي قد ترتكب ضد الإنسانية .

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لذلك، يبدأ المقال بتقييم القانون الدولي لحقوق الإنسان ومراحل نشأته وأهم تطوراتها، ثم ينتقل إلى تحليل موجز للمحكمة الجنائية الدولية الدائمة، ودورها في ملاحقة ومعاقبة الجرائم ضد الإنسانية.

الكلمات المفتاحية: القانون الدولي لحقوق الإنسان؛ جرائم ضد الإنسانية؛ المحكمة الجنائية الدولية، نظام روما الأساسي؛ الإعلان العالمي لحقوق الإنسان.

### **Introduction:**

Since the dawn of human civilization, the rights and guarantees of individuals have been violated by states or those who have power in their hands, and after the end of the Second World War and the destructive effects it caused, the international community had to think about developing international laws that protect human rights, and establishing an organization The United Nations works to maintain international peace and security, encourages international cooperation, and protects human rights and fundamental freedoms. The Universal Declaration of Human Rights was created, which is a treaty that functions as a basic mechanism to protect the rights of everyone, without discrimination due to race, culture, religion or anything else, and seeks to preserve the inherent rights of the human being, as stipulated in the structure of his formation.

The Universal Declaration of Human Rights has played a very important role since its establishment in 1948, through the United Nations Organization, in obliging states to respect human rights, and not to hide behind the principle of sovereignty, and the principle of non-interference in their internal affairs.

However, modern history has witnessed many serious and systematic violations of human rights, which contradict what is stipulated in the provisions of international human rights law. In the same context, and in an effort to ensure compatibility between international law for the protection of human rights, and to prove that the practice of crimes against humanity must not go unpunished, the many international efforts and discussions that took place in 1998 regarding the establishment of an international court act as a tool for punishment for Inhumane acts and practices, as the Rome Statute was born in 2002, which, in parallel, resulted in the creation of the International Criminal Court. With its establishment, the International

Criminal Court began passing judgments on states and individuals who engage in practices that violate human rights.

From the above, this article will seek to: **highlight the relationship and interconnection between international human rights law and the role of the permanent International Criminal Court in ensuring the protection of human rights.**

Therefore, the study tries to answer the following problem: **To what extent did the International Criminal Court contribute to the implementation of international human rights law by establishing punishment for crimes against humanity?**

To answer this question and analyse its implications and dimensions, we are going to do so in the following points:

### **1. Human rights**

1.1 The birth of the United Nations

1.2 Universal Declaration of Human Rights

### **2. The Permanent International Criminal Court**

2.1 Structure and Composition of the International Criminal Court

2.2. Crimes within the jurisdiction of the International Criminal Court

**3. Difficulties facing the International Criminal Court in addressing human rights violations**

3.1. Narrowing the Court's field of competence to consider international crimes

3.2. Security Council interference in the work of the International Criminal Court

3.3. Judicial immunity

3.4. Withdrawal from the court

### **1. Human rights**

We will address the beginnings of human rights in light of the establishment of the United Nations, and focus on the birth of the Universal Declaration of Human Rights, which is the cornerstone of international human rights law.

#### **1.1 The birth of the United Nations**

The idea of human rights emerged stronger after World War II, when governments committed themselves to creating the United Nations, with the primary goal of promoting international peace and preventing conflict.

People wanted to ensure that no one was unjustly deprived again of life, liberty, food, shelter, and nationality<sup>1</sup>.

The core of these emerging human rights principles was illustrated in President Franklin Delano Roosevelt's 1941 State of the Union address when he spoke of a world founded on four fundamental freedoms: freedom of expression, religion, and freedom from want and fear. Calls have come from around the world for human rights standards to protect citizens from violations committed by their governments, standards by which states can be held accountable for the treatment of those who live within their borders. These voices played a crucial role at the San Francisco meeting that drafted the United Nations Charter in 1945<sup>2</sup>.

The establishment of the United Nations in 1945 is the most important stepping stone towards the establishment of international human rights law, starting with the adoption of the "Universal Declaration of Human Rights" in 1948 by the United Nations in the post-World War II period<sup>3</sup>.

In the form of an international treaty aimed at discarding all Actions and atrocities that were practiced during the war. In parallel with that, military tribunals "Nuremberg and Tokyo" were established to hold accountable and punish perpetrators of war crimes and crimes against humanity, and through the Nuremberg tribunal, which had its basic composition and procedures stipulated in the London Convention, which was empowered to judge the crimes committed during Nazism, which was practiced by officers or military personnel and even leaders of Nazi parties<sup>4</sup>.

The agreement mentioned in the previous paragraph was announced on August 8, 1945 by the International Military Tribunal at the time, which determined the establishment of the Nuremberg Tribunal and, accordingly, determined the possibility of the existence of three types of indictment, namely: a crime against peace related to the war of aggression; A war crime in violation of La Haye Convention; Finally, crimes against humanity which are based on the inhuman treatment of ethnic groups and minorities. From here it appears that there is a clear relationship between the beginning of the internationalization of human rights and the Universal Declaration of Human Rights and the establishment of international courts for criminal accountability for crimes against humanity, towards a new era regarding the issue of human terms in the contemporary world<sup>5</sup>.

## **1.2 Universal Declaration of Human Rights**

The concept of human rights that we know today did not always have such a name, and it did not have a field within the scope of international law, as human rights were considered one of the internal affairs of states and the space reserved for the state<sup>6</sup>.

The International human rights law, which aims to protect human rights in times of peace, is a branch of general international law, in addition to international humanitarian law, which aims to defend and protect humanity in times of war and international armed conflicts<sup>7</sup>.

Member states of the United Nations pledged to promote respect for human rights for all. To further this goal, the United Nations established a Human Rights Commission and tasked it with drafting a document clarifying the meaning of the fundamental rights and freedoms stipulated in the Charter<sup>8</sup>.

On December 10, 1948, the Universal Declaration of Human Rights was adopted by the 56 member states of the United Nations, the vote was unanimous, although eight countries chose to abstain, the Universal Declaration of Human Rights, commonly referred to as "the International Magna Carta", represents a revolution in international law, by asserting that how the government treats its citizens is now a matter of legitimate international concern, and not just a local issue, and that all rights are interrelated and unrelated, and indivisible. The preamble affirms that: "The recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"<sup>9</sup>.

The impact of the Universal Declaration of Human Rights has been significant. Its principles have been incorporated into the constitutions of most of the United Nations' 185 states. Although the Declaration is not a legally binding document, the Universal Declaration has achieved a place in customary international law because people consider it "a common standard and a higher ideal for all people and all nations"<sup>10</sup>.

## **2. The Permanent International Criminal Court**

The existence of an effective international system of criminal accountability for violations of human rights, especially in times of war and armed conflict, is one of the strongest guarantees to protect respect for these rights. Since the end of the First World War, the international community has worked to establish a system of criminal accountability that

protects and safeguards human rights, especially after the successive violations that occurred during the first and second world wars<sup>11</sup>.

The international community at that time was not prepared for an effective international criminal system for criminal accountability, so this was compensated for by the international community with the idea of establishing temporary investigation committees entrusted with the task of verifying whether or not human rights violations have occurred, in addition to the investigation committees, international military courts have emerged<sup>12</sup>.

Especially for the trial of some criminals of the Second World War (Nuremberg and Tokyo), and after those temporary criminal courts (Ad-hoc): the Tribunal of the Former Yugoslavia in 1993 and the Tribunal for Rwanda in 1994. It is certain that these procedures can be considered as important steps towards establishing the foundations for international criminal accountability, but these trials were not without political considerations that greatly affected the fairness and objectivity of these trials<sup>13</sup>.

Finally, the efforts of the United Nations to establish an international criminal system were translated at the Rome Diplomatic Conference in July 1998 with great international participation, as the conference approved the Statute of the International Criminal Court and entered into force on July 1, 2002 and this is an unprecedented step towards strengthening respect for human rights<sup>14</sup>. Regarding the court's violation of the principle of national sovereignty, it is incorrect, as the court's role can be considered a preventive or alternative role, and priority is always given to national courts, as the International Criminal Court does not play its role except in two cases, the first case is the state's failure to Performing its role in prosecuting the perpetrators and trying them for crimes within the jurisdiction of the court, the second case is that there is a complete collapse of the national judicial system due to the collapse of the state itself, and from here it becomes clear that priority is given to the national judiciary to play its role in order to preserve the principle of national sovereignty<sup>15</sup>.

The International Criminal Court was established at the Rome Conference in 1998, at which the Statute of the International Criminal Court was adopted. The headquarters of the organization is located in La Haye in the Netherlands, where it started its activities in July 2002, with the

aim of preventing violations of human rights and international humanitarian law and threats against peace, humanity and international security<sup>16</sup>.

The International Criminal Court is an international judicial authority, with the task of prosecuting those accused of genocide, crimes against humanity and war crimes, and in the future, crimes of aggression, also known as crimes against peace, as described by the London Agreement at the time. It is important to emphasize that it is up to the ICC to judge individuals only, and when the state in question is unable to examine the conflict due to disputes between states. With regard to the jurisdiction of the International Criminal Court, it should be noted that it has a specific role in relation to the crimes that can be analyzed and judged by it, as discrimination in these crimes is made in Article 5 of the Rome Statute, which states the following<sup>17</sup>:

- The jurisdiction of the court will be limited to the most serious crimes affecting the international community as a whole. Under the provisions of this statute, the court will have jurisdiction to try the following crimes: A) The crime of genocide. B) Crimes against humanity. C) War crimes. D) The crime of aggression;
- The court may exercise its jurisdiction in relation to the crime of aggression provided that, in accordance with the provisions of Articles 121 and 123, a judgment defining the crime and the conditions under which the court shall have jurisdiction in relation to this is defined. a crime. Such a provision must be in conformity with the relevant provisions of the United Nations Charter.

What distinguishes international criminal law is the creation of international criminal jurisdictions, such as the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Court for Rwanda, and most recently the International Criminal Court, with the aim of establishing global repressive mechanisms to enshrine international criminal justice and protect human rights. Consequently, the permanent International Criminal Court acts as a punitive tool aimed at proving to the international community that there are no longer loopholes in general international law with impunity for egregious crimes such as those committed during the Second World War, the period in which international

human rights law was established, which in turn were the main motives for the establishment of these international courts<sup>18</sup>.

### **2.1 Structure and Composition of the International Criminal Court**

There are many structures that are internal organs of the court, as the ICC enjoys its international legal personality and is independent of the United Nations' internal system. Among these structures, the most important ones can be mentioned: the presidency, the appeals departments - which are divided into trial and instructions - the attorney's office, the secretariats, and others. There is always one person in charge of presiding over the International Criminal Court, and two others are vice-presidents of the court, and both of those mentioned in this paragraph hold the position of judges who are elected by the vote of the members of the Court, and they must reach the absolute majority of the votes, and then they are responsible for the public administration, except for Regarding the prosecution authority as for the office of president<sup>19</sup>.

The Rome Statute, in Article 38, states that: The president, the first deputy, and the second deputy are elected by an absolute majority of the judges. Each of them maintains his position for a period of three years or until the end of their term as a judge, whichever ends first, they may be reelected only once<sup>20</sup>.

The court also, as stipulated in Article 36, shall consist of 18 (eighteen) judges, who shall be elected from among persons of high moral standing, impartiality and integrity, who fulfill the requirements of exercising the highest judicial functions in their respective countries. Judges play an important role in situations where a country's judicial systems are unable to prosecute those responsible for international crimes. With regard to the Public Prosecutor's Office, Article 42 paragraph 1, of the statute states: 1- The Office of the Prosecutor shall operate independently, as an independent body of the court, and shall be responsible for collecting communications and any other information, duly supported by evidence, regarding crimes within the jurisdiction of the court, in order to examine, investigate and prosecute them before the court<sup>21</sup>.

Members of the Office of the Prosecutor will not seek or comply with orders from sources outside of court. Regarding the secretariat, Article 43 of the same system states that: It performs the non-judicial functions of the administration and functioning of the court, which is managed by the



secretary and without causing harm to the duties assigned to the lawyer, according to Article 42. Thus, one realizes the true complexity of the ICC as an organ, and its configuration through many different structures that have different characteristics<sup>22</sup>.

## **2.2. Crimes within the jurisdiction of the International Criminal Court**

The International Criminal Court has the power to consider the crimes stipulated in Article 5 of the Rome Statute, which in turn creates a link with the International Criminal Court, because the crimes within its jurisdiction relate to the protection of the rights of the individual in relation to the potential atrocities that may be committed against individuals, either from By another individual or by a state. Each of the crimes stipulated in Article 5 can be discussed as follows:

### **2.2.1. The crime of genocide**

The first crime<sup>23</sup> stipulated in Article 5 of the Rome Statute relates to the crime of genocide, which can be considered, in short, a mass murder motivated by an ethnic, racial, social, cultural, religious or any other form of discrimination. It is a crime against humanity, which is the total or partial destruction of a national, ethnic, racial or religious group, in order to commit any of the following acts against it: The killing of its members; Causing serious injuries to their physical or mental integrity; Subjecting the group to living conditions capable of being physically, in whole or in part destructive; Adopting measures aimed at preventing conception within the group; Performing forcible transfer of children from one group to another. The legal origin that must be protected in the crime of genocide is the human being in relation to his group and this is for humanity, which also says that the perpetrator in this type of crime is always a human, because this crime does not allow the accountability of legal entities<sup>24</sup>.

### **2.2.2. Crimes against humanity**

Crimes against humanity are crimes that consist of inhuman acts, committed in the context of a widespread attack targeting civilians, regardless of their nationality. These crimes include murder, torture, sexual violence, slavery, persecution, enforced disappearances, etc. It has a permanent and imprescriptibly character, that is, the perpetrators cannot escape punishment even with the passage of time Crimes against humanity are often committed as part of state policies, but they can also be committed by non-state armed groups or paramilitary groups. Unlike war

crimes, crimes against humanity can also be committed in peacetime, and unlike genocide, they are not necessarily committed against a particular national, ethnic, racial or religious group<sup>25</sup>.

The Crimes against humanity first appeared in a treaty in the Nuremberg Charter of 1945 at the end of World War II, albeit by a different definition than it is today. Since the 1990s, crimes against humanity have been codified in various international treaties such as the Statute of the International Criminal Tribunal for the Former Yugoslavia (1993), the Statute of the International Tribunal for Rwanda (1994) and the Rome Statute of the International Criminal Court (1998)<sup>26</sup>.

The Rome Statute provides the most recent and broadest list of specific criminal acts that may constitute crimes against humanity. Unlike other human rights violations, war crimes do not entail state responsibility but rather individual criminal responsibility, this means that individuals can be prosecuted and found personally responsible for these crimes. Prohibited actions include: killing; extermination; servitude Deportation or forced population transfer; the prison; torture; sexual violence; persecution of a specific group; enforced disappearance of persons; The crime of apartheid; and other inhuman acts of a similar character intentionally cause great suffering or serious injury to the body or to mental or physical health, As stipulated in Article 7 of the Rome Statute of the International Criminal Court<sup>27</sup>.

### **2.2.3. War crimes**

War crimes, described in the third paragraph of Article 5 of the Rome Statute, are very similar to crimes against humanity, in terms of their concept, relating to violations of the rights and guarantees inherent to civilians in the face of armed conflict. It is the collection of brutal and cruel acts carried out by the warring teams against each other, using all available means. In order to prevent these acts, international conventions were concluded that define the concept of these crimes and provide the basis for the prosecution of their perpetrators. Among these bases is the prohibition of the use of poisonous weapons and the killing of defenseless methods<sup>28</sup>.

### **2.2.4. Crimes of aggression**

Crimes of aggression, also called crimes against peace, are included, along with other crimes mentioned in Article 5 of the Rome Statute. These crimes, for the most part, do not constitute crimes against individuals per

se, but between states, and they affect the individual in a prominent way. They may be cited as concrete examples of crimes of aggression; An invasion or attack on the territory of a state by the armed forces of another state; The bombing of a state's territory by the armed forces of another state or the use of any weapons by a state against the territory of another state; Close the ports or coast of a country by the armed forces of another country<sup>29</sup>.

### **3. Difficulties facing the International Criminal Court in addressing human rights violations:**

The establishment of the International Criminal Court is an important step for an effective mechanism that works to respect human rights. However, there are some difficulties that prevent its effectiveness in protecting human rights. The most important of these difficulties that affected the efficiency and effectiveness of the court are the following.

#### **3.1. Narrowing the Court's field of competence to consider international crimes**

The Basic Law clarifies the area in which the court has jurisdiction, making the court's subject matter jurisdiction limited to only four crimes, which are included in the text of Article 5, and thus excluding many other crimes such as crimes of international terrorism, organized crime, human and drug trafficking. The court's jurisdiction has also been reduced by excluding the court's temporal jurisdiction for a period of more than seven years, and this is what is included in Article 124 of the Court's statute, which states that states parties can expressly declare that the court's jurisdiction will not be accepted for a period of seven years if this system comes into effect on them<sup>30</sup>.

It is evident from this article that the perpetrators of the most serious crimes and violations of human rights can exclude judicial prosecution and impunity for a period of seven years, which increases human rights violations, which is another obstacle placed on the proper functioning and effectiveness of the court<sup>31</sup>.

#### **3.2. Security Council interference in the work of the International Criminal Court**

The statute of the International Criminal Court granted the Security Council wide and dangerous powers, including its right to control the work

of the court. The Security Council has the ability to suspend the court's activity at any stage of the case before it, and the same applies if the court is about to close the door of the investigation. Or, that its consideration of the case was at its very beginning, or the court was in possession of sufficient information and evidence that would incriminate the actual perpetrator of the crime. On this basis, the Security Council can postpone or stop looking into any case. This leads to the political considerations on the part of the Security Council that impede the work of the court, these powers conferred on the Security Council makes it the biggest obstacle to the initiation of judicial proceedings by the International Criminal Court, thus preventing the independence of the court from guaranteeing<sup>32</sup>.

### **3.3. Judicial immunity**

Despite the clarity of the text of Article 27 of the Statute of the International Criminal Court regarding non-exclusion of immunity, and that this does not extinguish the right of the court to exercise its jurisdiction against any person who has committed one of the crimes mentioned in the Rome Statute; There are some obstacles hindering the functioning and effectiveness of the court's work and paying attention to immunity at the expense of international criminal justice<sup>33</sup>.

This is evidenced by the text of Article 98, which states: "The court may not direct a request for provision or assistance that requires the requested state to act in a manner inconsistent with its obligations under international law regarding the state's immunities or diplomatic immunity for a person or subordinate property. For a third, unless the court could first obtain the cooperation of that third country in order to waive the immunity<sup>34</sup>.

The court may not direct a request to a state forcing it to act in a manner inconsistent with its international obligations, meaning that the court requires the state's approval as a condition for a person to give its consent to submit. By analyzing the content of the first paragraph, it becomes clear that the court cannot direct to the state party in the court a request that includes the arrest of the accused enjoying immunity and who belongs to a third country; Considering that this request is inconsistent with its international obligations under the provisions of international law with regard to immunity. Thus, the International Criminal Court is unable to exercise its jurisdiction except after obtaining the consent of the state concerned. This contradicts the text of Article 27, so the idea of immunity

transcends international criminal accountability despite involvement in the commission of an international crime<sup>35</sup>.

An example of this is, and in order to enable the accused to escape from punishment, the United States of America resorted to the enactment of the "Protection of the American Armed Forces" Act, which prohibits the executive authority and American courts from all forms of cooperation with the International Criminal Court, and requires the participation of the United States in the preservation operations Peace to the United Nations put American soldiers safe from being pursued by the International Criminal Court. On the other hand, the President authorizes the use of all necessary and appropriate means to release any American citizen arrested by the International Criminal Court<sup>36</sup>.

In the same context also, the African leaders unanimously decided during the Union Summit in Equatorial Guinea 2015 to vote on the resolution that would grant them immunity from prosecution for major crimes. Amnesty International considered this decision "a huge step backward in the long battle for accountability and human rights on this continent." Such positions on some states clearly indicate their unwillingness to cooperate with the criminal court<sup>37</sup>.

### **3.4. With drawal from the court**

Withdrawal expresses the direction of the state's will to emancipate, put an end to its treaty obligations, and end the legal bond that used to unite the states party to it, as its impact does not extend to the withdrawing state. In this regard, some African countries have expressed their intention to withdraw from the treaty establishing the International Criminal Court. Many countries from the world (Palestine, Syria, Yemen, Burma, etc.)<sup>38</sup>, which undermines and paralyzes the work of the court, and at the same time constitutes a dangerous turning point for the collapse of the human rights system<sup>39</sup>.

#### **Conclusion:**

The study attempted to analyze the issue of internationalizing human rights and linking this issue to the permanent International Criminal Court, seeking to prove the clear link between one and the other. The International Criminal Court has the power to hold accountable and punish the perpetrators of crimes that violate human rights that may be committed

against the international community and to pass judgment on them. In this way, the rights granted to it by international human rights law remain the legal basis from which the court derives its role in achieving criminal justice and impunity. This proves and clarifies the close relationship and interrelationship. The International Criminal Court has a direct link to human rights, and to verify this, it is sufficient to note the fact that the International Criminal Court acts as a court, an organizational tool that maintains order and security at the international level, and includes Adherence to humanitarian rules arising from international human rights law.

The establishment of the International Criminal Court is an important and important step towards managing international criminal justice and sending an important message to states that no one will escape punishment proven to have committed crimes against humanity, regardless of the tasks that the perpetrator is carrying out. In the end, it should be noted that there are still defects and deficiencies in the statute of the court that threaten its independence, such as the Security Council's relationship with the court as one of the prosecution authorities before the court and the authorities empowered to it in this regard. This requires a great effort from human rights activists and those interested in establishing the principles of international justice and working on them in directing more pressure on states to restrict the powers of the Security Council in this regard and to cooperate greatly with the court.

The International Criminal Court is a fundamental and important guarantee for the sake of protecting and respecting human rights, putting an end to the most serious crimes in the world and prosecuting their perpetrators, but its success remains dependent on the full and complete joining of states with a sincere desire to implement the obligations contained in the statute of the court.

Article 98 of the Statute of the International Criminal Court must be reconsidered, which embodies a reversal of the principle of lifting immunity for perpetrators of international crimes, and states must commit to fully cooperating with the International Criminal Court without any restrictions or conditions so that the court can carry out its duties and deter gross violations of human rights. States are obligated to extradite perpetrators of international crimes in order to prosecute them, and they are

also obligated to develop their legislation in line with the requirements of international criminal justice.

It is necessary to abolish Article 124 of the court's statute, which included suspending the court's jurisdiction to hear war crimes for a period of seven years, as it constitutes a pretext for impunity before the International Criminal Court. The States Parties to the International Criminal Court must work to expand the acts constituting the material element of the war crimes stipulated in Article 8 of the Rome Statute, to include chemical weapons, biological weapons and nuclear weapons, and include them among the weapons prohibited for use in this Article, and crimes must also be considered Terrorism is an international crime that threatens international peace and security.

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<sup>21</sup> Ibid, p 270.

<sup>22</sup> A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, The Status and Role of Prosecutors, , UNITED NATIONS, New York, 2014, in: [https://www.unodc.org/documents/justice-and-prison-reform/14-07304\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/14-07304_ebook.pdf)

<sup>23</sup> The crime of genocide has caused great losses to humanity since ancient times, and it has been described as the most horrific crimes affecting human rights, and it is considered crimes that pose a threat to international peace and security. Therefore, the United Nations General Assembly on December 9, 1948 approved the Treaty on the Prevention and Punishment of Genocide.

<sup>24</sup> Fariha Muhammad Hisham, Op Cit, p 253.

<sup>25</sup> Crimes Against Humanity, in: <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml>

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Elements of Crimes , International Criminal Court, 2013, in: <https://www.icc-cpi.int/resource-library/Documents/ElementsOfCrimesEng.pdf>

<sup>29</sup> Ibid.



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<sup>30</sup> Mukhallat Belkacem, *The Trial of War Criminals Before the International Criminal Court*, Ph.D., Faculty of Law, Abi Bakr Belkaid University, Tlemcen, 2014, p 341.

<sup>31</sup> Ibid.

<sup>32</sup> Flavia Lattanzi, *compétence de la cour pénale internationale et consentement des Etats*, *Revue Générale du Droit international public*, 1999, p440.

<sup>33</sup> Dapo Akande and Talita de Souza Dias, "Does the ICC Statute Remove Immunities of State Officials in National Proceedings? Some Observations from the Drafting History of Article 27(2) of the Rome Statute", November 12, 2018, in: <https://www.ejiltalk.org/does-the-icc-statute-remove-immunities-of-state-officials-in-national-proceedings-some-observations-from-the-drafting-history-of-article-272-of-the-rome-statute/>

<sup>34</sup> <https://www.icc-cpi.int/resourcelibrary/official-journal/rome-statute.aspx>

<sup>35</sup> Dapo Akande and Talita de Souza Dias, *Op Cit*.

<sup>36</sup> Ferlet Philippe, Sartre Patrice, « La Cour pénale internationale », *A la lumière des positions américaine et française*, *Etudes* 2007, p.172.

<sup>37</sup> "AU Summit decision a backward step for international justice", 1 July 2014, in: <https://www.amnesty.org/en/press-releases/2014/07/au-summit-decision-backward-step-international-justice/>

<sup>38</sup> Jihan Al-Alaili, *the International Criminal Court, where to after the failure of the trial of Kenyatta and Al-Bashir?* *Al-Shorouk*, article published on: January 5, 2015, in : [www.shourouknews.com](http://www.shourouknews.com)

<sup>39</sup> Franck Kuwonu, *ICC: Beyond the threats of withdrawal, African countries in dilemma over whether to leave or support the International Criminal Court*, *From Africa Renewal*, May - July 2017, in : <https://www.un.org/africarenewal/magazine/may-july-2017/icc-beyond-threats-withdrawal>