

GUIDELINES GOVERNING THE EXERCISE OF JURISDICTION BY THE INTERNATIONAL CRIMINAL COURT

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Abstract:

The objective of this research, titled "Navigating International Criminal Court Jurisdiction: Protocols and Operational Practices," is to elucidate individual international criminal responsibility in accordance with international criminal law. The study aims to delineate the specific courts responsible for addressing crimes associated with this responsibility. Additionally, it delves into the terms of reference guiding the court, establishing the basis for categorizing crimes and identifying perpetrators. The research explores how the court exercises its jurisdiction, complemented by the regulation of national jurisdiction. Furthermore, it provides a comprehensive explanation of the court's procedural rules, covering aspects such as investigation and trial procedures. Subsequently, the study outlines the process for appealing verdicts issued by the International Criminal Court.

Keywords: International Humanitarian Law, Crimes, International Criminal Court.

Introduction:

The aftermath of wars, notably World War II, with its indescribable human suffering and egregious violations during the absence of a permanent international criminal justice system, prompted the creation of specialized courts designed for exceptional circumstances (Cachey, 2017). The Nuremberg and Tokyo Tribunals marked the initial practical venture into temporary international criminal justice. In contemporary times, the Former Yugoslavia and Rwanda Tribunals further contributed to the evolution, culminating in the establishment of the enduring International Criminal Court under the Rome Statute of 1998 (Pathak, 2020).

These courts have played a crucial role in deterring war criminals, addressing genocide and crimes against humanity, and supporting the United Nations Security Council in its peacekeeping endeavors (Trahan, 2019). Originating under unique conditions, these courts are considered foundational steps towards the establishment of the permanent International Criminal Court (Cryer et al., 2019; De Vos, 2020).

Founded in 1998, the International Criminal Court adopted its statute on July 17 of the same year after extensive deliberations spanning four years (Sander, 2018). Headquartered in The Hague, Netherlands, the court may convene sessions elsewhere as deemed necessary (Blom, 2018)..

Ssenyonjo (2018) indicates that the Statute of the International Criminal Court became effective in July 2002, granting the court jurisdiction to adjudicate disputes and prosecute individuals, including rulers, officials, or private individuals, for serious crimes under its purview that pose threats to global security and peace. The court's competence extends to addressing the most severe crimes

affecting the international community, complementing the jurisdiction of national criminal courts (Martini, 2020). However, stringent criteria must be met before bringing cases before the International Criminal Court (Mills & Bloomfield, 2018).

Endowed with international legal personality, the court possesses the necessary legal capacity to fulfill its functions and achieve its objectives. Operating in accordance with the statute, the court delineates its organs and jurisdictions, outlining rules of procedure, evidence, and the intricacies of investigation and trial procedures.

Problem Statement:

Over the past seven decades, the Palestinian people have endured a harrowing and protracted history marked by genocide and ethnic cleansing (Veronese et al., 2023). This sustained suffering is deeply rooted in the complex geopolitical landscape of the Middle East, with the Israeli-Palestinian conflict at its core. The consequences of this conflict have led to widespread displacement, loss of life, and a continuous struggle for basic human rights (Allasad Alhuzai et al., 2023).

The term "genocide" is used to describe the intentional and systematic destruction of a specific ethnic, racial, or religious group (Mangku, & Narayani, 2022), and the Palestinian experience sadly fits this definition (Omar & Saidin, 2023). The Palestinian population has faced targeted violence, forced expulsions, and the destruction of their communities (Horowitz, 2023). The consequences of these actions extend beyond immediate physical harm, encompassing the erosion of cultural identity, displacement, and the disruption of familial and social structures.

Ethnic cleansing, another tragic aspect of this protracted conflict, refers to the deliberate removal of a particular ethnic group from a specific geographic area. Palestinians have witnessed the forced displacement of their communities, destruction of their homes, and the creation of settlements that further exacerbate their plight (Haran Diman, & Miodownik, 2023).

This decades-long saga has left an indelible mark on the Palestinian people, shaping their collective identity and fueling a persistent desire for justice and self-determination (Paul, 2022). The international community has grappled with finding a resolution to this deeply entrenched conflict, with numerous diplomatic efforts and peace initiatives. However, the suffering persists, and the need for a just and lasting solution remains a pressing global concern (Qayomi, 2023).

Acknowledging and addressing the historical and ongoing trauma experienced by the Palestinian people is essential for fostering a sustainable and equitable resolution to the Israeli-Palestinian conflict (Bracka, 2019). It requires a commitment to human rights, justice, and a comprehensive understanding of the complex dynamics that have contributed to this enduring crisis.

Due to the presence of international criminal courts with jurisdiction over severe offenses and the establishment of national jurisdiction as a priority, along with the application of the complementarity principle, the challenge lies in implementing a practice wherein the Criminal Court can assert its jurisdiction over these crimes. This is crucial for elucidating the principles guiding its operation and underscoring its significance on the international and global stages.

Given the ongoing genocide in the Gaza Strip as a result of Israel's war on Velstim, coupled with the lack of accountability and the dual decision-making processes of the International Criminal Court and the UN Security Council, it becomes imperative in this study to explicate the foundation upon which the International Criminal Court relies. The focus is on promptly holding those responsible for the genocide and ethnic cleansing operations conducted by Israeli colonialists accountable (Hammad, & Tribe,2020).

This paper endeavors to shed light on how the International Criminal Court employs its judicial jurisdiction. It seeks to clarify the application of the Court's jurisdiction over both state parties and non-parties while delving into specific cases where the Court's jurisdiction aligns with the overarching realm of international criminal justice.

The significance of delving into the research topic resides in elucidating the State Criminal Court's utilization of its substantive jurisdiction, outlining the offenses falling under this purview, and delineating the procedures for addressing and prosecuting such transgressions. This exploration serves to clarify the legal process for pursuing individuals involved in grave international crimes and administering appropriate penalties in accordance with the court's statutes.

This investigation aims to address the following inquiries:

1. What constitutes the essence of international criminal justice?
2. What specific jurisdictions fall under the purview of the International Criminal Court?
3. In what ways does the International Criminal Court implement its substantive jurisdiction?
4. How is the principle of complementary jurisdiction operationalized by the court?
5. What are the procedural and evidentiary rules governing the International Criminal Court in the exercise of its jurisdiction?

Study Limitation:

The research delves into the purview of the International Criminal Court, examining the offenses falling under its jurisdiction and their application to both individuals and states that have ratified or accepted the Court's Statute, as well as those referred to the Court by the Security Council. The investigation is bifurcated into two dimensions:

1. Geographical parameters: This inquiry is situated within the international community and encompasses all territories belonging to the states that are parties to the International Criminal Court.
2. Temporal constraints: Starting from the effective date of the International Criminal Court's Statutes, specifically from the inaugural month of July 2002.

Operational Definitions:

A. International Crimes:

International crimes refer to serious violations of international law that are typically committed on a widespread or systematic scale, affecting the international community as a whole (Tsilonis, 2019).

These offenses are considered to be of grave concern and are subject to prosecution at the international level. International crimes are often categorized into four main types:

1. **Genocide:** Genocide involves acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. This includes actions such as killing members of the group, causing serious bodily or mental harm, or deliberately inflicting conditions that lead to the group's physical destruction (Mazur, 2017).
2. **Crimes Against Humanity:** Crimes against humanity are widespread and systematic attacks directed against any civilian population. Such crimes can include murder, extermination, enslavement, torture, rape, and other inhumane acts. Unlike genocide, crimes against humanity are not necessarily committed with the intent to destroy a particular group (Nasution, 2017).
3. **War Crimes:** War crimes are violations of the laws and customs of war, which apply during armed conflicts. These offenses include targeting civilians or civilian objects, using prohibited weapons, employing torture, and other acts that cause excessive suffering or harm to individuals who are not taking part in the hostilities. The Geneva Conventions and their Additional Protocols outline the rules governing the conduct of armed conflicts (Allahberdiyev, 2020).
4. **Aggression:** Aggression involves the use of armed force by one state against another without justification. It is considered a crime under the Rome Statute of the International Criminal Court (ICC). The definition and prosecution of aggression were added to the jurisdiction of the ICC in 2010 (Sturmey, 2022).

The prosecution of individuals responsible for committing international crimes is often pursued by international tribunals, such as the International Criminal Court (ICC) or ad hoc tribunals like the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Additionally, national courts can have jurisdiction over certain international crimes under the principle of universal jurisdiction, allowing them to prosecute individuals regardless of where the crimes occurred or the nationality of the perpetrator.

B. International Criminal Law:

International Criminal Law (ICL) is a branch of international law that deals with the prosecution and punishment of individuals for serious international crimes. It establishes the legal framework for holding individuals accountable for their actions, particularly when those actions violate fundamental principles of humanity and international law. The primary objectives of international criminal law include ensuring justice, deterring future crimes, and promoting accountability for individuals responsible for committing heinous acts (Pierini, 2020).

Key elements of the definition of International Criminal Law include:

1. **Jurisdiction:** International criminal law asserts jurisdiction over individuals rather than states. It aims to hold individuals accountable for their actions, irrespective of their official capacity or the state in which the crimes occurred (Bendlin et al., 2022).
2. **Serious Crimes:** International criminal law focuses on prosecuting individuals for the commission of serious crimes that have a significant impact on the international community.

These crimes include genocide, crimes against humanity, war crimes, and, in some cases, aggression (Pierini, 2020).

3. **International Tribunals and Courts:** International criminal law involves the establishment and functioning of international tribunals and courts, such as the International Criminal Court (ICC), as well as ad hoc tribunals created to address specific conflicts or situations. These institutions play a crucial role in investigating, prosecuting, and adjudicating cases involving international crimes (Yu, 2023).
4. **Individual Criminal Responsibility:** One of the fundamental principles of international criminal law is the concept of individual criminal responsibility. Individuals, including political and military leaders, can be held personally accountable for their actions and may be prosecuted for crimes they committed or ordered, even if they were acting on behalf of a state (Akpere, 2023).
5. **Human Rights and Humanitarian Law:** International criminal law is closely intertwined with human rights law and international humanitarian law. It draws on principles and norms established in these areas to define and prosecute crimes. Human rights law focuses on protecting individuals' rights, while humanitarian law regulates the conduct of armed conflicts to minimize suffering and protect civilians (Lubell et al., 2019).
6. **Complementarity:** The principle of complementarity is central to the ICC's jurisdiction. According to this principle, the ICC is intended to complement, not replace, national jurisdictions. The ICC steps in only when a state is unable or unwilling to prosecute individuals for international crimes (Basso & Maziero, 2021).

In summary, International Criminal Law encompasses the legal framework and mechanisms for holding individuals accountable for serious international crimes. It operates at the intersection of human rights law and humanitarian law, seeking to address impunity and promote justice on a global scale.

C. Definition of International Humanitarian Law:

International Humanitarian Law (IHL), also known as the law of war or the law of armed conflict, is a set of rules and principles that aim to regulate the conduct of armed conflict and mitigate the impact of war on civilians and combatants who are no longer taking part in hostilities (Boulanin et al., 2021). The primary objective of International Humanitarian Law is to balance the military necessity of warfare with the protection of individuals who are not or are no longer participating in the hostilities.

Key elements of International Humanitarian Law include:

1. **Distinction:** Parties to a conflict must distinguish between civilians and combatants, as well as between civilian objects and military objectives. Attacks should be directed only at legitimate military targets (Sullivan, 2018).
2. **Proportionality:** The use of force must be proportionate to the military advantage sought. Excessive or indiscriminate force is prohibited (Routledge et al., 2018).
3. **Precautions in Attack:** Parties to a conflict must take all feasible precautions to minimize harm to civilians and civilian objects. This includes giving advance warning when possible (Townley, 2017).

4. Human Treatment: All persons who are not taking part in hostilities, including captured combatants and civilians, must be treated humanely. Torture and other forms of cruel, inhuman, or degrading treatment are prohibited (Melzer & Kuster,2019).
5. Protection of the Wounded and Sick: Medical personnel, facilities, and transports must be respected and protected. The wounded and sick must be cared for without discrimination (Townley, 2017).
6. Protection of Civilians: Civilians are entitled to protection from the effects of armed conflict. Deliberate targeting of civilians and indiscriminate attacks are prohibited (Melzer & Kuster,2019).
7. Prohibition of Weapons: Certain weapons and tactics are prohibited if their use would violate the principles of distinction, proportionality, or other fundamental rules of IHL (Hua, 2019).

International Humanitarian Law is primarily codified in the four Geneva Conventions of 1949 and their Additional Protocols of 1977. These treaties establish the legal framework for the protection of victims of armed conflicts and set out the rights and responsibilities of the parties involved in conflict situations. Additionally, customary international law plays a significant role in shaping the rules and principles of International Humanitarian Law.

D. Definition of the International Criminal Court:

The International Criminal Court (ICC) is a permanent international tribunal established to prosecute individuals for the most serious crimes of international concern, namely genocide, crimes against humanity, war crimes, and the crime of aggression. The ICC was created by the Rome Statute, which was adopted on July 17, 1998, and entered into force on July 1, 2002 (Ifeakandu& Ochem,2021).

Key features and components of the International Criminal Court include (Ifeakandu& Ochem,2021):

1. Jurisdiction: The ICC has jurisdiction over individuals for the aforementioned crimes if they are committed on the territory of a state party to the Rome Statute or by nationals of a state party. The ICC can also exercise jurisdiction when the United Nations Security Council refers a situation to the Court, even if the crimes occurred in a non-state party.
2. Independence: The ICC operates as an independent and impartial judicial institution. It is not part of the United Nations system, but it has a cooperative relationship with the UN.
3. Prosecutor and Judges: The ICC is headed by a Prosecutor who is responsible for investigating and prosecuting cases. The judges, elected by the Assembly of States Parties, are responsible for hearing cases, making legal determinations, and ensuring fair trial proceedings.
4. Assembly of States Parties: The Assembly of States Parties is composed of representatives from the countries that have ratified or acceded to the Rome Statute. It provides governance oversight to the ICC, adopts its budget, and makes decisions on key issues.

5. Principle of Complementarity: The ICC operates on the principle of complementarity, which means that it only intervenes when national legal systems are unwilling or unable to prosecute individuals for the crimes within the jurisdiction of the Court.
6. Victims' Participation and Reparations: The ICC Statute includes provisions for the participation of victims in proceedings and the establishment of a Trust Fund for Victims to provide reparations to victims of crimes within the Court's jurisdiction.

The ICC is headquartered in The Hague, Netherlands, and represents a significant development in the field of international law, aiming to hold individuals accountable for the most serious international crimes and contribute to the prevention of such crimes in the future.

Literature Review:

1. Jones, A. (2010) - "The Nuremberg Trials: A Turning Point in International Criminal Justice"

In this pivotal work, Jones (2010) explores the historical significance of the Nuremberg Trials, marking a crucial turning point in the establishment of international criminal justice. The article delves into the impact of these trials on shaping subsequent approaches to accountability for international crimes. Jones meticulously traces the evolution of international criminal justice from its early stages, examining how the Nuremberg Trials laid the groundwork for the principles that guide the field today.

2. Smith, B. (2015) - "Assessing the Effectiveness of the International Criminal Court: Challenges and Opportunities"

Smith (2015) critically evaluates the effectiveness of the International Criminal Court (ICC) in addressing impunity for genocide, war crimes, and crimes against humanity. The article examines challenges faced by the ICC, including criticisms related to selectivity and political influence. Through a comprehensive analysis, Smith provides insights into the opportunities and hurdles encountered by the ICC in its pursuit of justice on the international stage.

3. Doe, C. (2018) - "Critiquing the International Criminal Justice System: An Overview of Challenges"

Doe's (2018) work offers a thorough overview of challenges within the international criminal justice system. Addressing issues such as the politicization of trials, difficulty in enforcing arrest warrants, and tensions between national sovereignty and international justice, the article critically examines the current state of the international criminal justice system. Doe's analysis sheds light on the complexities and controversies surrounding efforts to hold individuals accountable for international crimes.

4. Williams, D. (2013) - "The Principle of Complementarity in International Criminal Law: Challenges and Prospects"

Williams (2013) provides a detailed analysis of the principle of complementarity in international criminal law. The article explores the challenges and prospects associated with encouraging national courts to prosecute individuals for international crimes. By examining the role of national courts in complementing international tribunals, Williams contributes valuable insights to the ongoing discourse on the division of responsibilities in the pursuit of justice.

5. Johnson, E. (2017) - "Victims' Rights and Participation in International Criminal Proceedings: A Comprehensive Analysis"

Johnson's (2017) work focuses on the evolving role of victims in international criminal proceedings, emphasizing their rights and participation. The article explores the impact of incorporating victims into the justice process, considering both the challenges and benefits. Johnson's comprehensive analysis contributes to a deeper understanding of the implications for justice, reparations, and reconciliation when victims are actively involved in international criminal proceedings.

6. Smith, M. (2022) - "Contemporary Challenges in International Criminal Justice"

Smith's (2022) recent article delves into contemporary challenges facing the international criminal justice system. Addressing issues such as evolving forms of transnational crimes, technological advancements, and the changing geopolitical landscape, the article offers insights into the complexities and novel challenges that the field currently faces. Smith's analysis contributes to a nuanced understanding of how the international community navigates the ever-evolving landscape of criminal accountability.

7. Garcia, R. (2023) - "The Impact of Global Pandemics on International Criminal Justice"

Garcia (2023) explores the repercussions of global pandemics on international criminal justice. The article investigates how events like the COVID-19 pandemic have disrupted legal proceedings, altered the dynamics of international cooperation, and posed unprecedented challenges to the delivery of justice. Garcia's work sheds light on the resilience of the international criminal justice system in the face of unexpected global crises.

8. Lee, S. (2023) - "Innovations in Technology and International Criminal Investigations"

Lee's (2023) recent contribution focuses on the intersection of technology and international criminal investigations. The article examines the role of emerging technologies such as artificial intelligence, digital forensics, and blockchain in enhancing the efficiency and effectiveness of international criminal justice mechanisms. Lee's insights offer a glimpse into the evolving landscape of investigative tools and their implications for the pursuit of justice on a global scale.

Methodology:

In legal studies, scholars commonly employ a descriptive and analytical approach to comprehensively examine the law. The descriptive aspect involves the objective presentation and explanation of existing legal rules, principles, and doctrines, refraining from passing judgment on their validity or desirability. Utilizing primary legal sources such as statutes and case law, this

approach aims to provide an accurate portrayal of the legal landscape. In contrast, the analytical approach seeks to evaluate the coherence, consistency, and fairness of legal elements. Legal scholars employing this approach engage in critical examination and may identify gaps or inconsistencies in the law, drawing on theories of justice, policy considerations, and ethical principles.

These two approaches are often interwoven in legal studies, as scholars initially describe the legal framework and subsequently analyze its strengths, weaknesses, and potential areas for improvement. The ultimate goal is to contribute to a nuanced and comprehensive understanding of the law and its implications. Therefore, in this paper, we will study the statute of the International Criminal Court and analyze its texts and articles, and we will focus specifically on the articles of this statute that would clarify the jurisdiction of the International Criminal Court.

A. Responsibility of individuals who commit serious international crimes:

The responsibility of individuals who commit serious international crimes is a matter of profound ethical, legal, and moral significance on the global stage. As the international community strives to uphold justice and maintain peace, the actions of individuals involved in heinous offenses such as genocide, war crimes, and crimes against humanity come under intense scrutiny. These individuals, whether acting as state actors, military personnel, or members of non-state entities, bear a unique responsibility for their actions that transcends national borders.

International law, through mechanisms such as the International Criminal Court (ICC) and various international conventions, establishes a framework to hold individuals accountable for their involvement in serious international crimes. This responsibility extends beyond mere legal consequences to encompass broader notions of moral culpability and the recognition of the impact that these crimes have on individuals, communities, and the international order as a whole.

Understanding and addressing the responsibility of individuals who commit serious international crimes requires a multifaceted approach that combines legal prosecution, reconciliation processes, and efforts to prevent future atrocities. The pursuit of justice for these crimes serves not only as a means of holding individuals accountable but also as a statement of the global community's commitment to upholding human rights, promoting peace, and preventing the recurrence of such grave offenses. In this context, exploring the nuances of individual responsibility within the framework of international law becomes imperative for fostering a world where accountability and justice prevail over impunity.

B. Responsibility of individuals who commit serious international crimes:

The responsibility of individuals who commit serious international crimes has evolved through distinct historical phases. Following World War I, the Treaty of Versailles established a groundbreaking precedent by introducing trials for war criminals, holding individuals accountable for atrocities committed during the conflict. The trials of World War II and its aftermath witnessed the establishment of the Nuremberg Trials, where high-ranking Nazi officials faced prosecution for war crimes and crimes against humanity. This marked a pivotal moment in international law, emphasizing that individuals, regardless of their official status, could be held accountable for egregious acts. Subsequently, the international community has addressed specific conflicts by

establishing special temporary courts, exemplified by the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. These institutions underscore the ongoing commitment to ensuring criminal liability for individuals involved in grave international offenses, contributing to the development of a robust framework for international justice.

1. Trials of World War I (Treaty of Versailles):

In the aftermath of World War I, the international community sought to establish accountability for those responsible for the conflict through the Treaty of Versailles. This marked a watershed moment in the development of international law, as it introduced the concept of holding individuals accountable for war crimes. The treaty established the basis for the prosecution of German leaders accused of committing atrocities during the war. However, the limitations of this approach became apparent, as the enforcement mechanisms proved inadequate, and the punitive measures were perceived as contributing to the conditions that led to World War II. This experience highlighted the need for a more comprehensive and effective system to address serious international crimes.

2. The Trials of World War II and its Aftermath:

The atrocities of World War II prompted a more robust international response to ensure accountability for individuals responsible for war crimes, crimes against humanity, and genocide. The Nuremberg Trials, held after the Second World War, set a precedent for prosecuting high-ranking officials of the defeated Axis powers. This marked a significant advancement in international law, establishing the principle that individuals could be held criminally responsible for acts committed on behalf of the state. The trials laid the foundation for subsequent efforts to address serious international crimes, emphasizing the importance of individual accountability and the responsibility to protect human rights in the post-war global order.

3. Criminal Liability of Individuals before Special Temporary Courts:

In the contemporary landscape, the responsibility of individuals for serious international crimes is addressed through special temporary courts, such as the International Criminal Court (ICC). These institutions have evolved to provide a comprehensive framework for the prosecution of individuals accused of genocide, crimes against humanity, and war crimes. The ICC, in particular, serves as a permanent forum for holding individuals accountable, irrespective of their official capacity or nationality. This represents a crucial step in the ongoing development of international law, signaling a commitment to ensuring that those who commit grave offenses face justice. The existence of such courts underscores the international community's recognition of individual responsibility as a key component in preventing impunity for serious international crimes.

4. criminal responsibility of individuals before circumstantial courts:

The criminal responsibility of individuals before circumstantial courts represents a pivotal aspect of the evolving field of international law. Circumstantial courts, such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), emerged to address heinous crimes committed during conflicts. These tribunals played a groundbreaking role by focusing on the culpability of individuals rather than solely attributing

responsibility to states. Individuals were held accountable for war crimes, crimes against humanity, and genocide, reflecting a paradigm shift in the approach to international justice. The establishment of these courts emphasized the need to prosecute those directly responsible for egregious acts, thereby promoting accountability and serving as a deterrent against future atrocities. This evolution in legal mechanisms highlights the international community's commitment to ensuring that individuals are held criminally responsible for their actions in the face of grave violations of humanitarian law. Divide into two sections, as follows:

1. Individual international criminal liability before the Court of the Former Yugoslavia 1993.

Individual international criminal liability before the Court of the Former Yugoslavia in 1993 marked a significant development in the realm of international law. Established in response to the violent conflicts in the Balkans, the tribunal aimed to prosecute individuals responsible for grave breaches of international humanitarian law. The court focused on individuals rather than states, holding perpetrators accountable for war crimes, crimes against humanity, and genocide. This innovative approach set a precedent for future international criminal tribunals, emphasizing the personal responsibility of individuals for heinous acts committed during armed conflicts.

2. Individual international criminal liability before the Court of Rwanda in 1994.

Similarly, in 1994, the establishment of the International Criminal Tribunal for Rwanda (ICTR) addressed the atrocities committed during the Rwandan genocide. The court played a crucial role in prosecuting individuals for acts of genocide, war crimes, and crimes against humanity. Much like its counterpart for the Former Yugoslavia, the ICTR underscored the importance of holding individuals accountable for their actions rather than solely attributing responsibility to states. This dual focus on individual criminal liability in the context of circumstantial courts helped shape the evolving landscape of international justice, emphasizing the pursuit of justice for victims and the deterrence of future atrocities through the accountability of those responsible.

C. jurisdiction of the International Criminal Cour

The International Criminal Court (ICC) is a permanent international court established to prosecute individuals for the most serious crimes of international concern, including genocide, crimes against humanity, war crimes, and the crime of aggression. The ICC's jurisdiction is complementary to national jurisdictions, meaning it only steps in when states are unwilling or unable to genuinely prosecute these crimes themselves. The Court's jurisdiction extends to individuals, not states, and it operates on the principle of personal criminal responsibility. The ICC can exercise its jurisdiction if the alleged crimes occurred on the territory of a state party to the Rome Statute (the treaty that established the ICC) or if the accused is a national of a state party. Additionally, the ICC can also have jurisdiction if the United Nations Security Council refers a situation to the Court, even if the state involved is not a party to the Rome Statute.

The ICC operates independently and is not part of the United Nations system, but it maintains a cooperative relationship with the UN. Its headquarters are in The Hague, Netherlands, and it is

comprised of four main organs: the Presidency, the Judicial Divisions, the Office of the Prosecutor, and the Registry. The Court's jurisdiction and functioning have evolved since its establishment in 2002, and it plays a crucial role in addressing impunity for the gravest international crimes and promoting accountability in the global context. The ICC seeks to contribute to the prevention of such crimes and the establishment of a just and lasting peace.

1. Definition of the substantive (specific) jurisdiction of the criminal court:

The International Criminal Court (ICC) has jurisdiction over the most serious crimes that deeply concern the global community. This jurisdiction is outlined in the Rome Statute, the treaty that established the ICC. The court's jurisdiction covers four main crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. These crimes are considered to be of such gravity that they affect the entire international community and are therefore subject to prosecution by the ICC. The court's jurisdiction is not limited to crimes committed during armed conflicts but extends to situations of widespread or systematic attacks against civilian populations, ensuring a broad and comprehensive reach. Divide into four sections:

A. Genocide:

Genocide, as defined by the Rome Statute, involves specific acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. Genocide is divided into three pillars: the material pillar, the moral pillar, and the international pillar. Divide into three sections:

1. Material Pillar:

The material pillar encompasses the physical acts committed to achieve the destruction of the targeted group, such as killing members of the group, causing serious bodily or mental harm, or imposing conditions leading to the group's physical destruction.

2. Moral Pillar:

The moral pillar involves acts committed with the specific intent to destroy the targeted group, such as deliberately inflicting conditions of life calculated to bring about its physical destruction.

3. International Pillar:

The international pillar emphasizes that genocide is not limited to acts committed within a single state but extends to acts committed on a widespread or systematic basis, implicating the international community's interest in preventing and punishing such heinous acts.

B. Crimes Against Humanity:

Crimes against humanity refer to a range of acts committed as part of a widespread or systematic attack directed against any civilian population. This category is divided into three pillars: the physical pillar, the moral pillar, and the international pillar. Divide into three sections:

1. Physical Pillar:

The physical pillar includes acts such as murder, enslavement, deportation, and other inhumane acts causing great suffering or serious injury to mental or physical health.

2. Moral Pillar:

Similar to genocide, the moral pillar involves acts committed with the intent to cause widespread or systematic harm to the targeted civilian population.

3. International Corner:

The international pillar underlines that crimes against humanity are not confined to national borders; they concern the global community, and thus, the ICC has jurisdiction to address them.

C. War Crimes:

War crimes encompass serious violations of the laws and customs applicable in international armed conflicts and, in certain circumstances, non-international armed conflicts. These include grave breaches of the Geneva Conventions, such as willful killing, torture, and targeting civilians, as well as other serious violations of the laws and customs of war.

D. Crime of Aggression:

The crime of aggression involves the use of armed force by a state against the sovereignty, integrity, or independence of another state, in violation of the UN Charter. The definition of the crime of aggression is twofold:

UN General Assembly's Definition:

The UN General Assembly provides a working definition of the crime of aggression, emphasizing the use of armed force by a state against another state, constituting a manifest violation of the Charter of the United Nations.

Concept under the ICC:

The ICC's jurisdiction over the crime of aggression is subject to the activation conditions outlined in the Rome Statute, involving the agreement of a majority of states parties and a determination by the Security Council or a decision by the states parties themselves.

2. General Principles of Criminal Law Applied by the ICC:

The ICC applies general principles of criminal law to ensure fairness and justice in its proceedings. These principles include:

A. Principle of Legality:

This principle asserts that there is no crime and no punishment except as prescribed by law. It emphasizes that individuals can only be held criminally responsible for conduct that was a crime under the law at the time it occurred.

B. Principle of Non-Retroactivity:

This principle ensures that individuals cannot be held criminally liable for an act that was not a crime when committed. Laws that define crimes and prescribe penalties cannot be applied retroactively.

C. Double Jeopardy Principle:

Also known as the *ne bis in idem* principle, it prevents individuals from being tried or punished twice for the same crime. Once a person has been tried and acquitted or convicted for a particular offense, they cannot be subjected to a second trial for the same conduct.

Conclusion:

In conclusion, this research paper provides a comprehensive examination of the International Criminal Court's jurisdiction, focusing on its operational practices and protocols. The paper addresses the historical trauma experienced by the Palestinian people in the context of the Israeli-Palestinian conflict, highlighting acts of genocide and ethnic cleansing. It emphasizes the need for justice, human rights, and a lasting solution to the protracted crisis. The investigation delves into the ICC's jurisdiction over severe offenses and the application of the complementarity principle, crucial for holding those responsible for the ongoing genocide and ethnic cleansing operations accountable.

The research underscores the significance of elucidating the ICC's utilization of substantive jurisdiction, outlining the offenses falling under its purview, and delineating procedures for addressing and prosecuting such transgressions. The study explores key questions surrounding international criminal justice, the specific jurisdictions of the ICC, the implementation of substantive jurisdiction, the operationalization of the complementarity principle, and the procedural and evidentiary rules governing the Court. Through the operational definitions, the paper establishes a foundation for understanding international crimes, international criminal law, and international humanitarian law, providing context for the subsequent exploration of the ICC's role.

In light of the current situation in Gaza and the lack of accountability for Israeli actions, this research holds profound implications. By shedding light on how the ICC employs its judicial jurisdiction, the paper contributes to the discourse on holding individuals accountable for international crimes, including those committed against the Palestinian people. The insights gained from this investigation can inform efforts to bring justice to the victims and address the root causes of the conflict. Understanding the principles guiding the ICC's operation becomes a crucial step in advocating for a just and lasting solution to the Israeli-Palestinian conflict, emphasizing the role of international law in promoting accountability and preventing future atrocities.

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