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EVOLVING NATURE AND SCOPE OF THE INTERNATIONAL CRIMINAL COURT VIS-A-VIS THE TEST OF SUSTAINABILITY : AN APPRAISAL

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Abstract

With the International Criminal Court holding the position of a mere spectator over the incessant armed conflict between Israel and Palestine, the present article travels through the evolving nature, scope and applicability of the first international permanent criminal court (i.e. the ICC or the International Criminal Court, established at the Hague) and explores the nuances, objectives, procedural mechanism as well as extent of its jurisdiction altogether. Further, the article seeks to assess the relevance of ICC till date and the challenges obstructing its sustainability in the near future.

Keywords : International Criminal Court, War Crimes, Genocide, Ratification, Aggression.

Introduction

Setting the time portal at 70 years ago, a quick journey to the year of 1945 portrays a worldwide effort to emerge an era of peace and amicable international relations by means of establishing the United Nations as an outcome of the post-World War II terror. However, at the same time, the world was lacking an approach to adjudge and prosecute the officials and other offenders detained under the war crimes and genocide during the World War II. Soon there was a need recognized by the allied powers and the member states of the UN to set up an international criminal court in order to adjudge and prosecute the rising cases of war crimes and genocide. At this juncture the World was divided into two parts - one part being consisted of the allied powerful nations whose reinforced the ad hoc tribunal already set up for Nuremberg Trials as the international military tribunal for war crimes and the another part being

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the United Nations which established a few other ad-hoc tribunals in countries like Rwanda, former Yugoslavia in order to deal with not only the war criminals but also genocide, other forms of mass atrocities etc. The road towards transformation of the idea of having the existing International Criminal Court evolves through the recommendation of International Law Commission followed by the several and periodic requests received from countries like Trinidad, Tobago and supported by continents like Europe and Africa in 1990s. The hue and cry for a permanent international criminal court (ICC) was ultimately come to an end with the adoption of the Rome Statute in 1998[2] to provide a fundamental basis for the establishment of the existing ICC in 2002.

Nineteen years later, when we look back towards the hour of establishment of the ICC, the situations were extraordinary and the time was ripened enough to derive into a mutually conclusive agreement intending a permanent International Criminal Court with comparatively broader jurisdiction than the erstwhile tribunals. Fast-forwarding to the current century, the status of ICC as of today has undoubtedly expanded its scope and applicability in terms of adjudging various types of international crimes ranging from genocide and war crimes to the crimes against humanity, atrocities and of aggression. At the same time, a debate over its inefficiency, lack of transparency and unbiased attitude towards member states, a sheer absence of stringency in handling prosecutions and a gradual indulgence towards global politics is still in hold of a trending motion across the world. In the present article, a detailed evolution of the International Criminal Court from the pre-enactment of Rome Statute to the current status as of 21st Century will be captured through requisite analysis and interpretations. Further, the article will also explore the limitations underlying the scope - applicability - efficiency of the ICC, followed by outlining few suggestions to reconstruct the crooked road.

Pre-Establishment of ICC : Deciphering The Journey

[2] Rome Statute of the International Criminal Court, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Done at Rome on 17 July 1998, in force on 1 July 2003, United Nations, Treaty Series, Vol. 2187, No. 38544.

The idea behind the establishment of an international criminal court with the mutual agreement of member States although seemed to be an approach almost impossible, traces its origin back to the post World War I at the time of signing the Treaty of Versailles, under which William II was proposed to be prosecuted before a special tribunal for the charge of offence against treaty sanctity and morality.[3] The proposal of such special tribunal however was not transformed into reality in view of the opposition, concern and the legality of such practice raised by the majority member nations. Once again, the creation of such international criminal court was tabled by the joint efforts of the League of Nations and International Law Association of Penal Law. Despite, the idea could not go through further, but it led to produce a detailed expert discussion upon the legalities and challenges concerning the creation of such permanent criminal court at international level. Where the majority of arguments pointed towards the intervention with the state sovereignty and immunity of the Heads of the nations from criminal liability in front of the global citizens, few arguments predicted the inability of the proposed court to prevent any war but to provoke a battle of further accusation to each other among the States. Considering such views and opinions so put forward by the expert committees, the proposal was thereafter put on hold without any definite conclusion.

The severity of World War II had left the whole world trembled with terror. The post World War II scenario was nothing but a clear reflection of the absence of humanity. At this juncture, the prosecution of war criminals gained comparatively heavy momentum than the prevention of such war crimes. It was the decision arisen from the though of initiating trials against the war criminals and as a result, the Allies started reconsidering a special tribunal in the place of a permanent international criminal court. Even during that time also, the debate on the creation of such special tribunal was still on full motion, divided into the options either to hold trials or to prosecute the Nazi Officials.

[3] Leila Nadya Sadat, *The International Criminal Court : Past, Present and Future,* Harris Institute Working Paper Forthcoming in the Cambridge Compendium of International Criminal Law, Washington University in St. Louis School of Law, April 16, 2014, https://7gxsl10eqdj9anba1k3swtoo-wpengine.netdna-ssl.com/wp-content/uploads/2018/10/ICC-PastPresentFuture4-16-14.pdf (accessed on April 4, 2021).

It was the Nuremberg trial chapters which first laid down the foundation stone of the journey towards the establishment of ICC. Favouring the opinion of President Roosevelt's Secretary of War, Stimson, the longstanding debate between trial of war criminals and their simple execution without any trial was finally come to an end, opting the former over the latter. The world witnessed its first international adjudication forum in form of adopting the Charter of the International Military Tribunal by the four Axis powers at Nuremberg, alternatively known as Nuremberg Charter. The International Military Tribunal so established to initiate the Nuremberg trials[4], was empowered by virtue of the Charter to prosecute the major war criminals in three cases namely, war crimes, crimes against peace and crime against humanity. From awarding convictions, acquittals, life imprisonments or imprisonments of a longer term to the execution of death sentence by hanging, Nuremberg trials were apparently a success from the viewpoint of majority nations, thereby leading to ratification of Nuremberg Charter by at least 23 member States and further adopted by the United Nations in 1946 after its creation.

While International Military Tribunal in Nuremberg trials received immense support from global community and paved the way towards the sustainability of a permanent international criminal court, the footsteps were also followed by Allies in several other countries such as, Tokyo International Military Tribunal[5] to prosecute the war crimes in far east. Even after the United Nation came into existence, several ad hoc tribunals in Rwanda[6], Former Yugoslavia[7] were established for holding trials on war crimes and genocide. Consequently, the momentum gained by these special military tribunals insisted the United Nations and its member States to reconsider the sustainability of an international judicial body to deal with prosecution of war criminals or genocide or other international crimes. In the year 1948, the United

[4] Nuremberg Judgment, France and Ors. v. Goring (Hermann) and Ors., Judgment and Sentence, (1946) 22 IMT 203, Judgment dated 01 October 1946.
[5] Charter of the International Military Tribunal for the Far East, The Supreme Commander for the Allied Powers, at Tokyo, adopted on January 19, 1946, Treaties and Other International Acts Series 1589.
[6] Statute of the International Tribunal for Rwanda, The United Nations Security Council, Resolution 955, 8 November 1994.
[7] Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (International Tribunal for the Former Yugoslavia), The United Nations Security Council, Resolution 827 (1993), 25 May 1993.

Nations General Assembly adopted the Convention for the Prevention and Punishment of Genocide wherein by virtue of a resolution passed by the General Assembly, the detailed study of durability, legality and longevity of a permanent international criminal court was duly focused and entrusted upon the International Law Commission. Since 1948 till 1953, the Commission prepared several drafts of the proposed statute, yet the attempts were put on hold considering the outbreak of cold war and other aggressive activities subsequent to.

In 1989, the question of drafting the statute of an international criminal court was reintroduced by Trinidad and Tobago before the UN General Assembly. Immediately thereafter, the International Law Commission finally received the green signal to resume its half-baked task to draft the proposed statute. While the preparation taking a slow pace through submission and revision of several drafts of the proposed statute, the outbreak of war and genocide in 1993 in the former Yugoslavia once again stressed the urgency of having an international judicial organ for the purpose of trial and prosecution of international crimes. As a result, the International Law Commission expedited the preparation of draft statute and in 1994, the final draft was submitted before the UN General Assembly[8]. Since 1995 till April 1998, the General Assembly set up an ad hoc committee to discuss about the issues anticipated from the draft and ultimately, on the basis of such Committee report and the revised final draft prepared by a Preparatory Committee, the final session on the Statute to create an International Criminal Court (ICC) was held in April, 1998.[9]

Commenced from June 15, 1998, the 52nd Session of the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an ICC, as held in Rome[10], witnessed the longstanding negotiations and discussions lasted for 5 long weeks and eventually on July 17, 1998 the leaders of the member States participated in the Conference were able to derive into a compromised and mutual agreement with regard to the proposed

[8] Rome Statute of the International Criminal Court, available at https://legal.un.org/icc/general/overview.htm (accessed on April 8, 2021).
[9] *Ibid.*
[10] The United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June - 17 July 1998, GA Resolution 52/160 dated 15 December 1997.

statute. Though several points were modified and few organizational features from the draft remained as it is, the Rome Statute was ultimately adopted after a journey on a crooked road for 75 years, with initially 120 States in its favour.

Post-establishment of ICC : Analyzing the Evolution and Limitations Underlying

1. Evolution of the Scope and Applicability of ICC Jurisdiction

It is of no surprise that the barbarism and atrocities invoked through the World War II acted as a call to awake for the international community as an aftershock of World War II, which further accelerated in the form of establishing special tribunal in Nuremberg trials and so on. A worldwide demand for promotion of global justice regulated through an international carrier of such justice has been subject to a constant evolution and amendments by protracting its jurisdiction from war crimes to genocide as well as crime against humanity, and ultimately transformed such demand into reality with the passage of the Rome Statute in July 17, 1998. With the Rome Statute being ratified by countries from 1998 till 2002, the ratification of 60th nation made its enforcement possible.[11] The International Criminal Court or ICC was therefore established on July 1, 2002 at the Hague, with the Rome Statute entering into force. However, its standard operation commenced from March 11, 2003 onwards, making the ICC a reality than on paper.

The ICC Statute is mainly comprised of 13 Parts and 128 articles wherein each part is highlighting the organizational features, jurisdiction, admissibility and its procedural mechanism. The ICC is comprised of four arms, namely, the Presidency, the Judiciary, Registry and the Prosecutor, wherein the Judiciary organ is further divided into three parts - Pre-Trial Chambers, Trial Chambers and Appeal Chambers. The ICC, by virtue of Article 5, is empowered to deal with prosecution of cases involving genocide, war crimes and the crime against humanity or aggression committed within its jurisdiction[12] and after its establishment[13]. But the applicability of its jurisdiction

[11] Rosaria Vigorito, *The Evolution and Establishment of the International Criminal Court (ICC): A Selected Annotated Bibliography of Secondary Sources*, 30 INTERNATIONAL JOURNAL OF LEGAL INFORMATION , 92-162 (2002).
[12] *Supra* Note 1, Art. 5.
[13] *Supra* Note 1, Art. 11 (1).

with regard to the above crimes is only restricted to the States who are parties to the Rome Statute since its enforcement[14], and the States who not being a party accept its jurisdiction by issuing a declaration under Article 12(3)[15]. Therefor it is a clear-cut evidence that the sovereignty of the nations are left with no *suo moto* intervention by the ICC unless such nations bind themselves to the jurisdiction of ICC.

A bare reading of Articles 5 to 8 bis clarifies the evolution of the scope of ICC in the sense that the crimes against humanity, war crimes as well as genocide were the first three categories on which the jurisdiction of ICC was limited to as on July 1 of 2002, whereas the crimes against aggression although mentioned under Article 5, was recognized by the States in June 2010 through insertion of Article 8 - thereby, reflecting the expansion of scope of jurisdiction in such cases also. Dating back to the signing of Rome Statute, the participants of the Diplomatic Conference not only confined their ideas into the above three initial categories, but also varied their opinions by suggesting crimes like drug trafficking, aggression, terrorism etc. Later on, at the time of the adoption of Rome Statute, the core universal crimes traced in the customary international law were considered to be given more importance than the crimes which could be fit only under respective treaties and not universally.

With regard to inclusion of crime against aggression in Rome Statute recently in 2010[16], the journey was not as smooth as it seems to be but a mixture of oppositions and negotiations. Although Article 5 since the date of its adoption listed crimes against aggression as one of the crimes under the ICC's general jurisdiction, but the conflicts of severity and universalism of such crime were still a motion of debate opposed by many States at the time of the statutory enforcement. Aggression, hence was listed as a crime mentioned under Article 5 of the Statute but held by the participants of the Conference as non-exercisable until defined under the Statute by the Assembly of Member States. In 2010, Article 8 *bis* was eventually inserted under the Rome Statute defining the Crimes against Aggression by the Assembly of State

[14] *Ibid,* Art. 11(2).
[15] *Supra* Note 1, Art. 12(3).
[16] Review Conference of the Rome Statute of the International Criminal Court, Secretariat, Assembly of State Parties, International Criminal Court, Session 8, Kampala, Uganda, RC/9/11, 31 May - 11 June 2010.

Parties in a Conference held in Kampala (Uganda[17]). However, that was not the end but a beginning of another struggle whole in itself, because the enforcement of 2010 amendment in Article 8 *bis* was further subject to ratification by 30 State parties and a decision to be undertaken, in that regard, not before January 1 of 2017 by at least 2/3rd majority of member States. Fulfillment of the said conditions was undoubtedly a time-expensive task taking several years to comply with, yet the jurisdiction over crimes against aggression as defined by Article 8 *bis* was ultimately effective in force from July 17 of 2018 onwards, with Palestine (2016) ratifying the 2010 amendment as the 30th State[18] and the passage of resolution by the Assembly of State Parties in December 2017[19]. As of 2021, the amendment regarding Article 8 bis has been ratified by 41 States.

Apart from the above, from time and again the Rome Statute has undergone several amendments in 2010, 2012, 2015, 2017 and 2019 attempting to broaden its scope and applicability of jurisdiction over the State Parties so ratified. In 2017 during the 16th Assembly of State Parties' Session, Article 8 which defines war crimes was amended**[20]** by inserting paragraph 2(e)(xvi), (xvii) and (xviii) - thus including the usage of weapons containing microbial or other biological agents and fragments undetectable by the x-rays under the category of war crimes. However, the amendment will only be enforced to 8 State Parties, who ratified it as of 2021, one year from the date of the respective ratification.

Further recently in December 2019, the Assembly of State Parties at the 9th Plenary Session amended Article 8 by inserting Paragraph 2(e)(xix)**[21]** which recognized the

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[17] *Ibid.*
[18] United Nations, *State of Palestine becomes 30th State to Ratify the Kampala Amendments on the Crime of Aggression - ICC Press Release*, The Question of Palestine, ICCPR_290616, Press Release dated 29 June 2016, https://www.un.org/unispal/document/auto-insert-210002/ (Accessed on April 12, 2021).
[19] Activation of the Jurisdiction of the Court over the Crime of Aggression, The Assembly of States Parties, Resolution ICC-ASP/16/Res. 5, adopted at 13th Plenary meeting, on 14 December 2017, by consensus.
[20] Amendment to Article 8 of the Rome Statute of the International Criminal Court (Weapons which use microbial or other biological agents, or toxins), The Assembly of States Parties, adopted at 16th Session held in New York, Resolution ICC-ASP/16/Res. 4, December 4 - 14, 2017.
[21] Amendment to Article 8 of the Rome Statute of the International Criminal Court (Intentionally using starvation of civilians), The Assembly of State Parties, adopted at 9th Session held in the Hague, Resolution ICC-ASP/18/Res. 5, December 2 to 7, 2019.

intentional starvation of civilians as only a warfare method but not holding an international character. But so far only 4 States i.e. Andorra, Netherlands, New Zealand and Norway have ratified the 2019 amendment and hence, Article 8(2)(e)(xix) will enter into force for those 4 states one year from the date of their ratification.[22]

Further, in response to the proposals submitted in 2009 by Netherlands with regard to inclusion of terrorism and Trinidad-Tobago-Belize with regard to inclusion of drug trafficking by amending Article 5 of the Rome Statute[23], the Review Conference of the Assembly of State Parties as held in 2010 in Uganda considered those proposals and concluded that the decision on proposed amendments shall be undertaken in another Assembly Conference at a future date. However, till date, hardly any progress has been reflected in furtherance of such consideration.

2. Admissibility of a case before ICC

It is also pertinent to mention that the jurisdiction exercised by the ICC is also subject to application of the Complementary principle enshrined in its Preamble and **admissibility of a case to adjudge**, in the sense that ICC is not a first resort for any State Party and will only exercise jurisdiction in cases where the State or national court is unable or reluctant to exercise its jurisdiction for investigation or prosecution, where the crime is grievous in nature, and where the trial of the person on the ground of same offence has not been done previously before any court.[24] In order to ensure admissibility of a case before the ICC, the Prosecutor vide Article 18 commences an investigation by issuing notification confidentially to those States exercising jurisdiction over the crime and to all other states parties. Once the Prosecutor receives investigation request of any State within 1 month of the receipt of notification, the investigation request of the concerned State is further deferred to, unless it is

[22] *Ibid.*
[23] Assembly of States Parties, Newsletter, International Criminal Court, ICC-ASP-NL-02.b/09-En, ASP Special Edition #2, p.1-16, http://icc-cpi.int/iccdocs/asp_docs/Publications/Newsletter-ASP-2-ENG-web.pdf (accessed on April 21, 2021).
[24] *Supra* Note 1, Art. 17(1).

authorized by the Pre-Trial Chamber at the Prosecutor's request[25]. Once the deferral is made, the Prosecutor shall again review it 6 months after the deferral or any time during when a significant change in investigation has been noted by the State concerned. Where the Pre-Trial Chamber authorizes the investigation request of the State concerned and decides accordingly, the facility to prefer appeal before the ICC is available for the Prosecutor or the State against such decision.[26] Even in the cases where the admissibility of the case is an issue, the Prosecutor or the State Concerned may also challenge before the ICC who in turn determines the admissibility on *suo moto* basis by virtue of Article 19.[27]

In the landmark case of '***Prosecutor v. Muthaura, et al***.'[28], the Appeal was preferred before the ICC by Kenya Republic against the decision on admissibility of the case by Pre-Trial Chamber II dated 31.05.2011. The crime was related to post-election violence in Kenya 2007. According to facts of the case, Kenya was primarily unwilling to investigate the crime and hence, in 2010 the Pre-Trial Chamber II authorized the investigation. In 2011 the admissibility of the case was challenged by Kenya before the ICC. However, both the ICC and Pre-Trial Chamber came to a similar conclusion holding the admissibility of the cases by citing the inability or unwillingness of Kenya to investigate or prosecute.

On the contrary, in '***Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi***'[29], the case of Al-Senussi was held to be inadmissible considering the absence of Libya's unwillingness or inability to investigate. Despite the Pre-Trial Chamber has taken the security issues of Libya and shortage of defence counsel into consideration, the case was ultimately held as inadmissible despite having clear reasons of procedural unfairness or inability of the State to carry out fair investigation against the accused.

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[25] *Supra* Note 1, Art. 18(1), 18(2), 18(3).
[26] *Supra* Note 1, Art. 18(4).
[27] *Supra* Note 1, Art. 19(1)
[28] Situation in the Republic of Kenya in the case of the Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, ICC-01/09-02/11, Pre-Trial Chamber II, 23 January 2012.
[29] The Prosecutor v. Said Al-Islam Gaddafi, Formerly The Prosecutor v. Muammar Mohammed Abuminyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi, ICC-01/11-01/11, Pre-Trial Chamber I, October 11, 2013.

3. Limitations concerning the Nature, Scope and Applicability of the ICC

The challenges underlying the scope and applicability of the jurisdiction and adjudicatory power of the ICC are summarized as follows :

- One of the primary challenges obstructing the delivery of justice by the ICC is its inferiority to the respective state sovereignty. Even though there are several amendments adopted and proposals made over the decades for the purpose of widening the jurisdiction of the ICC under Article 5, hardly any of those amendments or proposals turned out to be effective due to the priority given to the States, the ratification by which will bind itself to the amendments regarding ICC jurisdiction. Therefore, once the amendments are enforced in only those states which ratified and not those states which did not ratify, the universality or uniformity of the International Criminal Court will undoubtedly be a far-fetched dream. Hence, the word 'International' prefixed to the 'Criminal Court' makes itself a mockery by establishing a consent-based jurisdiction over the delivery of universal global justice.

- Even if the States ratify the amendments or accept the jurisdiction of ICC, the Court can only exercise its jurisdiction if the case concerned qualifies the admissibility test under which once again the unwillingness or inability of the State Parties play the fundamental factor to determine. As already explained earlier, that the case of '***Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi***'[30] portrays a sheer deficiency of security to the accused and presence of arbitrariness owing to lack of defense counsel. Yet, the case was held as inadmissible considering an apparent record of willingness shown by Libya in carrying out the investigation.

- While comparing between the ICC and the erstwhile ad hoc military tribunals established in former Yugoslavia, Nuremberg, Rwanda, Tokyo etc., the operation of predecessor tribunals are proved to be expeditious, comparatively transparent,

[30] *Ibid.*

comparatively free from any procedural delays as well as complexities, and subject to due monitoring - the presence of which in the existing ICC is similar to a needle in the haystack. The procedural delays suffered by the ICC mostly lasts till 6 to 7 years in terms of carrying out an arrest or investigation or passing the final judgment and thus, converts the service of global criminal justice to an expensive albeit unfurnished suite. Although the Pre-Trial Chamber is in existence with an aim to unburden the task of the Court by filtrating the admissible cases from the inadmissible ones, the cases filed before and judgments delivered from time to time determine the failure of Pre-Trial Chamber to fulfil such objective. For example, in '***Prosecutor v. Lubanga***'[31], the judgment was passed after 6 long years from the date of arrest of the accused. Similarly, in '***Prosecutor v. Germain Katanga***'[32], the decision was issued after 7 years of the arrest, which is unlikely in the case of predecessor tribunals where a trial hardly took 2-3 years to conclude.

- Due to the major powers like USA, Russia, China or India excluding themselves from being a party to the Rome Statute, the ICC severely lacks sufficient strength, funding and efficient management by the Assembly of State Parties, the members of which hardly hold a significant position in the UN Security Council. On the other hand, the ICC is kept independent from the control of United Nations. As a result, the due monitoring which is received by the ICJ periodically, is grossly absent in case of ICC.

Conclusion

The recent and ongoing attack by Israeli armed forces over the Palestine civilians and the role of ICC as a mere spectator[33] increases the concerns regarding its ability to ensure justice towards the war-affected nation and the innocent civilians. As it is evident that

[31] The Prosecutor v. Thomas Lubanga Dyil, ICC -01/04-01/06, 14 March 2012.
[32] The Prosecutor v. Germain Katanga, Formerly The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, ICC-01/04-01/07, Trial Chamber II, 7 March 2014.
[33] Megan Specia, *The I.C.C. is monitoring Israeli-Palestinian violence for possible war crimes,* The New York Times, May 12 (2021), https://www.nytimes.com/2021/05/12/world/middleeast/icc-israel-palestinians-war-crimes.html (accssed on May 4, 2021).

USA and Israel are not the members of the ICC and Rome Statute, the preliminary investigation conducted by the ICC Prosecutor on the basis of 2014 Israel-Gaza armed conflict declared that the territories of West Bank, East Jerusalem and Gaza on which Israel had established its colonialism are included within the jurisdiction of ICC[34]. At the same time, the preliminary investigation which started over the Gaza Conflict since 2014 has not taken any adequate criminal action against the perpetrators of Israel and Palestine so far. With the rise of further war crimes taking place in Palestine in the first-half of 2021, the ICC Prosecutor is still holding the status of a mere observer, which poses a severe threat to the innocent civilians and pillars of global justice, while at the same time showcases the dormant status of ICC in maintaining peace and international security.

The factor behind such failure is not owing to any procedural discrepancy but rooted in the absence of an international character in the ICC as the major countries are not parties to the Rome Statute. As a result, the universal support and strength as required in increasing the effectiveness of ICC is a missing factor and often ignored by the existing State Parties as well. According to the current cases dealt by the ICC, a large fraction of it discloses the African States as being the concerned party and thus it is often presumed that the ICC is mainly targeting the Africans over any other States.[35] Owing to the statement, even now the African States have also gained a negative perception towards the legality of ICC. With a demand to wither the Court longstanding and increasing across the world, the hope for its sustainability is what remains behind and can be able to bloom further only in receipt of adequate financial as well as political support of the existing State Parties.

[34] Toby Sterling, Stephanie van den Berg, *International Criminal Court says it has jurisdiction in Palestinian territories,* Reuters, Emerging Markets, February 5, 2021, 11:59 PM, https://www.reuters.com/article/us-icc-palestinians-israel-idUSKBN2A52CW (accessed on May 4, 2021).

[35] Kastner, Philipp, *Africa — A Fertile Soil for the International Criminal Court?*, Die Friedens-Warte, vol. 85, no. 1/2, pp. 131–159 (2010), JSTOR, www.jstor.org/stable/23773982. (Accessed on 11 May 2021).