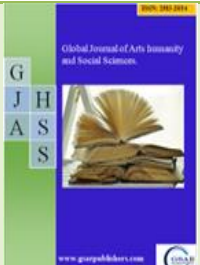


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THE DIGEST OF THE ROLES OF THE INTERNATIONAL CRIMINAL COURT (ICC) TOWARD ENFORCEMENT OF INTERNATIONAL LAWS: MAKING WITH REFERENCE TO THE WAR OF GAZA AND VETO POWER INFLUENCE

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Abstract

The International Criminal Court (ICC) is the international permanent judicial body established under Article 1 of Rome Statute of the International Criminal Court of 1998 which entered into force in 1 July, 2002. And its main primary function is to investigate and prosecute individual who is alleged to have been committed international crime(s) of international concern which are falling under the jurisdiction of the court. This being the organ vested with the mandate of enforcing international laws by punishing persons who committed serious international crime such as genocide, war crime, crime against humanity and crime of aggression, in Gaza this mandate lacks reality because the situation in Gaza pose serious question to the International Criminal Court's mandate in prosecuting the perpetrator(s) of international crimes committed in Gaza. The international criminal court (ICC) is the international body with holding individual and regime accountable for war crime and genocide which include the use of dangerous explosive weapons. However, effort to bring the Israeli government to justice for these crimes have been unsuccessful, as currently Israel continued to commit genocide and war crime in Gaza which fall under the mandate of International Criminal Court with no any enforcement measures taken by the court toward Israel regime in Gaza. While the Rome Statute provides for the foundational legal framework for accountability, the Gaza war has exposed serious limitation in the court jurisdiction reach, investigative capacity and reliance of veto power influence.

This allegation is justified basing on the idea that the massive bombardment imposed in Gaza which causes indiscriminate effects to civilian's amount to war crime and genocide. This fact creates question on what role do the International Criminal Court has in enforcing and prosecuting the perpetrator of the international crimes in Gaza. It is from these facts that this peace of academic work was planned, crafted and communicated on attempting to elaborate challenges of International Criminal Court to ward prosecution and punishment of the perpetrators of the international crime Gaza.

Keywords: The International Criminal Court, Genocide Crimes against humanity, war crime, crime of aggression, UN Security Council, the united nation, veto power.

1. INTRODUCTION

1.1 The History of Establishment of the International Criminal Court

For a decade the protection of human rights and enforcement of the international law lacked consensus. The human right law and humanitarian law require appropriate mechanism to enforce the law. Before the inception of the international criminal court the



international community lacked sufficient mechanisms to hold individual accountable for the commission of serious international crimes today known as international crimes like Genocide, war crime and crime against humanity were left behind the national courts to deal with.¹ The problem is that, giving such mandate to the national court to prosecute such atrocities led to the delay of justice as many state were unwilling or unable to prosecute because most of the perpetrators of these offences were heads of state and in that it was not possible the national court to take action against these perpetrator the situation which caused many international crimes remain unpunished because even when we look on the past event the genocide in Rwanda and former Yugoslavia were committed by the government themselves or state agents. Therefore, this led to the failure of the national court to punish the perpetrators of these serious international crimes especially during the WWII.²

Following such situation occurred in WWII the action taken by the international community was to established international criminal ad hoc tribunals in which the Nuremberg and Tokyo tribunals were created after the Second World War in 1948 when the convention on the prevention and punishment of the crime of genocide was adopted, the United Nations through the General assembly recognize the need of having a permanent international court to address the kinds problems of atrocities which had been perpetrated, though it was not yet accomplished and recently international criminal tribunal for Rwanda and former Yugoslavia were also established to prosecute the offenders of genocide committed in Yugoslavia in 1991 and Rwanda in 1994 which played an important roles in the world to believe that prosecution of international crimes is possible though were faced by some challenges and in that in 1998 the United Nations General Assembly created the international criminal court as the independent judicial body to prosecute international crimes.³

It was said that some of the most heinous crimes were committed during the WWI and WWII in the 20th century but unfortunately, many violator(s) of the human rights and international law have remained unpunished specifically during the Second World War thus why there were the need of introducing the permanent international criminal court to deal with ongoing situation that amounts to international crimes. In 1998 The International Criminal Court was established under Article 1⁴ of the Rome Statute to be the permanent court and came into force in July 1, 2002, the court was established following the increase of international crimes, and in that the court was made in multilateral

international system to provide justice and ending the impunity and establishing the rules for the prosecution of individual who have been alleged to have committed international crimes falling under the jurisdiction of the court (ICC).⁵

The idea of a system of international criminal justice re- emerged after the end of the cold war, however, while negotiation of the International Criminal Court statute were underway at the United Nations, the world witnessed again the commission of heinous or atrocities in former Yugoslavia in 1991 and followed with Rwanda in 1994 and in response to these atrocities the United Security Council passed a resolution on creation a special tribunal (ad hoc tribunal) to prosecute the individuals alleged to commit such atrocities and the world witnessed the creation of the International Criminal Tribunal for Rwanda and for former Yugoslavia in which where a temporal judicial body to try the perpetrators of international law. It was through this move and events followed had a most significant impact on the decision to convene the conference which established the International Criminal Court in 1998 and over 160 states now had ratified the Rome Statute in which its city is the Hague Netherland.⁶

The International Criminal Court was established to address the crime of genocide, crimes against humanity, war crime and later crime of aggression was added to the jurisdiction of the court. The ICC does not have jurisdiction to prosecute every individual in the world, it has a mandate to prosecute only an individuals who is a state member of the court, Nevertheless in cases that involve the non-state members in which the ICC does not have jurisdiction, the United Nations Security Council under the mandate of Article 39⁷ and Article 13(b)⁸ can use its power to refer the perpetrator to the International Criminal Court for investigation and prosecution. This court serves as a court of last resort when national courts is unable or unwilling to prosecute but they are not intend to replace national court but they are governed by the principle of complementarity.

2.0 THE MANDATE AND FEATURES OF THE INTERNATIONAL CRIMINAL COURT IN PROSECUTION MECHANISM

The International Criminal Court has a mandate to prosecute all international crimes falling under its jurisdiction. Since its inception in 2002, the court has established itself as a functioning court that prosecute individual bearing the greatest responsibility for most serious international crimes like genocide, crimes against

¹ Kirsch Philippe (2007) "the role of international criminal court in enforcing international criminal law" *American University International Law Review* Volume 22 No. 4 (2007) at page 540.

² Ibid at pp 540

³ Kirsch Philippe (2007) "the role of international criminal court in enforcing international criminal law" *American University International Law Review* Volume 22 No. 4 (2007) at page 540.

⁴ Article 1 of the Rome Statute of International Criminal Court of 2002

⁵ Ibid under Article 1

⁶ *The International Criminal Court, understanding the international criminal Court Hague Netherland*, published by the International Criminal Court ISBN No. 92-9227-365-2020.

⁷ *The Charter of the United Nations*, 1945

⁸ Article 13 (b) of the Rome Statute of International Criminal Court, 2002.



humanity, war crime and crime of aggression.⁹ The unique feature of this court is lack of territorial jurisdiction that say, the International Criminal Court does not have universal jurisdiction to prosecute every international crime committed by states, the jurisdiction of ICC is limited only to the crimes committed to the states which have voluntarily accept the jurisdiction of the court¹⁰ therefore, the territorial scope of the crime and nationality of perpetrators are the main basis of criminal jurisdiction.¹¹

Another feature of the court is premised in way that it has jurisdiction to only to the offences committed after coming into force. No offence committed before establishment of the court will be punished by this court.¹² And in that all the offences committed prior to the coming into force of the ICC do not fall under the mandate of the court.

The court had performed a big role in shaping the legal order by prosecuting various perpetrators of the international crimes. Following its world inception the court had been involved in dealing with various situations. As of late 2024 the International Criminal Court had been dealt with 31 situations on its docket for international justice, shedding light on the crimes of using child soldiers, destruction of cultural heritage, sexual violence and attacks of innocent civilians.¹³ 10 cases had already pronounced its judgments though it had secure conviction in handful of cases and 4 cases acquittal and in that the International Criminal Court (ICC) has involved in investigation in in various countries, issuing warrant of arrest and the confirmation of charge against the perpetrators of international crimes such as Libya, Darfur Congo and Sudan. Despite of the role played by the ICC its performance across the world, the current situation of prosecuting international especially in Gaza atrocities pose serious challenges where the international Criminal Court is seen to have a minimal intervention which leads to the increase of human suffering and indiscriminate effects to civilians.

3.0 THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT (ICC) AND CHALLENGES FACING SECURITY COUNCIL REFERRAL ON PROSECUTION OF ATROCITIES COMMITTED IN GAZA

⁹ Article 5 6, 7 and 8 of the of the Rome Statute of International Criminal Court, 2002.

¹⁰ Article 11(2) of the Rome Statute of International Criminal Court, 2002.

¹¹ Kirsch Philippe (2007) "the role of international criminal court in enforcing international criminal law" *American University International Law Review* Volume 22 No. 4 (2007) at page 542.

¹² Article 11(1) of the Rome Statute of International Criminal Court, 2002.

¹³ The International Criminal Court at 20, delegate the UN intranet-I seek for member state. available at <https://www.un.org>

When the state becomes a party to the Rome statute it agrees to submit itself to the jurisdiction of the court with respect to the crimes enumerated under the statute and only natural person will be prosecuted by the ICC.¹⁴ The ICC has jurisdiction over the most serious international crimes as concerned international community as whole and includes the crime of genocide, crimes against humanity, war crime and crime of aggression when committed by a member state.¹⁵ The court may exercise jurisdiction over such international crimes only if were committed on the territory of state member or one of its nationals after coming into force of ICC.¹⁶ In performing its jurisdiction the court has to cooperate with the United Nations and its organs for the purpose of ensuring the attainment of international criminal justice.¹⁷

Under international law the jurisdiction of ICC is performed by three different ways, one, state parties to the Rome statute can refer the situation to the prosecutor, secondly, the United Nations Security Council may refer the situation to the court for the launching of investigation and prosecution without the consent of the state concerned, thirdly, the office of prosecutor may initiate investigation *proprio motu* on the basis of the information received from reliable sources which the decision of the prosecutor relied upon the authorization of a pre-trial chamber.¹⁸ The United Nations Security Council has been given a mandate under the Rome Statute to make referral to the court when there is a proof to believe that the international crime has been committed by a non-state member and in that such atrocities committed is deemed to interfere the international peace and security, then the Security Council may refer such situation to the court for prosecution.¹⁹ To refer the situation to the International Criminal Court it requires the inclusion of referral to the resolution prepared and acceded by all permanent members of the Security Council.²⁰

Following such a mandate vested to the UN Security Council, the Security Council has intervened in several situations in the world by passing the binding resolutions to prosecute the parties who involved in interfering the world peace and security and in that the Security Council for the first time passed two important resolutions No. 1593 of 2005²¹ to refer the situation of Darfur and Resolution

¹⁴ Article 25 (1) (2) of the Rome Statute of International Criminal Court, 2002.

¹⁵ Article 13(a) of the Rome Statute of International Criminal Court, 2002.

¹⁶ Article 22 of the Rome Statute of International Criminal Court, 2002.

¹⁷ Article 15^{ter} of the Rome Statute of International Criminal Court, 2002.

¹⁸ Article 13 (b) of the Rome Statute of International Criminal Court, 2002.

¹⁹ The Global Campaign for Ratification and Implementation of the Kampala Amendments on the Crime of Aggression, Security Council Debates its Relationship with ICC October 2012.

²¹ UN Security Council Resolution 1593 (2005) march 31, 2005 UN Docs.

1970 of 2011²² referring the situation of Libya to the International Criminal Court performing its mandate under the Rome Statute of International Criminal Court.²³ These two referral mechanism were important milestone for the International Criminal Court though it was faced with active opposition from the United State because the Darfur referral represents a major policy shift of US government.²⁴ This referral by the Security Council today is the only way to make the International Criminal Court jurisdiction universal extending to any state whether is a member state to ICC or not. But in Gaza conflict of 2023 this pose serious question.²⁵

4.0 POLITICAL CHALLENGES FACING THE ICC IN PROSECUTION OF INTERNATIONAL CRIMES IN GAZA

4.1. Veto power politics

The ICC can prosecute the crime committed when the it was committed by a state member or national, but when the offence is committed by non-state member then the ICC has no jurisdiction to prosecute and if that happen then the United Nations Security Council have the mandate to make referral of such atrocities to the international criminal court to allow for investigation and prosecution of such atrocities but such mandate of Security Council faced with veto power influence and selectivity problem for example the operation cast lead in the Gaza strip in 2009 and the government led the final offensive in Sri Lankan civil war but were not taken into consideration basing on the fact that parties involved were non-state member to ICC and hence ICC has no jurisdiction to deal with such matter.²⁶

The UN Security Council is the international political body mandated to maintain the world peace and security. But in performance of its obligation under the Rome Statute it relied on Political nature especially its decision when affected by veto power of its permanent members. The decision of Security Council are often affected by the veto power influence and coherence rather the factors for the conflict.²⁷ The mandate of the Security Council is clothed with the selectivity problem which built bias implication for the perception of the legitimacy and the integrity of The International Criminal Court (ICC) jurisdiction. Because from a

vivid example of the referral mechanism of the atrocities by the Security Council as we saw in Darfur and Libya were not the only conflict situation outside of the ICC jurisdiction that the United Nations Security Council could have refer to the court. There were many conflict situation left unpunished though amounted to the international crimes and falling under the mandate of Security Council to refer them to the court but were left behind any prosecution measures like Operation Cast lead in Gaza strip 2009.²⁸

But the law is very clear that when the International Criminal Court has no jurisdiction over international crime committed by non-state member to ICC, the Security Council could have used its referral power under the law to refer the situation to the ICC something which was not done by the Security Council in Gaza following the operation cast lead of 2009. Basing on such mandate it could be argued that the Security Council has to activate the Rome Statute as whole and not select party of it. Article 13²⁹ vested the security council authority to refers a situation to the international criminal court without imply any kind of limitation/bias to the situation and the court jurisdiction and in that the Security Council could have dealt with all conflict that appear to exist in its mandate without employing selectivity as a ground for bias.³⁰

Therefore, following the mandate given under Article 13(b) the permanent member of the Security Council become to be obstacle toward the enforcement of international law. The court is driven by the decision and direction from the veto state and in that even the power vested to the Security council to refer the atrocities to the court lacks supremacy as the veto power has been bias in prosecuting these international crimes and if the Council trying to take some measures on the enforcement of these crimes then veto power blocked the effort.³¹

4.2 Double Standard and Attacks against International Criminal Court

Although all the aforementioned action taken by the International Criminal Court were relatively successful in stopping the commission of the international crimes and maintain justice of the perpetrator of crimes, in Gaza remain to be a big question even the efforts taken by the court to enforce international law were faced with criticisms and double standard compared to the offenders from other states. In dealing with the situation going on in Gaza the ICC faced with many challenges including double standard,

²² UN Security Council Resolution 1970 (2011) February 26., 2011 Un Doc.

²³ In accordance to the Article 13 (b) of the Rome Statute on 30 march,2005 United Nations Security council passed a resolution 1593 (2015) referring the situation in Darfur to the ICC with 11 votes in favor; non against and 4 abstentions (Algeria, Brazil, China and United State)

²⁴ International Peace Institute(2012) the Relationship between the ICC and the security Council: Challenges and Opportunities at page 3

²⁵ International Peace Institute(2012) the Relationship between the ICC and the security Council: Challenges and Opportunities

²⁶ SEBASTIAN Von Einsiedel & David Malone (eds) (2016) "the UN Security Council in the 21st Century" at pages 230-270

²⁷ Article 39 of the Charter of the United Nations, 1945.

²⁸ VAUGHAN Lowe and Adam Roberts (2010) (Eds) "The United Nations Security Council and War": The evolution of thought and practice since 1945, Oxford University Press at pages 120-160.

²⁹ Article 13 of the Rome Statute of International Criminal Court, 2002.

³⁰ Peace research Institute Oslo available at <https://www.prio.org> accessed on 17 October, 2025.

³¹ Peace research Institute Oslo available at <https://www.prio.org> accessed on 17 October, 2025

attacks against ICC³². The current situation of prosecuting international crime by the court is politicalized and in that left the perpetrators of international crime from western states unpunished. At the outset the ICC relies on state cooperation to investigate and prosecute the perpetrator of atrocities but when the court tried to initiate proceedings of charge against the perpetrators of international crimes many western states do not recognize the court's jurisdiction for example the Court have jurisdiction in Ukraine on the fate of war crime committed in its territory but Russian did not accept the charge against their President Vladimir Putin and other Russian officials.³³

More so, the active denial of prosecution of international crime was seen in Gaza when warrant of arrest was made against the prime minister of Israel Netanyahu, though Israel is not a member but the offence were committed in Palestine which is a member state to the court but the effort made by the international criminal court to ward such atrocities was declined following the opposition from the Mossad (Israel Intelligence Service).³⁴ On ground that anyone who will be involved in such investigation of such atrocities will be banned from many issues.

Therefore, Lastly, the interference of the western state in ICC mandate to prosecute international crimes in Gaza vitiate the performance of the International Criminal Court for example following the atrocities in Gaza in 2023, when the court wanted to intervene by issuing the warrant of arrest to the government officials of Israel basing on the situation in Gaza, the USA intervene and block the effort by imposing an Act aimed to ban visa and freezing of asserts against the family members and foreign individuals who contribute to ICC investigation in Israel officials.³⁵ This is a bias that vitiate the performance of the court and in that based on the international human rights principle that no one is above the law, the very foundation of international criminal justice system the situation of Gaza pose a varied concern as to whether the principle is observed in some situation under international criminal justice, following non observance of international law by Israel.³⁶ The above principle build on value that there are some atrocious crimes should not be committed. However, although the international criminal justice promote universal value there is a doubt in conflict of Gaza and the ICC mandate to prosecute because the ICC almost involved in African Conflicts while the violence of the powerful western state went unpunished.³⁷

³² Peace research Institute Oslo available at <https://www.prio.org> accessed on 17 October, 2025

³³ Kjersti Lohne (2025) *the international Criminal Court at risk of collapse* at pages 1-3.

³⁴ *Ibid* at p2.

³⁵ *ibid*

³⁶ *ibid*

³⁷ DAVID L Bosco (2009) *Five to rule them all: The United Nations Security Council and the making of the modern world* Oxford University press at pages 210-238.

4.3 Lack of jurisdiction and recognition

The international criminal court have jurisdiction to the offence committed in a state member or a national of state member had committed the crime or for the non-state member if the state through which the offence was committed accept the jurisdiction of the court of referral by the security council. In that the court cannot deal with any offence allegedly to have been committed by any state which is not a member state of the court. The jurisdictional barrier vitiates the performance of the court. The powerful states like Russia, China, and the United State do not recognize the jurisdiction and authority of the court and they have not ratified the Rome statute and in that would not honour warrant issued by the court and typically would not turn over their own citizens for prosecution.

The court is hindered by its operation by the veto states because veto powers serve as permanent members of the United Nations Security Council who decide to make referral to the court for the investigation and prosecution of the perpetrator international crimes. Therefore when it comes to the allegation concerning one of perpetrator political interest of the veto power blocks the process and in that such atrocities remain unpunished. This happen even when the ICC tried to mitigate the anarchy for the offences falling under its jurisdiction is blocked by powerful states by blocking referral, investigation and arrest for their allies. These influence undermine the court impartiality and its performance ability to hold individual accountable for the mass atrocities committed in Gaza as vetoes protects guilt parties and prevent the council from talking the swift actions on critical issue going on in Gaza because the atrocities committed in Gaza powerful states like USA are involved. Moreover, the court is politicalized by power influence and even the Security Council when wishes to make referral to the International Criminal Court concerning the atrocities committed in Gaza, these powerful states who are the permanent members of the Security Council intervene and blocks the referral situation to the court and even preventing the court from investigating alleged crime even where there is a broad support from the UN members.³⁸

The power of the Security Council of referred to enforcement mechanisms to the Court under Article 13(b)³⁹ is not automatic its performance depends to the consent of all permanent members of the Security Council. The above provision tried to show how both United Nations Security Council and ICC relates each other in matters that involve the maintenance of international peace and security and its enforcement. This Article shows the relationship between the Security Council and the International Criminal Court (ICC) this relationship is significant in development of international criminal justice system, but all key problems are rooted in such relationship where we saw that the Security Council based on the influence of its permanent members is unable to refer

³⁸ VAUGHAN Lowe and Adam Roberts (2010) (Eds) *"The United Nations Security Council and War": The evolution of thought and practice since 1945*, Oxford University Press at pages 120-160.

³⁹ Article 13(b) of the Rome Statute of International Criminal Court of 2002.

the issue of atrocities committed in Gaza to the court and in that led to the security council referral mechanisms to have placed with number of limitation which late vitiate the performance of ICC.

The veto power influence vitiate the performance of the court in dealing with the situation going in Gaza, because the sometime they do contribute to the court and in that the ICC's depends on the funds from the superior states like the United States (US), South Africa, UK, France and Russia based on their financial support for the investigation process of the court therefore this makes the ICC to be under their mandate to decide what to do and what should be done. This situation creates fears to the prosecuting of the suspects concerned in Gaza because the official of the veto powers (contributor) state are the one involve in commission of such offences. Therefore, the ICC in making prosecution is limited by several challenges that make the court delaying to punish the perpetrators of international serious crimes such as lack of cooperation from some states. While it has moved into permanent, long-term premises, it continues to face ongoing challenges related to jurisdiction, legitimacy and member state cooperation in apprehending suspects.

5.0 CONCLUSION AND RECOMMENDATION

5.1 Conclusion

Therefore, the facts that the international community has a hope that international criminal justice has been obtain after the establishment of the International Criminal Court, currently the court is truly a sad for the commitment we decisively undertook after its establishment in 1998. The court today become to be more distressful to prosecute the hesitation toward the atrocities committed in Gaza. Nothing can any longer justify the performance and mandate of the International Criminal Court as a permanent international criminal court for the final dispensing of international criminal justice and in that the world lost hope for the disgraceful measures of tolerance for lingering impunity or hope to contain international criminal justice within the structure that adhere to the principle of equality before the law.⁴⁰

Justice is not a privilege of few, it is a right for all therefore the biasness and selectivity of the court to prosecute and punish the offenders of international crimes vitiate the performance of the court and the mandate for its establishment because until today, no political solution has been taken to the conflict gone in Gaza to prosecute the perpetrators concerned, while the human being in Gaza immensely suffered and the world peace was destroyed the international criminal court is silent following the political interference from veto power. In that the international criminal court is trying to establish another operative definition in our

society that humanity is seen as a collective political subject where the ICC legitimacy is measured by the influence of the superior powers. This situation wrapped the paradox from very beginning that the relationship between the power politics and the international criminal court diminish the quality and legitimacy of justice and without the power politics support the criminal justice will not be obtained and the international crimes will never be tried. This shows the failure of the court to stand as independent organ/body and at this juncture the life of international criminal court need greater political support from veto power.

5.2 RECOMMENDATION AND PROPOSAL FOR REFORMS OF THE COURT AND THE SECURITY COUNCIL REFERRAL PROCESS

Following the challenges facing the performance of the international criminal court as outline above I would like to recommend and propose measures that could be taken by the International community to ensure the recovery of the judicial independence and supremacy of the International Criminal Court in prosecution of the international crimes. For the betterment of performance of the international criminal court in relation to the atrocities in Gaza and other situation around the world, the secretary general of the United Nations Kofi Annan recommended two plans for Security Council reforms. He recommended to creation of 6 other permanent members and, plus three new non-permanent members, totaling 24 seats therefore the following measures should be taken into consideration. This recommendation is better and in addition to that the following reformation must be done.

5.1 Reformation of Security Council's Referral Mandate

The current process of referring the non-state member to the court through the Security Council proved failure and in that such mandate must be modified and the United Nations should have given such mandate. The reason that the security council was given a mandate to make referral to the court was for the purpose of strengthen the ICC ability to prosecute war criminals by overcoming the limitations of territorial jurisdiction because it has allowed many criminals to successful escape the court's jurisdiction but this role has proved failure to the Security council which require the modification and improvement.⁴¹ Moreover, the veto power held by the permanent members of the Security Council is used to shield the perpetrators from legal action for political purpose this hinder the permanent of international criminal court and in that left many crimes of international concern remain unpunished. To remedy this situation the Security Council should be reformed and in that the mandate should be vested to the General Assembly in which every member of the United Nations could have the right to contribute and vote on all issues pertaining to the prosecution of international criminals. This will override the

^{40 40} Nathan Hogan (2018) *Five Side of Justice: The Dangerous and disproportionate influence of the permanent five members of the UN Security Council on the International Criminal Court*. Brigham University Prelaw Review Article 18 volume 32 2018 at pp 243.

^{41 41} Nathan Hogan (2018) *Five Side of Justice: The Dangerous and disproportionate influence of the permanent five members of the UN Security Council on the International Criminal Court*. Brigham University Prelaw Review Article 18 volume 32 2018 at pp 240.

veto power interference as the decision to be made will be concluded by the general assembly and not the veto power.⁴² Then, while the General Assembly makes decision relating to the prosecution it should act for the purpose of promoting justice and accountability to the criminals rather than makes referral decision based on political concern. This would culminate political pressures from western states and the development of international criminal justice all over the world will be successful and the permanent members would be no longer be able to arbitrary protects their allies from justified prosecution by the ICC.⁴³

5.2 The World Should Recognize the Court as a Permanent World International Criminal Court

Although the jurisdiction of the court is premised only to the offence committed by state members of ICC or national of state member or by referral from the Security Council, this poses a biggest challenge as many of international crimes committed remain unpunished when committed by the non-state member, therefore to rectify this lacuna it must come to our mind that the reform must be made to the statute and world in general that all state members to United nations must comply with the requirement of the Rome statute by being a member of the court so as to make the international court mandate be of universal nature. That means the consent of the jurisdiction should not base on individual state to express her willingness, but should be premised in a way that once a state is a member of United Nations, by virtue of being a member to the United Nation automatically would be a member of international criminal court too. From this beginning the world will succeed to reduce the political power prosecution and selectivity basis and promote international justice by expanding jurisdiction over the international crimes and enhancing cooperation and enforcement with states, and strengthen the internal processes like judicial ethics and transparency to endure accountability.

5.3 Cooperation among States

State are said to be the challenges to ward the enforcement of the Rome statute of international criminal court. Many states do not cooperate when it comes to the recognition of the jurisdiction of the court and in that vitiate the performance of the court. State cooperation is absolute central to the performance of the international criminal court and its effectiveness. The Rome Statute, the founding treaty provides the requirement of states the binding obligation to cooperate fully with the court but this situation is said to violate by some state members. Article 86 provides the requirement of cooperation from state parties in prosecution and investigation of international crimes. Also Article

87 insists on the requirement of the court to request the cooperation from the state parties in issuance of warrant, arrest and prosecution of the alleged crimes.⁴⁴ Therefore if state commits them self in mitigating the international anarchy going on in Gaza the court will have the mandate to intervene even to the situation where international veto politics is said to take place. The cooperation may take various forms like arrest and surrender, collection of evidences, protection of witness and enforcement of sentences for the offenders allegedly to have commits genocide and war crime in Gaza 2023.

In the premises, state cooperation is very essential for the development of international criminal court because without state cooperation, the International Criminal Court lacks the enforcement tools that national courts have such as police force and armies and in that left many offences committed remain unpunished.

5.4 Introducing the ICC police force and Machinery

As a judicial body the international criminal court does not have its own police force or enforcement body that will simplify the prosecution and arrest processes. thus relying to the cooperation with countries worldwide and support from veto power state vitiate the performance of the court in arrest and prosecution and in that for the betterment of the performance of the court, the ICC police machinery must be introduced to ensure implementation of the Rome Statute in fully because relying to the support from state hinder the performance of the court because some states do not recognize the jurisdiction of the court and in that they even not show their support in arrest, surrender and transferring the arrested person to the international criminal court detention Centre in the Hague, freezing suspect's asserts and enforcing sentences.

Conclusively, the role of the international criminal court in addressing the war in Gaza is largely depends largely on strengthening its mandate under the Rome Statute for enforcement and cooperation. To improve its mandate the ICC must be independent from power influence and enhance stronger cooperation and support from the state parties, broader recognition from non-state parties and in that and increase United Nations Security Council's strong backup on its recognition of jurisdiction.

Additionally, reforms must be made to enhance the court autonomy in investigation and prosecution without relying to the veto power consent. The protection of witness and enforcement of arrest warrant would be left to the mandate of the court and in that will help to decisively to mass atrocities such as committed in Gaza. ultimately, improving the international criminal court mandate is not only a legal necessity but also a moral imperative to ensure that accountability measures are taken against the criminals of international crimes in Gaza and complement the need of international justice without hindered by political interest or state noncompliance but instead driven by universal commitment at the need to ensure criminal justice and protection of civilians.

⁴⁴ Article 86 and 87 of the Rome Statutes of International Criminal Court, 2002.

⁴² Nathan Hogan (2018) *Five Side of Justice: The Dangerous and disproportionate influence of the permanent five members of the UN Security Council on the International Criminal Court*. Brigham University Prelaw Review Article 18 volume 32 2018 at pp 244.

⁴³ Nathan Hogan (2018) *Five Side of Justice: The Dangerous and disproportionate influence of the permanent five members of the UN Security Council on the International Criminal Court*. Brigham University Prelaw Review Article 18 volume 32 2018 at pp 244.

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