

The Position and Role of the International Criminal Court (ICC) In International Crime Resolution

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Abstract:

International crimes, such as genocide and crimes against humanity, require effective law enforcement to prevent impunity and ensure justice. The International Criminal Court (ICC) was established as a permanent court to prosecute individuals responsible for such serious crimes. This study uses a qualitative approach with documentary analysis of international legal sources, ICC reports, and case studies. Data were collected through literature reviews and interviews with international law experts to gain an in-depth understanding of the functions and challenges faced by the ICC. The results show that although the ICC has an important role in upholding international justice, its effectiveness is often hampered by jurisdictional limitations, state non-compliance, and political factors. Diplomatic steps are needed to encourage more countries to ratify the Rome Statute and increase international cooperation in enforcing ICC decisions so that justice can be achieved more effectively at the global level.

Keywords: International Criminal Court; International Crimes, Resolution

INTRODUCTION

The problem of international crimes, such as genocide, crimes against humanity, war crimes, and the crime of aggression, has a serious impact not only on the country where the crime occurred but also on the global community (Law & Drumbl, 1994). In facing this challenge, the International Criminal Court (ICC) has emerged as a key institution in the international legal system that aims to uphold justice and prevent impunity among perpetrators of serious crimes. Established by the Rome Statute in 1998, the ICC has the jurisdiction to try individuals responsible for the most serious international crimes (Ho, 2019).

The position of the ICC in resolving international crimes is very strategic because it functions as a permanent court that complements national justice systems, especially when countries fail to prosecute violations of international law. The role of the ICC is not only limited to law enforcement but also includes efforts to support global peace, security, and stability. Through the trial and prosecution of perpetrators of international crimes, the ICC contributes to the creation of stronger legal norms and strengthening of justice systems around the world (Sari, 2021). However, despite its crucial role, the ICC also faces various challenges, including jurisdictional limitations, state noncompliance, and international political issues. Therefore, it is important to explore the position and role of the ICC in resolving international crimes as well as the steps that need to be taken to improve its effectiveness in achieving the goal of global justice (Khairani et al., 2021).

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This text highlights the challenges that arise from the interaction between humanitarian values and military strategy, which are often at odds. By the end of World War II, the world had entered a new era in the protection of human rights, marked by the establishment of the United Nations and the publication of the Universal Declaration of Human Rights (UDHR) (Wade & Maljević, 2010). This initiative reflects a global commitment to protecting the dignity of the individual, even in situations of conflict in which these rights are often neglected. This paradigm shift shows that the protection of human rights must remain a priority even in challenging contexts.

The recognition that crimes committed in war, such as aggression, war crimes, and genocide, are serious threats to global peace and stability, underscores the importance of international collaboration in addressing these issues. These acts not only harm individuals but also have far-reaching consequences for society, underscoring the need for a more sustained approach to addressing humanitarian issues amid military tensions. Thus, there is a push to strike a better balance between the need for security and the protection of human rights on the global agenda (Setiyono, 2017).

Antonio Cassese provides the following definition of International Criminal Law (Triana, 2009):

“International Criminal Law is a set of norms that prohibits international crimes and obliges states to prosecute and punish those who commit them. It also provides for international legal processes for trying individuals accused of crimes, so that serious violations of human rights and international norms can be held accountable.”

International Criminal Law is a body of rules that prohibits international crimes and requires states to prosecute and punish perpetrators. This law not only regulates the prohibition of certain crimes but also establishes legal procedures for trying individuals accused of committing such acts. International crimes include a variety of acts committed by individuals or groups that violate international legal norms, and their impact can be detrimental to both states and the international community as a whole. Thus, this law serves to maintain justice and prevent impunity at the global level (Bassiouni, 2017).

From citing Antonio Cassese's opinion, the author was finally interested in writing an article entitled "The Position and Role of the International Criminal Court (ICC) in Resolving International Crimes." Role and function of the International Criminal Court (ICC) in enforcing international law. Referring to Antonio Cassese's opinion, the author feels compelled to explore various aspects of international crimes, including their definitions and characteristics and how the ICC operates in response to these crimes.

METHODS

According to Soerjono Soekanto, the object of this research problem is normative legal research, in which law is considered a norm, principle, or dogma (Christiani, 2016). Normative legal research includes the analysis of legal principles, systematics, synchronization, legal history, and comparative law (Diantha, 2017). This method uses a statutory approach that reviews all laws related to the problem. In addition, there was a case study approach. This method is used to examine relevant cases that have become court decisions with permanent legal force. Finally, according to Wignjosoebroto, legal science develops perspectives and doctrines through a conceptual approach that has moral and philosophical dimensions. This method was used to gain a comprehensive understanding of the legal issues at hand (Nurhayati 2013).

RESULTS

International crimes, also known as "international crimes," include serious acts that violate international law and are considered to pose a threat to security, peace, and humanity worldwide (Muhammad et al., 2020). These crimes are recognized globally and include genocide, which is the destruction of a national, ethnic, racial, or religious group; war crimes, which are serious violations of

the laws of war, such as murder and torture; and crimes against humanity, which are systematic violations of the law of war against civilians (Lemkin, 1946).

Aggression-aggressive acts committed by a state against another state also fall into this category, as does drug crime, which is related to illicit trafficking that creates social and economic problems in society. Law enforcement against international crimes is carried out through mechanisms such as the International Criminal Court (ICC) and ad hoc tribunals, such as those established for situations in Rwanda and the former Yugoslavia. States are also obligated to prosecute these violations based on the principle of universal jurisdiction (Atmasasmita, 2021).

However, law enforcement in this area faces several challenges, including impunity, where many perpetrators of international crimes continue to go unpunished (Husni & Nur, 2024). Politicians and state interests often influence law enforcement, thereby hindering justice. In addition, the resources required to enforce international law are enormous, in terms of both financial and human capacity (Simanjuntak et al., 2024).

Overall, international crimes demand global attention and cooperation to ensure the protection of human rights (Muhammad et al., 2020). The requirements for international crimes generally include several important elements that must be met for an act to be categorized as an international crime. The following is an explanation of these requirements (Hatta, 2019):

- a. Global Characteristics:
- b. International crimes must be universally recognized as acts that are detrimental to the international community, such as genocide, war crimes, or crimes against humanity
- c. Common Interests:
- d. Such crimes must involve the common interests of countries worldwide, which makes it important to address them at the international level.
- e. Serious Crimes:
- f. International crimes usually involve serious violations of international law and human rights and are therefore considered a threat to global peace and security.
- g. Evidence and Legal Process
- h. The law enforcement process must be conducted in accordance with international standards in terms of evidence and legal procedures to ensure justice and the rights of all parties involved.

These requirements aim to ensure that international crimes are prosecuted fairly and effectively, and to protect human rights throughout the world. Therefore, anyone involved in committing an international criminal act should be held accountable.

International crimes that emerged from the development of human rights conventions were a logical consequence of World War II. These crimes not only included victims of war who were directly involved (combatants) but also civilians (non-combatants) who should have been protected in war situations. One form of international crime is genocide, which is recognized as a crime of international law in accordance with the UN Declaration of December 11, 1946. The Declaration affirms that genocide is a serious violation of human rights that requires attention and law enforcement at the international level (Bunga & Bunga, 2018).

DISCUSSION

The place and role of the International Criminal Court (ICC) in resolving international crimes are crucial and complex. Established through the Rome Statute in 1998 and in 2002, the ICC serves as a permanent court to try individuals accused of international crimes such as genocide, war crimes, and crimes against humanity. As a permanent court, the ICC provides a stable legal structure for the

administration of justice, ensuring that perpetrators of serious crimes cannot escape responsibility simply because they are abroad.

One purpose of the ICC is to stop international crimes by demonstrating that atrocities will be prosecuted. In addition, ICC is a place where countries can cooperate to enforce international law. Countries that ratify the Rome Statute are required to assist the investigation and prosecution of perpetrators. Through its rulings and legal proceedings, the ICC also helps raise awareness of international crimes and human rights. The ICC provides additional protection for victims of international crimes by enabling them to take action when states are unable or unwilling to prosecute serious crimes. The ICC seeks to promote a more efficient and transparent global justice system and helps build foundations for international peace and security (Suandita, 2021). The position of the International Criminal Court (ICC) in relation to the UN is important because it was established without the permission of the UN General Assembly and the International Law Commission.

The ICC is not under the UN and is not included in the UN structure as a principal, subsidiary, or special entity. Therefore, the ICC can be considered outside the UN structure but with a position that is parallel or equal to the UN, as stated in Article 2 of the Rome Statute of 1998, which regulates the relationship between the ICC and the UN. Although the ICC operates independently, the goals of protecting human rights and upholding international law are still held by both organizations (Charles Frera Sumilat, 2021).

The position of the International Criminal Court (ICC) in relation to the UN is very important because it was established without the permission of the UN General Assembly and the International Law Commission. The ICC is not under the UN and is not included in the UN structure as a main, subsidiary, or special entity. Therefore, the ICC can be considered outside the UN system but with the same or equal status as the UN. This is indicated by Article 2 of the Rome Statute of 1998, which regulates the relationship between the ICC and UN. Although the ICC and UN work independently, their goals are the same: enforcement of international law and protection of human rights. National laws of the country concerned (Article 26) of the Rome Statute of 1998.

a. Territorial Jurisdiction

Territorial jurisdiction is a legal principle that states that a country or territory has power to regulate and enforce laws within its geographical boundaries. This means that the laws of a country are binding on all persons and entities within that territory, regardless of their nationality. This principle ensures that a country has the right to deal with violations of laws that occur within its territory. For example, if someone commits a crime in a country, that country has the right to try the case under its own laws, even if the perpetrator is a foreign nation. Territorial jurisdiction is important for maintaining order and justice in a country and for ensuring that the law can be applied consistently throughout the territory. As such, this principle serves to protect the public and ensure that the law is effectively enforced.

b. Temporal Jurisdiction

Temporal jurisdiction is a legal principle relating to the time within which a law can be applied or within which a case can be tried. This means that the law only applies to events or actions that occur within a certain period of time in accordance with the provisions set out in the law. Temporal jurisdiction is important in determining when an act is considered unlawful and when a case can be brought in court. For example, in criminal law, there is a certain time limit after a crime is committed, during which a prosecution can still be carried out; after that time limit has expired, the perpetrator can no longer be tried, even if they have committed a crime. This principle can also be applied in the context of civil law, where claims or demands may have a deadline for being filed. Temporal jurisdiction thus helps create legal certainty and protect the rights of individuals by providing a time limit for the prosecution or filing of cases.

c. Criminal Jurisdiction

Criminal jurisdiction refers to the power of a court or legal body to try cases related to criminal acts. This principle states that the court has the authority to handle criminal cases based on laws in

force in a particular area. Criminal jurisdiction is typically divided into several categories, including jurisdictions based on location.

where the crime was committed, the type of crime, and the nationality of the perpetrator. For example, if someone commits a crime in a country, that country has the right to try the perpetrator under the laws in force there, regardless of nationality. Criminal jurisdiction also includes aspects such as the principle of *ne bis in idem*, which prohibits someone from being tried twice for the same crime, and the principle of legality, which states that no one can be punished without a clear law regulating the crime. Overall, criminal jurisdiction serves to ensure that justice is served in criminal cases and that perpetrators of crimes are tried in accordance with laws in force in the area.

CONCLUSION

The International Criminal Court (ICC), as a permanent international criminal court, is significant in the context of international law enforcement. The ICC was established to prosecute individuals responsible for the most serious crimes, such as genocide, crimes against humanity, war crimes, and aggressive crimes. Based on the Rome Statute of 1998, the ICC has jurisdiction that applies to countries that have ratified it, which strengthens its position as an institution that seeks to create justice at the global level. However, the effectiveness of ICC is hampered by several factors. First, limited jurisdiction is a major challenge: only countries that ratify the Rome Statute are automatically under the jurisdiction of the ICC. Countries that do not ratify can refuse to try under the ICC, which results in difficulties in global law enforcement.

In addition, international political involvement and state noncompliance with ICC decisions are obstacles. The problem of funding and operational support from member states greatly affects the ICC's ability to carry out its functions effectively. Thus, the resolution of international crimes through the ICC is highly dependent on the cooperation and active support of the international community as well as the commitment of member states to respect and comply with the court's decisions. Overall, although the ICC plays an important role in realizing international justice, the challenges it faces show that the creation of global justice requires collective efforts and commitment from all countries to be effective and sustainable.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

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