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## The Legal Framework for Women Grave Violations Protection During Armed Conflicts under The International Criminal Court

Ahmad Aqeil Mohammad Alzaqibh<sup>1</sup>, Diala Ali Alta'ani<sup>2</sup>, Ibrahim Al-Shawabkeh<sup>3</sup>, Mouaid Al Qudah<sup>4</sup>

### Abstract

*The protection of women caught up in armed conflicts is a topic of considerable importance within international law, given that women are among the most vulnerable groups of people. In the process of codifying the rules of international law, the protection of women was strengthened in many international conventions. This protection was in the form of general protection for them because they are unarmed civilians and a special protection owing to their feminine nature. Therefore, this study aimed to explore the legal protection for women from grave violations during armed conflicts within the framework of the Statute of the International Criminal Court (ICC). Results revealed that the ICC has established an international criminal justice system for protecting women against violence, whether they are civilians, prisoners of war, or detainees. Furthermore, the ICC considered all forms of violence against women of a gravity equivalent to crimes against humanity. In addition, women enjoy general protection under the principle of complementarity between the ICC and states and through the establishment of individual and collective accountability for violations against women. However, the Statute of the ICC has some shortcomings in protecting women, including: (1) the need to introduce laws that establish the international criminal responsibility of legal persons; (2) the absence of an explicit provision on the issues of statutory limitations and amnesty for crimes against women; and (3) the existence of an impediment to the work of the ICC resulting from the power granted to the Security Council to suspend the ICC proceedings if they threaten international peace.*

**Keywords:** International Criminal Court, Legal Protection for Women, Violations During Armed Conflicts, Statutory Limitations, Amnesty.

### Introduction

International humanitarian law aims to protect victims (civilians or combatants) of international and non-international armed conflicts. Once combatants lay down their weapons because they do not want to continue fighting or because they have become unable to fight, they come under the protection of international humanitarian law. Therefore, civilians and combatants have the same basic guarantees during armed conflicts, but this does not preclude some kind of special treatment for some groups that are considered the most vulnerable, such as women and children.

In the real world, armed conflicts more often than not involve indiscriminate violations that go far beyond the humanitarian limits. Women, during armed conflicts, are subjected to such kinds of human rights violations that “have mental, emotional, spiritual, physical and material

<sup>1</sup> Associate Professor Yarmouk University, Faculty of Law, Email: [ahmad.alzaqibh@yu.edu.jo](mailto:ahmad.alzaqibh@yu.edu.jo), (Corresponding Author)

<sup>2</sup> Associate professor – Faculty of Law - Yarmouk University, Email [diala.altaani@yu.edu.jo](mailto:diala.altaani@yu.edu.jo)

<sup>3</sup> Public Law Professor, Faculty of Law, United Arab Emirates University; Faculty Member Yarmouk University, Jordan. Email: [I.alshawabkeh@uaeu.ac.ae](mailto:I.alshawabkeh@uaeu.ac.ae)

<sup>4</sup> Criminal Law Professor, Faculty of Law, United Arab Emirates University; Faculty Member Yarmouk University, Jordan, Email: [mouaidalqudah@uaeu.ac.ae](mailto:mouaidalqudah@uaeu.ac.ae)



repercussions” (Mazurana & Carlson, 2006, p. 1). The suffering of women is particularly great: they are exposed to additional dangers due to their gender, be they civilians or actual participants in the fighting. Therefore, the international humanitarian law dictates that the conflicting parties should avoid any violations of the human rights of women. Despite international humanitarian law, crimes against women are continuing to happen in all recent armed conflicts (Krstic & Stankovic, 2018).

All the reports dealing with the situation of women in armed conflicts do not portray the level of their suffering and the atrocities committed against them. Most of the reports dealt with the situation of women in a truncated manner, focusing on the protection of pregnant women and mothers, or the protection from rape and sexual violence. However, cases in which women actually participated in the fighting remained largely ignored except occasionally and very formally. In this regard, the international humanitarian law stresses the necessity to “undertake a full investigation of acts of violence against women and prosecute all criminals responsible for war crimes against women and provide full redress to women victims” (Manjoo & McRaith, 2011, p. 20).

However, the international humanitarian law alone may not grant adequate protection for women unless the underlying domestic legal regime guarantees adequate sanctions against perpetrators, whether this violence is exercised by the state, by groups or by individuals (Dolgopol, 2012). Accordingly, this research paper will deal in detail with the provisions of specific rules for the protection of women during armed conflicts in the legal framework of the Geneva Conventions of 1949 and their two additional protocols of 1977, whether women are civilians or actual participants in the fighting.

Thus, the importance of this study lies in dealing with the case regarding the legal status that women enjoy through existing laws and provisions in times of armed conflict on the one hand, and identifying the effectiveness of the protection afforded to women against all forms of violations during wars on the other. To find out the most important guarantees for the protection of women from violence during armed conflict, the problem of this research centered on the following main question:

- To what extent are international laws sufficient to protect women in times of armed conflict?

The supplementary questions were:

- Do international laws take into account the additional dangers that women are usually exposed to during armed conflicts?

- Have the provisions and rules of the law of armed conflict developed a set of mechanisms to activate this protection and to guarantee the rights of women in the event of violence against them?

Based on the above and within the scope of the current study that seeks to explore the sufficiency of the rights established for women under the Geneva Conventions of 1949 and their Additional Protocols of 1977, this study primarily followed the legal-analytical approach for that purpose. This approach is relied on in analyzing the content of the four Geneva Conventions and their Protocols, with emphasis on what exists in black and white in the texts of the general and special provisions, and the procedures that the concerned authorities should take regarding the protection of women. In addition, the comparative approach has been used in some cases to

compare the protection systems for women and those for other groups and to compare the texts of the Geneva Convention and other international conventions.

### **Protection Laws for Women in Times of Armed Conflict**

Mechanisms to protect women in armed conflict have been evolving gradually over time. This protection was considered within the framework of the general protection of civilians, which is based on the principle of distinguishing between civilians and combatants. Undoubtedly, women have been and continue to be the most affected by local and international hostilities in various countries around the globe due to the violations that target women, which are varied in forms and severity (Nwanolue & Iwouha, 2012). Many of the crimes against women are considered international criminal acts within the jurisdiction of the ICC Statute, and therefore it is essential not to allow the perpetrators of such violations to go unpunished (Ebersole, 1995). In order to address these violations against women, this research will first identify the categories of women protected by the ICC. Then the research will review the various forms of violations that women experience.

### **Protection for Women as Civilians During Armed Conflict**

Civilians in general are eligible to receive the protection granted by international humanitarian law (Gasser, 2003). The international community has emphasized the need to provide women with special protection during armed conflict. The Geneva Convention comprises 560 articles that make up the law; 40 articles emphasize the need for women to enjoy special protection (Biehler, 2008). For example, the first Geneva Convention sets out that “women shall be treated with all consideration due to their sex.” The Convention refers to safeguarding women’s honor, particularly the protection against rape, compelled prostitution or any kind of shameful abuse (Schiessl, 2002). Similarly, the fourth Geneva Convention underlines the demand to protect women from sexual assault during hostilities. This principle is also affirmed in Article 76, which states that “women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.”

According to warfare laws, along with the Geneva Convention 1949 and its Additional Protocols, women must be “especially protected” from “inhumane treatment” (Philipose, 1996). As such, the present ICC has acknowledged that rape and other types of sex crimes violate the main principles of humanitarian law and violate the core rights of persons who ought to be protected in instances of warfare or peace, in particular the right to respect the honor of women, their physical wellbeing, and their “right to be free from torture or other cruel, inhuman, or degrading treatment” (Pratt & Fletcher 1994, p. 78).

### **Protection for Women Participating in Fighting**

Women’s participation in war defies traditional notions of femininity, where the idea of women using weapons may seem unusual (Pedersen, 1985). Historically, women are usually classified under the category of civilian population (Kohn, 1994). Women may participate in wars as doctors, nurses, paramedics, or experts in humanitarian work, providing first aid and relief to survivors, but they sometimes also serve as combatants, whether involuntarily or at their own volition. In general, women in the military are exempted from combat jobs. They are not considered as primary combatants, and they must be accompanied by a male combatant (Dyvik, 2014).

Combatant women have a special and a general scope of protection, depending on their case, i.e. whether they are wounded, sick, in distress at sea, or prisoners. From the general scope, the Third Geneva Convention mentioned in Article 4(a) those persons who could be considered combatants, but it did not discriminate between men and women. This also applies to Article 43 of Protocol I, where the terms used to define a combatant came to include both men and women alike. However, once combatant women are in captivity, they are granted the general protection of prisoners. From the special scope, Article 14(2) of the Third Geneva Convention stipulates that “women shall be treated with all the regard due to their sex.”

More than that, Article 97 of the Fourth Convention states that women prisoners of war must be placed “in separate quarters and be under the supervision of women” (Krill, 1991). Article 88 of the Third Geneva Convention paras. 2 and 3 provide that a female prisoner of war should not be punished the same way as men, and the country that takes them hostage should consider them amenable to the same penal laws that combatant women of that country (Pedersen, 1985). Article 76 of Additional Protocol I, para. 2 provides that arrested “pregnant women and mothers of dependent infants must have their cases considered with the utmost priority, and the death penalty shall not be executed for these women.”

### **International Criminal Accountability Against Perpetrators of Violence Against Women**

It is the responsibility of states to guarantee protection for women; states should attempt to abolish all impunity for criminal acts. Endeavors have been taken at national and international levels to curtail violence against women. The ICC Statute provides that states and individual leaders are responsible for crimes against women if the violence is widespread and systematic with the knowledge and consent of the state. Considering grave offense against women, in the ICC Statute, “an international crime would undoubtedly send a powerful message to would-be perpetrators and complicit communities that such conduct must not be tolerated” (Mayerfeld, 2006). Hence, the questions are who bears criminal accountability for these violations? Is it the state, individuals or both? This is what the coming section will attempt to answer by addressing the international criminal accountability of the state as well as that of individuals.

### **International Criminal Accountability of the State**

#### **State Accountability for Violations Against Women**

Historically, the state in ancient societies was not responsible for the crimes committed by its affiliates, nor did it guarantee criminal accountability. Crimes of sexual violence against women were domestic issues that were not amenable to international law because of the absence of international law in the first place, and because they were not closely linked to human rights. Women were considered the absolute booty of war. Currently, international conventions during wartime provide for states to be held responsible to protect women “against all forms of violence, rape and other forms of sexual exploitation, and to guarantee that such acts are considered war crimes against humanity.” In this instance, state parties are required to act pursuant to the Geneva Convention and its Additional Protocols, as well as all the rest of international law treaties to which they are party such as the Rome Statute (Dyani, 2007).

With the emergence and development of international criminal law, it becomes possible to hold states accountable for crimes committed by its affiliates if certain conditions are met, including: individuals committing violence being linked to the state, or the state covering up violent crimes or not investigating them. In addition, the state shall be totally responsible if the state provides support to individuals who commit the crimes, whether by directly giving orders or by being

aware of the crimes committed by those individuals, and not taking the urgent measures to deter the perpetrators pursuant to international standards.

Article 25(4) of the ICC Statute states that “no provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.” Liability is determined by the type of violation perpetrated “if carried out as an extensive practice of state officials” (Bonafè, 2016). A state is accountable for criminal acts perpetrated by private individuals, companies, or organizations. Even if perpetrators are not government agents, but there is a link between them and the government in the form of support or providing legal cover for their activities or failure of the state to investigate their crimes.

## **Implications Of International Accountability of States**

### **Evidence of International Accountability Has Several Implications**

- Cease the unlawful act of violence: if the unlawful act persists, then the first step to enforce the law is to get the state to cease it and “offer appropriate assurances and guarantees of non-repetition, if circumstances so require” (Malcolm, 2003).
- A state is under obligation to make restitution by providing complete reparation for material or moral harm or damage resulted, and restore the situation to what it was previously. According to Article 35, the state has “to re-establish the situation which existed before the wrongful act was committed.”
- A state has the obligation of financial compensation by covering “any financially assessable damage including loss of profits insofar as it is established” (Article 36). It is the prevailing procedure whenever restitution compensation is not possible, as in the instance of sexual violations against women, which involves non-pecuniary damages resulting from various attacks that offend dignity.
- The third kind encompasses non-material reparation such as satisfaction. It “becomes relevant when the other two cannot result in full reparation” (Buyse, 2008). According to Article 37, satisfaction involves “an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality.”

### **Individual Accountability in International Criminal Law**

Individual offenders involved in acts of violence against humanity should be brought before the ICC for trial and punishment for criminal acts against civilians (Sunga, 1998). The following subsections outline establishing individual accountability for violations against women and criminal accountability of senior leaders.

### **Establishing Individual Accountability for Violations Against Women**

In its conventions, the ICC has established its competence to prosecute individual perpetrators of violence. This in itself is a major development in the possibility of an individual being wanted to appear before the ICC (Werle, 2007). Article 6 of the Statute states that the Court “shall have jurisdiction over natural persons” with no distinction between the fighting parties (Kooijmans, 1995). Article 25 describes individual criminal accountability in depth. First, Article 25(1) sets out that the “Court shall have jurisdiction over natural persons” only. Article 25(2) repeats the law of individual criminal accountability, whereas Article 25(3)(a) to (d) deals with types of crime activities. Paragraphs (e) and (f) of Article 25 focus on incitement of genocide. Finally, Article 25(4) states that legislations of individual criminal accountability do not impact the

accountability of states.

Thus, the establishment of individual persons' accountability against offenders of international crimes is an outstanding legal guarantee for the protection of women against international crimes. In the past, individuals were not accountable for violent crimes before the ICC because they were not persons of international law. Indeed, the 1945 Versailles Conference, held following the First World War, paved the way for the establishment of individual accountability. For example, General Tomoyuki Yamashita, a Japanese Senior Commander, was held accountable for terrible violence against women committed by soldiers under his control, as he failed to curb violent crimes by his military. According to LaViolette (1999), "Yamashita's trial thus became the first time in modern international legal history that a high-ranking military commander was held criminally responsible for the actions of his subordinates" (p. 94).

Article 25 also affirms that an individual is responsible for acts falling under the jurisdiction of the ICC, whether the individual is the perpetrator of violence, a participant, a promoter, or an instigator of violence, in addition to holding the leadership responsible for failing to control those under their command as in the trial of General Tomoyuki Yamashita. The individual accountability is thus a guarantee for the protection of women, especially since the Statute has excluded the formal status or judicial immunity of legal accountability. This effectively affirms the law of equality of all persons before the Court without any impact due to the legal status of perpetrators of violent crimes.

Criminal acts against women are also embodied in Article 33(1) of the ICC Statute, adopted in 1998 and entitled "Superior Orders and Prescription of Law", which affirms that "a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility" except for the following cases: "(a) The person was under a legal obligation to obey orders of the Government or the superior in question; (b) The person did not know that the order was unlawful; and (c) The order was not manifestly unlawful." Furthermore, Article 33(2) asserts that receiving commands to commit war offences that are obviously against the law is "not apt to relieve the accused from criminal responsibility under para. 1" (Bachmann, 2011, p. 201).

### **Criminal Accountability of Senior Leaders**

The warrant of arrest by the ICC for a state president or government head, who is assumed to be involved in crimes, is particularly a significant indication that anyone can be held responsible for international crimes including a president of state (Ssenyonjo, 2010). Article 27(1) provides that "official capacity as a Head of State or Government, ... shall in no case exempt a person from criminal responsibility under this Statute." Even if heads of states do not personally undertake the offenses but perpetrate the violence acts indirectly through members belonging to different state agencies, the "person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court" (Article 30). Indirect perpetration is provided for in Article 25(3)(a), which states that a person who engages in war crimes whether as an individual or 'through another person' or 'jointly with another' bears criminal responsibility for acts of violence.

This principle has been validated in Article 7 for the Former Yugoslavia (1993) and Article 6(2) for Rwanda (1994). These Articles set forth that "the official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not

relieve such person of criminal responsibility nor mitigate punishment.” A senior leader, besides, bears criminal accountability for acts of violence executed by his subordinate soldiers (Ssenyonjo, 2009). Additionally, Article 87 of the Geneva Convention states that military leaders are required to stifle and report violations committed by soldiers under their command; military leaders shall also ensure that soldiers are aware of their commitment to the Conventions and shall initiate actions against the violators.

Likewise, Article 21 of the ICC Statute asserts that a person, whether a state president or a commander, is accountable for violence in all its forms perpetrated by his subordinates, especially regarding breaches against women. However, official capacity or immunity does not in any way relieve them of criminal responsibility or mitigation of punishment. Also, Article 28 of the Statute considers the military commander criminally accountable for criminal acts committed by forces under his command if two conditions are met: if the criminal acts have been committed by the troops with the knowledge of the commander, and the commander has failed to prevent or suppress such crimes or has failed to bring “the matter to the competent authorities for investigation and prosecution.”

### **Statutory Limitations and Amnesty in The Framework of the ICC Statute**

Violations committed in hostilities are subject to Geneva Convention and the Protocols thereto, which state that states have to take all required actions to implement sanctions against the persons responsible for committing international crimes. Furthermore, the Preamble to the Statute of the ICC recognizes criminal acts against humanity as “the most serious crimes of concern to the international community, and holds that they must not go unpunished” (Gamarra, 2012, p. 81). Also, there exist many conventions from different bodies on the incompatibility of amnesty and statutory limitations laws used by states to prevent sanctions for grave human rights breaches (Gamarra, 2012).

In 1968, the UN composed the Convention germane to “Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.” The Convention clearly declared that the law is applicable retroactively. Article 1 states that no statutory limitations must be applicable to breaches against humanity, no matter when it occurred, whether in wartime or in peacetime. In 2004, the UN reiterated that peace agreements “can never promise amnesties for genocide, war crimes, crimes against humanity, or gross violations of human rights, including conflict-related sexual violence.”

The “Inter-American Commission of Human Rights” and the “European Court of Human Rights” signaled that amnesty and statutory limitations would not be an option, and they confirmed that “rape and other acts of sexual violence against women can no longer escape public scrutiny and may be addressed under both human rights law and international humanitarian law” (Politakis, 2000, p. 256). Chinkin (1999) considers that the “inclusion of rape and sexual assault within the jurisdiction of war crimes tribunals is an overdue signal to the international community of the unacceptability under international law of atrocities committed against women during armed conflict” (p. 35). Additionally, the ‘International Committee of the Red Cross’ indicates that the existence of international jurisprudence leads us to conclude that crimes of war are not subject to amnesty or statute of limitations laws.

### **Individual Accountability for Violations Against Women in Relation to the Principle of Complementarity**

The establishment of the ICC was the result of strenuous efforts to establish an international

system that is acceptable to the global society aimed at prosecuting and penalizing the perpetrators of grave breaches. It should be noted that the role of the ICC comes as a complement to the national judiciaries, as will be explained in the next subsections.

### **The Principle of Complementarity in the ICC**

The UN Human Rights Committee obliges states to do their utmost to prosecute and punish war crimes stated in the ICC Statute. The Statute has created statutory laws that guarantee the prosecution at the local and international level of international violent offenses (Burke-White, 2016). Moreover, the Statute declares the obligation of states to guarantee assistance to the ICC in everything that is required of them to trial those guilty of international cases (Burke-White, 2016). Cooperation between the ICC and national governments will help to conduct in-state trials of international crimes, providing that local governments fulfill their obligations to provide genuine and effective accountability. (Al-Shawabkeh, 2010)

The principle of complementarity between the ICC and individual states has emerged through various international treaties such as the Geneva Convention, the Genocide Convention, and reiterated in the Preamble of the Rome Statute. Thus, as per Article 17, the ICC will merely have jurisdiction in the event that a state fails to genuinely inspect and prosecute a case in which violations have been committed in breach of international humanitarian law (Ryngaert, 2008). The aim is not to reduce the cases that the ICC can consider, but rather to regulate the division of roles between the individual states and the ICC, with continuous monitoring of the measures that states take. Therefore, Article 17 highlights the joint role of national courts and the ICC in working together to end impunity.

Obviously, the ICC is meant to complement the role of national courts and not replace them. The ICC must count on national procedures, “unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute.” Thus, the international justice represented in the ICC does not have the power to uphold the authority of the national judiciary, nor does it diminish its right to pursue the perpetrators of those crimes that include grave violations against women, which is confirmed by para. 6 of the Preamble of the Statute of the court, which states that “it is the duty of every state to exercise its criminal jurisdiction over those responsible for international crimes.”

### **No Statutory Limitations or Amnesty in the ICC Statute**

The ICC Statute has established a very important guarantee for victims of international criminal acts, including sexual violence against women, by stipulating that there is no amnesty and no statutory limitations for grave international crimes. This is not consistent with what is established in the national criminal laws that apply statutory limitations in order to grant the accused the opportunity to engage in the society. Also, national laws allow the head of a state to amnesty crimes on special occasions. However, this is not applicable in cases of international crimes given the ICC Statute, including, of course, crimes of sexual violence against women.

### **Inapplicability of Statutory Limitations in the ICC Statute**

The failure to penalize those responsible for brutal crimes against humanity, especially those where women are victims, is a genuine concern for several reasons including: (a) the gravity of the crimes perpetrated and the consequent harm to humans and things; (b) the international nature of the criminal acts perpetrated, which the international community considers despicable; and (c) the desire to curb these crimes, and to guarantee that perpetrators are stripped of

impunity, which would prevent others from committing such crimes.

The UN ratified on November 26, 1968 the Convention on “Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.” The Convention clearly declared that the law is applicable retroactively. Under the Convention, Article 1 states that “no statutory limitations shall apply to” crimes against humanity, that are identified in the 1948 Convention, “irrespective of the date of their commission,” whether committed in wartime or in peacetime. Additionally, Article 29 of the Statute, ratified on July 17, 1998, stipulates that “the crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.” Likewise, the Inter-American Court of Human Rights asserts that “provisions on prescription ... are inadmissible” once they “are intended to prevent the investigation and punishment of those responsible for serious human rights.”

There is no doubt that endorsing the law of no statutory limitations for international crimes is a very important guarantee for women in many ways. First, it ends the impunity of the perpetrators of serious violence, and thus prevents such crimes against women. Second, the Articles of the Statute tighten the noose on the offenders who commit international crimes, which leads them to think carefully before committing any kind of war crimes against civilians, especially women. Third, human rights violations became an international commitment and not subject to the desire of states.

### **Inapplicability of Amnesty in the ICC Statute**

The UN has encountered the problem of grant of domestic amnesty that violates the constraints set by international law (Vandeginste, 2011). The UN provides that no amnesty shall be given for war crimes against humanity. However, states have established an amnesty system, which is considered as a society abandoning all or some of its legal rights resulting from a crime. There are two types of domestic amnesty: a general amnesty that pardons the crime, and a special amnesty that revokes the punishment. Both are considered to be a hindrance to establishing individual criminal responsibility. (Al-Shawabkeh, 2016)

Amnesties in general are inconsistent with the obligation of countries to hold an offender of international crimes accountable, as they violate their obligations under the international conventions that prohibit amnesty for crimes against humanity. Consequently, the issuance of the state’s local law amnesty for perpetrators of international crimes to protect them is not permissible in the ICC Statute. In particular, if the accused has been charged by the ICC, as laid down in Article 110(2), which states that the “Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the person,” Amnesty shall not be granted.

It is important to note that the ICC Statute did not refer to amnesty explicitly. Perhaps there is an implicit reference to the inadmissibility of amnesty for criminal acts within the jurisdiction of the ICC specified in Article 5. Certainly, among them are war crimes of sexual assault against women. In fact, this would be a substantial guarantee to victims of grave breaches that no one will go unpunished. However, inapplicability of amnesty should have been made explicit by procedural laws within the Statute of the ICC, affirming the inability to resort to amnesty for whatever reasons, so that the perpetrators do not escape punishment.

In the context of “Initiation of an Investigation” Article 53(1), has made it clear that the “prosecutor shall, having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this

Statute.” In addition, the authority granted to the Security Council under Article 16 would enable it to enforce the Court to resort to amnesty if there is a menace to international peace or an obstruction to peace operations. Furthermore, the Security Council has the authority to force states or the ICC to issue an amnesty for the sake of a peace deal. Unfortunately, this would reduce the role of the ICC as a protection authority for women victims when interfering with the jurisdiction of international criminal law.

## Conclusions and Recommendations

The Statute of the ICC constituted the mechanisms for the function of the international criminal justice, especially crimes of sexual violence during armed conflicts. The ICC took into account the experience of the former Yugoslavia and of Rwanda, and the resulting jurisprudence in the field of protecting women in times of local and international armed hostilities. This research has reached a set of results, the most important of which are summarized as follows:

The rules of international humanitarian law have established a set of rights for women aimed at protecting them from acts of violence and sexual exploitation as soon as the fighting begins, whether they are civilians, prisoners of war, or detainees.

In the past few years, the international community has been able to establish an international criminal jurisdiction system that has its own existing bodies and organizations. This judicial system considers all forms of violence against women of gravity equivalent to crimes against humanity. The international judiciary stipulates that these crimes must be part of a widespread and systematic attack against civilians, and that the perpetrators are aware of violating international law. It also classifies a number of these crimes as absolute war crimes, with no excuse for invoking the lack of knowledge of international law, given the atrocity of those crimes.

The ICC has rectified the issue of not stipulating the crimes of sexual slavery and forced prostitution that were not previously mentioned in any of the international conventions, despite their gravity. Accordingly, Article 7(1)(g) and Article 8(2)(b) and (e) of the Statute of the ICC have defined them as crimes against humanity, whether they occurred in peacetime or wartime. These Articles place these offences against women in the group of grave breaches.

Sexual violence crimes that fall within the ICC Statute are not limited to certain crimes. Rather, there is leeway to add any other acts of sexual violence. This created a broader space for the protection of women victims of sexual violence, as they are the ones most exposed to such heinous acts during conflicts.

The Statute of the ICC stipulated the principle of complementarity, which is one of the most important guarantees for women victims of violence ensuring that perpetrators will not go unpunished.

Despite these gains, however, the Statute of the ICC includes some loopholes that may fall short of protecting women. These shortcomings with recommendations are as follows:

If non-accountability for a state as a legal person is generally accepted, it is necessary to emphasize the need to acknowledge the responsibility of other legal persons such as cross-border corporations and international organizations, similar to what was stipulated by the Global Criminal Justice regarding the crimes of sexual exploitation and slave trade. Therefore, it is imperative to amend the Statute of the ICC to include the laws that establish international criminal accountability of legal persons, regardless of the authority to which they belong.

The absence of an explicit provision on the issues of statutory limitations and amnesty for criminal acts within the jurisdiction of the Statute: hence, it should be clarified by evident procedural laws which explicitly state the inability to resort to amnesty for whatever reasons or to statutory limitations no matter how long ago the crimes were committed, especially in the context of crimes of sexual violence against women.

The power granted to the Security Council by the ICC, which authorizes the Security Council to suspend the ICC proceedings, is an impediment to the performance of the Court, especially with regard to amnesty if the Council finds that pursuing the case might threaten international peace. Thus, the permanent members of the Council would become the driving force affecting the international judiciary. Hence, it would be more appropriate to restrict the authority of the Council under Chapter Seven, such as by submitting its demand before the Assembly of States Parties for a decision.

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