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IDENTIFICATION OF MATERIAL AND PSYCHOLOGICAL ELEMENTS
OF CRIMES AGAINST HUMANITY AND HOW TO DEAL WITH THEM
IN THE INTERNATIONAL CRIMINAL COURT

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ABSTRACT

Crimes against humanity are among the most severe international crimes. The conditions and characteristics of this category of crimes are such that it will sacrifice a large number of people. However, this crime is well criminalized in the international arena, and it has been included in the statute of the International Criminal Court and other statutes of international courts. Based on the importance of this subject, the current study aimed at the identification of the material and psychological elements of crimes against humanity and how to deal with them in the International Criminal Court. To do so, the library-based method has been used. First, the concept of crime against humanity and the structure and organization of the International Criminal Court are presented. Then, eleven material elements of crimes against humanity including murder, extermination, enslavement, deportation or forcible transfer of population, Imprisonment or other severe deprivation of physical liberty, torture, sexual violence, harassment, enforced disappearance of persons, apartheid, and other inhumane acts of a similar character were investigated. Finally, the psychological elements of crimes against humanity were evaluated. The investigations showed that the paragraph C of Article 6 of the Charter of the Nuremberg Tribunal speaks of crimes against humanity, namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in the execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. These crimes are investigated in the International Criminal Court, an independent

organization with an international legal personality. The Court jurisdiction includes legislative, thematic or inherent, temporal, territorial or internal, positive or negative, real and universal jurisdiction. Jurisdiction refers to the ability of the court to hear various cases in terms of elements of time, place, type of crime committed, and so on.

INTRODUCTION

In international criminal law, crimes against humanity are international crimes, and in this regard, it is distinguished from domestic crime, and its commission affects the whole of humanity. The victims of such crimes are not merely those directly harmed, but all humanity is affected. Such crimes include murder, extermination, enslavement, deportation from the country, imprisonment, torture, rape, and persecution for political, racial, or religious reasons (www.rasekhood.net).

The crimes against humanity are as old as humanity itself, and unlike the genocide and war crimes, which are mentioned in a single convention with a few conventions, they are mentioned in various international conventions and documents. Although the term 'crimes against humanity' have been sporadically used for centuries, it is used with the current sense from 1915. In that year, three great powers (i.e., England, Russia, and France), in a joint statement, called the Armenian Genocide in Turkey a 'crime against humanity and civilization,' and the perpetrators were held accountable (Mir Mohammad Sadeghi, 1999, 130-140).

After WWII, these crimes were defined as one of the three categories prosecutable in Article 6 of the Nuremberg Charter. The most important alteration in the definition of crimes against humanity during recent years is that these crimes are disconnected from the phenomenon of war. In the Nuremberg and Tokyo Court Charter, the crimes against humanity were noted before or during the war, which adversely affected the interests of the other side because of their connection to the war. Thus, the Nuremberg and Tokyo courts did not address acts committed against Jews before the outbreak of war in September 1939 (for example, in 1938) or the discriminatory laws that existed in Germany at the time. One of the reasons behind that was the Allies' concerns about the fact that if they wanted to include a government's treatment of its citizens in the international considerations, they would have been held accountable for some improper acts they committed, especially against their citizens in some colonies (Shams Nateri, 2012).

Unlike the Nuremberg and Tokyo Courts, law number 10 of the Allied Control Council had not considered the necessity of connecting the crimes against humanity with the war crimes or crimes against peace; however, given that the introduction of this law considered the purpose of its enactment to be effective in the Nuremberg Charter, there was disagreement about the necessity or non-necessity of this relationship. In some verdicts issued, this relationship was considered necessary, and in some, it was not. Later evolutions eliminated the connection between crimes against humanity and the phenomenon of war. The 1948's Genocide Convention, elaborating on this crime formerly known as one of the clear examples of crimes against humanity, asserts that genocide is a crime at wartime or peace. The 1968's Convention on the "Non-

Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity” also emphasizes this point. In 1973, the Apartheid Convention and the conventions on crimes such as enforced disappearance of people also, besides explaining that such acts can be considered crimes against humanity, have not necessitated the existence of a connection with the phenomenon of war. The same stance is accepted by the Statute of the International Criminal Court for Rwanda, though STATUTE OF THE INTERNATIONAL CRIMINAL TRIBUNAL. FOR THE FORMER YUGOSLAVIA has necessitated the connection between the crimes against humanity and war, domestic or international (Otto, 2008). Regarding the importance of the subject, the current study aimed to identify the material and psychological elements of crimes against humanity and how to deal with them in the International Criminal Court.

METHODOLOGY:

The current study is basic research in terms of objective, descriptive research in nature, and library-based research in terms of the method. The data was collected using written sources such as books, articles, theses, research, rules, regulations, and credited websites.

Concept of Crime:

The word ‘جنايت’ in Persian means to sin. This word is Arabic and is derived from the Persian word for sin. In the penal code, crimes are divided into four degrees according to the severity and weakness of the punishment: Crime _ major misdemeanor _ small misdemeanor. The crime is a misdeed whose punishment is intimidation and degradation, only degradation (Jafari Lanfroudi, 2008, 200-201).

Concept of Crimes against Humanity:

Public international law refers to atrocities committed against human beings, which are considered the highest legal crimes against humanity in international law. As the Treaty of Rome states, crimes against humanity include crimes that degrade or trample on human dignity (www.Fa.wikipedia.org,2015/10/02).

The Structure and Organization of International Criminal Court:

The International Criminal Court is an independent organization with an international legal personality, which is not considered an official institution of the UN. However, the UN has played a fundamental role in its formation and survival, and according to Article 2 of the Statute, the exact relationship between the two is based on the cooperation agreement concluded between them. The Hague tribunal is based in The Hague, Netherlands, although trials can take place anywhere else. The relationship between the court and the host country is based on the provisions (headquarters agreement). The Statute of the Court was approved by the representatives of 120 countries in Rome on June 17, 1998, and entered into force after the approval of 60 countries on July 1, 2002. About 100 countries are members of the Statute of the Court, and 139

countries have signed the Statute. The Permanent International Court of Justice is based in The Hague. The International Criminal Court should not be confused with the International Court of Justice (<http://www.Hamshahrionline.ir/details/7713,2015/07/11>).

The court has judicial, research, and administrative duties as well as organizations to do each. The Judicial duties of the court are performed by judges, who perform their duties under the supervision of the president of the court. The court is an international organization. However, it is completely different from other courts working in international criminal law in one point. The distinguishing feature of this court compared to other criminal courts is the permanence of this institution. The First Permanent Court in International Criminal Matters, established to end the "culture of impunity" of "humanitarian" violators and perpetrators of the most serious international crimes of concern to the "international community" (<http://www.icicl.org,2015/07/11>). In this regard, and unlike the Courts of Nuremberg, Tokyo, Rwanda, and Yugoslavia, which had a special and case-based nature, this court is generally divided into judicial and non-judicial sections. i.e., some court pillars merely have a judicial nature, and some others lack this feature. The pillars with judicial nature are:

1- Preliminary research section. 2- Initial trial, 3- Appeal, and 4- Public prosecutor office. Some pillars have an administrative or decision-making nature. There are two pillars for this purpose: 1- The General Assembly of Governments and 2- The Secretariat.

MATERIAL ELEMENT OF CRIMES AGAINST HUMANITY:

Murder:

The protection of life is a general principle that has been mentioned in numerous international instruments and treaties. Murder is a serious crime in all domestic legal systems and is mentioned but not defined in the 1899 and 1907 Hague Conventions, the Fourth Geneva Convention, and the First Additional Protocol. It should be known as deliberate and killing without a justifiable reason, which includes direct killing and cases in which the convict causes the victim's death by creating conditions that lead to the death of a person.

Extermination:

By extermination, the widespread killing on a large scale is meant. Since the document is known as the "constituent elements of the crime" in the explanation of Article (b) (1) 7 refers to the killing of one or more persons by the perpetrator, it does not seem necessary that the perpetrator himself committed the mass murder, but if his act is a part of mass murder of a civilian population, it will suffice. In addition, regarding Clause 2(b) of Article 7, imposition of conditions on a civilian population, such as preventing them from access to food or drug to exterminate them, can be realized as this criminal act.

The International Criminal Tribunal for the former Yugoslavia has set out the following conditions in the case of Krstić:

For the realization of the crime of extermination, in addition to the general conditions required for the realization of crimes against humanity, there should be reasons to show a specific population has been targeted or been under specific living conditions in another way that has led to the extermination of a great number of them.

The mentioned tribunal adds that it is not necessary to prove the application of politically, socially, or religiously discriminatory policies against that group. Thus, the case's convict was held accountable for crimes against humanity over the massacre of Muslim youth in Srebrenica. Some authors have used this title for terrorist groups who have exterminated the people as a part of a widespread or organized attack to spread terror and panic (Alexander & Goran, 20089, 35).

Enslavement:

Clause 2(c) of Article 7 of the Statute of the International Criminal Court defines this act as "the exercise of one or all of the rights of ownership of a person which is the exercise of those rights during the trafficking of persons, in particular women and children." "The constituents of the crime" include cases such as purchase, sale, rent, or exchange, or other similar acts that lead to deprivation from liberty (Mir Mohammad Sadeghi, 1998, 47, 51).

The trial court of the International Criminal Tribunal for the former Yugoslavia has mentioned the constituents of this crime as follows, in the Kunarac case:

Based on this definition, the application of control and ownership, limitation or control of self-autonomy, freedom of choice or action, is a sign of enslavement that usually leads to the perpetrator's financial benefits. In this procedure, the person's satisfaction or free will does not exist. This element usually exists due to impossible or improper causes. These factors are threatening or using force or other forms of coercion, fear of violence, trickery or making false promises, abuse of power, victim vulnerability, captivity, psychological pressures, or specific economic and social conditions. Other signs of enslavement include abuse, forced labor (usually without payment and often, though not always, involving physical hardship), sex, prostitution, and human trafficking. The mere detention of someone without doing anything else is usually not enslavement based on each case's specific conditions and situations. The court added that the mere capacity of purchasing, selling, or inheriting a person or his services and labor is not enslavement in itself, but these actions must be committed in practice. Finally, the court convicted the two defendants in the case in question of this crime.

As the International Criminal Court for former Yugoslavia has stated in the Kunarac case, the exchange of money is not the condition of realization of enslavement, although it can be proportionate to enslavement. However, any the person's control or limiting his/her self-autonomy, denying his/her right of choice or travel, or sexual abuse without his/her consent, can be an example of

this crime. In the mentioned case, the defendants had kept two young women in an abandoned house and had complete control over their lives, raping them repetitively against their will. Perhaps, it can be said that as the International Criminal Court for former Yugoslavia has stated, forced labor of another person against his/her will is also an example of enslavement. This act was applied to eight million people under Nazi Rule.

Deportation or Forced Transfer of Population:

Clause 2(d) of Article 7 of Statute defines it as "Forced relocation of persons concerned by force or other coercive action from the place where they are lawfully present without any justifiable reason under international law." "The constituents of the crime" do not consider the "force" to be merely the physical force. However, it can also include threats of coercion resulting from acts such as reluctance, intimidation, violence, detention, psychological coercion or abuse of power, or the use of similar special circumstances (Mir Mohammad Sadeghi, 1991, 51-52).

The difference between deportation and forced relocation has been explained in the Krstić case by International Criminal Court for former Yugoslavia:

"Forced eviction and transfer both mean the forced and illegal deportation of individuals from the area in which they reside. However, the two terms are not synonymous in customary international law. Deportation means transfer across the borders of a country, while forced transfer means relocation within a country.

Therefore, in the mentioned case, since 25000 Muslims were forcibly transferred from Srebrenica to another area in Bosnia & Herzegovina on July 12 and 13, 1995, it was done in line with an organized policy. The court realized the crime of forced transfer (not transportation) and the resultant crimes against humanity.

Imprisonment or other Severe Deprivation of Physical Liberty:

Imprisonment or other severe deprivation of physical liberty with violation of fundamental rules of international law is another example of crimes against humanity. The difference between imprisonment and severe deprivation of physical liberty is that imprisonment is done in a place like a prison and detention center, while a person can be deprived of physical liberty in another place, for example, a house, i.e., he/she is not allowed to leave the house. This must have been done without observing the judicial process, and the decisions stipulated in the court proceedings so that it can be said this crime was committed.

Although detention in Article II(c) of the Tenth Law of the Allied Control Council was cited as an example of a crime against humanity, the International Criminal Tribunal for the former Yugoslavia is the first international tribunal to define it in Kordic case as detention without reason, i.e., without proper legal process, as part of a widespread or organized attack on a civilian

population. “The constituent elements of these crimes” also realize this crime when one or more persons are imprisoned, and also, the duration of imprisonment is mentioned. Thus, not allowing a person to leave the country even for a long time, or not allowing someone to leave the house, even for a short period, is not considered a severe deprivation of physical liberty, since, in the first situation, the extent of the place makes it impossible to realize it as severe deprivation of physical liberty. In the second situation, the period is too short of taking it as deprivation of liberty.

Torture:

Clause 7(E) of the Statute of the International Criminal Court defines torture as “Intentional infliction of severe pain or suffering, whether physical or mental, against a person detained or under the control of an accused.”

Regarding the text of the Article 7(e)(2) of the Statute, it seems that, as asserted by the International Criminal Court for former Yugoslavia, the presence of a government agent or any other person working in such position in the torture scene, is not necessary for the realization of the torture crime as a crime against humanity. In addition, from the viewpoint of the International Criminal Court Statute, the goal of the application of torture is also not important, and it can be done to obtain a confession or other information, humiliating or intimidating the victim or others, and the like.

Torture can be considered a war crime if it meets the required conditions, such as being committed against protected people like POWs or civilians during wartime. In this case, also, the intervention of government authority is not required to realize the torture as a war crime (Of course, in this case, according to the constituent elements of the crime, its purpose should be to obtain information, force the person to confess, punish, intimidate or coerce, or other discriminatory purposes). Accordingly, if it is done to exterminate an ethnic, national, or racial group, it will be a crime against humanity. Whenever the torture does not meet the requirements of genocide, crime against humanity, or war crime, it would be a customary crime, and the trial will be conducted within the jurisdiction of the domestic courts.

Sexual Violence:

Based on Clause 1(g) of Article 7 of the Statute of International Criminal Court, this crime includes committing actions such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence comparable gravity.

The “crime constituents” have defined other examples of sexual violence as follows:

Sexual slavery means that by buying, selling, renting, exchanging, and similar acts against another person, gives himself/ herself the right to own him/her and forces him/her to commit sexual acts. Enforced prostitution is that someone, with the intention of financial benefit, forces someone to have sex, either by

threat or reluctance or by abusing power. Forced pregnancy means the perpetrator does not let a woman who has been pregnant by force while held in captivity abort so that the population composition is affected, or any other breach of international law occurs. Regarding the concerns of some governments that the prohibition of forced pregnancy could be interpreted as meaning that abortion is permissible in the domestic law of countries, the end of paragraph (f) of Article 7 of the Statute states that "this definition would in no way affect the national law on pregnancy." To further ensure the states and obviate their concerns, the word "forced" is used before pregnancy, while in prostitution and sterilization, which have been mentioned before and after pregnancy, the weaker prefix "enforced" has been used. The enforced sterilization means that the accused person removes a person's biological reproduction capacity without any medical reasons or his/her consent. The consent resulting from deception will not be considered honest consent. In addition to the above cases, any other sexual violence that is equal to the above cases in terms of severity and is associated with coercion or threatening, or power abuse and the like, can be considered crimes against humanity. For example, the International Criminal Court for Rwanda, in the Akayesu case, considered stripping a female student and forcing her to perform gymnastic exercises in front of a large crowd as an example of "other forms of sexual violence."

Persecution:

Based on Clause 2(g) of Article 7 of the Statute, intentionally and seriously depriving individuals of their fundamental rights because of their group identity is contrary to international law. This identity can be based on political, racial, national, ethnic, cultural, religious, gender, or similar bases (which, of course, should be recognized as prohibited discrimination in international law). The committed action must be connected to one of the crimes included by the jurisdiction of the International Criminal Court. Such a condition is not necessary for customary international law. In other words, in the customary international law, persecution might be realized despite the lack of connection with crimes such as war crimes or other examples of crimes against humanity, and can be prosecuted as an international crime, given the condition that it has led to a serious breach of human rights, it has been a part of a widespread or organized attack, or it has been committed by discriminatory intent. Thus, the scope of Article h (1) (7) of the Statute of the International Criminal Court is narrower than that provided in customary international law (Antonio Cassese, *Op. Cit.*, p.94). This condition, which prevents the excessive prevalence of this crime, also existed in Nuremberg and Tokyo charters. However, it was not mentioned in the statutes of International Criminal Courts for former Yugoslavia and Rwanda.

The first instance of the International Criminal Court for former Yugoslavia convicted the defendants of committing this crime in the Koperescic Case. This court stated that intentional and organized killing of Muslim civilians and organized detention and expulsion from their home village is an example of a crime against humanity that falls under the jurisdiction of the International Criminal Tribunal for the former Yugoslavia under Article 5 of the ICC

Statute. As a result, perpetrators must be prosecuted for harassment. The court also considered the extensive destruction of Muslims' houses a serious breach of fundamental rights and knew this action as persecution since it was done based on discriminatory bases (Ibid, Paras, 630-31). Therefore, violation of the property rights of a group can also be considered persecution if it is severe.

Enforced Disappearance of Persons:

This crime is one of the most heinous international crimes prevalent in the 1960s and 1970s in some Latin American countries and other areas and was used to suppress the opponents.

This action, which was not noted in the International Criminal Court Statute for former Yugoslavia and Rwanda, but could be an example of "other inhumane acts" and subsequently included as a crime against humanity, is defined in Clause 2(i) of Article 7 of ICC Statute as arresting, detaining, or abducting persons by a government or political organization, or with their permission, support, and consent. At the same time, no information is given about the captive fate or whereabouts, and the purpose is to deprive them of the protection of the law for a long time, which is, in fact, the specific malice necessary to commit this crime. According to "the crime constituents," denying to confirm a person's detention or give information about him/her must be done by a government or a political organization, or with their permission or support. In addition, as long as the arrest continues and no information is provided about the person, this crime would last continuously.

Racial Discrimination:

According to Clause 2(h) of Article 7 of the International Criminal Court Statute, Apartheid is inhumane acts similar to the actions mentioned in the first clause of Article 7, which is organized in a regime based on oppression and the supremacy of a racial group over another group (or groups) to maintain that regime. In the Convention on Apartheid, which came into force on July 18, 1976, apartheid is a crime against humanity and includes one of the following actions with a discriminatory intention:

- 1- Depriving members of a racial group of the right to life and liberty
- 2- Imposing conditions on racial groups to physically eliminate them
- 3- Adopting laws aimed at preventing racial groups from participating in the political, social, economic, and cultural life of the country
- 4- Taking measures for racial segregation of the population
- 5- Abuse of the workforce of racial groups
- 6- Persecution of racial groups in a way that deprives them of fundamental rights and freedoms.

In addition, in "The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity" in 1968, the commission of inhumane acts resulting from the policy of racial discrimination was recognized as a crime against humanity. Numerous resolutions of the General Assembly and the UN Security Council have also

condemned this criminal act as a crime against humanity and considered it detrimental to international peace and security (Hossein Mir Mohammad Sadeghi, *Ibid*, pp. 55-56).

Other Inhumane Acts of a Similar Character:

In Clause 1(k) of Article (7), any inhumane acts similar to the previously mentioned elements have been considered crimes against humanity. Thus, terrorism also, if it has the required conditions, will be a crime against humanity, a war crime, or even genocide, as mentioned earlier about 9/11, which was referred to as a crime against humanity by the UN High Commissioner for Human Rights.

Based on Clause 1(7) of Article 7 of the International Criminal Court Statute, the inhumane act must be done intentionally and cause suffering or severe harm to the person's body, soul, or health. This paragraph complies with Article 6 (c) of the Statute of the Nuremberg Tribunal, citing other inhumane acts as crimes against humanity.

To identify the inhumane acts subject to this Clause, in addition to the severity of these acts that should be similar to those acts mentioned in previous cases, we can refer to the human rights standards mentioned in international documents, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Social and Economic Rights, violation of which may, despite other circumstances, lead to a crime against humanity. For example, cruel and degrading behavior is prohibited in many international documents and covenants, and whenever they are committed in an organized and especially discriminatory manner, or in case they are severe, they can be considered crimes against humanity.

Another instance is the conduct of medical tests on people without their consent, which has been common since time immemorial and was carried out during the Second World War in some cases, including in the case known as the "medical record," which was prosecuted according to the tenth law of the Allied Control Council, and sixteen physicians were convicted (Hossein Mir Mohammad Sadeghi, *Ibid*, 56).

The International Criminal court for Rwanda also considered forced stripping of Tutsi women as an example of "other inhumane acts" (ICTR, Akayesu, (ICTR -96-4-T) 2 September 1998). Some authors, regarding the necessity of consistency of these acts with the cases authorized in paragraph 1 of Article 7 of the Statute of the International Criminal Court in terms of severity, such acts are not considered crimes against humanity by the Statute (Schabas, *Introduction to the international Criminal Court*, p.39).

The Mental Element of Crimes Against Humanity:

As declared in "crime constituents," the perpetrator's act is not relative to all attack features or details of the related government or organization (See,

ICTY, Kunarac & Others, para 434). Accordingly, the perpetrator's motivation in committing the crime is not important. For example, it is not necessary whether the perpetrator is connected to the politicians or has racial attitudes, or he/she has necessarily committed the crime to spread such attitudes, but merely knowing that there is a widespread or organized attack on a civilian population and that his/her action is part of that attack is sufficient to convict him/her of a crime against humanity (See, ICTY, Tadic Appeal Judgement (para 248), Blaskic (paras 247-251). In one instance, in 1951, a Tel Aviv court has convicted a Jew of committing a crime against humanity for committing crimes against other Jews in Nazi concentration camps and stated that in these crimes, unlike war crimes, the perpetrator does not need to communicate with policymakers in terms of intent (The case of Eginster, Cited in Antonio Cassese, p.66).

In some cases before the German Supreme Court in the British-controlled area after World War II, Germans who revealed Jews or political dissidents to the Gestapo, and as a result, they were persecuted and executed, were convicted of crimes against humanity. However, they were not necessarily motivated by the spread of Nazi politics and perhaps did not even want what happened to those victims in the end (Ibid, 82).

Accordingly, some Serb criminals may have had erotic rather than racist motives for their rape and persecution of Muslim women during the Bosnia-Herzegovina war. However, since they knew these crimes were part of a widespread or organized attack against the Muslim population, it would be enough to convict them of committing crimes against humanity.

Indeed, the motivation, in addition to being considered at the sentencing stage or as a counterpart to prove the guilt or innocence of the accused, is also necessary to commit the crime of "persecution" as one of the examples of crimes against humanity. In this crime, the existence of a motive to confront a group based on the political, racial, national, ethnic, cultural, religious, or gender grounds, according to Clause 1(h) of Article 7 of the Statute of the International Criminal Court, is necessary in the case, as was also emphasized in "Tadic" case, by the International Criminal Court for the former Yugoslavia.

CONCLUSION:

In terms of jurisdiction of the International Criminal Court, it can be said that it deals with the crimes in the scope of crimes against humanity, and it has considered strong legal sanctions for it. The countries that are members of the Court must necessarily consider the crimes committed in this area, i.e., cases that include crimes against humanity, including by the jurisdiction of the Court. What should be noted is that investigation procedures of crimes against humanity in this court are relatively the same, compared to other international crimes such as genocide, war crimes, etc.

The genocide and crimes against humanity are explained in Articles 6 and 7 of the International Criminal Court Statute, respectively. Before 1984 and the ratification of the Genocide Convention, this crime was one of the examples of

crimes against humanity, but since then, with the ratification of the Genocide Convention, it has become independent. The common feature of these two crimes is that they are among the most heinous crimes that hurt the conscience of humanity and are usually part of a wide range of actions taken with the support or consent of government officials. Analyzing the positive effects of the Statute, it should be said that it is the main reason behind several reforms and evolutions. Due to its treaty-oriented nature, it separates member states from non-member states, and the many effects of the Statutes on constitutions, substantive regulations, formal and structural criteria, and cooperation were discussed. The International Criminal Court is an independent organization with an international legal entity that is not part of the official institutions of the United Nations. However, the United Nations has played a key role in its formation and survival, and according to Article 2 of the Statute, It has judicial, investigative, and administrative duties and has bodies to perform each of these tasks.

Defining the crimes against humanity, we have: “any of the acts mentioned in Clause 1 of Article 7 of the Statute, which is intentionally committed in the form of a widespread or organized attack against a civilian population. The widespread and organized attack includes behavior that is shown against any civilian population to pursue or advance the policy of a government or an organization”.

According to Article 7 of the International Criminal Court Statute, among the examples of these acts, the murder, extermination, enslavement, deportation or enforced relocation of a population, torture, rape, sexual enslavement, enforced prostitution, forced pregnancy, enforced sterilization, forced disappearance, racial discrimination, imprisonment or severe deprivation of physical liberty against the fundamental rules of international law, and continuous persecution of a specific group due to political, racial, national, ethnic, cultural reasons, have been known as crimes against humanity since the Treaty of Versailles. However, its manifestation was in the Nuremberg Tribunal. Indeed, crimes against humanity have not been specifically mentioned in a multilateral document so far. Nevertheless, some of its articles can be observed in statutes of International Criminal Courts for former Yugoslavia and Rwanda. The variable components of crimes against humanity have been formed before establishing the Statute in the international developments of customary law and conventional law. The three factors as an attack against the civilian population, extensiveness or organization of the attack, and awareness of the attack, are necessary to realize crimes against humanity. The crimes against humanity can be committed both at the time of peace and in an armed conflict. This conflict can be either international or non-international. In addition, it can be committed by both government and non-government agents.

The most challenging subject in negotiations about the definition of crimes against humanity was that whether these two criteria should be considered separately (i.e., extensiveness or being organized) or together (i.e., extensiveness and being organized). During the collective bargaining, which consisted mainly of like-minded group members, it was believed that the

resources contained in these two constraints had been applied separately and that this method was already in place. For example, according to the Statute of the International Criminal Court for Rwanda, inhumane acts must have taken place as part of a widespread or systematic attack on the civilian population.

On the other hand, in the second branch of the International Court for former Yugoslavia, it was emphasized that, in addition to the report by the Secretary-General about an extensive and organized breach of human rights in Yugoslavia, many of the sources existing in the mentioned criterion had been raised in the form of a replacement. Nevertheless, the French put forward two criteria together, which seem to have been mistranslated, and these problems were eliminated in later texts.

Individual and accidental actions are not included in the definition of crimes against humanity, but if they are based on a political system, or persecution and harassment, it can be considered a crime against humanity. To commit a crime against humanity, the realization of one of the two criteria mentioned above is sufficient, and if an action is taken with prior planning and decision and to advance the political program, it can be a crime against humanity, even if it is not widespread. Moreover, if a crime is committed on a large scale, it implies planning and organization.

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