
***An Evolution of International Criminal Law Towards Gradual
Codification***

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Abstract

The International Criminal Law has played a pivotal role in keeping a check on any type of criminal activities taking place on the international level. This paper discusses the evolution with respect of the codification of the International Criminal Law. It first looks into the meaning and concept of the law, along with the sources through which it is adopted and codified. It is then followed by the establishment of different institutions with respect to the international criminal law, analysis of the codification of the law, and conclusion and suggestions from the side of the author.

Keywords: *Codification, Convention, Criminal, Genocide, Tribunal.*

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I. Introduction

“Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced”¹

The International Criminal Law has been ever evolving since its inception on the global scale, with all the nations emphasising on the need of a criminal law to be in place to govern all the countries. To study the effect of gradual codification of the international criminal law, it is pertinent to briefly summarise the basic meaning of international criminal law. The basic meaning of the concept refers to a body of law in place to curb the commission of certain categories of offences regarded as serious crimes, and look into the process with respect to the investigation, prosecution and punishment of such offences. Moreover, it is responsible for holding the people responsible for such offences liable.² The domain of law contains within its ambit the definition of different categories of crime and the jurisdictional consequences with respect to such crimes on a universal level,³ making it of paramount importance with respect to the international law.

II. Sources Of The International Criminal Law

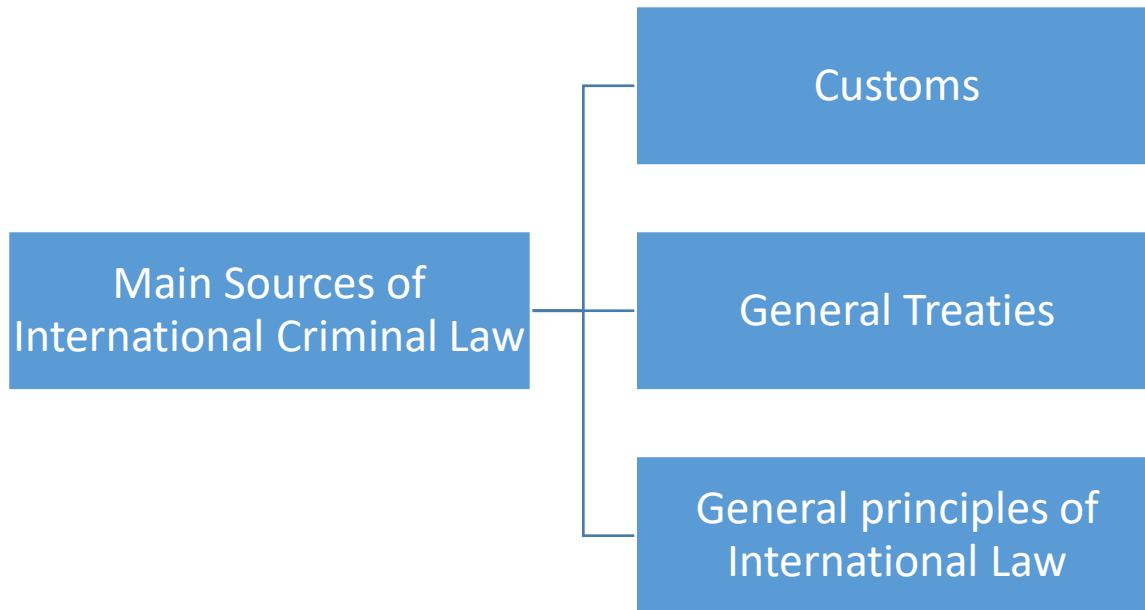
The international criminal law of the world has been formulated after adopting provisions and principles from various sources. Apart from judicial decisions and resolutions of international bodies, the most important sources of international criminal law have been international treaties

¹ International Military Tribunal, *Judgment: The Law of the Charter*, 2012 (<https://avalon.law.yale.edu/imt/judlawch.asp>)

² International Committee of the Red Cross, *General principles of International Criminal Law*, Advisory Services on International Humanitarian Law, 2014 ([file:///C:/Users/HP/Downloads/general-principles-of-criminal-law-icrc-eng%20\(2\).pdf](file:///C:/Users/HP/Downloads/general-principles-of-criminal-law-icrc-eng%20(2).pdf))

³ Werle G., *Principles of International Criminal Law*, The Hague, 2005, pp.25-26, paras. 72-73

and international customs.⁴ They have led to the proper evolution and codification of international criminal law and helped it reach what it is at the present stage.



i) *Custom*

Custom has always been one of the oldest sources to form the basis of the international criminal law,⁵ and been an essential source of its development, with the practice of converting customs into law being fairly general, rather than being watertight in nature⁶. With respect to the period of time required for a practice to be established as a custom, it has been laid down by the International Court of Justice in the North Sea Continental Shelf Cases, that the passage of considerable period of time is unnecessary to determine whether a practice can be categorized as a custom or not.⁷ Moreover, it has also been laid down under the Article 38 of the International Court of Justice that

⁴ J. Thormundsson, *The Sources of International Criminal Law with Reference to the Human Rights Principles of Domestic Criminal Law*, Stockholm Institute for Scandinavian Law, p. 387, 2007 (<https://www.scandinavianlaw.se/pdf/39-17.pdf>)

⁵ Andre da Roche Ferreira, Cristieli Carvalho and Fernanda Graeff Machry, *Formation and Evidence of Customary International Law*, International Law Commission, p.182, 2013 (<https://www.ufrgs.br/ufrgsmun/2013/wp-content/uploads/2013/10/Formation-and-Evidence-of-Customary-International-Law.pdf>)

⁶ *United Kingdom v. Norway*, 1951 I.C.J. 116

⁷ *Germany v. Denmark and the Netherlands*, (1969) ICJ 1

the Court can apply international custom while dealing with disputes concerning international law.⁸

Customs evolve into and are converted into binding international criminal law after the conditions laid down by the International Court of Justice and Permanent Court of Justice through their decisions, advisory opinions and rulings.⁹ The relevance of the customs as a source towards the international criminal law was pointed out by the United Nations Secretary General by Boutros Ghali in his report on the International Criminal Tribunal for the former Yugoslavia Statute¹⁰, stating that the customary laws should be applied to the rules of international humanitarian laws, especially in cases when the tribunal is taking decision on the persecution of people responsible for causing any type of serious violations with respect to the international humanitarian laws.¹¹ This showcases the importance of customs as a source of the codified international criminal law.

ii) *Conventions/Treaties*

A modern form of source for international law in the present world, treaties and conventions forms another major organ resulting in the creation of the international criminal law. They constitute of an agreement between various states by which they reach on a consensus, in accordance to the principle of *pacta sunt servanda*, which means that any agreement between the parties, signed in good faith, must be kept by them¹². This implies that any treaty entered into between two parties shall have a legal binding, with the parties having an obligation to perform and fulfil the conditions of the treaties in good faith.¹³ A number of treaties have also been entered into with respect to international criminal law, some of them being:

a) *Hague Convention*¹⁴

The Hague convention treaties of 1899 and 1907 were the first multilateral treaties signed with respect to the warfare laws of the world. It was majorly based upon the “Lieber Code”, which was

⁸ International Court of Justice, 1945, Article 38

⁹ M.Dixon, *Textbook on International Law*, New York, p.32, (7th ed., 2007)

¹⁰ Security Council resolution 827 (1993), 25 May 1993

¹¹ United Nations, *Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993)*, Security Council, S/25704, 3 May 1993

¹² *Australia v. France*, I.C.J. Reports, p.253(1974)

¹³ Vienna Convention on Law of Treaties, 1969, Article 26

¹⁴ Convention respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague (<https://ihl-databases.icrc.org/ihl/INTRO/150>)

signed by the then US President Abraham Lincoln in the year 1863, and were regarded as the first modern codification of the laws of warfare.¹⁵ The rules of 1907 were regarded to be a representation to the present international law, during the Nuremburg Trial in 1946.¹⁶

b) *Geneva Conventions*¹⁷

The Geneva Conventions were introduced to limit the loss of human lives taking place while a war is taking place. They majorly safeguard the lives of people who are not directly involved in the warfare (e.g., doctors, engineers etc.) and people who are no capable of fighting in the war (e.g., injured soldiers, prisoners of war etc.).¹⁸ Along with protecting the lives of the civilians, they determine the parameters of war which need to be followed by the parties, and conduct which is acceptable in the battlefield.¹⁹ The different Geneva Conventions adopted over a period of time provide protection to different categories:

1st Convention: Protection to wounded and sick soldiers on land while the war is taking place (Adopted in 1864, 1906 and 1929);

2nd Convention: Protection to wounded, sick and shipwrecked military personnel at the sea while the war is taking place;

3rd Convention: Protection to prisoners of war; and

4th Convention: Protection to civilians.²⁰

Owing to its nature of preventing any type of additional casualty in the warzones, the Conventions become of utmost importance for the International Criminal Law.

¹⁵ Jenny Gesley, *The "Lieber Code" – the First Modern Codification of the Laws of War*, Library of Congress, April 24, 2018 (<https://blogs.loc.gov/law/2018/04/the-lieber-code-the-first-modern-codification-of-the-laws-of-war/>)

¹⁶ International Committee of the Red Cross, Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899., at (13th April, 2021, 7:38 pm) <https://ihl-databases.icrc.org/ihl/INTRO/150>

¹⁷ The Geneva Conventions of 12 August 1949 (https://www.loc.gov/rf/frd/Military_Law/pdf/GC_1949-I.pdf)

¹⁸ International Committee of the Red Cross, The Geneva Conventions of 1949 and their Additional Protocols, at (1st January, 2014) <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>

¹⁹ International Committee of the Red Cross, Even Wars have rules: Can one decision change your life, at (13th April, 2021, 8:27 pm) <https://www.icrc.org/en/rules-of-war>

²⁰ International Committee of the Red Cross, The Geneva Conventions of 1949 and their Additional Protocols, at (29th October 2010), <https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>

c) *Genocide Convention*²¹

A convention solely towards a major crime under the domain of International Criminal Law, the Geneva Convention was passed with the aim of criminalising genocide in the world. The Convention becomes of utmost importance due to the fact that the practice of curbing and criminalising genocide has been given inordinate importance, treated as a problem to be dealt at immediate basis and condemned by the citizens of the civilized world²². This was further upheld by the International Court of Justice,²³ emphasizing on the importance of curbing genocide in the world.

d) *Rome Statute*²⁴

The Rome Statute of the International Criminal Court played a pivotal role in shaping the international criminal law of the world and introduced a new spectrum to its domain. The Statute was responsible for the creation of the International Criminal Court, which is responsible for looking into the crimes committed on the international level. Moreover, the Statute laid down the four core crimes, i.e., war crimes, crimes against humanity, genocide, and crimes against aggression, which formed the base of criminal law on the international law.²⁵

e) *United Nations Convention Against Torture* ²⁶

The convention was introduced with the purpose of expanding the definition of the term ‘torture’ and the manner of limiting the same. The same is also in consonance with the provisions of the Universal Declaration of Human Rights²⁷ and the International Covenant on Civil and Political

²¹ Convention on the Prevention and Punishment of the Crime of Genocide, General Assembly Resolution 260A (III) of 9 December 1948, (1951) https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf

²² The American Journal of International Law, Convention on the Prevention and Punishment of Crime of Genocide, Cambridge University, of International Law, Vol. 45, No. 1, p. 7 (1951) <https://www.jstor.org/stable/2213966?seq=1>

²³ *Barcelona Traction, Light, and Power Company, Ltd.* [1970] ICJ 1

²⁴ Rome Statute of the International Criminal Court, 2002

²⁵ Caroline V. Comerford, Rome Statute of International Criminal Court, Wiley Online Library, 23rd August 2019 (<https://onlinelibrary.wiley.com/doi/abs/10.1002/9781118929803.ewac0441>)

²⁶ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Assembly Resolution 39/46 of 10 December 1984 (<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>)

²⁷ Universal Declaration of Human Rights, 1948, Article 5

Rights²⁸. Therefore, all these treaties become of major importance while being considered as different sources of the international criminal law.

III. General Principles of International Criminal Law

The general principles which have been laid down with respect to international criminal law also forms an important source for its codification and leading to its evolution. The same are:

a) *The Principle of Legality*

The Principle of Legality is based upon the idea which has been laid down by the Latin legal maxims '*Nullum Crimen*' and '*Nulla Poena Sine Lege*' which states that no person can be punished for any act or omission committed which has been committed by them when the same was not regarded as a crime, at the time committed by them. The same is also associated with the principle of '*non retroactivity ratione personae*', and been laid down under Article 15 of the International Covenant on Civil and Political Rights²⁹, and Article 22 of the Rome Statute³⁰.

b) *Individual Criminal Responsibility*

The concept of 'individual criminal responsibility' has pertinent in the international criminal law and forms its base presently, and has also been laid down under Article 25 of the Rome Statute.³¹ A person shall be held liable for the punishment of an offence committed by them within the jurisdiction of the Court, and shall be held to be criminally and individually responsible. The provision has also been inculcated in the Charter of the International Military Tribunal,³² and also been recognized in the Judgment of the Nuremberg Military Tribunal³³.

c) *Exclusion of Jurisdiction over Persons under 18*

²⁸ International Covenant on Civil and Political Rights, 1976, Article 7

²⁹ International Covenant on Civil and Political Rights, 1976, Article 15

³⁰ Rome Statute of the International Criminal Court, 2002, Article 22

³¹ Rome Statute of the International Criminal Court, 2002, Article 25

³² International Military Tribunal for the Far East, 1946, Article 6

³³ R. Gallmetzer, M. Klamburg, *Individual responsibility for crimes under international law: The UN ad hoc Tribunals and the International Criminal Court*, The Summer School on International Criminal Law, 2005

The International Criminal Law does not exercise its jurisdiction over people under the age of 18 years,³⁴ which has also been laid down under Article 26 of the Rome Statute³⁵.

d) *Irrelevance of Official Capacity*

The principle dictates that no person, guilty of committing any act or omission punishable under the international criminal law, shall not be entitled to invoke any personal or functional immunity enjoyed by them, to reduce or exempt themselves from the punishment. Such immunities have granted to the officials for the purpose of ensuring the functioning of the state, and can't be used as an excuse against any punishable action.³⁶ Provisions in relation to this principle have also been inculcated within the Rome Statute.³⁷

e) *Responsibility of Commanders and Other Superiors*

As per the international criminal law, any military commander shall be held to be liable for the acts of his/her subordinates if he knew or was expected to know the commission of any type of criminal acts, and failed to take any measures to curb them or address the matter with the higher authorities.³⁸ The given provision is in consonance with the *doctrine of command responsibility*, which holds the commander of the military troops for failure to take action against the criminal actions committed by his subordinates, and the same was also upheld in the *Case of General Yamashita*³⁹.

f) *Non applicability of limitations statute*

The crimes within the jurisdiction of the Court shall not be subjected to any type of statute of limitation.⁴⁰ This implies that the cognizance of the commission of any act or omission can be done by the court at any point of time, and they won't be barred by time to take action on it.

g) *Mental Element*

³⁴ Mark Klamburg, *Commentary on the Law of the International Criminal Court*, Torkel Opsahl Academic EPublisher Brussels, p. 316, 2017 (<https://www.legal-tools.org/doc/aa0e2b/pdf/>)

³⁵ Rome Statute of the International Criminal Court, 2002, Article 26

³⁶ Gerhard Werle and Florian Jessberger, *Principles of International Criminal Law*, Oxford University Press, p. 274, (2014, 3rd ed.) (<https://opil.ouplaw.com/view/10.1093/law/9780198703594.001.0001/law-9780198703594>)

³⁷ Rome Statute of the International Criminal Court, 2002, Article 27

³⁸ Rome Statute of the International Criminal Court, 2002, Article 28

³⁹ A. Frank Reel, *The Case of General Yamashita*, Political Science Weekly, p. 447, Vol. 65, No. 3, 1950 (<https://www.jstor.org/stable/2145259?seq=1>)

⁴⁰ Rome Statute of the International Criminal Court, 2002, Article 29

The commission of any crime under the jurisdiction of the court has been committed by a person with the intent and knowledge of causing the crime, the person shall be liable and responsible for the commission of the crime.⁴¹

h) Mistake of Fact/Mistake of Law

The principle lays down that the mistake of law or the mistake of fact can be a ground that can exclude the criminal responsibility of the person committing the same. However, no intention of causing the act/omission should be in place as well.⁴²

i) Superior Orders and Prescription of Law

It is a laid down principle that under the international criminal law a person can be excused from his criminal responsibility if:

- a) The person had a legal obligation to perform the act/omission as per the orders of the Government or their superior;
- b) The person was not aware about the orders being unlawful in nature; and
- c) The order was not manifestly unlawful.⁴³

In such cases, the person can escape liability for his/her criminal acts.

j) Ne bis in idem

The Latin principle has been an integral part of the International Criminal Law since its inception. It means that no person shall be convicted of the same offence more than once, which is in direct consonance with the principle of natural justice of 'Double Jeopardy', and has also been indoctrinated within the Rome Statute as well⁴⁴.

These principles form the pillar of the present day codified international criminal law, governing the commission of criminal acts.

Thus, all these sources have played a very vital part in the proper development of the codification of the International Criminal Law on the global scale and have become an indispensable part of

⁴¹ Rome Statute of the International Criminal Court, 2002, Article 30

⁴² Rome Statute of the International Criminal Court, 2002, Article 32

⁴³ Rome Statute of the International Criminal Court, 2002, Article 33

⁴⁴ Rome Statute of the International Criminal Court, 2002, Article 20

the same, ensuring that the criminal acts by any type of organization or person are kept under a check by the laid down provisions.

IV. Institutions Established Due To Codification

Since the decision passed by the International Military Tribunal, the concept of individual responsibility in the commission of criminal acts on the international level has been given more recognition.⁴⁵ Moreover, a new sphere was also added to the field of law, through the establishment of various different institutions, to look into the commission of criminal acts occurring on a large scale. The establishment of such new institutions or tribunals along with all the various different provisions, has been majorly possible due to the evolution in the codification of the international criminal law.

Some of such major institutions under the same are:

i) *International Criminal Tribunal for the former Yugoslavia*

A Commission was established in the year 1992 with the purpose of looking into the conflict occurring in the areas of Slovenia, Croatia and Bosnia, for the period of 18 months. Even though the United Nations intervened in the conflict by engaging the United Nations Protection Force (UNPROFOR), international crimes emerged in Bosnia in the form of mass executions, mass assaults & rapes, building of concentration camps and implementation of a policy termed as 'ethnic cleansing'.⁴⁶ As the parties disregarded the principles of the International Criminal and Humanitarian Law, the Secretary General was urged by the Security Council to formulate a commission of experts to make a report on the evidence of grave breaches of law in the region of former Yugoslavia.⁴⁷ The Commission became the first step towards the establishment for a tribunal, which sought to prosecute the individuals not conforming with the principles of the Security Council resolutions, which was then established in the year 1993.

⁴⁵ Pawel Aleksander Kupis, Sources of International Criminal Law, Munich, GRIN Verlag, p.7 (2012)
<https://www.grin.com/document/288051>

⁴⁶ Thierry Tardy, United Nations Protection Force (UNPROFOR- Bosnia and Herzegovina) 26(2015)

⁴⁷ Security Council, Resolution 780(1992), adopted on 6th October 1992

As the tribunal was constituted with the purpose of achieving peace and security in the region of Yugoslavia, the jurisdiction of the Commission was limited to the territorial region of former Yugoslavia,⁴⁸ for the time period till peace and security is achieved in the region.

ii) *International Criminal Tribunal for Rwanda*

The International Criminal Tribunal for Rwanda was established by the United Nations Security Council to look into the acts of genocide and serious violence taking place in the territories of Rwanda in the year 1994. It was located in Tanzania and Rwanda, and became the first international tribunal to deal with the problem of genocide which was occurring on an international level.⁴⁹

iii) *International Criminal Court*

The International Criminal Court became the first permanent institution to deal with the commission of criminal acts on the international level. It addressed and prosecuted individuals charged with the offences of genocide, war crimes, crimes against humanity and the crime of aggression.⁵⁰ Due to its nature of addressing the concerns with respect to such grave offences, the ICC became one of the most important additions to the institutions dealing with International Criminal Law.

With the establishment of all such institutions, the International Criminal Law achieved a new platform to ensure that the offences occurring with respect to such crimes are properly addressed and resolved.

V. Legal Outcomes of the Codification process

⁴⁸ Statute of the International Criminal Tribunal for the Former Yugoslavia, 1991, Article 8 (https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf)

⁴⁹ United Nations, The ICTR in Brief, at (13th April, 2021, 6:54 pm), <https://unictr.irmct.org/en/tribunal>

⁵⁰ International Criminal Court, Trying individuals for genocide, war crimes, crimes against humanity and aggression, at (14th April, 2021, 10:54 am) <https://www.icc-cpi.int/about>

Before delving into the contribution of the treaties towards the codification of International Criminal Law, the meaning of the acts constituting as international crime needs to be seen and understood.

- 1.) Genocide: The term ‘genocide’ was first coined by a Polish lawyer in his book ‘Axis Rule in Occupied Europe’ in which he defined it to be the killing of a race or a tribe.⁵¹ It was then inculcated within the various international statutes with respect to the international criminal law. The Rwanda Tribunal then became the first tribunal to deliver the judgments with respect to genocide and interpreted the definition of genocide under Geneva Convention, laying down that the crime of genocide is different than the other criminal acts as it exemplifies a special intent to destroy any national, racial, ethnic or other group, and the intent of the accused needs to be proved to as the victim has been chosen on account of the person belonging from a particular group.⁵²
- 2.) War crimes: The term war crime has come to be defined as any type of breach of the provisions of international law with respect to the civilians or enemy soldiers during an armed conflict.⁵³ The same includes offences like killing of hostages, plunder of private or public property etc.⁵⁴
- 3.) Crime against humanity: The meaning of crimes against humanity encompasses a number of crimes committed on a large scale. The same is done targeting and attacking civilians regardless of their nationality, and often includes murder, torture, sexual violence etc.⁵⁵
- 4.) Crimes of aggression: Crimes of aggression were defined as any type of armed force or conflict by one state against the sovereignty and territorial integrity of any other state, or in any manner not in conformance with the provisions of the United Nations Charter.⁵⁶

⁵¹ Raphaël Lemkin, *Genocide*, American Scholar, Vol. 15, No. 2, p. 227(1946)

⁵² Asoka De Z. Gunawardana, *Contributions by the International Criminal Tribunal for Rwanda to Development of the Definition of Genocide*, American Society of International Law, Vol. 94, p. 277, 2000

⁵³ Mia Swart, *Explainer: What is a war crime*, Al Jazeera, 23 Oct 2019

(<https://www.aljazeera.com/news/2019/10/23/explainer-what-is-a-war-crime>)

⁵⁴ BBC UK, *War Crimes*, at (14th April, 2021, 12:54 pm) http://www.bbc.co.uk/ethics/war/overview/crimes_1.shtml

⁵⁵ TRIAL International, *Crimes Against Humanity*, at (14th April, 2021, 01:43 pm)

<https://trialinternational.org/topics-post/crimes-against-humanity/>

⁵⁶ Coalition for the International Criminal Court, *The Crime of Aggression*, at (14th April, 2021, 01:57 pm)

<https://www.coalitionfortheicc.org/explore/icc-crimes/crime-aggression>

Looking at the definitions of all the four core crimes, it can be seen that most of the crimes on the international level it can be easily analysed that the majority of the crimes which can take place on the international level, have been codified under the domain of the International Criminal Law by various statutes and different provisions. The same shows that the codification of criminal law has been a continuous process with the evolution taking place at all times.

VI. Case Study of Tribunal Decision

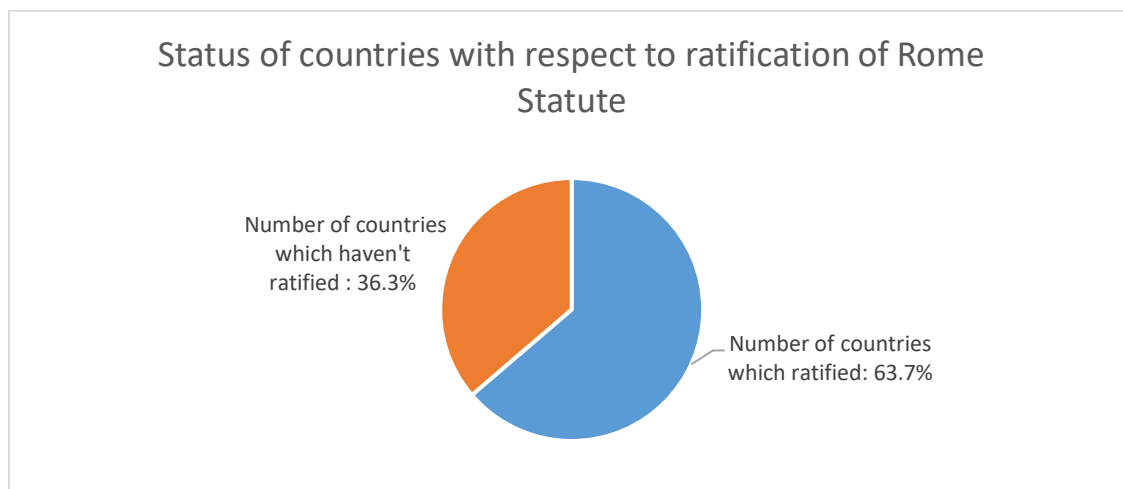
A number of decisions have been passed by many established tribunals which have ensured that the provisions of the laid down criminal law are followed and the perpetrators are brought to justice. An example of the same can be seen from the decision passed by the Tribunal of Former Yugoslavia in the case of Milan Babić⁵⁷. Babić was on trial for the persecution of a large population of the Serb and Croan population. Under the same, he was being charged for inciting the citizens of the nation to unleash violence, recruiting soldiers for war etc. Keeping all these factors in mind, he was convicted by the Tribunal under Article 7(1) of the Statute of the Tribunal for individual criminal responsibility, and was subsequently, sentenced for an imprisonment for 13 years. Such decisions show that the codification of the statute for the tribunal has helped such institutions in passing decisions against the wrongdoers and bring them to justice, showcasing the development made by the international criminal law in terms of codification.

VII. Political factors vis-à-vis codification of International Criminal Law

⁵⁷ International Criminal Tribunal for the Former Yugoslavia, Milan Babić, RSK (IT-03-72)
https://www.icty.org/x/cases/babic/cis/en/cis_babic_en.pdf

However, even though the international authorities have tried to ensure that the International Criminal Court is properly codified for all nations to be followed, there have been many drawbacks to it as well.

Firstly, even though Rome Statute has been ratified by 123 countries in the world, the other 70 members of the United Nations are yet to ratify it. This implies that less than 65% of the total countries have no obligations towards the provisions of the Statute, and can violate the provisions laid down under it. However, the codification of the law also indicates that they might reduce their breaches with respect to the provisions keeping in mind that many other countries have bound themselves with the same, it is purely based on moral grounds opted by the country, rather than any legal backing.



Secondly, the tribunals which have been established have not been able to achieve proper equity and bring the perpetrators of violence to justice at last. The same can be seen from the example of the setting up of Rwandan Tribunal.

In case of the conflict with respect to the Rwandan Tribunal, the violations done on the civilians were one of the gravest acts in international criminal law. The numerical figures for the same were⁵⁸:

S. No.	Categories of People Affected	Number of Casualties
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⁵⁸ World Vision International, 1994 Rwandan genocide, aftermath: Facts, FAQs, and how to help, at (14th April, 2021, 05:47 pm) <https://www.worldvision.org/refugees-news-stories/1994-rwandan-genocide-facts>

1.	No. of people slaughtered	800,000
2.	Percentage of Tutsi people	75%
3.	No. of people who fled their country	2,000,000
4.	No. of children orphaned	75,000

Even though the same led to such atrocities on the people of Rwanda, justice was delayed for all of them. Many people responsible for causing the criminal acts fled to various other countries, and couldn't be extradited back for prosecution. Many individuals were arrested without any strong evidence and wrongfully convicted. Moreover, no type of compensation was offered to the survivors by the government of Rwanda.⁵⁹ This shows that even though a tribunal was established by the United Nations, the same failed to properly fulfil the purpose with which it was established.

Thirdly, even if the codified international criminal law is not followed by any country, no strict action can be taken against them. An example of the same can be seen from the refugee crisis which most of the parts of the world face. Most of the refugees fleeing from their countries face the fear of genocide. As per the provisions of the Genocide Convention⁶⁰, the parties need to work towards ensuring that the practice of genocide is curbed and no civilian faces the fear of the same. However, most of the parties to the Convention, failed to fulfil the same when faced with such a situation. For e.g., a number of refugees from Syria had to flee the country due to the fear of persecution. However, countries like Hungary, Poland, Slovakia, Czech Republic etc. refused to let the refugees in their countries, despite being parties to the Convention. Another example can be seen in case of India as well, who are in the process of deporting the refugees back to Myanmar, even though the same might put their lives in danger.⁶¹ This shows that even though countries have agreed to the codified international criminal law, the countries have not been strictly following the same.

VIII. Conclusion

⁵⁹ Cornin Dufka, *Rwanda: Justice After Genocide—20 Years On*, Human Rights Watch, March 28, 2014 6:02AM EDT (<https://www.hrw.org/news/2014/03/28/rwanda-justice-after-genocide-20-years>)

⁶⁰ The Genocide Convention, 1948, A/RES/3/260

⁶¹ Reuters and Manveena Suri, India's top court rejects plea to stop Rohingya deportations to Myanmar, CNN, Updated 0918 GMT (1718 HKT) April 9, 2021 (<https://edition.cnn.com/2021/04/09/india/india-deport-rohingya-supreme-court-intl-hnk/index.html>)

Therefore, it can be seen and implied that even though the codification of the international criminal law has been evolving over the period of time, with the contemporary challenges being accommodated within its sphere, the same still needs to be improved to ensure that no type of lacunas are present within the same. Some of the suggestions which can be undertaken to ensure that the codification of the law is made more effective are:

- i) With the passage of time, any type of customs being practiced, or any landmark judicial decision being passed by the courts/tribunals with respect to the international criminal law, should be incorporated within the ambit of law at the earliest. It will ensure that no type of ambiguity or vagueness exists concerning the laws and the criminal laws keep evolving over the period of time;
- ii) The treaties serving as the international criminal law at any moment need to be ratified and taken into the national legislations by the maximum number of nations, to ensure that a legal liability remains on them to follow the provisions of such treatise;
- iii) Any tribunal, commission or any other institution is being set up to check into the breach of international criminal law, needs to be imparted with proper power and authority, to not just investigate and report, but also prosecute the perpetrators of the offences; and
- iv) The work by such institutions needs to be done at an expediated pace to ensure that the violations take the minimal hit on any part of global population, and the victims are brought to justice at the earliest. Moreover, it should be done by being in consonance with the laid down provisions of the codified international criminal law.

These steps can work to ensure that the codification process of criminal law on the international level is not only at a speedy pace, but also made more efficient while dealing with such issues.