

## INTERNATIONAL CRIMINAL COURT: SOME CONFLICTING AND CONTROVERSIAL ISSUES

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*"In the prospect of an International Criminal Court lies the promise of universal justice. That is the simple and soaring hope of this vision. We are close to its realization. We will do our part to see it through till the end. We ask you . . . to do yours in our struggle to ensure that no ruler, no state, no junta and no army anywhere can abuse human rights with impunity. Only then will the innocents of distant wars and conflicts know that they, too, may sleep under the cover of justice; that they, too, have rights and that those who violate those rights will be punished."*

*. . . Kofi Annan, UN Secretary General*

### 1. Introduction

The United Nations Diplomatic Conference of Plenipotentiaries held in Rome in the year 1998 concluded with the adoption of a statute on the establishment of an international criminal court.<sup>1</sup> The adoption of the Rome statute was a legitimate outcome of the international community's consensus on the need for a permanent body to check the crimes against humanity and to save the succeeding generations from gross and inhuman violations of their human rights. International Criminal Court (ICC) is the first ever permanent treaty based criminal court established to promote the rule of law, to protect human rights, and to ensure that

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1 On 17 July 1998, at Rome, 120 States voted to adopt the Rome Statute of the International Criminal Court. Less than four years later - far sooner than even the most optimistic observers had imagined - the statute had obtained the requisite sixty (60) ratifications for its entry into force, on 1 July 2002. By early 2003, the number had climbed to nearly ninety (90). On 28 October 2005, Mexico ratified the Rome Statute, thereby bringing the total number of States Parties to the Rome Statute to 100. There are in total 139 signatories till date.

the gravest international crimes do not go unpunished. It is perhaps the last major international institution of the 20th century, the most innovative and exciting development in international law and an evidence of the global community's desire to divest itself of a hateful legacy of aggressions, genocide, hostilities and war crimes. It constitutes "a benchmark in the progressive development of the international human rights"<sup>2</sup> as its statute introduces a new dimension in international criminal jurisprudence by re-defining the scope of individual criminal responsibility and creating judicial mechanism in the form of an international court for the prosecution of individuals accused of the commission of grave and heinous crimes.

Notwithstanding the fact that some of the nations like China, India, Israel, Iraq, Qatar, Sudan, United States, and Yemen did not sign the Rome Statute, its adoption nevertheless has certainly been considered as a big achievement of the entire international community. It is being hoped that the influence of the Rome Statute will certainly "extend deep into domestic criminal law, enriching the jurisprudence of national courts and challenging prosecutors and judges to display greater zeal in the repression of serious violation of human rights"<sup>3</sup> and that establishment of an all powerful criminal court at the international level will indeed be a deterrent for the criminals and perpetrators of the crimes and atrocities across the world.

In one of my earlier writings, I have discussed in detail the historical background of establishment of the ICC in two phases: **Phase One** covering the developments between 1900 to 1990 and the **Phase Two** covering developments between 1990 to 2003.<sup>4</sup> Similarly, in another work, I have discussed in detail the composition of the court;<sup>5</sup> the law applicable to its functioning; jurisdiction of the court;<sup>6</sup> investigation mechanism; procedure regarding the

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2 William A. Schabas (2004): *An Introduction to the International Criminal Court*, Second Edition, Cambridge: Cambridge University Press, p. iii.

3 *ibid.*, p. 24.

4 For details, see: Gurjeet Singh (2004): "International Criminal Court: A Step Towards Codification of International Criminal Law and Policy in the Post-Cold War Era: Some Comments, Suggestions and Observations." In: *The Indian Socio-Legal Journal*, Vol. 30, Nos. 1-2, pp. 17-44.

5 It includes: (a) The Presidency; (b) The Chambers; (c) The Office of the Prosecutor; (d) The Registry; and (e) The Judges.

6 This includes the Complementary Jurisdiction as well as the Subject Matter Jurisdiction covering: (i) Crime of Genocide; (ii) Crimes Against Humanity; (iii) War Crimes including (a) Grave Breaches of the Geneva Conventions of 1949; (b) Other Serious Violation of the Laws and Customs Applicable in International Armed Conflicts; (c) Serious Violations of Article 3 Common to Geneva Conventions in Armed Conflicts not of International Character; and (d) Other Serious Violations of the Laws and Customs Applicable in Armed Conflicts not of International Character; and (iv) Crime of Aggression (It is a very controversial issue and has been discussed in detail in the paragraphs below) .

enforcement of the orders of the court and their compliance; relationship of the ICC with the United Nations and the Security Council; and the operation of the court etc. etc.<sup>7</sup>

Thus, the object of the present paper is to discuss some of the conflicting as well as controversial issues with regard to the functioning of the ICC. These, inter alia, include the jurisdictional issues - both relating to its complimentary jurisdiction as well as to the subject matter jurisdiction. Besides, I have also made an endeavour to discuss some of the apprehensions of the countries like the United States and India with regard to the Rome Statute and the reasons for their not signing it till date.

## **2. The ICC and some Controversial Issues**

The passing of the Rome Statute was not something that could be attained very easily. There was a lot of debate and discussion followed by argumentation and counter-argumentation on some of the controversial issues. One of these issues related to the jurisdictional aspects of the ICC. I would like to discuss some of these issues briefly.

### **2.1 Issue Relating to Complementary Jurisdiction of the ICC**

The first important and the most controversial issue concerns the jurisdiction of the ICC. As a matter of fact, the ICC has been empowered to have a 'Complimentary Jurisdiction'. That means there will exist a relationship between the ICC and the national judicial systems. However, the term 'Complimentary Jurisdiction' created a lot of controversy regarding the jurisdictional aspects of the ICC. A number of writings came on the issue and different authors and scholars expressed different viewpoints.<sup>8</sup> Notwithstanding the divergent opinions on the issue, one thing is very clear and that is that the ICC will not supersede national jurisdiction. It is intended to come into picture

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7 For details, see: Gurjeet Singh (2003): "Codification of International Criminal Law: A Study of the Role and Functioning of International Criminal Court", A Project Report submitted to the International Committee of the Red Cross, Regional Delegation, New Delhi.

8 For further details, see: John T. Homes (1999): "The Principle of Complementarity." In: Roy S. Lee (ed.): *The International Criminal Court: The Making of the Rome Statute, Issues, Negotiations, Results*, The Hague: Kluwer Academic Publishers, pp. 1-40; Michael A. Newton (2001): "A Comparative Complementarity: Domestic Jurisdiction Consistent with the Rome Statute of the International Criminal Court." In: *Military Law Review*, Vol. 167 (March), pp. 20-73; Oscar Solera (2002): "Complementary Jurisdiction and International Criminal Justice." In: *International Review of the Red Cross*, Vol. 84, No. 845 (March), pp. 145-71; and P. Benvenuti (2000): "Complementarity of the International Criminal Court to National Criminal Jurisdictions." In: F. Lattanzi and W. Schabs (eds.): *Essays on the Rome Statute of the International Criminal Court*, Ripa Di Fagnano Alto: Editrice il Sirente.

only when the state concerned is unwilling or is genuinely unable to carry out the investigation or prosecution of the persons who are alleged to have committed any one of the crimes listed in the Rome Statute, that is, 'Crime of Genocide', 'Crimes Relating to Humanity' and 'War Crimes'. In other words, if the national courts function properly and assume jurisdiction over these crimes, the ICC will not exercise its jurisdiction. Thus the principle of complementarity signifies that the jurisdiction of this court is complementary to the national criminal justice system, that is, the court will exercise its jurisdiction only in cases where states do not exercise their national jurisdiction, because they are unable or unwilling to do so. The principle is of great importance because most of the countries like to ensure that their own jurisdiction will not be superseded unnecessarily.<sup>9</sup>

It may be interesting to mention here that the issue relating to the complementary jurisdiction of the ICC were strongly supported by the countries that wanted to limit the ICC's reach. Their immediate concern was to ensure that the ICC would not oust a functioning national judicial system that is available to deal with allegations of wrong doing against a country's own nationals.<sup>10</sup> However, the United States of America, the otherwise most ardent supporter of the ICC, voted against the ICC Treaty at Rome, as it had got a fear that its sovereignty will perhaps be compromised if it acceded to the jurisdiction of the ICC. On the other hand, South Africa, which partly successfully experimented with the setting up of a Truth and Reconciliation Commission, played an indispensable leadership role in the signing of the Treaty.

## 2.2 Issues Relating to Subject Matter Jurisdiction of the ICC

It may be appropriate to mention here that the jurisdiction of the ICC is limited to the most serious crimes of concern to the international community. According to some scholars, the main reason for restricting the jurisdiction of the Court only to most serious crimes of concern to international community is the need to strengthen universal acceptance of the Court as well as to avoid its overburdening the.<sup>11</sup> The ICC has jurisdiction in respect of the following crimes: (i) The Crime of Genocide; (ii) Crimes Against Humanity; (iii) War Crimes; and (iv) The Crime of Aggression. Out of all these, the inclusion of two types of

9 Gurdip Singh (1998a): "International Criminal Court: Ratione Material Jurisdiction." In: *Indian Journal of Contemporary Law*, Vol. 2, pp. 1-13, at p. 3. Also see: Gurdip Singh (1998b): "International Criminal Court: Trigger Mechanisms." In: *National Capital Law Journal*, Vol. 3 (1998), pp. 51-59 and Jerry Fowler (1998-99): "The International Criminal Court: A Measured Step Towards Ending Impunity." In: *INTERIGHTS Bulletin*, Vol. 12, No. 2, pp. 55-59.

10 Jerry Fowler (1998-99), p. 56.

11 Gurdip Singh (1998a), p. 4.

crimes, that is, Crimes Against Humanity and Crime of Aggression came in for a sharp controversy that is discussed below.

### 2.2.1 Issues Relating to Crimes Against Humanity

Article 7 of the Rome Statute defines ‘Crimes Against Humanity’ which means any of the following acts when communicated as part of a widespread or systematic attack directed against any civilian population, with the knowledge of the attack: (i) murder; (ii) extermination;<sup>12</sup> (iii) enslavement;<sup>13</sup> (iv) deportation or forcible transfer of population;<sup>14</sup> (v) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (vi) torture;<sup>15</sup> (vii) rape, sexual slavery, enforced prostitution, forced pregnancy,<sup>16</sup> enforced sterilisation, or any other form of sexual violence of comparable gravity; (viii) persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law; (ix) enforced disappearance of persons; (x) the crime of apartheid; and (xi) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

The most contentious issue surrounding crimes against humanity was whether the Court’s jurisdiction would extend to ‘widespread or systematic attack(s) directed against any civilian population’. Some countries argued that the Court should have jurisdiction only over ‘widespread and systematic’ attacks. Human Rights Groups responded that requiring attacks to be ‘widespread and systematic’ would unnecessarily limit the Court to those cases where there is evidence of a plan or policy. They contended that widespread commission of acts such as murder and extermination should be enough to support the Court’s jurisdiction.<sup>17</sup>

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12 ‘Extermination’ includes the international infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.

13 ‘Enslavement’ means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.

14 ‘Deportation or Forcible Transfer of Population’ means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present without grounds permitted under the international law.

15 ‘Torture’ means the intentional infliction of severe pain or suffering, whether physical or mental upon a person in the custody or under the control of the accused, except that torture shall not include pain or suffering arising only from inherent in or incidental to, lawful sanction.

16 ‘Forced Pregnancy’ means the unlawful confinement, of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

17 *id.*

A compromise left the basic standard as ‘widespread or systematic’ [Article 7(1)] but defined ‘attack directed against any civilian population’ as ‘a course of conduct . . . pursuant to or in furtherance of a State or organizational policy to commit such an attack’ [Article 7(2)(a)]. This formulation essentially requires a showing that the crimes are both widespread and systematic. Requiring a defendant’s knowledge of the ‘attack’, that is, the larger plan or policy, was a further limitation that will significantly restrict the Court’s jurisdiction.<sup>18</sup>

### **2.2.2 Issues Relating to Crime of Aggression**

According to the experts, the issue of the inclusion of crime of aggression in the ICC’s jurisdiction had witnessed stiff controversy and that part of the controversy centred on finding an acceptable definition of the term ‘Crime of Aggression’. According to them, while arguments to include aggression centred on its extreme gravity and international repercussions, arguments against its inclusion centred on the lack of a sufficiently precise definition. Further, another part of the controversy focused on the role of the Security Council in this regard.<sup>19</sup> Pursuant to Article 39 of the UN Charter, the Security Council “shall determine” the existence of an “act of aggression”. Consequently, the issue is inseparably linked with the maintenance of international peace and security. It is a matter of common knowledge that it has indeed been a difficult task to find an acceptable way to reflect in a balanced manner the responsibility of the Security Council, on the one hand, and the judicial independence of the Court, on other.<sup>20</sup>

When the UN General Assembly unanimously affirmed the Nuremberg principles in 1946, it affirmed the principle of individual accountability for such crimes. Early efforts in the United Nations to create an International Criminal Court were set aside while the international community set out to define the term ‘aggression’. The General Assembly defined ‘aggression’ as ‘the use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations.’ The definition of aggression is followed by the illustrations in the General Assembly Resolution of 1974, which loudly proclaims that a war of aggression is a crime against international peace and gives rise to international responsibility. The General Assembly Resolution defined aggression as necessarily being the act of state and described the specific actions of one state against another, which constitute aggression. In its work on the Draft

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18 *id.*

19 Gurdeep Singh (1998a), p. 10.

20 *id.*

Code of Crimes Against the Peace and Security of Mankind, the International Law Commission, echoing the Nuremberg Tribunal, also concluded that individuals could be held accountable for acts of aggression. The Commission indicated the specific conduct for which individuals could be held accountable—initiating, planning, preparing, or waging aggression and that only those individuals in position of leadership who order or actively participate in the acts could incur responsibility. Its definition focused on individual accountability rather than on the rule of international law, which prohibits aggression by a State.<sup>21</sup>

Some states were of the view that excluding aggression from the jurisdiction of the ICC would leave a significant gap in the Court's jurisdiction. Another reason supporting its inclusion is also one of the strongest reasons for creating the Court: to break the cycle of impunity. To hold individuals accountable for war crimes or crimes against humanity while granting impunity to the architects of the conflict in which those crimes occurred is not justifiable. It is also argued that holding individuals responsible for the crime of aggression would act as a deterrent from the beginning of the conflict and would prevent the commission of war crimes against humanity. Accordingly, it would, therefore, be retrogressive to adopt a statute that does not include the crime of aggression 50 years after the Nuremberg recognised such conduct as an international crime.

Some of the proponents of the inclusion of aggression as a war crime have proposed lessening the need for a definition of aggression by allowing the determination of an act of aggression to rest with the Security Council. The argument is, if states commit aggression for which individuals can be held accountable, and then the Security Council should determine whether an act of aggression has been committed by a state and the court should determine whether an individual was responsible for that act. The proposal that is also heart in other contexts: linking the work of the Court to the Security Council may lead to politicization of the Court. Some states are concerned regarding any connection between the Security Council and the Court.<sup>22</sup>

The statute of the ICC does not contain any definition of the term 'Crime of Aggression' despite the fact that aggression is described as a crime within the jurisdiction of the Court. The absence of the definition of aggression in the statute of the ICC is ascribed to the failure of the states to arrive at a consensus on the issue. The statute places a moratorium on the power of the court, which shall exercise jurisdiction only after the statute is amended or revised so as to

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21 *id.*

22 *ibid.*, p. 11.

include a definition of the crime of aggression and the conditions under which the court shall exercise jurisdiction with respect to this crime. Thus the court has no jurisdiction to deal with the crime of aggression and the conditions of the exercise of jurisdiction by the court over the crime of aggression are set out in the statute of the court.<sup>23</sup>

### 2.2.3 Issues Relating to Terrorism

The issue of 'Terrorism' has also been quite a controversial issue with regard to its inclusion in the jurisdiction of the ICC. There is no denying the fact that there is a pressing need for international criminalization of terrorism and inclusion of the 'Crime of Terrorism' within the jurisdiction of the ICC. This is particularly necessitated after 11th September Attacks on the World Trade Tower in the United States. Thus, to sharpen the edge of international criminal jurisprudence, the statute of the ICC should spell out specific acts as amounting to crime of terrorism falling within the *ratione materiae* jurisdiction of the court.

The 'Crime of Terrorism' may be defined in the statute as (a) undertaking, organizing, sponsoring, ordering, facilitating, financing, encouraging or tolerating acts of violence against another state directed at persons or property and of such a nature as to create terror, fear or insecurity in the minds of public figures, group of persons, the general public or population, for whatever considerations and purposes of a political, philosophical, ideological, racial, ethnic, religious, or such other nature that may be invoked to justify them; (b) offences under the Convention for the Suppression of Unlawful Seizure of Aircraft and the International Convention Against the Taking of Hostages; (c) offence involving the use of firearms, weapons, explosive and dangerous substances when used as a means to perpetrate indiscriminate violence death or serious bodily injury or persons or groups of persons or population or serious damage to property.

It is in this context that the issue of 'Narco Terrorism' also assumes utmost significance. It is a matter of common observance that the illicit traffic in narcotic drugs and psychotropic substances also has serious consequences for the world population.<sup>24</sup> Accordingly, the experts are of the strong viewpoint that the *ratione materiae* jurisdiction of the ICC needs further expansion so as to include the crime of illicit traffic in narcotic drugs and psychotropic substances.<sup>25</sup>

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23 *id.*

24 For a detailed study of the problem of illicit trafficking in drugs and narcotics and its consequences and ramification, see: Gurjeet Singh (1997): "The Problem of Drug Abuse and Drug Trafficking: Causes, Consequences and Control." In: *Global Drugs Law Conference Souvenir* (March), New Delhi: The Indian Law Institute, pp. 172-79.

25 *id.*



### 2.3 Some Other Controversial Issues

In addition to the above mentioned issues relating to the jurisdictional aspects of the ICC, there have been a couple of more issues, rather misapprehensions with regard to the ICC's functioning. In the first place, for instance, it was apprehended that the ICC might be asked to take up some politically motivated cases. This is, however, a wrong apprehension as there are numerous safeguards in the Rome Statute to prevent this.

In the second place, it was apprehended that the ICC will have jurisdiction over past crimes. However the true fact is that the ICC will not have any authority over the crimes committed in the past. Its jurisdiction has begun with effect from 1 July 2002 when the Rome Treaty was signed and adopted.<sup>26</sup>

The next apprehension was that that the ICC will deter the states from taking military action to protect their national interests. The best and the most appropriate answer to this misapprehension could be that history is witness to this fact international tribunals have never ever in the past been able to present a barrier to the necessary military action, whatsoever and wheresoever.

### 3. ICC and the Reluctant Nation's Reservations

Now, I come to the reservations expressed by some prominent nations at the time the Rome Treaty was being discussed and debated. At the Rome Conference, the United States, in particular, remained conspicuously absent from the list of nations that approved the ICC Statute and as mentioned above, the US was joined in its opposition by China, India, Iraq, Israel, Qatar, Sudan, and Yemen.

Talking particularly about the US, the US has opposed the ICC from the very beginning, surprising and even disappointing many people. Human rights organisations around the world, and from within the US, too, were very critical of the US stance, given its dominance in world affairs. The US did eventually signed upto the ICC just before the December 2002 deadline to ensure that it would be a State Party that could participate in decision-making about how the ICC works. However, by May 2002, the Bush Administration 'unsigned' the Rome Statute.

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26 This is clearly evident from the statement of the Philippe Kirch, the Hon'ble President of the ICC, who while addressing the Associated Press categorically stated that the ICC cannot try Saddam Hussein, the former President of Iraq for the simple reason that the ICC assumed jurisdiction w.e.f. July 2002 and the crimes for which the President of Iraq is to be tried are the ones alleged to have committed by him much earlier than the year 2002.

As regards the United States' reservations about the Rome Statute, the US has long been afraid of an international body having jurisdiction over the United States and that cases will be brought against the US civil and military authorities on political grounds. Notwithstanding the US reservations, the reality is, as I have already mentioned above, that the ICC would not undermine the sovereignty of nations because it would function only where states are unable and willing to act. Very surprisingly, the US not only opposed the Rome Statute, it also threatened to use military force, if the US nationals were held at the Hague. Not only this, the US continues to pressure many countries to sign agreement not to surrender the US citizens to the ICC in any case whatsoever.<sup>27</sup>

Coming to Indian objections to the Rome Statute, the first objection of India was that it has got a well established and an effectively functioning investigative and judicial system and it is, therefore, competent to try the criminals accused of having committed even the most heinous crimes. India's second objection was that it was inappropriate to vest unbridled competence in the hands of an individual prosecutor to initiate investigations suo moto and thus trigger the jurisdiction of the court. India's third argument was that the crime of terrorism including the cross border terrorism should also be brought within the ambit and jurisdiction of the ICC. Further it also wanted that the crimes relating to drug trafficking and narco-terrorism should also be brought within its jurisdiction.

Further, like some other nations, India, too made some interesting proposals like making the use of nuclear weapons a 'War Crime' but this move of India was seen more as wrecking ball than a serious one in spite of the 1996 Advisory Opinion of the International Court of Justice on the use of nuclear weapons that it is nearly impossible for nations to use nuclear or other weapons of mass destruction without committing 'Crimes Against Humanity' as these are defined.<sup>28</sup> Some other countries, however, did not wish these to be included in the list. Thus, it was difficult to reach the consensus on this issue, too.

There is no denying the fact that the nuclear weapons have disastrous consequences for the mankind and possess the potential of extinguishing the life on the planet many times over. Moreover, the use of anti-personnel land mines and blinding lasers not only twist and torture but completely negate human

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27 For further details, see: Anup Shah (2005): "United States and the ICC" available at: [www.globalissues.org / Geopolitics / ICC. asp](http://www.globalissues.org/Geopolitics/ICC.asp). Visited on 12 November 2005.

28 Sukant Gupta (2000): "The International Criminal Court: Issues of Constitutional Law and Sovereignty of States." Paper Presented at the International Committee of the Red Cross Sponsored One Day Seminar on the International Criminal Court held at the Department of Laws, Punjab University, Chandigarh on 29 January 2000, pp. 1-5, at pp. 2-3.

rights and humanitarian law, and constitute crimes against humanity. The administration of the international criminal jurisdiction, therefore, mandates the inclusion of nuclear weapons, anti-personnel land mines and blinding laser weapons in the list of international crimes falling within the jurisdiction of the ICC.<sup>29</sup> However, according to some experts, till the time these weapons are actually and specifically brought within the ambit of the ICC Statute, their use may be considered as a war crime.<sup>30</sup>

Thus, these are some of the prominent arguments advanced by the nations who opposed the Rome Statute, India being one of the prominent among these nations. There are a couple of more issues that need attention and discussion but due to space constraints, it is not possible to discuss them here.

#### 4. Concluding Observations

As mentioned above, International Criminal Court is the last major institution of the 20th century and an evidence of the international community's desire to divest itself of a hateful legacy of 'Genocide', 'Hostilities', 'Aggressions' and 'War Crimes'. It is a treaty based permanent institution and a historic step in the direction of securing international peace, justice and security. Its statute is "one of the most complex international instruments ever negotiated, a sophisticated web of highly technical provisions drawn from comparative criminal law combined with a series of more political propositions that touch the very heart of the state concerns with their own sovereignty."<sup>31</sup> Without any doubt, its creation is the result of the human rights agenda that has steadily taken centre stage within the United Nations since Article 1 of the Charter proclaimed the promotion of human rights to be one of its purposes. From a hesitant commitment in 1945, to an ambitious Universal Declaration of Human Rights in 1948, we have now reached a point where individual criminal liability is established for those responsible for serious violations of human rights, and where an institution is created to see that this is "more than just some pious wish".<sup>32</sup>

In summing up, I would like to state that though the ICC has already started working at the Hague, the real challenge before the international diplomatic community now is to bring even those nations to the table of negotiations who have not yet become the signatories so as to secure their signatures to the Rome Statute and later have their ratification. As the final version of the Rome

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29 *ibid.*, p. 13.

30 See: Report of the Regional Conference on the Implementation of the Rome Statute of the International Criminal Court (Budapest 6-8 June 2002), Geneva: ICRC, p. 42.

31 William A. Schabas (2004), p. 25.

32 *id.*

Statute is not without serious flaws and the ICC has certain jurisdictional limits, all nations, big or small, need to stand together in their pursuit for international justice so that it could be the most important institutional innovations since the founding of the United Nations. Very recently, while reacting to the 100th ratification of the Rome Statute, the ICC President Judge Philippe Kirsch had also noted that the “ICC was established to help put an end to the most serious international crimes. Because of the limits on the court’s jurisdiction, universal ratification is a necessary part of achieving this goal.”<sup>33</sup> It is hoped that very soon countries like the United States and India and some others who had withheld their signatures would build up consensus to join the international community in their pursuit to secure justice for the victims of atrocities, brutalities, heinous crimes, and all other types of gross human rights violations and this world will soon become a much better place to live in peacefully and fearlessly.

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33 For details, see: [www.globalissues.org/icc.asp](http://www.globalissues.org/icc.asp). Visited on 15 November 2005.