

The Crime of Aggression between Recognition, Identification and Activation



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APPREVISION: The crime of aggression was approved in the Rome Statute of the International Criminal Court (ICC) in 1998, but its definition was postponed until the Rome Statute came into force after 30 countries ratified it, which was done in 2002, and then the agreement of the Assembly of States Parties to this system after (7) years. On its entry into force, which was what happened in 2010 (Kampala Conference) after making amendments to the system, and it was also postponed to activate these amendments until the agreement of the Assembly of States Parties in 2017, and it was agreed to activate starting from 2018, and thus the (ICC) became competent in the crime of aggression In addition to the other three crimes (war crime, genocide, and crime against humanity). The research dealt with how to define the crime of aggression, the extent to which the definition was affected by General Assembly Resolution (3314) of 1974, what are the pillars of this crime, the nature of the amendments to the Kampala Conference, how to activate these amendments, and the extent of the need to issue declarations with the approval or rejection of these amendments, in addition to clarifying the limits of the competence of the (ICC) on The crime of aggression, and what is the relationship between the court and the UN Security Council and the positions of states, especially the permanent members of it, and finally a study of the effects of withdrawal from the court and the extent of its coverage of the provisions of the Vienna Convention on the Law of Treaties of 1969.

1. INTRODUCTION

The 1998 Rome Statute of the International Criminal Court included the crime of aggression among the crimes to which the Court was competent (ICC), however, the consideration of the crime of aggression was postponed until the Assembly of States Parties to the Rome Statute agreed on its definition and conditions, This agreement was achieved at the Kampala Conference in 2010 and the crime of aggression and its conditions were defined to enable the Court to consider it This agreement was not activated until 2017 when a resolution was issued by the consensus of the States assembled and thus became possible (ICC) to exercise jurisdiction over the crime of aggression as the fourth crime it is able to consider.

The process of legalizing the crime of aggression began from the Briand-Kellogg Agreement of 1928 until it was agreed at the Kampala Conference.

Following the Commission's vigorous efforts, the crime and conditions of aggression had been established at the Kampala Conference despite the opposition of influential States for fear of their interests and the accountability of their external military activities to the International Criminal Court. This definition was essentially influenced by the General Assembly's 1974 definition in its resolution 3314.

The definition of the crime of aggression was undoubtedly consistent with the elements of the crime in criminal jurisprudence and with the observance of the provisions of international law in order to facilitate investigation, prosecution and execution. Nevertheless, it was possible to record important observations on the substantive and procedural identification of this offence affecting the Tribunal's functioning in this offence.

On the other hand, the results reached at the Kampala Conference were suspended until a decision was taken with specific specifications in terms of the number of States participating in it and the effects of its ratification for the purpose of activating the Kampala Conference results s jurisdiction over the crime of aggression, The overlap between the Security Council's competence to establish a state of aggression and the court's exercise of the same jurisdiction in a particular crime. in addition to clarifying the position of the withdrawing State on the Court's jurisdiction over the crime of aggression and how that would be done.

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The crime of aggression is disputed by provisions contained in the Charter of the United Nations and in the principles of the Nuremberg and Tokyo Tribunals, General Assembly resolution 3314, the Rome Statute and the outcomes of the Kampala Conference, all of which require that these provisions be clarified in a manner consistent with each other and that eliminates the

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inconsistencies that may arise when applied and clarify how investigative and judicial procedures can be carried out for the purpose of implementation.

The purpose of the research is

The crime of aggression is still a recent era in the field of practical application and the International Criminal Court has not been able to have judicial precedents that would make it easier for disputants to understand and understand what investigative, judicial and executive procedures are in cases that already exist that have serious implications and consequences for many States and have not yet been resolved because of the political influences and influence of influential States in the international arena whose interests conflict with the International Criminal Court Court's jurisdiction over the crime of aggression. rights ", all of which requires research, elaboration and elaboration to provide a research reference for those involved in this crime.

Search Method

Review research related to the crime of aggression on the one hand and take into account the development of international criminal jurisprudence on the other because of their interdependence in addition to the influences of influential States in international relations and their responsiveness to the issues of aggression raised that cause harm to other States' interests, All this requires the follow-up of Western and American patrols that provide a modern information base that provides realistic and scientific research that expands the scope of research and makes it more serious and useful to those concerned.

Research Plan:

To answer the following questions:

What are the historical roots of the crime of aggression?

How is the crime of aggression identified? What does the definition relate to General Assembly resolution 3314?

What is the nature of the Kampala amendments? What are the observations on the definition of the crime of aggression?

How has the crime of aggression and the ICC's jurisdiction over it been operationalized?

What are the limits of ICC's jurisdiction over the crime of aggression?

What is the relationship between the UN Security Council and ICC on the crime of aggression?

What is the effect of the right to withdraw from ICC's jurisdiction on the crime of aggression?

The above questions will be answered through the following research plan:

1- Introduction

2- A prelude to the crime of aggression

3- Definition of the crime of aggression at the Kampala Conference

3-1. Definition and observations on the crime of aggression

3-2. Relationship to General Assembly resolution 3314

3-3. Nature of the Kampala Conference amendments

4- Operationalization of the crime of aggression and the International

Criminal Court's (ICC) jurisdiction over it

4-1. Decision to give effect to the crime of aggression Crime

4-2. Aggression Crime between the UN Security Council and ICC

4-3. Right to withdraw from ICC's jurisdiction for the crime of aggression

5- Conclusion and recommendations

6- Margins

7- References

2- A PRELUDE TO THE CRIME OF AGGRESSION

This prelude will focus on international legal norms that are still in force and have implications for the determination of the crime of aggression, so it will be the starting point after the end of the First World War where the League's era does not contain explicit provisions to prevent the crime of aggression, even though the League's era is no longer in force, but the Klug-Brian Charter of several States (15 States) in 1928 to renounce war as a means of settling international disputes remains in force, (1928-Klug-Brian Charter) was joined by the world's most influential nations in international relations. The Charter's impact lasted only a few years due to the outbreak of numerous international wars, most recently the beginning of the Second World War in 1939.

In the Charter of the United Nations (art. 1-para. 1), the United Nations body aims to suppress acts of aggression, and also stipulates (Article 2-4) Members of the Commission shall refrain from the threat or use of force against the territorial integrity or political independence of any State or in any way inconsistent with the purposes of the United Nations, as authorized by the United Nations Security Council (art. 39) decide whether an act of aggression has taken place and how to confront it. The Security Council has exercised its competence by establishing the existence of a state of aggression, achieving the objectives of the Charter in some cases and failing in others because of the political effects of States having the right to veto on its resolutions.

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The Nuremberg Court then condemned the war of aggression as the most brutal of international crimes because it contained all the evils resulting from other war crimes. (Al Mahdi 2020 P.4) The General Assembly endorsed the principles derived from the Charter of the Nuremberg Tribunal and the principles contained in its rulings in its resolution 1/95 of 1946 and mandated the International Law Commission to codify these principles and has listed a number of crimes, (ILC 1950) that should be punished under item VII.a-I - Planning, preparation, ignition or waging of aggressive war or war in violation of international treaties and assurances and II. To participate in the planning or conspiracy to perform any of the acts referred to first. (International Law Commission. (1950) The International Law Commission had not reached a final formulation of the crime of aggression for more than three decades, and the Commission's Special Rapporteur had decided in 1950 that, given its subjective nature, aggression was difficult to define. This represented the desire of the major Powers. (Al Mahdi - 2020-P.5)

Because of the paralysis of the United Nations Security Council in exercising its competence in serious international cases, the General Assembly has taken the initiative of defining the crime of aggression in detail, including the acts constituting the crime, enabling the Security Council or any judicial body to infer this definition and to further determine the responsibility of the aggressor States and hold them accountable on that basis. (General Assembly 1974) This definition would be easily identifiable and prevent its commission, thereby enhancing international peace and security. However, the legal force of the General Assembly's resolutions remains limited if they do not become legal rules in international conventions, which has continued until the establishment of the Statute of the International Criminal Court.

In the early 1990s, despite the establishment of the Yugoslavia and Rwanda Tribunals, the concept of the crime of aggression did not evolve because of the Tribunals' lack of competence and their concerns focused on individual criminal responsibility for war crimes, genocide and against humanity. (Cryer,2010)

In 1998, decades of international efforts had resulted in the adoption of the Rome Statute of the International Criminal Court, and even after the adoption and entry into force of that Statute had not been accepted by the major Powers, the United States of America had held more than (100) Mutual Convention on the Granting of Immunity to its Personnel in those States to Prevent (ICC) from the exercise of its jurisdiction over them. (https, 2010) One of the Court's jurisdictions was the crime of aggression, which gave rise to much controversy and disagreement and which was not agreed to be determined, in addition to the fear of being subjected to the Security Council's competence to approve the state of aggression or to ensure the judicial independence of the Court. (7) Years after its entry into force pursuant to article 5, paragraph (2).

3. IDENTIFICATION OF THE CRIME OF AGGRESSION AT THE KAMPALA CONFERENCE:

Since the adoption of the crime of aggression in the Rome Statute in 1998 and its entry into force in 2002, numerous drafts have been submitted to establish conditions and specifications, thereby defining them easily. (ICC) is applied to acts of aggression. This definition has certainly been influenced by the General Assembly's 1974 definition of this crime. It is also an amendment to the provisions of the Rome Statute requiring elaboration. It is also without any observations that should be taken into account and that its negatives should be overcome in accordance with the requirements of each case. These topics will be addressed as follows:

3-1. Definition and observations on the crime of aggression

The Preparatory Committee for ICC worked during 1999-2002. (UNDoc1998) Its work was then completed by the Working Group on the Crime of Aggression (SWGCA) for the period 2003-2009, which submitted its proposals to the Assembly of States Parties to the Rome Statute. (ICC,2009) After overcoming the obstacles to the intersection of States' wishes and the quorum required for approval of the definition, the following has been reached:

First.objectively;

a. " The Conference defined the act of aggression (ICC Res.6,2010) as the use of force by a State against the sovereignty, territorial integrity or political independence of another State and in any form inconsistent with the Charter of the United Nations. As we have explained, this definition was a reproduction of the General Assembly's 1974 definition, and of the return to article (8) of the Rome Statute, a distinction should be drawn between the act of aggression and the crime of aggression, and the act of aggression can be attributed to individuals and to the State, (Godara,2019) The crime of aggression is attributable only to the State; (Sisák,2018) each has a type of responsibility (individual and State responsibility) Under the said article, there was no crime of aggression without the act of aggression. According to the definition, it covered only acts attributable to States. (Ferenez, 2018) Thus, the crime of aggression is different from the other three crimes of the ICC, because the responsibility of individuals and the State for the crime of aggression will make it dual in violation of the principle of justice, (Akande,2017) because it is not possible to separate the act of individuals reflected in the State responsible for them. (Koh, 2015)

b. Under article 8, the crime of aggression is acts of planning, preparation, initiation and execution, for example, and not all of which are required. (Kgamberg,2017) To be carried out by a person with an influential position in control and the ability to direct the State's political or military action and the ability to prevent crimes with serious and serious consequences; (Tianying, 2020) As previously explained, leadership is not limited to political leaders or government associates, but includes businessmen, religious leaders, militia

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officials or political influencers, i.e. not limited to the government hierarchy, nor does the definition adequately explain qualified individuals as officials who may "exercise control over or direct" the political or military action of a State, what or directing ", or what level of control this official must possess. There was concern that lower-level commanders and officers might be covered by this definition, and that their decision-making might be adversely affected if they thought they might be prosecuted by the court, and the State's responsibility for the actions of its leaders and officials was based on the extent of its effective control over them or the evidence that it ordered them to carry out certain activities. (Calderon-Meza,2017) Its responsibility is a dependent contribution (partner) to the work of its leaders and officials. (Abed, Crime..., 2022, p. 147)

c. The act of aggression is of such gravity and degree that it constitutes a public violation of the Charter of the United Nations. (Clark,2009) the so-called (threshold clause) of violation of the principles and rules of the Charter, That is, the act of aggression attributable to the State by its nature, gravity and magnitude must constitute a clear violation of the Charter of the United Nations. The Court undoubtedly has broad authority in determining the nature of the act of aggression by adopting case law and past acts of aggression, as well as assessing its gravity and size according to military, security and factual data according to the circumstances of each case. Ascertain the size and gravity of the aggressive act. Second. The State's use of force is unequivocally illegal. (Kaul, 2011)

The definition has difficulty determining which type of military action rises to the level of a public violation of the United Nations Charter and whether such a public violation can be achieved only when the three elements are available.

On the other hand, the act did not constitute an act of aggression if it did not meet the three conditions described in the definition. (Hsinsch,2010)

Not all acts of force are involved in the act of aggression, such as border clashes, humanitarian interventions (Ruys,2018) , gang crimes and mafias that are not linked to a State (Godara,2019) and do not reach the threshold clause required in the act of aggression, and the Court has jurisdiction to assess whether the (threshold clause) has passed the light of case law since the Nuremberg trials. (Hans-Peter Kaul, 2011)

d. The moral element is based on the intent of the act of aggression, in which there is an element of awareness and awareness of what the act of aggression will lead to. Unquestionably, a State's consciousness and consciousness through its representatives allows the State to discriminate and direct its will to act aggression, as well as the element of knowledge of a State's act of aggression against another State in an unmistakable manner and the intent of the State in carrying out the criminal conduct defined for the crime of aggression is achieved in order to achieve the result of the crime through the nature of the relationship of the two States and previous statements and actions of the aggressive act that deliberately predict the State specifically and genuinely rather than hypothetically or wrongly. (Sisák, 2018)

Second. procedurally;

States' wishes prevailed over a comprehensive framework of responsibility for the crime of aggression against differences of opinion and the decision to define it was taken unanimously. (htp, 2017) The result is that the Kampala amendments are not binding on States parties that have not ratified them and may so make a declaration, as they serve as a subsequent practice for parties to the Rome Statute and how they interpret its provisions in accordance with article (31, paragraph 3b) , of the Vienna Convention on the Law of Treaties. That is, the Rome Statute distinguishes between States parties that have accepted amendments and those that have not, and with regard to the latter, the Court does not exercise its jurisdiction with respect to the crime of aggression when committed by its citizens or on its territory. (Barriga, 2017) The influence of major States in determining the Court's jurisdiction on States accepting only amendments was clear. (Mahony, 2015) fears for its interests when it intervenes militarily as it has on many issues, especially interventions under the cover of humanitarian protection described as being in the grey area of consensus. (Ruys, 2018)

Or it has entered the concept of the phenomenon of internationalization whereby certain issues such as humanitarian intervention are removed from the State's sovereignty to international sovereignty. (Abed, Priority..., 2021, p. 364)

3-2.The definition relates to General Assembly resolution 3314

The General Assembly's definition of the crime of aggression represents a state of consensus for the majority of the international community on a long effort that began in 1950 after the General Assembly mandated the International Law Commission to submit the draft definition of the crime of aggression until its adoption in 1974, long because of the fear of the major Powers for their interests and to protect their aggressive acts. (Ferencz,2018) The definition of the General Assembly distinguishes between the criminal responsibility of individuals and that of a State, while at the same time requiring the responsibility of a State to engage in a war of aggression as provided for in the article (5/2) of General Assembly resolution 3314 is commensurate with the requirements of the United Nations Security Council when it wishes to decide on the establishment of an act of aggression attributable to a State rather than the determination of individual criminal responsibility. In other words, the definition was a working guide for the UN Security Council to exercise its jurisdiction over the crime of aggression so as not to infuriate major States in bringing their military personnel to international criminal accountability.

Although the definition decision is not binding as we made clear in the preamble, it represents the starting point and a road map towards the legalization of this crime, the Kampala Conference reproduced the definition decided by the General Assembly. (Croxatto,2016) In article 1, the crime of aggression is "the use of armed force by a State against the sovereignty, territorial integrity or

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political independence of another State, or in any other manner incompatible with the Charter of the United Nations". That is, the Kampala Conference has adopted the notion that the crime of aggression is based on acts attributable to the State and not to individuals, because it is characterized by gravity, gravity and public violation of the Charter of the United Nations, ^(Clark,2009) This is what the major States tried to avoid in the previous period and prompted the Kampala Conference to try to alleviate the concern and interest of the opposing States in adopting the definition, ^(Koh, 2015) Although the crime of aggression is the strongest and most harmful and requires confrontation and response on clear legal grounds, as was done when describing the other three crimes within the competence of the (ICC) is an important development that has lagged for decades. ^(Croxatto, 2016)

3-3. Nature of the Kampala Conference amendments

Although the crime of aggression is recognized in the Rome Statute as one of the four crimes to which the ICC belongs, its definition has been postponed until (7) seven years since the entry into force of the Rome Statute, through a conference convened by the Assembly of States Parties to the Rome Statute in implementation of article 5 (2 paragraph), which was achieved at the Kampala Conference in 2010. The permanent members of the United Nations Security Council have exclusively upheld the Security Council's competence to establish a state of aggression, and the least politically and economically influential States have desired (African States and Latin America) Not-endorsement exclusive competence of the Security Council, although Article (21- 3 paragraph) requires the consent of a majority of two thirds, but the Conference has reached its outcome by consensus. ^(Kreb,2010) States' will to achieve a full framework of responsibility for the crime of aggression has prevailed despite differences of opinion, ^(http, 2017) represents a turning point since the Second World War in addressing the crime of aggression on specific grounds and upholding the Court's independence, and represents a delicate balance, unification and maturity based on serious and deep negotiations that have taken into account the positions of all parties concerned on the basis that crimes against peace represent the same evil. ^(Hans-Peter Kaul, 2011)

According to the amendment, the crime of aggression encompasses only acts by States, since States' aggression is the most harmful and requires confrontation and the prevention of its political and historical effects on clear legal grounds. ^(Croxatto,2016) The aggression of the State includes acts of planning, preparation, initiation or execution of a person with an influential position in control or direction of the State's political or military action. The role of leadership is not limited to political leaders or those associated with the Government but also includes businessmen, religious leaders, militia officials and political influencers. ^(Heller,2007) They constitute international crimes that do not fall with the passage of time. ^(Abed, Legitimacy..., 2021, 94)

The overriding thrust of the Conference was that the ICC should be competent to refer the aggressor State and that the Court's referral should not be limited exclusively to the United Nations Security Council. ^(Fereñez,2018)

Amendments to the Rome Statute represent understandings of an amendment concerning the definition of the crime of aggression (contained in annex III to the Kampala amendments), it is a standard text that was not known to (ICC) represents an interpretative attempt on the basis of article (32-para. 2) of the Vienna Convention on the Law of Treaties, which is not a subsequent convention of the parties to the Rome Statute and amounts to subsequent practice which determines the agreement of the parties to the Statute to interpret its provisions in accordance with article (31-para. 3b) of the Vienna Convention on the Law of Treaties. ^(Akande,2018)

From the legal point of view, they voted on the amendments as not binding on the judges of the Court in circumstances which, in the Court's view, were not applicable, and ^(Heller,2010) the content of the amendments was a means of alleviating the concern of the special concerns of the permanent members of the United Nations Security Council. ^(Heinsch,2010)

4- OPERATIONALIZATION OF THE CRIME OF AGGRESSION AND THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT (ICC)

After the crime of aggression was defined at the Kampala Conference in 2010, the activation of the definition was postponed beyond one year of approval ⁽³⁰⁾ One of the parties to the Rome Statute's amendments, which was achieved on 26 June 2016, ^(http, 2916) Where a decision was made to activate it after the States parties split into two camps, the (ICC) is competent to deal with the crime of aggression such as the three other offences mentioned in the article (8) of the Rome Statute, and the UN Security Council has become engaged with the In establishing the establishment of a state of aggression, the States parties to the Rome Statute distributed between consent and consent to the amendments. The position of the States withdrawing from the Rome Statute or from the amendments should be set out. All this will be addressed as follows:

4-1. Decision to give effect to the crime of aggression

Although the definition of the crime of aggression was agreed at the 2010 Kampala Conference, (ICC) to exercise its jurisdiction until the decision of the Assembly of States Parties to the Rome Statute, ^(Res.ICC,2017) The Court's jurisdiction over the crime of aggression is to be operationalized in paragraph (1) as of 17 July 2018, thereby making the crime of aggression from that date practically covered by the jurisdiction of the (ICC), which could prosecute the States responsible for its commission without legal impediment in an important step and a historic transition that the peoples of the world had awaited for several decades, the paragraph affirmed (2) The Kampala amendments shall enter into force for those States Parties that have accepted the amendments one year after the deposit of the instrument of ratification or acceptance. For other States, the Court shall not exercise jurisdiction over the

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crime of aggression committed by their national or committed in the territory of a State Party which has not ratified or accepted these amendments, This is what some countries that have not ratified or accepted the amendments have called for. (Restriction Camp) includes England, France, Japan, Canada, Norway, Colombia and other countries. ^(Ferencz, 2018) On the other hand, a group of countries named B (withdrawal camp) submitted Argument that a State party that has not ratified or accepted the amendments must be treated in the same manner as a State party with respect to the exercise of the Court's jurisdiction over nationals of a State party who commit the crime of aggression against the territory of another State which has ratified or accepted the amendments on the basis of article (121-para. 5) of the Rome Statute because from the outset States parties have accepted the Court's jurisdiction over the crime of aggression contained in article (5) Paragraph 1 of the Rome Statute, thus, a State party that has not ratified or accepted the amendments cannot avoid the possible crime of aggression against it only by withdrawing by expressly declaring the Court's jurisdiction as we will later explain. ^(Barriga, 2017)

There are two unresolved issues in the activation decision: the first; What is the position on article 15 bis, paragraphs 3, of the Kampala Amendments Decision on Automatic Referral to the Court and Article (15-3 bis) of the aforementioned resolution concerning referral by the United Nations Security Council to the Court, an international dispute has arisen in this matter to be addressed in a subsequent topic entitled " (The relationship between the UN Security Council and ICC on the crime of aggression). the second " Clarification of the inconsistency in the interpretation of how a group of States retains non-participation in accordance with the article (15 bis-4) of the Kampala Amendments Resolution, in which the so-called soft consent allowing States Parties to withdraw from the competence of the (ICC) for the crime of aggression, which means preventing the ICC from exercising its jurisdiction over crimes of aggression committed by its nationals or on the territory of the State which decided not to participate, which we shall address under the heading "The right to withdraw from the jurisdiction of the ICC for the crime of aggression". The operationalization of the Court's jurisdiction over the crime of aggression was undoubtedly of importance to international criminal law and the fight against impunity. Operationalization would strengthen the prohibition of the unlawful use of force enshrined in the Charter of the United Nations, contribute to the prevention of wars and also provide legal protection, particularly for small States, against possible acts of aggression. ^(Bergsmo,2019) Despite the efforts of major states to maintain their military superiority and display this superiority in their ongoing aggressive actions. ^(Mehdi & Mu'taz , 2019, p. 46)

4-2. Crime of aggression between the UN Security Council and ICC

The most controversial issue was the extent to which the United Nations Security Council continued to exercise its competence to establish the establishment of a state of aggression under the article. (39) of the Charter of the United Nations, ^(Koh,2015) and between the practice of (ICC) has jurisdiction under articles 15 bis and 15 three of the Kampala amendments, which also refer to the Security Council's competence to commit aggression in addition to the provisions of the article (121) of the Rome Statute, which establishes the legal regime for amendments, resulting in the inability to interpret these articles separately in order to reach the correct meaning, has dealt with the article. (15,3) Referrals by the Security Council, either Article (15 bis) The fundamental principle of the exercise of the competence of the (ICC) and initiate its proceedings on the crime of aggression without referral by the Security Council in accordance with Article (13A and C) of the Rome Statute. ^(Sisák,2018)

If a State Party is referred to ICC or on its own initiative in accordance with Article (15 bis. Paragraphs 6 and 8) The Prosecutor may initiate an investigation into the crime of aggression when there is a reasonable basis and after confirmation that the Security Council has taken a decision on the establishment of a state of aggression, and if there is no decision, the Prosecutor shall initiate an investigation within (6) Six months after the date of notification to the Security Council after taking the permission of the Court ^(Di-vision58) To initiate an investigation subject to article 15 of the Rome Statute and provided that the Security Council has not done so in order to postpone an investigation or prosecution under article 16 of the Rome Statute. Many non-aligned and African countries have opposed the UN Security Council's having implications for ICC in order to avoid political influences. ^(weed.2010) These amendments came as a surprise when the permanent members of the United Nations Security Council agreed when the Security Council remained reluctant to issue a resolution, and it is unclear what would happen if the Security Council took a negative decision. (15 bis. Paragraphs 6 and 9) of the amendments speak only of a Security Council resolution presumably affirmative, and therefore the negative resolution must be treated on an equal footing with the Council's failure to take a decision by applying the paragraph. (8) of the article mentioned above. ^(Ambos,2010)

This represents a compromise between the exercise of the Security Council's jurisdiction and the court's ability to exercise its jurisdiction without influence from another party. ^(Yi, 2015)

Furthermore, the concept of article (15 bis, paras. 6 and 9) grants the Court a great deal of political independence, thereby enhancing its capacity for justice, ^(Harhoff,2016) In practice, the Security Council cannot be prevented from exercising its competence to establish the establishment of a state of aggression in accordance with article (15 bis. Paragraph 8), which is consistent with the Charter and the established norms of international law, ^(Weed, 2010) But it affects the Court's findings according to Article (15 bis, para. 9) and article (15 bis, para. 4). This is not a requirement for the exercise of the Court's jurisdiction because otherwise it undermines the authority of the Court as well as the politicization of its proceedings, ^(Ambos, 2010) adds another criticism of the Court's non-neutrality and selectivity, particularly in its handling of African States' cases. ^(Kaleck, 2015)

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The second paragraphs of both articles (15 bis and 15 three) set out the temporal jurisdiction over the crime of aggression committed one year after the amendments had been accepted by 30 States.

4-3. Acceptance and withdrawal from ICC's jurisdiction of the crime of aggression

The Rome Statute distinguishes between States parties that accept and do not accept amendments. The Court does not exercise jurisdiction over the latter when committed by its nationals or when committed on its territory, and in a broad interpretation of the article (121-5) of the Rome Statute the Court shall not exercise its jurisdiction even if it is committed by a national of a State which does not accept amendments to the territory of another State which has accepted them; ^(ICC-APS,2017) This interpretation is incompatible with the principle of territoriality set out in the article Paragraph 2 of the Rome Statute, which leads to the establishment of two jurisprudence systems: one; exclusive to the crime of aggression, and the other; ordinary for the rest of the ICC's jurisdiction to which the principle of territoriality applies, placing States Parties that accept amendments in a lower position than States Parties that do not accept them.

As regards the method of acceptance by means of the declaration, a dispute has arisen as discussed in the title of the decision to give effect to the crime of aggression. The result of the disagreement is that a State party that has not accepted the Kampala amendments is not bound by them even without declaring the amendments to be derogated from, in accordance with the principle of agreement binding on the author. ^(Sisák, 2018) States not parties to the Rome Statute may make declarations accepting the Court's jurisdiction over the crime of aggression as well as for the three other crimes to which the Court is competent under Article 12, paragraph 3, of the Rome Statute, which has already been achieved. ^(Akande, 2018)

The consensual solution reached at the Review Conference has become clear, ^(ICC,2017) the Court's jurisdiction includes nationals of States Parties that have not ratified the amendments, unless they declare jurisdiction inadmissible. It was also said that States parties were not required to accept or ratify amendments before declaring jurisdiction inadmissible because they were deposited before ratification or acceptance (RC/Res.) . In accordance with operative paragraph 1 of resolution 6 ^(ICC,2010) , States parties may not accept jurisdiction as referred to in article (15 bis, paragraph 4), of the amendments. It was emphasized that the option of depositing a declaration prior to ratification or acceptance made sense only if the court could in fact exercise jurisdiction over a State party that had not ratified the amendments.

The withdrawal of States Parties that have ratified or accepted the adjustments under the soft consent regime allows them to withdraw from the jurisdiction of the (ICC) on the crime of aggression, which means preventing the ICC from exercising its jurisdiction over crimes of aggression committed by its citizens or committed on the territory of the State which decided to withdraw; Such withdrawal shall be effected by a notification issued by the State Party containing this meaning and shall take effect one year after the date of receipt of the notification unless the notification sets a later date in accordance with article 27 of the Rome Statute , this right is consistent with the continued adherence of states to the principle of sovereignty, which the United Nations continues to affirm. ^(Abu Al-Qasim, 2020, pg. 4)

5- CONCLUSION AND RECOMMENDATIONS

5-1. Finally;

The hopes and aspirations of the international community have been realized that a definition of the crime of aggression will be reached, reflecting what was devoted to in the General Assembly's resolution of 1974. What was endorsed in the Rome Statute of 1998 is that the crime of aggression will be included in the competence of the international community. (ICC) and the agreed definition of this crime at the Kampala Conference in 2010 and finally the adoption in 2017 of the activation of the definition and ratification of the number necessary for its entry into force one year after the Court's decision to exercise its jurisdiction after States parties to the Rome Statute cooperated in a way that demonstrated their high interest in reaching an agreement that would put an end to any legal impediment to the accountability of States parties that have ratified or accepted modifications to the crimes of aggression attributed to it clearly and specifically narrow the cycle of evasion of responsibility and facilitate the Court's proceedings if it considers the crime of aggression.

The Kampala amendments became part of the Rome Statute because they were taken into account in accordance with the requirements of the Vienna Convention on Treaties, reflecting all the legal effects of the Rome Statute. These amendments have included States Parties that have ratified or accepted them in accordance with the sovereignty and conviction of States as a legal regime that hopes to prevent the commission of the crime of aggression at the outset and to be able to hold subsequently aggressor States accountable either through the ICC of States Parties to the Rome Statute or through the UN Security Council for non-Parties.

States parties to the Rome Statute that have ratified or accepted the amendments are still able to withdraw whenever they wish and are outside the jurisdiction of the ICC through a formal declaration of the wish to withdraw, but they remain under the authority of the UN Security Council to refer them to the ICC when they commit a crime of aggression despite their withdrawal.

5-2. Recommendations;

According to the foregoing, we **recommend** the following:

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First- The Kampala amendments to the ICC should be regarded as having jurisdiction over the crime of aggression, not intersecting with the UN Security Council's competence, but reinforcing and supporting it.

Second- To call upon and encourage all States parties to the Rome Statute to accept the Kampala amendments in order to perform their functions in countering the crime of aggression as they do in the face of the three other crimes to which they are competent.

Third- To call upon all States of the world to become parties to the Rome Statute as the international community's means of confronting the most serious types of international crimes of concern to the international community, and to use all necessary means, if necessary, to prevent States working to maintain a negative situation from the crime of aggression and to determine their space for entering into the Kampala Agreement.

Fourth- The ICC should be an impartial legal entity that seeks justice and equity away from political influences to limit the tendency of many African and Asian States to withdraw from the Court's jurisdiction.

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