

[DOI: 10.20472/IAC.2015.019.084](https://doi.org/10.20472/IAC.2015.019.084)

**DEMET SEFIKA MANGIR**

SELÇUK UNIVERSITY, Türkiye

## **THE INTERNATIONAL CRIMINAL COURT IN INTERNATIONAL LAW**

### **Abstract:**

The International Criminal Court (ICC), was established with the enactment in 1 July 2002 which adopted in 17 July 1998 Rome Statue by votes of 120 countries. Nuremberg and Tokyo Far East International Military Criminal Courts which were established before and are suitable to Ad Hoc Courts, the International Criminal Courts which are established in 90's for Ruanda and Old Yugoslavia, according to the decision of the UN Charter established under Section 7 and they have been important steps in the process of establishing the International Criminal Court, by UN Security Council.

Crimes falling within the court's jurisdiction; genocide, crimes against humanity, war crimes and assaults are crimes. As the main purpose of the rome statute as it noticed in foreword, find out by whom are the most serious crimes made against humanity, to investigate no matter where its made, to punish them, so it is play a deterrent role in the processing of new ones. Continuously independent organs of ICC's courts are: the presidency, appeal division, trial division, department of pre-trial, prosecutor's office and the office of the registrar.

In the ICC which is facing 15 trial at the same time, investigation of the 7 different countries are ongoing. Member countries Democratic Republic of Congo, Uganda and Central African Republic are applied to ICC within its jurisdiction and with crimes occurring in their countries. The case related to Sudan and Libya, the United Nations Security Council has moved the Court. And Prosecution started investigation about Kenya and Ivory Coast by itself.

When the attitude of the uUSA was big obstacle in front of court's effectiveness, the EU has been a great supporter. Turkey contains provisions that could create problems in terms of the Non-International conflicts and prolonged armed conflict. And in opinion of that high standards of International Law with improving quality of National Jurisdiction will provide much benefit than loss.

### **Keywords:**

The International Criminal Court, Rome Statue, UN Security Council

**JEL Classification:** K33, K33, K33

## INTRODUCTION

When it is said “international criminal court (ICC)”, a number of questions difficult to reply come into our minds such as “When was it founded?”, “What serves”, “Which crimes and who can be judged there?”, “When are the committed crimes judged?”, “How an effect does it have on national court?”, “Will states make a cooperation with ICC?”, “Is there any obligation of non-part states to Statute to make cooperation with ICC?”, “Where will the people, condemned by ICC, serve a sentence?”, and “What happens in Uganda, Democratic Congo Republic, Middle Africa Republic, Sudan, Kenya, and Libya?”. Although ICC hears individuals, not states, in respect with the crimes defined, it enters national sovereignty of state and comes into our face with both political and legal dimension. In short, as long as international society, on the name of protecting the common values of humankind, exhibits an attitude for not going unpunished of the crimes committed, the sovereignty perception of states will also become narrow. In this context, after having a general opinion about ICC, we will try to deal with the successes and unsuccessfulness of an institute on the cases that are in force.

## INTERNATIONAL CRIME COURT IN GENERAL TERMS

International Crime Court has been founded to implement the thought that in international areas, besides governments, individuals also have criminal responsibility. The issue of responsibility of individuals, due to the fact that governments do not want to hear their own citizens in their national courts because of international crimes, has constituted the subject matter of criminal courts in international quality. Thus, a way has been paved for punishing individuals through the national or international courts due to international crimes. Applications of Nurnberg and Tokyo International Criminal Courts having an important place in the intellectual and institutional development of ICC, and founded by the winning states after World War II to hear the German and Japanese war criminals, initiated an important process such as classification of international crimes and underlining the international criminal responsibilities of individuals.<sup>1</sup> Besides these courts, United Nation Security Council, in the former Yugoslavia, and Ruanda, on the reasons for war crime, genocide, and committing crime against humanity, acting on the name of international society, had the former Yugoslavia and Ruanda International Criminal Courts founded and made important contributions to the intellectual institutional development of ICC. Especially, in order to provide international peace and security and protect human rights, the functions such as installing the individual criminal responsibilities of those violating the rules of international criminal law were realized.<sup>2</sup>

That international conjuncture is ready to be founded an international court, objective and independent from all international agencies, and governments is accepted as political and judicial events of history. Roma Statute, established with an agreement reached as a result of United Nations Conference, held in 1998, with the participation of 160 countries, has begun to function as the

<sup>1</sup>Kirsten Sellars, "Imperfect Justice at Nuremberg and Tokyo", *The European Journal of International Law* Vol. 21 no. 4 © EJIL 2011, p.1087 and p.1092.

<sup>2</sup>Hamide Zafer, Nimet Güller, *Uluslararası Ceza Mahkemesi El Kitabı*, İstanbul-Freiburg: Gustav-Stresemann-Institute.V., 2006, p. 10-14.[http://www.ngo-at-work.org/icc2006/docs/Project\\_Reader\\_Turkish.pdf](http://www.ngo-at-work.org/icc2006/docs/Project_Reader_Turkish.pdf).

most basic judicial document defining the crimes International Criminal Court will deal with, structure of court, and how it will work, and what governments should do for cooperation with court. The date, when the statute is accepted, is also celebrated as International Justice Day. While ICC, founded with Rome Statute, signed by 139 countries and, to which 122 countries are part, comes in force in 2002, serves the thought that it will make a great contribution to that international peace and security becomes more rooted and permanent, without deviating the judiciary criteria, by being abstracted from the investigations and cases in political quality will realize international justice under responsibility of the states, international agencies and international public opinion.

As expressed in Rome Statute, ICC that has an supranational quality is a binding and agreement - based agency only from the point of the governments part to it.<sup>3</sup> ICC Statute hears the real persons, more than 18 years old, committing the crimes entering judicial authority, not governments. Therefore, ICC is different from International Court of Justice and European Human Court of Human Rights and uses the jurisdiction only rewardingly. Although ICC does not have any jurisdiction in the areas, where national courts inquire, it holds a complementary quality the national courts. On the name of the principle of complementarity taking place in Rome Statute, ICC only comes into play, while national courts are in a reluctant about hearing or disabled position <sup>4</sup>In addition, in case that the governments, which are part to statute, effectively use jurisdiction on the crimes arranged in Statute, ICC exactly recognizes jurisdiction of national courts.<sup>5</sup>

In short, ICC, with its form, which is arranged, in 17<sup>th</sup> item of statute, in case that the event, subject of case, is investigated and prosecuted by the government having jurisdiction, the government having jurisdiction decides that there is no need for judging the relevant person after investigating the event, the relevant person, due to the case, subject of complaint, was earlier judged; and in case that court does not permit the person to be judged in accordance with 3<sup>rd</sup> paragraph of item 20, and that the subject matter of case is not considered heavy insomuch as another transaction will require, court will not judge. Besides these, ICC, in case that the national judicial posts behave reluctant in hearing, and it is understood that hearing cannot be made independently and impartially, will use its jurisdiction. This jurisdiction begins for the crimes committed after 2002 in terms of the countries, which are part to the statute, while for the countries, which part to the statute after this date, it will include the crimes committed after the date, when one becomes the part to the statutes. Hence, for the court to be able to hear, it is necessary for the crime to be committed within the borders of state, which is part to the statute. In addition, in case that non-part state also guarantees that it will accept the decision the court will make, the applications made are accepted. Besides this,

---

<sup>3</sup>Hans Köchler, *KüreselAdalet mi, Küreselİntikamı? , Dönüm Noktasındaki Uluslararası Cezai Yargı, Çev. Funda Keskin, Erdem Denk, Alkim Yayınevi, İstanbul, 2005, p. 287.*

<sup>4</sup>For Rome Statute, see: <http://www.un.org/law/icc/statute/romeofra.htm>., Enver BOZKURT: *Türkiye'nin Uluslararası Hukuk Mevzuatı*, Ankara, 2003, p. 609–679.

<sup>5</sup>John T. Holmes, "Complementarity: National Courts versus the ICC", *The Rome Statute Of The International Criminal Court: A Commentary Vol: I*, (Ed) Antonio Cassese, Paola Gaeta, John R.W.D. Jones, New York, 2002, s. 667.

when international peace is under consideration, a case can be presented in the applications made with the decision of United Nations Security Council.

Rome Statute emerged as a reflection of consensus in the leadership of United Nations, considering the Continental Europe, Anglo-American, Islamic, and Socialist judiciary systems. It showed this quality of it with three different ways it adopted in coming of events in front of court. Here, the events are investigated on the demand of prosecutor of court, states approving statute, or United Nation Security Council.<sup>6</sup>

## **CRIMES INCLUDED IN THE SCOPE OF JURISDICTION OF INTERNATIONAL CRIMINAL COURT**

In Rome Statute founding ICC, four crimes the court can judge – genocide, crimes to humankind, war crimes, and aggression - are mentioned about.<sup>7</sup> 6<sup>th</sup> item of Statute, accepting the crime of genocide, defined in the 2<sup>nd</sup> item of 1948 Convention on Preventing and Punishing the Crime of Genocide, gave jurisdiction to ICC. This definition takes under protection the common values of humankind as the norm *jus cogens* of International Unwritten Law and this becomes binding for all states.<sup>8</sup>

In 7<sup>th</sup> item of Statute, the crimes against humanity are presented. Here, as a part of common and systematic attack against any civilian population, the actions committed - killing; genocide; enslavement; relegation of population, or forcibly transportation; jailing or depriving of physical freedoms in the other forms, violating the basic rules of international law; torture; rape; sexual slavery; forcibly prostitute; forcibly impregnation; forcibly decasualization or the other severity forms in similar intensity; cruelty based on the other reasons that are not politically, racially, nationally, ethnically, culturally, religiously, sexually, and universally acceptable in international law; obligatory losses; crime of racial discrimination (apartheid); and the other subhuman actions causing intentionally serious sufferings or serious damage in the physical and mental health - are defined.<sup>9</sup>

8<sup>th</sup> item of Statute includes war crimes, which is the subject matter - intentional killing, torturing, subhuman behaviors, and intentionally exposing to torments.- of 1949 Geneva Convention Although the crimes against humanity are common and systematic, war crime can be a single, individual, and dispersed or random action. In addition, violation of law of war or the rules of usage regarding law of war have also been arranged as war crime.<sup>10</sup> A government approving a statute related to war crime, in case that possible war crime is committed by its own citizens or in its own territories, for a duration of 7 years beginning from coming of statute in force, has the right not to accept jurisdiction of ICC.

In 5<sup>th</sup> item of statute, although the crime of aggression takes place among the crimes, in included in jurisdiction of court, since there is no consensus on its definition and hearing conditions, its definition is deferred. In 1974, United Nation

<sup>6</sup>Roma Statute item.13.

<sup>7</sup>Roma Statüde Item. 5.

<sup>8</sup>Roma Statüsü item. 6., Günal Kurşun, *101 Soruda Uluslararası Ceza Mahkemesi*, Ankara: İnsan Hakları Gündemi Derneği, 2011, p.15.

<sup>9</sup>Roma Statüsü item. 7/1.

<sup>10</sup>Yasin Aslan, *Teoride ve Uygulamada Savaş Suçları*, Bilge Yayınevi, Ankara, 2006,p.59-61.

General Assembly defined the crime of aggression as that a “state uses a gun against the sovereignty, territorial integrity, and political independency of other state or refers to any way against the founding treaty of United Nations”.<sup>11</sup> In these definitions, the international responsibility of states were attracted attention. UN negotiations about determining the elements of crime of aggression continued. In ICC Review Conference, held in Kampala, capital of Uganda, crime of aggression was defined as planning, preparing, initiating, and executing an action of aggression clearly violating UN term in respect with its character, weight, and size by a person, who are in position to be able to effectively control and manage the political or military actions of a state. ICC can use its jurisdiction about crime of aggression after 2017. The aim is to bring time in the states having the problems about crime of aggression for them to solve their problems.

### THE CASES CONTINUING IN INTERNATIONAL CRIMINAL COURT

Most of the cases continuing in International Criminal Court are related to the crimes committed in African countries. Especially, the lawsuits, filed against many people, accused of civil wars and massacres experienced in especially Democratic Congo Republic (DCR), occupy the agenda of ICC much more. Here, especially Congo Republic, part to Rome Statute (DKC 2004), Uganda (2004), and Middle Africa Republic (OAC, 2007), related to the events occurring in their own countries, referred to ICC. The cases related to Sudan (2005) and Libya (2011) were taken United Nations to ICC. In the event related to Kenya (2010) and Ivory Coast (2011), among the states among the part to Statute, ICI Prosecution initiated investigation on its own motion. In addition, it is known that prosecution initiated investigations regarding Colombia, Iraq, Venezuela, Afghanistan, Georgia, Palestine,<sup>12</sup> Guinea, Honduras, Nigeria, Korea and, as a result of these investigations, when actions concerning the crimes entering the authority area of the court are identified, it is known that it will refer to United Nations.<sup>13</sup>

The first investigation subject of ICC is armed conflicts beginning between the government forces, in DCR, in the leadership of Thomas Lubanga Dyilo and UPC (Union of Congolese Patriots). For investigating the claims regarding that in these conflicts, the war crimes and international crimes, defined crime against humanity, such as the crimes of ethnic cleansing, rape, torturing, forcible transportation from his/her house or locality, use of children as soldier are committed, Luis Moreno Ocampo, ICC prosecutor, took the first step.<sup>14</sup> ICC

<sup>11</sup>A.Res.3314 (XXIX), 14 Aralık 1974, GAOR, Supplement 31, p. 142.

<sup>12</sup>Palestine administration, referring to ICI, declared that it accepted the jurisdiction of court. Palestine was recognized as a state by ICI. This issue created great discussions in the circles and United Nations. Kurşun, *ibid.*, p.48.

<sup>13</sup>Yusuf Aksar, “Uluslararası Ceza Mahkemesi ve Uygulamalarına Genel Bir Bakış”, *Uluslararası Hukuk ve Politika*, Cilt 1, Sayı 3, 2005, s.10.Elif Uzun, “Uluslararası Ceza Mahkemesi: Tarihçesi, Yapısı ve Mevcut Davalar”, Murat Saraçlı (ed.), *Uluslararası Hukukta Güncel Sorun Alanları*, Ankara: Big Bang Yayınları, 2012, s. 61. Prosecution, following the investigations related to Iraq and Venezuela, expressed that related to violations, the necessary investigations processes continued and, in accordance with the principle of complementarity, it will not be able to execute investigation at this stage; however, it continued to follow the process.

<sup>14</sup>Prosecutor receives referral of the situation in the Democratic Republic of Congo,

prosecutor reported to the states that are part to Statute that he closely followed those experienced in DCR and he was ready to use his own authorities. However, for sake of that process is faster, he required that DCR Government itself demanded to be investigated the events.<sup>15</sup>In fact, such a demand makes legitimate ICC in international conjuncture and emphasizes that it serves as an institute helping the judgment of international crimes rather than the phenomenon it intervenes the internal affairs of governments

ICC Prosecution, in the investigation it connectedly carried out with DCR, decide to be filed 4 lawsuits about 5 people. Thomas Lubanga Dyilo, the founder of Union of Congolese Patriots and commander of its army, became first judged person. Prosecution, in accusation prepared in Lubanga case, mostly emphasized arming children and use of them actively. Court founded Thomas Lubanga Dyilo guilty due to the crimes taking place in accusation on the date of March 14, 2012. and was committed to prison for 14 years. The decision was approved by Board of Appeal on December 1, 2014.<sup>16</sup>

The other people litigated about them are Germain Katanga and Mathieu Ngudjolo Chui were accused of similar crimes in Lubanga case. Mathieu Ngudjolo Chui was acquitted due to lack of evidence, Germain Katanga was committed to prison. Bosco Ntaganda, even though an arrest warrant was issued in absentia, it could not be caught yet. Lastly, an investigation was also demanded about Callixte Mbarushimana, however, the claims about him were not accepted by Pre-Hearing Department and he was released on December 16, 2011.<sup>17</sup>

Following the appeal of DCR, Uganda and Middle African Republic (MAR) referred to ICC on the same reasons. In the direction of examinations of prosecution, the investigations were also initiated in these countries. Together with taking the case to ICC, the conflictions between terrorist organization - Lord's Resistance Army/LRA - and government in the country and forces of government were drawn to the ground of peace and the leader of terrorist organization escaped abroad. Upon this, Uganda Government, on the name of providing peace in the country, demanded from ICC that arrest warrants are demolished and that amnesty is applied. However, since it is against 89<sup>th</sup> item of Statute, this demand were not positively met. ICC, in accusation it prepares, Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen, and Raske Lukviya were accused of war crimes such as rape, sexual enslavement and enslavement of people, subhuman actions leading to the serious sufferings and physical damage, maltreatment toward the civilians, intentionally arranging attack against

---

[http://www.icc-cpi.int/en\\_menus/icc/structure](http://www.icc-cpi.int/en_menus/icc/structure) (25.03.2015).

<sup>15</sup>Aksar, *ibid.*, p. 12.

<sup>16</sup>Situation in the Democratic Republic of the Congo The Prosecutor v. Thomas Lubanga Dyilo ICC-01/04-01/06, <http://www.icc-cpi.int/iccdocs/PIDS/publications/LubangaENG.pdf>.

<sup>17</sup>Davalar için bkz. ICC-01/04-01/07 The Prosecutor v. Germain Katanga, ICC-01/04-02/06, The Prosecutor v. Bosco Ntaganda, ICC-01/04-01/10, The Prosecutor v. Callixte Mbarushimana, ICC-01/04-01/12, The Prosecutor v. Sylvestre Mudacumura, <http://www.icc-cpi.int>.

the civilian population, forcibly recruiting children, and plunder.<sup>18</sup> However, these people, about whom arrest warrant were made, could not be still caught<sup>19</sup>

Also in Middle African Republic, the crimes committed by the former state president and vice president was required to be investigated by ICC prosecutor. As a result of investigations, Jean-Pierre Bemba, the founder and commander of Congo Freedom Movement (CFM) was sent to Hague.<sup>20</sup>

ICC prosecution initiated an investigation in Sudan that is not part to Statute. As a result of armed conflict beginning in the region of Darfur, Sudan, upon that the violations of human rights and crimes against humanity and war crimes were committed, UN Security Council referring the case to ICC took an important step for the independent and impartial justice to be provided. As a result of investigation made by ICC, about Omer Hassan, Sudan State President; Ahmed Harun State Ministry; and Ali Kushayb, leader of Janjawid was issued a warrant for the arrest on the reasons for rape, murder, attack on the civilian people, torturing, crime war including the actions against human dignity, and crime against humanity. However, since Sudan Government did not accept the claims and cooperation with ICC, the decisions about these people could not be executed.

<sup>21</sup>In March 2009, to the demand of ICC in the direction of arresting Sudan administrators, although it was objected by Arab League, African Union, Organization of Islamic Conference, Russia, China, Iran, and Turkey, with the support of many European countries, and especially USA, the decision was made. This situation, in international public opinion, led the reactions that the process of superiority of law related to the proceeding of case was not operated and that the decision was political, to emerge.

United Nation Security Council, with its decision, numbered 1970, in 2011, transmitted its demand about initiating investigation for Libya, another African country, to ICC. In Libya, in anti-government meetings and rebellion movements, as a result of attacks of government forces and groups armed by government, thousands of civilians lost their lives, exposed to torture, and were obliged to leave their countries. In the accusation, as a result of investigation of prosecution, warrant for the arrest was issued of Muammer Kaddafi, leader of Libya, Seyfül İslam Kaddafi, and Abdullah Essenusi, Head of Military Intelligence, on the reasons for that they committed crime against humanity such as killing, torturing, and using force against the civilian people, Upon the death of Muammer Kaddafi in 2011, investigation was stopped. Libya Government wantsthe process of hearing about Seyfül İslam Kaddafi and Essenusi to be

---

<sup>18</sup>The Prosecutor v. Joseph Kony, Vincent Otti and Okot Odhiambo,  
<http://www.icc-cpi.int/iccdocs/PIDS/publications/KonyEtAIEng.pdf>.

<sup>19</sup>Upon that it was announced that Raska Lukwiya died in 2007, investigation about him was discontinued. Based on that some news are published in media regarding that Vincent Otti' also died, an investigation was initiated.

<sup>20</sup>The Prosecutor v. Jean-Pierre Bemba Gombo ICC-01/05-01/08,  
<http://www.icc-cpi.int/iccdocs/PIDS/publications/BembaEng.pdf>.

<sup>21</sup>ICC-02/ <http://www.icc-cpi.int/iccdocs/PIDS/publications/AlBashirEng.pdf>, ICC-02/05-01/07 The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"),  
<http://www.icc-cpi.int/iccdocs/PIDS/publications/HarunKushaybEng.pdf>.

05-01/09 The Prosecutor v. Omar Hassan Ahmad Al Bashir,

executed in their own countries and, in accordance with the principles of complementarity, objects to jurisdiction of ICC.<sup>22</sup>

ICC, except for the demand from states or United Nations Security Council, first acted with its own initiative to investigate the events experienced in Kenya, following the shady presidency elections. Kenya, part to Statue, recognized the jurisdiction of ICC on war crimes, crimes against humanity, crime of genocide, and crime of aggression committed in its own territories or by one of its own citizens. In the direction of this jurisdiction, an investigation was investigations about Ruto, Muthaura and Uhuru Kenyatta, the former ministers with the accusations of killing, relegation and forcible transportation of population, rape, sexual slavery, cruelty, and making subhuman action.<sup>23</sup> However, in December 2014, ICC prosecution declared that accusations toward Uhuru Kenyatta were discontinued. It was announced to international public opinion that the evidences regarding to Kenyatta were tampered with; that witnesses changed their expressions; and, for these reasons, accusations could not be evidenced.

ICC Prosecutor, due to the actions, experienced in Ivory Coast and entailing the country to civil war, in 2011, launched an investigation about Laurent Gbagbo in 2011. Gbagbo, who was the first president heard in ICC, rejected the accusations and emphasized that the case was politic and his only crime was not to serve the interests of French. Gbagbo, while waiting to be heard in Hague, Simone Gbagbo his wife, was heard in her country, and she received imprisonment of 20 years.

The new issue in the agenda of ICC is Israel. Soon after the member of Palestine to International Crime Court was completed, filing two lawsuit are planned regarding its attacks to Gaza and settlements.

## REACTION TO INTERNATIONAL CRIME COURTS

ICC, one of the important developments on the name of international law, due to the fact that large powers such as USA, Russia, China, and India, and Iran and Israel do not approve the treaty, leads the influence of Rome Statute to be questioned, and not to be heard the citizens of counties, in which the most number of crimes were committed. Hence, for ICC to be able to exist in international system as a more effective mechanism, first of all, it should be supported by the large powers of the system. However, many countries, especially USA, approach this institute with doubt. In the Statute, that the crime of aggression is given place, obligatory jurisdiction, jurisdiction on the non-part citizens, the thought that the principle complementarity is made ineffective, authority of prosecutor to make investigation on its own motion, drawback prohibition, and the fact that UN Security Council are equipped with the broad authorities on the function of court are in quality supporting these doubts.

<sup>22</sup>ICC-01/11-01/11 The Prosecutor v. Saif Al-Islam Gaddafi,

<http://www.icc-cpi.int/iccdocs/PIDS/publications/GaddafiEng.pdf>.

<sup>23</sup>ICC-01/09-01/11, The Prosecutor v. William Samoei Ruto and Joshua Arap Sang,

<http://www.icc-cpi.int/iccdocs/PIDS/publications/RutoKosgeySangEng.pdf>, ICC-01/09-02/11 The Prosecutor v. Uhuru Muigai Kenyatta, <http://www.icc-cpi.int/iccdocs/PIDS/publications/KenyattaEng.pdf>

In contrast to USA, Rome Statute was approved by all countries, member of European Union, and all authorities of ICC were recognized. On the name of providing international peace, and hearings carried out on the name of that the crimes against humanity go unpunished are also supported.

Also Turkey, on the reasons for that the definitions and scopes of the crime of aggression and crimes against humanity are not clear enough, did not become a part to Statute. Turkey, with 1949 Geneva Conventions has already entered into juridical obligation due to these crimes. Another reason is that the crimes of terrorism and drug trafficking do not take place in the scope of Statute. In case that jurisdiction of Turkey and jurisdiction of ICC contrast to each other, there is not any regulation in our legislation regarding which of them will be applied.

That all investigations carried out ICC are regarding the violations in the continental Africa changed the perceptions of African countries related to ICC. Especially, after warrant made on Ömer El Beşir, State President of Sudan, the impression that the "strong" Europe very easily makes decisions on the "weak" Africa injured the trust to ICC. For example, about the follow o war crimes, crimes against humanity, and crimes of aggression claimed that USA committed during Iraq intervention, that ICC exhibits a perfunctory attitude is frequently criticized by African countries.

## **CONCLUSION**

Although ICC eliminates an important deficiency in international justice system, in practice, it could not enable the adequate opinion to form in the direction that in the areas of international criminal law and, in international relationships, that it will be really judicious. Although the crimes, defined in Rome Statute, are suitable for deterring the elements threatening the peace and security, the use of nuclear, biological, and chemical weapons; and not including the crimes related to the terror and drug trafficking in Statute, leads to the criticisms about not being equipped of ICC with the adequate authorities.