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AN EXAMINATION OF THE RATIONALE FOR THE LAW AGAINST INTERNATIONAL CRIMES

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ABSTRACT

Over time, there has been an increased surge in the rate of International Crimes across the globe. These crimes which are perpetrated by men and not abstract entities have pervaded the International Community and have led to the flagrant disregard and violation of the rights of individuals; heinous International Crimes like genocide have led to the death of multitudes. It is in this regard, that this study adopts a doctrinal method of study in embarking on a detailed examination of the rationale cum reason behind the laws prohibiting international crimes have been established. The data obtained through the doctrinal method from secondary sources were analysed through descriptive and analytical methods. The study therefore found that there exists the context of a widespread systematic attack against the group to which the person belongs hence an International Crime. In this regard, in the absence of a systematic body of rules and laws criminalizing these sardonic acts, the International Community will be plagued further by these happenings and the various human rights violations and killings will persist. Hence, the rationale for the law against international crime. It was therefore concluded and recommended that crimes against humanity ought to have a collective dimension with regard to those who are victims of these crimes and those who are the perpetrators of the same. In this regard, the international community, and with the profound obligations on States, need to criminalize certain offences to, inter alia unify the framework of States' criminal law to the maximum extent possible.

Key words: Criminalization, International Crimes, International Community

INTRODUCTION

The Holy Book declares that the days of man are short and full of trouble1 [Authorized Kings James Version Giant Print Center Column Reference, 2000, Job 14:1] from cradle to the grave, man is expected to encounter some form of conflict in his life time. In fact conflict in human society is inevitable1 [Aja Akpuru-Aja, Ndifon C.O, & Nwaodu N.O, 2012]. This is the reality of all humanity especially when you add components of poverty, ethnicity, greed and corruption. The history of the African Continent has been a history of egregious armed conflict from West Africa up to North Africa to East Africa and downwards to Southern Africa. According to Professor C. O. Ndifo [Aja Akpuru-Aja, et al., 2012] "In Africa even the increasing volumes of human rights laws at both the regional and global levels have neither reduced occurrence of conflicts nor successfully shielded the people from the flagrant abuses of their inalienable rights occasioned by these conflicts" [Aja Akpuru-Aja, et al., 2012]. This is a factual statement, indeed despite the coordinated efforts of the African Union (A.U) and the United Nations (U.N), the continent of Africa continues to be the flash point for the commission of heinous crimes and exhibition of flagrant impunity by despotic leaders. Although Africa is widely recognized as a hotspot for armed conflict, there is a significant effort to prosecute war criminals and individuals accused of human rights violations and genocide.

The creation of special courts and ad hoc tribunals, as well as the creation of a permanent court modelled after the International Criminal Court (ICC), demonstrate this attempt at prosecution. Rape was intentionally employed as a tactic in a military conflict in Africa1 [Prosecutor v Akayesu, 1998]. It is in Africa that the use of Child soldiers especially in Liberia, Chad, Sierra Leone, and Democratic Republic of Congo became renowned. This involvement and use violate the children's rights, harm their development on all levels, both mentally, spiritually, physically, and emotionally, and also impair their social development [Sonja, 2010]. The use and recruitment of young soldiers is just one of the many incidents of the blurring of the laws of war in the African reality. The Crucial question to be determined in this part is the question as to the *raison d etre* or rationale behind the entire legal framework against international crimes.

2.0 Rationale for the Law against International Crimes

2.1 The Fight against Impunity

The first and most fundamental rationale for the Law against International Crimes is to stave off further impunity by war criminals and despots. It is important to note that several legal, ethical, and philosophical arguments have been made over time to justify the prohibition on the norm that sanctions crimes of humanitarian law with no consequences [Edet, Antai, & Itafu 2023]. These crimes violate fundamental legal principles upheld by the international community, threaten international peace and security, and pose a threat to both the national and international legal systems in the states where the suspects are discovered and the legal

framework in which they are found. Above all, there is also the new and emerging right of the victim of these crimes to know the truth.

In the context of human rights violations, impunity is defined as the impossibility, either de jure or de facto, of holding perpetrators accountable for their actions, regardless of whether the violation occurred through a criminal, civil, administrative, or disciplinary process. Impunity usually occurs when government for political expediency, such as the desire for reconciliation in a post-conflict peace-building process refuses to try such rights violators. At other times, impunity may be as a result of default, occasioned by the absence of resources or the absence of capability in order to ensure that suspects, victims, witnesses, and other individuals involved in the processes are adequately protected. It is also possible that a lack of political will is to blame. It is essential that states act as agents for the international community in order to guarantee that any individual who has committed an international crime is brought to justice. It is vital to stress that, according to international law, there is an underestimation of the international framework. The idea of national sovereignty is no longer understood to mean that it grants states unrestrained licence; rather, it is understood to describe the rights and obligations that are associated with such rights within the context of international law [Amnesty International (ed.), 1997] There is a widespread consensus that the rules of international law serve as the basis upon which the rights of states are built. These rules are no longer only constraints on states' rights, which, in the absence of a rule of law to the contrary, are unrestricted.

While there are extensive areas where international law grants states significant freedom of action, particularly in domestic matters involving jurisdiction, it is crucial that this freedom is based on a legal right rather than an unfettered assertion of power and is ultimately subject to regulation within the international legal framework [Robert J. & Arthur W, 1992]. With the conception of the international legal framework, which has changed significantly in the twentieth and twenty-first centuries from the system established three and a half centuries ago with the peace of Westphalia, this change coincided with the adoption of the Rome statute of the International Criminal Court (ICC) on July 17, 1998, and the arrest of the former President of Chile three months later on October 6, 1998.

2.2 Upholding the Legal Fabric of a State

An additional and related justification for punishing international crimes has been asserted in situations where a suspect for a specific crime is on state territory but the crimes for which he is suspected are not looked into or he has not been prosecuted. This leads to an undervaluation of the state's legal systems, creating an open spectacle and mockery of the international community regarding punishment for international crimes. From the findings of The Harvard Research conducted in 1935, the rationale for this was discussed, and the same states that “if disturbance of the legal order within a state’s territory is considered the most persuasive reason for penal

jurisdiction, such disturbance may be found in the presence of an unpunished offender who has committed the crime elsewhere." [Harvard Research in International Law, 1935].

Unfortunately, there will undoubtedly be a weakening of the effectiveness and enforceability of the law in the place where the suspect has sought refuge when someone suspected of committing an international crime starts to enjoy immunity from international justice. This also results in a decrease in the degree of respect that the law is given. "A veritable shockwave will go through the Dutch legal order if, faced with the presence in this country of a foreign national recognised as a torturer by witnesses and victims, the courts were to declare themselves incompetent to hear the case," [UN. Doc. CAT/C/9/, 1990] this was argued during the debates in the Dutch parliament regarding the legislation to incorporate the convention against torture and endorse universal jurisdiction. Besides the Dutch example, a German court [Bayerisches Obertes Lansdesgercht, Urteil vom 23 Mai 1997 3 STR 20/96, 1996] has also propagated a comparable justification for the application of universal jurisdiction over an individual discovered in Germany, who was believed to be involved in war crimes and genocide. According to the court, "considerations of international law are important but one should not overlook the fact that the prosecution of a foreigner for crimes committed abroad serves also an interest of the state of customary and conventional international law. Not to prosecute would undermine the trust of the German citizens in the national and international legal order". It was additionally argued that in cases where international tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the relevant local jurisdiction are unwilling to handle such trials, Germany has a vested interest in avoiding the perception of being a secure refuge for individuals involved in international crime.

The government of El Salvador has similarly justified the inclusion of universal jurisdiction over individuals accountable for violating human rights under the penal code. He said as follows: [Initial report of El Salvador to the Committee against Torture, UN. Doc. CAT/C/37/, 1999]

> "It therefore considers it permissible to seek this type of criminal within the national territory, thereby avoiding the difficulties which would ensue were El Salvador to become a country of asylum for criminals for other countries, and to prosecute offences against internationally recognised human rights, as occur in cases of torture when they are committed elsewhere. (Rechtsbewahr ungsprinzip)" [Initial report of El Salvador to the Committee against Torture, UN. Doc. CAT/C/37/, 1999].

Quite to the contrary, during the Charles Taylor saga, the Nigerian government appeared oblivious of this body of international legal opinion, as it refused and remained adamant initially about handing over the former Liberian president, Charles Taylor, whom it granted asylum. The Special Court of the Sierra Leone had indicted Charles Taylor for "war crimes, crimes against

humanity and serious violations of international humanitarian law that took place in Sierra Leone since November 30, 1996" and pursuant to which an arrest warrant was issued, but the government of President Obasanjo, refused and neglected to comply until some form of political solution was found. The attitude of the Nigerian government no doubt elicited adverse comments from scholars of international humanitarian law. In this regard, it is instructive to look at the views of Professor Umozurike. According to the learned scholar "Nigeria is therefore bound to condemn senseless killings and cruelties whether in peace-time or in conflict situations. We cannot afford to protect Taylor from prosecution, granting asylum is no remission for the commission of international crimes. If the court wants him, we must oblige" [Oji. 2003].

Arguing further, the learned Professor felt that it was time Nigeria lived up to its international obligations as it could not afford to opt for impunity against international crimes and must reject the lure to support others to claim it. He therefore admonished that, "the current stance of the AU (African Union), NEPAD (New Partnership for Development) and ECOWAS (Economic Community of West African States) on human rights and Nigeria's strong support are against impunity from violations of human rights and humanitarian law, Chile's Pinochet, Yugoslavia's Milosovich, (sic) and Rwanda's Akayesu, etc, show that certain crimes are written on slabs of stone, which the passage of time will not erase. We should join in preaching the rule of international law to those who think it is in their interest (invariably, short term) to breach it" [Prosecutor v Akayesu, 1998].

Although the above may be interpreted as a failure by the Nigerian government to fulfil its obligation to the international community at the domestic front however, the story seems to be different. A suit was filed against the then President of Nigeria, Chief Olusegun Obasanjo, the National Commission for Refugees and the Federal Attorney-General (as defendant and co-defendant respectively); in the Federal High Court, Abuja, Nigeria on the 4th of June 2004. The petitioners, Emmanuel Nwaegbuna and David Anyaele, catalogued heinous crimes against Charles Taylor [Emmanuel Nwaegbuna and Anor v Charles Taylor & Ors, 2004]. The court in the exercise of its jurisdiction issued an order for substituted service "for court processes to be served on the governor of Cross River State of Nigeria, Mr. Donald Duke," who was thought to have physical custody of Charles Taylor.

The significance of this case lies in the fact that Nigerian courts are both willing and competent to assume jurisdiction over serious violations of the principles that govern international humanitarian law in accordance with the provisions of the Geneva Conventions Act [Geneva Conventions Acts, Cap. 162, Laws of the Federation of Nigeria (LFN), 1990]. The Geneva Act provides for both personal and universal jurisdiction in cases of "grave breaches". Section 31 of the Geneva Act provides thus: "if whether in or outside the Federal Republic of Nigeria, any person, whatever his nationality, commits or aids, abets or procures any other person to commit

any such grave breach of any of the conventions, as it is referred to in the Articles to the Conventions set out in the first schedule of this Act… he shall on conviction thereof (i) in the case of such a grave breach as aforesaid involving the wilful killing of the person protected by the Convention in question be sentenced to death. (ii) in case of any other such grave breach, be liable to imprisonment for a term not exceeding 14 years" [Geneva Conventions Acts, Cap. 162, Laws of the Federation of Nigeria (LFN), 1990].

Within the context of the case of *Pius Nwoga v. The State* [Pius Nwoga v. The State, 1972], the question of whether or not international humanitarian law is relevant to Nigeria appears to have been resolved beyond any reasonable doubt by the Supreme Court of Nigeria. In that particular case, the court opined that causing the death of an unarmed individual peacefully residing within the Federal Territory (of Nigeria) constitutes a crime against humanity. This was done while upholding the conviction of the appellant for murder that had been handed down by the High Court. During the civil war, the appellant led some Army officers to the residence of the deceased individual with the sole intention of eliminating him. Furthermore, even if such an act were to take place during the height of the civil war, it would still be regarded as a violation of the domestic legislation of the country, which would call for the imposition of appropriate sanctions [Umozurike, 1990].

The legal status of asylum vis–a-vis violations of humanitarian law has been a subject of great concern to international law. Article 14 (2) of the 1948 Universal Declaration of Human Rights for example declares that the right to seek and to enjoy in other countries asylum from prosecution "may not be invoked in the cases of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations". The Convention Relating to the Status of Refugees, which was adopted in 1951 [General Assembly Resolution 429 (V), 1950] during the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, does not include individuals who are suspected of committing war crimes, those who have committed a significant non-political offence prior to seeking refuge, and those who have engaged in actions that are in direct opposition to the objectives and principles of the United Nations [Guys, 1996]. In a significant announcement dated 20 October, 2000, the Inter-American Commission on Human Rights (IACHR) stated that it is the responsibility of states to refrain from providing asylum to individuals who are believed to have committed war crimes and other violations of international law, and who seek refuge in order to evade criminal accountability [Inter-American Commission on Human Rights, 2000]. Also, the Commonwealth, in the Commonwealth Human Rights Forum has asserted and affirmed its opposition to all forms of impunity in whatever guise. In its communiqué in the Nigerian capital, Abuja, 3-4 December, 2003, it stated that "all commonwealth countries co-operate in bringing rogue leadership as much as ordinary criminals to book and not shield them or provide them with economic facilities, infrastructure and avenues to escape justice" [Communique of the Commonwealth Human

Rights Forum, 2003]. It is clear that “facilities, infrastructure and avenues” cover items like amnesty, asylum and similar requirements which may impede justice.

It may be surmised thus, that the obligation to repress serious breaches of human rights and humanitarian law violations is inconsistent with the grant of asylum, the effect of which is to demonstrate or support impunity. The grant of asylum in cases where heinous crimes have been committed, like in the Charles Taylor’s case, would encourage rather than discourage impunity. The idea that the state should not protect those on its territory who are accused of committing war crimes, but rather should either prosecute them or extradite them, is in line with the obligation that the state has to the international community to desist from granting asylum to individuals who are suspected of committing such crimes.

2.3 The Severity of International Crimes

Another justification for exercising jurisdiction and punishment in relation to these crimes is that they constitute an assault on the shared values and ethos of the International Community. This is true regardless of whether the crimes in question are crimes under international law or crimes that raise international concerns, which are referred to as "crimes of international concern." [Henri Donned.eu de vabres, les Principles Modernes du Droit, 1928] In the case of *Demjanjuk* [Demjanjuk v Petrovsky, 1985] for instance, the United States Court of Appeals for the Sixth Circuit explained that the principle of universal jurisdiction is based on the assumption that certain crimes are so universally condemnable that the perpetrators become the enemies of all mankind, also known as *hosts humani generis*. This was in reference to a request for the extradition of a person who was charged with war crimes and crimes against humanity during the Second World War. Hence, any country that possesses the individuals responsible for a crime has the right to enforce their own laws in order to penalise them for the committed crimes.

Courts and authorities in different jurisdictions have supported the same rationale for the rule. The District Court of Jerusalem noted that the abhorrent crimes in the *Eichmann case* [Attorney General of Israel v Eichmann, 1961] “struck at the whole of mankind and shocked the conscience of nations,” just as in the same way that the Supreme Court of Israel in the same case opined that, “those crimes entail individual criminal responsibility because they… affront the conscience of civilized nations” [36 Int’l L Rep 277, 291, 293, 1962]. While, in Australia, Toohey J. in *Polyukhovich v Australia* [“ICD - Polyukhovich V. Australia - Asser Institute,” n.d.] said that: “Where conduct, because of its magnitude, affects the moral interest of humanity and thus assumes the status of a crime in international law, the principle of universality must almost inevitably, prevail ….” Cowles [Cowles, 1945], on his part recalled, that “in 1943, Lord Atkin truly said that ‘the conscience of the whole world has been aroused by these barbarities and surely we are all concerned in seeing that the criminals should be brought to justice’”.

The Supreme Military Tribunal of Italy in 1950 invoked the same reasoning frequently used to support the application of universal jurisdiction to war crimes.

> "They concern norms which, by their highly ethical and humanitarian content have a character not territorial but universal. In the international law of wars, there exist a principle commonly accepted… that a state can punish directly soldiers belonging to the forces of enemy belligerents, fallen into its power, who have participated in actions representing violations of international norms concerning war, in the case where the common conscience of civilized people is offended by certain barbarous and inhuman acts which they have committed. From the solidarity of different nations, aiming to ameliorate to the greatest extent possible, the horrors of war flow the necessity of promulgating rules which do not know barriers, and which strike at those who commit a crime wherever it occurs…"

While the Italian Tribunal dismissed the defendant's argument that shooting ten Italian civilians as a reprisal for the murder of a German soldier was a political offence, it made the following observation in the case of *General Wagener* [General Wagener case, 1950] which involved territorial jurisdiction:

> "The crimes do not offend the political interest of a particular state or the political rights of one of its citizens. They are on the contrary, crimes against humanity, and as has been demonstrated above, these norms have a universal character, and not simply a territorial one. Therefore, these crimes are, and by their legal characterization, and by their particular nature, of a different category and in opposition to that of political crimes. The latter, in principle are only of interest to a state [General Wagener case, 1950] to the extent of those who have committed them, the former in contrast interest all the civilized states and must be combated and punished, in the same way that one combats and punishes the crime of piracy, the trafficking in women and children, the practice of slavery, whatever the place where they have been committed."

2.4 International Peace and Security

Another main rationale for the punishment of international crimes is that it serves a crucial purpose in maintaining international security and promoting peaceful coexistence. Some offences defined by international law pose a direct risk to the peace and security of humanity as a whole. As a result, the International Law Commission has made it a persistent goal to confront crimes such as genocide, crimes against humanity, and war crimes as acts that have the potential to jeopardize the peace and security of the international community [Attorney General of Israel v Eichmann, 1961]. As the Supreme Court of Israel explained in Eichmann case "The interest in preventing and punishing acts

belonging to the category in question – especially when they are perpetrated on a very large scale – must necessarily extend beyond the borders of the state to which the perpetrators belong and which evinced tolerance or encouragement of their outrages, for such acts can undermine the foundation of the international community as a whole and impair its stability".

The United Nations Security Council referred to the same rationale mentioned earlier when it established the Tribunals for Yugoslavia and Rwanda and the tribunal held that "In Determining that widespread and flagrant violations of international humanitarian law … including reports of mass killings, massive, organized and systematic detention and rape of women and the continued practice of "ethnic cleansing" continued "to constitute a threat to international peace and security" [United Nations Security Council Res 827 & U.N.S.C. Res. 955, 1993-1994] This position was reaffirmed in the case of the *Prosecutor v Kanyabashi* [Prosecutor v Kanyabashi, 1997]. The application that was submitted by the accused in the aforementioned case was denied by the court. The motion challenged the authority of the Security Council to establish the International Criminal Tribunal for Rwanda (ICTR). The court argued that the conflict in Rwanda did not constitute a threat to international peace and security.

The Trial Chamber largely following the precedent established by the Appeals Chamber of the ICTY, (both courts share the same Appeal Chamber), in the case of *Prosecutor v Tadic* [Prosecutor v Tadic, 1995] explained that in situations such as that of Congo, Somalia and Liberia, the Security Council "has established that incidents such as sudden migration of refugees across borders to neighbouring countries and extension or diffusion of an internal armed conflict into foreign territory may constitute a threat to international peace and security" noting that the "conflict in Rwanda as well as the stream of refugees had created a highly volatile situation in some of the neighbouring regions" [Prosecutor v Kanyabashi, 1997]. The Trial Chamber in the case under review reaffirmed that the question of "whether or not the conflict posed a threat to international peace and security is a matter to be decided exclusively by the Security Council" noting that by their very nature "such discretionary assessments are not justiciable, since they involve the consideration of a number of social, political and circumstantial factors, which cannot be weighed and balanced objectively" by the tribunal [Prosecutor v Kanyabashi, 1997]. It did however, take judicial notice of the fact that the Rwandan conflict led to a large influx of refugees into neighbouring countries. Some of these refugees were armed, posing a significant risk of destabilising the areas where they settled. Additionally, the demographic makeup of certain regions outside Rwanda indicated the potential spread of the conflict to neighbouring areas [Prosecutor v Kanyabashi, 1997].

It is therefore against the backdrop of the subject matter presented thus far that Article 13(b) of the Rome Statute of 1998 finds some relevance. According to the said Article 13(b): "the court

(ICC) may exercise jurisdiction with respect to the crime of genocide, crimes against humanity, war crimes and crimes of aggression if a situation in which one or more of such crimes appear to have been committed is referred to the prosecutor by the Security Council acting under Chapter VII of the charter of the United Nations" [Rome Statute, 1998]. Interestingly, Chapter VII deals with the right of action of the United Nations "with respect to threat to the peace, breaches of peace and acts of aggression". What this means in effect is that, this particular rationale (threat to international peace, etc) becomes less relevant in Instances in which international offences are perpetrated by a singular person or a pair, or encompass only a small group of individuals who have been harmed [Amnesty International (ed.), 1997].

In relation to previous discussions about the position of the former Liberian president, Charles Taylor, his activity plainly undermines world peace and security and offers a basis for the exercise of universal jurisdiction. The main argument against granting of asylum and the demand that he be handed over to the Special Court for the Sierra Leone is that many Nigerians see him as the man that brought destabilisation to Liberia and contributed significantly in destabilising Sierra Leone and Ivory Coast [United Nations Security Council (U.N.S.C) Resolution on Sierra Leone: SC.Res. 1289, 2000]. They see his finger in every poisonous pie that brought grief to many families. Nigerian citizens have suffered as refugees in the civil war fuelled by Taylor, sometimes, with outside support. Nigerian journalists will not forget in a hurry colleagues killed by Charles Taylor or his agents while those colleagues were in legitimate pursuit of their business. Nigerian soldiers died and sustained injuries in Charles Taylor wars, when they were deployed to stop and prevent those wars from spreading [Umozurike, 1990]. Thus, for those arguing for his extradition to the Sierra Leone Court: "we (Nigeria) cannot afford to protect Taylor (who has had such a destabilizing effect in the region) from prosecution" [Umozurike, 1990].

2.5 Right to the Truth

Also, the right to the truth that is owed to victims of violations of human rights and humanitarian law, as well as their families, has taken the forefront in recent decades, which is why it is necessary to punish those who commit these heinous crimes [Efraim Bamaca Velasques v Guatemala International Commission of Jurists (ICJ), 2001]. One can observe a particular trend supporting this claim, which is the growing establishment of "Truth Commissions" in various nations and similar mechanisms primarily aimed at collecting proof of human rights abuses, clarifying uncertainties surrounding the suffering of victims, identifying the individuals accountable for the violations, and, in certain instances, setting the foundation for prosecuting the offenders [Alfred, 1990].

Throughout history, victims and their loved ones, and even society, have consistently advocated for the right to truth, making it more than just a modern-day demand. The celebrated case of Captain Alfred Dreyfus in France, which many consider a critical event in advancing human rights

across Europe, serves as a significant example of this. The right to truth played a crucial role in this case, enabling the triumph of "human reason over the reasons of the state" and leading to the redress of injustices. “I appeal to the senate to permit my right to the truth” wrote Captain Dreyfus, in his plea to the French Senate, expressed the need for an inquiry into the circumstances that led to his wrongful conviction. He subsequently turned his attention to the President of the French Republic and with the same objective, where he wrote: “I have not been stripped of all my rights. I retain the right of every man to defend his honour and proclaim the truth” [Alfred, 1990]. In the 21st century, the rehabilitation of Captain Dreyfus represented the victory of the principle of truth, which the French officer frequently emphasised.

Truth and justice have often been among the most important guiding principles that the international community has put into practice in response to the crimes against humanity and war crimes that were committed throughout the 19th and 20th centuries. The International Military Tribunal of Nuremberg was founded to establish an inclusive memory and prevent future crimes from occurring. Truth, along with justice, played a crucial role in this process. As an authority on the lack of consequences faced by those who commit offences against civil and political rights, within the United Nations' Sub-Commission focused on preventing discrimination and safeguarding minority groups observed: “The legal defence of the right to memory was one of the fundamental objectives of the authors of the charter of the International Military Tribunal at Nuremberg” [United Nations Document, 1993]. Likewise, in its concluding report, the Commission of Experts investigating serious violations of the Geneva Conventions and other infringements of international humanitarian law in the former Yugoslavia, appointed by the United Nations Security Council through Resolution 780 (1992), emphasised that justice is crucial for future peace and that uncovering the truth is the initial step towards achieving justice [Final Report of the Commission for Experts Established pursuant to Resolution 780 of the Security Council, 1992].

An initial interpretation of the right to the truth solely focused on its humanitarian aspect, particularly the right to know the fate of a loved one. The scope of the right to the truth, on the other hand, has gradually expanded as a result of the development of international jurisprudence and doctrine. Today, “knowing the truth goes beyond the mere humanitarian aspect and implies also knowing the circumstances in which these violations were committed and who the perpetrators were”. The exact parameters of this right are illustrated as follows:

> “The Human Rights Committee in a decision concerning a case of torture in Uruguay concluded that an Amnesty Law which prevented the victim from knowing the circumstances under which he had been detained and tortured was incompatible with the International Covenant on Civil and Political Rights, by denying the person the right to an effective recourse. The duty to investigate, the

> Committee concluded, is not incumbent on the individual as a private citizen, but is an obligation of the state, which must identify the persons responsible for such acts" [Human Rights Committee, 1994].

In the specific situation being discussed, the victim did not express a desire for the truth from a humanitarian perspective. Their objective was focused on achieving something else "appropriate redress in the form of investigation of the abuses allegedly committed by the military authorities" [Human Rights Committee, 1994].

2.6 Individual Criminal Responsibility

Another rationale for laws against international crimes is so appropriate individual Criminal responsibility could be rightly apportioned. It is in light of the manner in which war crimes are planned and executed that wars are fought by armies, and armies are made up of individuals within a hierarchical order, with some being foot soldiers and others being the brains behind every strategy. Prior to the post World War II era much was not harped on individual responsibility and the chain of command. The Nuremberg Tribunal and Tokyo Tribunals ensured that individuals were held accountable and criminally responsible for international crimes even though some were perpetrated vicariously but because of the recognition of a chain of command it became easier to apportion blame where it was due. The Tokyo Trial, which spanned from 1946 to 1948, was initiated by the International Military Tribunal for the Far East (IMTFE). During the trial, all of the accused individuals, including 9 Japanese politicians and 18 military leaders, were found guilty and given various sentences, including death and lengthy jail terms. It is important to mention that despite Emperor Hirohito's active involvement in planning Japan's attack on Pearl Harbor in 1941, he was granted immunity from any potential accusations under the jurisdiction of the IMTFE.

Personally, this is where the Tribunal dropped the ball and goofed fundamentally because holding accountable such a high-profile leader would have set the precedent early on that even the highest office was not above obeying the laws of war. Perhaps if that example was set the likes of Omar Al Bashir later on could not have been heard to make excuses for not submitting to the ICC and perhaps it would have shown us Africans that leaders from other parts of the world could also be held accountable. The Tokyo Trial played a significant role in advancing the field of international law regarding war crimes. In the academia generally much is always talked about the Nuremberg but it is high time the gains of the Tokyo Tribunal get some recognition. Specifically, it contributed to enhancing the legal understanding of how the rules outlined in the Geneva Conventions pertain to the usage of technologically advanced weapons during a global armed conflict.

3.0 Conclusion

International humanitarian law has evolved into a component of public international law over time which provides categorical rules for operation in the use of armed force especially as regards weapons, means and methods [Aja Akpuru-Aja, et al., 2012] and the ultimate treatment of individuals whether classes as Prisoners of war (POW) or civilians. To guarantee that conflict, regardless of how cruel it may be, maintains a human face, the Geneva Convention and The Hague Convention were both drafted. Those individuals who are considered to be war criminals and those who are responsible for international crimes are those who display the most heinous measures of inhumanity. Presently, one would be mistaken to think that all is *uhuru* simply because the ICC a permanent Court has been established. Apparently, the sincere intentions of the international players in IHL and ICL in establishing the ICC appears to have been watered down by the requirement that the jurisdiction of the ICC can only be invoked over crimes committed only after the ratification of the Rome Statute of the ICC and not before [Ndifon, 2009]. In addition to preventing impunity, the need to safeguard civilians and civilian objectives in armed conflicts, both international and domestic, is another justification for the legislation against international crimes.

Human rights violations do not only cause a lot of pain and suffering to human society, but actions of the perpetrators also disorganise the domestic life of people in a large number of countries. These concerns have therefore provided the necessary impetus to bring to justice the perpetrators of such crimes. International crimes are punished according to a set of rules that are justified by the fact that they violate fundamental values shared by all members of the international community, pose a threat to international peace and security, and, most importantly, uphold the right of victims and their families to know the truth.

The right to justice is a right which accrues to the accused, the victim and the entire society; therefore, both national and international legal mechanisms are put in place to bring the perpetrators of this crime to account. These mechanisms include judicial trials, truth and reconciliation, political and economic sanctions. But just as the entire essence of the rules of humanitarian principle is primarily to protect human beings from violations by individuals, either acting on their own or at the behest of the state, it has become necessary that accountability be personal. In international law (where only states are often the primary concern), this requirement is bound to be controversial. However, over the years gone by, we have seen the gradual evolvement and growth of individual criminal responsibility for humanitarian law violations.

4.0 Recommendations

The importance and need for the existence of laws prohibiting International Crimes cannot be overemphasized hence this work proposes the hereunder stated veritable recommendations which will aid in the advancement of this aspect of legal study.

Firstly, and as a matter of urgency, it is recommended that there be an expansion of the jurisdiction of the International Criminal Court of Justice to be able to entertain other classes of action which justifiably constitute International Crime. This researcher believes that one of the ways through which the various rationales for the law against international crimes listed above can be duly actualized is for the laws to incorporate a provision extending the court's jurisdiction. When the court is empowered with more jurisdiction, the fight against impunity as discussed above will be made easy as state parties will be able to bring other category of issues before the court.

Secondly, it has been noticed that there is a great paucity of International Commissions and regulatory bodies whose duties should be the receipt of these complaints by states and the transmission of same to the International Criminal Court for action and sanctions. It is therefore recommended that the creation and establishment of these bodies will aid the International Criminal Court in the discharge of its duties.

Finally, it is indisputably factual that overtime in the International Community, we have witnessed state parties flagrantly disobey and override the decisions of the International Criminal Court given against them. It is therefore recommended that a more robust and systematic enforcement mechanism be put in place in order to ensure that the court's decisions are obeyed and complied with.

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