THE US OPPOSITION TO THE INTERNATIONAL CRIMINAL COURT

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Abstract:
The United States of America is one of the countries that has not ratified the Statute of the International Criminal Court (ICC). It is not a party to this court, and what's more, this major power has consistently adopted a hostile stance towards the existence of the ICC, expressing numerous reservations regarding its role. It has thus spearheaded an international campaign to persuade countries not to join the ICC.Furthermore, the United States of America has sought, by all means and methods, to obstruct the functioning of this court. Through a comprehensive analysis of the various tactics employed by the United States, who realize its eagerness to obtain a range of complex legal and political tools, with the aim of granting absolute discretion to all its nationals. This is achieved by providing them with prior assurances that any international crime they commit in pursuit of American interests will be covered by absolute immunity, preventing their criminal prosecution before any other judicial body outside the United States judiciary.
***Keywords**: International Criminal Court, Security Council, extradition, judicial immunity, international crimes.*

INTRODUCTION:

International criminal justice has gone through several stages of development, with each stage reflecting specific circumstances and the influence of certain forces. Since the establishment of the United Nations, significant efforts have been made to establish a permanent international criminal justice system to which all member states of the international community are subject. Establishing such a system is crucial for achieving international legitimacy and protection.After fifty years of international efforts in this field, the establishment of the International Criminal Court (ICC) was adopted at the conference held in Rome on July 17, 1998, under the auspices of the United Nations. The idea behind creating this institution was based on the necessity of having an international court with criminal jurisdiction to prosecute and punish perpetrators of serious international crimes.

The establishment of the International Criminal Court has instilled hope among many peoples around the world. It has been seen as a beacon of hope for achieving justice, redressing the grievances of the oppressed, and deterring the perpetrators of serious international crimes that undermine the interests of the international community as a whole.In contrast to the international efforts made to establish the International Criminal Court, several major countries have made concerted efforts in the opposite direction. These countries, including the United States of America, have actively opposed the establishment of the ICC and strived to obstruct its work. The United States, in particular, has utilized all available means to oppose the ICC's creation, realizing that it would limit its influence and authority over the Court.

In this discussion, we will examine the various reasons put forth by the United States of America to oppose the establishment of the International Criminal Court. We will then explore the methods employed by the United States to obstruct the work of the International Criminal Court, both domestically and internationally.

I- United States of America's Opposition to the Establishment of theInternational Criminal Court

The United States of America has actively erected obstacles to undermine the establishment of an international criminal court tasked with combating serious international crimes and prosecuting their perpetrators. Its consistent opposition to the International Criminal Court has constituted a tangible impediment that persists to this day, hindering the Court's ability to fulfill its mandate. The United

States of America was one of the seven countries that voted against the adoption of the Rome Statute, the foundational framework of the International Criminal Court.

Several reasons prompted the United States of America to oppose the establishment of the International Criminal Court. Firstly, the United States objected to granting the Prosecutor of the International Criminal Court extensive powers (first aspect). Secondly, the United States criticized the jurisdiction of the Court as defined in Article 12 of the Rome Statute (second aspect). Furthermore, the United States refused to include the crime of aggression within the Court's subject-matter jurisdiction (third aspect). Lastly, the United States expressed reservations regarding the permanent nature of the International Criminal Court (fourth aspect).

1- Granting the Prosecutor of the International Criminal Court extensive powers:

Delegations of participating states in the Rome Conference held in 1998 rejected granting the United Nations Security Council, of which the United States of America is a permanent member with veto power, the authority to oversee cases under the jurisdiction of the Court[i]. During the sessions of the Rome Conference, the United States of America vigorously worked to gain support for the supervision of cases by the permanent members of the Security Council, where the International Criminal Court would investigate and prosecute individuals[ii]. However, the Conference led to a contrary outcome through the adoption of the Rome Statute, which established an independent Prosecutor who makes such decisions[iii].

The presence of a Prosecutor with extensive powers to independently initiate investigations into serious crimes was the most significant issue objected to by the United States of America in the statute of the Court. In the view of the United States, these powers were considered broad, despite the existence of a Pre-Trial Chamber that monitors the Prosecutor's activities and grants authorization to commence an investigation.[iv]

During the negotiations in Rome, the United States proposed that the Prosecutor of the Court should seek prior approval from the members of the Security Council or, at least, the consent of the states involved in the complaint before initiating an investigation into any case. The United States argued that any deviation from this approach would constitute interference in the internal affairs of states and would infringe upon the fundamental principles enshrined in the U.S. Constitution, which holds the executive branch accountable to Congress[v]. Additionally, the United States claimed that the Court's Prosecutor could potentially engage in politically motivated prosecutions against its nationals[vi].

2- The opposition from the United States Article 12 of the Rome Statute

The USA specifically objected the preconditions for the Court to exercise its jurisdiction. The United States objected to the Court having jurisdiction over a state that is not a party to the Statute and has not accepted the Court's jurisdiction. This stance was affirmed by former President Bill Clinton when he expressed concerns about the Court's ability to exercise jurisdiction over individuals belonging to a non-party state during his signing of the Rome Statute on December 31, 2000[vii].The United States of America also opposed the imposition of the Court's jurisdiction against states that are not parties to its Statute through a referral from the Security Council. The United States argued that this approach contradicted the principles of treaty law, specifically Article 26 of the 1969 Vienna Convention on the Law of Treaties, which states that treaties are binding only on their parties. This principle is known as the relative effect of treaties. The United States proposed that the consent of the non-party state should be obtained in such cases[viii].

Indeed, David Scheffer, the representative of the United States of America, sought to embody this position during the negotiations of the Diplomatic Conference for the establishment of the Court's system. He claimed that Article 12 of the Rome Statute allowed the International Criminal Court to exercise its jurisdiction over any person accused, regardless of whether they were nationals of a party or non-party state. This raised concerns that it could lead to the prosecution of U.S. nationals serving in peacekeeping or other forces without the United States having ratified the Court's statute[ix].

3- Opposing the Crime of Aggression within the Court's Jurisdiction.

The United States of America is indeed one of the prominent countries that opposed the inclusion of the crime of aggression within the Court's jurisdiction. During the sixth session of the Committee

meetings, the U.S. representative emphasized that raising the crime of aggression raises problems of definition and interferes with the role of the Security Council in determining the occurrence of aggression. There were doubts about whether the conference would be able to adopt a satisfactory definition for the purpose of establishing criminal responsibility for perpetrators of this crime.In fact, the opposition of the United States of America to the International Criminal Court's jurisdiction over the crime of aggression was not due to the absence of an agreed-upon definition of aggression. Rather, she wanted Security Council to retain its absolute authority in determining acts of aggression, thereby maintaining control over this matter. The inclusion of aggression within the Court's subject-matter jurisdiction would impose limitations on its ability to use force independently to pursue its national interests without reference to the Security Council.

These U.S. reservations lack any sound logical or legal basis. Regarding the definition of aggression, there were indeed alternative options and choices available to the conferences, including General Assembly Resolution 3314 of 1974, which provides a definition of aggression. Some scholars consider this resolution to have attained the status of customary international law, recognized as such through scholarly consensus and legal interpretation[x].Aggression is not an undefined crime or a natural act that defies definition. It is illogical to invoke arguments that have been used since the last century to justify violations of international law and escape accountability. Furthermore, proponents of the aforementioned view lead us to an illogical conclusion that aggression is neither committed nor punishable because it is undefined, which starkly contradicts the international reality with strength and clarity. Additionally, aggression is not inherently a political act that justifies its exclusion from the jurisdiction of the court. It is a complete international legal crime with all its elements and components, and there is legal consensus on the necessity of its punishment[xi].

Regarding the insistence of the United States of America on retaining the Security Council's absolute authority in determining acts of aggression, legal reasoning indicates that the existence of the court as an international judicial authority means that it should be independent of and not subject to the Security Council. In this sense, the court presents a rare opportunity for the international community to correct its course and overcome the flaws and shortcomings that affect its working methods. This can be achieved by reducing the role of the Security Council in determining acts of aggression and highlighting the legal nature of this crime[xii].

4- Opposed aPermanent International Criminal Court

The United States opposed the permanent nature of the International Criminal Court during the negotiations in Rome. It believes that establishing a temporary international criminal court in each case is more suitable and beneficial for the international community. This is because a permanent nature does not allow for peace agreements to be reached to resolve the conflict that led to the commission of international crimes threatening international peace and security. In their view, prosecution and punishment generate resentment and revenge, reigniting the conflict. They argue that establishing temporary criminal courts would provide an opportunity for international, political, and diplomatic efforts to solve the problems that directly contribute to the outbreak of armed conflicts, which ultimately lead to the commission of heinous international crimes[xiii].

The American position rejecting the permanent nature of the court has faced strong criticism based on the argument that the experience of temporary international criminal courts has been a failure, as demonstrated by previous international precedents. This includes the international courts established in the aftermath of World War II, which were primarily driven by the idea of revenge. It also includes the courts established by the Security Council in Yugoslavia and Rwanda, which faced significant challenges in terms of funding from UN member states.

Just as the idea of giving an opportunity for peace agreements to resolve problems and disputes that may lead to armed conflicts is also an incorrect notion, as evidenced by the fact that the peace agreement signed between the government of Sierra Leone and the Revolutionary United Front of Sierra Leone, concluded in Lomé on July 7, 1999, which included a comprehensive amnesty for the rebel insurgents, did not end the conflict and fighting in the region. On the contrary, the situation evolved and persisted, leading to the necessity of the intervention of the Security Council, which issued Resolution 1315 on August 14, 2000, establishing a Special Court for Sierra Leone to prosecute

and punish individuals who committed crimes against humanity, war crimes, and other crimes under international humanitarian law in the region of Sierra Leone[xiv].

II- USA's Obstruction of the International Court's Opperations.

The United States of America has attempted to hinder the functioning of the International Criminal Court (ICC) on various levels, particularly when it concerns American citizens[xv]. President George W. Bush, for instance, decided to withdraw the United States' signature from the ICC's Rome Statute and officially announced the refusal to ratify it on May 6, 2002. Following this, a global campaign was initiated to weaken the court and work towards exempting all American citizens from the court's jurisdiction and evading punishment[xvi].This ongoing opposition has manifested in several ways, both domestically and internationally.

1- Domestically:

On the domestic level, the American opposition to the International Criminal Court materialized through the enactment of legislation aimed at limiting the court's jurisdiction and scope granted to it under the Rome Statute. Among these laws, the American Service-Member's Protection Act (ASPA) and the Nethercutt Amendment stand out[xvii].

A- The essence of the American Service-Member's Protection Act (ASPA), signed by President George W. Bush on August 2, 2002, can be summarized as follows:

- It prohibits the prosecution of members of the United States Armed Forces by the International Criminal Court, particularly when their deployment or presence around the world aims to protect vital U.S. interests. It is the duty of the U.S. government to provide protection to its armed forces members to the extent possible, in order to shield them from criminal prosecution by the International Criminal Court[xviii].

- The ASPA also includes a comprehensive ban on all forms of cooperation between the United States and the International Criminal Court. This general prohibition extends to U.S. courts, local governments, and the federal government. It also prohibits the surrender of any person present on U.S. territory, whether they are U.S. citizens or foreign nationals residing in the United States, to the court. Additionally, it prohibits the allocation of U.S. government resources to fund any operations carried out by the court, such as the arrest, detention, extradition, or prosecution of any U.S. citizen or foreign national permanently residing in the United States. Furthermore, it prohibits the implementation of any investigative measures related to initial requests, investigations, prosecutions, or any other trial-related procedures on U.S. territory[xix].

-The authorization for the President to utilize all necessary and appropriate means to secure the release of any American citizen detained by the International Criminal Court[xx].

The term "Hague Invasion Act" has been used by European and other countries to refer to this law, which grants the President of the United States the authority to use force to invade the Netherlands, the host country of the International Criminal Court's headquarters. The Netherlands is supposed to imprison and detain criminals in its penal institutions. This law aims to secure the release of any detained American citizen, and it constitutes a clear violation of international principles and norms[xxi].

B- Nethercutt Amendment

The U.S. administration took additional measures to exert pressure on countries supportive of the International Criminal Court, as the U.S. Senate adopted the Nethercutt Amendment in December 2004. This amendment is more comprehensive than the ASPA and is part of the U.S. policy of escalation against the International Criminal Court. The most significant aspect of this law is the withdrawal of financial assistance intended to support the economies of certain countries. This measure even included U.S. allies who ratified the Court's statute but did not sign bilateral agreements with it. However, this law did not achieve the objectives sought by the U.S. administration, as it did not lead to the withdrawal of countries from the International Criminal Court. Many countries, including those in the European Union, openly rejected participating in the U.S. endeavor aimed at undermining the International Criminal Court[xxii].

2- Internationally

On the international level, the United States has sought to enter into bilateral agreements with the aim of preventing the surrender of American citizens to the International Criminal Court (ICC)

(firstly). Additionally, the United States has exerted pressure on the Security Council to urge it to make decisions to ensure immunity for its nationals from any judicial accountability by the ICC (secondly).

Firstly: Entering into bilateral agreements to prevent the surrender of American citizens to the International Criminal Court (ICC).

The United States of America has sought to enter into bilateral agreements with the aim of preventing the surrender of American citizens to the International Criminal Court. The ICC is considered one of the most significant threats faced by the international judiciary. Since late July 2002, the United States has contacted approximately 180 countries, requesting them to sign such agreements. In fact, nearly 100 bilateral agreements have been concluded to date. It should be noted that the United States exerted significant pressure on these countries to comply with its demands, often threatening to cut off aid in certain cases[xxiii].

The United States of America claims that these agreements are legal and comply with Article 98(2) of the Rome Statute, which states: "The Court may not proceed with a request for surrender or assistance that would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the requested State for the giving of consent."[xxiv]However, legal experts in international law unanimously agree that the bilateral agreements sought by the United States to exempt its nationals, excluding others, from the jurisdiction of the International Criminal Court, based on the provisions of Article 98(2) of the Rome Statute, contradict this article and international law. The purpose of these agreements is simply to provide immunity for American citizens and others covered by impunity agreements. Consequently, the acceptance of such agreements places the concerned state in violation of international law and causes the parties to breach their obligations under the Rome Statute[xxv].

Indeed, according to customary international law and Article 31(1) of the Vienna Convention on the Law of Treaties of 1969, treaties should be interpreted in good faith and in accordance with the ordinary meaning given to their terms within the context of their subject matter and purpose. Furthermore, Article 32 of the same convention states that supplementary means of interpretation may be resorted to, including recourse to preparatory work and the circumstances surrounding the conclusion of the treaty if the interpretation of the treaty, taken as a whole, leads to a result that is manifestly absurd or unreasonable.

When referring to the preparatory work and the circumstances surrounding the conclusion of the Rome Statute, it becomes evident that the signatory states intended to take into account the agreements concluded among themselves before the entry into force of the statute, not after. Therefore, any interpretation that the provisions of Article 98(2) actually cover the agreements of the United States of America with the purpose of preventing the surrender of American citizens to the International Criminal Court would lead, in a clear and manifest manner, to a result that is contrary to logic and unreasonable. This interpretation would undermine the fundamental principle of the Rome Statute, which stipulates that the jurisdiction of the Court applies to any person, regardless of their nationality, if they commit a crime within the Court's jurisdiction on the territory of a state party to the statute[xxvi].

The overarching objective of the principle of complementarity is to remove all immunities in order to ensure the prosecution of individuals responsible for committing serious crimes in all circumstances. Therefore, any agreement that prevents the Court from exercising its role by taking necessary measures when the concerned state lacks the necessary capacity or willingness to fulfill its responsibility constitutes a judgment on the failure of the statute in achieving its objective and fulfilling its purpose[xxvii].

Secondly: Pressure on the Security Council

It appears evident that the determination held by the states that have ratified the Rome Statute itself, to put an end to the impunity of perpetrators of the most serious crimes, through the establishment of a permanent international judicial mechanism embodied in the International Criminal Court, which ensures the implementation of this endeavor, has collided with the obstinacy

of the United States of America. The United States has pursued all means to obstruct the work of the Court and has seen the United Nations Security Council as the most effective means to that end. The Security Council has not hesitated to resort to Article 16 of the Rome Statute, even before the commencement of the functioning of the International Criminal Court.The United States of America has declared its intention to exercise its veto power in all matters related to peacekeeping operations in the future, in the event that the United Nations Security Council does not activate Article 16 for the purpose of protecting individuals participating in United Nations missions and granting them judicial immunity from any prosecution before the International Criminal Court[xxviii].

Indeed, this immunity was manifested in reality when the United Nations Security Council, under pressure from the United States of America, issued Resolution 1422 on July 12, 2002, pursuant to Chapter VII of the United Nations Charter. In this resolution, the Security Council called upon the International Criminal Court to suspend investigations and prosecutions regarding former or current officials belonging to states not party to the Rome Statute, who are involved in United Nations peacekeeping operations. This suspension was enacted for a renewable period of 12 months unless the Council decides otherwise[xxix].The President of the Assembly of States Parties to the International Criminal Court expressed his dismay, stating with disapproval, "This decision has raised our concern and preoccupation, as it places a segment of people above the law." Similarly, the Secretary-General of the United Nations expressed his dissatisfaction following the issuance of Resolution 1487 on June 12, 2003, which renewed Resolution 1422. He declared that if this resolution is renewed annually, it would undermine the authority of the International Criminal Court and the credibility of peacekeeping forces[xxx].

Some argue that by taking this action, the Security Council has exceeded its prescribed powers under the United Nations Charter and has succumbed to American dictates. The Security Council did not determine the existence of a threat to international peace and security, which is a fundamental requirement for the Council to take measures under Chapter VII of the United Nations Charter. With such a resolution, and upon the instruction of the United States of America, the Security Council has violated the independence of the International Criminal Court in pursuing perpetrators of serious international crimes. This is because it primarily aims not to address a proactive response to a looming threat to international peace and security but rather to provide future immunity from judicial prosecution for acts that individuals may commit in the future, which constitute crimes punishable under the Rome Statute of the International Criminal Court[xxxi].

CONCLUSION

The establishment of the International Criminal Court came after arduous efforts that lasted for over half a century. Despite its positive role in developing the principles of international criminal law, suppressing serious international crimes, and prosecuting their perpetrators, the Court has not been able to fully carry out its work effectively. The main reason for this is the criticism and opposition from many major states. These states, whose interests would be significantly affected by the imposition of international criminal laws upon them, have voiced their disapproval.

The United States of America has indeed been at the forefront of the countries opposing the International Criminal Court, employing various means and methods to hinder its work. Through a comprehensive analysis of the range of techniques used by the United States, it becomes evident how keen they are to obtain a set of complex legal and political tools. The aim is to grant absolute discretion to all their nationals, especially those engaged in military operations abroad, by providing them with prior assurances that any international crime they commit in pursuit of American interests will be covered by absolute immunity. This immunity prevents their criminal prosecution before any other body outside the jurisdiction of the American judiciary.

While the scientific reality may pose obstacles to the International Criminal Court in implementing its statutory system as intended by the founding states, particularly in terms of the political aspects that allow the Security Council to intervene in the Court's jurisdiction or the opposition of major states to the implementation and enforcement of the Court's rulings, among other vulnerabilities, it

is also true that the mere existence of the Court represents a significant victory for all of humanity in achieving the desired international criminal justice.

[i]Adel Hamza Othman, "The International Criminal Court between International Legitimacy and American Hegemony," Al-Kufa Journal of Legal and Political Sciences, Issue 7, November 2010, p. 71.

[ii]Bare'ah Al-Qudsi, "The International Criminal Court: Its Nature and Jurisdiction, the Position of the United States of America and Israel towards it," Damascus University Journal of Economic and Legal Sciences, Volume 20, Issue 2, 2004, p. 151

[iii]Julien Detais, "The United States and the International Criminal Court," DF, No. 3, 2003, p. 31; Frédérique Coulée, "On a Not So Discreet Third State: The United States Confronted with the Statute of the International Criminal Court," AFDI, Vol. 49, 2003, pp. 39-40.

[iv]"Granting this jurisdiction to the Court could undermine essential national, international, and transnational efforts and hinder the effectiveness of the fight against these crimes..."
- Statement made by David Sheffer, Head of the United States Delegation at the Rome Conference on July 23, 1998, cited in: William A. Schabas, Clémentine Olivier, "Terrorism as a Crime against Humanity?" in Ghislaine Doucet (ed.), Terrorism, Victims, and International Criminal Responsibility, Calmann-Levy, Paris, 2003, p. 381.Anatole CollinetMakosso, "Terrorism: From Immunity to Criminalization - A Legal Study of a Violence to be Suppressed through the Combined Action of the International Criminal Court and the International Court of Justice," Doctoral Thesis in Private Law, Université Panthéon-Assas Paris II, 2010, p. 517.

[v]Abdelkader Youbi, "The Relationship between the Security Council and the International Criminal Court," PHD thesis in Public Law, specializing in Public International Law, University of Oran, Faculty of Law, 2011/2022, pp. 152-153.

[vi]Federica Dainotti, "The International Criminal Court is a Reality," Diploma of Advanced European and International Studies, European Institute of Advanced International Studies, 2005/2006, p. 76

[vii]Bare'ah Al-Qudsi, Op. Cit, p. 153.

[viii]- Abdelkader Youbi, Op. Cit., p. 153

[ix]Majid Muwat, "The Position of the United States of America towards the International Criminal Court," Al-Bahith Journal of Academic Studies, Issue 12, January 2018, p. 392.

[x]Majed Omar Abadi, "The Crime of Aggression: An Analytical Reading Based on the Text and Diplomatic Negotiations of the Kampala Conference 2010," Master's thesis in Public Law at the Graduate Studies College, An-Najah National University, Nablus, Palestine, 2018, pp. 29-30.

[xi]Bare'ah Al-Qudsi, Op. Cit, pp. 151-152.

[xii]It should be noted that if we accept that the Council alone has the authority to determine the occurrence of the crime of aggression, this means that the Court will only exercise its jurisdiction when the Council agrees to it. This will only happen when the permanent member states agree that an act of aggression has been committed and that the leaders of the aggressor state deserve to be held accountable. This consensus is not easily reached and may never be achieved. It is natural for major powers to exempt themselves from such matters and also exempt their allies from such punishment. Additionally, the right of veto will hinder any referral to the Court if one permanent member state desires it, which means that the idea of justice and the principles of fairness and equality would be eradicated. The Court would be emptied of its substance and confined by the restrictions that have rendered the Security Council impotent on many occasions in deterring aggression and imposing penalties on the aggressor, even to the extent of proving the existence of an act of aggression. See Bare'ah Al-Qudsi, Op. Cit., pp. 152-153.

[xiii]Abdelkader Youbi, Op. Cit., pp. 153-154.

[xiv]Ibid., p. 154.

[xv]Jacques Formerand, "The American Practice of Multilateralism: The Mare Nostrum Syndrome," AFRI, Vol. 4, 2003, p. 487.

[xvi]Federica Dainotti, Op. Cit., p. 75; Frédérique Coulée, Op. Cit., p. 44; Stéphanie Maupas, "The Essentials of International Criminal Justice," Gualino Publisher, Paris, 2007, p. 138.

[xvii]Julien Detais, Op. Cit., pp. 33-34.

[xviii]American Service-Member's Protection Act, section 2002, para. 8.

[xix]- Ibid., section 2004.

[xx]Ibid., section 2008, para. a.

[xxi]Jamal Bouyahi, "The Crisis of International Humanitarian Law: International Criminal Accountability in the Face of Immunity Agreements?" Intervention at the National Forum on Mechanisms for Implementing International Humanitarian Law between Text and Practice, held at Abdelrahmane Mira University, Bejaia, on October 14-15, 2012, p. 20.

[xxii]Majid Muwat, Op. Cit., p. 399.

[xxiii]Bertrand Bauchot, "National Criminal Sanctions and International Law," Thesis to obtain the degree of Doctor of Law, Discipline: Legal Sciences, University Lille 2 - Law and Health, 2007, p. 181; Federica Dainotti, Op. Cit., p. 80; Frédérique Coulée, Op. Cit., p. 58.

[xxiv]Federica Dainotti, Op. Cit., p. 77; Frédérique Coulée, Op. Cit., pp. 61-62.

[xxv]Adel Hamza Othman, Op. Cit., pp. 81-82. See also: Frédérique Coulée, Op. Cit., p. 67.

In a declaration on September 25, 2002, the Parliamentary Assembly of the Council of Europe "considers that these immunity agreements are not acceptable under international law governing treaties, including the Vienna Convention," and officially requests "all member states and observers of the Council of Europe to refuse to conclude bilateral immunity agreements that would compromise or in any way limit their cooperation with the Court in the investigations and prosecutions it conducts for crimes falling within its jurisdiction." Quoted by Julien Detais, Op. Cit., p. 42.

[xxvi]Julien Detais, Op. Cit., p. 42.

[xxvii]Bertrand Bauchot, Op. Cit., pp. 181-182.

See Article 27 and 17 of the Rome Statute for reference

[xxviii]Mohammed Jaloul Zaadi, "The Jurisdiction of the International Criminal Court to Prosecute War Criminals: Between Effectiveness and the American Exception," Master's Thesis in Law, Branch: International Cooperation Law, University Center Akli Mohand Oulhadj - Law Institute, Bouira, 2011, pp. 141-142.

[xxix]- Refer to paragraph 1 of Resolution 1422 adopted by the United Nations Security Council in its session on July 12, 2002

[xxx]Quoted from Majid Muwat, Op. Cit., p. 402.

[xxxi]Mohammed Jaloul Zaadi, Op. Cit., p. 143.