



المركز العربي لاستقلال القضاء والمحاماة

The Arab Center for Independence of the Judiciary and the Legal Profession (ACIJLP)
Centre Arabe de l'Indépendance des Avocats et de la Magistrature
(يتمتع بالصفة الاستشارية الخاصة بالمجلس الاقتصادي والاجتماعي للأمم المتحدة)
In Consultative Status with the UN Economic and Social Council (ECOSOC)
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Proposals to the Commission of Independent Experts of the International Criminal Court

Introduction

The Arab region, as well as the Middle East region in general, witness many violations that can be considered as crimes falling within the jurisdiction of the court. The rates of these crimes have increased in some countries of that region after the outbreak of the Arab Spring revolutions in January 2011. Nevertheless, that region is one of the regions that witness the low rates of countries ratifying the Rome Statute or those joining the court. Since 1998, and until now, Jordan and Djibouti have ratified the Rome Statute, followed by the Comorian State. After the outbreaks of 2011 revolutions in the region, Tunisia and Palestine joined, bringing the total member states of the court to 5 countries; a very small number regarding the geographical expansion of the region, in addition to the high rates of violations that occur in it, and that may rise to the level of crimes which falls within the jurisdiction of the court. This is while governments in that region are exercising more restrictions on the movement and activity of NGOs involved in the court's activities, limiting their ability to document violations and gather evidence that may help the tribunal to play its role. This may make us unable to report or collect information by the Prosecutor's Office through its experts or through NGOs working in those countries.

First: Reasons for the low rates of ratification and cooperation with the court

This deteriorating situation in the rates of accession and ratification of the Rome convention in that region is due to several reasons, the most important of which are:

- 1- Governments apprehension in the region that some of their leaders may be prosecuted through the court.
- 2- Relevant officials in those countries lacking the concept of the principle of complementarity between the court's jurisdiction and national judicial systems, in accordance with the Rome Statute.

3- The member states of the Arab League have ceased to use or activate the Model Law on the conformity of constitution with Rome Statute, which was established by the Arab League in 2005.

4- Countries of the region feeling of the ineffectiveness of the role of the court, which was encouraged by the US government by supporting and reassuring governments in the region unwilling to cooperate with the court through bilateral judicial agreements conducted between the United States and some countries in the region.

Second: the proposals and recommendations of the three groups

1- The First Group (Judgment)

- The need for some members of the Assembly of States Parties that have global political and economic clout to interfere in urging governments in the Middle East to join and ratify the Rome Statute, where priority in the assistance provided by some of the parties, which have financial support programs, are to be for countries that initiate or accede to the Rome Convention.
- The Assembly of the States Parties playing a greater role in persuading the governments of the Middle East region to join the court, by showing the extent to which those governments can gain from activating the principle of complementarity between the national judiciary and the criminal court.
- Supporting the role of the court registrar in matters related to organizing the work of lawyers, protecting witnesses, and working to give him/her more validity to support the role of victims' attorneys and defense before various bodies.

2- The Second Group (The Judiciary)

- Moving more effectively - with the aim of enhancing the court's credibility - in the files related to cases of major countries, in order to avoid criticism directed to the court that it moves faster in cases related to African countries and third world countries.

3- The third group (pursuit and investigation)

- Find more effective ways of accountability for countries that refuse to cooperate with the court, especially from member states of the Assembly of States Parties that do not commit to implementing arrest and detention orders issued by the Public Prosecutor's Office against some of the wanted individuals who are hosted in member states of the court. (Jordan) as a Case model.

- Seeking more effective means in obligating state parties to provide assistance in cases of prosecution of wanted persons.
- Developing and adopting mechanisms of digital evidence, training workers in the various tribunals to use them as well as lawyers.
- Promoting ways of continuous and sustainable cooperation between the Office of the Prosecutor and the International Alliance for the International Criminal Court, as well as NGOs concerned with the role of the Court in areas experiencing conflicts that may result in crimes within the jurisdiction of the Court.

Nasser Amin

- List of council
- The Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP)
- The Egyptian Coalition for the International Criminal Court