

Role of the International Criminal Court in War Crimes, Crimes against Humanity, and Acts of Aggression by Threats of the Usage of Nuclear Weapons under International Law “Jus Cogens”

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Abstract

From the problem situation, the Russian-Ukrainian war with the acquisition of nuclear weapons and with the goal of implementing it, what role does the International Criminal Court have to play in this regard? Due to the problem of international law enforcement to the State Party and states that are not a member of the International Criminal Court Against the offense of using or attempting to use nuclear weapons. When studying the international political context and the state of states in accepting the jurisdiction of the country's criminal courts found that many superpowers do not recognize the jurisdiction of the International Criminal Court. Thus, it is still able to protect the leaders who commit crimes under the sovereignty of that state. As a result, the International Criminal Court cannot impose sanctions on the leaders of nuclear-armed and nuclear-armed nations or threatening to use nuclear weapons from the fact that the State did not become a member of the Statute of Rome the constitution to establish the court therefore no obligation to obey and follow or bring the offender to the International Criminal Court. The study of international political context and various the status of various states, yielded that many superpower states do not recognize the jurisdiction of the International Criminal Court. In light of this and the ongoing Russian-Ukrainian conflict that has invoked fears and implied threats of the usage of stockpiled nuclear weapons. How can the International Criminal Court hold the persons responsible for these acts of aggression, while these persons reside in the territories of countries that are not members of the statute of Rome.

Keywords—International Criminal Court, War Crimes, Nuclear Weapons

I. INTRODUCTION

Mentions the origin of the International Criminal Court, it emerged under the agreement of the UN General Assembly Member States: The Rome Statute is the treaty establishing the International Criminal Court. As at March 2016, there are 124 State parties to the Rome Statute, including States from all regions by have a relationship model to apply to member states that have ratified the Rome Statute or states that have adopted jurisdiction only, as appears in Rome Statute of the International Criminal Court Article 2.

“1. The Court shall apply:

- A) The first place, This Statute, Elements of Crimes and its Rules of Procedure and Evidence,
- B) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the establishing principles of the international law of armed conflict,
- C) Failing that, general principle of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided

that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.

2. The Court may apply principles and rules of law as interpreted in its previous decisions.”

Prescribing offenses under the jurisdiction of the International Criminal Court.

Using Jurisdiction to Prosecute Offenders, the court shall determine whether the crime committed corresponds to one or more of the offenses as provided for in the Rome Statute.

In addition, the court will not use its jurisdiction retrospectively on crimes committed prior to the establishment of the International Criminal Court.

Thus, defining only four traits of guilt, as depicted in the Rome Statute of the International Criminal Court Article 5, namely

“Crimes within the jurisdiction of the Court

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

- (a) The crime of genocide;
- (b) Crimes against humanity;
- (c) War crimes;
- (d) The crime of aggression

It is an offense against humanity in the state itself or other states that are hostile to that state. This is because the member states of the International Criminal Court established the International Criminal Court with the intent to exercise jurisdiction over intra-state courts that are unable to take action against perpetrators, that is, to allow internal courts to prosecute the perpetrators. If the internal court is unable to provide justice, the International Criminal Court will therefore provide jurisdiction. This is because the cost of conducting an international court is much higher than that of an internal court. The International Criminal Court therefore aims to prosecute the country's leaders who have committed crimes and cannot be punished by the internal courts because leaders may have legal

immunities or influence or that the crime was publicly regarded as an example? Some leaders commit crimes against people of other races but is still a person who is highly respected by the nationals of that state.

II. INTERNATIONAL CRIMINAL COURT RULING

To bring a case to the International Criminal Court, proceedings are initiated when the matter is presented to the court for the commission of a crime in which the court has jurisdiction. Those who can present the matter to the court for consideration are: States Parties or States that are not Parties but recognize the jurisdiction UN Security Council or the prosecutor of the International Criminal Court, based on the jurisdiction where the crime was committed which must be the territory of a country that is a party to the International Criminal Court or a country that has jurisdiction. If a crime involves two countries where the crime in one country produces an effect in the other, one of the countries concerned shall be considered a party to the court.

Territory herein shall include ships and aircraft except in the case of the Security Council referring the matter for consideration. No matter where the crime takes place, the court will have the power to prosecute.

Judgment from the jurisdiction based on the person who committed the offense, that is.

- A person who has committed a crime in the territory of a State Party or a State that recognizes its jurisdiction.
- A person who has the nationality of a State Party commits a crime in a territory other than a State Party.
- Persons referred to by the Security Council for prosecution of the International Criminal Court.
- Minors under the age of 18 are outside the jurisdiction of the International Criminal Court.

In the case of submitting the matter for consideration United Nations Security Council The Security Council is empowered to maintain international peace and security in accordance

with the United Nations Charter. The Rome Statute allows the International Criminal Court to prosecute when the Security Council submits crimes to the prosecutor of the International Criminal Court, regardless of where the crime occurred and the nationality of the person committing it.

III. THE NATURE OF THE CRIME UNDER THE JURISDICTION

The International Criminal Court shall have jurisdiction over natural persons who commit crimes that are defined as crimes of genocide, crimes against humanity. War crimes and crimes of aggression by that person committing a crime in the territory of a State Party or in another territory, provided that the person has the nationality of a Party or a country that recognizes the jurisdiction as we have studied above.

It also includes persons who have ordered, requested, induced, encouraged, instigated, assisted or attempted to commit a crime set forth in Article 25 of the Statute of the International Criminal Court. [1]

In addition, the principle of exercising the jurisdiction of the International Criminal Court to enhance the jurisdiction of this State is confirmed in the Statute of the International Criminal Court, preamble, paragraph 10 as follows: [2]

“Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,”

According to this principle, the International Criminal Court will allow domestic courts to consider prosecution of offenders first. When the prosecution is carried out by the domestic courts, the International Criminal Court will not take any action. According to the principle of non-repeated punishment for the same action.

IV. THE PRINCIPLE OF NON-REPEATING PUNISHMENT FOR THE SAME ACTION

The principle of non-reconsideration for the same act is an essential principle of criminal law

which any court will not consider prosecution to punish the matter that other courts have already prosecuted. In the international criminal law system, this principle is emphasized by different countries will not be extradited to other countries.

This principle is enshrined in the Statute of the Courts in two ways: non-re-punishment for offenses convicted by the International Criminal Court and cases decided by other courts.

1) Cases decided by the International Criminal Court

Cases of offenses previously convicted by the International Criminal Court are provided for in Article 20 paragraphs 1 and 2 as follows:

“1. A person must not be tried in court with respect to the acts that are fundamental to the crimes that the person has been convicted of guilty or not guilty unless provided for in this statute.”

“2. A person shall not be tried in any other court for the crime referred to in Article 5 in which the person has been found guilty or no fault”.

Those who have been prosecuted by the International Criminal Court whether the result of the trial and judgment is guilty or not guilty. The International Criminal Court itself will not consider prosecuting the same person for the same action and the Statute of the International Criminal Court prohibits other courts from whether it be an internal court or an international court prosecute that person for the same action as well.

2) Cases decided by other courts

In the case of judgments of other courts, the International Criminal Court reserves the right to consider that Was the trial in other courts proceeding properly? If the prosecution is correct, The International Criminal Court will not take any action in relation to the same action.

This reaffirms the principle of non-repeal and the principle of giving the jurisdiction of the International Criminal Court augmenting the jurisdiction of domestic courts.

However, if other courts do not prosecute the offender independently and impartially or

inadvertent prosecution to punish the offender or help the offender, the International Criminal Court may further prosecute the offender. As the Constitution of the Court, Article 20, paragraph 3, states as follows:

“A person who has been tried by another court for an act provided for in Article 6, Article 7, Article 8 shall not be tried by a court in respect of the same act, except for proceedings in that other court.

(a) are intended for the purpose of protecting the persons concerned from liability; criminal for a crime within the jurisdiction of the court; or
(b) does not operate independently or impartial according to the norms of the judicial process which is recognized by international law and under that circumstances acted in a manner contrary to the intent to bring the persons involved to justice.”

The Statute of the International Criminal Court gives the International Criminal Court the power to prosecute repeated cases where other courts are impartial or not fair. It is a repeated prosecution of the International Criminal Court in order to maintain justice. Therefore, it does not contradict the principle of non-reconsideration of the same act and the principle that the International Criminal Court shall strengthen the criminal jurisdiction of the state.

3) The offender has no immunity to the jurisdiction of the International Criminal Court.

In general, in accordance with international law and national law a person holding a certain position, such as a head of state, head of government Minister of Foreign Affairs, Members of the House of Representatives, diplomats, generals, etc. may be immune to the jurisdiction of the domestic courts in respect of the performance of duties or all performed during their term in office. This allows many leaders who have committed crimes to be released from criminal liability, but for the International Criminal Court. It was set up to punish the country's leaders who have committed crimes that domestic courts cannot

prosecute. Therefore, it does not provide immunity from the jurisdiction of the International Criminal Court for offenders in its jurisdiction.

The case where domestic courts had to wait until immunity was exhausted to convict leaders of genocide and war crimes was the case of former Guatemalan dictator General Rios Montt, was sentenced to 80 years in prison by a Guatemalan court for crimes of genocide and war crimes on May 10, 2013, despite committing crimes during the period. 1982-1983 Because General Rios Montt, as the country's head of state and later a member of parliament, was immune from the jurisdiction of Guatemala for approximately 30 years, convictions for crimes that resulted in the deaths of 1,771 people had to wait until General Rios Montt resigns from his post of escort [3].

Article 27 of the Statute of the International Criminal Court states that all persons are equal without immunity and without compromise. [4]

“Irrelevance of official capacity

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.

2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.”

According to the above provisions, a person who commits a crime of genocide crimes against humanity war crime or a crime of aggression in the territory of a member country of the court or a country that accepts jurisdiction or is a person who has the nationality of a member country a court or a country that accepts jurisdiction. Wherever these crimes have been committed or a person who is referred by the Security Council

to the court for prosecution, there will be no immunity from the jurisdiction of the International Criminal Court, even the head of the country. For example, the International Criminal Court has issued an arrest warrant for Sudanese President Omar al Bashir and the International Criminal Court indicting former Cote d'Ivoire President Laurent Gbagbo because the Statute of the International Criminal Court does not provide immunity to the head of the country.

Criminal Liability of the Military Commander Appears in 28[5].

Responsibility of commanders and other superiors

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

(i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
(ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated,

that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

The Statute of the International Criminal Court specifically provides for military commanders' criminal liability in Article 28, making military commanders criminally liable for their actions and for the actions of their subordinates.

1. The military commander is held criminally liable for his actions.

Statute 25, paragraph 2, states that "2. [6]

A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute."

Under the aforementioned court statute, a military commander committed a crime of genocide, crimes against humanity, war crimes or crimes of aggression will be held criminally liable for their actions. Military commanders may commit these crimes by directing, soliciting, inducing encouraging or inciting their subordinates to commit these crimes instead, because directing, asking, inducing, encouraging or inciting a crime is a crime; therefore, must be held criminally liable and may be subject to penalties under Article 25, paragraph 3 of the Statute, namely [7].

In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

(a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;

(d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or

(ii) Be made in the knowledge of the intention of the group to commit the crime;

(e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;

(f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

2. The military commander is criminally liable for the crimes of his subordinates.

Military commanders are not only criminally liable for their own actions but also criminally liable for crimes committed by their subordinates because the forces or subordinates were truly under his control. Criminal liability of a military commander for crimes committed by the armed forces or their subordinates is a crime committed by the armed forces without the commander's order or solicitation. The military commander simply knows, or should have known, circumstantial that the forces commit crimes and that the military commanders do not do everything in their power to prevent or suppress the forces' actions or did not submit a case to

prosecute. The inability of the military commander to properly control the troops or their subordinates. Therefore, it must be held criminally liable as provided in Article 28 of the Constitution of the Court.

However, after World War II, the United Nations adopted the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

As at March 2016, there were 147 states parties to this Convention, which entered into force on 12 January 1951. This Convention shows that it was the intention of the United Nations to condemn and punish genocide.

As a crime under international law involving a denial of the right of existence of entire human groups, a denial which shocks the conscience of mankind and results in great losses to humanity, and which is contrary to moral law and to the spirit and aims of the United Nations (Resolution 96(1) of the General Assembly, December 11th 1946).

Hence, genocide is a crime under international law. The contracting countries have an obligation to oppose and punish this crime. [8]

The 1948 Convention defines the crime of genocide in Article 2 as follows: "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent birth within the group;

(e) Forcibly transferring children of the group to another group.

As of now 152 countries are parties to the Convention, the crime of genocide committed by killing as stipulated in Article 2(a) above has become so commonplace that it has developed into international customary law, and it is a

crime that is strictly prohibited by law. It applies to all countries even if they are not a party to the 1948 Convention.

The crimes of genocide committed by means other than killing under Articles 2 (b) to (e) are considered customary international law, but it may not be a crime prohibited by law. This is because the word genocide is derived from the word genocide, and this statute was created with regard to examples of genocide that occurred especially in the case of Nazi Germany killing large numbers of people of Jewish descent.

The use of nuclear weapons is strictly prohibited by law. When the development of the law of absolute enforcement (*Jus Cogens*), the crime of genocide has been recognized that is strictly prohibited by law, no one and no country dares to claim any principle to atone for the crime of this crime. Therefore, the use of nuclear weapons as genocide is also considered an absolute offence and the perpetrator will be punished without exception especially in the event of crime causing the loss of a large number of human lives.

As a result of the Second War, states are concerned about a nuclear catastrophe turn to cooperate international agreements for more than a decade in the form of two treaties, the Nuclear Non Proliferation Treaty (NPT) of 1968, yet still insufficient to regulate nuclear technology. Consequently, the Treaty on a Complete Ban on Nuclear Tests was born. (Comprehensive Test Ban Treaty-CTBT) 1996, where both treaties. It is an international agreement that the international community hopes will lead nations to escape from a nuclear disaster. This will promote the effective implementation of the nuclear weapons-free zone treaty in each region. This is because the Nuclear Non-Proliferation Treaty (NPT) essentially focuses on nuclear non-proliferation, under the obligations of Articles 1-3, namely, the ban on the possession of nuclear weapons. Send or help another country produce or possess nuclear weapons, and prohibit states that do not

own nuclear weapons from receiving, seeking or seeking assistance in the manufacture of nuclear weapons. It has asked member states to discuss measures to end the nuclear arms race and nuclear disarmament. It also discusses the Treaty on Complete Nuclear Disarmament. Article 4 provides opportunities for peaceful nuclear development by giving States parties the right to develop, research, produce and use nuclear energy for peaceful purposes, but must adhere to the principles non-proliferation nuclear weapons nuclear weapons [9].

V. FOR THE CONTENT OF THE COMPLETE NUCLEAR TEST BAN TREATY

Significantly, states parties are prohibited from conducting nuclear weapons testing entirely. It covers both land, underground, underwater and space. The current state of the member states is that 183 countries have signed the Comprehensive Nuclear Test Ban Treaty (CTBT).

However, the enforcement of the treaty would not be possible due to the conditions enforced in the treaty. It will come into effect only when 44 nuclear potential countries have signed and ratified the treaty. Currently, 183 contracting parties have ratified it, 166 have signed, 41 have signed, 36 have ratified it. People's Democratic Republic of China Only signed but not ratified. Meanwhile, India, Pakistan, North Korea and Iran have tested underground nuclear bombs and missiles that can be used to mount nuclear warheads. [10]

The international community has expressed concern and urged countries that have not yet signed the Comprehensive Nuclear Test Ban Treaty (CTBT) and the Treaty on The Nuclear Non-Proliferation (NPT) has accelerated the signing and ratification of the two pacts as quickly and unconditionally. Considering the advancements in information and nuclear technology of the present nuclear powers. Such

countries can continue to test and develop their nuclear programs in laboratories.

Incidentally, the concerns of the international community and the nuclear powers themselves probably the use of nuclear in the field of war or use in terrorism, so the country with nuclear potential in the 5 countries is the United States, Russian federation, United Kingdom, People's Democratic Republic of China, French Republic. They do not want the proliferation of nuclear weapons in regions of the world that may be difficult to control, and wars may arise more easily. When all countries have the ability to own nuclear weapons, each wishes the different regions to be nuclear weapons-free zones with a policy to control the country. In each region of the world that has no nuclear potential to refrain from accumulating nuclear weapons to refrain from supporting the transfer of nuclear technology, preventing nuclear testing by defining the framework of international agreements in international agreements in each region, such as the Treaty on the exploration and use of the outer atmosphere.

This was a military ban from testing weapons on the moon and in the sky as well as the deployment of nuclear weapons and the Latin American Nuclear Prohibition Treaty, and the Caribbean (Mexico City, February 14, 1967) Undersea, Undersea and Underground Nuclear Artillery Bases Treaty (London, Moscow, Washington, February 11, 1971) District Treaty South Pacific Nuclear Weapons (Signed in Rarotonga on 6 August 1985) and in 1995 the Africa Nuclear Weapons Free Zone Treaty (Signed at Pelindaba on 23 June B.E. 1995) and the Southeast Asia Nuclear Weapons Free Zone Treaty (signed in Bangkok on 15 December 1995), but up until now Southeast Asia Nuclear Weapons Free Zone Treaty. It has not been endorsed by the nuclear powers. This remains a problem for the region for a long time, although it is completely "forbidden", but it is not complete without being a party to the treaty.

While there are two main treaties, NPT and CTBT, nuclear powers are also fearful of the nuclear threat from secret testing, collect nuclear weapons because there are many countries that do not accept the agreement between the two countries mentioned above, but the worries of the world will not be daunting. If nuclear powers do not use nuclear weapons in nuclear war itself despite trying to control the rules of the world to prevent the proliferation of nuclear weapons but only for peaceful use.

War between Russia and Ukraine, so it's a good case study of the nuclear weapons. It is the side that is superior in the potential of weapons used in warfare and intimidating the world's people to use nuclear weapons that nuclear weapon When it is a weapon prohibited by law, it is strictly prohibited in an international way. Perpetrators or leaders who commit offenses against prohibited weapons should the International Criminal Court have the power and role in enforcing the law against offenders?

According to principle of treaty law, that Treaties generally do not bind a country that is not a party. Except for treaties whose principles have become customary international law. It is binding on countries that are not parties as a rule of customary international law.

From the law of the treaty, The Treaty on the prohibition of nuclear weapons will not apply directly to a country that is not a party. However, only the ban on nuclear weapons of The Treaty on the Prohibition of Nuclear Weapons shall apply to all countries including those that are not a party for the reason that the use of nuclear weapons that would constitute a crime of genocide. One of the offenses the International Criminal Court has set up for control the behaviour of the leader or commander of the use of nuclear weapons. The International Criminal Court has absolute power to bring to justice the leaders of states who commit war crimes against humanity even if that State is not a member of the International Criminal Court. However, the ban on nuclear weapons is strictly enforced by law deemed to have committed an offense

because a large number of human lives will be killed. Genocide is a crime that is strictly prohibited by law, so nuclear weapons are prohibited would be applicable to nuclear weapons countries that are not parties to the treaty because the absolute law(Jus Cogens) will apply to all countries without exception.

The Emergence of Jus Cogens

In the late 1960s there occurred an upgrading of certain fundamental rules produced by traditional sources of law, with the introduction of Jus Cogens, as a result of the endeavours of the socialist and developing countries. These countries claimed that certain norms governing relations between States should be given a higher status and rank than ordinary rules deriving from treaties and custom. Consequently, treaties must not deviate from those supreme norms and, if they did, were to be regarded as null and void. According to proponents of this view, the norms in question covered self - determination of peoples, the prohibition of aggression, genocide, slavery, racial discrimination, and ideological motivations or apartheid.[11]

Legal Consequences of Prohibiting Nuclear Weapons, it appears in the 1969 Vienna Treaty of Article 53, namely:[12]

Treaties conflicting with a peremptory norm of general international law (“jus cogens”)

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

Although The Treaty on the Prohibition of Nuclear Weapons cannot directly apply to nuclear-armed nations because they do not agree to be bound by the treaty because it fails to ratify it, but only in regards to the ban on nuclear weapons will apply to nuclear countries.

According to the principle of absolute force (Jus Cogens) as stipulated in the 1969 Vienna Convention, Article 53, because nuclear weapons have a high destructive power. Reactions that give rise to nuclear weapons is the energy form of nuclear fission and nuclear fusion reactions has a high destructive power. In which nuclear weapons were actually used in World War 2, with the United States dropping nuclear bombs on the city. Japan's Hiroshima and Nagasaki During that time, the Manhattan Project was born to develop nuclear weapons. The use of uranium 235 in nuclear fission. As a result, Japan declared losing the war, [13] which is a common civilian, not a soldier, the use of nuclear weapons to kill many civilians like this would be regarded as a crime of genocide and a crime against humanity. Both of these crimes have evolved into customary international law and are now accepted as absolute law, no one and no country dares to claim any principle to nullify the absolute power of crimes of genocide and crimes against humanity. Any international treaty or custom that contradicts these two crimes, whether before or after them, is null and void.

Therefore, the use of nuclear weapons is a crime of genocide and a crime against humanity in accordance with the absolute law. Whether or not a country that uses nuclear weapons is a party to The Treaty on the Prohibition of Nuclear Weapons. The leaders of nuclear weapons nations would be genocide and criminals against humanity.

VI. CONCLUSION

In conclusion, the Obligations of States Parties under the Statute of Rome which can be applied to States both parties and non-Parties. Consideration must be given to actions that are not prohibited in The Treaty on the Prohibition of Nuclear Weapons and nuclear weapons-related activities: ban development, ban testing, ban production, ban procurement, ban accumulated possession. Do not transfer or

accept transfer Do not threaten to use forbid permission to set installation is prohibited prohibition of establishment. These prohibitions relate to procedures before the use of nuclear weapons. When nuclear weapons weren't used; therefore, it does not qualify as a crime of genocide and a crime against humanity (except for the use of nuclear weapons) is not binding to countries that are not a party under the Rome Statute.

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