

INTRODUCTION

"We can no longer afford to worship the god of hate or bow before the altar of retaliation. The oceans of history are made turbulent by the ever-rising tides of hate. History is cluttered with the wreckage of nations and individuals that pursued this self-defeating path of hate."

**--Martin Luther King,
4/4/67**

Society and law exist nowhere else than in the human mind, they are products of, and in the consciousness of, actual human beings. But a society generates a social consciousness, a public mind, which is distinct from the private mind, distinct from the consciousness of actual human individuals. Social consciousness flows from and to individual consciousness, forming part of the self-consciousness of each society-member. The psychology of the public mind is a manifestation of the psychology of the private mind. The constitution of a society and the personality of a human person are both the product of human consciousness. Social psychology is a form, but a modified form, of personal psychology. But social consciousness functions independently from the private consciousness of every society-member, and is retained in forms (the theories, structures and systems of self-constituting society) which are an "other" in relation to the "self" of the self-constituting of any particular society member. The public mind is society's private mind. The public mind of international society is the private mind of the human species.¹

I. Evolution of the Problem:

History is witness to the fact that wherever an individual or groups of individuals have become powerful, they have flagrantly tortured the weak and the defenseless. The truth behind the cliché "power corrupts and absolute power corrupts absolutely" cannot be ignored. Even where power is legitimated and turned into a legally valid authority, abuse of power and torture of the weak and the defenseless has continued. In this back drop considerable legal mechanism has developed for the exercise of such raw power.

An international crime has been broadly defined as "an act universally recognized as criminal, that is, an act that is considered a grave matter of international concern and for some valid reason cannot be left within the exclusive jurisdiction of the state that would have control over it under ordinary circumstances". Today, international criminal liability exists in respect of war crimes, crimes against humanity which includes genocide and

¹ Philip Allott, "The Concept of International Law", 10 EUR. J. INT'L L. 31, 33 (1999).

torture. Other crimes such as terrorism-related crimes, enforced disappearances and extrajudicial killings can also be considered international crimes.

There may be as many as twenty-four different international crimes. It may be useful to distinguish between the “core crimes” such as aggression, genocide, war crimes, and crimes against humanity—and other international crimes.

Crimes against humanity now are established as jus cogens norms and are implicitly recognized as such in the preamble of the Hague Convention, which served to codify the customary law of armed conflict. At present, eleven international texts enumerate the offences considered crimes against humanity, although there are slight inconsistencies among the definitions and the necessary elements involved. While variations abound, all texts and statutes date back to the Hague Convention of 1907, which codified armed conflict into customary international law. In 1945, the Allied powers at Nuremberg defined crimes against humanity as: Murder; extermination, enslavement, deportation, and other inhumane acts committed against civilian populations, before or during [the] war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Unfortunately, despite several attempts for fixing liability to the individuals who have committed crime against humanity and subjecting them to trials like Nuremberg trials and Tokyo trials the legal framework for fixing liability to individuals guilty of the act of committing crime against humanity to this day remains obscure and vague and ad hoc mechanisms are used to settle such cases.

In the face of recent developments in countries like Libya, Egypt, Iraq the lack of legal framework to deal with such matters has become a cause for international concern. The main thrust of this work is to study the existing legal framework for determination of individual’s accountability for the crime against humanity and to propose changes into the existing framework.

II. Identification / Statement of the problem

There is lack of legal framework for the control, regulation and punishment for individuals who commit crime against humanity. The current system of international criminal law works through international ad hoc tribunals internationalized or mixed tribunals, the International Criminal Court as well as national courts, military tribunals and ordinary courts. As such the consequences of framing an act as an international crime is that it may give rise to what is called universal jurisdiction, which allows any state to try alleged perpetrators, even in the absence of any link between the accused and the state exercising jurisdiction which leads to miscarriage of justice on one hand and multiple trials on the same cause of action on the other hand.

III. Hypothesis

There is insufficient legal framework for the control and regulation and for fixing liability on the individual for committing crime against humanity and the present mechanism works through international ad hoc tribunals internationalized or mixed tribunals, the International Criminal Court as well as national courts, military tribunals and ordinary courts which allows any state to try alleged perpetrators, even in the absence of any link between the accused and the state exercising jurisdiction which leads to miscarriage of justice on one hand and multiple trials on the same cause of action on the other hand.

IV. Research Questions

1. What is the genesis for global movement for accountability?
2. What are the shortcomings of the present legal framework for accountability of international crime?
3. What is the role of the International Law Enforcement Agencies to provide proper justice to the victims?
4. What are the shortcomings of the institutional mechanisms to prevent the growth and spread of the international crime?
5. What is the concept of global movement towards accountability and what is the scope of its growth?

V. Objective of the study

The nineteenth, twentieth and the twenty first century is deeply scarred by the offences that have been committed against humanity. Although some attempts have been made to evolve a legal framework to control and prevent commission of such offences and the enforcement of such laws, neither the rate of commission of the offence has ameliorated nor are the enforcement effective. The objective of the study is to explore how to make the enforcement mechanism more effective.

VI. Significance of the Study

With greater significance of human rights and its violation by committing crime against humanity, there is dearth of information of legal frame work that fixes responsibility on individuals and for trial of such cases. The significance of the study is that an attempt is made to identify the legal frame work that can be used for trying such cases especially against an individual offender.

VII. Methodology

Having selected the above topic for this research, the work will perforce be based on theoretical doctrinal research. For the above purpose the researcher will read all the relevant materials with full and accurate references. The methodology followed is traditional non-empirical research. It involves analysis of case law, arranging, ordering and systematizing legal propositions and study of legal institutions and international instruments.

The starting point of the present doctrinal / traditional research centers around legal proposition that the machinery for enforcing the law against an individual who has been accused of committing crime against humanity is weak and in many cases non-existent.

The research will center around law library and authoritative texts and documents will be used for the analysis of law. The traditional/ doctrinal research will involve the following facets:

1. Study of the historical evolution;
2. Analysis of cases;
3. Study of legal institutions;
4. Comparative study of various law enforcement agencies;
5. Critique of legal framework.

VIII. Chapter Summary

Chapter I: ACCOUNTIBILITY OF INDIVIDUALS FOR CRIME AGAINST HUMANITY: THEORETICAL AND CONCEPTUAL FRAMEWORK

The jurisprudential rooting of the present research work is discussed under this chapter. If the subject matter is not rooted in theoretical and conceptual framework the boundaries of the discussion cannot be delineated. This chapter also explains the concepts used in this research and international legal theories, which are essential for proper understanding of the accountability of individuals for crime against humanity. This chapter is narrative one in nature. This chapter has not adhered to any one theory but has tried to use the essence of the theories to understand the issues involved in this research work.

Chapter-II: HISTORICAL EVOLUTION OF THE CONCERN FOR CRIME AGAINST HUMANITY AND FIXING OF ACCOUNTABILITY

This chapter is divided in four parts. The first part of the Chapter discuss about the preliminary concept of international crimes, such as aggression, genocide, war Crimes and crime against humanity etc. In the second part the historical evolution of crime against humanity has been discussed. The third part attempts to establish individual criminal liability for the crime against humanity and in the part four of the chapter relationship between State responsibility and individual responsibility has been discussed. This chapter is also a narrative in nature. However form the conspectus of the historical evolution it is found that the crimes and criminal conduct that was evinced during this period did not have a definition and the definition in the Rome Statute was accepted as an illustrative bench mark.

Chapter-III: CRIME AGAINST HUMANITY BY INDIVIDUALS: PRE 1945 SPECTRUM

This chapter deals with the scenario of crime against humanity by individuals before 1945. First part of the chapter deals with the antiquity of the theory of accountability of individuals for crime against humanity, second part of this chapter discuss the era of World War I, when the whole World was suffering from violence and an attempt has been made to sketch out the incidences where several individuals were being prosecuted for crime against humanity under international law.

Chapter-IV: CRIME AGAINST HUMANITY BY INDIVIDUALS: A POST 1945 SPECTRUM

This chapter describes the scenario of the framework of the trials of individuals for crime against humanity after World War II (1939-1945). It was the largest armed conflict in human history. Ranging over six continents and all the world's oceans, the war caused an estimated 50 million military and civilian deaths, including those of 6 million Jews. Global in scale and in its repercussions, World War II created a new world at home and abroad.

Major attempts to prosecute war criminals occurred in Europe and Asia after World War II. This chapter deals with the attempts of criminalizing individuals for crime against humanity after 1945 under the following 22 heads. This chapter shows that individual accountability was recognized for the first time in Nuremberg Trial. The International Criminal Court came into existence during this period yet not uniform procedure was evolved even during this period although the trials culminated in prosecution.

Chapter V: A ROADMAP OF THE DEVELOPMENT OF LAW ENFORCEMENT AGENCIES FOR DEALING WITH INDIVIDUALS ACCUSED OF CRIME AGAINST HUMANITY

In this chapter the matter of discussion is about various international law enforcement agencies like International Criminal Court, International Court of Justice, Ad Hoc Tribunals and Hybrid Tribunals. In the introduction of the chapter the historical to the present scenario of the international tribunals have been discussed about. In the later part of the Chapter the International Criminal Tribunals, which deal with the individual liability, the success and failure of these tribunals have been discussed. It has also been suggested that some reformative measures regarding the workings of these tribunals can be more effective. The hierarchy of the prosecution that is by the national courts and after on appeal to the international courts has not been laid down. There is a lack of clarity regarding jurisdiction and hierarchy. A lot of Ad Hocism still continues and there is hardly any precedent available due to the lack uniformity of procedure.

Chapter-VI: A COMPARATIVE STUDY OF THE INTERNATIONAL AND INDIAN LEGAL FRAMEWORK RELATING TO CRIME AGAINST HUMANITY BY INDIVIDUALS

This chapter mainly deals with the Indian legal framework and also the various Indian incidents regarding the crime against humanity in comparison with international framework for accountability of individuals for crime against humanity. As India has no separate specific law directly addressing the issue of determination of accountability for crime against humanity, so the line of discussion have been drawn by discussing the Indian laws dealing with the separate crimes (Murder; Extermination; Enslavement; Deportation or forcible transfer of population; Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; Torture; Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; Enforced disappearance of persons; The crime of apartheid; Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.)², which are specifically declared as 'crime against humanity' under the definition of Article 7 of The Rome Statute of the International Criminal Court. In India actions described in Article 7 of the Rome Statute of the International Criminal Court to be crime against humanity has to be incorporate within criminal law and the existing offences should attained to the benchmark laid down in the Rome Statute of the International Criminal Court. Moreover there is a need to adopt the Rome Statute of the International Criminal Court by India. The rate of conviction must increase and the quality of investigation should be free of political pressure.

² Article 7 of the Rome Statute of the International Criminal Court.

Chapter-VII: A STUDY OF INTERNATIONAL PRINCIPLES REGARDING LIABILITY OF INDIVIDUALS FOR CRIME AGAINST HUMANITY IN SELECTED NATIONAL JURISDICTIONS

The subject matter of this chapter is about the various national laws to combat crime against humanity and the implementation of those laws by the nation states. In this chapter municipal laws of 52 states have been discussed when accountability of individuals for crime against humanity is clearly laid down. The chapter concludes that India too must have a law in similar lines.

Chapter-VIII: INDIVIDUAL LEADER'S LIABLE FOR CRIME AGAINST HUMANITY: A COLLAGE

In this chapter I have discussed about various specific instances of individual leader's liability, such as Hermann Goering, Albert Speer, Rudolf Hess, Charles Taylor, Idi Amin, Saddam Hussein, Ratko Mladic, Gaddafi, for crime against humanity, who violates human rights and have committed crime against humanity and I have also discussed about some of the persons pronounced as accused by the Bangladesh War Tribunal, for various crime against humanity committed by them at the time of Bangladesh Liberation War. It is a narrative chapter.

Chapter IX: SUGGESTIONS AND CONCLUDING REMARKS

IX. Literature Review

A study of the available literature in the area of international law has been done. Specific emphasis was given to books and literature relating to issues raised in the form of research questions. Only those books and articles, takes place important role in supporting my thesis are included in this part, others are referred in the bibliography. Some available related literatures related to the present research topic are as follows:

Books:

- 1. Jean – Marie Henckaerts and Louise Doswald-Beck (Ed.), Customari international Humanitarian law, ICRC, Vol.I Rules, Cambridge University Press, 2005.**
- 2. Jean – Marie Henckaerts and Louise Doswald-Beck (Ed.), Customari international Humanitarian law, ICRC, Vol.II Practice, Part-I, Cambridge University Press, 2005.**
- 3. Jean – Marie Henckaerts and Louise Doswald-Beck (Ed.), Customari international Humanitarian law, ICRC, Vol.II Practice, Part-II, Cambridge University Press, 2005.**

These three volumes of the book are the publication from International Committee of the Red Cross. The first volume contains the rules regarding the customary humanitarian law. In part one it contains rules regarding the principle of Distinction part two contains rules regarding specifically protected persons and objects, part three contains rules regarding specific methods of war fare, part four contains rules regarding weapons, part five contains rules regarding treatment of civilians and persons hore de Combat and lastly part six contains rules regarding the implementation of these rules. This part of the series has special significance in my proposed research topic because in part six, chapter 43 and 44 it contains rules regarding individual responsibility (Rules 151-155)and war crimes(Rules 156-161).

The next one in the series deals in detail with the rules contained in the previous volume. The part one of the volume two and chapter 43 contains individual criminal and civil liability, command responsibility for orders to commit war crimes, command responsibility from failure to prevent, repress or report war crimes, obedience of superior orders and defence of superior orders. Chapter -44 of this book deals with the definition of war, jurisdiction over war crimes, and prosecution over war crimes and international cooperation in criminal proceedings. As crime against humanity has a very close relationship with the war related crime, so this book has a great significance for the proposed research work.

The next part mainly concentrate in the chapter thirty two of part five i.e. fundamental guarantees in detail, which is closely related with the crime against humanity such as human treatment, non-discrimination, violence to life, torture and cruel, inhuman or degrading treatment, corporal punishments, rape and other forms of sexual violence, slavery, slavery trade and forced labour, individual criminal responsibility and collective punishments etc. All these theories and rules is of great significance for the purpose of determining the individuals accountability for crime against humanity.

4. Radharaman Chakrabarti, UNO- A Study in Essential, 1st Edition,1998, KP Bagchi and company, Calcutta.

This book contains various United Nations International organizations such as The League of Nations and other organizations and also includes various law enforcement agencies.

5. Mark W. Janis, An Introduction to International Law, 1st Edition, Aditya Books, 1989.

This book deals with the nature of international law, various treaties on international law, customs and other sources of international law, the detail description of International Court, states responsibility on International Law and most importantly in chapter seven individuals and the international law. In describing individual responsibility for

international law this book states about individuals as subject of international law, international human rights law such as the Nuremberg trial, European Human Rights Law and Inter- American Human Rights Law.

6. Gerhard Werle, Principles of International Criminal Law, T.M.C. Asser Press (2005).

This book contains some major issues of international criminal law. More specifically the part IV of this book clarifies the crime against humanity as mass crimes committed against a civilian population. The history of the international crime has been explained very minutely. In this regard this book specifies some policies in International field such as ICC statute, customary international law etc. More importantly this book analyze the individual acts of crimes against humanity in the order in which they are contained in the ICC statute, as there is no difference made between the categories “inhuman acts” (murder type) and “acts of persecution” (persecution type). The author imposes individual liability of international crime of killing, extermination, enslavement, deportation of forcible transfer of population, imprisonment, torture, sexual violence, persecution, enforced disappearance, apartheid and other inhuman acts.

In part III point D of this book the author determines the individual criminal responsibility. This book emphasizes upon major additional challenge in weighing the individual contribution to international crime. In this regard this book also emphasizes upon the importance of ICC Statute, Nuremberg Charter etc. The author also portrayed the liability of a commission which fulfills the requirements of a crime against international law in his or her own person, and thus commits a crime as an individual.

7. M.Cherif Bassiouni, International Criminal Law, Sijthoff and Noordhoff (1980).

In this book the author has written about the international criminal law- its history, scope and content. This book mainly deals with the introduction to the structural and functional use of the Draft of International Criminal Code and various commentaries on the Draft.

8. J.G.Starke, Introduction to International Law, Aditya Books, Butterworths (1989)

9. M.P.Tandon, Starke’s International Law, Allahabad Law Agency (2002)

10. T.J. Lawrence, The Principles of International Law,7th Edition, Macmillian & Co., Limited, 1937.

All of them are basic books of International law. From these books I get the preliminary information about nature, origin and basis of international law, sources of international law, and subjects of international law. This book has also thrown light on the states as subjects of international law, the rights and duties of the states under international law.

But this book does not include anything relating to individual responsibility for international crime against humanity, neither these books include anything about the Law Enforcement Agencies in the international crime.

11. Ian Brownlie (Ed.), Basic Documents in International Law, Clarendon Press Oxford (1983)

This book contains International Organizations such as United Nations, various international declarations, International Labour Organization, Organization of African Unity etc. This book further contain the various laws of the sea, law of outer space, diplomatic relations and various declarations and covenants relating to human rights, various law of treaties and judicial settlement of disputes. Although this book is relevant in point of view of my research but it does not have any direct material regarding my research work.

12. M.P.Tandon, Public International Law, Allahabad Law Agency (2002)

This book also contains the basic materials of International Law such as nature, origin, scope, source, development etc. But Chapter XVIII of this book contain something very important which declares about the place of individuals in International Law and human rights. While explaining this part the author explains the traditional view of individual liability in international crime and in this regard it explains Nuremberg Trial, Genocide Convention, Atlantic Charter, 1941, the role of the United Nations, various Declarations, Covenants etc. This part of this book should have a great relevance with my research topic.

13. D.W.Bowett, The Law of International Institution, Universal Book Traders (1982).

This book in its four parts contains details of various international institutions. Part one contains the detail of global international institutions, part two contains regional international institutions, part three contains international judicial institutions and part four contains common problems of international institutes such as responsibility of international organization, the laws governing the activities of international organizations, dissolution of international organizations etc. Again the contents of this book although have not much relevance with my research work but to determine the individual liability in International crime and the role of the law enforcement agencies this book is no doubt a relevant one.

14. R.P.Dhokalia, The Codification of Public International Law, Manchester University Press, U.S.A, Ocean Publications Inc. (1970).

This book laid emphasize upon the codification of public international law. In Part I the author portrayed the historical background of the movement towards codification of international laws, in part II the movement to codify public international law has been illustrated, part III describes the codification sponsored by the United Nations Organization. This part of international law is no doubt having a great importance to determine individual's liability for international crime against humanity and the role of the law enforcement agencies towards that end.

15. Ian Brownlie, Principles of Public International Law, Oxford University Press (2008).

This book in its prior parts contains the preliminaries of international law. But in its later portion in part XI and XII this book contains International Criminal Justice and International Organizations and Tribunals, which have great significance in my research work as it deals with various Law Enforcement Agencies like International Criminal Court, International Court of Justice, various ad hoc tribunals etc.

16. P.R. Ghandhi (ed.), Blackstone's International Human Rights Documents, Universal Law Publishing Co. Private Limited (1999)

This book is a compilation of multitude of UN Human Rights Conventions, Covenants and declarations together with the texts of various regional human rights protection mechanisms etc. this book includes documents such as UN Charter, the Universal Declaration of Human Rights and the two United Nations Covenants. The author has included a selection of other international instruments which have some importance in human rights field. As my topic is somehow related to human rights, so I refer this book to review all the relevant international human rights documents to enrich my research work.

17. M.K.Nawaz (ed.), Essays on International Law, Thomson Press (India) Ltd. (1975)

This book is a compilation of various essays on international law. from the point of view of my research topic there are various essays which is useful like by the essay named "The effectiveness of International Law" by Louis B. Sohn or another essay named "Idealism in International Law" by Wilfred Jenks or "Do new problems need new Courts?" by Phillip C. Jessup are some of the important essays in point of view of my research work.

18. Ahmend M. Riffat, International Aggression, Humanities Press, U.S.A. (1979)

This book is dealing with the concept of aggression. Aggression itself has been practiced for quite a long time and is still being practiced now. In Chapter XII of this book the

author put emphasize on the concept of criminal responsibility of the aggressor state and the individual authors of aggression and the development of the concept during the Second World War. As my research work mainly concentrates in the liability of individuals for crime against humanity, concept of international aggression and individual's liability regarding aggression is very important one.

Articles:

1. Peter Hulsro, "Jus Cogens and Disarmament", IJIL, vol.46, No. 1, 2006p.1

The article seeks to reconcile the concept of jus cogens with source doctrine based on Article 38 of the Statute of the ICJ. It concludes that jus cogens norms arise through the source general principles of law, and that the binding effect of jus cogens norms on persistent objectors is part of the phenomenology of jus cogens, even if this broadens the normative reach, compared to general public international law norms. The second part of the of the article deals with theoretical perspective of the non-proliferation and disarmament field. Assuming that the prohibition on the use of force is a jus cogens norm it is concluded that, as a consequence, armament steps that can only serve aggressive purposes are outlawed as jus cogens, as well. Furthermore, a number of further full or nascent jus cogens norms are identified, alongside norms that may be termed quasi jus cogens norms, because of their provenance in Security Council Resolutions.

2. C.F. Amersinghe, "Dispute Settlement By International Organizations", IJIL, vol.43, no. 3, 2003, p.409.

This article in general deals with the two kinds of international disputes in settling which international organizations may play a substantial role. First, there are disputes arising from the interpretation of the constitutional or regulatory instruments of an organization. Such disputes are generally between member states but also be between the organization and member states or even between organs of an organization. Secondly, there are disputes which arise between member states in settling which an international organization may participate, e.g., concerning international trade, human rights violations or a threat to the peace under the UN Charter.

3. Vishnu Dutt Sharma, "International Crimes and Universal Jurisdiction", IJIL, VOL.42, NO. 2, 2002, P. 139.

The abstract of this article is that the contemporary world is undergoing a serious threat from the variety of serious crimes of international character. These crimes endangered the international peace and security, maintenance of which is one of the purposes of the charter of the United Nations. International community has always been engaged to explore and adopt the effective measures at national, regional and international level for the prevention of crimes and dealing with them where they occur. As a result, several criminal activities have been identified, designated as international crimes and defined. Nevertheless, certain crimes like aggression and terrorism have not yet been addressed

through appropriate definitions that could be universally acceptable. Prescribing of sanctions in respect of the international crimes, universally acceptable procedures for the investigations and prosecutions and the implementation of the international legislations and decisions in all parts of the World also remained a great challenge. The present paper is an attempt to analyze the prevailing state of international crimes and their legal position with a focus on the universal jurisdiction to deal with such crimes. Dealing firmly with international crimes is necessary not only to achieve the basic purposes of the charter of the United Nations, but also it is very significant for the survival of the values of civilization and the mankind itself.

4. C. Jayaraj, "The International Criminal Court and The United States: Recent Legal and policy Issues", IJIL, vol. 42, no. 4, 2002, p. 489.

This Article deals with The Rome Statute of the International Criminal Court. It deals with the evolution of the International Court, salient features of the Rome Statute and then the main emphasis of this article is focused on the US approach towards the International Criminal Court, US attempt to undermine the Rome Statute, the implications may arise for not signing a treaty and the implications may arise for the same. In conclusion the author portrays the contradictions of the US position with the ICC is illogical especially when the US was in the forefront of the efforts to establish the court since 1995.

5. Leeladhara Bhandary M., "International Criminal Court: Developments in Prosecution" IJIL, vol.45, No.2 (2005), p.256

In its introductory part the author deals with the constitution of International Criminal Court. The author in this article describes the procedure for the prosecution as how the Court may exercise its jurisdiction in situations there is a grave crime. While concluding the author portrays the role of International Criminal Court to strengthen the international legal order, the co-operation of state parties in effectively collecting the necessary information and taking all necessary measures to provide justice to the victims. The author at the end expresses his hope that the International Court may add a fillip to the world communities' efforts in the maintenance of international peace and security.

6. Y.S.R. Murthy, "A Giant Forward or Delusion- an evaluation of the Rome Statute of the international criminal court", IJIL, vol.40 (2000) p.505

This article is a great tribute towards shorting out the missing links of the international criminal system. The author in this article emphasized upon the importance of humanitarian law and human rights standards which have evolved during the last one hundred years or so, but according to the author still there was a lack of permanent enforcement mechanism and as a result most of the serious human rights violations have gone unpunished. Lastly he exaggerates the role of the International Criminal Court as

the missing link. Further he draw out the nature of International Crimes and the Policy on International Criminalization, the need for International Criminal Court, main features of the International Criminal Court, positive as well as negative features of the Rome Statute. While concluding the author examined and express his own views about the question that whether it would lead to a fair, independent and effective court that will take up egregious violations wherever they occur and by whomsoever committed. The conclusion of the Rome Statute marks a shift from the standard setting in human rights to their enforcement at the international level. It signifies the growing political and legal consensus on the need to rein in impunity.

7. Ramni Taneja, “An obligation Resulting from the International solidarity in fight against crime”, Halsbury’s Law, April 2009, p.30

This Article deals with an exclusive analysis of Indian Extradition Act, 1962, its bilateral treaties and arrangements with various countries concerning extradition, reflect its commitment to the rule of law and due process of law along with an allegiance to world peace. Though this point of international law have a great impact in the regime of International Criminal Law but have a least relevancy with individuals accountability of crime against humanity.

8. “Accountability under Human Rights Law and International Criminal Law for Atrocities Against Minority Groups Committed by Non-State Actors”, Abo Akademi Institute for Human Rights Peter Finell May 2002 as cited in <http://www.abo.fi.com> 20/08/11, 05.04 pm

The aim of this study is thus to examine the scope and the content of the legal responses available under two branches of contemporary international law, namely human rights law and international criminal law, to atrocities that can be defined as war crimes, crimes against humanity, genocide and human rights violations, when they are perpetrated by non-state actors. Minority rights are protected under human rights conventions that are treaties between States, in which States have undertaken to respect and ensure the rights enshrined in the treaty. Thus, this paper seeks to examine the nature and scope of the obligations on part of the State, when the threat to minority groups stems from non-state actors. The main issue in this respect is thus to examine what kind obligations international human rights law puts on the duty-bearers for atrocities against minority groups, when non-state actors perpetrate them. The questions that arise in this connection are thus: Does human rights law apply to non-state actors? How can non-state actors violating the rights of minority groups or engaging in persecution of such groups be made accountable for such acts? What kind of duties do human rights conventions put on States, with regard to violations of the very rights that the convention is designed to protect? What is the scope of the “due diligence” doctrine?

**9. “Rome Statute of the International Criminal Court”,
<http://treaties.un.org>.09/01/12, 09.43pm**

The text of the Rome Statute reproduced herein was originally circulated as document A/CONF.183/9 of 17 July 1998 and corrected of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002. The statute contains 13 parts with 128 Articles are as follows:

Preamble

Part 1. Establishment of the court

Part 2. Jurisdiction, admissibility and applicable law

Part 3. General principles of criminal law

Part 4. Composition and administration of the court

Part 5. Investigation and prosecution

Part 6. The trial

Part 7. Penalties

Part 8. Appeal and revision

Part 9. International cooperation and judicial Assistance

Part 10. Enforcement

Part 11. Assembly of states parties

Part 12. Financing

Part 13. Final clauses

10. Bernhard Graefrath, “Universal Criminal Jurisdiction and an International Criminal Court”, 1 EJIL (1990) 67.

This piece of work deals with the questions of implementing a code of offences against the peace and security of mankind and the role of ICC in implementing the provisions of international criminal law.

11. Britta Lisa Krings, “The Principles of ‘Complementarity’ and Universal Jurisdiction in International Criminal Law: Antagonists or Perfect Match?”, Goettingen Journal of International Law 4 (2012) 3, 737-763.

This article deals with the concepts of complementarity and Universal Jurisdiction as such raise various concerns, just in themselves. The combination of these concepts may be a very reasonable one, however, it tends to cause confusion and renunciation within the international community. The objective of the present work is to present very briefly the two different legal concepts and provide an analysis on their compatibility. In order to come to a result, the principle of complementarity is evaluated as both, an admissibility criterion and a State obligation and right, to primarily be able to deal with a case in their national legal system, acknowledging that criminal jurisdiction is situated in the heart of State’s sovereignty. Universal Jurisdiction is brought into a relation with these two ideas of complementarity. This paper addresses possible solutions.

12. Usha Ramanathan ,’ India and ICC’, Journal of International Criminal Justice , 2005

In this paper, the object of attention is to understand the present relation between International Criminal court and India. First part of the paper explains how International Criminal Court was constituted, its jurisdiction, how are the judges appointed, the procedure of trial being followed at the court including the concept of appeal and revision, the complementary principal . Second part of the paper deals with response of Indian establishment to the International Criminal Court, it lays emphasis as to the reasons why India did not become a signatory to the ICC statute, the concerns of Indian government, the previous episodes in Indian history, dispute regarding the definitions used in the statute. The author has concluded this paper with the need to adopt a universal idiom which can be recognized everywhere.

CHAPTER- I