THE LEGAL EVALUATION OF INTERNATIONAL CRIMINAL LAW CONVENTIONS IN THE NATIONAL LEGAL SYSTEMS

Saed Zayed Mohammad Al-Hawari, Majmaah University

ABSTRACT

This study deals with a very crucial subject i.e. the role of International conventions in the internal legal systems specifically in the domain of crimes and penalties. Accordingly, the researcher addresses the issue of legal evaluation of International criminal conventions that bear legal obligations to the respective countries. These legal obligations compel the countries concerned to take certain legal measures for prosecution of an accused of such crimes. The main issue of the study is to concentrate on the possibility of implementation of International criminal conventions in the national legal systems, relagislating these conventions by the internal legislators. Otherwise, the role of these conventions will fail to have governance of these rules over the countries and will lead to a defective legitimacy. This study will be divided into two major parts - the first focusing on the definitions of the international criminal conventions and the second dealing with the legal methods of implementing the international criminal conventions in internal legal systems.

Keywords: International Criminal Conventions, Criminalization, Penality, Enforcement of International Treaties, The Theory of Unity of Law, The Theory of Dualism of Law, International Legal Systems.

INTRODUCTION

National criminal law has been greatly influenced by international criminal law despite the absence of a hierarchical relationship between the two laws, in addition to the absence of the obligatory nature of the international criminal law rules. The reason for this influence is international treaties, as most of the international treaties stipulate that the states parties undertake to take any necessary legislative procedures to impose effective penal punitive on persons who commit or order the commission of one of the grave violations mentioned in them, in addition to the necessity of determining the jurisdiction of the state to prosecute and trial the perpetrators of those crimes according to the conditions contained in it. This has resulted in the development of criminal rules in various national criminal legislation, as some legislation have been able to include in their texts what indicates fulfillment, and shows the commitment of their countries to the provisions of these treaties. However, the impact of the national legislator on international criminal law does not mean that legislative solutions are similar in enforcing the texts of international criminal treaties to which they are a party. Rather, legislative solutions vary in this regard according to the different legal systems of countries. So, some of them mentioned a general rule confirming automatic integration into the internal law, and some of them required special legislation.

The variation in the attitudes of national legal systems with regard to the issue of international criminal law treaties enforcement prompted the researcher to highlight these attitudes, in order to reach a legal solution that can be applied to overcome the difference in views on this subject.

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

The study importance stems from the fact that it deals with a vital subject, which is the increasing role of international treaties in the internal domain, as its role was not limited to political and economic issues, which used to occupy the vast majority of international treaties, but rather extended those treaties to the criminal field, especially the issues of criminalization and punishment. This has led to increased interest in the issue of the legal value of international criminal law treaties in national legal systems, given the conclusion of many international conventions that obligate state parties to take legislative procedures to prosecute and prosecute perpetrators of crimes. Which would affect individuals in different societies directly through the rules of public international law in terms of their acquisition of rights, or their assumption of obligations through those international treaties? This confirms the importance of the national legislator rule in the necessity of intervening to clarify and address the issue of the enforcement of international criminal law treaties in national legal systems, after the transformation that took place in those treaties and made them a source of granting individuals rights and carrying those obligations.

The study problem is that the enforcement of international criminal law treaties in national legal systems without the national criminal legislator intervention to put them in the legislative template, leads to the creation of a distorted rule with which it is not possible to implement the principle of legality, because in such a case we are going to apply a criminal rule that requires it has clarity in the pillars of the crime, with the stipulation in advance of the penal for its commission, that is, the necessity of providing all that requires the legality of crimes principle and penalties. The researcher will divide this research into two main chapters as follows:

In the first chapter, the researcher will deal with the nature of international criminal law treaties, through three main topics. In the second chapter, the researcher deals with the legal system of international criminal law treaties in the light of national legal systems, through two main topics.

International Criminal Law Treaties

In this topic, the researcher will discuss the nature of international criminal law treaties through three main requirements that will focus on highlighting the concept of international criminal law, defining international criminal law treaties, and identifying the most important characteristics of these treaties, as follows:

The concept of international criminal law

International criminal law concept is not a modern concept of origin or formation, it appeared a long time ago, and this concept has been discussed in multiple ideological focused in its entirety on the common interest of states in international criminal cooperation, the idea of protecting national sovereignty, and common human values (Bassiouni, 1991). Most of the jurisprudential discussions on the concept of international criminal law focused on the classification of this law, as some considered it a branch of public international law, and there are those who believe that the origin and privacy of criminal law is from public international law and national criminal law, while others see international criminal law as distinct and independent of public international law and national criminal law (Sidqi, 1986; Khalaf, 1973).

International criminal jurisprudence has not settled on a single and specific definition of international criminal law. Several jurisprudential attempts to define this law, clarify its features, and clarify any confusion that may arise between it and other laws of an

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

international nature, most notably international criminal law. Where some jurists went to define international criminal law as: "*The legal rules arising from treaties related to international aid in the matter of implementing national criminal texts, such as the rules on extradition of criminals, and the implementation of foreign judgments, and judicial delegations, such as interrogation of an accused, witness or catch a fugitive*" (Yousef, 2011; Obaid, 1987; Al-Atour, 2011).

While others defined it as: "*That branch of the international legal system that represents one of the means used to achieve a high degree of compatibility and harmony with the goals of the international community in preventing crime, correcting deviants, and preserving society to protect it, and to achieve the higher interests of the international community, where international criminal law is considered the result of the convergence of both international aspects in national criminal law, and criminal aspects in international law*" (Ahmad et al., 2023; Glaser, 1973). International criminal law has also been defined as a branch of criminal law that regulates a set of problems at the international level (Cheng et al., 2023).

International criminal law means a set of international rules that impose a specific behavior required punishment when it violated. The international community consists of sovereign states that share some basic interests that require their protection by creating binding international rules to preserve the entity of this society, and due to the presence of some crimes and violations that threaten the international community existence, the need to protect its members from the danger of these violations has emerged, which led to states to establish criminal legal rules, and to create systems and judicial bodies to prevent and punish various international crimes, especially grave crimes and violations, or at least to reduce them by perpetuating the idea ofpunishment (Fraihat et al., 20023; Glaser, 1973).

International criminal law is the set of legal rules that aim to suppress violations of public international law. It has also expanded and protected interests that emphasize respect for human rights and its humanity after recognizing the individual as an international legal personality (Glaser, 1973).

From the previous definitions of the concept of international criminal law, it's clear that this law has several advantages, the most notably as follow:

1. The international criminal law has the task of determining the interests of the international community and the priority of care and protection, and it determines the patterns of behavior harmful to this community and the punishment prescribed for it, and its implementation through a cooperative collective repressive system, or through national penal systems.
2. It is not written and most of the sources of its criminalization are customary, as international crimes in international criminal law are not based on an enacted law that clearly and specifically describes prohibited acts, and the corresponding penalties for those acts.
3. The domain of international criminal law application is not limited to a territory, but rather extends its jurisdiction to include all acts that constitute a violation of international public order.

Definition of international criminal law treaties

Despite the importance of international treaties as a source of international criminal law, international law jurists did not set a specific definition for international criminal law treaties. Rather, international law jurists limited themselves to defining international treaties in general, where the definition includes all kinds of international treaties as a basic and important source of international law. The treaty was defined as: "*A written agreement between two or more international persons, which would establish mutual rights and obligations under international law*" (Shukri, 1989), while the treaty was defined as: "*The*

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

covenant or contract concluded between two or more states relating various matters of interest to the concerned parties" (Shukri, 1989).

International treaties are also defined as: "*International agreements concluded in writing between two or more countries and are subject to international law in terms of the terms of their conclusion and legal effects, and they are a direct source of rights and obligations between their parties*" (Adas, 2002). They are also defined as: "*Agreements concluded by states among themselves for the purpose of regulating international legal relations and determining the rules to which these relations are subject to*" (Abu Heif, 1993).

Accordingly, it can be said that international treaties have a clear impact and an important role in the field of establishing international legal relations. It was through it many of the legal rules currently in force were established or established. This effect or role played by international treaties varies according to the type of treaty, to clarify this, international treaties can be divided into two types as follows:

1. Special treaties: They are concluded between two or more countries in a matter of their own, they do not obligate non-contracting parties, and they are not in themselves a source of the rules of public international law, but may be an indirect cause of the emergence of an international rule. The small number of contracting states in this type of international treaties leads to a narrowing of the scope of application of its provisions in accordance with the principle of relativity of the effect of international treaties, which states that these treaties are unable to produce rights or obligations except in the face of the contracting parties (Al-Ani, 2001; Al-Saleh, 2003).
2. General treaties: International jurisprudence calls it legal treaties, they are treaties concluded between an unspecified number of countries in matters of interest to all of those countries or related to the interests of the international community as a whole, or the development of customary rules or the prevailing agreement with the new conditions of the international community or to keep pace with scientific development. The main purpose of legal treaties is to establish permanent legal bases to organize international legal relations, so they are similar to legislation due to the fact that they acquire the characteristics of the internal legislation itself, in terms of clarity and specificity (Al-Daqqaq, 1992; Al-Ghnimi, 1982). Treaties are a fundamental source of international criminal law. Therefore, international criminal law treaties establish written legal rules that enjoy a high degree of clarity and accuracy with regard to serious crimes whose effects are not limited to one country, but extend to a number of countries in view of the fact that the perpetrators are members of an international gang that conducts its activities in different international regions. For example, the crimes of slave trade, drug smuggling, counterfeiting of currency and coins, crimes of terrorism and crimes of trafficking in women and children. (Fraihat et al., 2023).

The international criminal law treaties have indicated in their definition of international crimes that they are based on the following four factors:

1. The criminal behavior prejudices an international interest that threatens international peace and security.
2. The criminal behavior prejudices the common values of the international community as it shakes the human conscience.
3. The behavior prejudices the interests and values of more than one country, and its implementation, where its results go beyond the borders of one country.
4. The criminal behavior prejudices an international interest, but it does not rise to the level of the above-mentioned categories, but it cannot be predicted or punished without an international text.

Based on it, international criminal law treaties can be defined as: "*Those international treaties that establish binding general rules, that is, they play the role of legislation in the international community, and they correspond to legislation in domestic law*" (Al-Awjaly, 1997)

Characteristics of international criminal law treaties

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

The jurisprudence of international criminal law did not specify the distinguishing features of international criminal law treaties, but by extrapolating the texts contained in international criminal law treaties, it can be said that international criminal law treaties include a set of characteristics, which can be summarized as follows (Ali, 2006):

1. Explicit recognition that prohibited conduct constitutes an international crime or a crime under international law. Since the recognition that certain behavior is considered an international crime or a crime in the eyes of international law is only available in some international treaties and charters related to international criminal law (Al-Ani, 2001). The explicit recognition of criminal behavior issue is one of the basic characteristics that must be characterized the international criminal law treaties, so that the treaty is the most important source of criminalization in international criminal law (Hamoudah, 2011).
2. The implicit recognition of the criminal nature of the prohibited act by including the relevant international treaties with legal rules that obligate the states parties to prohibit or prevent the spread of certain acts, and the necessity of proceeding and punishing those who commit any of the acts referred to in the text of the international treaties related to international criminal law. The international criminal law treaties as a whole, impose on the states parties to them the necessity of cooperating to prevent the spread of some types of crimes that represent an explicit threat to the international community. Treaties of international criminal law include an affirmation of the duty or right of states to punish the criminal act, and also emphasize the duty or right of states to cooperate in the field of prosecution and punishment, as these crimes constitute an aggression against the special and fundamental interests of the international community that considers them as a whole or in the majority. The necessity of imposing a criminal penalty on the perpetrator. The jurisdiction to prosecute the perpetrators of international crimes belongs to all countries of the world. In application of the principle of universality of punishment.
3. Criminalization of prohibited behavior: This comes by emphasizing the duty to implement international criminal law treaties. As states, when concluding such types of treaties, have an obligation to implement them within the framework of their internal legal system, and this obligation is not only an obligation to exercise care, but rather an obligation to achieve the result, and a breach of this obligation would result in a breach of its international responsibility (Daoud et al., 2023). The basic principle in the agreements is that if they become effective, they will be applicable to the territory of each state party to them (Eskandari, 1994; Shibl, 2011). This can be done either through direct application of the texts of international criminal law treaties in national criminal legislation, or through states issuing special criminal legislation that criminalizes the criminal behavior stipulated in international criminal law treaties. The way in which states resort to criminalizing the behavior stipulated in international criminal law treaties varies according to the different legal systems in the states. This will be explained later.

Through his extrapolation of a number of relevant international treaties, the researcher sees that these characteristics are the most important characteristics that distinguish international criminal law treaties from other treaties.

The Legal System of International Criminal Law Treaties in The Light of National Legal Systems

Through this topic, the researcher will discuss the legal system of international criminal law treaties through two main requirements, namely: The conditions for considering international criminal law treaties as a source of internal law and the mechanism of international criminal law treaties enforcement in domestic legal systems. This is as follows:

Conditions for treating international criminal law treaties as a source of domestic law

The obligation of states to implement an international agreement within the framework of their internal legal system is not only an obligation to pay attention, but rather an

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

obligation to achieve a result, and any breach of this obligation would entail their international responsibility, because the principle is that every international agreement is applicable to the territory of each state party whereby all public authorities in the state, and its citizens, are bound by the provisions of this agreement (Abd Al-Moneim, 2000; Sharon, 2007). Because there is no value for any international agreement unless it is implemented by each state individually. Hence, it was necessary for each state to take the effective procedures to ensure the application of these international agreements in its internal law so that it can be considered a source of the rules of internal law.

Three basic conditions must be met for the implementation of international criminal law treaties in domestic law, namely: The publication of the treaty, the applicability of its texts, and finally the issuance of national legislation with the treaty provisions. The first and second conditions did not raise a dispute. But the third condition, international criminal jurisprudence differed regarding it, which the researcher will clarify at the time. The researcher will discuss these conditions as follows:

First conditiom:The necessity of publishing the treaty

Publication of the international treaty is one of the basic stages that must be carried out, in order to make the international treaty binding on its addressees and provisions. At the international level, Article (102/1) of the Charter of the United Nations affirmed that: "*Every treaty or international agreement concluded by any member of the United Nations after the implementation of this Charter, must be registered with the General Secretariat of the Organization and publish it as soon as possible. Any party to an international treaty or agreement, unless registered in accordance with the first paragraph of this Article, may invoke that treaty or agreement before any branch of the United Nations*". As for internally, international treaties are considered effective as soon as they are issued, but these treaties do not become binding until after they are published in the Official Gazette, in order to notify the public of them before their application and to comply with the provisions contained therein. This procedure is considered a prerequisite for the international treaty to gain the force of law (Al-Qahwaji, 1991; Ni et al., 2023; Mansour, 2002). International treaties, although they obligate states to ratify them, do not obligate the citizens of the state as one of the sources of law therein by mere ratification, but rather by publication. By publication, the treaty is binding on everyone it addresses, whether individuals, courts, or other state authorities (Al-Jedar, 1992; Joma'ah, 2002; Alnsour et al., 2023). For the validity of publication, it is required that the international treaty be full-fledged, fulfilling the necessary stages of its formation, including negotiations, editing, signing and ratification, in order to gain the force of law in the internal field (Sultan, 1969) Usually, publication is made after the ratification of the treaty by the state parties in accordance with the procedures stipulated by the constitutions of the state's party to the treaty. Here, the following question can be asked: What is the legal value of the treaty if it was published before its ratification by the state parties?

The publication of the treaty before its ratification makes it just a draft treaty that has no binding force between the signatory states, and therefore does not gain it the force of law in the internal field, because it is not conceivable and unreasonable for the treaty to be implemented in the internal law of one of its parties before it becomes legally existing international law, and is binding on its parties in accordance with the rules of international law.

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

Since publication is a basic and necessary condition for the international treaty to be considered a source of national law, what are the consequences of failing to publish a condition?

The failure to publish the international treaty entails the forfeiture of one of the basic conditions for its legal validity. Publication is an essential procedure for assigning the status of law to its provisions. By failing to comply with this condition, the members of the state and the national courts in the state are not addressed by its rulings and are not obligated to apply what is stated in it, because they are not aware of what is stated in it. In view of what is imposed by the principle of legality of crimes and penalties in the criminal law, individuals cannot be punished for behavior that they did not know was forbidden or criminalized (Al-Qahwaji, 1991).

Second condition: The applicability of the treaty text

International treaties have the same value as the law once they are published in the form of written texts, and are defined in such a way that the persons addressed by them can view their provisions, and indicate the extent of their applicability before national courts. Therefore, international treaties are required in order to be applicable before national courts without the legislator's interference in the systems that allow the self-implementation of international treaties, that they include specific legal texts in a way that makes them a source of internal law and allows the direct application of its provisions in that legislation.

The condition of applicability of the texts of international treaties requires that the texts of treaties include a clear and specific definition of the crime that is the subject of the treaty, in addition to clearly stating the elements and elements of the crime, in order for these texts to be consistent with the principle of criminal legitimacy (Sarhan, 1980).

Third condition: The issuance of national legislation with the treaty provisions

In order for states to commit themselves to implementing the treaties to which they are bound, they must restrict their various powers and apply their provisions. It also requires individuals to observe their terms and respect them and what is stated in them. Otherwise, the state cannot be concerned with its treaty obligations.

Some countries have gone to fully commitment by what is stated in the international agreements they have ratified. Those countries set the ratification of the treaty as a condition for implementing the legal rules contained in it, since the state's accession to the agreement does not give it the force of law, as the state must take some procedures, such as signing and ratifying the international agreement in accordance with the arrangements required by the constitution of that country, as the case in France and Belgium, with this procedure (ratification), the state expresses its will to abide by the provisions of the international agreement, and accordingly, what contradicts the provisions of the agreement in terms of internal laws are canceled or amended (Al-Jedar, 1992; Sultan, 1969).

Accordingly, these countries, as soon as they ratify the international treaty or agreement, work to incorporate the legal rules contained in the agreement into their existing legislation. Although the ratification of these conventions by the authorities of the state parties makes them texts capable of addressing the national criminal justice in some countries, there are some countries that have taken another approach in their enforcement of international treaties in their national legislation, especially when the texts of the agreement are insufficient and do not suitable for application by positive law. And that is when the international agreement does not include detailed procedures to implement its provisions, as

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

it leaves each of the state parties free to take the procedures that suit them according to what is compatible with the circumstances of each state. (Al-Qahwaji, 1991). In this case, the provisions of the international treaty are not implemented in the internal law until after they are converted into internal rules in accordance with what is stipulated in the national constitutions regarding the application of international agreements, and without this transformation, the rule contained in the agreement remains An international rule that has nothing to do with internal law as long as it is not formulated in the form of the country's internal legislation, so that the internal judge is committed to implementing its provisions (Abdul Hamid, 1978; Majed, 2001). In this case, the national criminal judge is not directly addressed by the rules of international law contained in the international convention, so he cannot apply those rules without relying on an internal legislative text, especially when it comes to substantive provisions (Abu Al-Khair, 2003; Sharon, 2007). This is due to the fact that the rules of international law in the field of criminalization and punishment are not in themselves valid for application unless the national legislature approves them. In other words, it can be said that those rules contained in the international agreement are a source of international law within the framework of international relations for the states parties to the agreement, and are not a source of the rules of internal law, and therefore do not bind the individuals of the states parties to them, unless the states parties take the necessary internal procedures to integrate them and converting them into internal legal rules.

Accordingly, the national criminal judge cannot enforce the criminal provisions contained in international conventions unless the national legislature adopts the substantive rule contained in the convention. Because the national judiciary is the legislative tool necessary to grant the national criminal justice universal jurisdiction.

The importance of the role of the national legislator in criminalizing acts that fall within the scope of international criminal jurisdiction is highlighted due to the inadequacy of the texts contained in international agreements for application by themselves, as they need a national law to put them into practice. In addition, the legal rules contained in international agreements do not include by themselves, specific penalties, or do not stipulate penalties that are compatible with the national legal system, which makes it impossible to apply them according to the principle of legality of crimes and penalties. In this regard, the Belgian judiciary affirmed that the rules of international conventions cannot be implemented by themselves without internal legislation that defines penalties according to the principle of personality of crimes and penalties. Accordingly, it was necessary for the national legislator to practice his authority to criminalize and punish in light of what is stipulated in international rules.

The legislator may exercise absolute authority in setting the conditions for criminalization and determining the appropriate penalties, and he may criminalize acts he deems harmful to the international community or endangering its interests, even if they are not stipulated in international agreements. Moreover, the national legislator has the right to protect international interests expressed by international custom, even if they are not expressly stated in some international agreements. The lesson is to respect the legitimacy of crimes and penalties in national law based on a clear and explicit written text, regardless of its source.

In protecting the common interests in the international community, the national criminal legislator moves out of his belief that these interests have become part of the national interests in the midst of a world governed by the principle of international solidarity.

If the criminal law has responded to the requirements of protecting the common interests of the international community through the two previous forms, then this response took place according to different rules. In criminalization, it depends entirely on the principle

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

of the written text that is clear and specific before the crime, but also on international custom and general principles of law, and does not adhere to the principle of non-retroactivity of the Penal Code. Criminal law to the elements of legal certainty that depend on the legitimacy of crimes and penalties. (Al-Daqqaq, 1992)

It is worth noting that the Statute of the Permanent International Criminal Court, although it was meant to stipulate respect for the principle of legality of crimes and penalties, but it stipulated that if there is no provision in the Statute of the Court, applicable treaties and principles and rules of international law are applied. of law that the Court derives from the national laws of legal systems in the world, provided that these principles do not conflict with the Statute of the Court, nor with international law, nor with internationally recognized rules and standards (Article 21 of the Statute of the International Criminal Court).

The researcher believes that granting the Permanent International Criminal Court the authority to apply unwritten texts represented in the general principles of international law, and the general principles of law derived from national laws, weakens the application of the principle of legality of crimes and penalties in international criminal justice. The complementary jurisdiction of this court is mitigated if the state decides not to prosecute the perpetrator in accordance with its national law (Ahmad, 2019).

The mechanism of enforcement of international criminal law treaties in national legal systems

The issue of the enforcement of international criminal law treaties in domestic legal systems is a subject of intense disagreement among legal jurists, as international and domestic jurisprudence on the enforcement of these treaties and their giving them legal value are divided into three schools of jurisprudence as follows:

A dual school of law: The owners of this school have argued that international treaties, especially those related to international criminal jurisprudence, i.e. combating crimes of an international nature, even if they are a source of international law rules, the state must abide by its application in its internal system (Al-Anbaki, 2010). However, these international treaties are not a source for the rules of internal law unless these treaties are adopted through the issuance of special legislation issued by the state in order to integrate these treaties into the internal legal system (Sarhan, 1980). Hence it can be said that if these treaties are not adopted in the internal law through special legislation issued by the state for this purpose, the legal rules regulated by international treaties cannot be considered binding in the internal system for several reasons, the most important of which are:

1. Source difference: The common will of the sovereign states, which are called legal treaties, is the source of international law. In addition to the prevailing custom and followed between countries. While we find that the legislation and custom within the state are the source of national or internal law. Also, internal or national law is based on regulating the relations between individuals with each other or with state authorities, while international law is based on regulating relations between states (Rougeaux, 1977).
2. Persons difference: The persons addressed by the provisions of international law are states and international organizations, while we find that those who are addressed by the provisions of national law are the natural and legal persons.
3. The technical composition of the national legal system differs from international law: The internal legal system is based on the presence of three main authorities, each of which has its own competencies and clear and specific functions. These powers are legislative, executive and judicial, while there are no such powers in public international law (H-Kelsenles, 1926).

The Unity of law school: Proponents of this school have argued that international treaties, especially criminal ones, are a source of both international and internal rules once

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

international treaties are ratified and entered into force. Based on this view, it can be said that the rules contained in international criminal treaties become effective in the internal legal systems of the states party to the treaty without the need for special legislation issued by the state in order to adopt these rules in national or internal criminal law. Accordingly, the international legal rule applies in internal law without the need for a special procedure, given that the international legal system is considered to be superior to and transcends the internal laws of the state (Al-Anbaki, 2010).

The school that combined the dual school of law and the school of unity of law: Some countries took a double stance. The American system is one of the systems that adopted the dual system, which combines the two previous doctrines, and among the Arab constitutions that followed the same approach, the Egyptian Constitution of 1971, where Article (151) states that the treaty after its conclusion, ratification and publication has the force of law. The Kuwaiti constitution also followed the same approach, as it gave the treaty after its conclusion and publication in the Official Gazette the force of law.

The researcher believes, through his discussion of the previous theories that it is necessary to differentiate between the substantive rules and the procedural rules in the treaty in terms of the possibility of their incorporation into the national or internal laws of countries. When talking about the substantive rules in the international treaty, the national legislator must integrate the criminalization provisions stipulated in international criminal law treaties into the domestic laws, as it is absolutely not possible to rely on the criminalization contained in the rules of international law, whether customary or contractual; Because it is nothing more than an international obligation that requires an internal law that puts it into practice in accordance with the principle of legality of crimes and penalties.

As for the procedural provisions of international criminal law treaties, they can be enforced at the national level after ascertaining their validity for application, and there are two conditions for recognizing the direct implementation of an international rule by itself. The first condition: That the rule be specific enough to be applied. The second condition: That this rule automatically establish rights and obligations for the individuals addressed by it, which requires researching each agreement separately and ascertaining whether it confirms the rights and obligations of the addressees with its provisions, and checking whether the international rule is clear and specific enough to be applicable directly to the case Presented to the national judiciary as a basis for judgment.

CONCLUSION AND RECOMMENDATIONS

Through this study, the researcher reached a number of results, which can be summarized as follows:

The texts of international agreements can be automatically applied in national law if two basic conditions are met, namely:

1. The national legislator takes legal procedures that make it effective in the face of the criminal judge, given that the international treaty does not have the force of law once the state joins the agreement, unless the procedures stipulated by the state's legislation are taken in this regard, such as ratification and publication.
2. Not to rely on the criminalization contained in the rules of international law, whether customary or treaty, because it is nothing more than a purely international obligation that requires an internal law that puts it into practice. This confirms the principle of legality of crimes and penalties.

In establishing criminalization provisions derived from international treaties, criminal legislation has followed one of two approaches:

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

1. It is sufficient to refer to the texts contained in international treaties in defining the elements of the crime without integrating them into the internal law.
2. National codification of international crimes by stating their elements and determining their penalties. In this case, the national text itself is the only source of criminalization.

This has resulted in inconsistency or convergence in the positions of states regarding the enforcement of international treaties in the internal legal systems, which requires the necessity of legal intervention to reduce this disparity and difference. Through this study, the researcher recommends the need to work on strengthening studies on the subject of international criminal law due to the importance of this topic and its touching of dangerous types of crimes in which the absence of legislation may lead to impunity for perpetrators. As the absence of joint coordination between states and the unification of legal views on the mechanism of enforcement of these treaties in national laws created a kind of confusion in dealing with such crimes.

The researcher also recommends the need to work between jurists and legal commentators to reach a specific definition of the concept of international criminal law in a way that removes ambiguity from this type of law and distinguishes it from other laws of international character, such as international criminal law, by working to define the descriptions of each type of crimes that It falls within the jurisdiction of this law.

REFERENCES

Abd Al-Moneim, S. (2000). Lessons in international criminal law. Alexandria: *New University Hous*e.

Abdul Hamid, M. (1978). The origins of public international law, *Book Two, The International Rule, Alexandria: University House*.

Abu Al-Khair, A. (2003). The enforcement of international treaties in the internal legal system. *Cairo: Dar Al-Nahda Al-Arabiya*.

Abu Heif, A. (1993). Public international law. *Alexandria: Knowledge facility*.

Adas, O. (2002). Principles of public international law. *Cairo: Without a publishing house*.

Ahmad, A.Y.B. (2019). Empirical analysis on accounting information System usage in banking sector in Jordan. *Academy of Accounting and Financial Studies Journal*, *23*(5), 1-9.

Ahmad, A.Y.B., Gongada, T. N., Shrivastava, G., Gabbi, R. S., Islam, S., & Nagaraju, K. (2023). E-Commerce Trend Analysis and Management for Industry 5.0 using User Data Analysis. *International Journal of Intelligent Systems and Applications in Engineering*, *11*(11s), 135-150.

Al-Anbaki, N. (2010). International humanitarian law. *Amman: Wael Publishing House*.

Al-Ani, I. (2001). International Relations Law. *Cairo: Without publishing house*.

Al-Atour, R. (2011). Commitment to criminal legitimacy in international crimes. *Sharia and Law Journal, 46*, 77.

Al-Awjaly, S. (1997). Provisions of criminal responsibility for international crimes in national legislation: A comparative study. *Unpublished Doctoral Dissertation*, Ain Shams University, Egypt.

Al-Daqqaq, M. (1992). International law. Cairo: *Without publishing house*.

Al-Ghnimi, M. (1982). The mediator of peace law. *Alexandria: Knowledge facility*.

Ali, A.(2006). International treaties before criminal justice. *Cairo: Scientific Books House.*

Al-Jedar, S. (1992). The role of the judge in the interpretation and application of the rules of public international law. *Unpublished Doctoral Dissertation, University of Alexandria, Egypt*.

Alnsour, I., Alghadi, M., Ahmad, A., Alibraheem, M., Altahat, S., Al-Smadi, R., & Alshboul, K. (2023). Islamic financial technology acceptance: An empirical study in Jordan. *International Journal of Data and Network Science*, *7*(4), 1659-1668.

Al-Qahwaji, A. (1991). International treaties before the national judge. *Law Journal for Legal and Economic Research*, 4, 897.

Al-Saleh, O. (2003).The constitutional system and institutions in Kuwait. (2nd ed,). *Kuwait: Dar Al-Kitab Foundation.*

Bassiouni, M.C. (1991). The time has come for an international criminal court. *Ind. Int'l & Comp. L. Rev.*, *1*, 1.

Cheng, C., Ahmad, S. F., Irshad, M., Alsanie, G., Khan, Y., Ahmad, A. Y. B., & Aleemi, A. R. (2023). Impact of Green Process Innovation and Productivity on Sustainability: The Moderating Role of Environmental Awareness. *Sustainability*, *15*(17), 12945.

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.

Daoud, M. K., Al-Qeed, M., Ahmad, A. Y. B., & Al-Gasawneh, J. A. (2023). Mobile marketing: Exploring the efficacy of user-centric strategies for enhanced consumer engagement and conversion rates. *International Journal of Membrane Science and Technology*, *10*(2), 1252-1262.

Eskandari, A. (1994). Lectures on Public International Law "Principles and Sources". *Algeria: Office of University Publications*.

Fraihat, B.A. M., Ahmad, A.Y.B., Alaa, A. A., Alhawamdeh, A.M., Soumadi, M.M., Aln'emi, E.A.S., & Alkhawaldeh, B.Y.S. (2023). Evaluating Technology Improvement in Sustainable Development Goals by Analysing Financial Development and Energy Consumption in Jordan. *International Journal of Energy Economics and Policy*, *13*(4), 348.

Glaser, S. (1973). Le terrorisme international et ses divers aspects. *Revue internationale de droit comparé*, *25*(4), 825-850.

H- Kelsenles, R. (1926). De Systeme Entre Le Droit International Et Le Interne R.C.A.D.I

Hamoudah, M. (2011). International crime - a comparative study of the provisions of Islamic law. *Alexandria: Dar Al-Fikr University*.

Joma'ah, H. (2002). Public international law. Zagazig: Zagazig University.

Khalaf, M. (1973). The right of legitimate defense in international criminal law: a comparative analytical rooting study. *Cairo: The Egyptian Renaissance Library*.

Khan,Y., Su'ud, M. B. M.et al. (2022). Application of Internet of Things (IoT) in Sustainable Supply Chain Management. *Sustainability*, *15*(1), 694..

Majed, A.(2001). The International Criminal Court and National Sovereignty. *Cairo: Al-Ahram Foundation, Center for Strategic and Political Studies*.

Mansour, M.(2002). Theory of Law. *Alexandria: New University House*.

Ni, L.,Ahmad, S. F., Alshammari, T. O., Liang, H., Alsanie, G., Irshad, M., ... & Ayassrah, A. Y. B. A.(2023).The role of environmental regulation and green human capital towards sustainable development: The mediating role of green innovation and industry upgradation. *Journal of Cleaner Production*, 138497.

Obaid, H. (1978). International crime. *Cairo: Arab Renaissance House*.

Rougeaux, J.P. (1977). Les renvois du droit international au droit interne.

Saberini, G.H. (1992). Al-Wajeez in the Principles of Public International Law. *Dar Al-Thaqafa Library, Amman*.

Sarhan, A. (1980). Public international law. *Cairo: Arab Renaissance House*.

Sharon, H. (2007). The relationship of international law to domestic law. *Al-Bahith Magazine, 5, 155*-169.

Shibl, B. (2011). Substantive international criminal law. *Amman: Culture House*.

Shukri, M. (1989). Introduction to public international law. *Damascus: Directorate of University Books and Publications*.

Sidqi, A. (1986). International Criminal Law. *Cairo: The Egyptian Book Press*.

Sultan, H. (1969). Public international law in peacetime. *Cairo: Arab Renaissance House*.

Yousef, Y. (2011). International Criminal Law. *Alexandria: Al-Wafa Legal Library*.

Received: 26-July-2023, Manuscript No. JLERI-23-14009; **Editor assigned:** 27-July-2023, Pre QC No. JLERI-23-14009(PQ); **Reviewed:** 21-Aug-2023, QC No. JLERI-23-14009; **Revised:** 24-Aug-2023, Manuscript No. JLERI-23-14009(R); **Published:** 28-Aug-2023

Citation Information: Mohammad Al-Hawari, S.Z. (2023). The legal evaluation of international criminal law conventions in the national legal systems. *Journal of Legal, Ethical and Regulatory Issues, 26*(S6), 1-12.