

THE RELATION BETWEEN THE INTERNATIONAL CRIMINAL COURT AND SECURITY COUNCIL: THE CASE OF DARFUR

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As can be understood from the title, this paper investigates the relationship that exists between these two international organizations. This relationship is based in the founding documents, namely the Rome Statute and the UN Charter. In this direction we reveal in the preamble of Rome Statute, which found the International Criminal Court, two anticipated provisions. The first reaffirm the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations. And the second determine to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system. There are two mechanisms that enable the connection between the Security Council and the Court: One has been found in article 13 (b) of the Statute, which define the "Referral" of a situation by Security Council, acting under Chapter VII of the Charter of the United Nations. The other is determined by article 16 and provide the "Deferral" of investigation or prosecution. The connection between this organisms is reflected in a concrete conflict case, the case of Darfur. At the end of this study we can say that the Security Council has extended the jurisdiction of the Court for the states that are not party to the Statute of Rome. The referral of a conflict situation, referred to as such by the Council may accelerate the decision-making process of the court, but from the other prospective the deferral could decelerate this process.

Keywords: Rome Statute, Jurisdiction, Investigation, Referral, Deferral.

