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Evidence authority in an international criminal court

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Research Article

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Abstract
This study looks at one of the most popular legal issues pertaining to proof before the International Criminal Court (ICC). It is determined that the prosecutor has the only authority to prove a case before the ICC, and this authority is constrained by the Pre-Trial Chamber's approval.
The burden of evidence as an absolute power of the prosecutor is examined in the first section of this research, and the prosecutor's powers of indictment are examined in the second.
The second section addresses the Pre-Trial Chamber's control over the prosecutor's powers of proof by looking at the requirement that the prosecutor obtain prior authorization before using certain powers of investigation and evidence, as well as the Pre-Trial Chamber's control over the prosecutor's work during the indictment phase.

Keywords: Prosecutor, Pre-Trial Chamber, International Criminal Court, and Burden of Proof. Investigative authority and indictment

Introduction

Evidence is crucial in identifying the crime, which makes it feasible [1] to look into the veracity of the reports and uncover the unknown through facts based on evidence and indications that would dispel suspicions of the innocent, hold the criminal's profile, and strengthen the charge when confronting him. Proof before the ICC is the same as proof in regular criminal trials at the national level, when an indictment is presented to determine the truth, whether by acquittal or conviction. The International Criminal Court (ICC), which is only found in Article 5 of the Rome Statute, has developed into a permanent international court with a focus on apprehending and prosecuting those who commit crimes that jeopardize global peace and security [2]. The International Criminal Court (ICC) is an international judicial institution that specializes in prosecuting the most serious crimes of international concern. In addition to its criminal function, this Court has a permanent deterrent function [3]. In this case, the burden of proof is on the prosecutor, who is in charge of gathering evidence and determining the truth, both guilty and innocent.

Finding the truth and achieving justice are the primary goals of the evidence presented before the ICC in criminal cases. Additionally, it has certain traits related to the relevant authorities. According to the aforementioned, it is often a significant aspect of international law [4]. The theory of proof in criminal law is crucial because criminal evidence concentrates on the availability of the components of the crime [5], as well as its various conditions and attribution to the offender [6]. The prosecutor investigates the act's facts to determine if there is a question about the evidence, and its conclusion is predicated on either conviction or innocence [7].

Therefore, the prosecutor's worry before the International Criminal Court is the potential for gathering irrefutable evidence that strengthens his judgment about the accused's innocence or conviction. The research question is how the evidentiary powers before the ICC manifest themselves. The prosecutor does this in terms of his duty imposed on him from one side, satisfying his conscience in the humanitarian aspect of it,

and satisfying the international community that has placed his trust in him from another.

The burden of proof is absolute authority for the Prosecutor

A. The prosecutor's authority to prove

First: The burden of proof is borne by the prosecutor

Criminal law experts see proof as presenting evidence to the appropriate criminal process authorities in a fashion that is established by the law in compliance with the regulations that govern it [8]. The aforementioned definitions make it clear that scholars have expanded the scope of proof beyond the establishment of evidence before the judiciary and investigative authorities [9]. This means that the burden of proof is now on the authorities of the indictment, which is enshrined in the Basic Law of the International Criminal Court, where the prosecutor bore the burden of proof and exempted the accused from the burden of proof in accordance with the general principle on which the criminal evidence procedures are based on the norm states that the origin of the human being is "presumption of innocence." Article 66 of the Statute states that "1- A person is innocent until proven guilty in court in accordance with applicable law, 2- The prosecutor has the burden of proving that the accused is guilty," and Article 67, paragraph 1/i of the Basic Law states that "the accused shall not impose the burden of proof or disproved in any way." As a result, it can be said that the international legislator has settled the contentious issue regarding the prosecutor's burden of proof.

Article 51/5, which states that "in the event of a conflict between the statute, procedural rules and rules of evidence, the statute is considered," would contradict this interpretation. However, reading articles 66 and 67 of the Basic Law, which bear the burden of proof by the prosecutor, and article 79/1 of the procedural rules and the rules of proof of the ICC indicates that the burden of proof has returned to be divided between the prosecution and the accused.

Since the prosecution must establish both Mens Rea and Actus Reus by the international crime and prove that the accused is responsible for it, Article (54/1) requires the prosecutor to broaden the scope of the analysis to include all facts and evidence relating to the assessment of whether there is liability under this statute.

Since the Statute has exempted the court from proving the known facts, as defined by article 69 of the Basic Law, the criminal evidence before the ICC is very different. The definition of the known facts is those that are known to all members of the Court, and article 69 of the procedural rules and rules of evidence has been excluded from the subject of proof of the facts agreed upon by the prosecutor and the defense. Therefore, in accordance with the principle of each innocent accused until proven guilty, the prosecutor must look into every aspect of the case, whether it results in the accused's criminalization or his acquittal. This is in line with the goal of conducting efficient investigations of crimes and achieving justice to prevent judicial errors [10].

The prosecutor's conviction that there is a reasonable basis of evidence to trace and prosecute the suspect is necessary for the public prosecution to move from the investigation stage to the accusation stage [11]. In evidence of the truth, the prosecutor expands the scope of the investigation to include all documents and evidence relating to the assessment of whether there is criminal liability under this statute and, in detail, to investigate both the circumstances of criminalization and acquittal.

The prosecutor charges and demands that the accused be prosecuted based on the suspected acts of article 5 of the Rome Statute at this procedural stage. The prosecutor bears the sole burden of proving these charges [12], so he must consolidate the charges on which he plans to seek trial, and the pre-trial chamber judges retain the authority to decide whether or not to adopt the charges.

However, since the burden of proof rests with the accused, the prosecutor is required by paragraph 5 of article 61 of the Rome Statute to consolidate his accusation. This is because the prosecutor has the discretionary power to modify the material facts and give them a definitive description, particularly with the availability of a detailed database of crimes and by defining them with the determination of the full acts of their constituents [3].

Prior to the confirmation hearing, the prosecutor has the authority to raise objections or comment on the measures' legitimacy and to offer final observations about the charges [14].

The other accusations are not supported by inadequate evidence, and the charges against them do not constitute the foundation for the prosecutor's actions during the trial until they have been accepted in the pre-trial chamber [15].

In order to prevent the prosecutor from abusing the power of indictment, the prosecutor also has

the right to ask the Pre-Chamber to present additional evidence or carry out additional investigations in connection with a specific charge that has been denied accreditation due to a lack of evidence [16]. Such a matter shows the seriousness of his accusation to be based on strong and consistent evidence.

Regarding the prosecutor's role in the proof, it should be noted that this is his sole jurisdiction; he determines the charges based on the evidence at his disposal and the factual evidence; he adapts the material facts legally and factually; and he gives each act its legal description in accordance with the criminalization rules found in the Court's core statute.

prosecutor's claim and goes back to the provisions of Article 64/D. Article 64, paragraph 9 states that the trial chamber has the authority to determine whether or not to accept the evidence or its relevance. Because the prosecutor bears the burden of proof, he must search for and gather evidence that either exonerates or convicts the suspect.

Second: The prosecutor authorities during the stage of search for evidence

One of the primary responsibilities given to the prosecutor is gathering and analyzing evidence, which is the process of investigation in the strict sense of the word because it is a series of steps intended to uncover the truth, regardless of whether the evidence is in the accused's favor or not [17].

The Public Prosecutor really conducts investigations inside the state's borders. As "authorized by the Pre-Chamber under paragraph 3 (d) of article (58)" [18], the prosecutor, based on this article, conducts investigations in the State's territory in accordance with the cooperation of states parties as stipulated in article (86) of the Rome Statute, as well as legal aid, or doing so with the preliminary chamber's permission. The legislator also required the prosecutor to adhere to confidentiality, which means that, in addition to gathering, reviewing, and verifying new evidence. The information source has not consented to reveal it, to take or ask for the appropriate actions to guaranty the information's confidentiality, to safeguard any individuals, or to preserve the evidence [19]. The international legislator gave the prosecutor permission to gather and review the case's evidence, and he is legally obligated to save and secure the important information and evidence gathered throughout his office's investigations [20]. All facts and evidence must be included in the prosecutor's inquiry, which is conducted by the Investigations Division and includes both evidence and denial [21].

It is evident that the authorities assigned to the prosecutor in the investigation allow him to perform a number of tasks that facilitate the investigation process, including gathering and storing evidence. The prosecutor office's information and evidence section is in charge of storing and safeguarding the information and material evidence gathered during the investigations [22]. Furthermore, if the prosecutor is tasked with conducting the necessary research for the investigation process outside the ICC [23], specifically over the territory of the state in which he committed the crimes under article 5, it is his responsibility to broaden the scope of the search for evidence. Article 93's opening paragraph recognized the prosecutor's authority to "examine places or sites, including exhumation scans and grave sites."

It should be noted that the prosecutor was authorized under the (Dayton) Agreement to carry out certain scientific and medical investigation on mass graves that had proliferated throughout the armed hostilities in the former Yugoslavia [24]. The prosecutor must go to the indictment stage in order to confirm the accusation or, if there is enough evidence to do so, to exonerate the accused after doing research and collecting evidence to prove the truth and guaranty the efficacy of the inquiry.

1B: The prosecutor Authorities in the indictment

First: The Prosecutor Authorities in making an accusation

Article 14's first paragraph states that the prosecutor may file charges. Accordingly, the prosecutor has the power to accuse someone, but he must have enough forensic evidence to support the case and make it compelling to the court.

At the indictment stage, the prosecutor must start determining whether the accused's actions constitute a crime as defined by Article 5 of the Rome Statute. After that, the burden of proving these charges alone shifts to him [25]. As a result, it is his responsibility to provide evidence to support the charges, on which he plans to go to trial in order to persuade the court of their legitimacy and validity. The judges of the pre-trial

chamber still have the authority to decide whether or not to adopt these charges, and the prosecutor is free to modify the relevant facts and provide them with a legal description, particularly in light of a comprehensive database of crimes and their definitions that include a complete description of the acts that comprise them [26].

Regarding the exercise of the power to charge, it is observed that this competence is restricted to the prosecutor, who establishes the charges based on the evidence he has and the factual evidence that allows him to show the offense against the suspect. In order to arrive at a fair conclusion and protect the rights of the accused, the prosecutor legally modifies the relevant facts and gives each conduct its legal description in line with the criminalization standards established in the Court's law [27].

It should be noted that the prosecutor's legal adaptation is not definitive since the court may change it in three situations as decided by the legislature in the Rome Statute: the first stage, the pre-confirmation hearing, in accordance with article 61, paragraph 4 of the Rome Statute [28]. Phase II: The period between the confirmation hearing and the beginning of the trial: paragraph 9 of article 61 permits the prosecutor to amend the charges with the preliminary chamber's approval and after the charges are brought [29]. He may add new charges or make up for a more serious charge, but there must be a hearing to approve the new or aggravated charges. Phase 3: Post-trial: Only with the approval of the Court's Primary Chamber may the prosecution drop the charges at this point.

The confirmation hearing is crucial because it is the last step before the trial begins, during which the charges to be used in the trial are decided. According to article 61, "the presidency constitutes a trial chamber" that deals with the accused's trial once the charges are accepted. According to article 61, paragraph 5 of the Rome Statute, the prosecutor must support his charge since the burden of evidence rests with the accused. Prior to the confirmation hearing, the prosecutor may also raise objections or comment on a topic pertaining to the measures' legitimacy [30]. Finally, the prosecutor may be permitted to make final statements on the charges that have been filed.

As will be discussed later, this authority granted to the prosecutor is not absolute because it needs to be approved by the Pre-Trial Chamber. If the remaining charges are rejected for lack of evidence, the prosecutor may later, in accordance with Article 61, paragraph 7 (c) of the Rome Statute, "Request approval if this request is supported by

adequate proof [31]. Finding the truth is the sole goal of this emphasis on supporting evidence. The Prosecutor is required to "provide further evidence or conduct further investigations in relation to a particular charge" at the Pre-Chamber's request; however, this request has been denied due to a lack of evidence, confirming the desire for his accusation to be supported by solid and consistent evidence to establish the truth as it is.

The Public Prosecutor is a neutral and independent opponent at the same time because the Public Prosecutor's Office is generally regarded as an impartial adversary in a criminal dispute. This is because, in addition to presenting the evidence of the conviction, he must also present any evidence of innocence.

Second: The duties of the prosecution regarding the defence in the case of examining the circumstances of acquittal

When the prosecutor uses his power to indict the accused, he must declare and support each charge with strong forensic evidence to prevent the accused from being found guilty. He must also allow the accused to exercise his right to defend by granting him access to these charges. The prosecutor must also promptly disclose to the defense any evidence in his possession or under his control that he believes appears or tends to show the accused's innocence or mitigate his guilt, as this could damage the prosecution's credibility [32].

Article 55 of the second paragraph of the statute defines the prosecutor's duties during interrogation. In order to prove before the International Criminal Court, the Public Prosecutor's Office must seek the truth and give the accused a chance to defend himself while taking into account the proper operation of the judiciary [33]. When the prosecutor's office or those under his supervision possess protected material or information, they may utilize it as evidence without first obtaining permission from the information source and without properly disclosing it to the accused [34].

The Rules of Procedure and Evidence of the International Criminal Court, article 77 states that "the prosecutor allows the defence subject to limitations to disclose as provided in the Statute

and rules 81 and 82 by examining any books, documents, photographs or other tangible objects in the prosecutor's possession or under his command that are material necessary to prepare for the defence or the prosecutor intends to use them as evidence for the purposes of the plea hearing or at trial as a matter of fact or may have been obtained from the person or belong to him ".

Therefore, in addition to the legislation established by the legislator in the Rome system that was absent from earlier international trials, the prosecutor must reveal to defend the evidence in his possession or under his control that might aid in demonstrating the truth. For instance, the prosecutor is required under Article 68 of the Statute of the International Criminal Court (ICC) to "inform" the defense of the existence of "evidence contacted by his knowledge concerning the acquittal of the accused."

In light of the aforementioned, it could be argued that the Rome Statute requires the prosecutor to provide the accused with all of the information and documents he possesses so that the latter can defend himself. This serves as evidence before the International Criminal Court that the truth should be revealed, whether through conviction or acquittal.

The prosecutor's authority to prove and impose the burden of proof has been justified by balancing the achievement of international criminal justice with respect for the fundamental principles of a fair trial. However, granting the public prosecutor complete authority to prove may not be without arbitrariness in its use, so the international legislator thought that this authority should be under the control of an independent judicial body, the Pre-Trial Chamber.

2. Pre-Trial Chamber Control of the Prosecutor's Authority of Evidenc

1B: Request permission from the preliminary chamber at the investigation stage

First: Oversight of the pre-trial chamber when there is a special chance for proof: the prosecutor undoubtedly works hard to discover the truth in order to fulfilll the investigations' goal of bringing justice, and as a result, he employs every legal tool permitted by the statute to do so [35]. When the Office of the Prosecutor (OTP) has enough evidence against a person, it requests that the Pre-Trial judges issue an arrest warrant or summons to appear.

If the judges of the Pre-Trial Chamber have reasonable suspicions that an individual has committed a crime within the Court's jurisdiction, will not appear voluntarily before the Court, will jeopardize the proceedings or investigation, or will continue to commit crimes if not arrested, they will issue an arrest warrant. The judges may issue a summons to appear if they think the individual will cooperate and come to court willingly. A case moves into the Pre-Trial stage once either an arrest warrant or a summons to appear is issued. In this phase, the judges of the Pre-Trial Chamber decide whether there is enough evidence to move the case forward to trial.The legislator was able to do this, although sometimes the evidence is susceptible to destruction or extinction, which the legislator referred to as the "unique opportunity." However, in order to get this evidence, the prosecutor must first secure approval from the Department. As a control authority over the prosecutor's investigation work, preliminary poses a significant challenge to the prosecutor's ability to preserve this evidence, as the loss of this evidence results in the loss of justice and the truth.

In order to do this, the legislator gave the prosecutor permission to offer a special chance to prove that "when the prosecutor considers that the investigation provides a unique opportunity that is not available later to take testimony or to testify, to examine, collect or test the evidence, the prosecutor shall notify the preliminary chamber [36] of this matter." The term "unique opportunity" refers to a notion in public law concerning "one-time and separate conduct or the activation of evidence collection [37]."

This makes it evident that the pre-trial chamber's role is to control the unique opportunity, which is a special case, if it only relates to evidence that cannot be obtained later in the court period due to its unique nature, where it is prone to loss or damage, such as the extraction and autopsy of bodies, it necessitates a codification of the means that help to obtain evidence and take special measures to preserve them [38].

In accordance with rule 114 of the Rules of Procedure and Evidence of the International Criminal Court, the preliminary chamber shall immediately, without delay, consult with the prosecutor, without affecting the provisions of paragraph 1 (c) of article 56 of the Rome Statute, with the arrested person or person brought before the court by summons to appear, and with his lawyer to determine the measures to be taken and the manner in which they are implemented. The truth may thus be lost, but obtaining such evidence

requires permission from the pre-trial chamber that oversees the prosecutor's work. The pre-trial chamber's oversight at this point is demonstrated by a special case and is transmitted to evidence that can be obtained later during the trial due to its particular nature. When the pre-trial chamber receives notification from the prosecutor in accordance with this paragraph, it immediately consults with the prosecutor.

In this instance, the Pre-Trial Chamber may, at the Prosecutor's request, "take the necessary measures to ensure the effectiveness and integrity of the measures and in particular to protect the rights of the defense" [39] by recommending or directing the preparation of a register of measures, designating an expert to assist or authorizing the assistance of a lawyer, designating a lawyer to attend, representing, or maintaining the necessary evidentiary actions in accordance with article 56, paragraph 2 of the Rome Statute.

Pre-trial oversight extends beyond the prosecutor's duty to inform it of a "unique opportunity" to prove and uncover the truth and to take the necessary precautions to protect and preserve evidence. It also includes an advanced form of oversight "in cases where the Prosecutor does not request measures, but the Preliminary Chamber considers that these measures are required to preserve the evidence it considers essential."

During the trial, the defense must confer with the prosecutor to determine if the prosecutor has a valid basis for not requesting such procedures. If the prosecutor finds no such reason, the defense may take such measures independently [40].

It is clear from what has been discussed that the Pre-Chamber monitors the Prosecutor's work operations and that the Prosecutor is free even if he chooses not to make a judgment. The file does not close "silently" when he is not required to take the necessary steps to preserve the evidence, and it may conceal ambiguity, confusion, or illegal backgrounds behind him. It also does not automatically take such measures on its own when the prosecutor does not request them; instead, it must first consult with him and determine whether there is a good reason for his decision. If it then determines that there is no justification for doing so, it may take such measures itself.

The pre-trial chamber's oversight of the prosecutor, even in its advanced forms, is based on consultation rather than a vertical relationship. It should be noted that the pre-trial chamber's authority is stronger and more expansive when the investigation results in the initiation of a criminal case; the prosecutor cannot automatically initiate the case in accordance with the international criminal courts of the former Yugoslavia and Rwanda when he considers that the evidence established against a sufficient person to follow him asks the preliminary chamber to issue an arrest order or a summons to appear before it [41].

Second: Request permission from the preliminary chamber to issue an arrest order or attendance

In order to facilitate the disclosure of the truth, the ICC's proof process necessitates the arrest or presence of the accused. However, the prosecutor cannot carry out this process without control, so he requests that the pre-trial chamber issue an order requiring the accused to appear in court. If the investigation necessitates it, the prosecutor must request to the Pre-Trial Chamber to issue an arrest order or a summons to the court for any individual who is a complete person in a continuing case in order to prove and progress the stages of criminal proceedings before the ICC [42].

The pre-trial service will issue an arrest order at any point after the investigation has been started, and the public prosecutor will request an arrest order if it is satisfied after reviewing the request, evidence, or other information provided by the prosecutor [44]. The prosecutor will provide the pertinent information to the person who has been arrested or who has presented in court on the basis of an investigative attendance order so that his opinion on the matter can be heard, unless the preliminary chamber orders otherwise [43].

On the other hand, emphasizing the practical significance of the arrest order or the summons through the provisions of article 58, paragraph 6 of the arrest order or the summons, which states that the prosecutor may request the pre-trial chamber to amend the arrest order by modifying or adding to the description of the crimes mentioned in it, is necessary for the prosecutor to persuade the preliminary chamber of the necessity to issue an arrest order or attend [45].

The prosecutor can review the charges brought on the basis of new information that represents "reasonable grounds" that the pre-trial chamber is convinced of its existence "to believe that the person has committed the crimes that are amended or added [46]." In this sense, the issuance of the arrest order or the subpoena does not preclude the possibility of amending the charges on which the prosecutor intends to request a trial.

In response to the aforementioned, it could be argued that the pre-trial judges, not the prosecutor-in-law, have the authority to issue the order for the arrest or attendance. As a result, the prosecutor's request and adherence to the mandatory and evidentiary provisions contained in it are insufficient to guaranty the legitimacy of the pre-trial chamber. Consequently, the person with the authority to prove and seek the truth must persuade the preliminary chamber of sufficient evidence that "there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the court" and the prosecutor is obligated to explain why. That's what made him ask for such an order.

The issuance of an arrest order or the accused's presence following the pre-trial chamber's approval aids in bringing him before the court and thereby facilitates the process of proof. This is because the suspect can be confronted with the charges against him, at which point he can refute them and clear himself; however, if he is unable to do so, the crime will be proven against him.

The pre-trial court will supervise the prosecution's conduct throughout the indictment phase by holding a hearing to approve the charges on which the prosecutor plans to seek a trial when the accused appears before the ICC.

2B: Oversight of the prosecutor's actions during the indictment phase [47]

First: Prior Measures to the confirmation hearing

The preliminary chamber makes the necessary decisions regarding the disclosure of evidence between the prosecutor and the person in question who has been issued an arrest order or attendance because the confirmation hearing is a crucial aspect of the proceedings before the ICC [48]. The person must also receive a photo from the document containing the charges that the prosecutor plans to rely on at the indictment hearing.

The preliminary chamber may make judgments based on evidence 121 and article procedural norms in the interim. Therefore, we draw the conclusion that the Pre-Trial Chamber conducts these preparation sessions to guaranty adherence to the protocols when the prosecution and the accused exchange evidence.

As a result, the Pre-Trial Chamber has the power to make the proper decisions regarding the disclosure of evidence between the prosecutor and the individual in question who has been given an arrest order or attendance [49]. This demonstrates the control imposed on the prosecutor, who must respect the procedures when the evidence is revealed and, consequently, respect the defense's right to access the accusation evidence and the supporting evidence. Within 30 days of the confirmation hearing, the prosecutor must provide the Pre-Trial Chamber and the individual in question with a comprehensive statement of charges and a list of the evidence he plans to present at the indictment hearing [50]. He must also notify the individual in question of his decision to amend or withdraw the charges, and he must notify the preliminary chamber no later than 15 days before the hearing [51]. Within 20 days before the hearing, the prosecutor must provide the Pre-Trial Chamber and the individual in question a list of any new evidence he plans to submit [52].

Consequently, the pre-trial chamber must receive a list of any evidence that the concerned party plans to present under article 61, paragraph 2 of the Rome Statute at least 15 days prior to the confirmation hearing. The Preliminary Chamber then promptly forward this list to the prosecutor [53].

A maximum of three days prior to the hearing, the prosecutor and the person in question must submit written conclusions to the Pre-Trial Chamber on various aspects of the law, including the reasons for the failure of criminal liability specified in article 61, paragraph 1 of the Rome Statute. A copy of the conclusions must be promptly sent to the prosecutor and the person in question as appropriate [54].

It should be mentioned that the Pre-Trial Chamber has the authority to keep an eye on and assess the evidence presented by the prosecution and the accused in order to present the truth as it is. in compliance with the Rome Statute's Article 61, paragraph 1.

According to article 61, paragraph 7 of the Rome Statute, the charges on which the prosecutor plans to request a trial are subject to review by the pre-trial judges. This judicial review restricts the prosecutor's authority to exercise proof as a fundamental and essential function of the representative of the public right, thereby lowering the risk of abuse by the prosecutor when making an accusation or mitigating it unjustifiably. It is also monitored during the confirmation hearing.

Second: Monitoring the procedures of the confirmation

hearing

Before proceeding to the judicial stage, the preliminary chamber evaluates the prosecutor's allegations against the accused. These charges are determined by having confirmation hearings, either with the accused present or without.

Article 61 of the ICC Statute states that the pre-trial chamber must hold a hearing in the presence of the prosecutor, the accused, and his attorney within a reasonable time before the accused submits to the court to approve the charges on which the prosecutor intends to request a trial.

One of the processes that sets the ICC apart from the other earlier international tribunals is this one. The Preliminary Chamber considers the prosecutor's charges against the accused [55]. The prosecutor must submit a detailed statement of the charges and a list of the evidence he plans to present at the confirmation hearing, which is held in the presence of the prosecutor, the accused, and his legal deputy, to the preliminary chamber no later than 30 days prior to the hearing. In line with the tenets of international humanitarian law, this tendency may once again validate the appropriate conduct of the evidence processes and the provision of several legal guaranties for a fair and impartial trial. However, in the circumstances outlined in Article 61 of the Rome Statute, when it was authorized, confirmation hearings may sometimes be conducted without the accused present. In rare circumstances, an allegation may be brought during a hearing when the accused's attendance is not restricted for the following reasons:

First: If the accused waives his right to attend the hearing, and this waiver is presumed to be voluntary and correct [56], it is assumed that the hearing's procedures are void and that an attempt will be made to reconvene the hearing in the accused's presence due to circumstances beyond his control. Only if the pre-trial chamber is convinced that the individual in question is aware of the significance of the right to attend the hearing and the repercussions of surrendering that right will the confirmation hearing be conducted without the accused present.

Second: The Pre-Trial Chamber can review its decision at any time at the prosecutor's request or initiative. If the Chamber decides not to hold a hearing in the absence of the person concerned and the person is at its disposal, she is required to appear before her [57]. If the accused escapes or is not found when an arrest order is issued or executed over the territory of a State party, the confirmation of the charges cannot take place as long as that person is not at the court's disposal.

Adopting this solution presupposes that the pre-trial chamber will have the burden of demonstrating that the accused has learned about the charges against him through all legal channels and will take all necessary steps to guaranty his attendance at the scheduled hearing on an earlier date, where the accused is represented by a lawyer in the interest of justice.

It is emphasized that the prosecutor performs crucial duties during the indictment hearing, providing written or spoken evidence to support each accusation against him in a distinct and independent way.

It should be emphasized that the Pre-Trial Chamber may still receive written remarks from the individual in question about the issues at hand even if they forfeit their right to attend the confirmation hearing.

For the benefit of the accused, the Statute has specifically assigned some of the fundamental rights that arise from this hearing before the pre-trial chamber. These rights include the ability to object to the charges against him during the hearing, the right to make any necessary appeals to the evidence that the prosecutor presents during the investigation process, and the ability for the accused to present evidence in order to strengthen his defense against the charges against him and work to deny them [58]. The indictment will be issued by the preliminary chamber both during the hearing and after the prosecutor, the defendant, and his attorney have been heard and the evidence has been reviewed.

The preliminary chamber may accept the charges for which it has determined that there is sufficient evidence and send the individual to a trial chamber for the charges it has adopted after the completion of the legal procedures for the confirmation hearing [59].

If the evidence presented seems to establish a different offense within the court's jurisdiction, it may also decide to reject the adoption of charges for lack of evidence, postpone the hearing, and ask the prosecutor to consider new evidence, conduct additional investigations into a specific charge, or amend the description of a charge.

The Preliminary Chamber may "decide to postpone the referral of the concerned person to the primary chamber" and "set a time limit within which the prosecutor is entitled to take what is

necessary in accordance with paragraph 7 (c) 1 and 2 of Article 61 [60]" when the hearing for the adoption of the charges is postponed in compliance with Article 61.

Since the Pre-Trial Chamber's rulings after the confirmation hearing, it is observed that the prosecutor's authority to modify the facts and legal evidence and give them a legal description in compliance with the criminalization rules is at the core of the International Criminal Court's statute. This authority is governed by a court jurisdiction, which guaranties that the public prosecutor complies with the law and the procedures. The preliminary chamber serves as a "filter for charges, so that they are not approved because they lack sufficient evidence, which will support the court's work toward achieving the desired criminal justice." Any changes, additions, or withdrawals of charges prior to the start of the trial must be approved by the pre-trial chamber, which may also request written observations from the prosecutor on specific issues pertaining to the facts and the law [61].

Conclusion

This study reveals that the proof is regarded as the confirmation of a disputed right. However, under international criminal law, proof is defined as the confirmation or denial of a crime against the accused, in which the prosecutor bears the burden of proof by gathering and seeking evidence that either convicts or exonerates the suspect, all for the sole purpose of revealing the truth. However, the prosecutor's authority to prove is limited by the pre-trial chamber's control. This oversight is a guaranty of the proper operation of justice, an exclusion of the prosecutor's power of proof.

Additionally, it is determined that the prosecutor's power to prove is neutral; he is an unbiased adversary who, with complete independence and impartiality, reveals evidence that could support any of the parties involved in the case, including the victim or the accused, with the sole goal of establishing the truth. In order to increase the criminal court's ability to prove at the trial stage, it is thought that a particular section within the Statute's provisions must be allocated in order to explain the norms of evidence.

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