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The status of the individual in International Law

I. Introduction

By way of introduction and on a general level, it is necessary to mention the progressive humanisation of international law, which increasingly recognises individuals as the addressees of some of its rules.

A priori, in classical international Law (IL), States monopolised the capacity to act in international relations. In this way, the individual was completely diluted and could only receive any consideration at the level of international law through the state. This was a statist view that excluded direct consideration of the individual at the international level. However, over time, the human person has been taken into consideration. For example, in the Universal Declaration of Human Rights (1948); humanitarian law of war, etc.

As far as contemporary international law is concerned, there has been a progressive advance towards the establishment of mechanisms for the protection of these rights directly before an international body. It is above all in the framework of international organisations that the definition and guarantee of the rights of

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individuals has been carried out with the greatest intensity.

II. The status of the individual in public international Law

Art. 87,b of the UN Charter established a right of petition for the inhabitants of territories under trusteeship; also within the framework of the UN, the International Covenant on Civil and Political Rights of 1966, whose Optional Protocol establishes the Human Rights Committee to which individuals who are victims of a violation of the rights set out in the Covenant in question may submit "communications" (Protocol, Art. 1). An individual complaint may also be lodged under the United Nations Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965.

However, the most advanced levels of distribution to the individual of certain rights that can be claimed before an international jurisdictional instance have occurred at the regional level, especially on the European continent; both before the European Court of Human Rights (ECHR) and within the framework of the European Union (EU), whose characteristics include the direct effect of some of the provisions of EU law on the citizens of the Member States (MS) and the possibility of requesting their protection.

On the other hand, individuals also appear in certain cases as addressees of international norms that impose obligations on them and whose violation calls for a

repressive sanction to be imposed by national courts or, in exceptional cases, by an international criminal court.

In this sense, *delicta iuris gentium* are established to judge acts such as piracy, counterfeiting of currency, drug trafficking, trafficking in protected species, etc. Their criminalisation is established, *a priori*, by an international treaty; their punishment is attributed to the States through their own courts, giving rise to universal criminal jurisdiction.

However, in international law, international instruments have also emerged to prosecute those responsible for war crimes, crimes against peace and crimes against humanity. Thus, after the Second World War, new categories of crimes were defined in an international instrument, the London Statute of 8 August, 1945, and their punishment was carried out through an international jurisdictional body created for this purpose: the International Military Tribunals of Nuremberg and Tokyo.

In addition, the International Law Commission elaborated a Draft Code of Crimes against the Peace and Security of Mankind (1996) and the UN Security Council established an International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 and an International Criminal Tribunal for Rwanda (ICTR) in 1994 to prosecute individuals held most responsible for committing international crimes in those terrible conflicts.

More recently, other mixed criminal tribunals, between international and national, have been established:

- Timor Leste (1999);
- Sierra Leone (2002);
- Cambodia (2003);
- Iraq (2003);
- Lebanon (2007).

The Statute of the International Criminal Court (ICC) was adopted at an intergovernmental conference in Rome on July 17, 1998 and entered into force on 1 July 2002, constituting the first instance of its kind with universal jurisdiction and scope.

All these examples show that the individual appears as an addressee of rules of international law which criminalise certain categories of particularly serious crimes and whose repression can be carried out by international criminal tribunals.

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