

Temporal Dynamics and the Jurisdiction of the International Criminal Court

Abstract

This thesis examines how the passage of time affects the jurisdiction of the International Criminal Court (ICC) and its ability to exercise it, with special focus being placed on territorial jurisdiction under Article 12(2)(a) of the Rome Statute. The research aims to answer whether a State that is not a party to the Statute retrospectively accepts the jurisdiction of the ICC for crimes committed in what is now its territory (but was not at the time of commission) and can the ICC exercise that jurisdiction.

To address these questions, the thesis first establishes an understanding of jurisdiction within the ICC's statutory scheme, distinguishing between a State's capacity to accept the ICC's jurisdiction and the ICC's authority to exercise it. This conceptual groundwork is crucial for navigating the complex interplay between the passage of time and the ICC's jurisdictional reach. A crucial aspect for answering the research question is the relevant point in time for assessing the Rome Statute's jurisdictional provisions – this thesis refers to the phenomenon as the relevant date.

The thesis argues that a State that is not a party to the Statute retrospectively accepts the jurisdiction of the ICC for crimes committed in what is now its territory (but was not at the time of commission). As a result, it argues that the relevant date for accepting the ICC's jurisdiction is the time of acceptance of the ICC's jurisdiction, supporting this stance by examining *ad hoc* declarations under Article 12(3) of the Rome Statute. This conclusion is upheld by the ICC's treaty foundations and its goal of ending impunity, allowing new States to accept its jurisdiction over past crimes within their current territories.

Furthermore, this thesis argues that the ICC can exercise jurisdiction over these crimes, advocating for the assessment of preconditions to the exercise of jurisdiction, particularly in Article 12(2)(a) of the Rome Statute, at the time the ICC's jurisdiction is triggered. This approach balances the ICC's objective of ending impunity with respecting individual States' sovereignty.

Key Words: International Criminal Court, jurisdiction, relevant date