

Jurisdictional Problem of International Criminal Court over National of Non-Parties: A Legal Analysis in the Light of Rome Statute

Authors : Nour Mohammad

Abstract : The concept of International Criminal Court is not a new idea. It goes back to the late 19th century and was first mooted in 1872 by Gustave Moynier of the International Committee of the Red Cross (ICRC). This paper attempts to focus on jurisdictional problem of the international criminal court (ICC) over national of states of non parties to the Rome statute. More than 120 countries are state parties to the Rome Statute representing all regions, Africa, the Asia-Pacific, Eastern Europe, Latin America and the Caribbean as well as Western Europe and North America. The Statute is the core document of international criminal law today containing 128 Articles and divided in 13 parts. The Rome Statute provides that the court may sit elsewhere the judge consider it desirable. The International Criminal Court is not in a position to adjudicate all international crimes but its jurisdiction is limited to the four categories of crime viz. genocide, crimes against humanity, war crimes and crime of aggression as stipulated in Article 5 of the ICC Statute. It also mentions here that the Court will be able to exercise its jurisdiction over the crime of aggression only when this crime is defined. Due to the highly political nature of this crime, it is unlikely that a consensus in this regard would be arrived at in the near future. The main point of this article is to discuss the mandate of international criminal court to prosecute and punish persons responsible for the heinous crimes of concern to the international community. The author highlighted the principles which support the delegation of criminal jurisdiction by state to international tribunals and discuss the precedents of such delegation. It also argued that the exercise of ICC jurisdiction over acts done pursuant to the official policy of non-party state would not be contrary to the principles requiring consent for the exercise of jurisdiction by international tribunals. The article explores the limit to jurisdiction of ICC over non-party nationals.

Keywords : jurisdiction, international, criminal, court, non-parties

Conference Title : ICSRD 2020 : International Conference on Scientific Research and Development

Conference Location : Chicago, United States

Conference Dates : December 12-13, 2020