

The contribution of international courts and tribunals to the development of procedural rules

OC - (ILA-14141) - THE PRINCIPLE OF COMPLEMENTARITY AND THE DEVELOPMENT OF THE INTERNATIONAL CRIMINAL COURT PROCEDURAL NORMS

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Abstract

Historically speaking, while substantive international criminal norms have experienced significant development and consolidation over the past decades, leading to its successful codification in the Rome Statute of the International Criminal Court (ICC), the same is yet to be truth for the international criminal procedure norms. Traditionally, the development of international procedural norms has not been the priority in the context of the international criminal justice. In fact, despite the efforts in the last decades to codify substantive and procedural international criminal norms, concepts such as the principle of complementarity were left unclear in the Rome Statute and therefore requiring further development through the practice of the ICC. Hence, taking as an example the principle of complementarity, this paper proposes to look at the contribution of the ICC towards the development of international procedural rules. The principle of complementarity is the cornerstone for the implementation of international criminal justice as set forth in the Rome Statute. Notwithstanding its relevance, the principle of complementarity is a new concept in the international criminal justice system having been established by the International Criminal Court founding document with the purpose of regulating the interaction between domestic and international criminal justice systems. The principle of complementarity as the cornerstone of the Rome Statute and the key element for understanding the dynamics between international and domestic pursuits of international criminal justice is paramount in the determination of jurisdiction and assessment of admissibility of situations and cases before the Court. However, scholars agree that as drafted in the Article 17 of the Rome Statute, the principle of complementarity “leaves a considerable degree of ambiguity and space for creative interpretation.” Bearing in mind this background, this paper seeks to reflect on the role of the ICC in further developing and clarifying by assessing the work of the two main organs of the court responsible for such endeavour: the ICC Prosecutor and the court *strictu sensu*. In doing so, it will look at how the Office of the Prosecutor – through its guidelines and policy principles – applied the principle; contrasting this view, with the understanding provided by the jurisprudence of the ICC.

Palavras-chave : Principle of Complementarity, International Criminal Law, International Criminal Court