

Assessing the Scope of Personal Criminal Liability for the Crime of Aggression

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Abstract: *Under modern times, aggression is defined internationally under international criminal law. Article 08 of part two of the text contains the relevant portion. This paper examines the historical backdrop of individual criminal responsibility under international law and the concept of individual criminal accountability for acts occurring under international criminal law. After the 2010 Kampala meeting, the Rome statutes included the notion of holding a person responsible for the crime of violence, one of the International Criminal Court's core crimes. Personal responsibility for violence was controversial, at least in its concept, until the Rome Statute was created. This idea needs further work to stay relevant. This sort of progression requires adaptation and consideration of context and criminal law. This essay explores the aggressive offense and highlights unsolved issues.*

Keywords: Crime of Aggression, International Law

I. INTRODUCTION

If aggressors violate its key principles, the international community should punish them sufficiently to restore their integrity. Thus, we argue that aggression is a crime and that international law no longer excuses those who initiate or fight such wars. Thus, may lawyers unite for peace. According to some online communities, "aggression is a forceful action or procedure, such as an unprovoked attack, with the intent to dominate or control others". Aggressor states violate international law. Aggression and its behaviors have been defined and identified many times. UN Organization Forum aimed to define "aggression" in transactions and approve a resolution. UN Resolution 3314 (XXIX), 1954, defines it as a nation-state utilizing military force against the UN Charter, sovereignty, territorial integrity, or political independence of another country. In terms of the basic qualities outlined earlier, the resolutions do not clarify when the specified activities are aggressive or when they are defensive rather than offensive. The UN has not called the nation's behavior aggressive. Aggression is hard to define uniformly. The ICC has aggressive jurisdiction under the Rome Statute. Thus, parties may define the crime based on the institute's jurisdiction. Information technology (IT) has a vital influence in the evolution of offenses and crimes, hence international law defines aggression imprecisely. Fifth-generation warfare restricts, incites, projects, and spreads dissent against the adversary state's leadership, breaks diplomatic, collaborative, and economic ties. Direct and indirect aggression are the two international kinds of antagonism. A state's armed forces engage in direct aggression, such as a conflict between two internationally recognized states that includes weapons usage. However, indirect aggression is non-military. Closer investigation suggests two interpretations for indirect violence. Aggressor states commit delicts via armed or unarmed third parties. They endanger state rights. Without military force or third-party cooperation, government spying against another state undermines its sovereignty or integrity. Early conversations suggested the ICC may hear tough allegations. Rome Statute signatories may seek the ICC to address the issue.

II. RESEARCH METHODOLOGY

Considering the study's aims, the planned or real research involves a variety of resources. This research strategy was selected to use easily accessible secondary data to conduct more accurate and complete analyses of the study in

accordance with the goals. The investigator uses secondary surveys, news articles, and the internet to gather data. Sources were listed and recorded. As needed, academic journals, books, reports, articles, treaties, public documents, customs, legal maxims, and legislation were reviewed and recorded. Investigators will use qualitative methods. These methods are used since the research is library-based. Websites and foreign literature are key data sources.

International backings of the crime of aggression and precise history of ICC

Given the consensus that "aggression" has yet to be completely defined, no one can claim to have defined it from every viewpoint. Research shows that aggressiveness has no clear meaning. The jurisdiction question is clear. Article 5 of the Rome Statute gives the International Court jurisdiction over crimes inside its borders. Warring nations may petition the International Court for jurisdiction. States may also ask the Court to settle their dispute. State obligations include International Court decisions. Article 5 of the Rome Statute 2002 reads:

Crimes within the jurisdiction of the Court;

Only the worst international crimes are within Court jurisdiction. This Act gives the Court jurisdiction over genocide, crimes against humanity, war crimes, and aggression. A provision created in line with articles 121 and 123, which describe aggression and its circumstances, is subject to Court jurisdiction. This clause must follow UN Charter requirements. Article 5 of ICC 1998. Rome Statute, which created the International Criminal Court in 2002, addressed jurisdiction. The International Law Commission (ILC) began examining codified crimes in 1949. After almost a decade, the panel submitted a proposed criminal code to the UN General Assembly. The commission did not designate a body or court to judge violations because it considered domestic courts could. Its main goal was to define and explain aggression.

The UN General Assembly debated a new sanctions approach in 1989: "Anyone implicated in illicit drug trafficking, irrespective of location beyond a nation's territorial jurisdiction, shall stand trial before the International Criminal Court." The UN General Assembly asked the panel to recommend a court or tribunal to trial drug traffickers. The Commission presented its study before the UNGA many times between 1989 and 1994. However, the assembly demanded additional inquiry and recognition, leading to multiple meetings and investigations before the Special Working Group's draft legislation establishing the International Criminal Court was adopted. The International Criminal Court (ICC) approved and signed the Rome Statute on July 17, 1998. Governments must approve it by March 11, 2003.

In The Hague, Netherlands, the UN Diplomatic Conference on the International Criminal Court opened. The International Criminal Court prosecutes the worst offenders worldwide. The ICC has exclusive jurisdiction for aggression, genocide, and crimes against humanity. Any regulation that defines aggression and describes the crime's key aspects, including what's excluded, was authorized by the ICC as the ultimate offense. State parties must take reasonable steps to safeguard their territory from the worst offenders of aggression, crime against humanity, war-booty, and genocide, for which the ICC has decisive jurisdiction, before the extraordinary trial.

Crime of aggression, the constituent ingredients and a brief history

Since July 2018, the ICC has solely punished aggressors and belligerent leaders. UN member nations that signed the Rome Statute gave the ICC authority over aggression. The ICC has jurisdiction over aggression, the fourth fundamental offense. The Rome Statute's inclusion of aggression strengthened the International Criminal Court (ICC)'s legislation and jurisdiction, protecting the world from immoral and unjustified behavior and preserving the international order based on the supremacy and rule of law. The International Criminal Court (ICC) represents conscience and condemns violence, hatred, and hostility, hence include aggression in its jurisdiction serves the world. Three elements make to the aggressive offensive:

- Its primary emphasis is placed on the most accountable leader of the nation who engaged in the act of aggression.
- The culpability is consistently attributed to the individual or leader of the state rather than the state itself.

Fourth ICC fundamental infraction. The issue is whether the ICC has jurisdiction against all UN member states or simply those that must approve the resolution from their legislative bodies after the resolution added aggression to its jurisdiction. The ICC Rome Statute was adopted two decades before the aggressive crime, prompting the examination. Recall the member state definition before proceeding. The "crime of aggression" is "the deliberate organization,

preparation, commencement, or carrying out of an aggressive operation by a person in a position of authority over the political or military institution of a state." The UN Charter is violated by hostile behavior. Military aggression undermines another nation's integrity, political autonomy, and sovereignty. Invasions, military takeovers, unauthorised annexations, and port closures contravene the UN Charter.

The ways through which International Criminal Court may invoke jurisdiction on the crime of Aggression

ICC may prosecute genocide, crimes against humanity, war crimes, and aggression. The ICC Rome statute defines genocide as murder or physical injury that destroys a race or ethnicity. Crimes against humanity include mass murder, genocide, slavery, and other attacks on any people or civilization. War crimes include torture, harsh treatment, mass devastation, and other grave Geneva Convention 1949 violations, according to ICC, 1998, art. 8. Aggression occurs when a leader orders political or military action against another state. Court may find jurisdiction over either offense. A member state, prosecutor, or UN Security Council report may be probed by ICC.

Later, the UN Security Council may bring a case before the court as a non-member, and the court must claim jurisdiction, although in formal situations, the ICC may only assert its jurisdiction if it affects member-states regardless of victim or aggressor status Art.08 bis of the ICC Rome Statute defines aggression and accepts leadership/individual responsibility. It includes military and political acts, thus aggression may be either. The definition said aggression's nature, intensity, and scope violate the UN Charter.

Aggression violates the UN Charter by threatening another state's political independence, sovereignty, and territorial integrity. Without a war declaration, invasion, occupation, and annexation occur. States may bomb or attack. States may also restrict ports. A state may also attack another's land, sea, or airspace, leave armed forces in another state after the agreement, etc.

There are several jurisdiction opinions following Rome Statute change. ICC Rome Statute aggressiveness modification takes one year after member state approval. If the member state invokes the Court's jurisdiction without UN Security Council action, "opt-out" persists. The Coalition for the ICC (2018) claims that the court will act when 30 member states' legislative bodies and the Assembly of the Parties approve the Rome Statute revision. ICC jurisdiction is granted under Article 15 of the Rome Statute if the aggressor state has not accepted the Kampala amendments or opted out. The military is led by the "states" commander.

Who is responsible for the crime of aggression?

Aggression became one of the worst global crimes after the Nuremberg Trial. Holding military commanders responsible for their violence was greatly commended. In 2010, the Assembly of State Parties defined aggression and outlined ICC jurisdiction. In early 2017, the Assembly stated that the International Criminal Court (ICC) would have jurisdiction over aggression, although whether to punish or abandon it is being debated. "War hurts. It affects the globe beyond hostile nations. Thus, starting a war of aggression is the worst international crime since it represents all evil. Per Rogers (2018). "Indeed no more grave crimes can be conceived of than a conspiracy to wage a war of aggression or the waging of a war of aggression, for the conspiracy threatens the security of the peoples of the world, and the waging disrupts it" (Crowe, p. A Philippine national comrade killed Franz Ferdinand and his wife Sophie, proving that World War I does more harm to mankind than previously thought. Over 15 million people were killed worldwide. War debilitates belligerents and the people, making evaluation impossible.

The judiciary simply outlined each viewpoint of war, warned the world of its infirmities, and concluded that war is always the outcome of aggression, making the above judgments vital from all angles. Rome law prosecutes war criminals. The ICC may punish aggressors or leaders. Twelve others and US v. Wilhelm von Leeb in High Command According to the Nuremberg military tribunal, aggressors must have "actual knowledge that an aggressive war is being planned and that, if initiated, it will be aggressive". After getting such knowledge, the person must be able to influence the policy that introduces or supports it, either positively or negatively. Performing the first activity makes him legally liable; performing the latter to the best of his abilities does not reveal malevolent intent regarding stated policy. "Violations of international humanitarian law that result in individual criminal liability under international law constitute war crimes."

Historic touch

Since the sovereign state concept was formed in the early 16th century, when the state ruled its subjects within its territorial jurisdiction, state stakeholders have exploited their power to hide their wrongdoings. They thought their acts were state-sponsored and benign. States became subjects of international law. Civil society fought stakeholders' unchecked power as crime escalated. No one questioned the government's unethical and illegal attack on civil society. Disobedience brought responsibility. Violence against people by imperialism sparked two world wars. Holding warmongers responsible grew after WWI. Versailles created Kaiser Wilhelm's Special Tribunal in 1919. The Netherlands' unwillingness to provide Kaiser to the Allies prevented a trial.

Following WWII, the Nuremberg International Tribunal prosecuted "crime against peace" or aggression. International instruments describe it as planning, launching, or fighting an aggressive war or violating human rights. The tribunal must have ruled that individual international law offenses, not nations, violate the Article. Without additional punishment, war or aggressive leaders should be punished (Rhea, 2018). Though incorrect, the verdict drew international organizations' attention and pushed them to adopt enforceable international measures. UN General Assembly affirmed tribunal's findings and reasoning.

Criminalizing the guilty was unwarranted under the UN Charter. The Charter forbade force and established international dispute settlement. Using UN Charter violations to settle disputes is illegal. The UN disagrees with this research on when, why, and how to use force against enemies. At Nuremberg, the American Chief Prosecutor tried aggressive war crimes as crimes against peace. Since the world cannot afford another war, these rules ensure that anybody who engages in aggressive conflict will be prosecuted internationally.

Individual criminal responsibility and the crime of aggression

The Nuremberg Trial and 1947 UNGA Resolution defined aggression before the Kampala meeting. Aggression has two parts, like other crimes. Motive and intent In Latin, "mentes reas" is the mental state needed to commit a crime, whereas "bad, evil purpose" is even. Numerous Apex Court rulings globally state that the prosecution must prove the case beyond a reasonable doubt and show the offender's criminal purpose or mind to impose punishment. For support, Justice Homles said, "Even a dog can distinguish between being stumbled upon and kicked." Actus reus later refers to state-sanctioned or voluntary violence. The highest courts worldwide consider it essential to the crime, and without it, the defendant cannot be convicted guilty of malicious intent. The commission's culprit would be penalized for violating international duty and peace.

Article 1 of the resolution defines aggression as "the use of military force by one state to deprive another state of internationally recognized sovereignty in violation of the United Nations Charter and Resolutions" (UN GA, 1974, art.01). Since abstract things cannot be held responsible, the war commander is. As with actus rea, the Nuremberg Tribunal found "mens reus constitutes the operational component of a crime." 2017 (Dinstein). The ICC requires evidence to prosecute an offender. The party that initiated the case before the International Criminal Court must prove beyond a reasonable doubt the crime and the offender's acquisition of it, just as the prosecutor does in a domestic setting and the judge renders a verdict based on his or her own judgment. After investigating, the ICC ordered guilt or acquisition.

Comparative analyses of the procedure adopted before the establishment of ICC and after ICC

International Criminal Court Rome Statute Article 8 covers war and aggression accountability. It requires the International Court of Justice to prosecute aggressive military leaders. The decree showed that a commander without power and competency would not be held responsible. The International Criminal Court has different standards than post-World War II courts. ICC technique is more comprehensive and exact than Nuremberg Tribunal and others. For the aggressive offense, the International Criminal Court exclusively prosecutes those who can command and lead their army, such as the head of state. Those who followed the head of state are exempt. "Shape or influence" and "control or direct" are the same method. Officials who ordered invasion or violence are responsible for their acts as state representatives, even if others conceived, strategized, and organized the policy. The person molds activities, including policy and plan formation, but cannot command their implementation. They need department head direction to implement policies. An intriguing element is that those who participate but are not famous would still be held responsible since they have a stake in the commander's authority to engage in violent battle. Lacking leadership

principles, the International Criminal Court has reintroduced "direct and control" worldwide without respect to national or international precedence.

III. CONCLUSION

Now aggression is evident. The UN has long worried about it. The International Law Commission and UN advocated penalizing aggressors. Individual responsibility eliminates state culpability and shows that the Rome Statute will trial aggressive military leaders. The Rome Statute's modification gave the ICC ultimate authority for aggressive prosecutions. Which nation has persistently violated international law and pursued aggression? Before Rome Statute, customary international law guided states on war. The states rejected this clause. The international community must apply leader clause trial and punishment standards to all governments. International law and ICC verdicts must be obeyed by all states, even veto powers. Not doing so undermines law and increases conflict. The "accused is the favorite child of law" and "benefit of the doubt is to be given to the accused" are basic criminal law ideas, therefore the international community must also address the following crucial issue to ensure a more full trial: Set and create inquiry and trial standards to correctly assess culpability, regardless of guilt.

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