

China and the Criminalization of Aggression. The Juxtaposition of Justice and the Maintenance of International Peace and Security

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Abstract : Responses to atrocities are always unique and context-dependent. They cannot be foretold nor easily prompted. However, the events of the twentieth century had set the scene for the international community to explore new and more robust systems in response to war atrocities, with the ultimate goal being the restoration and maintenance of peace and security. The outlawry of war and the attribution of individual liability for international crimes were two major landmarks that set the roots for the development of international criminal law. From the London Conference (1945) for the establishment of the first international military tribunal in Nuremberg to Rome at the inauguration of the first permanent international criminal court, the development of international criminal law has shaped in itself a fluctuating degree of tensions between justice and maintenance of international peace and security, the cardinal dichotomy of this article. The adoption of judicial measures to achieve peace indeed set justice as an essential feature at the heart of the new international system. Blackhole of this dichotomy is the crime of aggression. Aggression was at first the key component of a wide body of peace projects prosecuted under the charges of crimes against peace. However, the wide array of controversies around aggression mostly related to its definition, determination and the involvement of the Security Council silenced, partly, a degree of efforts and agreements. Notwithstanding the establishment of the International Criminal Court (ICC), jurisdiction over the crime of aggression was suspended until an agreement over the definition and the conditions for the Court's exercise of jurisdiction was reached. Compromised over the crime was achieved in Kampala in 2010 and the Court's jurisdiction over the crime of aggression was eventually activated on 17 July 2018. China has steadily supported the advancement of international criminal justice together with the establishment of a permanent international judicial body to prosecute grave crimes and has proactively participated at the various stages of the codification and development of the crime of aggression. However, China has also expressed systematic reservations and setbacks. With the use of primary and secondary sources, including semi-structured interviews, this research aims at analyzing the role that China has played throughout the substantive historical development of the crime of aggression, demonstrating a sharp inclination in the maintenance of international peace and security. Such state behavior seems to reflect national and international political mechanisms that gravitate around a distinct rationale that involves a share of culture and tradition.

Keywords : maintenance of peace and security, cultural expression of justice, crime of aggression, China

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