

ABSTRACTS AND KEYWORDS

Title: The Fundamentals of the Concept of the Crime of Aggression in International Law: Efforts to Define and the Reflections

Author: Yücel ACER

Abstract: Peace is a fundamental component of any community. The legal order is expected to strictly regulate resort to force within this community. In this sense, resorting to war or use of military force, which creates a suitable environment for commitment of various heinous crimes, should be tightly regulated by international law to protect the very existence of international community.

The principles that use of force is prohibited between the States and violation of this rule leads to the international responsibility of States and even to criminal responsibility of individuals are firmly established in international law. However, the definition of the crime of aggression that results from an act of aggression is still a matter of discussion. The preparation work on the International Criminal Court and on its statute has taken the concepts of aggression and the crime of aggression a matter of discussion. However, the existing problems in the definitions of both aggression and the crime of aggression necessitate further works on the issue. This article tries to identify which elements in the definition of the crime of aggression have emerged and which elements should be present in the definition on the basis of the relevant previous international judgments and the discussions made during the preparations on the International Criminal Court.

Keywords: Crime of Aggression, International Criminal Law, International Criminal Court

Title: A GENERAL VIEW ON THE INTERNATIONAL CRIMINAL COURT AND ITS PRACTICE

Author: Yusuf AKSAR

Abstract: The Statute of the International Criminal Court was adopted by the international community on 17 July 1998 and having reached the 60th ratification of the Statute, the Court became in operation on 1 July 2002. The main characteristics of the Court can be indicated as follows: a) It is a permanent and independent international institution having an international personality. b) Its jurisdiction is complementary to national criminal jurisdictions. c) It can only exercise jurisdiction over individuals in order to enforce individual criminal responsibility at the international level. d) Subject-matter jurisdiction of the Court is limited to the war crimes, the crime of genocide, crimes against humanity and the crime of aggression. As of June 2005, there are four situations/cases before the International Criminal Court. Three of them are self-referred by the Democratic Republic of Congo, the Republic of Uganda and the Central Republic of Africa to the Court. The fourth one is relating to the Sudan's troubled region of Darfur which was sent to the Court by the UN Security Council Resolution 1593 (2005). The aim of this paper is to generally examine the International Criminal Court and the situations/cases before the Court.

Keywords: War Crimes, Crimes against Humanity, The Crime of Genocide, The Crime of Aggression, Complementary Jurisdiction, UN Security Council Resolution 1593 (2005).

Title: THE PRECONDITIONS FOR INTERNATIONAL CRIMINAL COURT TO EXERCISE ITS JURISDICTION POWER

Author: Ülkü HALATÇI

Abstract: There is no doubt that the creation of International Criminal Court (ICC) is an achievement of historic importance. ICC was established as a body outside of the United Nations through the conclusion of a treaty. However, the preamble and article 1 of the Rome Statute then provide that the ICC shall be complementary to the national criminal courts.

According to the Rome Statute, the Court shall have power to exercise its jurisdiction over persons for the most serious crimes of international concern; genocide, crimes against humanity, war crimes and aggression. Article 12 is one of the cornerstone provisions of the Statute which designates preconditions to the exercise of jurisdiction of ICC. According to article 12/1 of Statute, a State which becomes a Party to Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5. Contrary to the universality principle of jurisdiction, article 12/2 of Statute provides that before the Court can exercise jurisdiction over any alleged conduct, there must be a nexus between such conduct and State where the conduct was committed or the State of the accused person's nationality. Also, ICC can exercise jurisdiction when these States are not parties to the Statute is by either of them making a declaration under article 12/3. Article 12/2 deals with the general jurisdiction of the Court as distinct from the one triggered by a Security Council referral under article 13 (b) which is potentially very strong with a universal outreach. The aim of this article is to evaluate these provisions with the contemporary international law process.

Keywords: UN Security Council, Universal Jurisdiction, Common Law, International Criminal Court, International Crimes, War Crimes, Crimes Against Humanity, the Crime of Genocide, the Crime of Aggression

Title: INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE IN THE STATUTE OF INTERNATIONAL CRIMINAL COURT

Author: Timuçin KÖPRÜLÜ

Abstract: According to the Statute of the International Criminal Court Article 86, States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Courts in its investigation and prosecution of crimes within the jurisdiction of the Court. In this article, first, legal meanings of international cooperation and judicial assistance and then how will these be according to the Statute will be examined.

Title: DOCTRINE OF COMMAND/SUPERIOR RESPONSIBILITY

Author: Murat ÖNOK

Abstract: The doctrine of superior (or command) responsibility is a well-established norm of conventional and customary international law and since the Second World War numerous judgments have relied on it. Even so, recent judgments delivered by the ICTY and ICTR reveal practical difficulties in its application. The article will try to illustrate the requirements that must be met in order to apply the doctrine, namely (i) that there exists a superior-subordinate relationship between the accused and the perpetrator of the crime; (ii) that the accused knew or should have known that the crime was about to be, was being, or had been committed by subordinates; and (iii) that the accused failed to take all necessary and reasonable measures to prevent or stop the crime, or to punish the perpetrators thereof, by discussing different doctrinal and judicial approaches.

Keywords: Superior Responsibility, Superior-Subordinate Relationship, Effective Control, Knowledge Requirement, Failure to Act

Title: INTERNATIONAL TERRORISM AND INTERNATIONAL CRIMINAL COURT

Author: Ahmet Hamdi TOPAL

Abstract: The prosecution of terrorists is very important in the context of responding to international terrorism which poses a grave threat to the peace and security in the world. In this context, one of the best options for prosecution of terrorist is the International Criminal Court (ICC). The aim of this paper is to examine the possibility of the use of the ICC in order to prosecute and punish those people responsible for the terrorist attacks.

Key Words: International Terrorism, Crimes against Humanity, Ad Hoc Tribunal, International Criminal Court