THE CRIME OF AGGRESSION AND THE INTERNATIONAL CRIMINAL COURT

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The recent activation of jurisdiction *ratione materiae* of the International Criminal Court (ICC) in July 2018 over the crime of aggression raises important issues of generalist public international law, in addition to international criminal law. This talk will address select issues of generalist public international law that merit further consideration.

I will first examine the relationship between State responsibility and individual criminal responsibility pursuant to the definition of the crime of aggression in the Rome Statute of the International Criminal Court (“Rome Statute”). The key point here is that the crime of aggression differs from the other crimes within the Court’s jurisdiction *ratione materiae* as individual criminal responsibility is predicated upon State responsibility.

This gives rise to the question of the competence of the ICC to determine State responsibility; which thereby shifts the enquiry towards considering the institutional law of the ICC to delineate the powers attributed to it by Member States pursuant to the Rome Statute and the Amendments to the Rome Statute on the crime of aggression, as adopted in 2010.

As the powers and functions of the ICC are limited to those attributed to it by its Member States, the final issue is the scope of jurisdiction *ratione materiae* that the Court may exercise over the crime of aggression. This may also be a matter of interest to international dispute settlement scholars and practitioners, as the issue encompasses an enquiry into the inherent powers of international courts and tribunals when defining their own jurisdiction; as well as those interested in courts and judicial function in general.

This talk on the crime of aggression and the ICC will touch upon matters of technical, procedural and substantive law. Indeed, the subject matter presents a contemporary and relevant case study in light of the analytical frameworks of public international law, international criminal law, the law of treaties, the law of international organizations and international dispute settlement.