



Implications of the Criminalization of Aggression

The 2011 LI Haopei Lecture: Judge Hans-Peter Kaul and Judge LIU Daqun

A seminar organized by the

Forum for International Criminal and Humanitarian Law,
with support from the Norwegian Center for Human Rights (University of Oslo),
in association with the Peace Research Institute Oslo (PRIO),

on 8 February 2011 14:00-16:00,

Teologisk eksamenssal¹, Faculty of Law, University of Oslo, Karl Johans gate 47, Oslo.

The Forum has established the LI Haopei Lecture Series to honour the service to international law of the late Judge LI Haopei (1906-1997). Judge LI was a Chinese jurist, diplomat and academic. He was a leading authority on international law. From 1963 to 1993, he was concurrently Professor of International Law at Peking University and Legal Advisor to the Ministry of Foreign Affairs of China. Judge LI became the main representative of China at international conferences and tribunals. From 1993 to 1997, he was a Member of the Permanent Court of Arbitration. In the same period, he served as Judge at the Appeals Chamber at the International Criminal Tribunal for the Former Yugoslavia.

We are fortunate to have two internationally recognized speakers at the 2011 LI Haopei Lecture Seminar. **Judge Hans-Peter Kaul²** will present the first LI Haopei Lecture on the topic of the criminalization of aggression in the context of the Statute of the International Criminal Court. **Judge LIU Daqun³** will comment on the

¹ This hall is next door to Auditorium 6 on the second floor of 'Urbygningen' of the Faculty of Law.

² **Hans-Peter Kaul** is Judge and Vice-President of the International Criminal Court. Judge Dr. jur. h. c. Hans-Peter Kaul has been a Judge at the International Criminal Court since 2003. In 2006, he was re-elected for a second term of nine years. He is a member of Pre-Trial Chamber II. From July 2004 to July 2009, he was the first President of the Pre-Trial Division. On 11 March 2009, he was elected Second Vice-President of the International Criminal Court for a period of three years. Formerly, Judge Kaul was a diplomat at the German Federal Foreign Office. From 1996-2003, he was Head of the German delegation and chief negotiator in the process leading to the establishment of the International Criminal Court. Judge Kaul has published extensively on the topic of public international law in general and international criminal law in particular.

³ **LIU Daqun** is Judge at the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and Rwanda. He was appointed by the Secretary General of the United Nations in 2000. Judge. LIU was reelected twice respectively in 2001 and 2005. In 2001, he was elected as the Presiding Judge of the Trial Chamber One of the Tribunal and became a judge in the Appeals Chamber in 2005. Prior to working in the *ad hoc* Tribunal system, Judge LIU worked for a long time in the Treaty and Law Department of the Chinese Ministry for Foreign Affairs as the legal adviser and Deputy Director General of the Department. He took part in many international negotiations on international treaties and agreements. He took part in the Rome Conference to establish of the ICC as the chief negotiator and Deputy Head of the Chinese Delegation in 1998. In 1999, Judge LIU became Chinese Ambassador

lecture by Judge Kaul. The speakers have held senior positions for the German and Chinese Governments, and have lectured and written extensively also in the area of international criminal law. The introduction and moderation will be made by **Morten Bergsmo**⁴.

Crimes against peace were included in the 1945 Charter of the International Military Tribunal at Nuremberg, which convicted accused persons for such crimes. Nuremberg Principle VI of 1950 declared that crimes against peace are crimes under international law. Crimes of aggression were not included in the subject-matter jurisdiction of the *ad hoc* international(ised) criminal jurisdictions established after 1993. Article 5(2) of the 1998 Statute of the International Criminal Court (ICC) provides that the Court can exercise jurisdiction over the crime of aggression once a provision is adopted defining the crime and its jurisdictional parameters. At the first ICC Review Conference in May-June 2010, the States Parties agreed on a definition of crimes of aggression and the parameters for their inclusion in the Court's jurisdiction. But new Article 15^{ter}(2) says that the Court 'may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties'. Furthermore, Article 15^{ter}(3) subjects the Court's exercise of jurisdiction over such crimes to a decision to be taken after 1 January 2017 by a two-thirds majority of States Parties.

These thresholds reflect the level of disagreement between States during the negotiation process leading up to and during the first ICC Review Conference. Given this disagreement, how likely is it that the Court will actually become able to exercise jurisdiction over crimes of aggression? What is the significance of the outcome of the Review Conference? What were the main factors leading to this outcome? What may the implications for States Parties and other States be if the new provisions in the ICC Statute become operational?

Registration:

Seminar participation is free, but there is only a limited number of seats available. Registration is required. To register, please send an e-mail message to info@fichl.org by noon CET on 4 February 2011, indicating your wish to register as a seminar participant. You will receive a confirmation.

to Jamaica and the Permanent Representative to the Sea Bed Authority under the United Nation's Convention on Law of Sea. In the year of 2007, Judge Liu was elected as Vice-President of the Asian Society of International Law and an Associate Member of the Institute of International Law. He also holds several academic positions in China, including the Vice-President of the Chinese Society of International Law and visiting professor in some of the Chinese Law Schools. He published numerous articles and books on international law and international criminal law.

⁴ **Morten Bergsmo** is Visiting Professor of Law, Georgetown University; Visiting Fellow, Stanford University; Fernand Braudel Senior Fellow, European University Institute; and ICC Consultant and Co-ordinator of the ICC Legal Tools Project. He was formerly Visiting Scholar, UC Berkeley (2010 Spring); Senior Researcher, PRIO (2006-09); Special Adviser to the Office of the Director of Public Prosecution of Norway (2007-08); Senior Legal Adviser and Chief of the Legal Advisory Section, ICC Office of the Prosecutor (2002-05); Co-ordinator of the establishment of the ICC Office of the Prosecutor (2002-03); Legal Adviser, ICTY (1994-2002); and Legal Adviser, UN Commission of Experts for the Former Yugoslavia established pursuant to Security Council resolution 780(1992) (1993-94). He represented the ICTY to the UN negotiation process to establish the ICC (1996-2002). Since 2005, he has worked extensively with national capacity building, knowledge-transfer and legal empowerment in the area of core international crimes. He founded and directs the capacity building platform *Case Matrix Network* (www.casematrixnetwork.org) and the *Forum for International Criminal and Humanitarian Law* (www.fichl.org).