

Book Review: The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats by Noah Weisbord

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Weisbord, Noah. *The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats*. Princeton: Princeton University Press, 2019. 272 pages. Hardcover \$35.00.

The development of international law since the abolition of the transatlantic slave trade and the consequential establishment of the League of Nations ushered in the concept of *jus cogens*, which formulated the legal standards to prosecute those accused of egregious human rights violations. Noah Weisbord, associate professor at Queen's Law, begins his analysis of international custom, and the legal precedent which defines crimes against humanity, by discussing the various modes of modern warfare from World War II to the present. The author meticulously recounts specific military strikes, who ordered them, and whether the use of military force could be justified under municipal law. In doing so, Weisbord considers how the proliferation of new technologies complicates the international community's ability to define crimes of aggression under international law.

Weisbord discusses the political nature in which nation states assume legal authority to implement international standards against other, less powerful, countries alleged to have violated accepted norms—a controversy that has traditionally existed between Western and developing nations. It is within this geopolitical context that Weisbord intricately analyzes the history of modern armed conflict and the evolution of the United Nations' International Criminal Court (ICC) through the Rome Statute. Thereafter, the author discusses the decades-long struggle in which the U.N. Security Council endeavored to define the crime of aggression using the Nuremberg principles, and utilizing international legal jurisprudence as a guide. The Statute's amendments authorized the ICC to exercise *in personam* jurisdiction over government officials and leaders to hold them personally accountable for military strikes against another nation states or civilians within another country's borders.

Weisbord further examines the legal and political chessboard in which nations created alliances, instigated armed conflict, and used nuclear advancement to destabilize regions in order to justify military campaigns against an enemy nation-state. For example, the author discusses “AQ,” an academic and scientist who fled India with millions of other Muslims. According to Weisbord, “AQ” became disillusioned with the current government and sold nuclear secrets to rogue states. For its part, the United States aligned itself with Pakistan during the Cold War and concealed “AQ’s” conduct from international regulation or interference.

Notably, the author describes “AQ” as an example of the need for individual responsibility under the crime of aggression, but conveniently omits this necessity in relation to Henry Alfred Kissinger’s contributions to instability in Cambodia. Yet, Weisbord provides a parallel example of officers under the Nazi regime acting in their official capacity, independent of state action, who were held responsible under international law and the Nuremberg Tribunal. However, Weisbord does not admonish the international community (U.N.) for its failure to adequately hold Kissinger to the same legal standard of accountability as the Asian rebel insurgent; rather, the author only asserts that the international community “ignored the lessons of Nuremberg” (p. 61) in this particular instance.

From here, Weisbord discusses early modern publicists who understood the viability of international law as a valid legal mechanism to protect a nation state now had the additional role of promoting individual rights. This accurate observation is based on the international community’s furtherance of a global economy and what the author refers to as the New World Order. Weisbord details modernists’ evolving legal perspective based on the ideology of two prominent political figures, Henry Kissinger and Benjamin B. Ferencz. Under the Old World Order, international law, as promoted by the most powerful countries, focused on sovereignty

and the right of the state. In contrast, the New World Order upheld both the rights of individuals and the protection of the autonomous nation state under the guise of international law.

Next, the author provides varied definitions of the crime of aggression. He notes that Frédéric Mégret defined the criminal offense as one against 1) sovereignty, 2) peace, and 3) human rights. As technology evolved into advanced weaponry and those in unofficial capacities, such as insurgents, could direct possible military might, members of the Security Council met to solidify the term of aggression under international law. The agreed upon final amendments state that the ICC may obtain jurisdiction only over those nations which ratified the Rome Statute and its related legal instruments in order to prosecute a referred case for the crime of aggression. However, these nation states may still opt out of the legal scheme. Thus, the Rome Statute's amendments have the same effect as most of the U.N. protocols and statutes. Finally, the ICC Review Conference in Kampala agreed that both nation states and individual criminal leaders were accountable for aggressive acts of war (p. 109).

Noah Weisbord presents legal complications following the international community's enactment of the Rome Statute amendments, including who may be considered a political leader and whether statutory intent could be used to hold non-state actors accountable for the crime of aggression. He also analyzes whether *any* individual who engages armed drones with or without government sanction (i.e. CIA authorization or possibly the U.S. Commander in Chief's unilateral order) to destroy military targets and civilians could be considered a crime of aggression.

Crime of Aggression is a timely analysis of international law and political considerations which aims to further the purpose of the International Criminal Court and the development of international custom in light of the evolution of modern warfare. Professor Weisbord's text is

aply suited for students and practitioners of international criminal law, human rights, anthropology and political science.

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