

nalisation of aggression. But this is absolutely no reason not to acknowledge the huge step forward made in the *jus ad bellum* domain.

To conclude, let me recall a programmatic announcement which Jackson made in his opening statement before the International Military Tribunal on 21 November 1945 in Nuremberg. In my view, this announcement continues to be of fundamental importance for the crime of aggression even today. You will probably recognise again these well-known sentences, when I quote the following words of Jackson:

But the ultimate step in avoiding periodic wars, which are inevitable in a system of international lawlessness, is to make statesmen responsible to law. And let me make clear that while this law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn aggression by any other nations, including those which sit here now in judgment.

Now, why are these programmatic, these farsighted sentences even nowadays of such a tremendous importance? Well, because they set out the vision, they set out the promise that international law relating to crimes against peace will be applied in the future in an equal manner *vis-à-vis* all possible aggressors; because they set out the vision and the principle of “Equal law for all, Equality before the Law” with regard to crimes against peace.

The principle of “Equal law for all, Equality before the Law” is a general principle of law recognised by civilized nations within the meaning of article 38(1)(c) of the Statute of the International Court of Justice. Yes, law must apply to everyone equally.

Well, while there are some in this world who want to ignore this principle, who want to push it back, there is, however, the overwhelming majority of men and women throughout this world who actively support and work for full respect of the principle of “Equal law for all, Equality before the Law”.

This gives hope, much hope and encouragement.

As I see it, I have made these remarks not so much as a Judge of the International Criminal Court. I am a citizen of Germany, born during the Second World War, who had the chance to see and understand, myself, the destruction and terrible consequences of the aggressive wars brought about by Adolf Hitler. I also had the chance to understand the messages emanating from Robert H. Jackson and Nuremberg. I believe profoundly

that we are closer than ever to bringing Jackson's promise and wishes to reality in today's world – not only for ourselves, but for future generations.

This day must come. It will. If I may, I would like to work a little bit longer for this hope.

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Is It Possible to Prevent or Punish Future Aggressive War-Making?

2011 LI Haopei Lecture

Judge Dr. jur. h. c. Hans-Peter Kaul

The FICHL has established the LI Haopei Lecture Series to honour the service to international law of the late Judge LI Haopei (1906-1997), a distinguished 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. 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 (ICTY).

Judge Dr. jur. h. c. Hans-Peter Kaul presented the 2011 LI Haopei Lecture in Oslo, followed by comments by Judge LIU Daqun. This Occasional Paper reproduces Judge Kaul's lecture. Speaking on the topic 'Is It Possible to Prevent or Punish Future Aggressive War-Making?', Judge Kaul addresses three main issues in his paper: (1) the main factors leading to the breakthrough in the negotiations on the criminalization of aggression at the ICC Review Conference in Kampala in 2010; (2) war and peace in the world of 2011; and (3) seven suggestions for the way forward to criminalize aggression.

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