

Hannah Lea Pfeiffer

The Crime of Aggression and the Participation Model
of the Rome Statute of the International Criminal Court

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The Crime of Aggression
and the Participation Model
of the Rome Statute of the
International Criminal Court

INSTITUTE FOR
INTERNATIONAL PEACE
AND SECURITY LAW



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*To my parents Martin and Andrea
and to my sister Dinah Marie, to Malte, Anika
and my godmother Susanne*

Preface

First and foremost I want to express my deep gratitude towards my esteemed doctoral supervisor Professor *Claus Kreß* for making this doctorate possible.

From the very beginning of my law studies his criminal law lectures sparked my enthusiasm for criminal law which was subsequently extended to include the subjects of international law in general and international criminal law in particular. Furthermore, I would like to sincerely thank him for his substantial contribution to the success of this doctorate and for all the support throughout the past years, which began by including me in his wonderful research team and giving me the great opportunity to catch a glimpse of the world of academia beyond the mere writing of my doctoral thesis and for doing me the honour of working for and learning from him who is one of the most excellent both criminal and international lawyers there is. The time I spent at his institute has been full of formative and rewarding experiences!

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Cologne, March 2017

Hannah Lea Pfeiffer

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List of abbreviations

ACIL	Amsterdam Center for International Law
AJIL	American Journal of International Law
ANZSOC	Australian and New Zealand Society of Criminology
ANZLH	Australia & New Zealand Law & History E-Journal
ARSP	Archiv für Rechts- und Sozialphilosophie
ASP	Assembly of States Parties
BGH	Bundesgerichtshof
BGHSt	Entscheidungssammlung des Bundesgerichtshofs in Strafsachen
B.C. Int'l & Comp. L. Rev.	Boston College International and Comparative Law Review
Cardozo Law Review	Cardozo L. Rev.
Case W. Res. J. Int'l L.	Case Western Reserve Journal of International Law
CJICL	Cambridge Journal of International and Comparative Law
CJIL	The Chicago Journal of International Law
Colum. J. of Transnat'l Law	Columbia Journal of Transnational Law
Crim. L. Forum	Criminal Law Forum
Duke J. Comp. & Int'l L	Duke Journal of Comparative & International Law
ECCC	Extraordinary Chambers in the Courts of Cambodia
ed.	editor
edn.	edition
eds.	editors
EJIL	European Journal of International Law
e.g.	for example
et al.	et altera
et seq.	et sequens
EU	European Union

List of abbreviations

FICHL	Forum for International Criminal and Humanitarian Law
Fla. J. Int'l L.	Florida Journal of International Law
Fordham Int'l L.J.	Fordham International Law Journal
FS	Festschrift
GA	Goldammer's Archiv für Strafrecht
GoJIL	Goettingen Journal of International Law
GYIL	German Yearbook of International Law
Harv. Int'l L.J.	Harvard International Law Journal
HICLR	Hastings International and Comparative Law Review
HRQ	Human Rights Quarterly
Ibid.	ibidem
ICC	International Criminal Court
ICC Statute	Rome Statute of the International Criminal Court
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
ILC	International Law Commission
IMT	International Military Tribunal
IMT Judgment	Judgment of the International Military Tribunal for the Trial of German Major War Criminals
IMTFE	International Military Tribunals for the Far East
IMTFE Judgment	Judgment of the International Military Tribunal for the Far East
Int. Crim. L. Rev.	International Criminal Law Review
IRRC	International Review of the Red Cross
JICJ	Journal of International Criminal Justice
JZ	Juristen Zeitung

KJ	Kritische Justiz
KritV	Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft
LJIL	Leiden Journal of International Law
London Charter	Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis
marginal no.	marginal number
Melb. UL R.	Melbourne University Law Review
MPEPIL	Max Planck Encyclopedia of Public International Law
MüKo	Münchener Kommentar
NCLR	New Criminal Law Review
NILR	Netherlands International Law Review
no.	number
Northwestern JIHR	Northwestern Journal of International Human Rights
Nr.	Nummer
NStZ	Neue Zeitschrift für Strafrecht
Nuremberg Charter	Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis
N.Y. L. Sch. J. Int'l & Comp. L.	N.Y. Law Journal of International and Comparative Law
NZYIL	New Zealand Yearbook of International Law
p.	page
Pace Int'l L. Rev.	Pace International Law Review
para.	paragraph
Penn St. Internat'l L. Rev.	Penn State International Law Review
RGSt	Entscheidungen des Reichsgerichts in Strafsachen
Rome Statute	Rome Statute of the International Criminal Court

List of abbreviations

Santa Clara J.Int'l L.	Santa Clara Journal of International Law
SCSL	Special Court for Sierra Leone
SCU Law Review	Southern Cross University Law Review
St. Louis-Warsaw Transatlantic L.J.	St. Louis-Warsaw Transatlantic Law Journal
StR	Strafrecht
Stan. L. Rev.	Stanford Law Review
Suffolk Transnat'l L. Rev.	Suffolk Transnational Law Review
SWGCA	Special Working Group on the Crime of Aggression
TWC	Trials of War Criminals before the Nürnberg Military Tribunals
U.N.	United Nations
U.N. Doc.	United Nations Documents
U. Queensland LJ	University Queensland Law Journal
UJIEL	Utrecht Journal of International and European Law
U.S.	United States
Vol.	Volume
v.	versus
VStGB	Völkerstrafgesetzbuch
Wash. U. Global Stud. L. Rev.	Washington University Global Studies Law Review
YJIL	Yale Journal of International Law
ZStW	Zeitschrift für die gesamte Strafrechtswissenschaft