

## ABSTRACT: DEFINITIONS OF AGGRESSION AS HARBINGERS OF INTERNATIONAL CHANGE

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Debates about the definitions of aggression are responses to deadlock and harbingers of change. Each, in its own way and in its own time, has heralded a transition from an old to a new set of legal and institutional arrangements. The definitions in the early 1930s, which emerged in response to the failings of the League of Nations, signalled the shift away from the old dichotomy of belligerency and neutrality, and towards a new regime based on legitimate and illegitimate wars. The definitions of the early 1950s, responding to the Cold War Security Council deadlock, signalled the UN's transition from collective security organization to conflict mediator. The General Assembly's definition of 1974, negotiated during the era of détente, might, had the 'new' Cold War not intervened, have heralded new alignments between the powerful states. And the definition in the 2010 Kampala Amendment, anticipating shifts from a unipolar to a multipolar world, proposes dual sources of authority — the Security Council and International Criminal Court — on the handling of aggression.

Although debates about definitions herald change, they have also given rise to remarkably durable patterns of state behaviour: patterns still being repeated to this day. The most consistent advocates of automatic determinants of aggression have been states vulnerable to attack or excluded from either the League or Security Council. These 'excluded' states have not only looked to definitions for legal protection against the vicissitudes of international life, but have also tried to use them to break the powerful states' monopoly over the determination of aggression. This pattern was first discernible during the interwar years. In 1933, for example, the Soviet Union (a vulnerable state), backed by France (another vulnerable state), broached a definition at the Disarmament Conference. During the Cold War decades, smaller states, beguiled by the prospect of undermining the Security Council's mandate under Article 39, kept the definitional flame alight. And today a legion of small, middling, and quite large 'excluded' states posit International Criminal Court jurisdiction over 'the crime of aggression' as an alternative (or, more diplomatically, a supplement) to Security Council determination.

By contrast, the most powerful states, as the 'included' members of the League or Security Council, have been consistently *inconsistent* in their approach to definitions of aggression, and oscillate according to the forcefields of other powerful states. They do not want to surrender their own control over decisions about aggression, but for limited and expedient ends — say, to exert pressure on another powerful state — they are sometimes prepared to initiate or support definitions. The past master of this was the Soviet Union, which was happy to pose as either upholder of Security Council prerogatives or champion of the 'excluded' majority, depending on whether it was voting for or vetoing Council resolutions. Alongside the Russians, the most consistently inconsistent of them all has been the United States, which proposed a definition in 1933, opposed a definition at the 1945 San Francisco Conference, proposed a definition at the 1945 London Conference, opposed a definition at the First Committee in 1950, proposed a definition at the UN Special Committee in 1969, and opposed a definition at the 1998 Rome Conference.

With these recurring motifs in mind, we will examine three pivotal moments in the evolution of definitions of aggression — 1933, 1950, and 1974 — and will, in their light, conclude with an assessment of the latest definition proposed at Kampala in 2010.