

FIRST COMMISSION

**Universal Civil Jurisdiction with regard to Reparation
for International Crimes**

Rapporteur : M. Andreas Bucher

RESOLUTION

The Institute of International Law,

Conscious that appropriate and effective reparation has to be provided for the harm suffered by the victims of international crimes;

Considering that “international crimes” means serious crimes under international law such as genocide, torture and other crimes against humanity, and war crimes;

Recalling that universal criminal jurisdiction is a means of preventing the commission of such crimes and to avoid their impunity, as affirmed in the 2005 Krakow Resolution on “universal criminal jurisdiction with regard to the crime of genocide, crimes against humanity and war crimes”;

Noting that the prosecution of the authors of international crimes and their punishment provides only a partial satisfaction to the victims;

Considering that universal civil jurisdiction is a means of avoiding the deprivation of the victims of international crimes to obtain reparation of the harm suffered, in particular because the courts ordinarily having jurisdiction do not provide for an appropriate remedy;

Adopts the following Resolution:

Article 1

1. Victims of international crimes have a right to appropriate and effective reparation from persons liable for the injury.
2. They have a right to an effective access to justice to claim reparation.
3. These rights do not depend on any criminal conviction of the author of the crime.

Article 2

1. A court should exercise jurisdiction over claims for reparation by victims provided that:
 - a) no other State has stronger connections with the claim, taking into account the connection with the victims and the defendants and the relevant facts and circumstances; or
 - b) even though one or more other States have such stronger connections, such victims do not have available remedies in the courts of any such other State.
2. For the purposes of paragraph 1(b), courts shall be considered to provide an available remedy if they have jurisdiction and if they are capable of dealing with the claim in compliance with the requirements of due process and of providing remedies that afford appropriate and effective redress.
3. The court where claims for relief by victims have been brought should decline to entertain the claims or suspend the proceedings, in view of the circumstances, when the victims' claims have also been brought before:
 - a) an international jurisdiction, such as the International Criminal Court;
 - b) an authority for conciliation or indemnification established under international law; or
 - c) the court of another State having stronger connections and available remedies within the meaning of the foregoing paragraphs.

Article 3

States should see that the legal and financial obstacles facing victims and their representatives are kept to a minimum in the course of procedures relating to claims for reparation.

Article 4

States should endeavour to develop procedures to allow groups of victims to present claims for reparation.

Article 5

The immunity of States should not deprive victims of their right to reparation.

Article 6

It is recommended that in the course of the preparation of an instrument on jurisdiction and enforcement of judgments in civil and commercial matters, in particular by the Hague Conference on Private International Law, the rights of victims as set out in these Articles be taken into account.
