

Session of Wiesbaden - 1975

The Principle of Non-Intervention in Civil Wars

(Eighth Commission, Rapporteur : Mr Dietrich Schindler)

(The French text is authoritative. The English text is a translation.)

The Institute of International Law,

Noting the gravity of the phenomenon of civil wars and of the suffering which they cause ;

Considering that any civil war may affect the interests of other States and may therefore result in an international conflict if no provision is made for very stringent obligations of non-intervention ;

Considering in particular that the violation of the principle of non-intervention for the benefit of a party to a civil war often leads in practice to interference for the benefit of the opposite party ;

Convinced therefore that it is necessary to specify the duties of other States in the event of civil war breaking out in the territory of a given State ;

Reserving the study of issues arising from the danger of extermination of ethnic, religious or social groups or from other severe infringements of human rights during civil war,

Adopts the following Resolution :

Article 1. Concept of civil war

1. For the purposes of this Resolution, the term "civil war" shall apply to any armed conflict, not of an international character, which breaks out in the territory of a State and in which there is opposition between :

a) the established government and one or more insurgent movements whose aim is to overthrow the government or the political, economic or social order of the State, or to achieve secession or self-government for any part of that State, or

b) two or more groups which in the absence of any established government contend with one another for the control of the State.

2. Within the meaning of this Resolution, the term "civil war" shall not cover :

a) local disorders or riots ;

b) armed conflicts between political entities which are separated by an international demarcation line or which have existed *de facto* as States over a prolonged period of time, or conflicts between any such entity and a State ;

c) conflicts arising from decolonization.

Article 2. Prohibition from assistance

1. Third States shall refrain from giving assistance to parties to a civil war which is being fought in the territory of another State.

2. They shall in particular refrain from :

a) sending armed forces or military volunteers, instructors or technicians to any party to a civil war, or allowing them to be sent or to set out ;

b) drawing up or training regular or irregular forces with a view to supporting any party to a civil war, or allowing them to be drawn up or trained ;

c) supplying weapons or other war material to any party to a civil war, or allowing them to be supplied ;

d) giving any party to a civil war any financial or economic aid likely to influence the outcome of that war, without prejudice to the exception provided for in Article 3 (b) ;

e) making their territories available to any party to a civil war, or allowing them to be used by any such party, as bases of operations or of supplies, as places of refuge, for the passage of regular or irregular forces, or for the transit of war material. The last mentioned prohibition includes transmitting military information to any of the parties ;

f) prematurely recognizing a provisional government which has no effective control over a substantial area of the territory of the State in question.

3.a) Third States shall use all means to prevent inhabitants of their territories, whether natives or aliens, from raising contingents and collecting equipment, from crossing the border or from embarking from their territories with a view to fomenting or causing a civil war.

b) They shall disarm and intern any force of either of the parties to the civil war which crosses their borders, on the understanding that expenses resulting from internment will be charged to the State faced with the civil war. Weapons found with such forces shall be seized and retained by the third State and returned to the State faced with the civil war after the end of the latter.

Article 3. Exceptions

Notwithstanding the provisions of Article 2, third States may :

- a) grant humanitarian aid in accordance with Article 4 ;
- b) continue to give any technical or economic aid which is not likely to have any substantial impact on the outcome of the civil war ;
- c) give any assistance prescribed, authorized or recommended by the United Nations in accordance with its Charter and other rules of international law.

Article 4. Humanitarian aid

1. The forwarding of relief or other forms of purely humanitarian aid for the benefit of victims of a civil war should be regarded as permissible.

2. In cases where the territory controlled by one party can be reached only by crossing the territory controlled by the other party or the territory of a third State, free passage over such territory should be granted to any relief consignment, at least insofar as is provided for in Article 23 of the Geneva Convention of 12 August 1949 on the Protection of Civilians in War-Time.

Article 5. Foreign intervention

Whenever it appears that intervention has taken place during a civil war in violation of the preceding provisions, third States may give assistance to the other party only in compliance with the Charter and any other relevant rule of international law, subject to any such measures as are prescribed, authorized or recommended by the United Nations.

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(14 August 1975)