

TENTH COMMISSION

Present Problems of the Use of Armed Force in international Law

- Humanitarian action-

Rapporteurs: Mr Reisman/Mr Owada

RESOLUTION

The Institute of International Law,

Having considered the subject of Humanitarian Action for the object of putting an end to genocide, large-scale crimes against humanity and large-scale war crimes;

Approves the following Resolution, together with a Declaration of the President, who was asked to issue this Declaration to express the understanding of the Institute in respect of the question of military actions which have not been authorized by the United Nations:

The President's Declaration is as follows:

“The Institute has discussed in detail the question of the lawfulness of military actions which have not been authorized by the United Nations but which purport to have been taken to end genocide, large-scale crimes against humanity or large-scale war crimes. While a number of members supported the view that such actions might be lawful under certain circumstances and observing certain conditions, a number of other members were of the view that this is not the case under present international law and in particular under the Charter of the United Nations.

In view of these differences of opinion and in consideration of the fact that another sub-group is specifically dealing with the Present Problems of the Use of Armed Force in International Law and the authorization to resort to the use of force by the United Nations, the Institute decided to refer this particular issue to that sub-group for further discussion in a subsequent session.

Accordingly, Article VI of the Resolution explains that its text does not address this issue, and therefore its referral to a different sub-group in no way preempts nor prejudices the continuation of the discussion on this issue in a subsequent session.”

The text of the Resolution is as follows:

I. International law embodies the right to the protection of human life and human dignity against genocide, crimes against humanity and war crimes. Every State is under an obligation to prevent or promptly put an end to genocide, crimes against humanity and war crimes, occurring within its jurisdiction or control.

II. Genocide, large-scale crimes against humanity or large-scale war crimes should be considered as a threat to international peace and security pursuant to Article 39 of the Charter of the United Nations.

III. The competent organs of the United Nations should use all statutory powers at their disposal to take prompt action to put an end to genocide, large-scale crimes against humanity or large-scale war crimes which have not been suppressed by the State within whose jurisdiction or control they are occurring.

IV. Actions to put an end to genocide, large-scale crimes against humanity, or large-scale war crimes shall be conducted in accordance with international law.

V. If military action is taken, the sole objective of such action shall be to put an end to genocide, large-scale crimes against humanity, or large-scale war crimes. International humanitarian law shall be strictly observed during and after the operations, so as to secure in particular maximum protection of the civilian population. This paragraph is without prejudice to any obligation with regard to the repression of international crimes.

VI. This Resolution does not address the question of the lawfulness of military actions which have not been authorized by the United Nations but which purport to have been taken to end genocide, large-scale crimes against humanity, or large-scale war crimes.
