

JUSTITIA ET PACE
INSTITUT DE DROIT INTERNATIONAL

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**The Protection of Human Rights and the Principle of
Non-intervention in Internal Affairs of States**

(Eighth Commission, Rapporteur : Mr Giuseppe Sperduti)

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

The Institute of International Law,

Recalling its Declarations of New York (1929) on “International Human Rights” and of Lausanne (1947) on "The fundamental Human Rights as a Basis for Restoring International Law" as well as its Resolutions of Oslo (1932) and Aix-en-Provence (1954) on “The Determination of the 'Reserved Domain' and its Effects” ;

Considering,

That the protection of human rights as a guarantee of the physical and moral integrity and of the fundamental freedom of every person has been given expression in both the constitutional systems of States and in the international legal system, especially in the charters and constituent instruments of international organizations ;

That the Members of the United Nations have undertaken to ensure, in co-operation with the Organization, universal respect for and observance of human rights and fundamental freedoms, and that the General Assembly, recognizing that a common understanding of these rights and freedoms is of the highest importance for the full realization of this undertaking, has adopted and proclaimed the Universal Declaration of Human Rights on 10 December 1948 ;

That frequent gross violations of human rights, including those affecting ethnic, religious and linguistic minorities, cause legitimate and increasing outrage to public opinion and impel many States and international organizations to have recourse to various measures to ensure that human rights are respected ;

That these reactions, as well as international doctrine and jurisprudence, bear witness that human rights, having been given international protection, are no longer matters essentially within the domestic jurisdiction of States ;

That it is nonetheless important, in the interest of maintaining peace and friendly relations between sovereign States as well as in the interest of protecting human rights, to define more precisely the conditions and limitations imposed by international law on the measures that may be taken by States and international organizations in response to violations of human rights,

Adopts the following Resolution :

Article 1

Human rights are a direct expression of the dignity of the human person. The obligation of States to ensure their observance derives from the recognition of this dignity as proclaimed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

This international obligation, as expressed by the International Court of Justice, is *erga omnes* ; it is incumbent upon every State in relation to the international community as a whole, and every State has a legal interest in the protection of human rights. The obligation further implies a duty of solidarity among all States to ensure as rapidly as possible the effective protection of human rights throughout the world.

Article 2

A State acting in breach of its obligations in the sphere of human rights cannot evade its international responsibility by claiming that such matters are essentially within its domestic jurisdiction.

Without prejudice to the functions and powers which the Charter attributes to the organs of the United Nations in case of violation of the obligations assumed by the members of the Organizations, States, acting individually or collectively, are entitled to take diplomatic, economic and other measures towards any other State which has violated the obligation set forth in Article 1, provided such measures are permitted under international law and do not involve the use of armed force in violation of the Charter of the United Nations. These measures cannot be considered an unlawful intervention in the internal affairs of that State.

Violations justifying recourse to the measures referred to above shall be viewed in the light of their gravity and of all the relevant circumstances. Measures designed to ensure the collective protection of human rights are particularly justified when taken in response to especially grave violations of these rights, notably large-scale or systematic violations, as well as those infringing rights that cannot be derogated from in any circumstances.

Article 3

Diplomatic representations as well as purely verbal expressions of concern or disapproval regarding any violations of human rights are lawful in all circumstances.

Article 4

All measures, individual or collective, designed to ensure the protection of human rights shall meet the following conditions :

1. except in case of extreme urgency, the State perpetrating the violation shall be formally requested to desist before the measures are taken ;
2. measures taken shall be proportionate to the gravity of violation ;
3. measures taken shall be limited to the State perpetrating the violation ;
4. the States having recourse to measures shall take into account the interests of individuals and of third States, as well as the effect of such measures on the standard of living of the population concerned.

Article 5

An offer by a State, a group of States, an international organization or an impartial humanitarian body such as the International Committee of the Red Cross, of food or medical supplies to another State in whose territory the life or health of the population is seriously threatened cannot be considered an unlawful intervention in the internal affairs of that State. However, such offers of assistance shall not, particularly by virtue of the means used to implement them, take a form suggestive of a threat of armed intervention or any other measure of intimidation; assistance shall be granted and distributed without discrimination.

States in whose territories these emergency situations exist should not arbitrarily reject such offers of humanitarian assistance.

Article 6

The provisions of this Resolution apply without prejudice to the procedures prescribed in matters of human rights by the terms of or pursuant to the constitutive instruments and the conventions of the United Nations and of specialized agencies or regional organizations.

Article 7

It is highly desirable to strengthen international methods and procedures, in particular methods and procedures of international organizations, intended to prevent, punish and eliminate violations of human rights.

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(13 September 1989)