

**AFFIRMATION OF THE PRINCIPLES OF INTERNATIONAL LAW  
RECOGNIZED BY THE CHARTER OF THE NÜRNBERG TRIBUNAL**

**GENERAL ASSEMBLY RESOLUTION 95(I)**

Three weeks after the International Military Tribunal (also known as the “Nürnberg Tribunal”) rendered its judgment on 1 October 1946, the General Assembly convened in New York for the second part of its first session. At the opening meeting, on 23 October 1946, the importance of the Charter of the Nürnberg Tribunal was recognized. The President of the United States, Mr. Harry S. Truman, addressing the General Assembly at that meeting, referred to the Nürnberg Charter as pointing to “the path along which agreement may be sought” in order to better protect mankind from future wars.

In his Supplementary Report on the Work of the Organization (A/65/Add.1), presented to the General Assembly on 24 October 1946, the Secretary-General declared that “[i]n the interests of peace, and in order to protect mankind against future wars, it will be of decisive significance to have the principles which were employed in the Nürnberg trials made a permanent part of the body of international law as quickly as possible.”

On 12 November 1946, in a letter written in reply to a report by Judge Biddle, United States member of the Nürnberg Tribunal, President Truman expressed “[the] hope that the United Nations will reaffirm the principles of the Nürnberg Charter in the context of a general codification of offenses against the peace and security of mankind.”

On 15 November 1946, in the course of the consideration by the Sixth Committee of the agenda item entitled “Carrying out of the provisions of Article 13 of the Charter regarding the progressive development of international law and its codification”, the delegation of the United States proposed a draft resolution by which the General Assembly would reaffirm the principles of international law recognized by the Charter of the Nürnberg Tribunal. The United States further recommended that the General Assembly should direct the Committee on the Progressive Development of International Law and its Codification (which it was proposed to establish) to treat as a matter of primary importance the formulation of the principles of the Charter of the Nürnberg Tribunal and those found in the Tribunal’s judgment in the context of a general codification of offences against the peace and security of mankind or in an international criminal code (A/C.6/69). The Sixth Committee referred the proposal to its Sub-Committee 1, which was charged with the question of the codification and progressive development of international law.

The Sub-Committee considered the draft resolution submitted by the United States from 3 to 5 December 1946 (A/C.6/Sub.1/W.34, 35 and 36). It broadly approved the draft resolution and suggested that the Sixth Committee should recommend to the General Assembly the adoption of a resolution based on the proposal (A/C.6/116). On 10 December 1946, in its report to the General Assembly (A/236), the Sixth Committee recommended that the Assembly adopt a resolution to this effect. On 11 December 1946, the General Assembly unanimously adopted resolution 95 (I), which affirmed the principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgment of the Tribunal and directed the Committee on the Progressive Development of International Law and its Codification to consider plans for the formulation of those principles.

In the course of its debate, the Committee decided not to undertake the actual formulation of the principles of the Nürnberg Charter as it considered that this was a task demanding careful and prolonged study. Therefore, the Committee concluded in its report (A/332) that the discussion of the substantive provisions of the Nürnberg principles would be better entrusted to the International Law Commission, the establishment of which the Committee had recommended (see Report of the Committee submitted pursuant to General Assembly resolution 94 (I) of 11 December 1946, A/331). The report, submitted during the second session of the General Assembly, recommended unanimously that the International Law Commission should be invited to prepare a draft convention incorporating the Nürnberg principles as well as a detailed draft plan of general codification of offences against the peace and security of mankind in such a manner that the plan should clearly indicate the place to be accorded to the principles.

At its second session, on 23 September 1947, the General Assembly referred the report of the Committee to the Sixth Committee, which, after a general discussion, on 29 September 1947, referred it to its Sub-Committee 2, charged with considering the question of the establishment of an International Law Commission. The Sub-Committee decided that the task of formulating the Nürnberg principles should be referred to the International Law Commission and drafted a resolution to this effect.

On 20 November 1947, the Sixth Committee broadly adopted the draft resolution (A/C.6/180/Rev.1) recommended by the Sub-Committee. On 21 November 1947, following the recommendation of the Sixth Committee (A/505), the General Assembly adopted, by vote of 42 to 1, with 8 abstentions, resolution 177 (II) by which the International Law Commission was directed to formulate the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal.

Accordingly, at its first session, in 1949, the International Law Commission undertook a preliminary consideration of the subject based on a memorandum submitted by the Secretary-General entitled "The Charter and the Judgement of the Nürnberg Tribunal: History and Analysis" (A/CN.4/5). At the same session, the Commission appointed a Sub-Committee, which submitted a working paper (A/CN.4/W.6) containing a formulation of the Nürnberg principles. After a careful consideration of this working paper, the Commission retained tentatively a number of draft articles and referred them back to the Sub-Committee for redrafting. The Sub-Committee thereafter presented a further draft (A/CN.4/W.12) to the Commission.

In considering the action to be taken with respect to the further draft submitted by the Sub-Committee, the Commission took into account its terms of reference as laid down in General Assembly resolution 177 (II). It noted that under that resolution the task of formulating the Nürnberg principles appeared to be so closely connected with that of preparing a draft code of offences against the peace and security of mankind that it would be premature for the Commission to give a final formulation to these principles before the work of preparing the draft code was further advanced. It therefore appointed Mr. Jean Spiropoulos as Special Rapporteur for both topics and referred to him the draft prepared by the Sub-Committee. The Special Rapporteur was requested to submit his report on the draft to the Commission at its second session.

In 1950, on the basis of the report presented by the Special Rapporteur (A/CN.4/22), the Commission adopted a final formulation of the Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal, and submitted it, with commentaries, to the General Assembly. It did so, however, without making any recommendation on further action thereon (see Report of the Commission on the work of its second session, A/1316).

The Commission's formulation of the Nürnberg principles was considered by the Sixth Committee from 2 to 14 November 1950. On 14 November 1950, the Sixth Committee submitted a report (A/1639) to the General Assembly, which was considered on 12 December 1950. On the recommendation of the Sixth Committee, the General Assembly, by a vote of 42 to none, with 6 abstentions, adopted resolution 488 (V) on the same day. By this resolution, the General Assembly decided to send the formulation of the Nürnberg principles to the Governments of Member States for comments, and requested the Commission, in preparing the draft code of offences against the peace and security of mankind, to take account of the observations made on this formulation by delegations during the fifth session of the General Assembly and of any observations which might later be received from Governments.