

Definition of Aggression

At the fifth session of the General Assembly, when the item introduced by the Yugoslav Delegation, "Duties of States in the Event of the Outbreak of Hostilities",¹ was being discussed, the majority of delegations thought that no definition of "aggression" should be attempted without a full examination of all its implications. Indeed, many representatives were of the opinion that the determination of aggression depended upon the political appraisal of specific facts and for that reason could not be covered by a precise definition. However, the Soviet Delegation submitted a proposal embodying certain criteria by which aggression might be determined. The Soviet proposal, which contained no reference to "indirect aggression", was referred by the Assembly to the International Law Commission so that the Commission could take the proposal into consideration and formulate conclusions at the same time as it was considering the proposed draft code of offences against the peace and security of mankind.

The question of defining aggression² has arisen several times in the past, but in each instance it has been found impossible to arrive at a compromise formula to satisfy several divergent views. The International Military Tribunal, which was convened after the Second World War to try the cases of the major war criminals, had been established by a special charter which set forth the law it was to apply. The charter for this "Nuremberg Tribunal" had defined crimes against peace and in so doing had referred to the "waging of a war of aggression", but it did not define aggression, nor did the Tribunal itself attempt to do so.

The International Law Commission made a determined effort to formulate a definition which would meet with the approval of its members. It considered various abstract definitions of a general nature as well as definitions enumerating specific acts to be defined as aggressive, but in both these approaches the Commission failed to agree. As a result it finally had to report to the Assembly that it was unable to formulate a definition. Its difficulties arose not because of any political or ideological differences (the Soviet and Czechoslovak members of the Commission were not in attendance at that time), but because of the fundamental difficulty of drafting an all-inclusive definition which would cover all conceivable situations. As one of the members pointed out, methods of aggression were in a constant process of evolution. However, the Commission did decide to include, among the offences defined in the draft code of offences against the peace and security of mankind, the following paragraph:

The following acts are offences against the peace and security of mankind:

(1) Any act of aggression, including the employment by the authorities of a State of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations.

(2) Any threat by the authorities of a State to resort to an act of aggression against another State.

¹See *Canada and the United Nations 1950*, pp. 18-19.

²See *External Affairs*, February 1952, pp. 80-82.