



ANNUAL REPORT

on

THE ACTIVITIES

of the

INTERNATIONAL

COMMISSION OF JURISTS

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by

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INTRODUCTION AND SUMMARY OF ACTIVITIES

In what has been an unusually active year, the highlights of the work of the International Commission of Jurists on behalf of the Rule of Law and the protection of human rights have perhaps been to help organize the International Conference on Namibia in Dakar, to publish reports on asylum in Latin America, racial discrimination in Rhodesia, and human rights in Iran, and to issue a book about the trial of an eminent Christian leader in South Africa, Dr. Beyers Naudé.

The Commission published two more issues of *THE REVIEW* in December 1975 and January 1976. The ICJ also continued its activity of issuing public press releases and making private interventions (many dealing with situations of violations of human rights in particular countries), as well as continuing to send missions to different parts of the world to observe important political trials and to gather information on human rights and the Rule of Law.

The headquarters of the ICJ in Geneva continues to act as a centre for information about legal and other developments concerning the Rule of Law and the protection of human rights. Many requests for information have been received from governments, intergovernmental and non-governmental organisations, law professors and individual lawyers and other interested persons in matters relating to human rights.

As a non-governmental organisation (NGO) in consultative status with the United Nations, UNESCO and the Council of Europe, the ICJ has continued to play an active part in the various U.N. bodies and NGO committees dealing with human rights.

Three new members have been elected to the Commission, which is restricted to not more than 40 Members representing the different regions and principal legal systems of the world. The new Members are Roberto Concepción (Philippines), former Chief Justice; Professor P. J. G. Kapteyn (Netherlands), Professor of the law of international organisations, University of Leiden and member of the U.N. Committee on the Elimination of Racial Discrimination; and Dr. Rudolf Machacek (Austria), member of the Austrian Constitutional Court and Secretary-General of the Austrian Commission of Jurists, the national section of the ICJ.

THE REVIEW

THE REVIEW, of which two more issues were published in December 1975 and June 1976, goes to some 10,000 lawyers, legal associations and law libraries, half of them in developing countries. These issues contained articles on human rights situations, legislation and trials in 12 countries (Argentina, Brazil, Chile, Uruguay, India, Indonesia, Namibia, South Africa, Southern Rhodesia, Spain, Portugal and Yugoslavia). Other articles discussed the U.N. Human Rights Commission and its Sub-Commission, the Inter-American Human Rights Commission, the third session of the Diplomatic Conference on Humanitarian Law, the role of lawyers in relation to torture, and a survey of press freedom and press restrictions, 1970-1975.

SPECIAL REPORTS

The International Commission of Jurists published the following special studies and reports during the past year. These reports received widespread press coverage, including front page articles on the Iran report in the *New York Times* and on the Rhodesia report in the *London Times*.

Asylum in Latin America

In October 1975 the Commission published a 64-page study in English and Spanish on "The Application in Latin America of International Declarations and Conventions Relating to Asylum." The study was circulated to all members of the Executive Council of the office of the U.N. High Commissioner for Refugees (UNHCR). This publication sets out the international law relating to asylum, extradition and *non-refoulement* for the protection of political refugees, and describes in detail a number of cases in which refugees have not received the protection they are entitled to expect, and others where they have been returned (*refoulé*) in violation of international declarations and conventions. In a number of these cases the persons responsible for the violations appear to belong to or have close connections with the security authorities of the countries concerned. The study's concluding recommendations may be summarized as follows:

All governments which have not yet done so should ratify or accede to the two Caracas Conventions of 1954, and the U.N. Convention on the Status of Refugees, 1951, with the Protocol of 1967.

Geographical limitations to the ratification of the U.N. Convention should be withdrawn.

The provisions and principles of the relevant international instruments and declarations, including the prohibition on *refoulement*, should be made known to the police and security forces through detailed instruction and training and should be strictly enforced via disciplinary and legal action against those who violate them or who menace, attack, kidnap or assassinate refugees.

No person should be refused asylum except by decision of the highest competent authority, in which case the representative of the UNHCR should be informed and time allowed to make other arrangements for resettlement. Full support should be given by all governments to the efforts of the UNHCR to resettle refugees.

Where necessary, "safe havens" should be established in order to protect persons granted temporary asylum and awaiting resettlement.

The governments of Latin America should consider accepting for permanent resettlement a share of the refugees within the region, so as to lighten the excessive burden now falling upon countries such as Argentina which have granted temporary asylum to large numbers of refugees.

In this connection, the International Commission of Jurists is taking an active part in a working group set up by the Geneva Special NGO Committee on Human Rights to prepare a memorandum commenting upon the Draft Convention on Territorial Asylum which is to be considered by the Diplomatic Conference in Geneva in January, 1977.

Rhodesia

On May 4, 1976, a major report on *Racial Discrimination and Repression in Southern Rhodesia* by the International Commission of Jurists was published in London jointly with the Catholic Institute for International Relations. This 125-page book documents the pattern of discrimination and repression and the wholesale denial of civil liberties to the Rhodesian Africans, as well as more extreme assaults.

It begins by setting out the illegality of the Smith regime under both United Kingdom and international law. Then follows an analysis of the laws by which racial discrimination is imposed upon the country and repressive laws which enable the minority of 277,000 so-called "Europeans" to keep in subjection the 6 million Africans.

As the study states, "The essential areas of discrimination relate to the ownership and occupation of land, so as to ensure the physical separation of the races as far as possible, and the fields of education, labour and political activity, so as to restrict the development of the Africans in such a way as not to threaten the interests of the Whites". These areas of discrimination are examined in turn. The study shows how half the cultivatable land is reserved for the tiny white minority, while the Africans are crowded into Tribal Trust Lands in the other half and into townships and compounds to serve the needs of industry, agriculture and the services in the white area.

The study describes the restrictions imposed on the basic freedoms (expression, assembly, press, etc.) and sets out the laws relating to detention and restriction orders, deprivation of citizenship and deportation, and the "anti-terrorist" measures which have done so much to cause the African tribesmen to support the guerrilla fighters.

Finally it examines cases of torture and ill-treatment of suspects by the security forces, the Indemnity and Compensation Act of 1975 by which the courts are deprived of jurisdiction over allegations of brutality by the security forces, and the system of herding the population in the operational areas into camps known as "protected villages" and "consolidated villages".

Four appendices deal with the Constitution and Electoral Laws 1961-1975, Cold Comfort Farm (a non-racial enterprise closed down by the authorities), the persecution of the Tangwena Tribe, and a summary of cases relating to "terrorists".

As is stated in the preface, "it is to be hoped that this study will help lawyers and others outside Southern Rhodesia to understand the complex system of discrimination and repression imposed by the white minority, and why it is that no settlement can be acceptable to the Africans which denies them majority rule".

Iran

On May 31, 1976, the Commission published an 80-page booklet containing two reports on Iran entitled *Human Rights and the Legal System in Iran*. The authors are William J. Butler, Esq., Chairman of the Executive Committee of the International Commission of Jurists and Chairman of the New York City Bar Association's Committee on International Human Rights, and Professor Georges Levasseur of the University of Paris II, a distinguished comparative penal lawyer. They each made separate visits to Iran in 1975 and were assisted in collecting

material for their reports by officials of the Iranian government. They sought to examine human rights in Iran with an understanding of the economic, social and political problems facing the country.

Mr. Butler's report on Human Rights in Iran traces the stages by which parliamentary democracy in Iran has yielded to an authoritarian one-party regime under the firm control of the Shah, and describes a series of political trials which took place between 1963 and 1975. He then examines the situation concerning human rights and fundamental freedoms. He first describes the progress being made towards the achievement of economic and social rights under the programme known as the White Revolution. He then outlines the restrictions on civil and political rights and the system of internal security. Both he and Professor Levasseur, like other visitors to Iran, experienced great difficulty in obtaining first hand information about the organisation of the military tribunals or the organisation and activities of the SAVAK security police.

Among the conclusions reached by Mr. Butler are that "There is abundant evidence showing the systematic use of impermissible methods of psychological and physical torture of suspects during interrogation", which the Iranian authorities have not subjected to independent investigation, and that "the trial procedures of political suspects before Military Tribunals deprive them of accepted standards of due process of law, including a 'fair and public hearing by a competent, independent and impartial tribunal', the right to counsel so that he may defend himself 'through legal assistance of his own choosing', the right 'to examine or cross-examine state witnesses', the right 'not to be compelled to testify against himself or to confess guilt', and the right to appeal before properly constituted courts, all provided for in Article 14 of the International Covenant on Civil and Political Rights." He concludes by submitting recommendations for ensuring the better protection of the rights of the individual "in accordance with the international obligations assumed by the Iranian government".

Professor Levasseur's report on the Legal System in Iran contains a detailed and informative account of the organisation of the judicial system covering both the ordinary courts and the military tribunals, as well as certain special courts. He then gives a general outline of Iranian criminal law, both the general law and the 'special criminal law' dealing with offences against the state, public security and public order.

Other sections contain an account of the Iranian criminal procedure, both in the ordinary courts and in the military courts. Finally there is a

section describing the prison system and the special institutions for juveniles.

In his conclusions Professor Levasseur states that "Iran has lawyers of excellent quality . . . who are fully aware of all that is implied by devotion to the fundamental principles of an enlightened humanism". He comments that "it seems desirable that they should be able to exercise their influence to achieve greater enlightenment in certain regrettably obscure sectors of the system of social control". In this connection he expresses the hope that "the functions of the military courts will once again be limited to those which are normally performed by such courts, and that the procedure of these courts will approximate more closely to those of the ordinary courts . . ."

Uruguay

In January 1976 a second supplement to the ICJ Report on Uruguay of June 1974 was issued. This supplement shows that the violations described in the original report and in the first supplement of January 1975 continue. The elections which, under the Constitution, were due to be held in November 1976 have been indefinitely postponed. The military backed government, which has suspended Parliament and banned all political activity, remains in power in violation of the Constitution without having obtained or even sought the approval of the people through an election or referendum.

The supplement documents numerous deaths of political detainees under torture and describes the continued anonymous and illegal arrests by unidentified men in plain clothes with no arrest warrant, who hold suspects incommunicado in military barracks during long periods and subject them to torture and ill-treatment.

Massive arrests of political suspects, especially students, trade unionists and intellectuals are carried out. A new decree authorises confiscation of property of political suspects, under which offices and property of trade unions and teachers and students organisations have been seized.

Intensified control of education is also occurring, including dissolution of the Federation of Secondary Education Teachers and arrest of leaders of teachers unions. A circular ordered the elimination from school libraries of all publications which "did not conform to the fundamental principles of the nation."

The increased repression of the press is reported, including the closing of the Roman Catholic paper "Vispera". A pastoral letter by the Uruguayan Bishops Conference had to be withdrawn and censored paragraphs deleted, including one calling for general amnesty.

Finally, the jurisdiction of military tribunals has been retroactively extended to cover all political offences.

The Trial of Beyers Naudé

In addition to its own special reports, the ICJ edited a 188-page book entitled *The Trial of Beyers Naudé: Christian Witness and the Rule of Law*, published by Search Press, London, on August 1, 1975. With a preface by Lord Ramsey of Canterbury, an introduction by Sir Robert Birley and a legal background by Professor A. N. Allott, the book describes the trial of a remarkable Christian leader in South Africa for refusing to testify before the notorious Schibusch Commission when it was investigating the activities of the Christian Institute. The book gives an insight into the nature of the struggle taking place within South Africa, and shows how a careful and impressive judicial system is able to exist side by side with a system of detention without trial, banning orders and secret inquisitions over which the judicial has no power or control. The defendant in the trial is an outstanding personality of whom Lord Ramsey of Canterbury says in his preface "When I think of the men who have shown me what it means to be a Christian, my thoughts will always go quickly to Beyers Naudé". The first edition is almost sold out, and the possibility of publishing an American edition is now being considered.

DAKAR CONFERENCE ON NAMIBIA

The Dakar Conference on Namibia was held from 5-8 January, 1976, on the invitation of the government of Senegal and under the sponsorship of the U.N. Commissioner for Namibia, Seán MacBride. It was organised by the International Institute of Human Rights, Strasbourg, in collaboration with the International Commission of Jurists and the International Association of Democratic Lawyers.

The objectives of the Conference were twofold: to throw light on the human rights situation and on the struggle for human rights in Namibia, and to lay the foundations and determine the conditions for an independent Namibia in the spirit of the Universal Declaration of Human Rights.

The Conference was attended by representatives of most of the countries of Africa, several national liberation movements, in particular the South West Africa People's Organisation (SWAPO), and several intergovernmental and non-governmental organisations, as well as a number of individual experts and prominent jurists in the field of human rights.

The Conference approved two documents, a declaration of principles called the Declaration of Dakar on Namibia and Human Rights, and a Programme of Action proposed to international organisations, states and non-governmental organisations of all kinds to help secure for the people of Namibia the exercise of their right of self-determination. Both these documents were later circulated to all member governments of the United Nations as a Security Council document at the request of the government of Libya.

In its Declaration, the Conference stated that the exercise of the right of self-determination by the people of Namibia was a prerequisite for their enjoyment of human rights and to liberate them from the yoke of South Africa's colonialism, and, further, that maintenance of the occupation of Namibia by South Africa and of the system of *apartheid* was a continuing threat to peace and security in southern Africa, the whole of Africa and the world.

In its programme of action the Conference suggested follow-up actions by the Security Council to its Resolution 336 (1974), in which the Council demanded steps by South Africa to withdraw from Namibia.

The proposed new action to be undertaken included a complete embargo on the sale, gift or transfer of arms and all other forms of military equipment to South Africa, the embargo to include existing and future agreements for the provision of radar and telecommunications systems for strategic purposes.

The Conference suggested that the Security Council should request the European Economic Community and all states having economic or financial relations with South Africa to suspend them so long as South Africa continued illegally to occupy Namibia or to practice the system of *apartheid*, that the Council call on the Federal Republic of Germany to close its consulate in Windhoek and to undertake to educate the German population in Namibia to enable them to live in a free Namibia, and that the Council require all states to refrain from extending facilities to enable South Africa to undertake the production of nuclear materials or reactors.

The Security Council was also called on to declare that it was imperative that free elections be held in the whole of Namibia as one political entity under United Nations supervision, and to demand that South Africa release all Namibian political prisoners and abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices.

An interesting feature of the Conference was the attendance of two professors of law from South Africa and a South African journalist who reported on the Conference subsequently to a meeting of the South African Institute of International Affairs. Their comments and recommendations were widely reported in the South African press, in particular the recommendation by Professor John Dugard of Witwatersrand University that the South African government should recognise and enter into negotiations with SWAPO, the Namibian liberation movement.

OBSERVERS, INTERVENTIONS AND PRESS RELEASES

The ICJ has continued to send international legal Observers to important political trials in different parts of the world. Experience shows that the presence of these observers helps to ensure a fairer hearing for the accused and to manifest the international concern about these trials.

Observers have been sent to trials in Indonesia from Australia, to India from Sri Lanka, to South Korea from Japan, to Ecuador from Colombia (the Observer's report was published in the Journal of the Faculty of Law in Colombia), to South Africa from the United Kingdom and from Switzerland, to Namibia from Ireland, and to Spain from Switzerland.

The Chairman of the New Zealand National Section paid a visit to the Philippines to enquire into the operation of the system of martial law in that country, and the Secretary-General paid a visit to Rhodesia where he was able to gather information for the report on discrimination and repression. The Indonesian member of the Commission, a prominent defence lawyer, Mr. Yap Thiam Hien, went on a mission to South Korea to enquire into the situation of political prisoners, with particular reference to lawyers who have been arrested there.

The Commission issued twenty-four press releases during the year, many dealing with situations in particular countries. These included an appeal for clemency for the mercenaries condemned to death in Angola; a report of the ICJ Observer's conclusions on a Terrorism Act Trial in

Namibia; an account of the torture and ill-treatment of Africans in the operational areas in Rhodesia; reports on two leading political trials in South Africa; a protest against the murder in Buenos Aires of two leading Uruguayan political refugees; criticisms of the inadequacy of a new decree law in Chile aimed at protecting suspects from torture; the disappearance of a professor of law arrested at his home in Uruguay; comments upon the emergency measures in India; a denunciation of the refusal to allow 200,000 Greek Cypriots to return to their homes in Cyprus in violation of Article 49 of the Fourth Geneva Convention, 1949; and a plea for clemency for the eleven men condemned to death in Spain after trials violating basic principles of the Rule of Law.

Beyond the public interventions which have been made on human rights issues, private interventions have been made on some 27 occasions relating to situations or cases in 20 different countries (Argentina, Brazil, Chile, Paraguay, Peru, Uruguay, Trinidad and Tobago, Indonesia, Philippines, Iraq, Ethiopia, Ghana, Morocco, Zaire, Zambia, Cyprus, Portugal, Spain, USSR and Yugoslavia).

INFORMATION CENTRE

A fundamental aspect of the ICJ's work in the promotion of human rights is the collection, preservation and dissemination of material on the Rule of Law and human rights. The headquarters in Geneva continues to act as an international centre for information on the international protection of human rights available to governments, international organisations both governmental and non-governmental, experts in the field, and other interested persons.

In addition to the publications, press releases and special reports referred to above, as well as answers to requests for information and material addressed to the Centre, information on Human Rights is conveyed in many other ways.

The Secretary-General and other staff of the Commission were interviewed for English language radio services in the United States, Canada, Britain, Holland, West Germany and Switzerland, for British and Dutch television programmes, for French language services of French and Swiss radio, for Spanish language services of Swiss radio, and for German language services of West Germany radio.

A speech by the Secretary-General to the Canadian Institute of Human Rights on "The Credibility Gap in Human Rights" was published

in the Dalhousie Law Journal. An article by Mr. Norman Marsh, former Secretary-General of the ICJ, on the Independence of the Judiciary was published in the Journal of the Brazilian Bar Association. A speech by the Secretary-General to the Order of Advocates (Bar Association) in Lisbon on The Rule of Law and Protection of Human Rights has been published in their Journal, and an article on the work of the ICJ was published in the journal "International Associations".

The Secretary-General addressed numerous meetings and conferences. These included an address on "Human Rights and the Churches" to the annual assembly of the Catholic Institute for International Relations, London, the opening speech at the NGO Conference on Migrant Workers in Europe at the Palais des Nations in Geneva, a meeting at the House of Commons in London on the U.N. and Human Rights, and seminars in Geneva for visiting students from Holland and England.

ACTION ON HUMAN RIGHTS IN INTERGOVERNMENTAL ORGANISATIONS

The International Commission of Jurists has continued to participate actively as an NGO in matters relating to human rights at the United Nations both in New York and Geneva.

Memoranda containing proposals for the protection of persons in detention from torture and ill-treatment were distributed to the U.N. Human Rights Commission, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, the Fifth U.N. Congress on the Prevention of Crime and Treatment of Offenders, and the U.N. Committee on Crime Prevention and Control. Oral interventions by representatives of the ICJ were also made at meetings of these bodies, as well as informal consultations with delegations. Discussions of the meetings of the 1975 Sub-Commission and the 1976 Human Rights Commission appear in the ICJ REVIEW of December 1975 and June 1976 respectively.

Evidence was submitted to the U.N. Human Rights Commission's Working Group on Chile and to its Ad Hoc Special Committee on Southern Africa in relation to developments in South Africa, Namibia and Rhodesia. In response to requests from the Human Rights Commission detailed reports were submitted on developments concerning freedom of information in many different countries during the period 1970-1975, and on political trials in South Africa.

An ICJ statement on the situation of refugees in Cyprus was circulated to all member states as a Security Council document at the request of the Cyprus government.

The ICJ took part in preparing an NGO memorandum which was distributed as a conference document to the third session of the Diplomatic Conference on Humanitarian Law in Geneva. The Secretary-General and a Legal Officer, Dr. Samuel Suckow, attended meetings of the session as Observers. An article on the session by Dr. Suckow appears in the ICJ REVIEW of June 1976.

Reports on situations in Chile and Argentina were also submitted to the Inter-American Commission on Human Rights of the Organization of American States.

CONCLUSION

The International Commission of Jurists continues to be deeply concerned about the victimization and repression of lawyers in many countries. Contact has been established with a number of bar associations and other professional lawyers organisations with a view to their making interventions expressing their concern to the responsible governments. This form of action gives great encouragement and assistance to those lawyers who are having to run great risks in carrying out their professional duties on behalf of their clients. The International Commission of Jurists will be glad to give advice or assistance to any professional organisations which would be willing to act in this way in order to strengthen the bond between lawyers striving to achieve their common goals of justice and freedom under the Rule of Law.

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Secretary-General

Additional copies of this Report may be obtained upon request in Geneva at:

International Commission of Jurists
109 Route de Chene
1224 Chene-Bougeries
Geneva, Switzerland

or in New York at the office of:

American Association for the
International Commission of Jurists, Inc.
777 United Nations Plaza
New York, New York 10017

Any of the following special reports is similarly available upon payment of the amount specified:

	<u>New York</u>	<u>Geneva</u>
The Application in Latin America of International Declarations and Conventions Relating to Asylum (1975)	\$3.00 U.S.	10 SwFr.
Racial Discrimination and Repression in Southern Rhodesia (1976)	\$2.50 U.S.	6 SwFr.
Human Rights and the Legal System in Iran (1976)	\$2.50 U.S.	6 SwFr.
ICJ Report on Uruguay with 1975 and 1976 Supplements (1976)	\$3.00 U.S.	10 SwFr.
The Trial of Beyers Naudé (1975)	\$5.00 U.S.	15 SwFr.