



ICJ
Report on Activities
1986 – 1988

INTERNATIONAL COMMISSION OF JURISTS
AND ITS CENTRE FOR THE INDEPENDENCE OF JUDGES AND LAWYERS

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ACTIVITIES OF THE INTERNATIONAL COMMISSION OF JURISTS

1986 to 1988

INTRODUCTION

The activities of the International Commission of Jurists (ICJ) in the three years, 1986 to 1988 have continued to be directed towards the three major classes of activities which the ICJ has pursued from its early days, namely:

1. **Promoting** the observance, respect for and implementation of human rights under the Rule of Law;
2. Activities relating to the **violations of human rights;**
3. **Standard-setting** i.e. developing and helping to secure adoption of international instruments in the field of human rights.

This report summarises the main ICJ activities which have followed the guidelines proposed at the Nairobi Commission Meeting.

NAIROBI COMMISSION MEETING

In December 1985, an ICJ Commission meeting was held in Nairobi, Kenya, in conjunction with a conference on the ratification and promotion of the African Charter on Human and Peoples' rights. The participants included the Commission members and representatives from national sections and affiliated organisations.

Among the subjects discussed at the Commission meeting were the frequency of Commission meetings, the terms of Commission membership, and increased cooperation and coordination between headquarters and national sections. Detailed consideration was given to the future programmes and activities of the ICJ.

Judge Kirby stressed the importance of the Pacific region and urged that high priority be given to the Philippines in particular. It was suggested that increased attention be given to the safeguard of the Independence of the Judiciary in the Asian region. Human rights violations in Central America were to be exposed including not only those perpetrated by dictatorial regimes but also by democracies. Activities in Africa were to focuss on bringing the African Charter into force, encouraging the promotion of African NGO's and publication of reports on the human rights situation in the region.

Over the past three years, the ICJ has taken these recommendations into account and directed its activities towards meeting the suggested objectives.

NAIROBI CONFERENCE ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS

The ICJ has over many years played a significant role in the promotion and adoption of what has now become the African Charter of Human and Peoples' Rights.

In 1961, the ICJ held the first All African Conference of Jurists at Lagos, Nigeria. The Conference recommended for the first time the adoption of an inter-governmental African Convention of Human Rights. This proposal was further developed at an ICJ colloquium in Dakar, Senegal in 1967, the report of which was distributed widely in Africa and supported in Conferences convened by the UN in Cairo and in Monrovia and by the UN Economic Commission for Africa in Addis Ababa, Ethiopia. The decisive step was taken at an ICJ francophone colloquium in Dakar in 1978 when the participants resolved to set up a follow-up Committee to submit to the Heads of State or Prime Ministers of francophone African countries the conclusions and recommendations of the Colloquium, recommending an African Convention for the promotion and protection of Human Rights in Africa. Visits were made by leading African jurists to 10 Heads of State or Prime Ministers. Less than one and a half years later, President Senghor of Senegal submitted a draft resolution for submission to the next meeting of Heads of State. It was this resolution which led to the appointment of a Committee of Experts to draft what became the African Charter of Human and Peoples' Rights. Judge Keba Mbaye, member and later President of the ICJ, was the rapporteur of the drafting Committee. The Charter was adopted unanimously at the meeting of the Heads of State under the chairmanship of President Arap Moi in Nairobi in 1981.

Under the terms of the Charter half the member states of the OAU were needed to ratify it before it came into force. By 1985, 15 states had ratified it but there was then a lull with no further ratifications, and another 11 ratifications were still required to bring it into force. The ICJ decided therefore to convene the Nairobi Conference of African jurists to discuss

the implementation of human rights in Africa with particular reference to bringing into force the African Charter. Only 6 months later, the required number of ratifications had been obtained and the Charter thus came into force in October 1986. Just before the setting-up of the African Commission on Human and Peoples' Rights, the ICJ together with the African Association of International Law and the International Academy of Human Rights held a seminar in Dakar in June 1987 to discuss the procedures for implementing the Charter. Six of the eleven jurists who were later elected to the Commission on Human Rights under the Charter were present at the Dakar seminar. The President of the Commission subsequently asked the ICJ to advise on the Draft Rules of Procedure prepared by the OAU Secretariat. A document was prepared with over 40 recommendations. With two exceptions they were all adopted.

AFRICAN ASSOCIATION OF INTERNATIONAL LAW

In April 1986, the ICJ participated in the inaugural conference of the African Association of International Law which the ICJ was instrumental in helping to bring into existence. The conference was held in Lusaka, Banjul. The objectives of the inaugural conference were the following:

- to analyse the continent's contribution to the development of international law, with particular emphasis on the areas of decolonisation, development, human rights and humanitarian law;
- to evaluate the African perspective of international law in the light of the struggle for decolonisation and development;
- to promote the teaching, encourage and co-ordinate research of and assist publication of studies by African scholars on international law;
- to establish an African Association of International Law aimed at fostering the dissemination and promotion of African perspectives and practices in international law, in particular, through the publication of an African yearbook on international law and the organisation of conferences on special themes of specific relevance to Africa.

The Committee of Patrons include three judges of the International Court of Justice:

- Judge T.O. Elias, President (ICJ Commission member)
- Judge Mohammed Bedjaoui
- Judge Kéba Mbaye (ICJ Commission member)

This Association can play an important role in collaborating with the African Commission on human Rights under the African Charter.

PROMOTION OF HUMAN RIGHTS AND THE RULE OF LAW

Legal Services in Rural Areas

The Law is often very remote from the experience and understanding of the rural poor in most parts of the Third World. If they have any experience of the law and legal process, it is usually when it is manipulated by powerful individuals and forces in order to deprive them of their land or otherwise oppress and exploit them. In these areas, the rule of law simply does not exist. Rather, there is rule by unscrupulous elements who by threats, intimidation, harassment and corruption bend the legal process to their use.

To meet this situation in many Third World countries, the ICJ has since 1982 initiated a programme aimed at providing legal services to the rural poor. The essence of the programme is for lawyers and para-legals to cooperate with grass-roots organisations through a series of seminars to promote the exchange of ideas, discuss the legal problems that the rural poor face, encourage new groups to assist and disseminate information about the rights of the poor, and to help them to assert and secure those rights.

Between 1982 and 1986, the programme was essentially aimed at rural Africa, where very few such services existed. During this period the ICJ was active in a promotional capacity and many new groups have sprung up to assist the rural populations. Since 1986, the programme has greatly expanded to include Asia and Latin America where groups already in existence have been granted active support and new groups have been promoted. Seminars have also been held with groups which have undertaken this work for many years to exchange information, to benefit from each other's experience, and to discuss the training of para-legals. Reports of the seminars have been widely distributed in the countries from which the participants came. These seminars have been held in Jakarta (South-East Asia), Lomé (West Africa), Lima (Andean States of South

America), Bangkok (South-East Asia), Rajpipla (South Asia), Libreville (Central Africa), Cali (Colombia) and Bombay (India). Details of these seminars will be found in Appendix A.

Bangkok Seminar on the Erosion of the Rule of Law in Asia

A seminar was held in the ICJ's series of regional seminars on human rights, the rule of law and other specialised subjects of particular interest to the countries concerned. These seminars promote an exchange of information, an increased awareness of the problems that countries are facing and provide a forum for the discussion of possible solutions.

This seminar was organised together with the Christian Conference of Asia in December 1987 in Bangkok. The aim of the seminar was to analyse the factors contributing to the erosion of the rule of law in Asia and to discuss future measures to be taken to combat this. The following topics were discussed:

- the violations of human rights perpetrated in the name of economic development;
- the use of national security and preventive detention laws;
- the restrictions imposed among others on freedom of association and freedom of the press;
- the erosion of the independence of the judiciary and the legal profession.

Participants included lawyers, human rights activists, journalists, social scientists as well as representatives of grass-roots groups from Bangladesh, Hong-Kong, India, Indonesia, Japan, South Korea, Nepal, Pakistan, the Philippines, Singapore, Sri-Lanka, Taiwan and Thailand.

Standard-Setting

Since its inception, the ICJ has been involved in standard-setting and has in this way contributed to the elaboration of international human rights instruments, and helping to secure their adoption and implementation by governments.

Standard-setting between 1955 and 1966 involved the organisation of congresses of lawyers (Athens, Delhi, Lagos, Rio, Bangkok, Colombo) in which the doctrine of human rights under the Rule of Law was elaborated. The summary of the conclusions of these congresses was published in 'The Rule of Law and Human Rights' in English, French, German and Spanish and was widely circulated in third world countries many of which had just gained their independence. Consequently, in the newly independent states of the third world, with few exceptions, lawyers and jurists relied upon this publication as an authoritative statement of human rights under the rule of law including individual rights, independence of the judiciary and the legal profession, fair trial procedures, freedom of expression and association etc.

Standard-setting activities since 1966, have mostly been within the United Nations, or in ICJ seminars with a view to submitting their conclusions to the United Nations. Between 1986 and 1988 the ICJ has been involved in several standard-setting activities, many of which have been initiated well before the period under review. The promotion of the African Charter has already been summarised in the introduction.

European Convention against Torture

In 1976, J. Jacques Gautier, a Swiss Lawyer, proposed the drafting of an International Convention which would establish a system of visits to all places of detention, an idea inspired by the positive results achieved by the ICRC. In 1978, the ICJ Secretary-General suggested that this proposal should take the form of an optional protocol to the Draft UN Convention Against Torture. A draft was prepared by the ICJ and the Swiss Committee Against Torture (hereafter Swiss Committee) and formally submitted to

the UN Human Rights Commission by Costa Rica in 1980, with a request that it should be examined after the adoption of the UN Convention against Torture.

By 1982 it was clear that agreement on the substance of the draft protocol would not be discussed let alone adopted for several years. At this point, a member of the Legal Committee of the Parliamentary Assembly of the Council of Europe requested the ICJ and the Swiss Committee to draft a European Convention along the same lines, which would institute a system of visits in the member states of the Council of Europe. The draft Convention provided for a setting-up of an International Committee empowered to visit all places where persons are deprived of their liberty by a public authority. The Committee, composed of independent persons, would report to the government concerned and make necessary recommendations in order to strengthen the protection of detainees from torture and inhuman and degrading treatment or punishment. Once adopted, the Convention would provide "preventive, non-judicial machinery which will be an important addition to the system of protection already existing under the European Convention on Human Rights". It would also provide a mechanism of implementation, an important element lacking in the UN Convention against Torture which entered into force in 1987.

The draft was submitted to the Legal Affairs Committee of the Council of Europe in 1982. Since then, both the ICJ and the Swiss Committee have been active in promoting the European Convention by canvassing the ICJ National Sections and Affiliated Organisations, requesting NGO's to lobby for support in their own countries and organising a series of conferences and seminars. In November 1986, the Council of Europe's Steering Committee for Human Rights met in Strasbourg and after extensive debate, including a contribution by the ICJ Secretary-General to the discussion of the draft text, approved the text of a Draft Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Eventually the Convention was adopted unanimously by the Committee of Ministers on 26 June 1987. It was open for signatures on 26 November 1987, on which day 19 of the 21 member-states signed it. By November

1988, eight states had ratified the Convention. These were: Turkey, Malta, Ireland, Luxembourg, Sweden, UK, Switzerland and the Netherlands. Since only seven countries were needed to ratify it, it will enter into force on 1 February 1989.

Inter-American Convention against Torture

In April 1987, the ICJ and the Swiss Committee organised a meeting in Montevideo of Latin American experts in human Rights to discuss a draft Convention against Torture for the Americas, modelled on the European Convention against Torture. In October 1987, a group of experts (including the ICJ Secretary-General) were selected from the participants at Montevideo and met in Sao Paolo. At this meeting, the Committee of Experts for the Prevention of Torture (CEPTA) was constituted to promote the draft of an Inter-American Convention.

In May 1988, the ICJ and the Swiss Committee organised a Seminar of English-speaking Caribbean experts in Barbados to discuss the proposed Convention. Very great interest in the proposal was expressed by the participants. CEPTA has now finalised the text of the draft Convention and is seeking to find support from the Organisation of American States who would submit the draft Convention to a number of American States.

Rights of mental patients

On the initiative of the UK, the UN Human Rights Commission was requested to prepare a study on the human rights of mental patients. The subject was referred to the Sub-Commission and the ICJ, together with the International Association of Penal Law and other NGO's convened two meetings in Siracusa, Sicily in May and December 1980 to discuss this subject. The conclusions and recommendations of the meetings were submitted to the UN Sub-Commission and adopted by the Special Rapporteur as the basis for an appendix to her report proposing principles and guidelines for the protection of persons suffering from mental illness.

In 1983, the Special Rapporteur submitted the report to the 36th session of the Sub-Commission which has since been discussing the report in a sessional working group.

From 1986 to 1988, the working group, in which the ICJ has been very active, discussed details of the draft body of principles relating in particular to the standard of medical care available at institutions, the rights of patients with respect to receiving treatment, and admission procedures, access to lawyers and the provision of regular review panels. Very slow progress was made as only a few hours were available for meetings of the working group.

In 1988, the working group under the chairmanship of the new British expert succeeded in completing its revision of the Draft Principles appended to the initial report. This was made possible by the agreement of the working group to hold numerous informal meetings outside normal working hours and by the indefatigable contribution of the chairperson. Consequently, the task of finishing the revision, which was expected to last several more years, was completed in one year. In presenting the report to the Sub-Commission, the Expert recalled that the principles were based on the conclusions of the two seminars organised by the ICJ and expressed the thanks of the working group for the assistance it had received from the ICJ and two other NGO's.

The Sub-Commission has referred the report to the Commission and suggested that it request the UN Secretary-General to transmit it to member states, specialised agencies and NGO's for comments and suggestions. It is likely that the Principles and Guidelines will be reviewed by the Human Rights Commission together with these comments in February 1990, and will hopefully be adopted later as a Declaration of the General-Assembly.

Rights of the child

In 1978, the Polish government proposed to the UN Commission on Human Rights a convention on the rights of the child. It was to provide

for a coherent collection of provisions relating to economic, social and cultural rights as well as civil and political rights. The drafting process has been going on annually since 1983. A group of NGO's began drafting joint proposals on the text of the Convention and the ICJ has been working closely both with the NGO Group and the Commission's working group. It is hoped that the drafting will be completed in 1989, but this seems doubtful.

Limburg Principles

In June 1986, the ICJ, the University of Limburg and the Urban Morgan Institute of Human Rights of the University of Cincinnati sponsored a seminar on the International Covenant on Economic, Social and Cultural Rights, held at Maastricht, Netherlands.

The participants included 29 experts in international law, coming from 12 countries and from the United Nations, the ILO, UNESCO, WHO and the Commonwealth Secretariat. The seminar examined:

- the nature and scope of the obligations of State Parties under Parts I,II and III of the Covenant at national level and in the context of international cooperation; and
- the consideration of the States Parties reports, and the possibilities for developing further international cooperation under Part IV.

Participants met in two committees dealing with:

Committee I

- the import of the Articles in Part II of the Covenant;
- the words and phrases used in Part I and III to define the obligations of States Parties;
- who are the holders of these rights and what constitutes a denial of these rights.

Committee II

- the criteria and indicators for assessing compliance at both national and international levels, with the States Parties obligations;
- the possibilities for further cooperation, in accordance with Articles 18-24 of the Covenant, between the new Committee established by the ECOSOC and the specialised agencies and other organs of the United Nations;
- the possible role of human rights NGO's and development NGO's in assisting the new Committee of the ECOSOC;
- the procedures of the Committee in relation to Part IV of the Covenant.

There were four working papers prepared for the seminar by Philip Alston, Yvonne Klerk, B.G. Ramcharam, and E.V.O. Dankwa. A background paper by Professor Louis B. Sohn was distributed to participants in advance of the seminar.

The participants formulated the Limburg Principles on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Principles are in two parts. The first describes the nature and scope of the legal obligations of States Parties to the Covenant. The second part examines and makes recommendations on the preparation and consideration of States Parties' reports under the Covenant, and on international cooperation between the UN Committee on Economic, Social and Cultural Rights and other UN bodies, in particular the specialised agencies, for its implementation.

The Limburg Principles are reproduced as a Basic Text in the ICJ Review of December 1986 (No.37). They were also reproduced as a UN Document for the 1987 session of the UN Commission on Human Rights, and in the May 1987 issue of the Human Rights Quarterly together with the working papers and the commentaries.

The ICJ attaches considerable importance to this document. There has been a tendency on the part of some international lawyers in the West to play down the Covenant on Economic, Social and Cultural Rights, suggesting that it does not impose any real obligations upon States Parties

and is merely a statement of good intentions. This was not the view of the participants of the Maastricht seminar, who spelt out in detail the nature of these obligations. They also made a number of creative suggestions about the States Parties' reports to the new ECOSOC Committee and on international cooperation for more effective implementation of the Covenant, in particular with the specialised agencies, such as the ILO, UNESCO, UNICEF and WHO.

The United Nations, UN specialised agencies and other Non-Governmental Organisations

A great number of the activities concerning the promotion of human rights and the observance of the rule of law have taken place within the United Nations pursuant to the consultative status enjoyed by the ICJ with the Economic and Social Council. This has included making reports and oral and written interventions, either alone or jointly with others, and lobbying governmental delegates and members of UN bodies in support of proposals put forward.

The subjects covered have included the cancellation of the 1986 session of the UN Sub-Commission of Human Rights, indigenous populations, Principles for the Protection of Persons under any form of Detention or Imprisonment, enforced or involuntary disappearances, administrative detention, the draft declaration on the administration of justice, elimination of racial discrimination, economic, social and cultural rights and the right to development, the rights of mental patients, AIDS and discrimination, and other situations of human rights violations. Details of these activities will be found in Appendix C.

Activities in the framework of the UN specialised agencies can be found at Appendix D.

Activities relating to other non-governmental organisations are summarised at Appendix E.

ACTIVITIES CONCERNING HUMAN RIGHTS VIOLATIONS

Reports on specific situations

The ICJ has continued its work in bringing to light some of the serious allegations of human rights violations throughout the world through the organisation of fact-finding missions. The reports on these missions are a useful source of accurate information:

Sudan

In July 1986, the ICJ published its final report of a mission to Sudan. The report reviews the conflict in southern Sudan, legislation affecting human rights, the treatment of detainees and their human rights, and contains comments by the transitional government on the preliminary report of the Mission issued in November 1985.

South Africa

Over the years 1986 to 1988, the ICJ has closely continued to follow the events in South Africa. Prompted by the increasing violations of human rights and a deterioration of the rule of law under the regime of Apartheid, the ICJ decided to send a mission to South Africa in February 1987.

The members of the Mission included Geoffrey Bindman, an English Solicitor, who edited the report; Jean-Marie Crettaz, a member of the Council of the Geneva Bar; Henry Downing, an Irish Barrister; and Guenter Witzch, Professor of Public Law in the University of Munster, Federal Republic of Germany.

The 160 page report of the Mission was published in May 1988. Among the conclusions are the following:

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- the Internal Security Act creates a series of criminal offenses of a political character, defined in extremely wide and often vague terms. Together with one-sided procedural rules, these enable the state to secure the conviction of virtually any political opponent, when exercising freedom of expression as protected by international human rights law.

Other permanent laws, not related to the declared state of emergency, violate fundamental rights such as:

- the Groups Areas Act which prevents freedom of movement and residence on racial grounds;
- laws authorising forced removals;
- the Separate Amenities Act excluding persons from public places and facilities on racial grounds;
- censorship of books and other publications;
- powers to ban or restrict meetings and processions; and
- racial discrimination in public education.

Among the procedural rules and practices are:

- the practice of torture and intimidation of detainees (even against children) leading to unreliable confessions which are nevertheless held admissible by judges;
- rules which exclude or restrict appeals against administrative detention under the Internal Security Act or emergency regulations;
- the immunity of the security forces from liability for misconduct; and
- extending the "common purpose" rule to allow conviction for murder committed by other persons, as in the 'Sharpeville Six' Case.

Other major abuses by the security forces are:

- aiding, encouraging or condoning violence by vigilante groups;
- excessive use of force (including many killings) in crowd control;
- arrest and intimidation of defence lawyers in political cases;
- intimidation of assault victims to deter them from pursuing legal remedies;

- bringing cases on plainly inadequate evidence to ensure prolonged detention before the acquittal or prosecution abandonment of the proceedings;
- harassment of voluntary and charitable bodies helping Apartheid victims.

The ICJ report entitled "South Africa and the Rule of Law" is published by Pinter Publications, London and copies are available in hardback from the ICJ secretariat.

Notice has been given by the South African government to the members of the Mission that they will not be allowed to enter South Africa without special permission, although they come from countries whose nationals do not need a visa to enter South Africa.

Indonesia

In February 1987 the ICJ published a study entitled "Indonesia and the Rule of Law-Twenty Years of New Order Government". The study sets out the constitutional and legislative provisions relating to human rights in Indonesia and assesses their compliance with international human rights norms. A chapter on criminal procedure has been translated into the official language and is already in use as a handbook by practising lawyers.

Among the conclusions and recommendations are that:

- excessive use of regulatory discretion in the implementation of vaguely worded legislation should be reduced;
- the establishment of specialised and independent administrative tribunals should be considered as a means of countering abusive justice;
- more attention should be paid to the independence of the judiciary, the independent organisation of the legal profession, the elimination of corruption and the strengthening of legal aid movements;
- the right of persons arrested and detained under the Anti-Subversion Law should be made explicit; and

- requirements for establishing trade unions and trade union federations should be relaxed and brought into line with ILO recommendations.

The ICJ study "Indonesia and the Rule of Law" is published by Pinter Publications, London and is available from the ICJ secretariat.

South Korea

From 25 March to 12 April 1987, the ICJ sent a mission to South Korea to examine the situation of human rights in the country with particular reference to the problems stemming from long-standing government imposed restrictions, and to analyse the way in which these restrictions resulted in many human rights violations in particular by the police and the armed forces. An examination was made of several cases including that of Park Chong Chol, a student who was tortured to death while in police custody and the so-called Kwon 'sex-torture' case.

The members of the Mission were: Mr. Francisco B. Cruz, a practising lawyer in Bacolod City, the Philippines and member of the Legal Aid Office of the Social Action Centre of the Diocese of Bacolod and of the Free Legal Assistance Group; Mr. Stephen A. Oxman, partner in a New York-based firm and member of the board of directors of the American Association of the ICJ and of the Legal Aid Society in New York, and; Dr. Otto Triffterer, a Professor of Austrian and International Criminal Law and Procedure at the University of Salzburg, Austria.

The Mission reported that despite denials from the official side, the use of torture and other maltreatment is not, as suggested, a 'very rare exception' but in fact is quite usual and practiced at least with the silent toleration of high ranking officials in the government.

The Mission considered that a change in the attitude of the police in the use of detention and in the treatment of detainees is unlikely as long as the Supreme Court continues to rule, as it has done, even in cases of admitted illegal investigation, supporting the decision of the prosecution not to institute proceedings against the responsible officers as they acted out of

'marked earnestness for the performance of their duties' as state officials. The Mission comments that it is for the judiciary to review the legality of arrests and detentions in order to avoid police abuse.

Freedom of the press is not only limited by the Basic Press Law which, it is hoped will soon be revised, but the press receives secret guidelines with daily instructions as to whether to cover a certain story or not, and as to the content, direction, size and even titles of articles.

Among the Mission's conclusions were that:

- political detainees are subjected to harsher treatment than other detainees by the security forces who use and abuse powers given to them under the National Security Act;
- ill-treatment of political detainees occurs with the tacit support of the prosecutor in charge and higher ranking officials, and cases of ill-treatment are part of a systematic effort to intimidate and suppress political opponents;
- a solution to the internal problems is hampered in part by the deeply ingrained fear of North Korea, and this is used to justify the repressive techniques used by the security forces; and
- regulations governing, and supervision of, police officers and prison guards are lacking.

Among the recommendations of the Mission are:

- the repeal of the National Security Act;
- the formulation of precise guidelines for the police;
- granting detainees the immediate right to see a lawyer, at the latest within 24 hours of detention;
- the application of the UN Standard Minimum Rules for the Treatment of Prisoners;
- the abolition of guidelines for the Press; and
- the organisation of all coming elections "in such a way that no doubt whatsoever can be raised that they are completely free...this implies that all polling stations are monitored by the parties engaged in the elections

and...that observers from outside Korea should be admitted if any of the parties so demand."

Pakistan

In September 1987, the ICJ published its report of a mission to Pakistan which took place in December 1986 to examine the process of return to a democratic form of government after eight years of martial law rule.

The members of the Mission were: Gustaf Petren, former Supreme Court Judge and former Ombudsman of Sweden, Honorary member of the ICJ; Mrs. Helen Cull, member of the Bar and of the ICJ New Zealand National Section; Mr. Jeremy McBride, senior lecturer in law at the University of Birmingham, UK; and Mr. D.J. Ravindran, legal officer for Asia, ICJ.

The general conclusions of the Mission were that the lifting of martial law and the move to constitutional government is a positive development for democracy in Pakistan, but that, as yet, there is a general lack of confidence that the constitution in its present form can be effective in protecting human rights and in acting against further imposition of martial law of which aspects have been institutionalised and still lead to abuses of human rights.

The report criticises the eighth amendment to the constitution which was drawn up in preparation for the return to civilian rule; discusses the role of elections; the strengthening of the independence of the judiciary; the provisions regarding preventive detention and punishment; freedom of the press, assembly and movement; the respect for the human rights of religious minorities, especially the Ahmadis; the respect for trade union rights, economic social and cultural rights; and reports about human rights abuses during attacks on villages.

Articles in the Pakistan press recognised the report's importance as "the first substantive study of the human rights situation in Pakistan by an international team of observers since the withdrawal of martial law" and an

editorial in the Pakistani newspaper 'the Nation' noted that the report provided "excellent guidelines for our law-makers. They will be well advised to study it sympathetically".

The report is available in English from the ICJ secretariat. It has also been translated into Urdu and published in Pakistan.

Singapore

In October 1987, the ICJ co-sponsored an International Mission of Jurists which visited Singapore in July 1987 to investigate the detentions under the Internal Security Act of 22 persons accused of participating in a "Marxist Conspiracy", allegedly to overthrow the government of Singapore.

The conclusions of the Mission were the following:

- the detention without charge or trial, 'brainwashing' interrogation techniques and other physical and psychological maltreatment by the Internal Security Department amount to clear and grave violations of the human rights of those detained, and an abrogation of the rule of law.
- the activities of the detainees were a legitimate exercise of their civil rights, which should be defended and applauded in a healthy democracy. There is no evidence to support the government's allegations.
- there is no evidence of a Marxist conspiracy or that this informal network of community development groups and workers posed any imminent threat to the security of Singapore.
- the Singapore government's credibility is further damaged by its continued refusal to put its evidence of a "Marxist Conspiracy" to proof in a formal trial, and by its refusal to discuss with the Mission the serious allegations made against the government in evidence given to the Mission.
- The Singapore government has once again used the Internal Security Act as a tool to destroy democratic opposition and silence critics. The main targets this time were increasingly outspoken young professionals

within the Catholic Church and the Singapore Law Society, and other social workers.

The report of the Singapore Mission is available in English from the ICJ secretariat.

Palau

During the period under review, the ICJ and the American Association for the ICJ (AAICJ) became increasingly concerned about the situation in Palau, part of the strategic Trusteeship Territory of the Pacific Islands now administered by the USA as Trustee, pursuant to a 1947 Trusteeship Agreement with the United Nations.

In 1979, the 14,000 inhabitants of this Pacific island chain approved a Constitution which forbids the storage, testing or transit of nuclear weapons and specifically provides that this constitutional provision could only be changed by a 75% vote in referendum.

In 1982, the United States signed a compact of Free Association with Palau, ending the Trusteeship and giving the territory independence, although the US retained responsibility for defence and security. The defence provisions in the Compact, however, would have allowed the US to introduce nuclear weapons into the territory, which was in violation of the Palau Constitution. Six referenda on the island failed to achieve the 75% majority required to override the nuclear ban in the Constitution. Finally, in 1987, following economic pressures by the U.S. government, the constitutional provision requiring 75% majority was itself purportedly amended by simple majority requirement. When a group of leading women brought suit to contest this procedure, the home of one of the plaintiffs was firebombed and the father of another of the plaintiffs was killed. As a result, they decided to drop their lawsuit.

Because of an apparent threat to the rule of law, to the judiciary and the independence of the legal profession in Palau, the ICJ and the AAICJ decided to co-sponsor a mission to inquire into the status of the Rule of

Law in Palau in January 1988 with particular reference to the Independence of the Judiciary, its legal profession and the rights of the Palauan citizens to test constitutional grievances before their duly constituted courts.

The members of the Mission were: William J. Butler, an attorney-at-law in New York and Chairman, Executive Committee, International Commission of Jurists, Geneva; the Honourable George C. Edwards, Senior Judge and formerly Chief Judge, United States Court of Appeals for the 6th Circuit, Cincinnati, Ohio, U.S.A.; the Honourable Michael D. Kirby, C.M.G., President of the Court of Appeals, Supreme Court of New South Wales, Sydney, Australia.

The Mission reported that during the period from July 1987 to September 1987:

- there was a substantial breakdown of the legislative and judicial processes;
- there was an illegal and improper interference with the independence of the judiciary;
- Palauan citizens were prevented by acts of intimidation and violence from continuing properly filed suits challenging the constitutionality of referenda involving their Constitution and approving a "Compact of Free Association" with the United States;
- Palauan legislators in July 1987 were forced by threats of violence to their persons and property to vote affirmatively on legislation authorising the August referenda, which manipulated the Constitution so as to allow the Compact of Free Association with the United States to be ratified by 50% of those voting, thereby changing the 1979 requirement of 75% of those voting;
- legislators and governmental and private groups brought unprecedented and unacceptable pressure on the Supreme Court of Palau, attacking the justices of the Supreme Court and exerting improper pressure on the court to change its decision in a constitutional case;
- the Palauan Bar Association failed in its duty to its members to take proper steps to protect lawyers in the carrying out of their responsible duties to their clients.

The report puts the United States on notice of the violations set forth in the document and urges it to take steps to ensure that the Rule of Law in Palau is upheld. The Supreme Court of Palau, in a 33 page judgment of Judge Hefner held that the referendum held in August 1987 was unconstitutional and of no effect.

The Mission report is available from the AAICJ (777 UN Plaza, New York 10017).

Japan

The ICJ has continued to pursue with great interest the developments in Japan with regard to the treatment of the mentally ill. The background of the ICJ's involvement is the following:

Before the Second World War, families were responsible for the mentally ill who were often hidden away because of the belief that mental illness was hereditary and would bring shame upon the family. In the post-war period, the Japanese government encouraged the establishment of private mental hospitals which would care for the mentally ill. As a consequence, hundreds of mental hospitals were established and thousands of patients were involuntarily detained on grounds of mental illness. The admission of a person merely required the agreement of two doctors and the consent of the family. The patients had no right to appeal, had no access to lawyers and were detained for very long and unnecessary periods.

As the human rights of the mentally ill were being violated on a large scale and it was clear that something had to be done, a Committee composed of qualified psychiatrists and doctors was formed to pressurise the government to change the law. When this failed, the ICJ was approached to raise the matter at the international level and a mission was sent in 1985. In September 1986 the ICJ published the excellent report of the 1985 Mission.

The members of the Mission undertaken on behalf of the ICJ and the International Commission of Health Professionals (IHP) were: Dr. T.W.

Harding, Head of the Division of Legal Psychiatry at the University Institute of Legal Medicine, Geneva; the Honourable J. Schneider, Presiding Judge, County Division, Circuit Court of Cook County, Chicago, Illinois; and Dr. H.M. Visotsky, Professor and Chairman, Department of Psychiatry and Behavioural Sciences, Northwestern University Medical School, Chicago. The Executive Secretary of the ICHP, Dr. C. Graves acted as Secretary.

Among the conclusions and recommendations of the Mission report were the following:

- the mental health system at present is inadequate to protect the human rights of mental patients;
- there is a steadily rising number of hospitalised mental patients despite ministerial policy statements since 1965 calling for a reversal of such a trend;
- a lack of legal protection for patients during admission procedures and during hospitalisation, long-term institutionalised treatment and a lack of supportive community and rehabilitation services;
- poor mental health services and care leading to serious human rights violations on a significant scale such as overcrowding, poor nutrition and high mortality rates; physical abuse of patients; exploitation of patient labour; unjustifiable detention; limitations on the right to communicate freely;
- the need for improved mental health legislation which could effectively protect the rights of the mentally ill;
- the importance of the provision of adequate resources for rehabilitative and community-based mental health care services as well as qualitative treatment during the periods of hospitalisation.

The Mission stated that the minimal response to the serious problems in the Japanese mental health system should provide for:

- independent review of all cases of involuntary hospitalisation;
- the creation of an independent tribunal system capable of functioning at prefectural level. Proceedings should correspond to fundamental concepts of due process;

- regular inspection of all mental health hospitals to check on staffing and treatment standards and to receive and investigate individual complaints;
- informing all hospitalised patients of their rights as fully as possible, and giving free access by letter or telephone to the tribunal described above and to the representative of their choice.

The report ends by stating that:

"We believe these changes should be regarded as a national priority. The establishment by the Prime Minister of a provisional council with broad based participation to study mental health legislation and services would be an appropriate mechanism to address this national priority".

The report received considerable coverage in the Japanese media as well as being reviewed in the British Medical Journal "the Lancet". It is available on microfilm in English from the ICJ secretariat.

Following the Mission of 1985 to Japan by the ICJ and the ICHP, the Government and Diet of Japan, partly in response to Japan's ratification of the Convention on Civil and Political Rights, passed a law in 1987 making substantial amendments to the Mental Health Law which go some way in meeting the recommendations of the Mission report. This law came into force on 1 July 1988. The ICJ was invited by a group of Japanese lawyers and psychiatrists to send a second mission to Japan in April 1988 to examine the reactions to the new legislation and the measures being taken with a view to implementing it. The Mission was impressed by the apparent determination of all concerned to make a success of the new legislation.

Their report includes an assessment of the Mental Health Act amendments and mental health services, and provides a series of recommendations on the human rights issues involved in the defence and promotion of the interests of the mentally ill. The report received wide publicity in Japan and abroad and is published as an appendix in Newsletter No. 37.

The reports of both ICJ missions have been translated and published in Japan.

The government has stated that it will review the working of the new law after five years (i.e. by July 1993) in order to see if further legislation is needed. The Committee which invited the ICJ has asked it to undertake another mission in 1991 so as to formulate recommendations for consideration by the 1993 governmental review.

Mauritania

From 26 March to 6 April 1988, an ICJ Mission was in Mauritania to examine the present situation concerning the application of the rule of law and respect for human rights. The members of the Mission were Nabil Bouaita, lawyer, Algiers; Demba Diallo, lawyer, Bamako and former *Bâtonnier de l'Ordre des Avocats* of Mali; Professor Hyacinthe Sarassoro, Director of the Ivory Coast Centre for Research and Legal Studies, University of Abidjan and Adama Dieng, ICJ legal Officer for Africa. The report of the Mission will be published shortly.

Malaysia

In September 1988, a joint mission by the ICJ and the Asian Commission on Human Rights visited Malaysia. The purpose of the Mission was to report on the independence of the judiciary in Malaysia and to investigate the human rights implications of the use of the Internal Security Act by the government. The participants of the Mission were Jeremy McBride from the UK, Sabihuddin Ahmed from Pakistan and Etsuro Totsuka from Japan. The participants have agreed their conclusions and recommendations as follows:

Conclusions:

- in the period preceding 27 October 1987, there was no emergency situation that could justify preventive detention or prolonged detention for interrogation;

- the purpose and duration of detention under the Internal Security Act of 1969 does not conform with either the Malaysian Constitution or International standards;
- many of the detentions in October 1987 could not be justified even under the terms of the Internal Security Act;
- there was extensive denial of the right of access to legal advice and the courts, and some detainees were subjected to torture or inhuman or degrading treatment;
- neither the review systems provided by the Internal Security Act nor the practice of the Malaysian courts regarding habeas corpus provide detainees with an effective means of challenging legality of their detention. This situation has been exacerbated by an amendment to the Internal Security Act adopted in July 1988;
- the use of the Internal Security Act in October 1987, together with subsequent constitutional and legislative changes, has had a chilling effect on the exercise by Malaysians of political freedoms and cultural and religious rights;
- Malaysian judges enjoy widespread respect and until recently their independence had seemed secure;
- since 1986, the proper exercise of the judicial function has been subjected to severe and unwarranted public criticisms by the executive and has now been curtailed by the amendment to the Constitution adopted in March 1988;
- the material placed before the tribunal does not reveal any judicial misconduct by the Lord President Tun Salleh, and some of the charges against him were patently ludicrous. The reasoning of the tribunal therefore seems perverse;
- the laying of the charges against the five Supreme Court judges was an unjustified interference with the due administration of justice;
- the independence of the judiciary is not adequately safeguarded by the manner of appointing tribunals to examine charges of misconduct or by the procedure followed;
- the independence of the judiciary in Malaysia has now been eroded and public confidence in the proper administration of justice substantially diminished.

Recommendations:

- all persons still held under the Internal Security Act should be released forthwith and the suspended orders and restrictions on those already released should be revoked;
- the Internal Security Act should be repealed and any subsequent legislation allowing preventive detention should comply with international standards;
- habeas corpus should be reformed to provide an effective and speedy remedy for detained persons;
- Tun Salleh should be reinstated as Lord President;
- the Constitution should be amended to ensure that a judge can only be removed after a finding of misconduct by an independent standing tribunal. Such a tribunal should have all necessary powers to ensure a fair hearing and its report should be made public;
- the constitutional amendment of March 1988 should be repealed in so far as it relates to the judiciary;
- Malaysia should ratify the International Covenant on Civil and Political Rights and accept its Optional Protocol.

An article on Malaysia, the judiciary and the Rule of Law is published in the December 1988 issue of the ICJ Review (No.41), and the report of the Mission will be published shortly.

Observer missions to trials

An important aspect of ICJ activities is the ensurance of impartial administration of justice throughout the world, in particular the observance of fair trials by competent judicial authorities.

To this end, the ICJ has sent lawyers to observe trials in a wide variety of countries. Particulars of these missions are to be found on the following pages:

Observers to Trials

Date	Place	Trial	Observer
<u>1986</u>			
February	Pietermaritzburg, Durban Delmas and Johannesburg, S. Africa	To attend proceedings before the Supreme Courts and Magistrates Courts	Mr. Patrick McEntee, Senior Council of the Bar of Ireland
April	Greece	Trial of Don Stephens and A. Williams charged of proselytism	Mrs Lia Georgiades Advocate, Cyprus
May	Tunis, Tunisia	Trial of Ahmed Mestiri charged with having organised a riotous assembly	Maître Adama Dieng, ICJ Legal Officer for Africa

August	Copenhagen, Denmark	Trial of Hamid Kaykavousi	Lars Sonden, advocate, Ralf Larsson, Judge, Gunnar Adell, State Prosecutor, Sweden
<u>1987</u>			
March	Kosovo, Yugoslavia	Trial of Januz Sahili	Dr. Josef Mako of the Institute of Public Law, Univ. of Gratz, Austria
May	Kosovo, Yugoslavia	Trial of Rifat Birin Xhikaj and others charged with defaming the State	Judge Frank Orton, Refendar of Swedish Supreme Court and Judge of Court of Appeal of South Sweden
June	Tunisia	Trial of Khamai's Chamari, charged with spreading false information and threatening public order	Maître Pierre de Preux, Barrister- at-Law, Geneva
June	Freetown, Sierra Leone	Trial of 18 accused on charges of treason and murder	Chief Debo Akande, Barrister-at- Law, Lagos, Nigeria
November	Malaysia	Court proceedings in connection with writs of Habeas Corpus brought on persons detained under the ISA	Mr. D.J.S. Hallmark, Solicitor of the Supreme Court, England

1988

May	Singapore	Court proceedings in connection with writs of Habeas Corpus brought on behalf of persons detained under the ISA	Mrs. J. Spruce, Barrister, Hong-Kong
July	Pietermaritzburg, S. Africa	Trial regarding COSATU's claims concerning the administration of Justice (Trial still in progress)	John Hendy, Queens Counsel of the Bar of England
September	Senegal	Trial of M. Guissé, M. Sall, M. Thiam, B. Sall and O.Ndiaye charged with having held an illegal meeting and having engaged in other prohibited activities	Maître Mamadou Diagana, member of the Appeals Court Bar, Nouakchott, Mauritania

September	Nouakchott, Mauritania	Trial of O.el Mamy, M.Ould Hadj, and others accused of crimes threatening internal security	Maître Adama Dieng, ICJ Legal Officer for Africa
October	Pietermaritz- burg, S. Africa	Trial regarding COSATU's claims concerning the administration of Justice	Mr. Tim Kerr, Barrister, Bar of England
October	Algeria	Trial of 'demonstrators'	Maître Ab derrahman Kraïem, member of the Appeals Court Bar (Cour de Cassation), Tunisia
November	Jerusalem	Trial concerning the hearings be- fore the supreme Court in Jerusa- lem of the appeal in the case of the order for closing In'ash el-Usra	Mr. Anthony Heaton-Armstrong, Barrister-at-Law, Member of the Bar of England

CENTRE FOR THE INDEPENDENCE OF JUDGES AND LAWYERS

Introduction

In 1978, in response to the increasingly frequent attacks on judges and lawyers by governmental and para-governmental forces, particularly in Latin America, the International Commission of Jurists created the Centre for the Independence of Judges and Lawyers (CIJL). The aims of the Centre include the following:

- to collect and distribute information about the harassment, repression, persecution and other attacks on the independence of judges and lawyers;
- to mobilise international support for particular individuals or groups who are the victims of such treatment;
- to promote and elaborate the concept of the independence of the judiciary and the legal profession; and
- to educate lawyers, judges and governments as well as the general population about the role of lawyers and judges in society, including their social responsibilities and their important role in the protection of human rights.

Standard-setting

During the period under review, the Centre for the Independence of Judges and Lawyers (CIJL) has been particularly active in promoting and developing international standards for the independence of judges and lawyers and on the role of lawyers.

Basic Principles on the Independence of the Judiciary

Perhaps the most important part of the CIJL's work has been the development of international standards for the independence of judges and

lawyers. The CIJL was particularly instrumental in the drafting of the Basic Principles on the Independence of the Judiciary and in their adoption by consensus by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1985. These principles were endorsed, together with other Congress documents, by the General Assembly (A/Res/40/32) in December 1985, which then specifically called on the governments to respect the Basic Principles and take them into account in their national legislation and practice (A/Res/49/46).

The Basic Principles set forth guidelines concerning the independence of the judiciary, the freedom of expression and association of judges as well as rules regarding their qualification, selection, training, conditions of service, tenure, immunity, discipline, suspension and removal.

Among the many important provisions preventing inroads into the independence of the judiciary are the following:

"Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals".

"Judges shall be free to form and join associations of judges or other organisations to represent their interests, to promote their professional training and to protect their judicial independence".

"Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists".

"Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties".

In 1987, the CIJL began to work with the Committee on Crime Prevention and Control on the implementation procedures for the Basic Principles. In November 1987, at an International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the

United Nations in Baden, Austria, draft "Procedures for the Effective Implementation on the Basic Principles" were drawn up. These procedures were adopted, with amendments, by the Committee at its Tenth Session held in Vienna in August 1988.

The draft procedures call upon states to publicize the Basic Principles, translate them into the main language of the country and make the text available to members of the judiciary. They further set up regular UN reporting procedures for monitoring their implementation and asks the UN Secretary-General to provide technical co-operation to governments requesting assistance in improving their judicial systems. The draft procedures will be considered by the UN Economic and Social Council (ECOSOC) in 1989.

Draft Basic Principles on the Role of Lawyers

The 1985 Crime Congress also adopted a resolution on the role of lawyers which highlighted the importance of an independent legal profession to the protection of rights and freedoms, and recommended to states that they "provide for protection of practising lawyers against undue restrictions and pressures in the exercise of their functions".

Accordingly, the November 1987 Baden Expert Meeting prepared draft "Basic Principles on the Role of Lawyers", with substantial input from the CIJL and the ICJ. This draft was submitted by the UN Secretariat, with modifications, to the Committee on Crime Prevention and Control, which endorsed it. The 22 draft Basic Principles provide guidelines on access to lawyers, special guarantees for detained persons, principles on qualifications and training, guarantees for the functions of lawyers, and provisions on professional associations of lawyers and disciplinary proceedings. These draft Principles will be considered by the 8th Crime Congress in 1990.

UN Special Rapporteur on the Independence of Judges and Lawyers

In 1980, the CIJL was influential in the decision of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a Special Rapporteur to undertake a study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers.

The CIJL, the ICJ and the International Association of Penal Law, organised two seminars in 1981 and 1982 in Siracusa and Noto, Sicily, and attended the World Conference on the Independence of Justice in Montreal, Canada in June 1983 for the purpose of discussing and formulating principles on the independence of the judiciary and the legal profession, and with a view to assisting the UN Special Rapporteur, L.M. Singhvi of India, in his task, in particular in the elaboration of standards. In 1985, Dr. Singhvi presented a draft "Declaration on the Independence of Justice".

In 1985, 1987 and 1988 the CIJL worked in the Sub-Commission to support and improve this draft. Finally in 1988, the Sub-Commission transmitted the draft declaration to the Commission on Human Rights for further study. The draft is more detailed than the two sets of Basic Principles and covers jurors and assessors as well as judges and lawyers. They provide for both the individual and collective independence of judges and set forth minimum standards to be followed in the selection, training, promotion, transfer, discipline and removal of judges. With regard to lawyers, the draft sets forth standards for open legal education and access to the legal profession, the rights and duties of lawyers, legal services of the poor, the rights of bar associations, and the discipline of lawyers.

CIJL Seminars

Since 1986, the CIJL has organised a series of regional seminars at which judges and lawyers come together to discuss the UN Basic Principles and other standards and the extent to which they are being

implemented in their regions. Typically the seminars break into working groups to discuss and formulate recommendations on topics such as the difficulties encountered in attempting to harmonise received and traditional legal systems, the necessity of ensuring broad judicial powers to review executive actions and to uphold the rights of detainees, the importance of guaranteeing adequate facilities and remuneration to judges and their staff, the contribution of an independent legal profession to the protection of human rights, the importance of making legal services available to all sectors of the population and the obligation of governments and the legal profession in finding methods of promoting and asserting their rights.

These seminars have been held in San José (Central America), Lusaka (East Africa), Banjul (West Africa), Kathmandu (South Asia), Buenos Aires (eastern States of South America), Philippines (South-East Asia), Tobago (Caribbean), and Asunción (Paraguay). Details of these seminars will be found in Appendix B.

The recommendations of the regional seminars draw on the Basic Principles and other standards drawn up by the CIJL and adopted at different international conferences but the participants often go into more detail and develop new standards of particular relevance to their own regions. An important part of these seminars has been the creation of follow-up committees, usually composed of one lawyer and one judge from each country, whose task it is to recruit support from the bar and the judiciary within their countries to ensure the compliance with the regional recommendations including, where needed, changes in legislation.

CIJL Missions

The CIJL has sent the following missions to developing countries to study the administration of justice and the independence of judges and lawyers in order to discuss and formulate constructive proposals for improvements:

Sudan

In Autumn 1985, the CIJL had sent a mission to Sudan to enquire into the legal system and the administration of justice. The conclusions and recommendations of the 1985 Mission were published in a report entitled "The return to Democracy in Sudan". In November 1986, a follow-up mission was sent to Sudan to discuss the report with members of the government, the Bar Associations and interested observers, and obtain information about recent developments. Of particular concern was the need to complete the repeal of a series of laws enacted in the last years of the Nimeiri government and to enact a new criminal code. Also discussed with government officials were proposed constitutional amendments that would significantly expand the powers of the government and make government officials exempt, in certain cases, from suit for violations of the law. Concern was expressed about these amendments as well as the lack of progress in resolving the conflict in southern Sudan.

Guinea

From 23 March to 5 April 1988, the CIJL sent a mission to Guinea to study and gather information on the administration of justice and the independence of judges and lawyers. A report on Guinea will be available in French shortly.

Philippines

In April 1988, Australian Judge Peter Allen visited the Philippines to discuss the independence of judges and lawyers with the bar, the bench and government officials.

CIJL Study on the independence of judges in Uruguay

The CIJL seminars in different regions help to publicise international principles and provide a forum for discussing with judges and lawyers the

possibilities for making them operative. However, due to the complexity of the subject, more factual analysis of situations in different countries needs to be made to compare the principles with the actual state of affairs, and to identify problems which are not being adequately addressed either on an international or national level.

The need for such a study is greater in Latin America than in other continents, where the courts tend to be dominated by their political environments. Together with the ICJ's local affiliate, the Instituto de Estudios Legales y Sociales del Uruguay, an in-depth study is now being undertaken on the independence and impartiality of the judiciary in Uruguay. Taking the objective factors listed in the UN Basic Principles (conditions of employment, methods of selection, tenure etc.) the study examines two complementary areas:

- a) the constitution, laws, jurisprudence, rules of procedure, etc; and
- b) a field study which will include interviews and questionnaires with a representative sample of judges and practising lawyers at all levels and in all regions of the country.

Casework

The CIJL intervenes in cases involving harassment, persecution or threats directed against individual judges or lawyers or their associations, as well as more subtle pressures such as the use of transfer to punish a judge for having rendered a decision unfavourable to the government. When the CIJL receives information about these matters, the information is verified and the CIJL then makes a written intervention in the form of a cable or letter to the government concerned and, in more serious cases, solicits the aid of jurists throughout the world to do likewise (through circular letters). Since its creation in 1978, the CIJL has built up a network of several hundred organisations of judges and lawyers that are willing to respond to CIJL requests for action. This network includes international, regional and local bar associations as well as human rights organisations, and many have undertaken to distribute CIJL appeal letters to their own members.

During the period under review, the CIJL made interventions in 32 cases to the relevant government authorities in the following countries:

Algeria, Bangladesh (2), Chile (5), Fiji, Italy, Honduras, Kenya (2), Malaysia (3), Morocco, Israeli-Occupied Territories (3), Paraguay, Peru (2), Philippines (5), South Africa (2), Trinidad and Tobago, Yugoslavia.

and also issued 12 circular letters asking judges' organisations, associations and other lawyers' organisations in the following countries:

Chile (2), El Salvador, Guatemala, Haiti, Indonesia, Kenya, Israeli-Occupied Territories, Philippines, Singapore, Tunisia, Yugoslavia.

CIJL Publications

Since its inception, the CIJL has worked to disseminate information about the independence of judges and lawyers through its Bulletin published twice a year in English, French and Spanish and distributed to lawyers and lawyers' organisations in 125 countries. The Bulletin contains reports on individual cases of harassment and persecution of judges and lawyers, notes on developments concerning the independence of the legal profession and the judiciary as well as longer articles on these subjects, and reports on the seminars and other activities of the CIJL.

In 1988, the CIJL published "La Independencia de Jueces y Abogados" which contains in Spanish the Basic Principles on the Independence of the Judiciary, the draft Basic Principles on the Role of Lawyers, the Montreal Declaration and the Siracusa and Noto Principles with an introduction by the CIJL Director.

OTHER ICJ ACTIVITIES

Radio and Press Interviews

In the period under review, the ICJ staff gave interviews to a number of radios and newspapers. These concerned human rights violations in the following countries, among others:

Israeli-Occupied Territories, Mauritania, Mozambique, Paraguay, Peru, South Africa.

Radio and press interviews were also given on subjects such as the general change in human rights work over the past 15 years, the rise and fall of dictators, the cancellation of the 1986 session of the UN Sub-Commission, the US refusal to endorse the final declarations of the Bern Conference on East-West human relations, the role of para-legals and many other topics.

Interventions

In addition to its public activities, the ICJ made numerous private interventions with governments relating to alleged violations of human rights. From 1986 to 1988, interventions were made in 68 cases to 33 countries. These were to the government of:

Argentina, Brazil, Chile (4), Congo, Cuba (3), Egypt, El Salvador (2), GDR, Ghana, Grenada, Guinea, Indonesia, Iraq, Israel (2), Jordan (5), Korea (2), Liberia, Malaysia (4), Nicaragua, Occupied West Bank (12), Pakistan, Peru, Philippines, Romania (4), Singapore (4), Sri-Lanka, Somalia, South Africa (4), Sudan, Swaziland, Tibet, Togo, Uruguay.

Publications

From 1986 to 1988 the ICJ Review has been published twice-yearly in June and December in English, French and Spanish.

The ICJ Newsletter has been published quarterly in English.

The Bulletin of the Centre for the Independence of Judges and Lawyers has been published twice-yearly in April and October in English, French and Spanish.

Special Studies

The following special studies have been published by the ICJ from 1986 to 1988:

- The Return to Democracy in Sudan (1986)
- Human Rights & Mental Patients in Japan (1986)
- Pakistan - Human Rights after Martial Law (1987)
- South Korea - Human Rights in the Emerging Politics (1987)

Two lengthy ICJ reports, one of a study on Indonesia and the other of a mission to South Africa have been published in book form by Pinter Publications, London. Copies are available from the ICJ secretariat. They are:

- Indonesia and the Rule of Law (1987)
- South Africa: Human Rights and the Rule of Law (1988)

Reports of ICJ Conferences and Seminars

The following reports of ICJ Conferences and Seminars have been published from 1986 to 1988:

- Human and Peoples' Rights in Africa and the African Charter (1986) (Nairobi Seminar 1985)
- Les services juridiques en milieu rural (1987) (Lomé Seminar 1987) (French edition only)
- Legal Services for the Rural Poor and other Disadvantaged Groups (1988) (Jakarta and Rajpipla Seminars 1987)
- The Independence of Judges and Lawyers in South Asia (1988) (Kathmandu Seminar 1987)
- The Independence of the Judiciary and the Legal Profession in English Speaking Africa (1988) (Lusaka Seminar 1986 and Banjul Seminar 1987)

A report on ICJ activities was published in December 1985.

- Updated lists of publications for the ICJ and the CIJL were printed in 1988 and are available from the ICJ Secretariat.

Contents of ICJ Reviews

The section in the ICJ Reviews on **Human Rights in the World** contained short articles on the following countries:

Bahrain, Bangladesh, Bolivia, Bulgaria, Burma, Chile, Colombia (2), Czechoslovakia (2), El Salvador, Eritrea, Fiji (3), Haiti (2), India (2), Iraq, Indonesia, Kenya, Liberia, Malaysia (2), Mauritania, Pakistan, Palau, Paraguay (2), Peru, Philippines, Romania, Singapore (2), South Africa, Sudan (2), Taiwan, Tibet, Thailand, Togo, Tunisia.

Commentaries were published on the following subjects:

- Draft UN Convention on the Rights of the Child
- Transnational Corporations in South Africa and Namibia
- Human Rights Committee
- Human Rights and the United Nations
- ILO Inquiry's Findings on Discrimination in Public Employment in the Federal Republic of Germany
- Treatment of Detainees in South Africa
- The Prisoners of the Uprising
- Rules of Procedure of the African Commission for Human and Peoples' Rights
- AIDS and Discrimination
- Three meetings of the UN Commission on Human Rights
- Two meetings of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Signed Articles were published on:

- US Withdrawal from compulsory jurisdiction of the World Court
- The UN Fund for Torture Victims; the First Years of Activity
- Preliminary Report on South Africa
- Human Rights in Arab Countries
- Human Rights and Legal Services of the Rural Poor
- Biotechnology and the Law
- The Exercise of Political Freedoms in Morocco

- Malaysia – the Judiciary and the Rule of Law
- The Universal Declaration of Human Rights and Latin America
- ILO and Indigenous Peoples: Revision of ILO Convention 107.

The Section Basic Texts include:

- The Siracusa Principles
- International Covenant on Civil and Political Rights
- The Limburg Principles
- International Covenant on Economic, Social and Cultural Rights
- The Milan Principles
- Declaration on the Right to Development
- Council of Europe Recommendation on Conscientious Objection
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- WHO Assembly resolution on AIDS
- Council of Europe Recommendation on AIDS

In the Section **Judicial Application of the Rule of law** summaries were published of judicial decisions in the following cases:

- Bandhua Mukti Morcha vs. Union of India and Others (state government and district magistrates held responsible for identifying, releasing and rehabilitating bonded labourers).
- Inter-American Court of Human Rights - Honduras government held answerable for disappearances under previous regime.
- Judgment of the Supreme Court of Zimbabwe - corporal punishment held in contravention of constitutional Rights.

ICJ MEMBERS

There were two elections over the past three years to replace those whose term of office had come to an end. The new members are:

March 1987

- Mr. Henry de Boulay Forde, Q.C. (Barbados)
- Dr. Adela Reta Sosa Diaz (Uruguay)
- Mrs. Nicole Questiaux (France)
- Senator Mary Robinson S.C. (Ireland)
- Lord Scarman (UK)

August 1988

- Mr. Desmond Fernando (Sri-Lanka)
- Judge Lennart Groll (Sweden)
- Madame Justice Claire L'Heureux-Dube (Quebec)
- Mr. Kofi Kumado (Ghana)
- Professor Yuichi Takano (Japan)

The following former members of the International Commission of Jurists were appointed as Honorary Members on the expiry of their term of office:

March 1987

- Lord Gardiner (United Kingdom)
- Mr. Louis Joxe (France)
- Mr. Sean MacBride (Ireland) (since deceased)
- Mr. Gustav Petren (Sweden)
- Sir Shridath S. Ramphal (Guyana)
- Justice Michael A. Triantafyllides (Cyprus)
- Mr. Thiam-Hien Yap (Indonesia)

October 1987

- Mr. Justice (ret'd) Haim C. Cohn (Israel)
- Professor John Humphrey (Canada)
- Mr. Justice Keba Mbaye (Senegal)

NATIONAL SECTIONS AND AFFILIATES

During the period under review, the ICJ Secretariat in Geneva sought to increase the exchange of news and information about the activities of its national sections and affiliates, through a regular section in the ICJ quarterly newsletter entitled "National sections and affiliated organisations".

New Affiliates

During the years 1986 to 1988, the ICJ has gained five new affiliates: the Gaza Centre for Human Rights and Law; the Nepal Law Society; the Uruguayan Institute of Social and Legal Studies; the National Association of Democratic Lawyers, South Africa; and the Human Rights Commission of Pakistan.

Conference of ICJ European Sections

From 22 to 24 April 1987, the ICJ in collaboration with the Human Rights Directorate of the Council of Europe, held a conference of its European National Sections. Over 100 participants from ten European countries attended along with officials of the Council of Europe.

Mr. Niall MacDermot, the ICJ Secretary-General and Mr. P. Leuprecht, Director of Human Rights at the Council of Europe gave opening addresses and the four conference topics were then introduced and discussed in plenary session. These were:

- the Functioning of the Organs of the European Convention on Human Rights;
- the European Convention and Domestic Law and Procedure;

- the Role of Non-Governmental Organisations in the Council of Europe;
and
- New technologies and Human Rights.

A report of the conference including the rapporteur's report, conference resolutions and working papers for each topic has been published by the ICJ and a limited number of copies are available from the ICJ secretariat.

Australia

The Australian section has published a number of reports between 1986 and 1988 of which copies can be obtained from the section upon request. These are:

- Human Rights in the Philippines – report of a fact-finding Mission;
- Arrests in Malaysia – report of a fact-finding Mission by the ICJ and its Australian and New Zealand sections;
- Refuji- a report of a Mission to Papua New Guinea;
- Human Rights Advocacy in the Philippines – a report of a Mission by the ICJ and its Australian and New Zealand sections.

Austria

In 1986, the ICJ's Austrian section undertook a series of seminars on the following themes:

- on 8 April 1986 in Vienna on 'Justice and the Media';
- from 29 May to 1 June 1986 in Weissenbach on 'Structures for Legal Protection';
- on 13 November 1986 in Vienna on the 'Reform of Legal Control of Administrative Proceedings'.

Congress on freedom in commercial law

In March 1987, the section organised a two-day congress on the above subject which was attended by 110 participants.

Weissenbach Congress

In May 1987, the Austrian section held its 14th Congress in Weissenbach on the protection of human rights in public and criminal law.

Other activities

In Autumn 1987, the section entered into a "contract of cooperation" with the Hungarian Law Association. This was followed a few months later by a Pannonic Congress in Szombathely (Hungary) organised with the Hungarian Law Association and attended by jurists from Austria, Hungary and Yugoslavia.

Bangladesh

The ICJ was saddened to learn of the death of Justice Syed Muhammed Husain in 1986, the President of its National Section in Bangladesh, the Bangladesh Law Society. For many years he was active in the promotion and defence of human rights. He was then appointed a Judge of the Supreme Court, a post he filled with dignity and impartiality until he was summarily dismissed by the President of Bangladesh, General Ershad, without any reason given. In legal circles, it was assumed that his dismissal was due to his courageous independence as a Judge.

Canada

Meetings

Professor Irwin Cotler of McGill University, Montreal, spoke in Toronto at a joint meeting of the Canadian Section and the Civil Liberties and Constitutional Law Sections of the Canadian Bar Association on 13 May 1986 and at a Canadian Section meeting in Ottawa on 28 May 1986. The topic of both meetings was "Freeing Dissidents and Defending Political Prisoners" using the Anatole Scharansky case as a case study.

Conference of the Canadian Human Rights Foundation

Members of the Section attended the 9th annual Conference of the Canadian Human Rights Foundation in March 1986 on the topic "Human Rights and Foreign Policy".

"Refugees and Sanctuary: official and unofficial entry"

In June 1986, the Section arranged a speaking tour in Montreal and Toronto with, respectively, the Canadian Human Rights Foundation and the Canadian Bar Association on the above mentioned subject. The speaker at both meetings was Mr. David Matas who had attended the Tucson Sanctuary trials in Arizona as an ICJ observer.

Competition on the Primacy of Law

The President of the Section set-up a competition in all university faculties of Law. "The Primary aim of the competition is to make known the objectives of the ICJ by making law students aware of the importance of the respect of the primacy of law throughout the world, focussing on the respect of human rights and the importance of the independence of judges and lawyers as a guarantee of the respect of the Rule of Law". The competition proved very successful in generating enthusiasm on the part of students, and publicity both within and outside universities about the ICJ.

Meeting on international terrorism

On 19 August 1986, a joint meeting of the section and the international Law Section of the Canadian Bar Association was convened to discuss the subject of international terrorism.

Nuclear weapons and the law

Members of the Section took a prominent part in the Canadian Conference on 'Nuclear Weapons and the Law' held in Ottawa in June 1987. The conference represented a prime effort in gathering a worldwide assembly of lawyers, leaders of the bar and experts in the field of the law of armed conflict and related areas, to study the question of law and nuclear weapons.

International obligation to refugees

In August 1987, a panel discussion took place on the subject of Canada's international obligation to refugees. One of the panelists was Dr. D. Wiegand, Judge of the Federal Court of West Germany and member of the ICJ's German National Section.

Finland

30th anniversary

The year 1986 marked the 30th anniversary of the Finnish Section. Since its inception, the Section was known as "Association for the Protection of the Rights of the Individual", but in 1981 it adopted the title "Finnish Jurists for Human Rights" with a wider mandate.

The Finnish Jurists for Human Rights (FJHR), held their annual meeting on 6 May 1986. This provided the occasion for a discussion on the potential contribution of the European Convention of Human Rights to the implementation of human rights in Finland. Although Finland is not yet a member of the Council of Europe, the state subscribes to the standards laid down by the European Convention and a decision has been taken to join the Council of Europe. The speakers at the meeting were: Klaus Törnudd, Under Secretary of State; Pekka Nurmi, Director of Legislation, and Allan Rosas, Professor of Constitutional and International Law.

The protection of human rights

In June 1986 a seminar on human rights and the rule of law was organised jointly by the Section and the Summer School of the University of Helsinki. In November 1986, the Section organised a seminar on the constitutional aspects of the protection of human rights, including a comparison of the respective human rights machineries provided by the United Nations and the Council of Europe. In the course of the year, the representatives of the Section presented several papers on this issue. As a result, the Finnish media have become more conscious of the role played by the Council of Europe in the legal protection of human rights. However, the Section feels that a lot of work has as yet to be done before

Finnish jurists in general take an active interest in human rights issues, which are seldom discussed in connection with everyday legal practice.

France

Throughout the period under review, Libre Justice, the ICJ's French National Section has maintained important contacts with Ministries, in particular, the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Human Rights.

Libre Justice has been involved in organising colloquia specifically related to activities in France, but has also dealt with issues such as extradition and the need for an international penal tribunal, and customs administration and the liberty of the citizen.

German Federal Republic

During the period under review, the ICJ's German National Section has organised and attended a number of meetings on topics such as the European Convention of Human Rights and domestic law, the functioning of organs of the European Convention, modern medicine and modern technology, and human rights.

In Summer 1986, the German Section published a report on the Freedom to Exercise One's Profession in Europe.

The problem of asylum

During 1986, the Section's activities concerned the urgent problems of asylum and the rights of foreign workers in the Federal Republic. On this latter subject the Section published two books entitled "The Establishment of Professionals in Europe" and "Freedom of Movement of Employees and Freedom to Establish a Business in Europe".

Kenya

The section's membership greatly increased as a result of the Conference on 'Human and People's Rights and the African Charter' held in Nairobi, Kenya, in conjunction with the ICJ Commission meeting in December 1985.

The Kenyan section was active in trying to seek an audience among lawyers, judges, the Attorney-General and the Minister of Foreign Affairs to discuss with them the ratification by Kenya of the African Charter on Human and People's Rights, unfortunately with little success to date.

The Netherlands

Bulletin

The Dutch National Section of the ICJ, the NJCM, has continued to publish eight times a year its bulletin which includes numerous comments on existing laws and draft laws for example on proposed legislation for the registration of personal data; for equal treatment and elimination of discrimination and; on the revision of the system of social security.

Comments

The NJCM provides summaries of Dutch case law on the European Convention, the European Social Charter and the UN Covenants. It has commented on reports and notes of government policy and on certain events which could have important repercussions on the respect for human rights. An example was a raid by the police on the office of an anti-military organisation called AMOK, during and after which there were indications that the privacy of civilians was not fully respected.

Interventions

The NJCM has been making numerous interventions in situations of human rights violations both in the Netherlands and abroad. Letters of concern were written to the following governments: FRG, Israel, Indonesia, Suriname, Malawi, Turkey, Philippines, Somalia and Cambodia.

When requested, the NJCM advises lawyers, individuals and organisations who, for example, want to institute procedures in the field of human rights in Strasbourg and Geneva.

ICJ Conference of National Sections

At the ICJ's Conference of National Sections in Strasbourg in 1987, the NJCM presented a draft protocol to the European Convention regarding the merger of the European Court and Commission into one permanent Court of Human Rights. The Conference adopted a resolution supporting this protocol and the NJCM has since been working on the implementation of this and other resolutions which were accepted at the Conference.

Annual General Assembly

In March 1987, the NJCM held its Annual General Assembly for members of the NJCM. The topic of the meeting was "Asylum-seekers and Human Rights" on which a book was published a few months later.

New Zealand

Essay to mark the retirement of Sir Guy Powles

In 1986, the Victoria University of Wellington published a special issue of its Law Review containing essays in honour of Sir Guy Powles, a member of the ICJ and former President of its New Zealand National Section. The Council of the Section contributed a foreword to the issue in which it noted that the essays address topics with which Sir Guy has been especially concerned in the course of his career. These include: the law - its making and its application in the criminal context; the office of the Ombudsman; open government; Western Samoa; and India. The issue also reproduces an eloquent review of Sir Guy's several careers by Sir Owen Woodhouse, his successor as President of the New Zealand Section and President of the Law Commission. He paid tribute to Sir Guy as "lawyer, soldier, diplomat, founder ombudsman" and "a man who has given devoted and unqualified support throughout a long and varied career to our democratic institutions".

Lecture series

In August 1986, the Section held a four part weekly lecture series and forum for discussion on the Rule of Law in New Zealand. The programmes dealt with the following subjects: the criminal process and the Rule of Law, statutory bodies and the Rule of Law, disadvantaged groups and the Rule of Law and, judicial independence.

Detentions under Malaysia's Internal Security Act

The Section has been particularly active in the observance of habeas corpus proceedings in respect of persons detained without charge under Malaysia's Internal Security Act. In November 1987, the Section appointed Mr. Ladley, Senior Lecturer at the University of Wellington, New Zealand to report on the violations of the Rule of Law under the Internal Security Act. The Section has produced an extensive report on the habeas corpus hearing in Malaysia in November 1987.

Occupied West Bank

During the period under review, Law in the Service of Man, the West Bank Affiliate of the ICJ greatly expanded its activities.

Publications

Law in the Service of Man (LSM) published the following reports:

- "Administrative Detention in the Occupied West Bank" of which a shortened version appeared in the ICJ Review of December 1985 (No.35).
- "Israel's Deportation Policy in the Occupied West Bank and Gaza" by Joost Hiltermann;
- "Excessive Secrecy, Lack of Guidelines-a report on Military Censorship in the West Bank" by Virgil Falloon.

Newsletter

LSM has continued publication of its two-monthly newsletter which gives regular updates on human rights abuses in the West Bank and contain accounts of LSM's activities such as sponsoring lectures on

human rights, presenting papers at symposia held in the West Bank and abroad; improving its documentation centre and accepting and training a series of interns.

Law in the Service of Man also published an Arabic translation of the ICJ publication "The Rule of Law and Human Rights" and has reprinted the Universal Declaration of Human Rights in Arabic.

All these publications are available from LSM/Al Haq, P.O.Box 1413, Ramallah, West Bank, via Israel.

Fayez A. Sayegh Award

In 1986, LSM received the Fayez A. Sayegh Award for "its sustained efforts in developing and upholding the principles of the rule of law" in the Occupied Territories and for "carrying out vitally needed legal research and providing legal services" for the Palestinian community. The award is given every year to persons or organisations active in efforts to achieve peace and human rights in the Middle East.

Peru

The ICJ's affiliate, the Andean Commission of Jurists (ACJ) has during the three years under review continued its manifold activities in the region. In addition to its documentation of, and interventions concerning human rights abuses, it continues to publish its quarterly Bulletin aimed at improving the rule of law in the countries of the Andean region. This has been supplemented with another, more frequent publication, the *Andean Newsletter* which contains timely case reports and accounts of human rights violations. It appears monthly in English and Spanish.

Consultative status with ECOSOC

In February 1987, the ACJ was granted consultative status before the United Nations Economic and Social Council. The ACJ stated that it gave "the best possible opportunity for continuing and extending the work of defending human rights in the region".

Sweden

In April 1986, the Section discussed the extent to which prosecutors in Sweden are obliged to bring proceedings before courts against persons suspected of crimes.

General meetings

In November 1987, the Swedish Section organised a general meeting on "AIDS and Human Rights", and another in March 1988 on "Sweden and the European Court of Human Rights".

Seminar on the UN and Human Rights

In May 1988, in cooperation with the Swedish branch of the Save the Children Alliance, the Swedish Section organised a seminar on "UN assistance and Human Rights". The aim of the seminar was to discuss information programmes as well as concrete aid projects to monitor governmental implementation of UN norms in the field of human rights. As a result of the seminar, the sponsoring organisations issued recommendations directed to the United Nations and member governments.

United Kingdom

Annual reports

The ICJ National Section in the United Kingdom, 'Justice', published its 29th annual report in June 1986. The report outlines the work of Justice's three standing Committees on Administrative Law; Criminal Justice; and Miscarriage of Justice. These committees submit evidence to governmental committees of inquiry, prepare memoranda on legal issues and proposed legislation, and make recommendations.

In June 1987, Justice published its 30th annual report. It contains a review of individual cases which are examined by the Committee on Miscarriages of Justice and those involving the UK's international human rights obligations.

In June 1988, Justice published its 31st annual report. The report includes reports on human rights in the world, human rights law, criminal justice, civil justice, administrative law, legislation, new committees and general information on activities.

30th anniversary

In 1988, Justice celebrated its 30th anniversary. To commemorate this, Justice published a well-presented brochure which provides a history of the organisation, an analysis of how Justice functions and what Justice has achieved in view of its aim "to assist in the maintenance of the highest standards of the administration of Justice, and in the preservation of the fundamental liberties of the individual".

Publications

During the three years under review a number of reports have been published by Justice, these include:

- "Witnesses in the criminal Courts";
- "Coroner's Courts in England and Wales";
- "The Administration of the Courts";
- "The Reform of Industrial Tribunals";
- "The Creation of an Office of Public Defender";.

Annual meetings

At the July 1986 Annual Meeting, Mr. Robert Alexander, the guest speaker and the then Chairman of the Bar Association, spoke on "How real is Access to the Legal System".

In July 1987, Justice's Annual General Meeting was addressed by Sir Shridath Ramphal, Commonwealth Secretary-General and Honorary Member of the ICJ, on the topic "Justice Worldwide: The Rule of Law in an Interdependent World".

BBC

The section cooperated with the BBC in making a TV series called "Rough Justice". The Chairman of the Section remarked that it "has performed over the years an important public service and made a significant contribution towards the investigation of cases of alleged

miscarriage of justice. We welcome the continuation of this series and hope to be able to cooperate with this and other media programmes which are seriously committed to the same objectives".

Other activities

Justice has also considered and commented on a number of Law Commission Working Papers and discussion papers issued by various government departments.

Justice has set up several committees and working groups to study specific questions such as the administration of the courts, conveyancing, industrial tribunals and criminal justice.

In view of the 40th Anniversary of the Universal declaration of Human Rights in December 1988, Paul Sieghart, Chairman of the Executive Committee of Justice prepared a paper for the Commonwealth Secretariat's Human Rights Unit which provides the first part of a background document on the International Covenants on Human Rights of 1966.

USA

In October 1986, the American Association for the ICJ (AAICJ) convened in Madrid a colloquium, as part of a series on "The Role of Government Departments in the Formulation and Implementation of Human Rights Considerations in Foreign Policy". This provided a forum for heads of foreign ministry departments responsible for human rights issues, to exchange experiences and compare perspectives. The topics discussed included: enhancing the consciousness of government officials in foreign ministries and embassies; economic and social rights; human rights and development; and human rights policy and outside pressures. Similar meetings were organised by the AAICJ in 1987 in the Federal Republic of Germany and in 1988 in Austria.

Mission to Guatemala

In November 1986, Mr. W. J. Butler, President of the AAICJ, and the Hon. G.C. Edwards, Senior Judge, US Court of Appeals (6th Circuit) undertook a mission to Guatemala to study the reform in the system of administration of justice under the newly elected civilian government. The report of the Mission, published in April 1987, stressed the fact that the country still had a long way to go before solving its many problems, both economic, social and civil and political. However, the new Constitution, Supreme Court and Court of Constitutionality were impressive as a first step towards that goal. The report entitled "Guatemala: A New Beginning" is available from the AAICJ, 777 UN Plaza, NY 10017.

Mission to Palau

Because of an apparent threat to the rule of law, to the judiciary and the independence of the legal profession the AAICJ and the ICJ co-sponsored a mission to enquire into the status of the Rule of Law in Palau in January 1988 with particular reference to the independence of the judiciary, its legal profession and the rights of the Palauan citizens to test constitutional grievances before their duly constituted courts. (For conclusions and recommendations of the Mission, see section on reports on specific situations).

Other activities

The ICJ and the AAICJ were granted leave to appear as *amicus curiae* in support of the briefs filed by the United Nations, the Association of the Bar of the City of New York, and the Palestine Liberation Organisation in the case brought by the United States v. Palestine Liberation Organisation relating to the proposed expulsion from the United States of the PLO mission to the UN Headquarters in New York.

APPENDIX A

ICJ Seminars on Legal Services in Rural Areas

Jakarta Seminar (South-East Asia)

In January 1987, the ICJ together with the Indonesian Legal Aid Foundation held a seminar in Jakarta, Indonesia on legal services for the rural poor and other disadvantaged groups in South East Asia. The purpose of the seminar was to examine and compare the work of existing organisations in the region involved in educating the rural poor about their rights and making legal services available to them, and to discuss how to stimulate others to do so.

Participants came from Thailand, Malaysia, the Philippines, Singapore and Indonesia and included practicing lawyers, law teachers, students and representatives of grassroots organisations.

Two working papers were presented at the opening session: "A critical analysis of Legal Services for the Rural Poor and Other Disadvantaged Groups" by Hector Soliman, lawyer and Director of the Centre for People's Law (BATAS) - a Manila based NGO, and "Obstacles to Using Law as a Resource for the Poor" by Clarence Dias, President of the International Centre for Law in Development. Thereafter, the participants split into two working groups. Members of the first discussed their experiences in providing legal services to the disadvantaged, the methods used and their effectiveness, the problems encountered, the rights of association, bureaucratic obstruction, problems of particular sectors, protection of national resources and the environment and possible new strategies to deal with these problems. The second working group reviewed education programmes for the disadvantaged, the training of para-legals and the best means to stimulate and assist other legal resource groups, and foster cooperation with other organisations.

The report of the seminar is available in English from the ICJ secretariat.

Lomé Seminar (West Africa)

In February 1987, the ICJ organised a seminar on the provision of legal services in rural areas in Lomé, Togo.

The seminar was attended by representatives from the following countries: Benin, Burkina-Faso, Cameroon, Ghana, Mali, Niger, Senegal and Togo. The opening sessions included an address by the Minister of Togo, a lecture on the Senegalese experience on legal assistance in rural areas and a report on the work of development NGO's and the difficulties encountered by rural populations. The participants discussed the legal problems faced by communities in rural areas and the recruitment and training of para-legals.

The report in French of the seminar entitled "Les Services Juridiques en Milieu Rural" is available from the ICJ secretariat.

Lima Seminar (Andean States of South America)

In April 1987, the ICJ and the Andean Commission of Jurists sponsored a meeting in Lima, Peru to analyse the human rights situation and legal services in the rural areas of the Andean countries. Participants included peasant and indigenous leaders, lawyers and professionals in the field of social sciences from Bolivia, Colombia, Chile, Ecuador and Peru. Papers were presented on issues such as human rights, the administration of justice, legal services for low-income classes and the situation of peasant and indigenous communities vis-à-vis the legal system currently in force.

The report is available in Spanish from the Andean Commission of Jurists, Los Sauces 285, San Isidro, Lima 27, Peru.

Bangkok Seminar (South-East Asia)

In September 1987, as a follow-up of the South East Asia Seminar on Legal Services for the Rural Poor and Other Disadvantaged Groups held in Jakarta in January 1987, the ICJ held a national seminar on legal aid services and human rights in Thailand as part of a series of Third World seminars on the relationship between human rights and the process of development.

The seminar brought together 240 participants from Thailand, including parliamentarians, government officials, lawyers, law teachers and representatives of national organisations working with women, children and the rural poor. Participants divided into four committees which discussed legal aid and land problems; workers' rights; problems of women and children; and civil and political rights.

Rajpipla Seminar (South Asia)

In december 1987, the ICJ organised jointly with the Rajpipla Social Service Society in Gujarat India, a seminar on legal services for the rural poor and other disadvantaged groups.

The purpose of the seminar was to:

- examine and compare the work of existing organisations in South-Asia engaged in educating the rural poor about their rights and making legal services available to them;
- identify the main obstacles to this work in the region; and
- decide how to stimulate others to undertake this work.

Participants came from Bangladesh, India, Nepal, Pakistan (as well as observers from the Philippines and Thailand) and included lawyers, law teachers, students, and representatives of grass-root organisations working with the rural poor and other disadvantaged groups.

The inaugural session was chaired by Justice P.N. Bhagwati, former Chief Justice of the Supreme Court of India and the inaugural address was made by Justice J. Shetty of the Supreme Court of India. The Chief Minister of the State of Gujarat, Mr. Amar Singh Chowdhury delivered a speech as the main guest.

A joint report of the Rajpipla and Jakarta (see above) seminars was published in August 1988 and is available in English from the ICJ secretariat.

Libreville Seminar (Central Africa)

In February 1988, the ICJ together with the Federation of African Lawyers organised a seminar on legal services in rural areas in Libreville, Gabon. Participants included law professors, experts in education and lawyers from Cameroon, Central African Republic, Gabon, Zaire, Mali, Benin, Niger, Ivory Coast and Senegal.

The recommendations of the seminar include:

- the establishment of National Autonomous Legal Aid Committees in all states of Central Africa;
- the development of programmes for the provision of legal aid services based on pilot projects including, *inter alia*, training sessions of para-legals;
- the introduction of customary law in University courses;
- the mobilisation in each state of the necessary resources of such services;
- the use of all means of communication for the appropriate dissemination of legal information;
- the organisation of seminars in order to discuss periodic evaluation of legal services in rural areas of the region.

A report of the Libreville seminar will be available shortly.

Cali Seminar (Colombia)

In June 1988, the ICJ together with the ICJ's affiliate, the Andean Commission of Jurists and the Inter-American Legal Services Association (IALSA) organised a national seminar in Cali, Colombia on the provision of legal services in rural areas. The seminar was attended by representatives from 30 grassroots organisations and trade unions and five law schools. The subjects discussed included:

- assessment of the existing legal services in the rural areas;
- the advantages of the New Agrarian Reform;
- violence in the countryside and the introduction of measures to reduce it.

IALSA is preparing a report of the seminar in Spanish.

Bombay Seminar (India)

In June 1988, the ICJ and the Asian Regional Exchange for New Alternatives (ARENA) organised a seminar at Bombay University, India. The purpose of the seminar was to bring together representatives of groups providing legal services to disadvantaged groups and members of law and social science faculties to discuss means of cooperation for the provision of legal services to the rural poor. The participants came from Bangladesh, Hong-Kong, India, Japan, South Korea, Malaysia, Philippines, Pakistan and Sri-Lanka and represented universities, research institutions and grass-roots organisations.

The discussions centred around issues such as:

- their experience to help, *inter alia*, women, tribals and migrants;
- access to public services and consumer protection;
- environmental problems;
- collaboration between academics and grass-roots organisations;
- methods by which law and social science faculties could help legal services groups.

CIJL Seminars

San José Seminar (Central America)

In April 1986 the CIJL together with the Inter-American Institute of Human Rights sponsored an initial seminar on the Independence of Judges and Lawyers in Central America and the Dominican Republic.

In February 1988, a follow-up meeting was held to review the progress made on the dissemination and implementation of the recommendations as drawn up at the above seminar. The participants agreed that activities should focuss on five areas of priority: three of these relate to professionalising judges, lawyers and judicial personnel by creating, *inter alia*, a career judiciary and training courses. The other two priorities refer to the promotion of a fair and proper system of police investigations and a reduction of excessive pressure on the judiciary.

Lusaka Seminar (East Africa)

In November 1986, the CIJL, the ICJ and the African Bar Association sponsored a seminar on the independence of judges and lawyers in Lusaka, Zambia. The seminar brought together judges, attorneys-general, practising lawyers and academics from Botswana, Lesotho, Malawi, Mauritius, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Its purpose was to create a forum for the frank exchange of views on problems existing in the southern and eastern African anglophone countries and to increase awareness of work taking place at the international level. The seminar was opened by President Kaunda of Zambia. The participants examined *inter alia*:

- the organisation and jurisdiction of the courts;
- the independence of the judiciary and its separate status as a branch of government; and

– the independence of the legal profession.

The recommendations of the Lusaka Seminar and the following Banjul Seminar were published as a joint report.

Banjul Seminar (West Africa)

In April 1987 a similar seminar co-sponsored by the CIJL, the ICJ and the African Bar Association was held in Banjul, the Gambia. Judges, attorneys-general, practising lawyers and academics from the Gambia, Ghana, Kenya, Nigeria, Sierra Leone and Uganda came together to discuss the state of the independence of justice in anglophone Africa and to formulate specific proposals to further the independence of judges and lawyers in the region.

In September 1988, the CIJL published a joint report of the Lusaka and Banjul seminars on the independence of the judiciary in English-speaking Africa. The report contains the recommendations agreed upon by the participants, excerpts from the opening speeches and some of the working papers presented at the meetings. The report is available in English from the ICJ secretariat.

Kathmandu Seminar (South Asia)

In September 1987, the CIJL, the ICJ and the Nepal Law Society sponsored a seminar on the independence of judges and lawyers. Present and former judges, practising lawyers, academics and present and former government officials from Bangladesh, India, Nepal, Pakistan and Sri-Lanka assessed the independence of the judiciary and the legal profession in the South Asia region. They discussed the norms being developed at the international level and their local application. A full report of the seminar is available in English from the ICJ secretariat. It contains the addresses, the working papers on the independence of the legal profession, the conclusions and recommendations adopted by the seminar and the UN Basic Principles on the Independence of the Judiciary.

Buenos Aires Seminar (eastern States of South America)

In March 1988, the CIJL and the ICJ co-sponsored with the Centro de Estudios Legales y Sociales and the Association of Lawyers of Buenos Aires a seminar on the independence of judges and lawyers in Buenos Aires, Argentina. The seminar brought together judges, lawyers, representatives of the Ministry of Justice and Public Prosecutor and academics from Argentina, Brazil, Paraguay and Uruguay to evaluate the independence of justice in the region. During the seminar, working groups developed recommendations on courts and society; the judiciary as an independent branch; the status of judges; and the independence of lawyers and public prosecutors. A report in Spanish is available from the ICJ Secretariat.

Philippines Seminar (South-East Asia)

In June 1988, the CIJL and the Free Legal Assistance Group of the Philippines (FLAG) organised a seminar on the independence of judges and lawyers in the South East Asian region. The seminar held in Tagatay City, Philippines, was attended by judges and lawyers from Fiji, Indonesia, the Philippines and Thailand. Participants discussed the degree to which the Basic Principles on the Independence of the Judiciary were being implemented in the region and made recommendations for putting them into practice. The draft Basic Principles on the Role of Lawyers were evaluated and suggestions were made for modifications in the light of regional experiences.

Tobago Seminar (Caribbean)

In September 1988, the CIJL and the University of the West Indies co-sponsored a seminar on the Independence of Judges and Lawyers in the Caribbean in Mount Irvine Bay, Tobago. The Participants included Chief Justices and Attorneys-General as well as leaders of the Caribbean Bar.

The seminar was opened by the Honourable Selwyn Richardson, Acting Prime Minister of Trinidad and Tobago. The seminar then held sessions to consider "The UN Basic Principles on the Independence of the Judiciary" and "The Need for Independence, and Pressures upon the Judiciary" and "The Independence of the Legal Profession". The meeting and the conclusions and recommendations were widely covered by the Caribbean media.

Asunción Seminar (Paraguay)

In November 1988, the CIJL sponsored a seminar on "the Independence of the Judiciary" in Asuncion, Paraguay together with the Faculty of Law of the Catholic University of Asuncion, the International Secretariat of Jurists for Amnesty and Democracy in Paraguay (SIJADEP) and the Paraguay Bar Association. Participants included Supreme Court Judges from Brazil and Italy, ICJ Commission member Figallo of Peru, and judges and jurists from Argentina, Brazil, Paraguay and Uruguay.

The seminar was divided into daily workshops in which local participants highlighted the absolute lack of independence of the Paraguayan judiciary and its effects on the protection of human rights, and evening symposia during which the foreign participants discussed the doctrine of the independence of the judiciary and described developments in their own countries.

Activities at the United Nations

UN Peace Award

The ICJ was one of a group of organisations which were designated Peace Messengers by the UN. The award was handed over at a ceremony at the Palais des Nations in Geneva in September 1987, the International Day of Peace. The ICJ received this award "in recognition of a significant contribution to the programme and objectives of the International Year of Peace, proclaimed by the United Nations General Assembly".

Cancellation of Sub-Commission

Non-governmental organisations heard with profound concern in July that the 1986 session of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities had been cancelled because of the financial crisis in the United Nations.

The Secretary-General of the ICJ, as Chairman of the Geneva NGO Special Committee on Human Rights had written to the UN Secretary-General in March on behalf of the Special Committee specifically urging that such a 'harmful proposal' not be contemplated and pointing out the vital role which the Sub-Commission, as a body of independent experts, has come to play in the promotion and protection of human rights. He noted that less than 1% of the UN budget is devoted to the human rights work of the UN whereas the primary importance of human rights and the rule of non-discrimination is mentioned in no less than five articles of the Charter. International cooperation in promoting and encouraging respect for human rights features prominently as one of the four purposes of the UN. He concluded that 'the interruption of the essential work of the Sub-Commission would constitute a serious threat to the activities of one of the

most productive and innovative sources of human rights action in the UN system and represents a serious blow to the cause of human rights'.

Nevertheless, the cancellation went ahead and in response the NGO Special Committee, following an initiative of the Anti-Slavery Society, sponsored a seminar on Human Rights in the United Nations in Geneva in September 1986. The topics discussed were:

- the role of the UN in the field of human rights and the relationship between human rights and the other objectives of the UN;
- the activities of the various UN Human rights organs and the Centre for Human Rights;
- the priorities of these activities in the light of the present crisis of the UN;
- possible further contributions that can be made by NGO's, universities, research institutes and individual experts.

Participants to the seminar included 15 members of the UN Sub-Commission, three former Presidents of the UN Commission on Human Rights, eleven other experts, the representatives of 52 international NGO's, seven international organisations (the UN, ILO, UNICEF, UNHCR, International Red Cross Committee, Interparliamentary Union and the League of Red Cross Societies) and 47 permanent Missions to the United Nations.

At the concluding session, chaired by the ICJ Secretary-General, an outstanding report of the seminar including important conclusions and recommendations was agreed upon unanimously by the participants and was widely distributed at the United Nations General Assembly. In November 1986, a delegation from the Geneva NGO Special Committee, including the ICJ Secretary-General went to New York to present the conclusions and recommendations to the UN Secretary-General.

Indigenous Populations

In 1981, the ICJ stressed the important need for a Working Group on indigenous populations. Such a working group was established in 1982 and the ICJ has followed its activities closely and has made substantial contributions to the discussions.

For several years, the pre-sessional Working Group on Indigenous Populations has been drafting principles with the aim of producing a draft declaration of indigenous rights which may be proclaimed by the General Assembly. In September 1987, the Group submitted three additional principles addressing the collective rights to maintenance and development of ethnic characteristics and identity, the collective right to self-protection and to economic, social and political participation. The Sub-Commission requested that a complete set of principles be completed during the following year's meeting of the Working Group.

In 1988, the Working Group discussed the first draft of a declaration on indigenous rights. The 28-point draft combines individual and collective rights with a special emphasis on the latter as an essential and inherent element of indigenous rights. It also provides for protection of indigenous identities as manifested in cultures, languages, religions, traditions and customs, and the introduction of indigenous autonomy. The 1988 session of the Sub-Commission voted to circulate the draft for comments to governments, indigenous peoples and NGO's.

When the report of the Working Group was discussed in the Sub-Commission, the ICJ Secretary-General read a statement on behalf of 26 NGO's which stressed that urgent action on the part of the UN was needed to bring to an end the violations of human rights of indigenous people and assure their existence. The 26 NGO's noted a discrepancy between the happy conditions reported by governments and those brought out by the indigenous peoples themselves who reported on genocide, torture and disappearances, treaty violations, denial of subsistence, inadequate food and shelter and human rights abuse.

Administration of Justice and the Human Rights of Detainees

Draft Principles for the Protection of Persons under any form of Detention or Imprisonment

The Working Group was asked by the ICJ and Amnesty International to review the substantive changes made on the draft body of Principles for the Protection of Persons under any Form of Detention or Imprisonment by a Working Group of the 6th Committee of the General Assembly. The major concern of the members of the Working Group and NGO's was that some of the provisions in the current version of the draft Body of Principles were less protective than existing standards, such as those enumerated in the International Covenant on Civil and Political Rights. A particular concern was that the draft Body of Principles had been limited to those persons charged with a criminal offence without protecting the more vulnerable class of persons detained without charge or trial. The Working Group recommended that a communication be sent to the Secretary-General expressing the Sub-Commission's grave concerns about the inadequacies of the Draft Body of Principles. This was done and the Working Group made the appropriate amendments.

Enforced or involuntary disappearances

Since 1980, the Working Group on this subject has been using its influence to press governments to investigate and bring to light the fate of thousands of disappeared persons by revealing the circumstances of specific individuals who have disappeared. From 1980 to 1986 the Working Group's mandate was renewed annually. In 1986, however, its mandate was renewed by consensus for two years and in March 1988, the Commission renewed the Working Group for another two years.

The ICJ has continued to provide the Working Group with information about cases of disappearances, in particular in the Philippines and Sri-Lanka. The Working Group has considered these as well as further information on outstanding cases previously transmitted. At the 1986

session of the UN Human Rights Commission, the Working Group on Disappearances stated that: "the number of people victimised by this phenomenon is still increasing in proportion to the population in the affected areas... the occurrence of disappearances appears to be closely linked to the level of political and social stability in a given country." For the 1987 UN Sub-Commission's sessional Working Group, the ICJ together with other NGO's presented a draft Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances. The Sub-Commission decided to send the draft to governments and NGO's for their comments, and asked the Working Group to complete the work on the draft, preferably at the next session.

Administrative detention

The ICJ has continued to follow with interest the debate on administrative detention and to contribute to the Working Group and to the report of the Expert Mr. Joinet, who hoped to complete his report in 1989. Noting that administrative detention itself was not prohibited by international law but that it was the abuse of such detention which was prohibited, Mr. Joinet concurred with NGO's such as the ICJ which favour the establishment of certain minimum standards and norms.

In this respect the ICJ delivered a statement at the 1988 session of the Sub-Commission criticising the wide use of administrative detention in Malaysia and Singapore to stifle political opposition.

Draft Declaration on the Administration of Justice

Over the past several years, the CIJL has been active in promoting and supporting the Draft Declaration on the Independence of Justice. (For further detail see section on the CIJL). At the 39th session of the Sub-Commission, the ICJ intervened on the issue of the independence of the judiciary and the legal profession, and on behalf of lawyers and judges who have been subjected to harassment, assaults, imprisonment, exile and even assassination.

Human rights violations in South Africa

The ICJ brought to the attention of the 1987 session of the Sub-Commission the preliminary conclusions of its mission to South Africa (see ICJ Review No.38). It highlighted abuses of human rights as exercised through unchecked executive power, such as the promulgation of Emergency Regulations and the emergence of local security groups known as Joint Management Committees. Against this background, it highlighted a crisis of confidence in the South African judiciary and legal system and the difficulties of redressing violations of human rights in the courts. During the 1988 session of the Sub-Commission, the ICJ distributed to the members, delegates and NGO's the full report published by Pinter Publishers, London.

The Right to Development

The ICJ has contributed extensively to the debate on the right to development. The 1988 Commission heard the report of the Working Group of Governmental Experts on the Right to Development which recommended that states should ensure equality of access to basic resources and that the international community should urgently adopt the measures called for in the General Assembly's declaration on the Right to Development. In its intervention, the ICJ suggested that the Right to Development best be achieved by ensuring the right to participation of those concerned or likely to be affected by the development in question, and gave two examples of "development" programmes violating basic human rights. One was the Narmada river valley project of 30 major dams and 135 medium dams in India financed by the World Bank. Nearly one million people, mostly tribals, living in the project area will be displaced, and no comprehensive policy for compensation and rehabilitation has been elaborated. The other case also funded by the World Bank is the transmigration in Indonesia of people from over-populated Java to under-populated islands, particularly to Irian Jaya, formerly West Papua, in complete disregard of the land rights of the local population.

Limburg Principles

The Limburg Principles on the implementation of the Covenant on Economic, Social and Cultural Rights, drawn up at a seminar prepared by the ICJ made considerable impact in the discussion on the Right to Development at the 1987 session of the UN Commission. They were circulated to the Third Committee of the General Assembly at the request of the UK government and to the Commission at the request of the Netherlands government. The Principles stress the need for popular participation at all stages of the progressive achievement of economic, social and cultural rights. This echoes the repeated references to popular participation in the General Assembly Declaration on the Right to Development. The Declaration was timely, coming as it did just before the first meeting of the new ECOSOC Committee on Economic, Social and Cultural Rights in Geneva in March 1987.

At the 1987 session of the Sub-Commission, the ICJ intervened to welcome Mr. Eide's report on the right to adequate food as a human right and support the rapporteur's comment that neglect of economic, social and cultural rights is a cause of violence and social conflicts contributing to human rights violations. In this regard, it becomes important that efforts are made to define the obligations of the states with reference to the rights contained in the Covenant on Economic, Social and Cultural Rights.

Mental illness; AIDS

The ICJ has been active under this item with reference to two major subjects. The first relates to the draft body of Principles and Guidelines protecting persons detained on the basis of mental illness (see section on standard-setting). The other deals with the issue of AIDS and discrimination which was raised at the 1988 Commission and Sub-Commission. At both these sessions, the ICJ made statements concerning the relationship between AIDS and Human Rights, expressing concern about the increasing discrimination against persons who are HIV positive and those who are suspected of being infected because they belong to a certain ethnic, cultural or sexual group. The ICJ stressed that

discrimination would merely drive those most at risk 'underground' and thereby contribute little if anything to the control of the disease.

Other situations of human rights violations

At the sessions of the UN Commission and Sub-Commission, the ICJ has brought to light other situations of human rights violations with which it has been concerned. These include:

- **Religious Intolerance:** congratulating the Special Rapporteur on his first survey of religious intolerance but stating that the proposed convention even if adopted, is unlikely to be ratified by the states which seriously violate the right to freedom of religion and that therefore scarce resources should rather be directed to other more urgent tasks with which the Commission has been dealing.
- **Turkish Minority in Bulgaria:** with regard to concerted attempts to destroy the identity of certain ethnic minorities, in large measure by striking at one of the strongest cords which bind them together - their common language.
- **Human Rights Defenders:** an item which deals *inter alia* with attacks directed against members of the legal profession in carrying out their responsibility to educate people about their rights and to assist them in securing those rights.
- **the doctrine of national security** which has sought to justify military dictatorships in Latin America.
- the question of **Mercenaries**, a practice which violates fundamental principles of international law, such as non-interference in the internal affairs of states, and territorial integrity and independence. They seriously impede the process of self-determination of peoples struggling against colonialism, racism, apartheid and all forms of foreign domination.

Country Situations

During the period under review, the ICJ has intervened in the UN on a number of situations of serious human rights violations in specific countries. These include:

The Israeli Occupied Territories, Turkey, Romania, Sri-Lanka, Haiti, Iraq, El-Salvador, and Pakistan.

Activities in UN Specialised Agencies

ILO

During the period under review, the ICJ has been particularly concerned with the ILO Indigenous Populations Convention. In September 1986, the ICJ Legal Officer for Asia, attended an ILO meeting of experts on the revision of the 1957 Convention, (No. 107). The report of this meeting was submitted to the ILO governing body which decided to place the partial revision of the Convention on the agenda of the International Labour Conference at its 75th (1988) session. The recommendations of the meeting included *inter alia* granting greater control of their own social, economic and cultural development, that they should be recognised by the national society on an equal footing, and that the authority of states to appropriate indigenous and tribal lands or to remove these people from their lands should be limited to exceptional circumstances.

In September 1988, the ILO held meetings to revise Convention 107. A representative of the ICJ was present and wrote an article on the proceedings of the revision process which has been published in ICJ Review No. 41, December 1988.

WHO

The ICJ has been increasingly preoccupied by discrimination against persons with AIDS (Acquired Immunodeficiency Virus) and those suspected of being infected because they belong to a certain ethnic, cultural, social or sexual group.

In May 1988, the Secretary-General and his assistant attended a meeting at WHO on AIDS and the prevention of discrimination. Dr. J. Mann, Director of the WHO Global Programme on AIDS stressed the importance

of preventing discrimination of persons with AIDS. In order to control the spread of the disease, the cooperation of those infected is essential. The threat or practice of discrimination will render it impossible to secure their cooperation since they will be driven underground and thereby fail to come forward to benefit from public health programmes designed to slow down the spread of the virus. The problem is of growing importance since those most at risk of infection constitute segments of the population which are already stigmatised by society; minority groups, homosexuals, prostitutes and IV drug users.

The ICJ has also attended a number of meetings with experts and other NGO's at WHO on the drafting of the principles and guidelines for the protection of persons detained for reasons of mental illness. A meeting was held in May 1988, aimed at preparing a document to be submitted by WHO to the UN Human Rights Commission and to its Working Group as requested by the UN Centre for Human Rights.

UNHCR

Members of the ICJ staff regularly attended the annual sessions of the Executive Committee of the UN High Commission for Refugees.

UNESCO

During the period under review, UNESCO has requested the ICJ to assist it in two major tasks:

1. The preparation of a directory of organisations that help disadvantaged groups to enjoy their human rights. The 2000 organisations in the directory will essentially include those that educate or train disadvantaged groups, or facilitate access to, or awareness of, human rights through research or the promotion of law and conventions.
2. UNESCO has requested the ICJ to contribute to the bulletin on Human Rights Teaching. The article by the ICJ is entitled "Access to

Rights and Measures to Promote the Effective Exercise of Human Rights" in different social, economic and socio-cultural contexts, and in particular with regard to: information on rights, access to legal aid, and language and communication.

The ICJ's experience and knowledge was drawn from the series of seminars it has held in Africa, Asia and Latin America dealing with development and human rights, and in particular with the provision of legal services to the rural areas. An appendix to the article, written by the ICJ Legal Officer for Asia gives an example of a programme for training para-legal workers based on the experience gained in a development programme in South India.

Activities With Non-Governmental Organisations

Members of the ICJ staff and other ICJ representatives attended many conferences, meetings, and seminars organised by other non-governmental organisations on a wide variety of subjects. In addition to contributing to the general discussion during these meetings, the ICJ staff members often contributed working papers, chaired group and plenary sessions, gave key-note speeches and, in some cases, helped to organise the conference or seminar. An abbreviated chronological list of these meetings follows:

1986:

- Colloquium in Chile on state terrorism;
- Conference in Geneva of NGO's entitled "Together for Peace" organised as part of the International Year of Peace;
- Study session in Strasbourg on the draft European Convention Against Torture and the UN Convention Against Torture;
- Seminar in Brussels on the technical and financial revolution within the media and the necessity for a new democratic information order;
- Meetings in Geneva on the Convention of the Rights of the Child;
- Seminar in Perugia on the peace process in Central America;
- Meeting in Geneva on the preparation of a study on the overall state of relations between the UN and NGO's concerned with development issues;
- Seminar in Geneva on the ethical problems faced by health professionals in situations where human rights are violated;
- Meeting of the Annual General Assembly of Action des Chrétiens pour l'Abolition de la Torture (ACAT) in Luzerne;
- Meetings of the Ad Hoc Working Group on the Rights of the Child;
- Consultation on the Standard Minimum Rules for the Treatment of Juveniles Deprived of their Liberty;

- NGO meeting on the status of the European Convention on the Rights of the Child;
- Meetings in London of the Interights Advisory Council;
- NGO seminar in Geneva following the cancellation of the UN Sub-Commission on the topic of human rights in the UN;
- Congress in San Remo on Peace and Humanitarian Actions;
- Meeting in Geneva of the Advisory Council of the International Service for Human Rights;
- Meeting at the Senate in Madrid with the Association of Soviet Lawyers to discuss peace and human rights, the fundamental rights of expression, and the nature and legal obligations in the International Covenant on Economic, Social and Cultural Rights;
- Anniversary celebration of the International Association of Democratic Lawyers in Paris on the questioning of the UN system, International Cooperation, the Right to Development and the Preservation of Peace;
- Seminar in Geneva on international institutions and human rights;

1987:

- Consultation with human rights organisations and trade unions in Bogota on the general human rights situation in Colombia;
- Inaugural Congress of the African Association for Human Rights in Development (AAHRID) in Zimbabwe;
- Lecture Course on Human Rights in Africa and Asia during the 18th annual human rights seminar at the International Human Rights Institute in Strasbourg;
- Colloquium in Senegal on the African Commission on Human and Peoples' Rights;
- International Congress on Human Rights Teaching, Information and Documentation in Malta;
- Annual Meeting of the International Whaling Commission in Bournemouth;
- Conference on human rights documentation in Lesotho;
- Colloquium in Trieste on the African Charter and Human and Peoples' Rights;

- Biennial Conference in Bologna on North-South cooperation and development;
- Seminar in Geneva on Human Rights and Development Aid;
- Forum in Geneva organised by the NGO Committee on UNICEF on communications, their ethics and strategic use for NGO's working for children;

1988:

- Conference in Jerusalem on the administration of the Occupied Territories;
- Conference of Trocaire in Dublin on human rights, key-note speech by ICJ Secretary-General;
- Human Rights seminar in Cyprus on the presentation of the Middle East Council of Churches' concerns in the area of human rights;
- Consultation with the ICRC and the Swiss Committee Against Torture on the European Convention against Torture;
- Seminar in Geneva to celebrate international Womens' day;
- UNITAR workshop in Rwanda on the preparation and submission of national reports of human rights violations to the various international human rights instruments;
- Seminar in Togo on the African Charter and Human and Peoples' Rights and the problems relating to the inclusion, application and interpretation of International Human Rights Norms within national legislation;
- Seminar in New York on Human Rights in South and South-East Asia;
- Seminar in Canada on International Development Agencies, Human Rights and Accountability for Human Development;
- Meeting of the NGO Special Committee Meeting in Geneva;
- Colloquium in Lyon on Human Rights and NGO's;
- Annual Meeting of the Alaska Whaling Commission;
- Meeting in Geneva on AIDS and Discrimination;
- Forum in Manila to discuss the condemnation of the wave of killings (especially of human rights lawyers) in the Philippines;

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The International Commission of Jurists is a non-governmental organisation devoted to promoting throughout the world the understanding and observance of the Rule of Law and the legal protection of human rights.

Its headquarters is in Geneva, Switzerland. It has national sections and affiliated legal organisations in over 50 countries. It enjoys consultative status with the United Nations Economic and Social Council, UNESCO and the Council of Europe.

Its activities include the publication of its Review, Newsletter, and CIJL Bulletin; organising congresses, conferences and seminars; conducting studies or enquiries into particular situations or subjects concerning the Rule of Law and publishing reports upon them; sending international observers to trials of major significance; intervening with governments or issuing press statements concerning violations of the Rule of Law; sponsoring proposals within the United Nations and other international organisations for improved procedures and conventions for the protection of human rights.



INTERNATIONAL COMMISSION OF JURISTS
P.O. Box 120 109, Rte de Chêne CH-1224 Geneva Switzerland