



**REPORT**  
**on**  
**CURRENT ACTIVITIES**  
**OF THE**  
**INTERNATIONAL COMMISSION OF JURISTS**

**July 1973 — June 1974**

**by**

**Niall MacDermot**  
**Secretary-General**

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During the past year the International Commission of Jurists has continued to be pre-occupied with situations covering the Rule of Law and human rights in all parts of the world. Our activities are limited only by the resources at our disposal.

Our publications have included two issues of our REVIEW, which is published in English and Spanish and distributed to some 15,000 lawyers, law libraries and legal organizations. Apart from general legal articles, the issues of the REVIEW contained articles on human rights situations and legislation affecting the Rule of Law in 17 different countries. We prepared a study on "Infringements of the Universal Declaration of Human Rights in South Africa", which was published by the U.N. in their quarterly publication "Objective: Justice", Vol. 5, No. 4. A statement by the Secretary-General of the ICJ to the U.N. Committee on Decolonization on August 2, 1973, concerning the activities of the Portuguese Secret Police (DGS) in Mozambique, was published in a special supplement to this quarterly. Another study on Apartheid legislation affecting human rights in Namibia (South-West Africa) was published in the following issue of the same quarterly.

Special reports were published during the year on violations of human rights in Chile, Uruguay and Uganda. Numerous interviews were given by the Secretary-General and other members of the staff on radio and television on the situation in these and other countries, which were broadcast on British, German and Swiss television, and on British, French, Luxembourg, Netherlands and Swiss home and overseas (short-wave) radio programmes.

34 press releases were issued, dealing *inter alia* with human rights situations in 16 different countries.

Lawyers were sent as Observers on nine occasions to trials in Morocco, Greece, South Africa and Spain, and other lawyers went on

special missions to investigate and report on alleged violations of human rights in Cyprus, Chile and Uruguay. The lawyers who undertook these various missions came from Germany, Britain, the United States, Switzerland and Belgium.

In addition to these public activities, over 40 private interventions have been made with the government of 23 countries, dealing either with individual cases or with particular situations affecting human rights.

The countries which were the subject of our various public and private interventions were Bulgaria, Cyprus, East Germany, Greece, Malta, Portugal, Spain, the USSR, Argentina, Bolivia, Brazil, Chile, the Dominican Republic, Uruguay, Bangladesh, India, Iran, Israel, North and South Korea, Syria, Egypt, Kenya, Morocco, Lesotho, Mozambique, Namibia, South Africa, Swaziland and Tanzania. Perhaps this gives some indication of the universality of our concern for human rights.

The Commission has also continued to play its part as a non-governmental organization having consultative status with the Economic and Social Council of the U.N. and has attended and made interventions at meetings of the Human Rights Commission and its Sub-Commission on the Protection of Minorities and Prevention of Discrimination, as well as at meetings of the U.N. Committees on Apartheid and Decolonization. We were also represented by a Nigerian international lawyer, Dr. Eze, at a U.N. Seminar held in Dar-es-Salaam, Tanzania, on the promotion of human rights with special attention to the problems and needs of Africa. Dr. Eze prepared a paper which was distributed to all participants and was well received in the discussions.

One of the most important events of the year was the holding of the Diplomatic Conference in Geneva to consider the two Draft Additional Protocols to the Geneva Conventions prepared by the International Committee of the Red Cross. These are designed to afford better protection to civilians and to the sick and wounded and captured combatants in armed conflicts, both international and non-international. The International Commission of Jurists was a member of the Working Group of Non-Governmental Organizations in Geneva which prepared a detailed memorandum with specific comments and arguments relating to the two Draft Protocols. This memorandum was eventually signed by 49 different non-governmental organizations, including western and eastern based organizations, arab and jewish, religious and secular. This was a striking achievement in the circumstances. The memorandum was circulated to all delegations and was accepted as an official conference document. The Secretary-General of the ICJ addressed a plenary session of the Con-

ference on behalf of the NGOs who had signed this memorandum. Meetings of the Working Group were held during the Conference with leading members of the delegations of the United States, the USSR, France, Egypt and the FRELIMO liberation movement in Mozambique.

The human rights situation which has attracted the most world-wide attention during the past year was the overthrow of the Allende régime by the military coup in Chile last September. There are other countries which have suffered comparable repression of human rights, but the death of a charismatic figure in Dr. Allende, and the dramatic overthrow by force of a government which had proclaimed its intention to achieve its revolutionary aims by constitutional means, all contributed to focussing world attention on this subject.

Our initial interventions were directed firstly to the fate of some 14,000 refugees from other military régimes in South America who had previously sought asylum in Chile; and secondly to the reports of summary executions of Chileans without trial. Subsequent evidence has satisfied us beyond doubt that numerous summary executions did occur during the first weeks of the new régime. As a result of widespread international pressure, the exertions of the United Nations High Commissioner for Refugees, and the willingness of many governments to accept refugees from Chile, the problem of the foreign refugees has largely been resolved within Chile. Very few of them (perhaps a couple of dozen) have been prosecuted for alleged subversive activities. Nearly all have now left the country either legally or clandestinely, but this has created a serious and continuing refugee problem in neighbouring countries, particularly Argentina and Peru.

In view of the many conflicting reports about the situation in Chile, the International Commission of Jurists sent a mission of three lawyers to Chile in April 1974 to study the legal system and its operation from the point of view of human rights and the Rule of Law. The mission comprised the Secretary-General of the ICJ, Professor Covey Oliver of the University of Pennsylvania, and Dr. Kurt Madlener of the Max-Planck-Institute of International and Comparative Penal Law in Freiburg-im-Breisgau, West Germany. The members of the mission had meetings with the Ministers of the Interior and of Justice, the President and Members of the Supreme Court, the Council of the College of Advocates, members of the Council of the Institute of Penal Law, the Committee of the National Section of the ICJ and Cardinal Raul Silva, as well as a large number of practicing attorneys who have been engaged in the defence of political prisoners.

Chile is still a very divided nation. Those who supported the coup did so on the grounds that the Allende Government had acted unconstitutionally in various ways and had failed to protect adequately certain civil rights, particularly rights of property. Illegal left-wing military organizations were in formation, almost certainly with the connivance of the government, and many observers were of the view that the country was heading for a civil war at the time when the government was overthrown by the coup.

Whatever justification there may have been for the coup, there can be no justification for many of the things which occurred following it, and the suppression of civil rights and normal legal safeguards is now far more severe than anything which occurred under the Allende régime. Moreover, under the Military Junta, a new constitution is in preparation which seems likely to institutionalize many of the existing limitations upon freedom, and to depart in practice from Chile's long-standing democratic traditions, while affirming them in principle.

The country is still proclaimed to be in a state of war, although all fighting ceased within a few days of the coup. The effect of this is that all security offences are tried before military tribunals, called "Councils of War", under the most summary of procedures, with very restricted defence facilities and with no form of appeal or recourse to the Supreme Court. The inevitable consequence is that many irregularities are occurring with no form of legal remedy. For example, the mission came into possession of a judgment of a Council of War condemning five men to death. It was stated in the judgment that the court was not unanimous. The Code of Military Justice requires unanimity even in time of war for a death sentence to be effective. Nevertheless, the five men were executed.

More serious even than the defects in the judicial system is what occurs to arrested persons before they are transferred to prison or detention camps with a view to trial or under administrative detention orders. The mission received convincing evidence that ill-treatment, often amounting to severe torture, is still regularly used in military camps and interrogation centres and in police barracks against suspects. Many of the arrests occur anonymously. People are arrested by persons in plain clothes and taken away in cars without number plates and their families and lawyers have the greatest difficulty in finding out who has arrested them and where they are held. There are in fact four different arresting authorities: army, navy, air force and carabinieri. They appear to be a law unto themselves, frequently arresting, torturing, interrogating and releasing people without handing them over for trial or detention. This

may explain why the authorities deny so vigorously that torture takes place. They do not know what is going on, let alone being able to control it. A clear example of this was afforded when a Swiss journalist was arrested just before the mission arrived. In answer to the persistent enquiries and protests of the Swiss Ambassador, a Colonel who is Secretary to the Junta was strenuously denying that the journalist had been arrested by any of the authorities on the fourth day after his arrest. A few hours later, the Swiss Ambassador traced him to an interrogation centre of the air force where he had been brutally tortured, including by electric shocks.

The mission, in their preliminary report, made recommendations for procedural changes and administrative measures designed to reduce the risk of such ill-treatment, as well as recommending urgently the institution of a proper appeal system. So far, none of these have been implemented.

After leaving Chile, the Secretary-General proceeded to Uruguay, where he carried out a similar enquiry together with a Swedish research officer of the Staff of Amnesty International. On the surface, the situation looks better in Uruguay than in Chile. As in Chile the parliament has been abolished, all political activity is forbidden, all the basic freedoms of speech, association, assembly, freedom of the press and trade union freedom are in abeyance. The government is dominated by the military, though in less explicit fashion than in Chile. Similar constitutional changes are in preparation. However, although there is a state of emergency, and security offences are tried before military courts, the procedure applicable is the peace-time and not the war-time procedure. This does include a more thorough investigation of the case by a Military Judge of Instruction with, at the later stages, better facilities for the defence lawyers. There are also rights of appeal. The whole procedure is, however, intolerably slow and many prisoners are in due course released without ever being brought to trial, on the grounds that they have already served a long enough term of imprisonment. More serious, however, as in Chile, is the apparently illegal behaviour of the military forces in holding people for long periods in military barracks for interrogation before they are transferred to the military judges of instruction. A high proportion of them are subjected to physical violence, often amounting to severe torture. Again, these practices are still continuing, and no-one apart from the authorities attempts to deny it.

The other outstanding event of the year affecting human rights was the military coup led by General Spínola in Portugal, overthrowing the previous dictatorial régime and establishing a coalition government in-

cluding socialists and communists. The difficulties of establishing a stable democracy there after the long period of dictatorship are increased by the severe economic situation of the country. Whatever be the eventual consequences for Portugal, the coup is bound to affect profoundly the situation in Southern Africa, not only in the Portuguese territories but in Rhodesia, South Africa, and Namibia (South-West Africa). In the first instance it will increase the growing optimism and determination of Africans to free themselves from domination by the white minorities. It remains to be seen whether those régimes will resort to severer repression or will seek to reach an accommodation with the Africans. As far as South Africa is concerned, the indications available point to a still harsher degree of repression. The recent legislation in the Affected Organisations Act and the Riotous Assemblies (Amendment) Act indicate the determination of the government to limit further the activities of such organised opposition as there still is to the government's racialist Apartheid policies.

The Secretary-General of the ICJ attended the trial in Pretoria in January of the Reverend Theo Kotze, one of the leaders of one of these organisations, the Christian Institute. This is an interdenominational body of Christians who cannot reconcile their religious beliefs with the government's policies. It was one of the organisations singled out for examination by the notorious Schibusch Commission. This is a government Commission comprised of politicians, and it operates under a veil of complete secrecy. Their purpose seems to be to attempt to discredit these organisations, suggesting that they are engaged in subversive activities. The Commission first investigated the white student organisation, NUSAS. When their first report on it was published, the student leaders were subjected by the government to five year banning orders. Under these orders they are confined to the area in which they live, deprived of the right to attend their universities or other courses, to take part in any political activities, to meet each other or take part even in social gatherings. It is an offence for anyone to quote anything they have ever said or written.

In face of this, when the Schibusch Commission turned its attention to the Christian Institute, the leaders refused to testify before it. This is an offence, for which they were duly prosecuted and convicted. In their defence they made clear that they would be willing to testify before a properly constituted impartial commission, operating in public, and with adequate legal safeguards for persons under suspicion, in accordance with the principles of the Rule of Law. The International Commission of Jurists sent Observers to two of these trials, and are in negotiation with publishers in the United Kingdom and the United States to publish a full report on them.

The Commission's 63-page study on Violations of Human Rights in Uganda since General Amin came to power in January 1971 received world-wide publicity when it was issued in June 1974. Indeed, the broadcasts of the African Service of the British Broadcasting Corporation were such that General Amin at first threatened to expel all the remaining British subjects from Uganda if they did not cease. The study has been sent to the Secretary-General of the United Nations with a view to its being considered by the Human Rights Commission as revealing a consistent pattern of gross violations of human rights. It is perhaps not out of place to quote in full the conclusions set out at the end of this study.

1. During the past 3½ years the Ugandan Government has either suspended or violated most of the fundamental human rights. By a series of Decrees overriding all constitutional safeguards, and by a system of arbitrary repression operating outside any legal framework, there has been a total breakdown in the Rule of Law.
2. Though some emergency measures may have been justified, particularly in the aftermath of the coup in January 1971, and at the time of the attempted invasion from Tanzania in September 1972, there are certain minimum judicial safeguards for the protection of human rights which are to be expected even in a time of emergency. These safeguards have been lacking.
3. While the government has nominally affirmed the Ugandan Constitution, its principles have been overridden expressly or by implication by a series of arbitrary decrees. All political activity has been suspended. The National Assembly and the local elected authorities have been dissolved. No steps have been taken to return to the promised democratic government. No mandate has been sought from the electorate to validate the seizure of power in January 1971. All the basic freedoms of association and assembly, freedom of the press, freedom of expression, freedom of education and trade union freedom are in abeyance.
4. The independence of the judiciary has been undermined by direct attacks on individual judges, by the repeated interference of the armed forces, and above all by the arrest and subsequent murder of the country's Chief Justice, Benedicto Kiwanuka, in September 1972. The authority of the civilian court has been further undermined by the transfer of important parts of their jurisdiction to try civilians to a military Tribunal.



5. The Armed Forces have been put beyond the law and have been given almost unlimited powers of arrest and search, without any form of judicial control. These powers were granted in order to fight "kondos" (armed robbers). In practice, they have been largely used to arrest, detain, torture and kill thousands of civilians from all walks of life, who for one reason or another have been suspected of opposition to the present régime. Only a very small percentage of those arrested on these grounds have been given any form of trial.
6. The repeatedly announced investigations by the Ugandan security authorities to trace those responsible for these disappearances and deaths have yet to result in bringing the culprits to trial. Some of those against whom the complaint has most frequently been made have recently been transferred to other posts or, occasionally, have themselves disappeared and been reported killed without trial. This failure to bring the offenders to justice has itself contributed to the state of lawlessness.
7. The expulsion of the Asians from Uganda in 1972 involved serious violations of human rights:
  - (a) The expulsion of Asian non-citizens was an act based on an explicit policy of racial discrimination.
  - (b) The failure to provide adequately for compensating those who had been expropriated was a violation of Article 17 of the Universal Declaration of Human Rights.
  - (c) The sudden and brutal manner in which the mass expulsion of Asian non-citizens took place was a breach of the principles of good neighbourliness enshrined in the Charter of the United Nations.
  - (d) The denial of Ugandan nationality to many Asians who were entitled to it was a violation of the right to nationality under Article 15 of the Universal Declaration of Human Rights.
  - (e) The banishment of all Asians recognized as Ugandan citizens to a remote and unfamiliar rural life was an act of racial discrimination which had the (no doubt intended) effect of driving almost all of them out of the country.
8. The effect of these massive and continuing violations of human rights has been to create a reign of terror from which thousands

of people from all walks of life, Africans as well as Asians, have sought refuge in voluntary exile. Those remaining are in a constant state of insecurity.”

The Secretary-General paid a visit to Pakistan in February in response to an invitation to read a paper on humanitarian law to the First Pakistan Jurists Conference held in Karachi. He paid brief visits to other centres and addressed meetings of the Bar Associations and university law students. He found an intense interest and concern among lawyers there about the Rule of Law and legal safeguards against abuse and arbitrary government. The work of the International Commission of Jurists is well known to them and he received everywhere an extremely warm welcome.

Lawyers who are striving to uphold human rights in many of these countries, particularly in the third world, are often working with a feeling of considerable isolation. Anything which lawyers and lawyers organizations from more favoured countries can do to make contact with them and give them support will be a source of great encouragement and strength to them. One of the aims of the International Commission of Jurists is to strengthen the bonds between lawyers in all parts of the world who are striving for the achievement of a common goal, peace and freedom under the Rule of Law.

**Additional copies of this report are available upon request in Geneva at:**

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

**or in New York at the office of:**

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