

INTERNATIONAL COMMISSION OF JURISTS

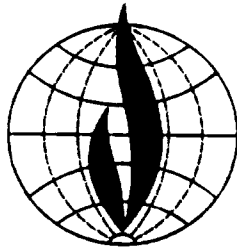
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JUNE 1993

ISBN 929037068.8



**WORKING
FOR
THE
RULE OF LAW
AND
HUMAN RIGHTS**



**For the Rule of Law
and Human Rights**



**Adama Dieng,
Secretary
General
of the ICJ**

“While the world has changed, the essential mission of the ICJ – to promote the Rule of Law and the legal protection of human rights – has not changed. As walls which keep people in are replaced by walls that keep people out, as the rivalry between East and West is replaced by conflict between North and South, the role of the ICJ becomes even more vital.”

Key ICJ proposals for the 1993 UN World Conference

1 An International Penal Court

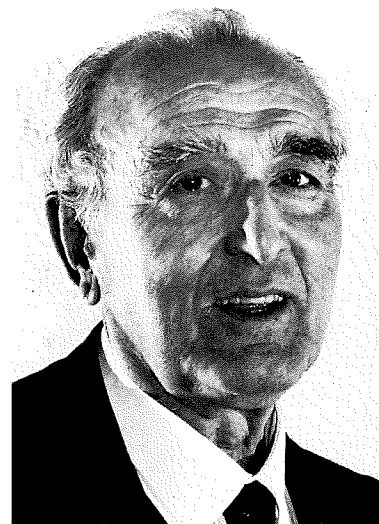
The atrocities occurring today in Bosnia and Herzegovina, Liberia and Cambodia, and those that have been committed in the recent past in Latin America and other parts of the world prompt the urgent need for an International Penal Court. Many democratically elected governments have been forced to succumb to military intimidation, granting **impunity** for gross violations of human rights committed under the former dictatorships. Thus, amnesty laws have been passed that have led to the impardonable pardoning of assassins and torturers. History is bound to repeat itself unless urgent action is taken! The ICJ, for instance, decried the amnesty provisions in the negotiated settlement to El Salvador's bloody civil war last year. That is, nevertheless, not enough. The problem of the impunity of war or State criminals can only be dealt with adequately and definitely by a UN established permanent International Penal Court acting in all **fairness and outside political interference in accordance with international law**. While the UN system on human rights has developed satisfactorily in the last decades, the implementation of standards, however well-established, has been unsuccessful. The relevant international law, though, does exist. What lacks is a method of enforcement to give these laws real significance. The ICJ believes that a permanent International Penal Court would fill the gap, for one of the purposes of any legal system is to ensure that criminals are justly made responsible for the crimes they commit, and that others may be deterred from committing other crimes.

2 Strengthening existing international mechanisms for human rights

Preparing for the 1993 Vienna World Conference, the ICJ believes that, rather than new standards, what is required is State compliance of laws that already exist. Too many States still want to ignore their reporting obligations to Convention Treaty Bodies and few have accepted optional complaint procedures. The ICJ resolved, therefore, to work for improved implementation. With the exception of its Declaration on Disappearances and Optional Protocol to the Torture Convention, which has been adopted, the ICJ lobbied the UN Commission for few new standards. But the ICJ mandated judicial experts to study the sputtering UN mechanisms that supervise compliance with Human Rights law and its procedures of action, the results of which will be published before the Vienna Conference.

The International Commission of Jurists today

The ICJ is composed of a Commission of up to 45 members (presently 31) – outstanding jurists – from different nations who represent the different legal systems of the world. The Commission's President is Joaquín Ruiz-Giménez, former Ombudsman of the Spanish Parliament.



**Joaquín
Ruiz-Giménez,
President of the ICJ**

The ICJ has a large network of 75 national sections and affiliates throughout Africa, the Americas, Asia, the Middle East, Eastern and Western Europe.

The ICJ has consultative status to the UN Economic and Social Council (ECOSOC), the Organization of African Unity (OAU) and the Council of Europe.

The Commission elects an Executive Committee, comprising of a maximum of seven members. It is presently chaired by The Hon. Justice Michael D. Kirby, President of the New South Wales Court of Appeal, Australia.



*The Hon. Justice
Michael D. Kirby
AC CMG,
Chairman of the
Executive
Committee
of the ICJ*

The Centre for the Independence of Judges and Lawyers

In 1978, the ICJ created the Centre for the Independence of Judges and Lawyers (CIJL). Based in Geneva, the CIJL functions as part of the ICJ. One of its main objectives, beyond the **promotion** of the basic need for an independent judiciary and legal profession, is to **support** and **protect** impartially-minded judges and lawyers who are harassed and persecuted anywhere in the world. Where they are assaulted, removed, imprisoned or killed, the CIJL records the fact and draws it to world attention.

The CIJL yearly publication **Attacks on Justice** listed, for the period June 1991 – May 1992, the cases of 447 jurists in 46 countries who have suffered reprisals for carrying out their professional functions. Of these, 35 were assassinated, 2 “disappeared”, 17 were attacked, 67 received threats of violence, 103 were detained, and 223 were sanctioned professionally. The brutal murders of Italian Judges Falcone and Borsellino at the hands of the Mafia, and the persistent attacks against the judiciary in Colombia (at least 18 jurists were

killed in that country) have sent shock waves around the world.

Preventing attacks on justice and assuring the independence of the judiciary are hence more specifically dealt with by the CIJL. The Centre was instrumental, for instance, in the establishment of UN standards on these issues. This is regarded as one of the CIJL's most valued achievements. However, at the local and national levels, much still remains to be done in terms of their universal implementation. The CIJL's ambition is to become a resource centre on this theme. It is now actively working towards that end. The CIJL also alerts a worldwide network of jurists organizations whenever jurists are persecuted for political or other reasons. Seminars organized by the CIJL serve to promote the UN Basic Principles of Human Rights in different countries and with local NGO's in the Third World.

The CJL is directed by a distinguished Palestinian lawyer, Ms. Mona Rishmawi.

PRESENT ACTIVITIES AND PLANS FOR THE FUTURE

Themes of work

Enhancing the understanding of legal systems, is of paramount importance to the ICJ. The Commission believes that, given its specificity as a strictly professional organization, this is best done by providing a dynamic interpretation to the notion of the Rule of Law. The work entailed is conducted, in different countries, directly, through fact-finding missions and studies of different legal systems. The aim, here, is to elaborate concepts that legally protect civil and political rights as well as economic, social and cultural rights throughout the world.

The independence of the judiciary and the legal profession. Work in this domain is carried out by the CIJL, the offspring of the ICJ. The CIJL was instrumental in the establishment of UN standards such as the UN Basic Principles on the Independence of the Judiciary and the UN Basic Principles on the Role of Lawyers. The Centre, however, believes that much remains to be achieved in terms of the real enforcement of these norms on a national and regional basis. Its publications (*Attacks on Justice* and the *CIJL Yearbook*) focus on this problem, and its seminars intend to promote the two UN Basic Principles at the national level.

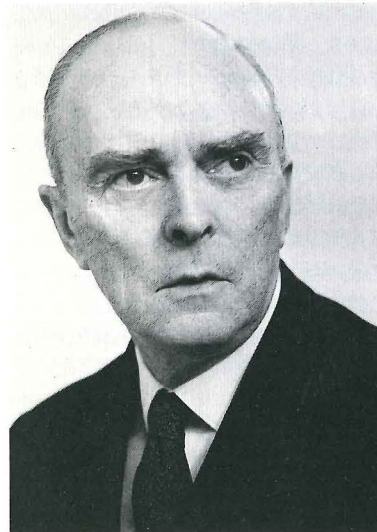
Defining Human Rights and assuring their domestic implementation is routine work for the ICJ. Much has been done in the past to create and establish universal norms to define and protect human rights, particularly with regards to legal infrastructures.

More work has yet to be done in order to assure their (full) implementation. Long ago, in preparation of the 1968 World Conference on Human Rights in Tehran, Sean MacBride, the then Secretary General of the ICJ, led a successful world NGO campaign to lobby

for more effective international law. Since then, UN human rights standards have emerged and evolved at quick pace, but regrettably, with slow impact on State conduct. In preparation for the UN World Conference in Vienna, the ICJ has adopted a different stance: it wants to improve the mechanisms of implementation. The ICJ feels that this is possible, only if the system becomes truly objective. The creation of enforcement institutions such as a permanent **International Penal Court** would be a major step in this direction.

Strengthening national NGOs in the legal field is of prime concern to the ICJ. Al-Haq, in the Israeli Occupied Territories, and the Andean Commission of Jurists, in Peru – and other countries of Latin America – are affiliate organizations of the ICJ and are also leading local human rights groups. They are part of an international network for the Rule of Law. The strengthening of national institutions has also meant the promotion of information and documentation with an already existing network such as the African Centre for Democracy and Human Rights in

Banjul, The Gambia. Work has also entailed the organization of different activities and seminars on the law and human rights.



**The later
Sean MacBride,
former Secretary
General of the ICJ
from 1964 to 1970,
Nobel Prize
Laureate**

Strengthening regional and international human rights institutions. On the regional level, the ICJ works to strengthen structures in the OAS system and the OAU Commission. For instance, the ICJ will prepare resolutions for the OAU Council of Ministers with a view to establish an African Court of Human Rights similar to the European one. In order to boost African NGOs participation in the coming sessions of the African Commission on Human Rights until 1995, seminars are being organized to enable them to understand and use existing regional legal mechanisms on Human Rights. On another front, the ICJ is currently acting to encourage the adoption of a South-East Asian and Pacific Convention for the Protection of Civil and Political Rights.

At the international level the ICJ is busy lobbying the UN Commission on Human Rights, its Sub-Commission and other Treaty Bodies. The aim of the ICJ, in this case, is to help developing effective working structures for human rights issues.

Working for development and justice. Developing States feel justly victimized by multinational corporations, crushing debt, and structural adjustment policies. The ICJ has promoted democratic development and has stressed the interdependence of economic and political rights. The ICJ believes that, in order to maximize participation, economic growth requires freedom of speech and association. ICJ Secretary General criticized Western Banks and retaliations against the Third World. He also challenged corrupt leaders in developing countries and the exploitation of children, women and indigeneous peoples. And along with other NGOs, the ICJ persuaded the UN Sub-Commission to put fraudulent enrichment by brazenly corrupt leaders on the Human Rights Commission agenda.

The human rights of disadvantaged groups. Women, in particular, are often the first victims of other's social, economic and political advantages, especially in the rural areas of the South. Disadvantaged groups need not only to be more effectively protected but to be empowered. Seminars are organized regularly by the ICJ to achieve that aim.

Indigeneous peoples, exploited tribes, forest communities, national minorities and children, also need to be empowered. Missions, reports, seminars and workshops are also organized by the ICJ within the framework of its development and human rights activities. The ICJ, for example, completed a mission report in Sarawak (Malaysia) on customary and statutory law of forest communities threatened by the State with eviction from their traditional habitats and judicial remedies to protect native people's use of the land and its products.

Methods of work

International standard setting. Both the ICJ and the CIJL have actively contributed to the elaboration of international and regional human rights standards and have helped secure their adoption and implementation by governments. This has been rendered possible by the fact that the ICJ has made full use of its consultative status with international organizations. Most important international instruments like the European Convention for the Prevention of Torture, the African Charter on Human and People's Rights, the UN Declaration on Disappearances, the UN Draft Body of Principles and Guarantees for the Protection of Mentally Ill Persons and for the Improvement of Mental Health Care, have been adopted thanks to the ICJ. However, much still remains to be accomplished in several areas. The ICJ is now considering the formulating of international standards for interpretation, the drafting of Arab and Asian human rights conventions, working towards turning *habeas corpus* into a non-derogable right and establishing standards for freedom of association. Projects are presently being designed.

Studies and research for the implementation of human rights on a global Scale. Much of the work of the ICJ involves research on the legal aspects of human rights situations in various countries. The ICJ

sponsors, commissions and undertakes these studies. The aim of these studies is not only to bring to media attention human rights abuses, but to provoke further action and render existing human rights related mechanisms more effective. For example, a study on the concept of crimes against humanity is on the agenda... It is a most timely subject, as the world is challenged to take action in the former Yugoslavia. The ICJ has been particularly active in developing the definitions and prescriptions of human rights.

The observation of trials around the world is regularly conducted by the ICJ or the CIJL. There are two different and very distinct types of trial observation missions:

- those conducted by the **ICJ**, that concentrate on trials where important legal points are at stake, or where the defendants are clearly accused for political motives (this is the case of politicians, trade-unionists, political activists, etc),.
- and those conducted by the **CIJL** which serve to assist and protect persecuted jurists and lawyers. They have often served to expose particular legal systems to international scrutiny and are also an effective way to demonstrate solidarity between jurists.

These missions have often led to changes in legal systems in line with human rights requirements. Trial observation missions are led, on behalf of the ICJ or the CIJL, by specially mandated local or regional jurists who have deep and intimate knowledge of a country's legal system. Their task is to meet all the actors of a trial – judge, counsel and defendants – and report to the ICJ or the CIJL. These missions, in effect, show that judges and lawyers conducting such trials are themselves put on trial.

For example, in 1992, the CIJL sent a member of the ICJ Executive committee to observe the trial of human rights lawyer Aktham Nouaisseh brought before

the State Security Court of Syria. It was the first trial to be observed by an international organization in that country in 30 years.

Fact-finding missions in different countries. The aim of these ICJ missions is to provide a dynamic interpretation to the notion of the Rule of Law by studying and reporting on different legal systems. Missions are planned every year in all parts of the world each time it appears that human rights standards are imperiled.

Legal workshops, seminars and training. The ICJ organizes training sessions for local lawyers under the guidance of Law Enforcement Officers in Africa, Asia and Latin America. The aim of these workshops is to assist local jurists in rebuilding the systems of administration of justice in new democracies – where the legacy of dictatorship is still felt in everyday life – through increasing their awareness of applicable international norms. Work has also entailed the organization of different activities and seminars on the law and Human Rights. The ICJ has an internship programme destined to train lawyers of different nations whose desire is to work in the local NGO scene. In order to ensure that activities are pursued once seminars and training courses are over, the ICJ, together with local NGOs, discuss follow-up programmes.

Seminars and activities for disadvantaged groups. Several seminars on such themes as “Women and the Law”, aimed at women's and children organizations, have been or will be organized by the ICJ in Asia, Southeast Asia and the Pacific regions. In Latin America (Colombia), a seminar is planned for 1994 that aims to provide “access to legal systems for the poor.” This joint ICJ-Inter-American Institute for Legal Services project is particularly ambitious insofar as it is meant to serve as a *pilot project* to determine the feasibility of establishing a new network through local NGO's that work for disadvantaged groups. A seminar on the rural and urban Poor and the Legal Status of Rural Women is to be held this year in Francophone Burkina Faso and will be

followed by a similar one in Anglophone West Africa. The ICJ is planning still more seminars on the plight of rural women, poverty and general Human Rights education in other parts of the world. The ICJ is otherwise particularly active in Latin America, the home of many indigeneous communities. In Honduras, the ICJ co-sponsored a Legal Services seminar; in Guatemala, it organized a workshop for Indians on the UN and the Organization of American States (OAS) Human Rights mechanisms, and; in Bolivia, the ICJ co-organized a training course for members of Indigeneous Groups and Communities. Similar courses are planned for the near future.

For almost 15 years, ICJ seminars on development and legal services in rural areas have promoted self help measures. ICJ legal officers pioneered these programs, expanding legal training into North Africa and the Middle East and initiating training for workers in Asian Women's organizations and arranging a follow-up paralegal seminar in Indonesia. Two paralegal seminars proposed for Africa also centered on helping rural women. The ICJ commissioned experts for a study on Justice and the Poor in Asia and planned a major international seminar on Modern forms of Slavery and Slavery like practices. The ICJ also planned up to eight regional workshops to prepare for a 1993 World Land Rights Conference. At a World Conference, development experts from multi-lateral agencies and developing countries are to draft a preliminary Charter of Rural Rights.

The observation of elections in different countries. The ICJ was charged, in 1992, by the EC Commission to supervise the Presidential elections in Madagascar (November 1992 and February 1993). Some 67 observers (European and African jurists) were sent by the ICJ to monitor and report on the fairness of the election. This was, no doubt, the ICJ's most large scale and successful operation to date. The ICJ also took part in the preparation for the elections which were held successfully in Lesotho, Kenya and Burundi. A similar operation is planned, this year, for Guinea.

Future ICJ plans for human rights. The ICJ continues to be at the cutting edge of human rights and Rule of Law issues. It has adopted a forward programme with new attention to timely issues of global concern. These include:

- the impact on human rights of christian, moslem, jewish and other religious fundamentalisms.
- human rights and sexual orientation.
- the impact of modern technology on human rights – including the Human Genome Project.
- the global environment and human rights.

In the future – as at present and in the past – the ICJ will help to set the agenda.

The international human rights community has long been dominated by men, the ICJ is striving to end this inequality. At present, two of the ICJ's Vice Presidents are women and two out of four Legal Officers.

◀ **Tai-Young Lee,**
Vice President
of the ICJ



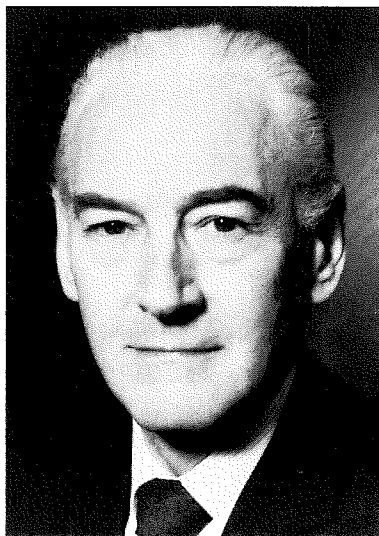
Claire L'Heureux-Dubé,
Vice President
of the ICJ▶



A brief historical background of the ICJ

Founded in West Berlin in 1951, the International Commission of Jurists (ICJ) is, today, one of **the world's oldest international human rights non-governmental organizations**. The ICJ's first permanent secretariat was established in The Hague in 1952. In 1959, the Commission moved to Geneva and has remained there ever since. At the time of its founding, preoccupied mainly by the legacy of Yalta and the deficiencies of justice in Central and Eastern Europe, a group of jurists set forth to universally defend and promote "the Rule of Law in a Free Society". It became increasingly evident that an international organism, born from a spontaneous initiative, and expressing the growing dissatisfaction of the jurists of the world in the face of human rights violations should not restrict itself to a single geographical area. While during its first twenty years of existence the ICJ was predominantly staffed by westerners, the tireless efforts of Secretary General Niall MacDermot brought distinguished jurists from around the world to the International Secretariat and gradually succeeding to promote and increase ICJ

activities in the countries of the South. In 1990, nearly forty years after its birth, the ICJ became the first international human rights NGO whose



Niall MacDermot
inspired a new generation of human rights jurists

Secretary General, Adama Dieng of Senegal, came from a developing country. His predecessors were: A.J.M. van Dal (1952-1956), Norman S. March (1956-1959), Jean Flavien Lalive (1959-1961), Sir Leslie Munro (1961-1963), Sean MacBride (1964-1970), and Niall MacDermot (1970-1990).

Advocating and Protecting Human Rights

In the very early years of its existence, in the aftermath of the Second World War, the ICJ's mandate was defined in very general terms as the promotion and protection of the Rule of Law. However, as time passed, the definition became more precise: *the upholding of the Rule of Law and the legal protection of human rights*. The ICJ is, therefore, **unique** among NGOs for it is an organization of professional jurists, that has a **specifically legal point of view in its approach to human rights issues**. Its professionalism naturally entails the ICJ to take the mandate one step further in becoming a source of reference for governments, inter-governmental organizations, in particular the United Nations and its Centre for Human Rights, as well as local and international Human Rights NGOs.

The international recognition of the ICJ. The work of the ICJ has been widely recognized and honoured. The Commission was awarded the first European Human Rights Prize by the Council of Europe in 1980, the Wateler Peace Prize in 1984 and the Erasmus Prize for Human Rights (Netherlands) in 1989.

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Secretary-General: ADAMA DIENG



International Secretariat

Secretary-General: Adama Dieng

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