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INTERNATIONAL COMMISSION OF JURISTS

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R E P O R T

of the

INTERNATIONAL COMMISSION OF JURISTS' ACTIVITIES

1966 - 1971

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I. PUBLICATIONS

From 1966 to 1968, the ICJ published regularly the BULLETIN four times a year and the JOURNAL twice a year, each of them in Spanish, French, English and German. As 1968 had been declared the International Year for Human Rights by the United Nations, the two JOURNALS of 1968 were Special Human Rights Year issues and contained major articles by distinguished authors including René Cassin, the High Commissioner for Refugees, C. Wilfred Jenks, Sir Tadeus McCarthy, Walter Raeburn, Louis B. Sohn, Dr. T.O. Elias and G. Levasseur.

In March 1969, the JOURNAL and the BULLETIN were merged into one publication known as the REVIEW of the International Commission of Jurists which was published quarterly.

The REVIEW contains the following regular features: a section on Human Rights in the World, in which the legal aspects of principal events of current interest are analysed and commented upon; a Special Study on an aspect of the Rule of Law or Human Rights; Judicial Application of the Rule of Law, where interesting and important judgments of Superior Courts of different countries relating to Human Rights and the Rule of Law are summarised; important Basic Texts pertaining to Human Rights (for example the REVIEW No. 1 carried the United Nations Resolutions of 1968 on Human Rights in Armed Conflicts); ICJ News and Books of Interest. This consolidation of the BULLETIN and the JOURNAL into one publication has thus enabled the regular readers to receive a larger publication than the original readers of the BULLETIN, and the readers of the JOURNAL to receive a publication containing articles in depth. It is noteworthy that the decisions in the Digest of Cases contained originally in the JOURNAL and now in the REVIEW are quoted and relied upon before tribunals in a number of jurisdictions.

Owing to financial difficulties the REVIEW only appeared once in 1970, but it is now proposed that it should continue to be published twice a year in English, French and Spanish.

As 1971 had been designated by the United Nations as the Year for Combatting Racism and Racial Discrimination, REVIEW No. 6 contained the full text of the International Convention on the Elimination of All Forms of Racial Discrimination.

The following Special Studies have been published since 1966:

The Rule of Law and Human Rights, 1966/67
Apartheid in South Africa and South West Africa, 1967
Right of Privacy and Rights of the Personality, 1967 (1)
The Erosion of the Rule of Law in South Africa, 1968

In 1971, the staff assisted by National Sections and a number of specialists prepared a comparative study on the Law of Privacy in Mexico, Brazil, Argentina, Venezuela, France, Germany, Sweden, Switzerland, United Kingdom and the United States of America. This was done at the request of UNESCO, who hope to publish it.

Various National Sections have also published documents on subjects of general interest:

"Justice": Recent publications by the British Section "Justice" include, apart from its annual report, "The Prosecution Process in England and Wales", "Compensation for Compulsory Acquisitions, and Remedies for Planning Restrictions", "The Citizen and his Council-Ombudsman for Local Governments?", "Privacy and the Law; Complaints Against the Police and Complaints against Lawyers". "Justice" has also an arrangement whereby "The New Law Journal" publishes regularly two pages devoted to the activities of the Section.

"Libre Justice": The French Section "Libre Justice" published a Bulletin "Libre Justice" and has dealt with subjects like the "Cinematographic Censorship", "Professional Secrecy and the Courts" and "A

(1) Working Paper for the Stockholm Conference on Privacy, prepared by Prof. Stig Strömholm in collaboration with the Staff of the Secretariat.

High Commissioner of the United Nations for Human Rights".

Italian Section: The Italian Section has published a booklet on the possibility of an effective guarantee of Human Rights, apart from its regular Bulletin "Associazione Italiana Giurist".

Australian Section: The Australian Section has an arrangement whereby the Law Council of Australia includes in some of its publications a report of its activities. Mention should also be made of a most valuable primer entitled "Think About Law", published by the Australian Government as a result of the Papua and New Guinea Seminar, explaining simply and graphically the purpose of law. The Australian Section publish a journal called "Justice".

Hong Kong Branch: The Hong Kong Branch published a report proposing an Ombudsman in Hong Kong, and a report on the Government Public Order Bill.

Press Statements

Over one hundred press releases have been issued since November 1966. These have covered a wide range of subjects, some commenting on current events, others reporting activities of the Commission.

Most of these statements have received widespread publicity throughout the world. One of the most notable was the statement issued in July 1970, containing an extensive report on the treatment and torture of political prisoners in Brazil.

2. POLITICAL TRIALS

In cases where an important aspect of the Rule of Law is at stake in a trial, the Commission tries to send one or more impartial jurists of recognised standing to attend the trial on its behalf. It has been seen on numerous occasions that the presence of the Commission's Observer has resulted in greater adherence to the proper conduct of the trial by judge and counsel. In general, the Commission's representatives are well received and are given

full facilities for the accomplishment of their task. In some cases, the request of the Commission for admission of an Observer has been refused.

In December 1967 Professor Richard A. Falk of Princeton University USA attended the trial of 35 South West Africans (Namibians) in South Africa at Pretoria.

In July 1968 Mr. Michael Ellman, Solicitor from London represented the Commission at the trial of Professor Notaras and 16 officers at Athens in Greece.

In November 1968 Mr. Joel Carlson acted as an observer for the Commission at the trial of Laurence Gandar, director of the "Rand Daily Mail" and Benjamin Pogrund at Johannesburg.

In November 1968 Mr. Edmond Martin-Achard, Professor at Geneva University and a former President of the Geneva Bar attended the trial of Nestor at Salonica in Greece on behalf of the Commission.

In February 1969 Muir Hunter, Barrister-at-Law, London went as an observer to the trial of the Reverend Sithole at Salisbury, Rhodesia.

On October 30, 1969, Bruno Keppler, a Swiss lawyer was sent by the Commission to watch the trial in Athens of 5 people who were accused of attempted murder.

On November 20, 1969, Professor Sebastian Soler of Buenos Aires, Argentina, represented the ICJ at the trial and the subsequent acquittal of Mrs. Bittencourt editor of "Correio da Manha" at Rio de Janeiro, Brazil.

On March 26, 1970, Dr. Otto Triffterer, Professor of Law at the Max Planck Institute Freiburg, Germany, and Me Edmond Martin-Achard attended the trial on behalf of the Commission of Professor Mangakis and 54 others at Athens.

On October 12, 1970, Mr. Anton Roy Ganz, former Swiss Ambassador,

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agreed to attend the trial of Pachman and other signatories of the "Declaration of the ten" at Prague in Czechoslovakia. The trial has been adjourned indefinitely and Pachman and the other defendants have been released.

On December 26, 1970, Me Martin-Achard went at the request of the Cameroon Government as an Observer at the trial of Ouandié and the Bishop of Nhongsamba at Yaoundé in Cameroon.

In July 1971, Mr. Bahri Guiga, a former President of the Tunisian Bar and member of the ICJ attended on behalf of the Commission the trial at Marrakech (Morocco) of about 200 accused among them Taoufik Jcrissi and other distinguished Moroccan lawyers.

In August 1971, the Reverend Edgar Lockwood represented the Commission at the trial of Dean ffrench-Beytagh in Johannesburg, and Professor Kent, Dean of the Faculty of Law at Lusaka University attended the trial of over twenty prisoners at Pietermaritzburg charged with offences under the Terrorism Act.

In all these cases the presence of distinguished lawyers sent by the Commission was warmly welcomed by the defence.

3. INTERVENTIONS WITH GOVERNMENTS

A large part of the work of the Secretariat is concerned with interventions with governments about complaints of alleged breaches of Human Rights. The form of the intervention varies with individual circumstances.

They may take the form of urgent communications by telegram or telephone, particularly where executions are anticipated. In other cases communication is by letter or by sending a personal mission or observer. In appropriate cases the Commission will set up an enquiry to ascertain the facts.

Among the governments who have been approached in one or other of these ways in the last year are:- Argentina, Burundi, Brazil, Cambodia, Cameroon, Ceylon, Czechoslovakia, Ethiopia, Ecuador, Formosa, Greece, Guatemala, Guinea, Hungary, Iran, Morocco, Pakistan, Philippines, Poland Portugal, South Africa, Spain, Sudan, Tanzania, Togo, Turkey, and the USSR.

It is difficult to say what the effect of these interventions is, but there is reason to believe that even the most arbitrary governments are sensitive to some degree to the pressure of international opinion. In many cases where this pressure has been successful the ICJ has been one of many organizations making similar interventions. This would apply, for example, to the campaign at Christmas, 1970, for the reprieve of the Basque nationalists condemned to death at Burgos and the Russian Jews condemned to death at Leningrad. Other cases which indicate that these interventions may have some effect, are the following:

(i) After a protest by the Commission addressed to the President of South Korea about the abductions of South Korean citizens from France and Germany, assurances were given that the abducted persons would be sent back.

(ii) When the Commission expressed its concern at the imprisonment of a woman jurist in Vietnam, the Vietnam government set her free.

(iii) Following a letter to the Prime Minister of Czechoslovakia about threatening letters which had been sent to Czechoslovak refugees living abroad, the letters were discontinued.

(iv) When the Commission recently published a telegram to the King of Morocco protesting at executions without trial, the King claimed the following day that a trial had taken place but that he had thought it best to keep this secret.

4. INTERNATIONAL CONFERENCES, CONGRESSES AND SEMINARS.

(a) Since 1967 the ICJ has organised four important international conferences:-

The Conference of Dakar (Senegal, January 1967). This Conference of African jurists from the French-speaking African countries affirmed that, once the problems resulting from the heritage of the colonial era have been isolated, the basic requirements of the Rule of Law are no different in Africa; that their abandonment cannot be justified by the economic, social and cultural difficulties faced by independent Africa today, and that they are the basis on which jurists must make their contribution to the progress of their respective societies. The conference emphasised that, if a country is not to be plunged into anarchy or despotism, a campaign to inform and educate public opinion is essential in order that everyone may clearly understand the function of the law and recognise the need for rules to govern the relations of citizens with one another and with their leaders. It condemned intolerance and discrimination in all their forms, especially racial discrimination and political systems based on apartheid, as being incompatible with the dignity of man and the principles of the Rule of Law. It also endorsed the proposal of the Lagos Conference urging the adoption of an African Commission on Human Rights. The Conclusions were summarised in The Declaration of Dakar and circulated to all African lawyers and teachers of law.

The Nordic Conference of Jurists (Stockholm, Sweden, May 1967). This was the first important Conference of the Commission to be devoted to the study in depth of a specific human right, namely the "Right to Privacy". The Conference examined the nature and scope of this right and recognised its vital importance in modern society. It defined the right, set out the limitations that can reasonably be placed upon it and considered the legal rules necessary for its adequate protection. This conference was organized by the Swedish National Section in collaboration with the Secretariat at Geneva.

Bangalore Conference on Freedom of Movement (India, January 1968)

This was a conference primarily organised as part of the Commission's contribution to the celebration of International Year for Human Rights, and was the first international conference on Human Rights to be held in 1968. Like the Nordic Conference, it considered in depth the nature and scope of a specific right, the Right to Freedom of Movement. Two aspects of the right were considered, the right to freedom of movement and residence within the borders of a State and the right to freedom of movement outside one's country, including the right to return to one's country. Among some of the important questions examined were passports and visas, refugees and stateless persons, free-movement treaties and the elimination or simplification of formalities. In addition to the Conclusions adopted on Freedom of Movement, this Conference of jurists from 16 nations recommended that consideration be given to the establishment by the Governments and Parliaments of the Asian and Pacific region of a Council of Asia and the Pacific, analogous to the Council of Europe.

The European Conference of Jurists (Strasbourg, France, October 1968).

This Conference on "The Individual and the State" was another contribution by the Commission to the celebration of Human Rights Year. It was held in answer to the call of the United Nations International Conference on Human Rights, held at Teheran in April/May 1968, for studies in the field of human rights. The Conference discussed the effective protection of the individual from abuse of state power. Its Conclusions fall under four parts, namely essential safeguards, administrative acts, extra-judicial protection and control over the assumption and exercise of emergency powers. Some indication of the significance and value of this Conference may be gained from the fact that its Conclusions were published in many languages in extenso by no less than 35 law journals throughout the world - this is in addition to the wide dissemination which these Conclusions received in the publications of the Commission itself.

The Commission has also been represented at a large number of international conferences sponsored by other organizations. Among those in which the Commission has presented papers or otherwise taken an active

part were the following:

In Human Rights Year, 1968, the United Nations organized an International Conference on Human Rights at Teheran, at which 84 states and 55 non-governmental organizations were represented. A historic resolution entitled "Human Rights in Armed Conflicts" was unanimously adopted. The International Commission of Jurists, together with the International Committee of the Red Cross and Amnesty International, had constantly called for re-appraisal of the existing conventions and for additional conventions to protect civilian populations, prisoners of war and combatants against undue suffering in armed conflicts. It was due in large measure to the constant pressure from these and other organizations that this resolution dealing with the protection of Human Rights in armed conflicts was finally adopted at the Teheran Conference.

The 21st International Conference of the Red Cross at Istanbul (Turkey) from September 6 to September 9, 1969, for which the Commission prepared a paper based on the Teheran Resolution on the Protection of Human Rights in Armed Conflicts.

Monte Catini and Monte Carlo Conference on the Protection of Journalists on Dangerous Missions (May 6 to 8, 1968) and (September 22, 1969) organized by the International Press Institute and International Federation of News Paper Editors. The Commission prepared a draft convention for the protection of journalists on dangerous missions and the Secretary General agreed to serve in an advisory capacity on an ad hoc emergency committee which had been set up to help secure better treatment for them.

United Nations Congress on the Prevention of Crime and the Treatment of Offenders at Kyoto from 17 to 26 August 1970. The ICJ prepared a memorandum on the application of the standard minimum rules.

San Remo Conference on the Rights of Man as the Basis of International Humanitarian Law (Italy) 24 to 27 September 1970. The Commission submitted a paper on the International Relationship between Humanitarian Laws and the Law of Human Rights.

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Conference on African Legal Process and the Individual, Addis Ababa (Ethiopia) 18 to 23 April 1971. This Conference was convened by the United Nations Economic Commission for Africa. A paper was prepared in English and French outlining the conclusions reached at Conferences of the ICJ on the subjects under discussion. The final resolution of the Conference reaffirmed the conclusion of the ICJ's conferences relating to the Independence of the Judiciary and the relationship between the Executive and the Judiciary.

United Nations Commission of Human Rights (Geneva) 23 March 1971. Representatives of the World Council of Churches and the World Federation of Trade Unions also spoke on the same subject. The Secretary General addressed the Commission on the treatment of political prisoners with special reference to Brazil.

In addition, since 1966 National Sections of the Commission have organized seminars or colloquiums on their own or in collaboration with other National Sections. Amongst others were the following:-

In 1966 the German National Section held its annual meeting simultaneously with a legal conference at the University of Marburg on December 10 and 11. The two main topics were "Capital Punishment" and "The problems of fundamental freedoms in East Germany".

In 1967 the French National Section, Libre Justice, held a Colloquium in Paris on February 17 and 18 on "Professional Confidence before the Law".

The German National Section held a Colloquium of the German and Austrian jurists at Regensburg from September 30 to October 1, 1967.

Among several one-day conferences organized by the British National Section, Justice, was one held in London on February 17, 1968, as part of its contribution to Human Rights Year. The subject was: "The Duties of those who Administer the Law to Safeguard Human Rights".

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In 1969 the Japanese National Section held round table discussions in February and March on libel laws and the press, and organized its first study meeting on United Nations Day, October 24, 1969, on the prevention of crime and the treatment of offenders.

The Lucknow Section of the Indian Commission of Jurists organized a Seminar on "Re-Appraisal of Democracy in India" in August and September 1969.

The Mysore State Commission of Jurists organized one on "Ghandiji and the Rule of Law" in October 1969 to celebrate the Ghandi centenary.

In 1970 the Madras Branch of the Indian Commission of Jurists inaugurated on January 25 a series of four seminars on various aspects of the Rule of Law.

The Uttar Pradesh Commission of Jurists, a branch of the Indian Commission of Jurists, held a Seminar on "The Law and Obscenity and Freedom of Expression in India".

The Italian Section organized an international colloquy on Freedom of Movement in the European Community in May 1970

In 1971 the Philippine Section held a joint meeting with the Philippine Society of International Law in January on the proposed Japanese - Philippine Treaty.

The Austrian Section held a seminar in February 1971 on the operation of the European Convention on Human Rights.

The German National Section held an important Conference at Lübeck with the Danish, Norwegian, and Swedish Sections on "Privacy and the Mass Media".

The Austrian Section among other activities organized a colloquium on the European Commission on Human Rights at Vienna on February 13, 1971, and a seminar on the Reform of Administrative Penal Law at Attersee (Austria) on

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May 16 and 17, 1971. This Seminar was attended by 8 European national sections from Austria, Belgium, France, Germany, Great Britain, the Netherlands, Norway and Sweden. It was agreed to work towards joint conferences of the European Sections and to set up two coordinating committees, one dealing with the Rights of Foreigners, (foreign workers and students) and one dealing with Relations between the Law and the Public.

The ICJ was also represented at many conferences and meetings, including the following:-

World Federation of United Nations Association at Nice, October, 1966
Human Rights Groups of the N.G.O.s organized by the Council of Europe at Strasbourg, November, 1966.

Arab Lawyers Federation, February, 1967.

United Nations Seminar on Civil and Political Rights, Kingston, Jamaica, April and May, 1967.

UN Seminar on Apartheid, Racial Discrimination and Colonialism in Southern Africa, Kitwe, Zambia, July and August, 1967.

UN Seminar on Social and Economic Rights, Warsaw, August, 1967.

Symposium on Human Rights at the Nobel Institute, Oslo, October, 1967.
Congress of the Association des Juristes Européens at Rouen, December, 1967.

Congress of International Young Lawyers Association, Barcelona, October, 1967.

International Committee of the Red Cross at Geneva, February, 1968.

United Nations Seminar on Freedom of Association in London, June and July, 1968.

Beirut Conference on Human Rights, December, 1968.

N.G.O. Conference on Human Rights, Paris, September, 1968.

I.L.O. Conference at Geneva, June, 1968.

Congress on Human Rights (Grado) Italy, September, 1968.

International Colloquium on the Recognition and Implementation of Economic and Social Rights at Brussels, September, 1968.

Consultative Assembly of the Council of Europe at Strasbourg, February, 1968.

Pontifical Commission on Justice and Peace at the Vatican, June, 1968.

Commemoration of Human Rights Year at Barcelona, November, 1968.

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ECOSOC Council Committee of N.G.O.s, New York, April, 1969.
World Conference of University Professors and Rectors on "The Role of the University in the Quest for Peace", Vienna, August, 1969.
U.N. Seminar on the Establishment of Regional Commissions on Human Rights with Special Reference to Africa, at Cairo, September, 1969.
50th Anniversary of I.L.O., Geneva, June, 1969
Third International Colloquy on the European Convention of Human Rights, Brussels, September, 1970.
New Delhi Commonwealth Law Conference, January, 1971.

5. CO-OPERATION WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

Having consultative status with the United Nations, UNESCO and the Council of Europe the ICJ has on a number of occasions been called upon by these organizations to assist in their work.

Human Rights.

In June 1967 a member of the Legal Staff of the ICJ, Miss Hilary Cartwright, was seconded at the request of the United Nations to work for 6 months at the United Nations Division of Human Rights at New York on a special report on South Africa.

Namibia

The Ad Hoc Committee on Namibia of the United Nations Security Council invited the Secretary General to attend a specially convened session in June 1970 to consult him on the measures which the Security Council should take in relation to Namibia. A written memorandum was submitted making a number of detailed proposals, and oral evidence was given followed by a discussion in which considerable interest was shown for Mr. Sean MacBride's proposals.

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Racial Discrimination

The Secretary General and some members of the Legal Staff met the U.N. Sub-Committee on Apartheid at Geneva and placed before it suggestions for strengthening and co-ordinating action against Apartheid.

International Labour Office

In 1968 the ICJ was put on the International Labour Organization's special list of N.G.O.s. This means that its status in relation to the ILO is similar to the consultative status that it has with other governmental organizations.

Greece and the Council of Europe.

In a series of articles and press releases the ICJ made public its outright disapproval of the more notorious and oppressive actions of the military regime in Greece such as the arrest and detention of distinguished lawyers and judges; the removal of the judicial power of the Council of State to control acts of the government, the suppression of the Trade Unions and the censorship of the Press. The Commission repeatedly drew the attention of the world to the abrogation of the Rule of Law in Greece and eventually publicly approached various authorities requesting that the Council of Europe should take up the Greek case. It was therefore a matter of great satisfaction when the Legal Committee, and later the Political Committee of the Council of Europe, put forward opinions that completely corroborated the ICJ's stand in this matter. These activities were followed by the resolution of the standing committee of the Assembly of the Council of Europe on 23 June, 1967, which resulted in the "withdrawal" of Greece from the Council of Europe.

6. CO-OPERATION WITH OTHER NON-GOVERNMENTAL ORGANIZATIONS.

Co-operation and contact with other international non-governmental organizations, is an important aspect of the Commission's work, given that NGOs represent a wide spectrum of public opinion, and in their separate

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spheres of influence can made valuable contributions to the protection of human rights and the Rule of Law.

The Commission's standing with international non-governmental organizations can be gauged by the fact that it had been nominated three times to the Bureau of the Conference of NGOs for a three-year period; it was again nominated to the Bureau for a further term of three years in July 1969, receiving, with one other organization, the highest number of votes. (The Conference consists of 377 Non-Governmental Organizations in Consultative status with the Economic and Social Council of the United Nations.)

Mr. Sean MacBride while he was Secretary General of the Commission was for the three years of its existence chairman of the NGO Ad Hoc Committee for Human Rights sponsored by the United Nations. He is now the Chairman of the Special NGO Committee on Human Rights.

7. NATIONAL SECTIONS.

There are 72 Sections and affiliated groups in over 50 countries. There are National Sections and branches in the following countries covering the five continents: Argentina, Australia, Austria, Barbados, Brazil, Canada, Ceylon, Chile, Congo-Kinshasa, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, Finland, Fiji Islands, France, Germany, Ghana, Greece, Guatemala, Hong Kong, India, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Madagascar, Malawi, Malaysia, Mauritius, Mexico, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Peru, Philippines, Senegal, Singapore, Sweden, Trinidad and Tobago, Turkey, Uganda, United Kingdom, Uruguay, Venezuela, South Vietnam.

In addition there are a number of lawyers organizations affiliated to the Commission which fulfil a similar role to National Sections. These are: West Indies - Caribbean Bar Association; United States of America . American Association for the International Commission of Jurists; Syria - Ordre des Avocats d'Alep.

