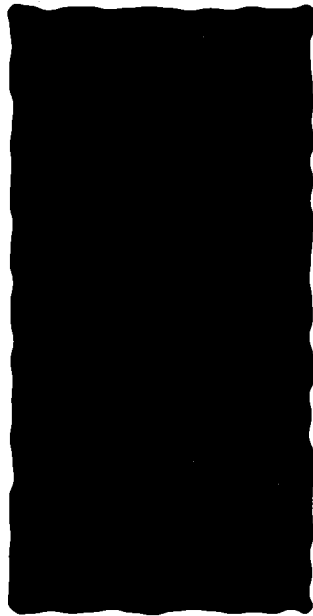




International Commission of Jurists



Annual Activities Report 1995

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International Commission of Jurists

Annual Activities Report 1995

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Participants of the ICJ meeting in Bangalore included the three components of the organization: Commission Members, the staff of the International Secretariat in Geneva, and representatives of National Sections and Affiliated Organizations

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Preface

In 1995, armed conflicts, political and ethnic unrest in the north, south, east and west, coupled with massive economic hardships, have spiralled out of control. These scourges have resulted in numerous human rights violations which have developed apace. At the same time, impunity for these violations continue unabated.

As such violations of justice grow, the International Commission of Jurists (ICJ) continues to act on its mandate to promote and protect fundamental human rights and the Rule of Law. Despite its modest resources, the ICJ has been able to make an impact in its work as an impartial non-governmental organization committed to working with national, regional and universal human rights mechanisms to ensure and maintain shared positive values. Through its Centre for the Independence of Judges and Lawyers (CIJL), the ICJ has continued to maintain and promote the independence of lawyers and the judiciary all over the world.

The horrifying resurgence of war crimes and crimes against humanity at the close of this century was strongly condemned at the ICJ's Triennial Commission Meeting in Bangalore in October 1995. A resolution was issued warning against the possibility of impunity being granted to perpetrators of gross violations of human rights and grave breaches of international humanitarian law. Particular reference was made to the former Yugoslavia and the Commission reiterated that any attempt to have the forthcoming peace settlement bypass the *ad hoc* International Criminal Tribunal, would be regarded as a violation of international law. The ICJ remains committed to lending support to the *ad hoc* International Criminal Tribunal, and has demonstrated this commitment by providing legal assistants for this body, with the support of the European Union.

The ICJ has continued to actively pursue a very important (although often neglected) component of human rights, that of economic, social and cultural rights. At its Conference on Economic, Social and Cultural Rights held in conjunction with the Triennial Commission Meeting in Bangalore, wide-ranging and in-depth discussions on these norms led to the adoption of a Plan of Action, which called for the universal ratification of the International Covenant on Economic, Social and Cultural Rights. The Conference

emphasised in particular the inextricable and indivisible linkages of these rights to civil and political rights.

Advocacy and lobbying activity at the UN for action against governments which violate human rights was intensified. As in previous years, a call was made to the appropriate UN human rights bodies to take urgent action in respect of violations in countries such as Colombia, Nigeria, Chechnya, Burundi and Tunisia.

One issue that continued to be of concern in 1995 was the violation of human rights of women, and in particular the situation of "Comfort Women". The ICJ continued to deplore Japan's lack of response to its report, entitled *Comfort Women - An Unfinished Ordeal* and called on the Government of Japan to observe its legal and moral obligations by taking immediate steps towards providing full reparation to the victims.

In 1995, activities also included missions to various countries as part of the ongoing activities to promote and protect human rights and the Rule of Law. One such mission was to Guyana to reopen the case of Dr. Walter Rodney, a Guyanese historian and politician murdered in June 1980. Other missions were sent to Ethiopia to observe the pre-electoral process; and to Morocco and Sudan to make assessments and recommendations to strengthen and improve human rights mechanisms and the administration of justice in these countries.

Particularly noteworthy during this reporting period has been the ICJ's incipient activities in the former republics of the ex-USSR. Missions were sent to Ukraine and Kyrgyzstan with a view to assisting judicial reform in these two countries that share a common imposed heritage and a long history of denial of basic human rights and fundamental freedoms. Future events will further build on these positive initial experiences.

Elections were held this year within the Commission. The newly-elected President, Justice Michael Kirby, has been a member of the ICJ since 1984, and is a judge of the High Court of Australia and President of the Court of Appeal of the Solomon Islands. A warm welcome should also be extended to the newly elected members of

Executive Committee, and to its Chairman, Mr. Fali S. Nariman, the advocate and former Solicitor-General of India.

Finally, in looking forward, and in determining the future activities of the ICJ and its CIJL, we believe that a strengthening of the standard-setting capacity of policymaking bodies is an imperative if we are to make progress. Whilst declarations and proclamations are worthy in their own respect, new mechanisms must be put into place that would hold governments and individuals fully accountable for any violations of existing human rights conventions or treaties. For this reason, both the ICJ and its CIJL have been working and advocating the establishment of a permanent International Criminal Court. Such an independent and full-time organ would be not only an effective tool in bringing perpetrators to justice, but would also act as a deterrent and help in securing a better world for future generations.

We will continue to work towards these ends and we will move closer towards achieving our goals of a more just and humane world.

Adama Dieng
Secretary-General

The International Commission of Jurists: An Organizational Profile

The International Commission of Jurists (ICJ) was founded in Berlin in 1952. It is a non-governmental organization working to achieve an understanding and observance of the Rule of Law and the legal promotion and protection of human rights all over the world. The ICJ has consultative status with the United Nations Economic and Social Council (ECOSOC), UNESCO, the Council of Europe, and the Organization of African Unity. To complement the international nature of its work, the ICJ has a network of 78 national sections and affiliated organizations (as of 31 December 1995).

In 1978, the ICJ established the Centre for the Independence of Judges and Lawyers (CIJL). The mandate of the CIJL is to promote and protect the independence of the judiciary and the legal profession throughout the world. The ICJ and the CIJL are both based in Geneva, Switzerland, and share the same headquarters.

- *The Commission*

The directive authority vests in the Commission which meets at least once every three years. The Commission elects the President and one or several Vice-Presidents from amongst its Members for a renewable three-year term. Hierarchically, the President is the organization's highest authority.

The Commission is the organ that defines the current policy and future orientations of the ICJ. Its decisions are taken by a simple majority.

The Commission is composed of reputed jurists who are dedicated to the aims and objectives of the ICJ, and who in their persons provide wide geographic representation of the legal profession as well as the different legal traditions around the world.

New Members are elected to the Commission by a majority vote of the Commission through sponsorship by two Members and subsequent recommendation by a majority of the Commission's Executive Committee. Members are elected for a term of five years and are eligible for re-election for two further periods of five years.

Former Members of the Commission are eligible for election as Honorary Members. Membership in the Commission is limited by Statute to a maximum of 45 persons.

As of 31 December 1995, the Commission comprised 36 Members.

- *The Executive Committee*

When the Commission is not in session, it is the Executive Committee that defines the general policy of the Commission and its programmes of activities, and is responsible for the administrative supervision of the International Secretariat.

The Executive Committee meets twice a year. It is the effective executive organ of the ICJ with power to appoint the Secretary-General. Members of the Commission can be elected to the Executive Committee by their peers.

The Executive Committee is headed by a Chairman who is appointed from amongst the ranks of the Committee.

Membership of the Executive Committee is limited to a maximum of seven persons serving three-year renewable terms.

The Executive Committee has the power and authority to take decisions when the Commission is not in session. Decisions are taken by a majority vote of all its Members.

- *The International Secretariat*

The Secretary-General heads the International Secretariat. His task is to ensure the practical implementation of the aims and objectives decided by the Commission. He is responsible for the daily conduct of the affairs of the Commission and the employment of personnel of the International Secretariat in Geneva. The Secretary-General participates in the meetings of the Executive Committee.

The International Secretariat currently comprises an Executive Secretary; four Legal Officers (in charge of activities in Africa; Latin America and the Caribbean; Europe; Middle East and North Africa); a Press and Publications Officer; an Executive Officer (Finance and Administration); a Finance Officer; an Accountant; a Programme Coordinator; an Assistant Programme Coordinator; an Assistant to the Secretary-General; a Librarian; a Publications Assistant, and three Administrative Assistants.

The Centre for the Independence of Judges and Lawyers is composed of a Director, an Assistant Legal Officer, and an Administrative Assistant.

- *National Sections and Affiliated Organizations*

These groups form the basis of the ICJ world-wide network, and by 31 December 1995, there were 78 National Sections and Affiliated Organizations attached to the ICJ. These entities are legally independent from the ICJ though they conduct similar activities in their own countries. They enable the Commission to maintain contacts with the legal profession at the local level and provide the International Secretariat with material on legal developments in various countries. The ICJ enhances the development of such groups by conducting training exercises for their staff and taking up issues on their behalf at the international level.

New Members

In 1995, four new Members from Poland, Cape Verde, Austria and Spain were elected.

Ewa Letowska is an outstanding Polish lawyer and human rights advocate, whose reputation extends far beyond the borders of her country. She specialises in civil and human rights law, and is a Professor at the Institute of Legal Sciences of the Polish Academy of Sciences. Mrs. Letowska was the first Parliamentary Ombudsman of the Polish Republic and held this post between 1987-1992. Since 1993, she is a Member of the ILO Expert Committee and of the Board of Stichtung European Human Rights Foundation. She occupied many other high-ranking posts and is, since 1991, an activist at the Helsinki Committee. Mrs. Letowska has published numerous articles and books.

Vera Valentina de Melo Duarte Martins is a Judge of the Supreme Court of Cape Verde; Member of the African Commission on Human and Peoples' Rights; President of the Association of Writers in Cape Verde; Member of the High Council of the Judiciary; Member of the Board of Directors of the Association of Judges of Cape Verde, Member of the Executive Council of the North-South Centre of the Council of Europe. She has also participated actively in various meetings on "Law, Women and Culture," at national and international level, has been Member of Jury of various literary and other competitions, at national and international level, and has published various articles and a book.

Manfred Nowak is Expert Member of the UN Working Group on Involuntary and Enforced Disappearances with specific responsibility to trace missing persons in the territory of the former Yugoslavia; Member of the Austrian Delegation to the UN Commission on Human Rights; Director of the Ludwig-Boltzman Institute of Human Rights, Vienna; Professor at the Austrian Federal Academy of Public Administration. From 1987-1989, he was also Director of the Netherlands Institute of Human Rights (SIM). Awarded the 1994 UNESCO Prize for the Teaching of Human Rights, Dr. Nowak is the author of around 200 publications in constitutional, administrative, international and human rights law.

Margarita Retuerto Buades is Deputy Ombudsman of Spain since 1984. She previously held the post of Acting Ombudsman for two years and was the first woman to have chaired a State institution in Spain. She is now also Joint European Director of the International Institute of the Ombudsman, and represented this institution in various high-level international conferences; Member of the Bar Association of Madrid; Member of the National Institute of Women Jurists; Member of the Institute of Matrimonial Studies of Palma de Mallorca; Member of the Latin American Institute of Aeronautical Law on Space and Commercial Aviation. She has published numerous studies and articles on legal themes.

Obituaries

The ICJ mourned the loss of four of its distinguished Members in 1995. They will be warmly remembered for their outstanding contributions to the organization, the Rule of Law and human rights.

Judge Andres Aguilar Mawdsley, from Venezuela, was a former Member of the ICJ, then President between 1986-1992, and since then Honorary Member of the Commission. He passed away on 24 October 1995.

Judge Dudley B. Bonsal, from the USA, was a founding Member of the ICJ, first Chairman of its Executive Committee in the early 1950's, and since then Honorary Member of the Commission. He passed away on 22 July 1995.

Professor John P. Humphrey, from Canada, was a Member of the ICJ, then Vice-President, then Honorary Member. He was one of the co-drafters of the Universal Declaration of Human Rights (1948). He passed away in Montréal, aged 92.

Professor Chitti Tingsabadh, from Thailand, was a Member of the Commission between 1983 and 1993. He was a Professor of Law and former President of the Senate of Thailand. He passed away on 3 March 1995.

Enhancing the Development of International Law and of Human Rights

With the emergence this year of new and protracted conflicts and their accompanying violations of human rights, the ICJ redoubled its effort to win support for capacity building of human rights mechanisms. At the top of its agenda, has been strong advocacy for the establishment of a permanent International Criminal Court (ICC). During their participation in a number of UN related events, the ICJ presented compelling representations on the need for such a permanent institution. Reaction has been positive and encouraging progress made, particularly in consideration of the proposed ICC's draft statutes, and in the procedural aspects of the elucidation of the proposed Court.

Another key issue this year was the ICJ work on economic, social and cultural rights. In October 1995, a major conference was organized by the ICJ in Bangalore, India, on "Economic, Social and Cultural Rights and the Role of Lawyers" (see *infra*). Participants to this Conference drafted the Bangalore Plan of Action which urged jurists from around the world to increase their involvement in the promotion and protection of these rights. These activities were complemented by two major UN Conferences - the World Summit for Social Development and the Fourth World Conference on Women - at which position papers supporting the establishment of international standards of economic, social and cultural rights and *inter alia* reiterating their indivisibility with political and civil rights, were presented. In this context, the ICJ also actively participated in a number of other conferences and meetings to discuss the root causes behind the increasing numbers of refugees and displaced persons.

The ICJ also demonstrated practical support for human rights by recruiting 15 young lawyers from around the world for secondment to the *ad hoc* International Criminal Tribunal on the Former Yugoslavia in the Hague to assist the judges and the registry; and by helping to secure the adoption and implementation by governments of several international human rights instruments.

Impunity and the Establishment of a Permanent International Criminal Court

The establishment of a permanent International Criminal Court has been a key objective of the ICJ for many years and a number of activities were undertaken to lobby support and mobilise public opinion in this respect. Below is a description of the activities that took place in 1995.

- *UN Commission on Human Rights (51st Session),
30 January-10 March 1995*

In an oral intervention the ICJ renewed its call on governments to support the establishment of a permanent International Criminal Court. The appeal was made in light of the escalation of human rights violations and the continued failure of States to have perpetrators of gross violations of human rights and grave breaches of international humanitarian law brought to justice and held accountable for their crimes. (For a more complete rendering of interventions, see Annex I).

- *Round-Table Discussion at the UN Office at Geneva, 8 March 1995*

On 8 March 1995, the ICJ organized a Round-Table discussion at the UN Office at Geneva on "International Criminal Prosecution: from the Ad-Hoc Former Yugoslavia Tribunal to the permanent International Criminal Court." Speakers were Professor Theo van Boven, Member of the Commission and former Registrar of the International Criminal Tribunal for the Former Yugoslavia; Professor Christian Tomuschat, Member of the Commission and Member of the International Law Commission; Mr. Adama Dieng, Secretary-General, and Ms. Mona Rishmawi, CIJL Director.

- *UN Ad Hoc Committee on the Establishment of an International Criminal Court, New York, 3-13 April 1995 and 14-25 August 1995*

The ICJ attended the first UN Ad Hoc Committee meeting in April 1995 in New York. It was reported that encouraging progress

had been made by the Committee in its consideration of the International Law Commission's (ILC) draft statute concerning a permanent International Criminal Court.

Among the key subjects discussed were the most effective means to establish such a body, either through a multilateral treaty or otherwise, and the number of State ratifications needed for the ICC to come into operation. Following the meeting, a document was prepared on the ILC's draft statute and reporting on the discussion of the Ad Hoc Committee.

The ICJ also attended the second UN Ad Hoc Committee meeting in August 1995, in New York. A third Position Paper on the ILC's draft statute of the ICC was prepared by the ICJ and circulated during the meeting. The document incorporated previous discussions of the Ad Hoc Committee and ICJ comments and views.

It was again reported that further progress had been made with the Committee's resolution giving recognition to the valuable input of NGOs. The ICJ, along with other NGOs, pledged to continue studies to assist in the Court's elucidation and establishment.

The Ad Hoc Committee concluded its work on 25 August and recommended that future efforts should combine "further discussions with the drafting of texts, with a view to preparing a consolidated text of a convention for an International Criminal Court as a next step towards consideration by a conference of plenipotentiaries. The matter was then passed on to the 6th Committee of the UN General Assembly which convened in October 1995.

It was noted that, regrettably, only 85 States were represented during the Ad Hoc Committee's two sessions in 1995, and that African and Asian countries were unfortunately absent.

- *UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (47th Session), July-August 1995*

During this Session in Geneva, the ICJ again called on the Ad Hoc Committee to propose that the UN General Assembly convene a meeting of plenipotentiaries to expedite the establishment of a

permanent International Criminal Court. A statement was made linking the significance of the 50th anniversary of the United Nations, the goals of the UN as defined by its Charter, and the need to promote the principles of law and humanity as in the establishment of a permanent International Criminal Court.

- *Press Statement of 1 September 1995 Assessing UN Progress on ICC Establishment*

On 1 September 1995, a press statement was issued that provides a useful insight into the work done during 1995 in the Ad Hoc Committee.

It stressed that after a thorough review of the Revised Draft Statute of the Court prepared by the ILC, the majority of States present at the Ad Hoc Committee were in total agreement with the goals of the ICJ/CIJL concerning an ICC, and also many of the related legal principles and technical issues. The press statement recalled that the vast majority of States asserted that the Court's jurisdiction should focus on a core of the most serious crimes under international law - genocide, serious breaches of the laws and custom applicable in armed conflict, and crimes against humanity.

The statement reaffirmed the following basic principles that should form the structure of the International Criminal Court, which should:

- be a full-time, permanent, impartial, and independent body associated with the United Nations;
- be established by a treaty not requiring an extraordinarily high number of ratifications to enter into force, in accordance with established practice in international human rights law;
- be composed of highly qualified, independent and impartial jurists representing all regions of the world;
- focus its subject-matter jurisdiction on the core of the most serious crimes under international law, namely genocide, grave breaches of the laws and customs applicable in armed conflict, and crimes against humanity;

- ensure all due process and fair trial guarantees, such as those provided for in Article 14 of the International Covenant on Civil and Political Rights;
- contain an independent and full-time prosecutorial organ to bring charges against accused persons and to collect, prepare, and present necessary evidence, and with the power, subject to sufficient checks, to self-initiate complaints;
- accept complaints from a broad variety of sources, including States and individuals;
- be able to issue international arrest warrants as an effective tool to collect evidence and apprehend suspects; and
- not apply a statute of limitations, due to the seriousness of the crimes under the Court's jurisdiction and to the number of States that have national and international obligations which prevent statutory limitations.

A leaflet was prepared by the ICJ to assess the progress made on the ICC during the year. It was sent to the Members of the Commission, the Honorary Members and National Sections and Affiliated Organizations. It encouraged recipients to actively lobby their respective governments to support the establishment of the ICC.

The International Criminal Tribunal on the Former Yugoslavia (ICTFY)

The European Union approached the ICJ in 1994 requesting its legal and administrative support to the ICTFY. The proposal was that the ICJ would be given funding to recruit 15 young lawyers from around the world for secondment to the Tribunal, who would act as Legal Assistants to the three Judges' Chambers and the Registry.

After consulting with the President and the Registrar of the ICTFY, the ICJ resolved to take on the project. The on-going

project began in January 1995. By March, 15 Legal Assistants had been appointed.

The subsequent success of the project led the President and the Registrar to state that the Legal Assistants provided an extremely valuable contribution to the work of the Tribunal through their research papers, assisting in the drafting of the Rules of the Tribunal and preparing the necessary Registry documentation. Likewise, the Legal Assistants noted that the experience was an invaluable one for them.

This project is also of relevance to the ICJ's campaigning efforts for the establishment of a permanent International Criminal Court.

*The 51st Session of the UN Commission on Human Rights,
Geneva, 30 January-10 March 1995*

Statements made by the ICJ during these proceedings reflected the serious concern over the growing deterioration of human rights in many parts of the world. In these oral interventions particular attention was drawn to the grave situations in Chechnya, Colombia, Iraq, Nigeria and the Palestinian Occupied Territories.

The question of impunity was discussed in relation to the inadequacy of existing international human rights mechanisms to deal with gross violations of human rights and grave breaches of international humanitarian law, as demonstrated by events in, for instance, Colombia and Chechnya.

An intervention was made concerning the increase in the number of internally displaced persons. The international community was called upon to address the root causes behind this serious problem. Reference was also made to the ongoing claims of "Comfort Women" and the ICJ deplored the Japanese government's non-response to the claims of these victims.

(A more complete rendering of these interventions is contained in Annex I).

*The World Summit for Social Development, Copenhagen,
6-12 March 1995*

A Position Paper was produced in collaboration with NJCM, a National Section in the Netherlands, and widely distributed to government delegations, IGOs, NGOs and the media during the Summit, in which the ICJ participated. The Position Paper, together with a statement prepared for the Summit, underscored the fact that the attainment of human dignity requires as pre-requisites the implementation of well-established standards of economic and social, as well as civil and political rights. It further stated that it was important to refer in the Declaration and Programme of Action of the Summit to the already existing State obligations in the field of social, economic and cultural development.

The statement recalled that economic and social rights were legally binding, creating legal obligations for States, and were justiciable. The paper outlined State obligations including: the right to work; the right to health; the right to education; the right to adequate housing; the right to food; the right to non-discrimination; the rights of indigenous peoples; and the rights of persons with disabilities. It called for the establishment of an individual complaints procedure for nationals to send complaints to the Committee on Economic, Social and Cultural Rights.

On 13 March, a Press Statement was issued that reflected on the positive and negative elements of the Final Document. It, *inter alia*, welcomed the reaffirmation of the universality, indivisibility, interdependence, and interrelation of all human rights, including the right to development of people. It regretted however, the failure to propose an Optional Protocol under the ICESCR which would, in effect, give individuals and groups the direct and individual right to complain against violations.

It should be noted that the American Association for the ICJ (AAICJ), the New York-based ICJ affiliate, also produced a position paper for the Summit.

International Conference on Refugees, Returnees, Displaced Persons and Related Migratory Movements in the Commonwealth of Independent States and Relevant Neighbouring Countries, Geneva, May/June 1995

On 18-19 May 1995, the ICJ attended the first Meeting of Experts of the International Conference on Refugees, Returnees, Displaced Persons, and Related Migratory Movements in the Commonwealth of Independent States and Relevant Neighbouring Countries, organized by the UN High Commissioner for Refugees, the International Organization for Migration, and the Organization for Security and Cooperation in Europe. On 29 June 1995, the ICJ also attended an NGO briefing by the CIS Conference Secretariat of the UNHCR. NGOs expressed the need for their greater involvement in the process leading up to the Conference.

The "CIS Conference" was to take place on 31 May 1996. Its objectives were to provide a reliable forum for the countries of the region to discuss problems relating to population displacement; to review all population movements in the region; and to devise an integrated strategy for the region. Delegations to the meeting included representatives from the States that succeeded the former USSR. Delegates from Kazakstan, Ukraine and Tadjikistan, for example, talked about the lack of practical legal experience and documentation relating to human rights in their countries. They insisted on the need to initiate human rights training courses in their region and regretted the lack of human rights publications in Russian and in their own national languages.

Seminar on Sexual Slavery and Slavery-Like Practices, Tokyo, 2-4 July 1995

A Seminar on Sexual Slavery and Slavery-like Practices in World War II, was organized between 2-4 July 1995, at the United Nations University in Tokyo, Japan. It was held under the auspices of the Tokyo Committee for the ICJ Seminar.

The Seminar focused on the rights to reparation of victims of

human rights violations and the impunity of human rights violators in the context of the ordeal of "Comfort Women" in the 1930s and 1940s. Several case studies were considered including those of "Comfort Women" in the Philippines, Malaysia, North and South Korea. The plight of forced labourers and military units and human experimentation in the territories occupied by Japan before and during World War II were also examined.

Victims, legal experts, academics, NGOs and women's rights movements analysed historical and current events and the law. They stressed that Japan was under a legal obligation to fully compensate victims of slavery or slavery-like practices, in particular "Comfort Women", and expressed disagreement with Japan's official position that its responsibility to these victims is a moral but not legal one.

Professor Theo van Boven, Member of the Commission, recalled that Japan had failed to bring to justice the authors of war crimes and crimes against humanity committed in World War II. The participants called for the establishment of a permanent International Criminal Court, as one of the means to resolve the situation.

The Seminar's Final Statement recognised the contributions made by Japanese organizations to an understanding of the issues in Japan and encouraged them to continue their efforts in this regard.

*The Fourth World Conference on Women, Beijing,
4-15 September 1995*

An ICJ statement was released for the Fourth World Conference on Women stressing the failure of the international community to address the violence that is perpetrated against women and the girl-child in times of war. It noted that few of those responsible for the horrific acts of violence were ever brought to justice.

The statement urged the Conference to ensure that the Platform for Action strongly supports the rights of the girl-child. It also

emphasised that States had specific obligations towards children since not all the needs and interests of a child can be met by its family alone.

The statement recalled the plight of the former "Comfort Women" who were forced into slavery by the Japanese army in East Asia before and during World War II.

Meetings of UN Treaty Bodies

- *Human Rights Committee*

The UN Human Rights Committee met in July 1995. Comments were made by the ICJ on the country reports of Latvia and the United Kingdom.

Latvia

On 12 July 1995, a brief was prepared by the ICJ for the Committee on the situation faced by asylum-seekers in Latvia. Of particular concern was the so-called "Refugee Train Shuttle" episode - when around 100 refugees, mainly from the Middle East, were shuttled between Latvia, Russia and Lithuania in March 1995. The brief recalled that a UNHCR statement issued on 31 March revealed that "transit migration from the CIS to the Nordic countries through the Baltic countries [was] deteriorating." The brief emphasised that the "train shuttle" episode demonstrated the paramount need for countries in the region to establish national refugee policy legislation in order to distinguish between those who need protection and those who could be treated as purely economic migrants.

Fully recognising that the situation faced by Latvia was complex, the brief nonetheless regretted the absence of a legislative basis for dealing with asylum seekers and refugees in Latvia and noted that the country was still not a party to the 1951 Convention on the

Status of Refugees and its 1967 Protocol. The ICJ called upon Latvia to ratify these instruments.

United Kingdom

The Committee reviewed the UK's report between 20-21 July 1995. There was almost unanimous criticism regarding two points: the failure of the British government to incorporate either the European Convention on Human Rights or the International Covenant on Civil and Political Rights (ICCPR) in its domestic law, and the restriction on the right to silence.

The UK delegation asserted that the incorporation of a bill of rights in domestic law was not necessary since UK citizens possess total freedom of conduct unless curtailed by specific statutes. The UK further defended its non-adherence to the Optional Protocol to the ICCPR by underlining that the Protocol was "optional" and that UK citizens could take their complaints to the European Commission on Human Rights. This position drew wide criticism from the Committee members.

The second major issue related to infringements on the right to silence. Under the 1988 Criminal Evidence Order (Northern Ireland), an adverse inference can be drawn from a defendant's silence during police interrogation or trial proceedings. The government extended this legal order throughout the UK, arguing that it was an effective measure in combating terrorism.

Other issues included self-determination for Northern Ireland, Wales and Scotland and discriminatory police practices. The UK also faced fierce criticism for its government's decision to free Private Lee Clegg, a British paratrooper who was sentenced to life imprisonment for shooting and killing an Irish girl joyrider. Finally, the UK was questioned on its treatment of refugees and immigrants.

During the meeting the ICJ and the *Fédération internationale des droits de l'homme*, chaired and co-sponsored a round table discussion at the UN Office at Geneva on these matters. The London-based ICJ National Section *Justice* also actively participated.

- *Committee Against Torture*

Jordan

A meeting of the UN Committee Against Torture was held between 24 April-1 May 1995. The ICJ prepared a brief concerning the Jordan report on 1 May.

It was noted that in 1992 Jordan had annulled the State of Emergency and Martial Law and taken some positive steps towards the protection of human rights and basic freedoms. Concern was expressed, however, that Jordan had not incorporated the Convention into its domestic law and that the criminal law did not cover all cases of torture as provided by the Convention. The Committee was concerned about allegations of torture carried out by the General Intelligence Department and the alleged application of corporal punishment in prisons. It noted that punishment for torture was lenient and that no records were available as to public officials who may have been reprimanded or tried for acts of torture. It also raised questions as to the issue of compensation to, and rehabilitation of, torture victims. The Committee criticised the use of State Security Courts and the imposition of the death penalty in Jordan.

Meeting of the Six UN Treaty Bodies

The ICJ attended the meeting of the Chairpersons of the six UN Treaty Bodies, held between 18-22 September 1995. At the meeting the six Chairpersons considered a proposal for greater involvement of NGOs in their activities.

Standard-Setting

The ICJ continued to contribute to the elaboration of international human rights instruments and helped to secure their adoption and implementation by governments. This traditional area of activity was conducted throughout 1995. Through interventions at

the UN Human Rights Commission and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as in other fora, active participation took place regarding the strengthening of the following proposals on international standards.

- *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

Active involvement continued in the preparatory discussions at the UN Office at Geneva of the Working Group established to consider the Optional Protocol.

- *Declaration on the Protection of Human Rights Defenders (Working Group on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms)*

A small number of States continued to set limitations on the work of human rights defenders. It was regretted that whilst a declaration reinforcing rights of defenders had been the goal of ten years of annual meetings of the Working Group, and whilst the international community had called for a rapid achievement of a "Defenders' Charter," only three articles of the Charter had been agreed to during the January 1995 session in Geneva.

Cuba was singled out for persistently suggesting that defenders should act "subject to national law." Two other States also proposed that they should defend only "their" own rights. This position was maintained despite reminders from the ICJ and other participants that many victims, such as children, the internally displaced, and "the disappeared", were unable to advocate their own rights.

An encouraging sign however, was the recognition by a clear majority of States and NGOs that the objectives of the Working

Group were important enough to warrant continuation of the body's efforts in the future.

An intervention was made at the UN Commission on Human Rights in February 1995 in support of the need for such a declaration (see Annex I).

- *Working Group to Establish Principles and Guidelines on Compensation, Reparation and Rehabilitation of Victims of Human Rights Violations*

In 1989, the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities entrusted Professor Theo van Boven, a Member of the ICJ, as Special Rapporteur with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, with a view to exploring the possibility of developing some basic principles and guidelines on the subject.

In his final report Professor van Boven recommended that the UN give priority attention to adopting such a set of principles and guidelines. He included in his report a series of twenty basic principles and guidelines which would serve as a basis for future work. The ICJ supported Professor van Boven's proposal.

In a resolution of 24 August 1995, the UN Sub-Commission requested Professor van Boven to present at its next session a revised set of the basic principles and guidelines taking into account comments from States, IGOs, NGOs, and observations made in the Working Group of the Sub-Commission.

To assist Professor van Boven in this task the ICJ, jointly with the University of Limburg, began preparation for a Workshop on the Basic Principles and Guidelines on the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Right, to be held between 20-22 February 1996, in the UN Office at Geneva.

- *Convention on the Protection of All Persons from Enforced Disappearance (Working Group on Enforced or Involuntary Disappearances)*

In August 1995, the ICJ, Amnesty International, the International Federation for Human Rights, the World Council of Churches, FEDEFAM, and other NGOs proposed the drafting of a Convention on Enforced Disappearances. The 1995 meeting of the UN Sub-Commission requested one of its experts, Mr. Louis Joinet (France), to prepare a paper on the subject for consideration at its 1996 meeting.

On 18 December 1992, the UN General Assembly adopted a Declaration on the same subject. The ICJ had at that time and for a few years before, actively led a lobbying campaign to that effect. Since then, efforts have concentrated on a campaign for the adoption of a UN Convention similar to the Inter-American Convention on the Forced Disappearance of Persons, adopted by the General Assembly of the OAS in June 1994.

- *Principles and Guarantees for the Protection of Mentally Ill Persons and for the Improvement of Mental Health care*

In August 1995, comments were provided by the ICJ on a final draft of the Principles and Guarantees for the Protection of Mentally Ill Persons and for the Improvement of Mental Health Care. Most of these comments were incorporated in the Final Document.

Improving the Functioning of Regional Human Rights Mechanisms

The ICJ has continued to work very closely with regional bodies concerned with the protection and promotion of human rights. In 1995 the ICJ has particularly strengthened collaboration with the African Commission on Human and Peoples' Rights (ACHPR) whose activities have helped to give practical implementation to the work of the Commission. The ICJ also continued to ensure monitoring of the Inter-American regional human rights institutions. In 1996, with the appointment of a Legal Officer for Europe, it is expected that institutional links with the European regional bodies will be further developed.

The African Commission on Human and Peoples' Rights

To help invigorate the work of the ACHPR, the ICJ organizes NGO workshops prior to the Ordinary sessions of the ACHPR. This has helped to give practical effect to the ACHPR's mandate, while at the same time helping it and the NGO community to design collaborative strategies for the future. With the assistance of the ICJ and Interights, the ACHPR convened an Extra-Ordinary session of the ACHPR to discuss human rights violations in Nigeria. The workshops held this year considered a wide ranging number of issues.

- *Eighth ICJ Workshop on NGO Participation in the ACHPR, Lomé, Togo, 10-12 March 1995 and Seventeenth Ordinary Session of the ACHPR*

The Eighth Workshop was organized in collaboration with the ACHPR and the Association for the Promotion of the Rule of Law

(APED). As with previous Workshops, this one preceded the Ordinary Session of the ACHPR (in this case the 17th Ordinary Session which took place in Lomé, between 13-22 March).

The Workshop discussed amongst other things, the issue of justiciability of economic, social and cultural rights. It considered how the policies of the Bretton Woods institutions, as well as corruption by high State officials, affect the enjoyment of these rights. A resolution on these Rights recommended their urgent implementation. The Workshop considered the human rights situation in 16 countries and noted systematic and gross violations in most of them. Progress in Mali, Namibia, and South Africa was however welcomed.

Participants reaffirmed that impunity was the central obstacle to the improvement of the human rights, and called on States, NGOs, and peoples to counter impunity. They reaffirmed that the independence of the judiciary should be reinforced. They added that military and exceptional court systems are among the most important threats to judicial independence. The Workshop supported the establishment of a permanent International Criminal Court and an African Court of Human and Peoples' Rights and urged that immediate attention be paid to ethnic conflicts and the rights of minorities.

Prison conditions and penal reform were debated and a resolution on the subject was adopted. Participants noted that the work of the ACHPR continued to be plagued by lack of resources. A Working Group was created to consider identifying resources and NGO activities in this regard.

The 17th Ordinary Session of the ACHPR discussed the Workshop's conclusions and recommendations, including the following issues: extrajudicial executions; the creation of an African Court on Human and Peoples' Rights; prisons; women's rights; and the consideration of communications (complaints). Resolutions were adopted on the Gambia; Nigeria; Rwanda, the military; contemporary forms of slavery and human rights in Africa. Additional resolutions were adopted on Sudan, anti-personnel landmines, and prison conditions.

• *Ninth ICJ Workshop on NGO Participation in the ACHPR,
Praia, Cape Verde, 29 September-1 October 1995 and
Eighteenth Ordinary Session of the ACHPR*

This Workshop, the ninth in the series, was organized in collaboration with the ACHPR. It preceded the 18th Ordinary Session of the ACHPR, held in Praia, between 2-11 October 1995). A record nine Members of the ACHPR participated in the Workshop.

The Workshop emphasised the positive relationship established between NGOs and the ACHPR and identified a number of issues for which improvements should be sought. A resolution called upon the ACHPR to deal with the human rights of journalists and called upon States to respect their right to life, security, and free expression.

Four country resolutions were adopted at the end of the Workshop. On Burundi participants stated that it was urgent to counter impunity and to create a mechanism for early warning and intervention in case of an outbreak of violence. The resolution on Tunisia noted the deaths of a number of persons in detention and called upon the government to carry out an enquiry, while the resolution on Liberia urged the transitional government to protect human rights as a means of guaranteeing peace and stability. The resolution on Nigeria condemned the decision of the military government to hold on to power and called for the release of all political detainees.

The Workshop requested the ACHPR to place the question of prison conditions as a permanent item on its agenda. It also reaffirmed its full support for the ACHPR's plan to name a Special Rapporteur on the subject. Participants expressed grave concern over summary, arbitrary and extrajudicial killings carried out mostly by governments. Recalling the appointment of an ACHPR Special Rapporteur on the subject, they noted that lack of resources had hampered his activity. A resolution was passed to keep a record of such killings and set up a committee including NGOs to deal with such instances. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Bacre Waly Ndiaye participated in the Workshop.

The Workshop considered guidelines for the monitoring of economic, social, and cultural rights and envisaged new forms of action concerning such rights.

The 18th Ordinary Session of the ACHPR considered the resolutions and recommendations of the Workshop. The ICJ presented a draft resolution on the appointing of a Special Rapporteur on the rights of women in Africa during the session. It also approved the preparation of an additional draft protocol to the African Charter on Human and Peoples' Rights on the rights of women.

- *Experts' Meeting on the Establishment of an African Court on Human and Peoples' Rights, Cape Town, South Africa, 4-12 September 1995*

The endeavour to establish an African Court on Human and Peoples' Rights gained strong impetus when a group of OAU Experts adopted the draft Protocol to the African Charter on Human and Peoples' Rights at a meeting held in Cape Town, South Africa, between 6-12 September 1995. This meeting finalised the draft which had been examined by a group of legal experts, convened by the ICJ, who also met in Cape Town from 4-5 September. The draft itself embodied the work of a number of international experts and organizations, including the ICJ, over the previous two years.

The governmental experts' meeting, held under the auspices of the Government of the Republic of South Africa, was organized by the OAU in collaboration with the ACHPR and the ICJ.

The draft protocol was discussed in depth. It stated that the establishment of the proposed Court would serve to strengthen the African Commission and African Charter on Human and Peoples' Rights. As far as the election of judges is concerned it was decided that the composition of the court should reflect the different regions of the continent and ensure gender balance. It was also decided that it should incorporate Africa's main legal traditions including traditional customary law; civil law; common and Islamic law. The meeting stressed that the Court's independence should be ensured

and that its success would depend largely on the allocation of adequate resources.

The draft Protocol provides that the ACHPR, State Parties, and - in exceptional circumstances - individuals, NGOs, and groups of individuals, shall be entitled to submit cases to the newly established Court.

The ICJ has long been involved in the process of lobbying for the establishment of an African Court. In 1993, under the auspices of President Abdou Diouf of Senegal, it convened a group of African jurists and human rights experts to a brainstorming session in Dakar to consider ways in which the ACHPR could be further strengthened. As a result of these efforts, in June 1994, the Assembly of Heads of State and Government of the OAU adopted a resolution requesting the OAU Secretary-General to convene a meeting of government experts to consider the establishment of an African Court on Human and Peoples' Rights. The Cape Town meeting was held as a result of this.

Experts from 23 OAU Member States and the ICJ expressed hope that their proposal for the establishment of the African Court would be presented to the OAU's Assembly of Heads of State and Government and that the objective will be realised within the next two years.

• *Extra-Ordinary Session of the ACHPR on the Situation in Nigeria, Kampala, Uganda, 18-19 December 1995*

A historic Extra-Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) on the situation in Nigeria took place in Kampala, Uganda, between 18-19 December 1995. During the session, the African body expressed its "serious concern" on the human rights situation in that country and decided to request that the Chairman of the OAU and its Secretary-General approach the Nigerian authorities to ask that no prejudice be caused to the 19 Ogoni detainees whose trial was then pending.

It was resolved to send a high-level delegation composed of the

ACHPR Chairman, Vice-Chairman, and the Special Rapporteur on Summary and Arbitrary Executions in Africa, to Nigeria between 16-21 February 1996. Participants also resolved to send the report of the Session to the Chairman of the OAU, the Secretary-General of the UN, and the UN High Commissioner for Human Rights; and make a statement on the human rights situation in Nigeria during the session of the UN Commission on Human Rights in 1996.

The ACHPR indicated that the holding of the Extra-Ordinary Session was directly related to the execution of writer and human rights activist Ken Saro-Wiwa and eight other leaders of the Ogoni people, despite strong pleas by the institution to stay execution.

It was the first time that an Extra-Ordinary session of the ACHPR was convened with regard to a particular country situation. The ICJ contributed actively in the process.

The Organization of American States

- *The General Assembly of the (OAS), Montrouis, Haiti, 5-9 June 1995*

The General Assembly of the Organization of American States convened in Montrouis, Haiti, between 5-9 June 1995. The ICJ was represented at the meeting by its affiliate, The Washington DC-based organization, the International Human Rights Law Group.

Strengthening the Independence of the Judiciary Around the World

Activities in this area have been led by the Centre for the Independence of Judges and Lawyers (CIJL). Over the past year, the CIJL has actively pursued a number of activities to strengthen the impartiality and independent status of the judiciary. It has worked with a number of human rights mechanisms, including those of the UN, to ensure that international human rights standards are protected and maintained, and has continued to strongly advocate the establishment of a permanent International Criminal Court.

Meanwhile, it has continued to condemn and take actions against the growing number of cases of assassinations, verbal threats and physical assaults and persecution of members of the legal profession, that are constantly carried-out on a world-wide scale. These crimes committed against the independence of the judiciary have become all too widespread. The CIJL has responded by rapidly undertaking a number of missions and trial observations to such areas of concern. A full report of these activities is listed below in chronological order.

CIJL Activities in the United Nations Context

- *UN Commission on Human Rights, 51 Session,
30 January-10 March 1995*

The completed advance draft of the CIJL annual report entitled *Attacks on Justice: the Harassment of Judges and Lawyers* was submitted to the UN Commission on Human Rights. The report was also distributed to the media together with a press statement during a press conference held at the UN Office at Geneva.

Attacks on Justice documented the cases of judges and lawyers who were harassed or persecuted in various countries of the world. The 1995 edition catalogued the cases of 572 jurists in 58 countries who suffered reprisals for carrying out their professional functions between June 1993 and December 1994. Of these, 72 were killed, 3 disappeared, 28 were attacked, 119 received threats of violence, 24 were tortured, 177 were detained, and 149 were professionally sanctioned or obstructed.

- *UN Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, Egypt, 29 April-9 May 1995*

The CIJL participated in the work of the Congress, which meets every five years, to lobby support for the preservation and respect of international norms in the area of crime prevention and criminal justice. The norms in question are the result of many years of work by the Committee on Crime Prevention and Control. The Committee's proposals have been considered and adopted since 1955 by the Congress. Approved norms include the Standard Minimum Rules for the Treatment of Prisoners, Basic Principles for the Independence of the Judiciary, Basic Principles on the Role of Lawyers, and the Guidelines on the Role of Prosecutors.

Since the Committee was transformed in 1991 from a Committee of experts to a Commission of government representatives, certain governments such as those of China, Iran, Malaysia and the USA have led a systematic attempt to remove references to human rights from the texts of the Crime Prevention Commission and the Congress. Serious concern was expressed by the CIJL over these moves.

- *UN Commission on Crime Prevention and Criminal Justice, 4th Session, Vienna, Austria, 30 May-9 June 1995*

The CIJL continued its lobbying efforts concerning the preservation of and respect for existing international norms in the area of crime prevention and criminal justice, during the Commission session. One of the standards at risk then was the norm on minimum prison conditions.

- *UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, 47th Session, 31 July-25 August 1995*

Copies of *Attacks on Justice: the Harassment of Judges and Lawyers*, were distributed to the Members of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. (For a more complete rendering of interventions made during the session of the Sub-Commission please refer to Annex II).

- *The Ad Hoc Committee of the UN General Assembly on the International Criminal Court*

For a more complete account of the activities of the Centre in this area, see *Enhancing the Development of International Law and of Human Rights (supra)*.

- *CIJL International Consultancies*

The CIJL participated in a workshop held in Leiden, Netherlands, between 23-29 September 1995, which was part of a joint PIOOM Foundation/CIJL on-going project on "Determinants of the Independence and Impartiality of the Judiciary." The CIJL consultancy with the PIOOM Foundation will result in the publication of four separate volumes on the independence of the judiciary in India, Sri Lanka, Philippines and Burkina Faso.

CIJL Alerts and Interventions

Albania

On 22 June 1995, concern was expressed to the government over a number of events in Albania which threatened the independence of the judiciary.

At that time, reports indicated that Parliament was considering the expulsion of three judges - Mr. Petrit Ploçi, Mrs. Tefta Zaka and

Mrs. Vitore Tusha - in the Court of Cassation, after it had attempted unsuccessfully to remove the Chief Justice of the Court, Mr. Zef Brozi. The Parliament claimed that these judges had insufficient experience. The intervention pointed out that according to Albanian Law, judges could only be removed under two circumstances: if they had committed a serious crime or if they suffered from mental incompetence.

The intervention suggested that the Court of Cassation may be under attack because it overruled the decisions of lower courts in favour of decisions based on international human rights standards. There were additional reports that efforts had been initiated by Parliament to transfer control over the budget for the Court of Cassation to the Ministry of Justice. It was feared this move was being made to place control of the Judiciary under the control of the Executive. The CIJL reported that there was an attempt to bring these questions before the Constitutional Court. But it recalled that as a result of the controversial resignations of three of its judges in 1994, this court could perhaps be no longer viewed as objective.

The intervention noted that Parliament was threatening the independence of the Judiciary in the hope of gaining more control over judicial decisions. It recalled that the UN Basic Principles on the Independence of the Judiciary provide, *inter alia*, for the judiciary to decide matters on an impartial basis without restrictions, improper influences, inducements, pressures, threats, or interferences.

Colombia

On 28 July 1995, an intervention was made with the Government of Colombia, expressing concern over the assassination of Mr. Javier Alberto Barriga Vergel. The lawyer was murdered by unidentified armed men on 16 June in Cucuta. The letter requested that the murder be thoroughly investigated, that those responsible be brought to justice, and that human rights lawyers and organizations in the future be protected from violence and harassment.

Mr. Vergel was acting on behalf of the Committee for Solidarity

with Political Prisoners (*Comité de Solidaridad con los Presos Políticos*). The Committee is active in investigating numerous cases of human rights violations that implicate members of the police, army, and paramilitary groups in Colombia. The CIJL recalled the alarming number of targeted judges and lawyers and the overwhelming impunity enjoyed by human rights violators in the country.

In an intervention made before the 1995 Session of the UN Sub-Commission, a call was made for the appointment of a Special Rapporteur for Colombia, to *inter alia* investigate the murder of Mr. Vergel.

Hong Kong

On 23 August 1995, concern was expressed in an Alert over the enactment of the Court of Final Appeal Bill in Hong Kong which threatened the independence of the judiciary in the British territory. The final court of appeal for Hong Kong is the Judicial Committee of the Privy Council. After the transfer of sovereignty from the United Kingdom to China on 1st July 1997, the Privy Council would be replaced by a Hong Kong Court of Final Appeal.

The CIJL recalled that the 1984 Sino-British Joint Declaration provided for the transfer of sovereignty and the creation of a new Hong Kong Special Administrative Region (HKSAR). Under the Joint Declaration, the courts of Hong Kong were to be vested with independent judicial powers, including that of final adjudication. The Joint Declaration also provided that judges of the courts were to be appointed by the chief executive of the HKSAR and an independent commission. These provisions clearly indicated that the independence of the judiciary and the courts in Hong Kong were to continue after the transfer of sovereignty to China.

The Joint Declaration also provided that the National People's Congress of the People's Republic of China would enact a Basic Law of the HKSAR stipulating that the territory's system and lifestyle would remain unchanged for 50 years. The Basic Law was promulgated in 1991.

Secret negotiations held in 1994 between London and Beijing, however, resulted in an agreement and draft Bill to establish the Court of Final Appeal. The Bill was passed by the Hong Kong Legislative Council and the Act was scheduled to come into force on 1 July 1997.

The CIJL stated that the Final Court of Appeal Act posed a major obstacle to the independence of the judiciary. Among the most troubling provisions were those relating to the inclusion of foreign judges. Contrary to the Basic Law, the Act stipulated that only one foreign judge may sit in the full Court of five judges. The Basic Law provided that judges from other common law jurisdictions may be invited to sit and that their number would exceed one. Foreign judges would ensure that the Court remain immune from Chinese political pressure.

There was also uncertainty as to how the first judges for the Court would be appointed. There was no guarantee that the appointments would be independent from political pressure. Furthermore, the Act was phrased in such a way that its jurisdiction might be severely curtailed by the Executive in the future.

The CIJL urged the UK and China to reconsider provisions of the Act and Basic Law which conflicted with the spirit of the Joint Declaration and threatened the independence of the Judiciary.

India

On 22 May 1995, an intervention was made with Prime Minister P.V. Narasimha Rao, expressing alarm over the assassination attempt on 22 April 1995, of Mr. Mian Abdul Qayoom, President of the Jammu and Kashmir Bar Association. It recalled the 1990 UN Basic Principles on the Role of Lawyers which state that governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. It requested that the Government of India conduct a full investigation and that the authors of the crime be brought to justice.

In another case, the CIJL announced on 10 August 1995, that the head of the Jammu and Kashmir Bar Association, who had been held incommunicado, had been released. Sheikh Mohammed Ashraf had been arrested on 15 June 1995, and his whereabouts had remained unknown. The arrest and lack of information thereafter had raised apprehension about the lawyer's safety. On 4 August 1995, the CIJL contacted Mr. Fali Nariman, President of the Bar Association of India and Member of the ICJ Executive Committee, to inquire into the matter. He contacted the government for details, and on 9 August informed the CIJL that Sheikh Ashraf had been released on bail.

Mexico

On 21 June 1995, an intervention was made with the Mexican authorities condemning the murder of Judge Polo Abraham Uscanga on 20 June, and requesting a thorough investigation of the assassination so that the authors could be brought rapidly to justice.

Mr. Uscanga's death was allegedly linked to his denunciation of the Superior Court of Justice in the *Distrito Federal* of its' allegedly illegal imprisonment of certain leaders of the *Ruta 100* trade union. Mr. Uscanga was apparently the third person killed in connection with *Ruta 100*. Mr. Jesús Humberto Priego Chávez, the prosecution's Coordinator in the case against *Ruta 100*, was also found dead 20 June 1995. Mr. Uscanga resigned on 1 April 1995 as a result of pressure, because he refused to issue an arrest warrant for the leaders of *Ruta 100*.

On 14 June 1995, another intervention had been made to voice concern over Judge Uscanga's safety. Mr. Uscanga reported that, on 27 April 1995, he had been kidnapped, tortured and interrogated. The interrogation reportedly concerned the investigation of union leaders from *Ruta 100* and the arrest warrant Polo Uscanga refused to issue. The judge's captors later released him.

On 13 July 1995, the Permanent Mission of the Republic of Mexico in Geneva, informed the CIJL that the Federal District Procurator-General had at least on two occasions offered

protection to Judge Polo Uscanga and his family, but that the judge had refused it.

Morocco

On 23 May 1995, the CIJL joined the Moroccan Organization of Human Rights and the Association of Moroccan Bars, in demanding a complete reassessment of the events of 7 March 1995, whereby several individuals were released despite a judicial decision to the contrary. According to information received by the Centre, several persons were arrested on 20 February 1995, within the framework of a case opposing the ABM Bank to Goodyear (Morocco). Despite a decision of a tribunal rejecting their provisional release, the individuals were freed after an intervention by the King's Procurator at the Anfa Tribunal. The Centre recalled that such an intervention went against the independence of the judiciary. A letter was sent to the Minister of Justice of Morocco, calling upon him to urgently enquire into this case and to take necessary measures to preserve the integrity of the legal profession.

Pakistan

On 21 February 1995, an intervention was made with the Government of Pakistan, expressing concern over an attack on Advocate Asma Jahangir. The CIJL requested that the incident be fully investigated, that the perpetrators be brought to justice, and that Mrs. Jahangir be protected in the future.

Mrs. Jahangir, lawyer and Chairperson of the Human Rights Commission of Pakistan, an ICJ affiliated organization, was attacked by a mob on 15 February 1995, near the High Court in Lahore. Mrs. Jahangir was appealing the death sentence of Salamat Masih, a 14-year-old Christian boy, and another person charged with blasphemy. The case concerned allegations that the defendants were responsible for anti-Islamic graffiti. Mrs. Jahangir and three other lawyers in the case had received prior threats. The intervention recalled that the event threatened the judiciary and put the defendants' right to a fair trial at grave risk.

Zaire

On 27 October 1995, an intervention was made with the Minister of Justice of Zaire expressing concern over the harassment of Judge Mashipu Kalonji. On 2 March 1995, Mr. Kalonji was verbally and physically assaulted by a group of men who attempted to kidnap him. His home was entered by apparently armed men, and his telephone lines were cut.

The Centre urged the authorities to conduct an investigation into the matter. It recalled that the Kalonji case was not an isolated one. In Zaire, there have been a number of other cases of harassment and threats against lawyers and judges. The Centre called upon the government to ensure that lawyers and judges are able to perform their professional duties under full protection and without fear.

Turkey

On 14 December 1995, an intervention was made with Prime Minister Tançu Ciller of Turkey to voice concern over the final hearing (on 15 December) in the case of Mr. Esber Yagmurdereli.

The intervention recalled that Mr. Yagmurdereli, a blind lawyer and writer, advocated human rights and non-violence. He was initially arrested and convicted on the basis of a testimony allegedly extracted under torture. As a consequence of the miscarriage of justice, Mr. Yagmurdereli was sentenced to life imprisonment and spent 13 years in prison before his release in 1991, on condition that he avoid further convictions.

The intervention also recalled that Mr. Yagmurdereli had been charged with a second offence in connection with a speech he gave concerning fundamental freedoms. Although his conviction had already been quashed, the appeal court affirmed it together with a 20 month imprisonment sentence. If Mr. Yagmurdereli's conviction was to be confirmed, he would be required to serve not only the 20 month sentence, but also the original life sentence. The Centre informed the Prime Minister that it would be examining the results of the hearing.

CIJL Trial Observations

Georgia

On 4 February 1995, Mr. Armin Bammer, an Austrian Attorney, was sent to observe a trial in Tbilisi, Georgia, involving questions related to the independence of the judiciary and the legal profession.

The trial brought criminal proceedings against 19 persons charged in connection with a car-bombing in June 1992. The trial, which had begun in Tbilisi on 5 October 1993, was clearly of a political nature and had received the attention of the public and the government. According to information given by Human Rights Watch/Helsinki, violations included confessions extracted by torture and intimidation; prevention from submitting testimony and evidence in one's defence; deprivation of the right to attend one's trial; deprivation of counsel's right to attend client's trial; denial of access to legal counsel of one's choice; denial of access to medical attention; denial of visits with relatives; punitive and illegal dismissal of two defence lawyers in the case from the Lawyers Union; intimidation of and threats against defence lawyers.

The Centre was particularly concerned by the alleged harassment and discriminatory dismissals of defence attorneys. The judge or the Supreme Court or the Bar Association - or a combination of these authorities - had ordered that defence lawyers assume, or continue to provide, a defence even against the wishes of the defendants. At the same time, two lawyers had been stripped of their credentials, losing the right to represent defendants. The Centre was concerned that the measures were intended to have the accused in political trials be defended only by court appointed lawyers which they could not dismiss.

Malaysia

On 16 January 1995, Mr. Desmond Fernando, President's Counsel, Sri Lanka, and Member of the ICJ Executive Committee, was sent to observe the trial of Mr. Wee Choo Keong, held before the Federal Court in Kuala Lumpur, Malaysia.

Mr. Wee Choo Keong, a Member of the Malaysian Parliament and of the Bar was then appealing to the Malaysian Federal Court against a conviction for contempt of court and a sentence of two years imprisonment. The matter began when he raised the issue of corporate corruption in Parliament and was consequently the subject of a restraining order. The Centre possessed information that the restraining order was issued by the court at the request of the corporation in question and that when Mr. Keong subsequently spoke of corruption, he was held in contempt.

The trial of Mr. Keong raised important issues concerning the impartiality of the country's judiciary and had a considerable impact on its society.

Indonesia

On 8 November 1995, Mr. Uwe Tonndorf, a lawyer and political scientist from Freiburg, Germany, was sent to observe the trial of Dr. Sri-Bintang Pamungkas in Djakarta, Indonesia.

Dr. Sri-Bintang Pamungkas, a university professor and former Member of Parliament, was charged in absence with having insulted President Soeharto, calling him a "dictator," while holding a lecture and having discussions with Indonesian students at the Polytechnic of Berlin, Germany, on 9 April 1995. According to the Indonesian Criminal Code this offence is punishable by a maximum of six years' imprisonment or by a pecuniary penalty. According also to the Indonesian Code of Criminal Procedure the offence can be brought to justice even if it was committed abroad. The prosecutor demanded an imprisonment term of four years. Mr. Tonndorf reported political pressures on the Judiciary by the Executive. The trial continued well into 1996.

CIJL Mission

Sudan

A Mission to Sudan was conducted between 25 April-5 May 1995. The purpose was to study and report on the administration of

justice in Sudan with special emphasis on the independence of the judiciary and of the legal profession. Members of the Mission met with judges, lawyers, university professors, women's rights activists, public officials and politicians. They also met with representatives of international organizations operating in the country and visited internally displaced persons' camps.

The Mission was made aware that the incidence of administrative detentions under the National Security Act had appreciably diminished. The authorities provided the Mission with an official list naming the individuals then detained under the Act, numbering 80 in total, according to the said authorities. The authorities asserted that the list was full and accurate. The mission voiced its concern over the fact that these detainees were without the protection of the courts of law and that State security organizations continued to enjoy wide powers of arrest and detention under the National Security Act.

The mission noted the official attitude in Sudan that certain international human rights standards were in conflict with Sudanese local customs and religious beliefs. It stated that such an attitude did not conform with the principle of the universality of human rights standards.

Some 32 detainees were released after the Mission.

The Mission included: Justice Enoch Dumbutshena, Vice-President of the ICJ and former Chief Justice of Zimbabwe; Dr. Muhamad Mugraby, a Lawyer from Lebanon; and Dr. Frank Steketee, a Lawyer and Member of the Dutch Section of the ICJ (NJCM),

Permanent Activities to Promote and Protect Human Rights and the Rule of Law

As part of its regular work programme, the ICJ undertook a number of missions and activities all over the world. These activities ranged from monitoring of electoral procedures, investigating human rights abuses to first time missions on assessment of needs. In addition, the ICJ participated in a number of trial observations in 1995. The following activities are listed in chronological order.

Missions

Guyana

Upon request of the Government of Guyana, a team of three lawyers was sent to that country to investigate the circumstances surrounding the death of Dr. Walter Rodney, a Guyanese historian and politician, which occurred on 13 June 1980.

The Mission studied the material supplied to it from different sources, and heard statements by a number of persons. The team also visited the scene of the explosion that killed Dr. Rodney.

The Mission prepared a report and recommended that the government conduct a comprehensive and thorough inquiry into the circumstances surrounding the death of Dr. Walter Rodney and that the inquiry should be entrusted to an impartial and independent international commission with sufficient powers to summon and examine witnesses and gain access to any relevant governmental and judicial files.

The Mission concluded that in 1980, following the death of

Dr. Walter Rodney, no serious effort was made by the competent governmental and judicial authorities to assess all the relevant evidence with a view to identifying the persons involved in the tragic event.

The Report was forwarded to the Government of Guyana, which accepted the findings of the Mission and requested the ICJ to conduct such an inquiry under its *Commission of Inquiry Act*.

The Mission included: Dr. Christian Tomuschat, Professor of Public Law at the University of Bonn and Member of the UN International Law Commission; Dr. Felipe Gonzalez, Professor of International Human Rights Law and Jurisprudence at Diego Portales University, Santiago, Chile; and, Justice Richard O. Kwach, Judge of the Kenya Court of Appeal in Nairobi, Kenya.

Ethiopia

In April 1995, the ICJ and its American affiliate, the American Association for the International Commission of Jurists (AAICJ), conducted a fact-finding Mission to Ethiopia to assess the electoral process in that country and its effect on the 7 May 1995 elections.

The Mission found that the fairness of the election would be severely hampered through the actions of the Transitional Government of Ethiopia. It also stated that while the government was encouraging federalism, it was at the same time discouraging political dissent, by imprisoning leaders and members of political parties; by refusing to allow them to hold meetings outside of Addis Ababa; by denying them access to the media controlled by the government, and penalising journalists under an obscure press law.

A report of the Mission was published on 28 April 1995. The findings of the Mission were released to the media.

The Mission was led by Mr. Donald T. Fox, a New York lawyer and Chairman of the AAICJ Board of Directors.

On 21 June 1995, two ICJ staff members who had been invited to attend high-level meetings of the Organization of African Unity

(OAU), were denied access to Ethiopia. The circumstances surrounding this denial were unprecedented and contrary to the Headquarters Agreement between the OAU and the Government of Ethiopia and the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations.

Sudan

For an account of this joint ICJ/CIJL Mission, see *Strengthening the Independence of the Judiciary (supra)*.

Morocco

In June 1995, a Mission was sent to Morocco to identify projects for the promotion and protection of human rights in that country. The mission was sent to enquire into the following: the creation of a human rights documentation centre; the establishment of a legal aid service; the establishment of a summer university on human rights for students and lawyers; the sensitisation of the police, *gendarmerie*, attorneys and judges to human rights, and a training programme for teachers in human rights education. The mission was mandated by the European Union (EU).

The report prepared and submitted by the mission, recommended a number of programmes in the country, the most important of which is the establishment of a Centre for Applied Legal Studies which would include a training programme on domestic implementation of human rights norms.

Members of the mission included: Mr. Khémaïs Chammari, Expert Consultant and Member of the Tunisian Parliament; Ms. Grace d'Almeida, a lawyer from Benin and expert in women's related legal aid projects; Mr. Laïty Kama, Attorney-General of the Court of Cassation of Senegal, Member of the UN Working Group on Arbitrary Detention and Member of the International Criminal Court on Rwanda; and, Mr. Jean-Bernard Marie, Secretary-General of the International Institute of Human Rights, Strasbourg, France.

Congo

A Mission to Congo was conducted between 20-28 June 1995. The objectives were to conduct an assessment of the human rights situation in general and of the state of the administration of justice in particular; report on the advance of democratic reform after the 1991 Sovereign National Conference; and report on the independence of the Judiciary and the legal profession in the country.

In their report, the four experts noted that the Congo faces a crippling economic and social crisis that hampers political reform. They deplored the continued lack of independence of the Judiciary, its lack of impartiality, and interference by the Executive in its decisions. They also noted the deplorable working conditions of judges. Finally they criticised the inhuman conditions of detention in the prisons in Brazzaville.

Members of the Mission included Mr. Atsu-Koffi Amega, former President of the Supreme Court of Togo and Member of the African Commission on Human and Peoples' Rights; Mrs. Haby Dieng, Attorney-General at the Supreme Court of Guinea; Maître Jean-Marie Crettaz, a lawyer from Geneva, Switzerland; and Maître Dorothee Le Fraper du Hellen, a lawyer from Montpellier, France.

The report of the Mission contains conclusions and recommendations and is to be released in 1996.

Nigeria

Mr. Rodger Chongwe, a Senior Advocate from Zambia, was requested to prepare a study entitled *Nigeria and the Rule of Law*.

In view of the deteriorating political situation in Nigeria, it was requested that Mr. Chongwe conduct a fact-finding Mission to Nigeria between 30 July-14 August 1995. Unfortunately, he was refused meetings with the relevant representatives of the military government and civil institutions. Mr. Chongwe made a press statement on behalf of the ICJ, expressing serious concern about the grave human rights situation in the country and called upon the

government to take immediate action to address it. He also reiterated concern over the detention of former Head of State, General Olusegun Obasanjo, and other persons detained for political reasons, who had not been given a fair trial.

Kenya

A follow-up Mission to the 1993 fact-finding Mission to Kenya was planned to take place in September 1995. Unfortunately, at the request of the Attorney-General of Kenya and other government officials, the follow-up Mission was postponed.

The ICJ and its Kenyan Section consequently proposed to prepare a report based on the findings of the 1993 Mission and the current human rights situation.

Kyrgyzstan

A needs assessment Mission to Kyrgyzstan was conducted between 15-28 September 1995. The Mission visited Bishkek and Osh and met with high level government officials, local authorities' officials, judges and lawyers, state prosecutors parliamentarians, NGOs, women's groups, representatives of ethnic minorities and representatives of intergovernmental and non-governmental organizations based in Kyrgyzstan.

The objectives of the Mission were to examine the feasibility of organizing seminars and workshops for the legal community that would focus on the domestic implementation of international human rights norms; to assess the need for strengthening emerging local non-governmental human rights organizations and enhancing their effectiveness; to assess possibilities for assisting the authorities in developing human rights norms and monitoring their subsequent implementation; to assess the need for the provision of legal services for disadvantaged groups and marginalised sectors of society such as the rural and urban poor, women and ethnic minorities; and to assess needs relative to the publication and dissemination of human rights materials in Kyrgyzstan.

The mission was composed of Mr. Khaled Batrawi, staff member of the ICJ Palestinian Affiliate Al Haq; Mr. Nicolas Bovay, Press Officer, and Dr. Nathalie Prouvez, Consultant, Acting Legal Officer for Europe. The report of the Mission contains conclusions and recommendations with a view to establishing programmes in Kyrgyzstan.

Ukraine

A needs assessment Mission to Ukraine took place between 25 November-11 December 1995. The Mission visited Kyiv, Lviv and Kharkiv and met with the Minister of Justice and other high level government officials, local authorities' officials, judges and lawyers, state prosecutors parliamentarians, NGOs, women's groups, representatives of international IGOs and NGOs based in Ukraine, law academics and students, a Crimean Tatar representative and journalists. The Members of the Mission took part in a press conference in Lviv and informed the Ukrainian media and local human rights activists about the purpose of the visit.

The objectives of the Mission were to examine the feasibility of organizing seminars and workshops for the legal community focusing on the domestic implementation of international and European human rights norms; to assess the need for strengthening local NGOs; to assess possibilities for assisting the authorities in developing human rights norms and monitoring their implementation; to assess the need for the provision of legal services for disadvantaged groups; to assess needs relative to the publication and dissemination of human rights materials.

The mission was composed of Mr. Nicolas Bovay, Press Officer, and Dr. Nathalie Prouvez, Consultant, Acting Legal Officer for Europe. The report of the Mission contains conclusions and recommendations with a view to establishing programmes in Ukraine.

ICJ Trial Observations

Russian Federation

The Director of Legal Programmes at the Moscow Centre for Constitutionalism in Eastern Europe, Ms. Tanya Smith, was appointed to attend proceedings before the Moscow Administrative Court of two administrative trials against peaceful anti-war protesters. The 11 defendants were accused of participating in an unsanctioned picket in front of the Italian Embassy in Moscow, on 11 January 1995. The defendants protested against the war in Chechnya and the West's lack of diligence and determination in denouncing the Russian armed forces for committing gross violations of human rights during the conflict. The demonstration was organized by *Memorial*, the most important human rights organization in Russia. The trial started on 23 January and Ms. Smith reported that all cases had been subsequently closed by the judge (for more complete information on this case and the Chechnya war please refer to *ICJ Review 54*, June 1995, "The Russian Armed Intervention in Chechnya and its Human Rights Implications."

Nigeria

Mr. Nutifafe Kuenyehia, President of the Ghana Bar Association, was appointed to observe the trial of writer, environmentalist and human rights activist Mr. Ken Saro Wiwa and others in Nigeria. He commenced his trial observation in late 1994, and attended again in February 1995. He encountered various and mounting difficulties in meeting with the authorities. Due to the prevailing political situation in the country and the general climate of hostility towards international observers at the proceedings, Mr. Kuenyehia was unable to attend the continuation of the trial.

United Arab Emirates (Dubai)

Maître François Membrez, Member of the Swiss Section of the ICJ and Member of the Bar of Geneva, was sent to observe the

hearing before the Court of Appeal in Dubai of the case of Mr. Miguel Lehmann, a US citizen, starting on 30 April 1995. Mr. Lehmann was accused by the police of "drug trafficking" and found guilty by a lower Court and then by the Court of Appeal. The ICJ was concerned about the possible pressure placed upon the Judiciary to agree with the version presented by the police. On appeal the Court of Cassation annulled the verdict and returned the case to the Court of Appeal *de novo*.

Mr. Membrez expressed grave concern about the *de novo* proceedings before the Court of Appeals. In particular, the refusal by the Court to allow defence counsel to make his submission on behalf of his client, the non-availability of an interpreter for his client, the speed at which matters were dealt with and the failure to fully inform the defendant of when the hearing would be and which witnesses would be called. He also pointed at the fact that Mr. Lehmann's treatment was not an isolated one but that it revealed a pattern of injustice in the Emirate. He gave examples in his report of other disturbing cases involving detained foreigners and their denial of due process. The hearing was postponed to 4 June 1995, then to 17 September 1995, and, once again, to 29 October 1995. Each time Mr. Membrez returned to Dubai.

On 29 October, the Court of Appeal cancelled Mr. Lehmann's previous judgment and found him innocent.

Kenya

Mr. John Kampeteke, a lawyer from Zambia, was sent to observe the trial of Mr. Koigi wa Wamwere and three other defendants in Kenya. Mr. Koigi wa Wamwere is a human rights activist, former political prisoner and former Member of Parliament. He was tried allegedly for "attempted robbery with violence" and, if convicted, faced a mandatory death sentence. It was suspected, however, that the four defendants were being tried for political motives. The trial began in April 1994 in Nakuru Magistrate's Court and reopened on 8 May 1995 with the defence's final submissions. Mr. Kampeteke travelled to Kenya in May 1995.

On 22 May, Mr Kampeteke, together with two Norwegian journalists, three Kenyan lawyers, and their driver, were arrested in Nakuru on the grounds that they "assaulted a police station, resisted arrest, and had photographed the police station," which was claimed to be a restricted area. Mr. Kampeteke reported that he had been beaten and detained in deplorable conditions. The ICJ and other organizations viewed the arrest as a violation of an advocate's right to represent his client. Mr. Kampeteke was released on 23 May.

Malawi, May-June 1995

In May and June 1995, Ms. Prisca Nyambe, a Zambian lawyer, was sent to observe the trial of the former President of Malawi, Dr. Hastings Kamuzu Banda and others at the High Court in Blantyre. President Banda and others were charged for various offences committed while holding public office and the trial raised the question of impunity. The trial started on 24 April 1995 and was adjourned several times. Ms. Nyambe reported that the trial had been fairly conducted and she also emphasised the importance of an ICJ observer at such trials.

Serbia

On 11 August 1995, Judge Bengt Bondesson, Member of the Swedish Section of the ICJ, was appointed to observe the trial of Mr. Jaha Esad and others at the District Court of Prizren, Kosovo, Serbia. Mr. Jaha Esad and 43 other defendants, in the predominantly ethnic Albanian region of Kosovo, were *inter alia* charged with jeopardising the territorial integrity of the State and associating for hostile reasons. They were allegedly tortured and beaten during their detention.

Egypt

Mr. Fadi Malha, a Lebanese lawyer, was sent to observe the trial on 30 September 1995 of Dr. Issam Aryan and 48 others before a

Military Court near Cairo. The 49 defendants were charged for being members of the Muslim Brotherhood, an organization considered as illegal by the government.

In late 1995, President Mubarak had ordered the transfer of the case to the jurisdiction of the Military Courts. The defendants included former members of parliament, physicians, journalists, university professors, and members of the elected councils of several professional associations. They were charged for preparing and establishing the structure of an illegal organization, and advocating obstruction of the law and of the Constitution.

The prosecution's case was based on vague charges and inadequate investigation which would normally not be accepted by a civilian court. Defence attorneys withdrew on 2 October 1995 in protest against what they viewed as irregular court procedures. The military tribunal responded by appointing lawyers who were, according to observers for the Egyptian Organization for Human Rights (EOHR), the ICJ affiliate in Cairo, former military officers who had studied law only after their retirement.

Technical Assistance to Governments

- *Training Course for Parliamentarians in Guinea-Bissau*

A training course for 100 Members of Parliament was held in the capital, Bissau, between 16-21 January 1995. It was organized by the ICJ following a request of the European Union. The purpose of the seminar was to inform and update parliamentarians on the evolving situation of human rights.

The course in particular focused on the role of the Parliament, the duties and obligations of Parliamentarians, the role of the opposition, research on consensus and compromise, no confidence

motions, international treaties, the Parliament and human rights, and some relevant elements of constitutional law.

An international representation of Parliamentarians participated in the training course and held discussions and shared experiences regarding the role of the parliamentarians in maintaining impartiality with reference to the State apparatus, and the establishing of mechanisms to uphold protection of these representatives of the electorate in carrying out their mandated tasks.

• *Election Monitoring in Guinea-Conakry*

On 11 June 1995, at the request of the European Union (EU) and in support of the democratisation process, 50 jurists travelled to Guinea to observe the first multiparty elections in that country. They stayed in more than 1000 polling stations during the elections and counting of the votes, thus ensuring significant coverage of all constituencies within the Republic.

The observers reported that the elections had taken place in a relatively free, fair, and transparent atmosphere, mainly due to the goodwill demonstrated by the authorities, and also in part because of the maturity and civic sense of the population. The monitors nonetheless observed discrepancies in the organization of the elections, the polling and returning operations, and the counting of the votes, particularly in the areas of Faranah, Kindia and Nzérékoré. It was also reported that in Mandiana and Nzérékoré the presence of officials and military personnel sometimes seemed like intimidation.

Another drawback in the proceedings was the lack of adequate technical knowledge by certain members of the polling stations which prevented them from effectively carrying out their tasks. These drawbacks in material equipment and human resources sometimes caused delays in the initial stages of the elections and in the transportation of the ballot boxes after the closing of the polling stations. After the elections recommendations were made to the authorities, political parties, trade unions and civil society with regard to the introduction of a democratic, civic and political education based on the equality of individuals and different ethnic

groups; and the need to strengthen and improve the status of the National Electoral Commission of Guinea as it had played an important role in decreasing tensions.

The Secretary-General went on a follow-up mission to Guinea in August 1995, at the request of the EU, to assist in resolving the disputes between the ruling party and the opposition after the election.

A report of this mission is available.

Interventions with Governments Around the World

One of the ICJ's main activities is highlighting human rights violations at various fora, such as the UN Commission of Human Rights, and its Sub-Commission on Prevention of Discrimination and Protection of Minorities. The objective of these interventions is to lobby the relevant UN bodies against those governments accused of perpetrating human rights violations. (For details of these interventions see Annexes I and II).

Other methods of intervention include letters to Heads of State or Governments. These direct communications single out situations of concern, describe the manner in which they breach international law, and request that appropriate action be taken. In 1995, these interventions were, in chronological order, as follows:

Equatorial Guinea

On 30 January 1995, an intervention was made with President Don Teodoro Obiang Nguema to urge the immediate release of the internationally recognised human rights activist and Executive Director of the *Instituto Para la Democracia y los Derechos Humanos*, Mr. José Dougan-Beaca, who had been detained for a few hours. The letter asked for the reasons of his arrest and pointed out that he was about to travel to attend the 51st Session of the UN Commission on Human Rights which started on that same day in

Geneva. Mr. Dougan-Beaca was released from custody shortly afterwards.

Indonesia

On 20 February 1995, an intervention was made with the Indonesian Permanent Representative to the UN Office at Geneva, concerning the case of Mr. Muchtar Pakpahan, President of the Indonesian Prosperous Trade Union (SBSI).

Mr. Pakpahan was arrested following a strike which took place in April 1994, in Medan, North Sumatra. He was charged with "inciting workers to oppose the authorities." On 7 November 1994, he was sentenced to three years imprisonment by the District Court in Medan. On 16 January 1995 the sentence was increased by one year on appeal.

Concern was voiced over the manner in which the trials of Mr. Pakpahan and other trade unionists had been conducted before the District and High courts. It was alleged that Mr. Pakpahan was tried on a political basis. Defence lawyers were allegedly denied access to prosecution documents for days after the trial started and were denied permission to call expert witnesses. They left the Court in protest. Furthermore, they were not allowed access to their clients in advance of the appeal to the High Court.

The letter pointed out that this case illustrated the government's stance to restrict the freedom of the trade unions in organizing strikes and demonstrations. It urged the government to take all relevant measures to clarify the case and to remove any breach of the international principles governing the labour law. It also requested that Mr. Pakpahan be either released or retried on unbiased grounds.

Palestine

On 22 February 1995, an intervention was made with Mr. Yasser Arafat, President of the Palestinian National Authority, expressing

concern over the establishment by Decree of State Security Courts in the Palestinian Autonomous Areas. The letter called for all trials to be held before independent and impartial courts where full fair trial rights as stipulated in the international human rights instruments are guaranteed. It called upon Mr. Arafat to rescind the Decree.

Alarm was also expressed following the arrest of Mr. Raji Sourani, the Director of the Gaza ICJ affiliate, the *Gaza Centre for Rights and Law*, for a few hours on 14 February. It was alleged that he was arrested as a result of an appeal made by the *Gaza Centre* to reverse the Decree.

United States of America

On 18 April 1995, an intervention was made with Mr. Bill Clinton, President of the USA, voicing concern over the case of Mr. Leonard Peltier, a "Native-American" leader, who is still serving two consecutive life sentences since 1977. He was accused of murdering two FBI agents in South Dakota in June 1975, and found guilty.

According to reliable sources and information obtained, the evidence used to obtain Mr. Peltier's extradition to the USA from Canada was fabricated by the FBI, as subsequently admitted. The letter also recalled that not all principles of due process had been respected during the trial, that the evidence on which he was convicted was apparently not well researched, and that evidence which would have proclaimed his innocence had been withheld by the prosecution.

The intervention recalled that in 1995, the first year of the International Decade of the World's Indigenous People (launched by the UN in December 1994), Mr. Peltier had spent more than 18 years in prison for a crime which was apparently neither properly investigated nor fairly tried. It called upon Mr. Clinton to react favourably to the petition submitted for presidential clemency.

Denmark

On 28 April 1995, a letter was sent to the Danish Permanent Representative to the UN Office at Geneva, voicing concern over the case of Mr. Hassan Adel, an Iranian citizen who was seeking asylum in Denmark. According to reliable information, Mr. Adel's application for asylum was turned down by the Danish Authorities, who also decided to deport him back to Iran. It appeared that Mr. Adel tried to avoid being put on the plane which was to return him to Tehran and escaped. He was injured and placed in a psychiatric hospital. The letter called upon the Danish authorities to reconsider the case of Mr. Adel since he would most likely face persecution if returned to his country.

Egypt

On 12 June 1995, concern was expressed over the enactment of legislation that significantly infringed the right to freedom of expression and opinion in Egypt.

Sudan

On 12 June 1995, an intervention was made with Lieutenant-General Omar Hassan al-Bashir, President of the Republic of Sudan, voicing concern over the continued detention of Mr. Sadiq al-Mahdi, former Prime Minister of Sudan and an important religious leader. The letter recalled that some government sources stated that Mr. al-Mahdi was being interrogated for involvement in "subversive activities." The substance of these allegations, however, was not made clear. It was requested that the government immediately release Mr. al-Mahdi.

Algeria

On 14 June 1995, an intervention was made with Mr. Lamine Zéroual, President of the Republic of Algeria, voicing concern over

the disappearance of Mrs. Lazreg Nacera Koudri, a mother of six children. According to reliable information she was arrested on 6 December 1994 by the security forces and her whereabouts remained unknown. The letter called on President Zéroural to provide information on her whereabouts and on the reason of her arrest. It was requested that she be either released or that, if charged, she be allowed to be visited by her lawyer and family.

Egypt

On 6 July 1995, a letter was sent to President Hosni Mubarak of Egypt condemning the attempt on his life in Addis Ababa perpetrated on 26 June 1995, during the holding of the OAU Summit. The letter also called upon the government to avoid disproportionate action in response to the tense situation.

On 18 August 1995, a letter was sent to President Mubarak expressing concern over governmental interference in the work of Egyptian NGOs. The letter gave several examples of such interferences. One of these was the cancellation of a training session scheduled for May 1995, on the use of new technology in human rights education which had been organized by the Egyptian Organization for Human Rights (EOHR) and the US-based Lawyers Committee for Human Rights, both ICJ affiliates.

Criticism was also expressed regarding other measures taken by the government to affect the legal status of NGOs, amongst which the EOHR, as well as to restrict their sources of funding. The letter further condemned a law of 1995 which, it recalled, substantially interfered with the freedom of expression of NGOs. It stated that by widening the definition of criminal acts and by fixing severe penalties for violations, the law greatly restricted the ability of NGOs to disseminate information.

The intervention called upon the President to change government policy regarding NGOs and stated that freedom of association and expression of NGOs should be respected and guaranteed.

Botswana

On 25 August 1995, an intervention was made with President Masire of Botswana, expressing dismay over his refusal to grant clemency to five prisoners - David Kelaletswe, David Bogatsu, Tekoetsile Tsiane, Patrick Ntesang, and Obusitswe Tshabang - who were sentenced to death. An appeal was made for a decision to be made to avoid the executions.

Namibia

On 28 August 1995, an intervention was made with President Sam Nujoma of Namibia expressing concern over the treatment of Ms. Annette-Sylvie Makosso, a Congolese national, by the Namibian Police. It was reported that Ms. Makosso was in transit at Windhoek Airport when she was arrested and subjected to a complete search on suspicion of carrying drugs. It appeared that Ms. Makosso who was eight months pregnant at the time of her ordeal gave birth to a baby girl less than twenty four hours later. It was requested that a full investigation into the case be made and that those responsible be prosecuted.

Korea (Republic of)

On 31 August 1995, an intervention was made with Mr. Ahn Woo-man, Minister of Justice of the Republic of Korea, voicing concern over alleged acts of torture inflicted on Mr. Park Young-saeng by police officers at the Song-dong Police Station. It was reported on 26 August that Mr. Park and other staff members of the National Association of Street Vendors had been arrested and taken to the Song-dong Police Station where they were severely beaten for hours. The letter called upon the Minister to ensure that an investigation be conducted into the case and that those responsible be prosecuted in accordance with the International Convention Against Torture, signed by the Republic of Korea on 9 January 1995.

Sudan

On 19 September 1995, an intervention was made with the Minister of Justice and Attorney-General of Sudan, Mr. Abd al-Aziz Shiddo, to request more information about the arrest of hundreds of persons who were about to stand trial in connection with unrest in the country .

United Arab Emirates

On 22 September 1995, a letter was sent informing the Government of the UAE of the intention to send an observer to attend the appeal concerning Ms. Sarah Balabagan's case starting on 30 October 1995. Ms. Balabagan, a young Filipino national, was accused of having killed her employer who allegedly attempted to rape her. The case was subsequently resolved with the annulment of the capital sentence before the date set for the holding of the appeal.

Tunisia

On two occasions, in November 1995, interventions were made with President Zine El Abidine Ben Ali of Tunisia to express concern over a series of repressive measures taken by the Tunisian authorities against Mr. Khémaïs Chammari and his wife Mrs. Alya Charif-Chammari.

Mr. Chammari is a Member of the Tunisian Parliament, where he is a representative of the opposition *Mouvement des démocrates socialistes* (MDS). Mrs. Alya Chammari is a lawyer who took up the defence of Mr. Mohammed Moad, the President of the MDS. Mr. Moad was arrested on 9 October 1995 after his party had made public a communication he had sent to President Ben Ali concerning the democratic process. He was also accused of colluding with a foreign power and consequently detained.

Concern was expressed over the confiscation of the passports of Mr. and Mrs. Chammari at Tunis-Carthage Airport on 29 October 1995, as they were about to travel to Malta to attend an international

conference on human rights. No written justification for was given. The parliamentary immunity of Mr. Chammari was lifted following government accusations that he had leaked investigation secrets concerning the case of Mr. Moadar. Thereafter the couple faced repeated harassment by the police and State security.

Both Mr. Chammari and Mrs. Chammari are active in a local and international campaign for the release of Mr. Moadar. The crux of the campaign was an assertion by Mr. Chammari and others that Mr. Moadar was arrested on political motives.

The interventions pointed out that the repression was politically motivated and aimed at intimidating Mr. and Mrs Chammari and silencing their legitimate human rights-related activities.

Pakistan

On 8 December 1995, interventions were made with the Pakistani Ministers of the Interior and of Justice, to voice concern over the arrest of Dr. Munawara A. Halepota, a physician and human rights activist.

At the time of his arrest, on 28 November 1995, Dr. Halepota, a British resident, was visiting his family in Tandollawar. He was apparently arrested in relation to allegations that he had breached the Criminal Code. He was denied access to his lawyer and family who were unable to obtain information regarding his whereabouts. The letters recalled that if his detention was connected to the expression of his ideas this was a violation of Article 19 of the Universal Declaration of Human Rights. The interventions urged his immediate release if he was being detained for this reason. If, however, he was facing charges which were not related to expression of his beliefs, it was requested that he be given a fair trial in accordance with international standards.

On 11 January 1996, reliable sources disclosed that Dr. Halepota had been released.

Palestine

On 1 December 1995, a letter was sent to President Yasser Arafat of the Palestinian National Authority expressing concern over the lack of preparation of the January 1996 Palestinian elections. Concern focused primarily on the electoral system, and laws and regulations which had not been finalised to that date. One of the most significant concerns raised was the question of the conformity between the proposed electoral code and universal democratic and human rights values.

Bangalore Triennial Commission Meeting and Conference on Economic, Social and Cultural Rights and the Role of Lawyers

The ICJ held its Triennial Meeting in conjunction with a Conference on Economic, Social and Cultural Rights and the Role of Lawyers in Bangalore, India, between 25-27 October 1995. It was attended by a record number of Members of the Commission.

Elections were held at the Triennial Meeting and a new President and Executive Committee were appointed. The Commission also tabled a resolution warning against impunity in Bosnia and Herzegovina for perpetrators of war crimes.

Earlier, at the Conference on Economic, Social and Cultural Rights, lawyers and the judiciary were called upon to play a stronger role in promoting rights linked to economic, social and cultural norms and not only political and civil ones. Within this framework a three-fold Plan of Action was adopted (see *infra*, under *Conference on Economic, Social and Cultural Rights*).

Triennial Commission Meeting

- *The Election of a New President and Executive Committee*

Justice Michael Kirby, 56, was elected President of the ICJ on 28 October. He is a judge of the High Court of Australia and President of the Court of Appeal of the Solomon Islands. A member of the Commission since 1984, Justice Kirby is also Special Representative for Human Rights in Cambodia of the United Nations Secretary-General.

The outgoing President of the ICJ, Dr. Joaquin Ruiz Giménez, the former Ombudsman of Spain, has now become an Honorary Member of the organization. Dr. Ruiz Giménez had been elected in 1992 at the previous Triennial Meeting held in Cartigny, Switzerland. He had expressed his wish to step down before the end of his five year term at age 80.

Mr. Fali Nariman was elected Chairman of the Executive Committee of the ICJ. Mr. Nariman is the former Solicitor-General of India and a long time leader of the legal profession in that country. He has been a Member of the Commission since 1983. Mr. Nariman succeeds Justice Kirby in this post.

Newly elected Vice-Presidents were: Dalmo de Abreu Dallari (Brazil); Enoch Dumbutshena (Zimbabwe); Desmond Fernando (Sri Lanka); Lennart Groll (Sweden); Claire l'Heureux-Dubé (Canada); and Ewa Letowska (Poland).

Newly elected Members of the Executive Committee were: Vera Valentina de Melo Duarte Martins (Cape Verde); Diego Garcia Sayan (Peru); Sir William Goodhart (United Kingdom), Asma Khader (Jordan); Kofi Kumado (Ghana); and Theo van Boven (Netherlands).

- *Triennial Meeting Adopts a Resolution Against Impunity in Bosnia and Herzegovina*

One of the key issues taken up at the Triennial Meeting was the granting of impunity to perpetrators in Bosnia and Herzegovina of gross human rights violations, including genocide, war crimes, and crimes against humanity. The Members of the Commission warned that any attempt to circumvent the International Criminal Tribunal for the Former Yugoslavia, established by the UN in 1993, would be contrary to international law.

They reiterated that peace can only be achieved by building upon a foundation of truth and justice ; any other way would constitute a political concession. Within this context, it was emphasised that amnesty should under no condition be granted to perpetrators of war crimes and crimes against humanity; rather the international

community should ensure that authors of such atrocities be denounced and brought to justice. A resolution tabling these concerns was adopted by the Commission.

The Conference on Economic, Social and Cultural Rights and the Role of Lawyers

- *Conference criticises neglect of "Half of Human Rights" by World's Jurists*

Around 100 jurists from all over the world gathered in Bangalore to discuss their role in enhancing economic, social and cultural rights. It was widely agreed that this was an area of human rights that needed much more attention and work by the judiciary in the future, and an extensive debate was held on the realisation and justiciability of these rights within the framework of different national, cultural and regional systems. Regional perspectives on these rights were outlined, with the subsequent recognition that there were many issues yet to be dealt with and to be resolved.

The need for an optional protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and steps to achieve its global endorsement were discussed. Also debated was the monitoring and the implementation of justiciability of economic, social and cultural rights, and the role lawyers should play in their implementation.

- *Plan of Action*

The Conference agreed that there was a need for immediate action, and subsequently drafted and introduced the Bangalore Declaration and Plan of Action, which after consideration was adopted at the closing session. The document urges jurists to focus more on the issues of economic, social, and cultural rights, and points

out that by concentrating exclusively on the familiar territory of civil and political rights, lawyers and judges had failed to use the opportunities and challenges presented by the ICESCR. The Plan of Action in an attempt to remedy this situation outlines three concrete steps as a framework of action for the legal profession, at the international, national, and individual levels.

- 1) At the international level, the conference calls for the universal ratification of the ICESCR. It notes the failure of international organizations in making adequate efforts to monitor violations of economic, social, and cultural rights, and in reporting such incidences to the UN. An immediate adoption of an Optional Protocol to the ICESCR would allow groups and individuals to voice their complaints directly to the UN. The Conference also took special note of the link between the universal enjoyment of economic, social, and cultural rights and a reduction and check on the huge burden of military expenditure and the control of international trade in arms. Other issues that directly impacted on these rights were corruption, offshore placement of corruptly obtained funds, and the inadequate empowerment of women.

- 2) At the national level, emphasis is placed on the central role of an independent judiciary in the effective implementation of such rights. While participants recognised that the judiciary is not the only means of securing these rights, they stated that an independent judiciary is nonetheless essential in getting jurists to give added clout to laws that guarantee these rights. Judges, lawyers, government officials, and legal institutions should be made more aware of their obligations in this field of human rights. Independent public legal aid and assistance schemes in appropriate cases should be set up and the legal profession should be seen to provide more pro bono services. The empowerment of disadvantaged groups; the need for educational programmes; the need for judges to apply international norms in their countries; the need to incorporate these rights domestically and revise laws to make them more precise and, hence, justiciable, were viewed as steps towards the attainment of these rights.

- 3) At the individual level, it was reaffirmed that jurists should play a central role in the attainment of economic, social, and cultural rights. Within this context, it was recommended that jurists should work closely with civil institutions to help promote the ICESCR and other relevant treaties. Finally, it was stressed that the establishment of Ombuds-type institutions would also be extremely helpful.

- *Conference Participation*

The Conference was attended by over a hundred participants including lawyers, judges and legal academics. The ICJ was represented by many Members of the Commission, the Chairman of the Executive Committee, the Secretary-General, the staff of the International Secretariat in Geneva, and members of National Sections and Affiliated Organizations from every continent.

- *Special Issue of the Review of the International Commission of Jurists*

Following the Conference, a Special Issue of the *Review of the International Commission of Jurists* entitled *Economic, Social and Cultural Rights and the Role of Lawyers, Bangalore 1995*, containing papers presented by participants at the conference and other authors was compiled at the International Secretariat.

Annex I

ICJ/CIJL Interventions at the 51st Session of the UN Commission on Human Rights, 30 January-10 March 1995

Oral interventions made during this Session highlighted deep concern over the serious deterioration of human rights in various parts of the world. The following is a brief synopsis of the issues focused upon during this meeting of the UN Commission on Human Rights.

- *Impunity*

The intervention denounced the impunity enjoyed by the perpetrators of gross violations of human rights and grave breaches of international humanitarian law.

- *Internally Displaced Persons*

In a lengthy intervention, concern was expressed at the growing number (30 million) of internally displaced persons (IDPs) in the world. The statement noted that violent conflict, gross violations of human rights, and impunity were root causes of the phenomenon. It noted also that neither the causes of internal displacement nor the ways to prevent and resolve it had been adequately addressed by the international community which had for long considered it a national problem.

The statement noted, however, that the Commission had made a notable effort with the appointment of a Representative of the UN Secretary General, Mr. Francis Deng, to give special focus to internal displacement. The statement welcomed Mr. Deng's work and agreed with his Report that "a great deal remains to be done to

establish and consolidate the normative, institutional and operational frameworks required for an effective system of protection, assistance and sustainable development for IDPs....”

The statement expressed belief that the crux of the matter lies in the implementation of existing standards. It requested that the Representative study the following: how international aid can be focused and diversified, while extending it to those groups particularly affected by internal displacement, notably women, children and other vulnerable groups; how humanitarian aid can be prevented from being politically manipulated; and how an efficient early warning mechanism can be established.

• *Violence Against Women*

In a follow-up to its Report entitled *Comfort Women - An Unfinished Ordeal*, based on investigations made during a Mission sent to the Philippines, the Republic of Korea, the Democratic People's Republic of Korea, and Japan in April 1993, the ICJ deplored the Japanese government's lack of proper consideration to the findings of the Report - in particular the recommendation for expeditious mechanisms for an administrative forum to deal with the compensation claims of the victims. The oral intervention recalled that the government's so-called "Murayama Plan" that called for civilian donations failed to address Japan's State legal and moral obligations with regard to the former "Comfort Women" in the countries occupied by the Japanese Imperial Army throughout East Asia before and during World War II. The ICJ recalled that it was clear that Japan has moral and legal obligations towards the victims, the foundation of which could be found in the Report and that it was imperative that Japan reverse its current policy and take immediate steps to provide full reparation.

The intervention welcomed the successful Preliminary Report submitted by the Special Rapporteur on Violence Against Women, Mrs. Radhika Coomaraswamy, stating: "[she] made important inroads to understanding the contextual basis of violence against women. Highlighting the issues of impunity and the lack of accountability, she brought the examination to a deeper, more sophisticated level."

• *The Protection of Human Rights Defenders*

The oral intervention welcomed the support of the Commission to the goal of a Declaration on the right of everyone to promote and protect human rights. It acknowledged the efforts of most States in the Working Group to draft a Declaration that genuinely protects human rights defenders - one that does not dilute safeguards long established in international human rights law. It, however, denounced a few States that persisted in demanding authority in the Declaration to restrict the work of defenders.

The intervention stressed that the search for consensus must not permit insinuation of limitations on the freedom of human rights defenders that would take the life out of the Declaration. It recalled that in the law and practice of human rights, universal norms take precedence over internal laws and practices that nullify human rights and freedoms. It asserted that the Declaration should also make it explicit that all rights of human rights defenders apply at both the national and international levels. It also stated that the declaration should proclaim the right of defenders to be protected from those - State authorities, armed groups, or others - who seek to intimidate, attack, or harm them because of their work or ideas.

The statement recalled that the NGOs who participated in the World Conference at Vienna adopted a Resolution on human rights defenders on 23 June 1993. It asked for UN protective status for human rights defenders who are in peril. It also requested a Special Rapporteur to investigate threats and attacks against defenders. The ICJ requested the Commission to consider these recommendations as it reviews the efforts of the Working Group in 1995.

• *The Independence of Judges and Lawyers*

The CIJL presented its sixth annual report, entitled *Attacks on Justice*, to highlight the significance of UN involvement in protecting judicial and legal independence. On this occasion a statement revealed that the report had catalogued the cases of 572 jurists in 58 countries who had suffered reprisals for carrying out their professional functions between June 1993 and December 1994. Of these, 72 were killed, 3 were "disappeared", 28 were attacked,

119 received threats of violence, 24 were tortured, 177 were detained, and 149 were professionally sanctioned or obstructed.

The statement mentioned the cases of Algeria, Australia, Chile, Colombia, Egypt, Equatorial Guinea, France, Indonesia, Italy, Kenya, Malaysia, Morocco, Nigeria, Peru, Tunisia, Turkey and the United States of America, which were illustrative of the various ways and degrees in which judges and lawyers had been subjected to harassment and persecution.

The statement welcomed the first report of Dato' Param Cumaraswamy, Special Rapporteur on the Independence of Judges and Lawyers, and stressed that it adequately outlined the legal principles pertaining to judicial and legal independence and raised high hopes for future progress.

- *Chechnya*

The intervention affirmed that atrocities such as extrajudicial executions, systematic incarceration, torture and disappearances were carried out mainly by Russian troops in the secessionist North Caucasian Republic of Chechnya in defiance of basic humanitarian law principles and on a hitherto unprecedented scale. It called upon the Russian Army and authorities to show respect for international law, in particular the 1949 Geneva Convention, which *inter alia* provides for the protection of non-combatants. The statement called upon the UN Special Rapporteurs on Torture and Extrajudicial, Summary or Arbitrary Executions, and the experts of the Working Groups on Enforced Disappearances and on Arbitrary Detention, to urgently visit the war-torn territory.

- *Colombia*

The intervention affirmed that impunity caused the deterioration of the human rights situation in Colombia, where the government itself recognises an alarming impunity rate of 87% in common cases and 100% in cases related to human rights. It was stated that, since 1988, more than 10 people a day are killed as a consequence of

human rights violations or political violence. The statement called upon the Commission to adopt a resolution to appoint a Special Rapporteur on Colombia who could examine the situation and follow-up on the implementation of recommendations of the Rapporteurs on Torture, Extrajudicial, Summary or Arbitrary Executions, and the Working Group on Enforced Disappearances.

During the session, the ICJ joined Amnesty International, the Colombian Section of the Andean Commission of Jurists and other NGOs in a campaign to denounce the human rights situation and express disapproval of the Commission's unwillingness to adequately respond to it.

- *Iraq*

The intervention condemned the introduction of the use in Iraq of unusual, cruel and inhuman punishments, which violate the country's obligations under international law. It urged Iraq to bring its legal system into conformity with international human rights norms and called upon the international community to deal more humanely and responsibly with the plight of the people of Iraq which resulted from the international embargo on its commerce.

- *Nigeria*

The intervention expressed concern over the continuing deterioration of the human rights situation in Nigeria since the cancellation of the June 1993 elections. It denounced the promulgation of decrees, including retroactive ones, by the military government which conferred dictatorial and absolute powers on the military Head of State. It recalled that with no separation of powers, no system of checks and balances and no independent judiciary, the military acted arbitrarily to curtail fundamental rights and freedoms with complete impunity. The ICJ urged that a Special Rapporteur on Nigeria be appointed.

- *Zaire*

The intervention expressed concern over the continuation of extrajudicial killings, torture and arbitrary arrests in Zaire. It commended the report of the Special Rapporteur on Zaire and supported the renewal of his mandate. A round-table discussion on the human rights situation in that country was organized by the ICJ during the meeting of the Commission.

- *Palestinian Occupied Territories*

The intervention recalled continued incidents involving the assassination of both Palestinians and Israelis in the Palestinian Occupied Territories. The statement expressed concern over the harsh measures of collective reprisals taken against the Palestinians each time an Israeli citizen was killed and denounced Israel's open, public and explicit endorsement of torture.

The statement also expressed surprise over the conclusions made by the Special Rapporteur in the report of his visit to the Occupied Territories. In particular, the ICJ deplored the fact that the report ignored the Geneva Conventions, whilst preferring to resort to general political considerations. The ICJ agreed with the Special Rapporteur's demand that his resignation be accepted but urged that the mandate of the Special Rapporteur on the human rights situation in the Occupied Territories be maintained.

- *Western Sahara*

The intervention expressed concern over the Saharawi people being delayed in their quest to be able to fairly exercise their right to self-determination.

Annex II

ICJ/CIJL Interventions at the 47th Session of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, 31 July-25 August 1995

Oral interventions made during this Session demonstrated deep concern over the deterioration of human rights. Below is a brief rendering of these interventions.

- *Administration of Justice and the Question of Impunity, Human Rights and States of Emergency, and The Work of the UN Commission on Crime Prevention and Criminal Justice*

Impunity of perpetrators of grave violations of human rights was strongly denounced. The intervention recalled that a society is greatly harmed when those in power support and allow massive or systematic human rights violations to go unpunished through either legislative means (e.g. amnesty laws) or consistently refuse to investigate violations. It emphasised that impunity undermined both the dissuasive influence of sanctions and the concept of equality before the law.

The statement welcomed the work of the two Special Rapporteurs on the subject, Mr. Louis Joinet for his report on impunity for perpetrators of violations of civil and political rights, and Mr. El Hadji Guissé, for his report on impunity in the context of economic, social and cultural rights.

The statement also considered the question of human rights and states of emergency. It welcomed the study of Rapporteur, Mr. Leandro Despouy. Mr. Despouy noted that when States declared a state of emergency, they passed criminal legislation with

especially severe penalties for crimes against State security. The ICJ recalled that people sentenced often continue to serve their sentences after the state of emergency has been lifted.

The statement also referred to the work of the UN Commission on Crime Prevention and Criminal Justice (and its predecessor, the Committee) which accomplished substantial and commendable work in standard-setting. The ICJ recalled that that body's proposals have been considered and adopted since 1955 by the UN Congress on the Prevention of Crime and the Treatment of Offenders, which meets every five years. Approved norms include the Standard Minimum Rules for the Treatment of Prisoners, Basic Principles for the Independence of the Judiciary, Basic Principles on the Role of Lawyers, and the Guidelines on the Role of Prosecutors. The statement voiced concern that some governments attempted to diminish the importance of this work by removing from texts all references to human rights and the implementation of the norms and principles contained therein.

• *Economic, Social and Cultural Rights*

The intervention recalled that the report of the study made by Mr. Danilo Türk in 1992, together with intellectual discussions and seminars on the problem, had identified the need for the right of individuals and groups to submit communications alleging non-compliance by States parties with the provisions of the International Covenant on Economic, Social and Cultural Rights, as one of the ways of ensuring the implementation of these rights. The ICJ also recalled that this view had been endorsed by the Committee on Economic, Social and Cultural Rights and the World Conference on Human rights held in Vienna in 1993. It voiced concern over the fact that the proposal for an Optional Protocol to the Covenant on Economic, Social and Cultural Rights, did not receive much support during the Commission on Human Rights in January 1995. The statement urged the Sub-Commission to appoint an expert to prepare a working paper on the issue of justiciability in light of developments in national legal systems.

- *The Human Rights of Women*

The intervention recalled the formal commitments expressed by States regarding the integration of the human rights of women and the girl-child into the activities of the UN system. The ICJ noted that only a very modest attempt at integrating the issues relating to the human rights of women into the human rights machinery of the UN had been made so far. It acknowledged, however, some progress in promoting women experts mainly in treaty bodies. But concern was expressed that only three women served as special rapporteurs of the Commission of Human Rights. It was suggested that more women should be appointed as thematic and country rapporteurs. The statement welcomed the establishment of a provisional focal point for women at the Centre for Human Rights and the appointment of a Special Rapporteur on Violence against Women.

Particular concern was voiced over the way preparations for the Fourth World Conference on Women were being handled. The ICJ noted that a critical look at the emerging Platform of Action revealed that the standards to be agreed upon by governments in Beijing were lower than those already set in the Vienna Declaration. It was stressed that, as a minimum, there should be a restatement of the human rights of women and the girl-child as an inalienable, integral and indivisible part of human rights which all governments, institutions, IGOs and NGOs have a duty to protect. On the administrative level, the statement recalled China's indirect attempt to minimise NGO participation in the Conference demonstrated by its shifting of venues and complicated visa arrangements.

The ICJ noted that the unwillingness of patriarchal systems to encourage change in attitudes coupled with religious and cultural extremism, continued to hinder progress in the protection of the human rights of women.

- *Contemporary Forms of Slavery*

The statement reiterated concern voiced during the 1995 session of the UN Commission on Human Rights concerning the Japanese government's failure to fulfil its legal and moral obligations to the former "Comfort Women" who were forced into slavery by the

Japanese Army in East Asia before and during World War II. It stressed that States should directly and fully compensate victims of slavery or slavery-like practices.

The statement emphasised that under a legal obligation, Japan must provide direct and full reparation. It recalled the Proposed Basic Principles and Guidelines concerning reparation to victims of gross violations of human rights, which was at that time being considered by the Sub-Commission, that is, "Every State has the duty to make reparation in case of breach of the obligation under international law to respect and to ensure respect for human rights and fundamental freedoms." The ICJ reiterated its strong support for the furtherance of the Proposed Basic Principles.

The ICJ welcomed the report of the Working Group on Contemporary Forms of Slavery and the working paper of Ms. Linda Chavez on the situation of systematic rape, sexual slavery and slavery-like practices during wartime.

- *Bosnia and Herzegovina*

Alarm was expressed at the human rights situation in Bosnia and Herzegovina. The statement highlighted the Bosnian Serbs' violations of human rights, *inter alia*, in the so-called UN protected zones. In these areas, extra-judicial executions, rape, torture, and disappearances were taking place on a wide scale. The statement denounced the inability and unwillingness of the international community to take effective measures to halt these extreme and illegal acts. It recalled that world action was needed not only to protect human life and dignity, but also to preserve the integrity of the UN itself. The statement however, welcomed the action of the International Criminal Tribunal for the Former Yugoslavia which issued 24 indictments on 25th July 1995, including that of the Bosnian Serb leader, Radovan Karadzic.

- *Colombia*

The intervention drew attention to the fact that Colombia had one of the world's highest homicide rates in proportion to the

population. The statement recalled that many of these assassinations were actually extrajudicial executions, that many involved forced disappearances and that the perpetrators were security forces, paramilitary groups, guerrilla groups and drug traffickers. The ICJ stated that the impunity of those responsible for the crimes undermined the credibility of the country's law enforcement institutions and administration of justice. It called again on the Sub-Commission to adopt a resolution recommending that the Commission on Human Rights appoint a Special Rapporteur on Colombia.

- *Nigeria*

Concern was voiced over the trials and subsequent sentencing of 40 military officers and civilians for an alleged coup plot. The statement recalled that many members of the international community were concerned about the fairness of the trials, all of which were held *in camera*. The sentences passed ranged from 25 years to life imprisonment for the civilians to execution for the military officers. Among those tried was General Olusegun Obasanjo, the only military Head of State in the history of Nigeria to relinquish power to a civilian government. Also tried was his former deputy. The ICJ reiterated a previous request that the Sub-Commission recommend to the Commission on Human Rights that a Special Rapporteur on Nigeria be appointed to study the situation as soon as possible.

- *Amnesty in Peru*

The statement denounced the amnesty granted in June 1995 by the Government of Peru to members of the military and police and civilians. It recalled that the amnesty terminated all investigations and exempted all parties from responsibility - effectively granting impunity - for crimes committed in the past 15 years in the struggle against "terrorism." The crimes included assassinations, forced disappearances, torture and physical abuse, arbitrary detentions and other violent acts perpetrated against alleged terrorists and legitimate opposition groups alike. The ICJ statement recalled that the amnesty

violated numerous international instruments, and ignored decisions of similar cases issued by the Inter-American Commission on Human Rights.

It was noted that soon after approving the amnesty law, Peru approved the "Law of Interpretation" to hinder judges from making interpretative decisions on the constitutionality of the amnesty law, seriously interfering with the independence of the judiciary. The statement encouraged the Peruvian authorities to nullify the amnesty law of 14 June 1995, which would also render the "Law of Interpretation" inapplicable.

Annex III

Press Statements in 1995

(In chronological order)

1. **Chechnya:** 06 January 1995 - A statement was issued denouncing the indiscriminate use of force by the Russian army against civilian targets in and around Grozny, the capital of Chechnya, which caused the deaths of thousands of civilians. It was stated that the Russian army had violated the right to life of unarmed civilians. It was recalled that international humanitarian law provides that non-combatants are protected and that there can be no justification whatsoever for the use of force against them. The statement also recalled common Article 3 of the 1949 Geneva Conventions which declares that, "Persons taking no active part in the hostilities ... shall in all circumstances be treated humanely" Article 3 also expressly prohibits "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" The statement called upon the Russian government to refrain from the use of indiscriminate force against civilians, to bring the actions of its agents into conformity with international standards, and to bring about a peaceful resolution to the conflict.
2. **Burundi:** 10 January 1995 - In light of the resurgence of violence in Burundi, a statement called upon the international community to assist the political actors in Burundi in every possible way in finding a peaceful solution to the conflict. The statement called upon the President and the Secretary-General of the OAU to urgently take appropriate measures to defuse the crisis in Burundi. It also called for solidarity between the Heads of State of the sub-region to find a peaceful resolution to the crisis.

3. **Israel:** 23 January 1995 - A statement condemned the bomb attack at Bir Lid Junction in Israel. The "Islamic Jihad" claimed responsibility for the attack which resulted in the killing of 18 Israeli soldiers and one civilian, and wounded scores of other persons. Concern was expressed over the potential repercussions of this attack. The statement called upon the Government of Israel to avoid taking disproportionate and collective action against Palestinian civilians for acts they did not commit. It urged all sides to put an immediate end to the violence.

4. **Human Rights Defenders:** 01 February 1995 - A statement was issued criticising the fact that some States continued to systematically insist on trying to set limitations on the work of human rights defenders and obstructing the elaboration of a UN Charter on Human Rights Defenders during the 10th Session of the UN Working Group on Human Rights Defenders which ended on 27 January. The statement recalled that only three articles of the Charter were agreed to during the two-week session in Geneva. The statement singled out Cuba, which never lost an opportunity to suggest that the defenders should act "subject to national law" throughout every operative article of the proposed Charter. However, the fact that a clear majority of States and NGOs recognised that the real objectives of the Working Group were important enough to warrant continuation of this body's work, was clearly welcomed.

5. **New Commission Member:** 02 February 1995 - A statement announced the election of Mrs. Ewa Letowska, from Poland, as a new Commission Member.

6. **Chechnya:** 03 February 1995 - A statement welcomed the Council of Europe's decision to impose a *sine die* freeze on Russia's application to join the organization. It recalled that Russia's application to join the Council of Europe was incompatible with the measures applied by its armed forces

against non-combatants in Chechnya, which violated both the European Convention on Human Rights and the Geneva Conventions. It voiced concern over systematic torture and beatings, as well as mock executions of Chechen prisoners, including civilians by the Russian forces. It recalled that the acceptance of Russia as a member State of the Council of Europe without proper consideration of the behaviour of its agents in Chechnya would result in the dampening of the European Convention on Human Rights and damaging of the credibility of the Council of Europe, an organization esteemed for its promotion of the Rule of Law.

7. **Attacks on Justice:** 15 February 1995 - The CIJL announced the release of its 6th Annual Report, entitled *Attacks on Justice*, on the harassment and persecution of judges and lawyers. The Report catalogued the cases of 572 jurists in 58 countries who suffered reprisals for carrying out their professional functions between June 1993-December 1994. Of these, 72 were killed, 3 were "disappeared", 28 were attacked, 119 received threats of violence, 24 were tortured, 177 were detained, and 149 were professionally sanctioned or obstructed.

8. **France:** 23 February 1995 - A statement was issued regarding attacks by government officials against the independence of the judiciary in France and the phone tapping of members of the judiciary or their relatives for political motives. It recalled that they represented a serious attack against the privacy of persons and compromised the Government of Prime Minister Edouard Balladur. The phone tapping was authorised by Mr. Balladur upon request of the Minister of the Interior, Mr. Charles Pasqua, and was annulled on 8 February by the *Chambre d'accusation* of the Paris *Cour d'appel*, as unlawful. The phone tapping concerned Mr. Jean-Pierre Maréchal, father-in-law of Judge Eric Halphen, who was investigating an alleged corruption affair involving Mr. Didier Schuller, an official associated with the right-of-centre parliamentary majority. The statement voiced support for the *Union syndicale des magistrats* and the *Syndicat*

de la magistrature and denounced attempts made at manipulating or destabilising the judiciary and the principle of the separation of powers. It was urged that the government take measures to establish responsibilities at all levels and ensure that phone tapping remains strictly within the established legal framework.

9. **Kashmir:** 02 March 1995 - A statement condemned human rights violations committed by all sides (India, Pakistan and the Kashmiri separatists) in Kashmir and announced the publication of the Report of a Mission entitled *Human Rights in Kashmir*. The Report *inter alia* criticised the living conditions in refugee camps in both the Indian and Pakistani-controlled parts of the territory. The Mission to Kashmir, was held in August 1993 and composed of: Sir William Goodhart Q.C. (United Kingdom); Dr. Dalmo de Abreu Dallari (Brazil); Ms. Florence Butegwa (Uganda); and Prof. Vitit Muntarbhorn (Thailand).

10. **UN World Summit for Social Development, Copenhagen** (6-12 March 1995): 14 March 1995-For a full account of the meeting and the statement, see "Enhancing the Development of International Law and of Human Rights" (*supra*).

11. **Ethiopia:** 28 April 1995 - A statement announced the results of the ICJ/American Association for the ICJ (AAICJ) fact-finding Mission to Ethiopia conducted in April 1995, concerning elections to be held on 7 May 1995. It recalled that the fairness of the elections may be affected by actions of the Transitional Government.

12. **Sudan:** 05 May 1995 - A statement announced that the ICJ/CIJL had conducted a mission to Sudan from 25 April-3 May 1995. It recalled that the purpose of the mission was to study and report on the Rule of Law, the independence of the

judiciary and of the legal profession, and human rights in the Sudan. It announced that the mission was made aware that administrative detentions under the National Security Act had appreciably diminished. It also stated that the authorities provided the mission with an official list naming the individuals detained under the Act, which was attached to the press release.

13. **Chechnya:** 09 May 1995 - A statement was issued to urge the Heads of States and Governments, participating in Moscow in the commemoration ceremonies marking the 50th anniversary of the end of World War II, to publicly announce that they would back monetary sanctions against Russia unless the Russian army put an end to its violations of human rights in Chechnya, and took firm action to ensure that the officers and soldiers responsible for the atrocities be brought to justice and punished accordingly. The statement pointed out that the presence of so many world leaders in Moscow for the commemorative celebrations, would only serve to condone the horrific abuses and violations of human rights being committed by Russian forces in Chechnya, and first of all the right to life of thousands of non-combatant civilians in flagrant violation of common Article 3 of the Geneva Conventions. It deplored that few States had actually denounced Russia for "the outrageous criminal behaviour of certain elements within the armed forces during their campaign of wanton destruction and terror."

14. **Egypt:** 15 May 1995 - A statement was issued to announce the publication of a CIJL report of a mission to Egypt conducted in 1994, entitled *Clash in Egypt: the Government and the Bar*, which studied the uneasy relationship between the Government of Egypt and the country's lawyers. The statement recalled that the mission was conducted to: examine the various threats affecting the independence of the Egyptian Bar Association and its role in upholding the Rule of Law; examine the causes and effects of the friction between the Government and the Bar; and, investigate the circumstances of the death in police custody, on

26 April 1994, of Mr. Madani, a lawyer who defended members of Islamist groups. The statement called on the Egyptian government to, *inter alia*, ensure that the measures taken under the State of Emergency are strictly required by the exigencies of the situation in accordance with Egypt's obligations under international law. It also recommended that Parliament draft legislation that would prevent the trial of civilians in military courts. The statement urged that: State Security personnel should be prevented from interrogating, intimidating and torturing detainees; lawyers must be allowed free contact with their detained clients without intimidation or interference; all lawyers detained for reasons related to their profession should be set free at once, and the right to association of lawyers should be ensured.

15. **New Commission Members:** 26 May 1995 - A statement was issued to announce the election of Mrs. Vera Valentina de Melo Duarte Martins, from Cape Verde; Dr. Manfred Nowak, from Austria; and Dr. Margarita Retuerto Buades, from Spain, as new Commission Members.

16. **Nigeria:** 09 June 1995 - A statement condemned the military Government of Nigeria for continuing to violate human rights. Alarm was voiced over the systematic erosion of the Rule of Law in Nigeria and the refusal of the military government to respect the will of millions of Nigerians to live in a democratic society. Concern was voiced over the indiscriminate arrest of a growing number of innocent citizens, the continued detention without trial of pro-democracy activists, opposition leaders, and the trial before unconstitutional courts of persons charged with offences and urged the military to release with immediate effect all persons detained.

17. **Guinea-Conakry:** 14 June 1995 - For a full account of the monitoring of elections in Guinea-Conakry and the subsequent

elections evaluation statement, see "Technical Assistance to Governments", (*supra*).

18. **Japan:** 21 June 1995 - A statement was made to announce the holding of a Seminar on Japan's responsibility in "Sexual Slavery and Slavery-Like Practices in World War II" at the United Nations University in Tokyo, between 2-4 July 1995. It emphasised that the Seminar would focus on the rights to reparation of the victims of serious human rights violations and the impunity of human rights violators in the context of the ordeal of "Comfort Women" in the 1930's and 1940's. It recalled that, in 1994, the ICJ had published a report of a mission to the Asia-Pacific region, entitled *Comfort Women: An Unfinished Ordeal*, in which it re-stated Japan's moral and legal responsibility to financially and otherwise compensate former "Comfort Women."

19. **Ethiopia:** 26 June 1995 - A statement was issued announcing that two ICJ representatives to high-level meetings of the Organization of African Unity (OAU), held in Addis Ababa, had been denied access to Ethiopia because of the April 1995 Report on Ethiopia (see Missions *supra*). The ICJ recalled that as an organization in consultative status with the OAU, it had been invited by the OAU to attend the meeting of the 61st Ordinary Session of the Council of Ministers and the 31st Session of the Summit of Heads of State and Government of the OAU, in Addis Ababa, from 16-28 June 1995. It explained that the controversy began when the visas which had been issued to enter Ethiopia, were subsequently cancelled. The ICJ resorted to clarifying the matter with the OAU and was informed, on 21 June 1995, that its representatives would be met upon arrival by the OAU Protocol Service and officials of the Ethiopian Ministry of Foreign Affairs, who would provide them with due assistance and visas. The statement deplored these unprecedented measures against ICJ representatives which were contrary not only to the Headquarters Agreement between the OAU and the Government of Ethiopia but also to the 1975 Vienna Convention

on the Representation of States in their Relations with International Organizations. The statement called upon the OAU to correct this situation and ensure that the credibility of the OAU in its relationship with the host country be protected at all times.

20. **Peru:** 03 July 1995 - A statement denounced the general amnesty law granted on 14 June 1995 to the military and police in Peru who committed civil and military crimes in "the fight against terrorism," between May 1980 and the date of this law. It recalled that the amnesty extended to everyone and to all crimes, including human rights violations - such as assassinations, forced disappearances, torture, arbitrary detentions -, all of which were frequent occurrences in the fight against violent armed organizations such as the *Shining Path* and the *Tupac Amaru*. The statement also recalled that the amnesty law ensured impunity and affected fundamental values, such as equality before the law and the right to justice, by allowing persons who held official functions to escape responsibility. The statement further recalled that Peru had ratified international human rights treaties which were binding, which were directly applicable in domestic law, and which, consequently, denied such impunity.

21. **Colombia:** 07 August 1995 - A statement was made to denounce the Colombian government's decision to award Brigadier-General Alvaro Hernan Velandia, commander of a brigade in Cali, the "Order of Military Merit in the degree of Outstanding Officer." It was recalled that the officer had been the object of a request from the Prosecutor-General's Office to be retired from the army and prosecuted for his responsibility in the forced disappearance and subsequent death of Mrs. Nidia Erika Bautista. Her body was found bearing signs of torture on 26 July 1990. On 11 September 1995, the Government of Colombia decided the forced retirement of the general because of his involvement in the assassination of Mrs. Bautista. It was the first time that a high ranking officer was retired for human rights violations.

22. **Israel:** 22 August 1995 - A statement was issued to condemn the 21 August 1995 suicide bomb attack against a bus in Jerusalem. The armed branch of the " Hamas " movement claimed responsibility for the act which resulted in the killing of 5 persons, including the perpetrator, and injured around 100 others. The statement recalled the potential repercussions of the attack which occurred just hours after the sealing of the Occupied Territories had been lifted. It called on Israel to exercise restraint and avoid taking disproportionate and collective action against Palestinian civilians for acts they did not commit.

23. **Guinea-Conakry:** 30 August 1995 - A statement called upon the Government of Guinea and all other political actors in Guinea to show respect for democracy in the immediate aftermath of the 11 June 1995 parliamentary elections. The statement also announced that the ICJ had published a report on the observers' mission during those elections.

24. **UN Sub-Commission on Prevention of Discrimination and Protection of Minorities:** 31 August 1995 - A statement issued at the end of the Sub-Commission's session, held between 1-25 August 1995, welcomed important breakthroughs in the session but regretted undue politicisation of debates. The statement also applauded the fact that for the first time a resolution was adopted on human rights in Colombia. It also described as positive: a resolution on the former Yugoslavia which emphasised that no provision for impunity for gross violations of human rights and grave breaches of humanitarian law must be made in the peace plan; the decision to consider the human rights of women and the girl child under every item of the agenda; the appointment of the American expert to the Sub-Commission, Mrs. Linda Chavez, as Special Rapporteur on rape and sexual slavery in time of war; the establishment of a UN Trust Fund on Contemporary Forms of Slavery; a resolution encouraging States to guarantee equal opportunity for people with disabilities; and the declaration made in favour of a total ban on the production, marketing and use of

anti-personnel land mines. The statement recalled the International Decade of the World's Indigenous People and that the Sub-Commission had adopted four resolutions on the subject. It also welcomed the decision to request Mr. Louis Joinet of France to prepare a first draft of a Universal Convention on Enforced Disappearances. The statement regretted, however, that the Sub-Commission failed to adopt resolutions on human rights in Indonesia, Chechnya and Nigeria.

25. **Permanent International Criminal Court:** 01 September 1995 - A statement assessed UN progress to establish a permanent International Criminal Court. For a more complete rendering of the occasion, see *Enhancing the Development of International Law and of Human Rights, (supra)*.

26. **Nigeria:** 03 October 1995 - A statement expressed alarm over General Abacha's prolongation of military rule in Nigeria for three more years. It recalled that, while extending military rule, the General announced a superficial programme of reforms which included lifting a ban on political activities and establishing civilian local and State legislatures and a national assembly. The General remained silent, however, on the fate of the 1994 draft Constitution that planned the way to a restoration of democracy. The statement recalled that Gen. Abacha refused to release political prisoners, and in particular Chief Moshood Abiola, the widely acclaimed winner of the 1993 elections. It called on the military government to immediately release all detainees and review its decision to delay a rapid return to constitutional, democratic and civilian normality. It also called upon the international community to step up its pressure on the military government.

27. **Ivory Coast:** 06 October 1995 - A statement expressed concern over political violence in the Ivory Coast and called upon political actors to exercise restraint. In the aftermath of the adoption by

Parliament of a law on the new electoral code, several demonstrations took place, some for and some against the law. One of the demonstrations ended in violence and caused five deaths. Two major opposition parties refused to take part in the upcoming elections as long as the new code remained in force. President Konan Bédié maintained his position regarding the new electoral code and the scheduled date of the presidential elections on 22 October, of the parliamentary elections on 26 November, and of the local elections on 17 December 1995. The statement called upon the government and the opposition parties to engage in a constructive dialogue to get out of the impasse and prevent the resurgence of violence.

28. **The ICJ Conference on Economic, Social and Cultural Rights and the Role of Lawyers, Bangalore:** 27 October 1995 - For a full account of the meeting and the subsequent statement, see Bangalore Triennial Commission Meeting, (*supra*).

29. **Tunisia:** 01 November 1995 - A statement was made expressing alarm over a series of repressive measures taken by the Tunisian government against Tunisian parliament member and human rights activist Mr. Khémaïs Chammari and his wife Mrs. Alya Charif-Chammari, a lawyer and human rights activist. The statement recalled that the ICJ had written to President Ben Ali, asking that the travel ban on Mr. Chammari and Mrs. Charif-Chammari be lifted and their passports returned to them. The statement called upon members of the Tunisian parliament to carefully consider all the relevant facts in making a decision on lifting the parliamentary immunity of Mr. Chammari.

30. **Nigeria:** 11 November 1995 - A statement was issued to condemn the execution of environmental activist and writer Ken Saro-Wiwa and eight others sentenced to death by a military tribunal after what had been adjudged a most unfair trial and violation of the Rule of Law. The statement recalled that the

government of General Abacha had shown to the whole world its lack of respect for fundamental human rights, the Rule of Law and the wishes of the people. Calling the execution a "criminal act of State murder," the ICJ urged the world community, and especially the OAU, to take firm action. The statement expressed support for the stand taken by the Commonwealth to suspend Nigeria from its membership in the spirit of the Harare Declaration of 1991. It also called on all States to sever diplomatic relations with the military government and urged the UN Security Council to take all appropriate measures to ensure that respect for human rights, democracy and the Rule of Law are restored in Nigeria.

31. **Nigeria:** 22 December 1995 - A statement was made to welcome the actions taken by the African Commission on Human and Peoples' Rights (ACHPR) on Nigeria. After holding a two-day Extra-Ordinary Session, the ACHPR expressed its "serious concern" on the human rights situation in Nigeria and decided several practical measures. The Extra-Ordinary session took place in Kampala, Uganda, between 18-19 December 1995.

32. **Burundi:** 27 December 1995 - The ICJ Secretary-General made a statement to denounce the lack of response of the international community in the wake of mass assassinations and bloody inter-ethnic strife in Burundi. He recalled that 15,000 persons met violent deaths in Burundi in 1995, most of them women and children. He called on UN Member States to react immediately - and energetically - and set up a rapid action plan that would drastically reduce the risks of a further deterioration of the situation. He requested the sending of UN military teams to Burundi to actively protect the population. He also called for suspected authors of ethnic crimes to be prosecuted. He stressed that by supporting such initiatives, the international community would assist in halting the cycle of violence and contribute to restoring a lasting peace in the country.

Annex IV

ICJ/CIJL Publications in 1995

Regular Publications

- i) *ICJ/CIJL Newsletter*, Nos. 61, 62, 63, 64 (in English).
- ii) *ICJ Review*, Nos. 54 and 55 (in English, French and Spanish).
- iii) *Attacks on Justice: The Harassment and Persecution of Judges and Lawyers*, June 1993-December 1994 (in English and French).
- iv) *CIJL Yearbook* (in English, French and Spanish).
- v) *Triennial Report 1992-1994* (in English).

Ad Hoc Publications

- i) *ICJ Position Paper on the World Summit for Social Development, Copenhagen, 6-12 March 1995* (in English).
- ii) *Human Rights in Kashmir - Report of a Mission* (in English).
- iii) *Report of a Fact-Finding Mission to Ethiopia* (in English).
- iv) *Clash in Egypt: The Government and the Bar*, Report of a Mission to Egypt (in Arabic and English).
- v) *Legal Services for Rural and Urban Poor and the Legal Status of Rural Women in Anglophone West Africa*, Report of a Seminar (in English).
- vi) *Women and the Law in the Pacific*, Report of a Regional Seminar (in English).

Annex V

ICJ Missions

Guyana, March 1995
Ethiopia, April 1995
Sudan, April-May 1995
Morocco, June 1995
Nigeria, August 1995
Kenya, September 1995
Kyrgyzstan, September 1995
Ukraine, November-December 1995

ICJ Trial Observations

Nigeria, February and May 1995
United Arab Emirates (Dubai) April, June and September 1995
Kenya, June 1995
Malawi, June 1995
Serbia, August 1995
Egypt, October 1995
Indonesia, November 1995

Interventions with Governments

Equatorial Guinea, January 1995
Indonesia, February 1995
Palestine, February 1995
Denmark, April 1995
United States of America, April 1995
Algeria, June 1995
Sudan, June and September 1995
Botswana, August 1995
Egypt, August 1995
Republic of Korea, August 1995
Namibia, August 1995
United Arab Emirates, September 1995
Tunisia, November 1995
Pakistan, December 1995
Palestine, December 1995
Turkey, December 1995

Annex VI

CIJL Alerts and Interventions

Albania, June 1995
Colombia, July 1995
Hong Kong, August 1995
India, May 1995
Mexico, June 1995
Morocco, May 1995
Pakistan, February 1995
Zaire, October 1995
Turkey, October 1995

CIJL Trial Observations

Georgia, February 1995
Malaysia, January 1995
Indonesia, November 1995

CIJL Mission

Sudan, April/May 1995

Annex VII

Members of the International Commission of Jurists

(on 31 December 1995)

President	Michael D. Kirby, AC, CMG, Australia
Vice Presidents	Dalmo de Abreu Dallari, Brazil Enoch Dumbutshena, Zimbabwe Desmond Fernando, Sri Lanka Lennart Groll, Sweden Ewa Letowska, Poland Claire l'Heureux-Dubé, Canada
Executive Committee	Fali S. Nariman (Chairman), India Vera Valentina de Melo Duarte Martins, Cape Verde
Commission Members	Diego Garcia-Sayan, Peru Sir William Goodhart, QC, United Kingdom Asma Khader, Jordan Kofi Kumado, Ghana Theo C. van Boven, Netherlands Mohammed Bedjaoui, Algeria Antonio Cassese, Italy Arthur Chaskalson, Republic of South Africa Sir Robin Cooke, KBE, New Zealand Marie-José Crespín, Senegal Dato' Param Cumaraswamy, Malaysia Rajsoomer Lallah, Mauritius Tai-Young Lee, Republic of Korea Gladys V. Li, QC, Hong Kong Niall MacDermot, United Kingdom Daniel Henri Marchand, France J.R.W.S. Mawalla, Tanzania Florence N. Mumba, Zambia Manfred Nowak, Austria Dorab Patel, Pakistan Bertrand G. Ramcharan, Guyana Margarita Retuerto Buades, Spain Hipolito Solari Yrigoyen, Argentina Laszlo Solyom, Hungary Daniel Thürer, Switzerland Christian Tomuschat, Germany José Zalaquett, Chile
Secretary-General	Adama Dieng

Annex VIII

Advisory Board of the Centre for the Independence of Judges and Lawyers (on 31 December 1995)

Chairman	P.N. Bhagwati, India
Board Members	Perfecto Andres Ibañez, Spain Lloyd Barnett, Jamaica Amar Bentoumi, Algeria Sir Robin Cooke, New Zealand Marie-José Crespin, Senegal Dato' Param Kumaraswamy, Malaysia Jules Deschênes, Canada Enoch Dumbutshena, Zimbabwe Diego Garcia-Sayan, Peru Stephen Klitzman, USA Giovanni E. Longo, Italy Pablito Sanidad, Philippines Beinusz Szmukler, Argentina Suriya Wickremasinghe, Sri Lanka Abderahman Youssoufi, Morocco
Director	Mona Rishmawi

Annex IX

ICJ/CIJL International Secretariat Staff (in 1995)

Secretary-General
Adama Dieng

Executive-Secretary
Sigrid Higgins

Legal Officers
Alejandro Artucio (*Latin America and the Caribbean*)
Tokunbo Ige (*Africa*)
Nathalie Prouvez (*Consultant*) (*Europe*)
Mona Rishmawi (*Middle East-North Africa and CIJL Director*)
Peter Wilborn (*CIJL Assistant Legal Officer*)

Press and Publications Officer
Nicolas Bovay

Executive Officer
Trevor Davies (*Finance and Administration*)

Programme Coordinator
Bineta Diop

Assistant to the Secretary-General
Nana Moeljadi

Assistant Programme Coordinator
Jasper de Raadt

Finance Officer
Christian Grandjean (*Consultant*)

Accountant
Vincent Guyaz

Librarian
Boris Beer

Publications Assistant
Reza Hariri

Administrative Assistants
Malin Mabrouk
Edith Pellas
Margarita Rosenthal
Karin Stasius

Annex X

Auditor's Report

To the Executive Committee,
International Commission of Jurists

We have audited the accompanying balance sheet of the International Commission of Jurists (a Swiss non-profit organization) as of December 31, 1995, and the related statements of activity and changes in general and donor-designated special projects fund balances for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements.

We conducted our audit in accordance with International Standards on Auditing. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the International Commission of Jurists as of December 31, 1995, the results of its activity and the changes in its fund balances for the year then ended, in accordance with Statements of International Accounting Standards issued by the International Accounting Standards Committee.

ARTHUR ANDERSEN SA

Hans Isler Barbara Lambert

Geneva, Switzerland,
March 11, 1996

INTERNATIONAL COMMISSION OF JURISTS

BALANCE SHEET AS OF DECEMBER 31, 1995

(with comparative figures of the preceding year)

(Currency - Swiss francs)

	31.12.95	31.12.94
<i>ASSETS</i>		
GENERAL FUND:		
Cash	173,447	13,817
Time deposits (Note 5)	4,450,000	4,502,500
Accounts receivable and prepaid assets	255,923	118,928
Prepayments and deposits	10,305	16,047
	4,889,675	4,831,292
DONOR-DESIGNATED SPECIAL PROJECTS FUND (Note 2):		
Cash	1,196	466,856
Receivable from general fund	3,680,290	3,369,422
Other receivables	454,676	394,240
Prepayments	69,908	96,809
	4,206,070	4,327,327
<i>LIABILITIES</i>		
GENERAL FUND:		
Accounts payable and accrued liabilities	311,264	283,726
Payable to donor-designated special projects fund	3,680,290	3,369,422
Other liabilities	13,783	19,327
Reserves		
Reserve for possible discontinuance of operations (Note 4)	741,000	925,000
Other reserves (Note 4)	-	56,000
Fund balance	143,338	177,817
	884,338	1,151,817
	4,889,675	4,831,292
DONOR-DESIGNATED SPECIAL PROJECTS FUND (Note 2):		
Accrued expenses	14,828	38,488
Contributions received in advance (Note 2)	3,837,219	3,369,473
Donor-designated fund balance	354,023	919,366
	4,206,070	4,327,327

The International Commission of Jurists (ICJ), headquartered in Geneva, is a non-governmental organization in consultative status with the United Nations Economic and Social Council, UNESCO, the Council of Europe and the OAU. Founded in 1952, its task is to defend the Rule of Law throughout the world and to work towards the full observance of the provisions in the Universal Declaration of Human Rights. It is composed of up to 45 distinguished jurists from around the world and has 78 national sections and affiliated organizations.



International Commission of Jurists

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