

"Missions of the International Commission of Jurists"

International Commission of Jurists

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INTERNATIONAL COMMISSION OF JURISTS

MISSIONS OF THE ICJ

I MISSIONS ORGANISED BY THE SECRETARIAT

1. *Personnel:* In constituting a mission the Secretary-General, on behalf of the Executive Committee, will take into account the purposes of the mission; the country to which the mission is proceeding; the language(s) of the country and of persons likely to be met; and the following factors:

- (i) The need for an appropriate mixture of expertise and general skills;
- (ii) The age of the participants;
- (iii) Gender balance in missions;
- (iv) Geographical spread of participants;
- (v) Participants from different legal traditions (eg the Hong Kong mission included a participant from the civil law tradition as well as from common law countries); and
- (vi) Past experience in ICJ missions and new faces.

2. *Leadership:* The Chairperson should be chosen with particular sensitivity given that, inevitably, he or she will be regarded as the main representative of the ICJ during the mission. A Secretary/Rapporteur should desirably be appointed who will have the obligation to prepare the first draft of the report in close consultation with the Chairperson and other members of the mission. Normally it may be expected that the Secretary/Rapporteur will be an ICJ staff member or a person of equivalent background and expertise.

3. *Local Sections:* If there is a local Section in the place of the proposed mission or if there is an Affiliated Organisation, its members should be informed of the proposed mission and consulted closely concerning persons to be seen, places visited and issues studied.

4. *Ordre de mission:* This should be obtained from the Secretary-General. Its preparation will require close consultation with the members or at least the Chairperson of the mission. All members of the mission should familiarise themselves with the *Ordre de Mission* for it states the terms of reference of the Mission. They should be careful to confine their activities to those authorised by the *Ordre de Mission*.

5. *Draft report:* It should be an obligation of the mission members, during the performance of the mission, to set time aside for discussion of the important issues raised. They should outline the structure of the report and agree on the principal conclusions giving appropriate instructions to the Secretary/Rapporteur. They should agree to delegate to the Chairperson the function of authorising the first draft. By agreement amongst themselves, they may agree upon the division of writing responsibilities. Where there is such agreement, they should be duty bound to conform to the time limits requested by the Secretariat for the timely presentation of the report. The report should take into account the matters stated in the outline for reports for persons travelling on missions for the ICJ (November 1961) with appropriate modifications for the country or issues under report. Because the ICJ is a legal body, comprising jurists, it will be expected that the members of a mission will familiarise themselves with any relevant international norms applicable to the subject matter of their inquiry as well as to national legal standards. In the case of trial observers, a useful summary of appropriate matters for scrutiny is contained in the *Guidelines for Amnesty International Trial Observers* (February 1982) issued

by Amnesty International, London. See also D Weissbrot, "International Trial Observers", 18 *Stanford J Int Law*, 1 (1982).

6. *Conduct on mission:* It may be expected that mission members will carefully study the brief provided to them by the Secretariat; examine information on the purpose of the mission and the country visited. Sensitivity should be displayed to local customs and to the intense feelings that often exist in disputed matters of human rights. Care should be observed to obey local law. If such law or local attitudes prevents the mission from performing its function freely and fairly, this should be reported with appropriate particularity. Financial charges should be properly recorded and documented. The budget provided should be adhered to.

7. *Dissent:* The right of mission members to disagree is preserved and dissenting reports may be appended to ICJ mission reports. However, as such dissents may secure disproportionate attention, every endeavour should be made, within the mission, to agree upon the report so that it goes forward as an unanimous document. Where matters are not agreed, it may be appropriate to delete reference to the subject matter of disagreement, unless it is considered vital.

8. *Local Comment:* Care must be taken in avoiding pre-empting the final conclusions of the report. It should be remembered that reports of the ICJ and their publication must be authorized by the Secretary-General on behalf of the Executive Committee. It should be emphasised that any comment during the course of a mission is tentative only. It should be expressed in such terms as will not embarrass the ICJ or pre-empt final decisions upon the report.

9. *Time limits:* It is essential that reports be produced with timeliness. Unfortunately, in recent cases, reports have been unduly delayed.

This has diminished the impact of reports and reduced, in some cases, their utility. It is essential that a strict timetable should be agreed by mission members at the outset of their conduct of the mission and faithfully adhered to.

10. *Submission for comment:* In accordance with ICJ practice, the Secretary-General will, where appropriate, provide the report in draft to any government(s) or organisation specially concerned. The purpose of this consultation is to permit the correction of any suggested factual errors and the provision of concluding submissions. The draft report should only be provided upon a condition that confidentiality will be observed. The experience with the recent Kashmir report indicates that this condition will not always be met.

11. *Publication:* The publication of the report should coincide with arrangements by which the mission members make themselves available for media interviews. Members of the mission may, at their discretion, give a statement to the media whilst conducting their mission. If any written press statement is issued copy of this should be sent to ICJ Geneva. If it appears that any development calls for urgent comment by the ICJ, the mission members should make immediate contact by fax or telephone (if necessary reverse charges). If emergencies, difficulties or impediments arise, the Secretary-General should be informed at once. The preparation of a newsworthy media summary should be a responsibility of the Secretary/Rapporteur in consultation with the mission members. It should be remembered that for most people, the report summary will be all they will get to know of the report through the general media. It is therefore essential that the summary, although brief, should fairly represent an accurate portrayal of the issues considered. It should be written in a style that will attract notice including brief indented points concerning the principal themes of the report and main recommendations.

12. *Follow-up:* The preparation of a report should be seen by the ICJ as a beginning, not the end of its work. It is essential that mission members should suggest and take part in follow-up activities such as media publicity; workshops and seminars and lobbying for implementation of proposals.

13. *Audit:* A regular audit of ICJ reports and follow-up to implement their proposals needs to be conducted by the Executive Committee.

II SECTION MISSIONS:

1. *Notification:* Missions on behalf of Sections should be notified to the ICJ Secretariat in Geneva so that the Secretary-General can inform the Section (or Affiliated Organisation) of any competing or conflicting priorities of the ICJ which should be taken into account in determining whether a mission should be undertaken.

2. *Differentiation:* It is vital that in all statements, publicity and in the final report itself, Sections should make it plain that a mission for a Section is so described and is not misdescribed as an "ICJ Mission". In the past, some confusion has arisen which only the local Section and mission members can help to avoid.

3. *Report:* Any reports of Section missions should be provided, after approval by the mission, to the Secretary-General in Geneva.

4. *Applicable principles:* Most of the foregoing principles for missions organised by the Secretariat, will apply, with appropriate modification, to missions by Sections. Given that the ICJ's name will inevitably be attached to a Section Mission (whatever attempt is made to differentiate the Section from the ICJ, Geneva) it is vital that the mission should comprise persons of high standing and reputation, should proceed with neutrality and fairness and should result in a report of integrity, having appropriate reference to international norms.