

INTERNATIONAL COMMISSION OF JURISTS

TRIENNIAL CONFERENCE, BANGALORE, INDIA

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PRESIDENTIAL ADDRESS - RENEWING THE ICJ

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President of the International Commission of Jurists

A NEW ERA

It is a great honour to be elected President of the International Commission of Jurists (ICJ). It is a special honour to follow in the footsteps of Don Joaquin Ruiz-Gimenez, one-time Ombudsman of Spain. He was a much loved figure and a highly respected jurist. To be elected to the office by so distinguished a body of jurists, is a privilege indeed.

I was told by our distinguished Honorary Member, Mr William Butler, that the recently published history of the ICJ, to which he contributed so much, describes me as a "self-appointed reformer" of the organisation. It is true that I have endeavoured to be a reformer. All individuals and institutions need the bracing, but beneficial, effects of reform and renewal. But I was not "self-appointed". If the author says so, he was wrong. At every stage of my journey in the ICJ, I have been elected. Elected as a Commissioner. Elected to the Executive Committee. Elected as its Chairman. And now elected as President. Ours is a democratic organisation. Its mode of the organisation of its Members is election.

It is timely to review the objectives which I set myself, early in my term as a Member of the Commission, and what we have achieved:

• *Greater openness:* In the past, the ICJ was organised after an older principle of administration. It was not very transparent. It relied on the excellence of its works to justify support. The modern mode of administration, in turn an attribute of human rights as perceived today, is openness and transparency. From Scandinavia the movement for freedom of information has spread throughout the world. It is a movement which I support. Over the past triennium, the Executive Committee has worked hard to infuse a greater transparency of administration upon the ICJ. In this, it has had the full support of the Secretary-General (Mr Adama Dieng). After each meeting of the Executive Committee an *Update* is widely distributed - to Members, Sections, Affiliated Organisations and others. This reveals the detailed business of the ICJ. We have also cooperated fully with the Ford Foundation review of the ICJ, believing that it is useful to have the perspective of others upon our work. We have published a *Triennial Report*, giving full details of the work of the Commission. To that report are annexed the financial statements of the ICJ. In the past, getting the financial statements of the Organisation was as difficult as raiding the STAZI files in old Berlin. I agree with the comment that the best way to raise funds for this most worthwhile organisation is to reveal how much we do for how little; and the need for more funds to cure the always precarious financial position in which the ICJ, not alone, finds itself. I see no reason why more financial information

should not be provided to those who are involved in the ICJ mission. I hope that the incoming Executive Committee will pursue the principle of transparency with even greater energy;

• *Greater involvement:* In the past era, there was something of a tendency to attract to the letterhead of the Commission a galaxy of talented Members and then to utilise them very little. Often, between triennial meetings, they took little effective part in the organisation of the ICJ. This too is now changing. Members of the Commission are now the first persons to whom the Secretary-General goes when seeking to create a mission, establish trial observance, present a seminar, conduct electoral observance or otherwise to fulfil the mandate of the ICJ. Where Commissioners are not available, the Secretariat is increasingly looking to the Sections and Affiliated Organisations to supply the key players in the ICJ's international work. There must be greater involvement of these participants in the ICJ's activity. I have presented a paper to this conference on the ways in which the ICJ can utilise, still more, the Members of the Commission. I have presented a further paper to the Members themselves on the ways in which the relations between the Members and the Secretariat can be enhanced. This paper has now been committed to the new Executive Committee. I do not doubt that it will be the subject of attention and action in the coming triennium;

• *Greater universality:* When I came to the Executive Committee there were no women Members. This was scarcely surprising because when I joined the Commission there were very few women Commissioners. We

appeared to be an organisation of token female membership. A concerted effort has been made to change this and other features of the ICJ membership to ensure greater universality. We have more women Commissioners. I trust that, in the future, we will have still more. We have more younger Commissioners. We have more Commissioners from outside the traditional geographical areas upon which the ICJ was founded. Under the leadership of the Secretary-General, we have moved resolutely into the Francophone countries of Africa. And now we have on the ICJ Executive a Member who is not only a distinguished jurist and a woman but a representative of the Luciphone community of people, whose strong common links I saw in the Parliament of Portugal this year at a conference on East Timor. By resolution of the Executive Committee, which I proposed, it is now the policy of the ICJ, when electing new Members, to take into account the need for variety in Commission membership. Sections and Affiliated Organisations, asked to nominate or comment upon candidates for election, have called to their attention the policy of the Commission to secure balance in terms of gender, age, linguistic tradition, juristic system, and branches of the legal profession. Only by observing these principles of diversity will we continue to build an organisation which is truly representative of jurists around the world and deserving of their full support;

• *Greater turnover:* When I came to the office of Chairman of the Executive Committee, the most important office in the ICJ, I inherited a tradition whereby the first three Chairmen had each come from one country

(the United States of America) and each had served for fifteen years, the maximum term. Each was most distinguished. The ICJ owes a great deal to their service. What I now say involves no criticism of that service. Perhaps it was right for those times. But now that the ICJ is more truly a universal institution, it is imperative, as it seems to me, that this culture should be changed. For this reason the Executive Committee resolved that no one should hold office in the ICJ for too long. This principle is indeed reflected in the requirement of the *Statute* that every Commissioner should retire after a maximum of fifteen years. There is provision for Honorary Membership which allows distinguished former Members to continue a close association with the Commission, but without voting. The same pattern is now reflected in the Executive Committee. Several Members have kindly urged me to continue to serve as Chairman. But I must practise what I preach. Only by action, not by words alone, will the culture of regeneration be introduced to replace that of long service. The high talent of the Members of the Commission is such that we must have constant change in the Executive Committee. It is in this way that new and fresh ideas will be introduced for the vital programme of the ICJ. Except in the rarest circumstance, I do not believe that a Chairman should serve more than one term as such or a member of the Executive Committee more than two as such. By such discipline, we will ensure the attainment of turnover and change in the highest organ of the ICJ. This will be good for the ICJ. It will also be good for its mission.

• *Greater modernity:* All of the foregoing are really aspects of a move of the ICJ towards a more modern management style. But this has also been reflected in the Secretariat, under the direction of Mr Adama Dieng. The ICJ has moved from its villa premises to a more modern office, with up to date information technology and more suitable working conditions. The villa may have been elegant and familial; but it was crowded and not efficient. With the new premises come new costs. But I believe that the change will be cost effective. The challenge is to retain the same dedication and commitment whilst ensuring a more appropriate organisation and effective executive direction.

As I look back on the past triennium, I think it can be said that important reforms have been adopted. Having regard to the dedication and talent of the new office holders who have been elected, I have no doubt that the course of reform will continue. I will do what I can to contribute to it.

MEMORIES OF BANGALORE

The triennial meeting of the ICJ Commission with the Sections and Affiliated Organisations is always a time of the greatest importance for the organisation. In a sense, it renews our common commitment and our confidence in each other.

The choice of the topic for the conference which preceded the meeting of the Commission, and of the venue of the conference in Bangalore, India, proved inspired.

The adoption of the *Bangalore Statement and Action Plan* builds upon the earlier work of the ICJ in calling to notice the close relationship between economic, social and cultural rights (on the one hand) and the traditional area of lawyers' activity in civil and political rights (on the other).

The meeting of the Commission has adopted the *Bangalore Statement and Action Plan* as resolved by the conference. It is now part of the policy of the ICJ itself. It will provide an important stimulus to the new Executive Committee and the Secretariat. It does not involve any radically new direction for the ICJ. It rather renews and replenishes our commitment to the indivisibility and universality of human rights concerns.

The most lasting intellectual memories of Bangalore will therefore be found in the *Action Plan*, in the amity of our meetings and the re-dedication to the ideals of the ICJ: defence of the rule of law, commitment to universal human right and protection of the independence of the judiciary and of lawyers in every land.

Each one of us will also have personal memories of this beautiful city in the centre of a most fascinating country, with a six thousand year old cultural tradition.

My memories will include those of the walk through the park with the statue of Queen Victoria, Empress of India. There is a virtually identical statue outside my Court in Sydney, Australia. Seeing it here was a reminder of our historical links and of the common sovereignty which we once shared.

In like vein was the beautiful Holy Trinity Church at the end of the Mahatma Gandhi Road. In the church are the monuments to an earlier time. As I knelt to say my prayers, I saw on the seat in front of me the name plate signifying where "the Hon'ble the Resident" once prayed. On the back wall was a monument to Mr Hill, erected by his colleagues in admiration for his support for "so many good causes". I suspect that there are many in this room, in life, who deserve a similar endorsement.

I will remember the lighting of the flame at the beginning of the conference by the Chief Justice of India (the Hon'ble A M Ahmadi). I will recall how, once he had lit a single taper, he stood back and invited the Secretary-General, myself, the new Chairman of the Executive Committee (Mr Fali Nariman) and the Chairman of the Organising Committee of the conference (Justice Bopanna) to assist in lighting the candles.

I will recall how the Chief Justice of India mixed with ease and grace amongst the visiting Commissioners and conference participants. He heads the highest court in the most populous democracy and common law country in the world. But in the traditions of India, he approaches his duties with humility and respect for all.

By chance we were in India at a coincidence of remarkable events. The Festival of Lights (Diwali) opened the conference. The sight of conference participants nervously at first, and then with enthusiasm, holding the tapering fireworks will long remain with me. So will the brilliant eclipse of the sun. This event, which happens once in seventy-five years, marked our conference in a dramatic way which the organisers could

scarcely have expected. When the darkness of the eclipse was over came a brilliant diamond of light. It was a happy portent. None of us lost its symbolic importance.

Each participant has feasted on the unique cuisine of India. Each of us will remember Mrs Nariman, our hostess at two splendid dinners, cool and efficient. In the opening ceremony she passed a note to her husband, thereby indicating to all why his speeches are ever of such quality. Mr and Mrs Nariman are truly a formidable team.

I will recall the Secretary-General's insistent requirement at one of the dinners, that I spend the night drafting the *Action Plan*. With the amendments offered by my colleagues, I believe that we have a good document which should inspire and encourage jurists around the world.

We will also remember the generosity of the Karnataka State Commission of Jurists, the gentle climate of Bangalore, the brilliance of our interpreters and the efficiency of the conference arrangements.

The Members of the Commission will especially recall the generous welcome by the Chief Justice of Karnataka State, and the other Judges in the High Court of Karnataka. Those of us who are children of the common law felt completely at home in the courtroom, as calm and inquisitive judges faced with equanimity the vigorous advocacy of dedicated lawyers. The meeting with the Advocates' Association which followed will also long stay in our memory.

We have had sombre moments at this conference, as when we stood in silence in memory of three stalwarts of the ICJ: Professor John

Humphrey (Honorary Member, Canada); Mr Dudley Bonsal (Honorary Member and past Chairman of the Executive Committee, United States); and Mr George Lindsay (a long time leading member of the AAICJ, United States). Their passing, and that of the other distinguished jurists and former Members of the Commission listed in the *Triennial Report*, symbolises our brief mortal span and our human duty to use it for the betterment of the world, as they certainly did.

Both in the meetings of the Commission and of the Sections and Affiliated Organisations, and in our meetings together, we have had differences. This is normal in a body committed to the issues of human rights about which people feel strongly. I believe that there is much truth in Lord Hailsham's assertion that the essence of freedom is the right to differ, as well as to agree. But within the ICJ, we have seen relatively few serious differences at this conference. About the commitment to the ICJ's causes there has been no doubt.

We have also had very happy moments. At the meeting with the Bar, the President (Mr K N Subbha Redy) told the assembled advocates of Mr Nariman's generosity to the conference participants. He moved at once that Mr Nariman should extend a similar hospitality to every member of the Bar - a motion which was naturally carried unanimously and with acclamation.

One of the memories that will linger is of the dancers who, on the final evening, offered the participants examples of the traditional dancing of this great country. In the last sequence, two dancers effectively merged

together - symbols of the quest of each human spirit for peace and tranquility with another. Life and death merged at the end of this dance. The dancers joined together in the enduring sound of the universe. It was a symbol both of personal and of spiritual partnership. It reminded me of that marvellous moment at the end of Gustav Mahler's *Das Lied von der Erde* where the crash of the orchestra and the sound of trumpets dies completely away. All that is left is the human voice merging with a mandolin, melting away into eternity. In comparison to such transcendental peace, the wars and cruelty of the world seem so unacceptable. We should take inspiration from the culture of this subcontinent. We should return to our homes with its message.

APPRECIATION ON PARTING

So we part from Bangalore with renewed commitment. We express our thanks to the Hon'ble the Chief Justice of India and to the Minister of State for External Affairs (the Hon'ble S Kursheed MP) for inaugurating our conference. We thank the Government of India for its warm welcome. We renew our thanks to the Chief Justice and Judges of the High Court of Karnataka and to other judges and senior officials of India who graced our occasions. We thank Justice Ranganath Misra, Chairman of the National Human Rights Commission of India, for his valedictory address at the end of our conference. We thank most heartily the Karnataka State Commission of Jurists and particularly Justice P P Bopanna for the brilliant feat of organisation involved in this conference. We thank Mr and Mrs Nariman for their generous hospitality and repeated introduction to

the superb cuisine of India. We thank the Advocates' Association of Karnataka for its welcome. To our rapporteurs and chairmen we express our indebtedness. We salute our interpreters. We acknowledge the Hotel Ashok, Bangalore, for its efficient support of our conference. We remember the dancers, and those who sponsored them, for their display of the culture of India laid before us. We will never forget the people of India whose support for human rights, the rule of law, the independence of the judiciary and of lawyers is an encouragement to countries which have not cherished these freedoms in the same way.

To all who contributed to the Bangalore conference, I say thanks. Old friendships have been renewed. New friendships have been made. And all of us depart with fresh commitment to the ICJ.

I close with an extract from a poem *Song of Hope* by the great Australian poet, Kath Walker. Before her recent and untimely death, she renounced her European name and reverted to her name as an Aboriginal Australian - Oogeroo of the Noonuccal. Her poem reminds us of the wrongs of the past and present which should strengthen our resolve to action. But it also reminds us of the hope of a better tomorrow:

*"Look up my people,
The dawn is breaking
The world is waking
To a new bright day*

*When none defame us,
No restrictions tame us
Nor colour shame us
Nor sneer dismay*

*Now brood no more
On the years behind you,
The hope assigned you
Shall the past replace,*

*When a juster justice
Grown wise and stronger
Points the bone no longer
At a darker race*

*To our father's fathers
The pain, the sorrow
To our children's children
The glad tomorrow"*