

INTERNATIONAL COMMISSION OF JURISTS

REVIEW

ISSUE DEDICATED TO MR NIALL MacDERMOT CBE QC

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MEMORIES OF NIALL MacDERMOT

Michael Kirby^{*}

Niall MacDermot had family connections with Australia. In his later years, he was always talking about returning to Australia. Unfortunately, ill health overtook him and this ambition was not fulfilled. It was left to his successor, Adama Dieng, to complete the journey he had promised.

When I received, and accepted, the invitation to join the International Commission of Jurists (ICJ), I took the advantage of an early visit to Geneva to meet the redoubtable Secretary-General of the ICJ. He greeted me at the airport, took me on a

* The Honourable Justice Michael Kirby AC CMG, President of the International Commission of Jurists, Justice of the High Court of Australia.

tour of Calvin's austere city and then brought me to the residential villa in which the ICJ was then housed. I remember the strong impression which he made on me in this first encounter. He was, even at that time, a handsome man with an air of authority. His hair was wholly grey. He had that incisive mind of an educated Englishman and the clear, precise, clipped voice that often goes with it. Yet this was not a post-colonial relic of a faded Empire on which, I was assured in my youth, the sun would never set. On the contrary, this was an internationalist with a real commitment to the building of a global legal order in which the ideals of the United Nations would be converted into practical reality.

Niall MacDermot talked of his strong commitment to bringing the rule of law to disadvantaged and post-colonial people. His keenest attention was focussed upon Africa but with Latin America not far behind. His engagement in Asia (where many of the worst abuses of human rights occur) was less enthusiastic. There was only so much that a mind could encompass and that the limited resources of the ICJ could tackle. Niall MacDermot was especially acquainted with the terrible wrongs which had occurred in colonial and post-colonial Africa. He was keen, by work in Geneva and work far from there, to encourage the three causes of the ICJ but with a special African focus: defence of the rule of law, upholding human rights and safeguarding the independence of judges and lawyers.

To say that I was impressed by this doyen of the human rights movement would be a serious under-statement. He was one of those people who was immediately impressive. Yet he was quiet and measured in his utterances. One derived the immediate conclusion that here was a steely will, a flexible mind, a persuasive and eloquent tongue and a deep commitment to the causes for which the ICJ stood. To a very large extent, particularly in Geneva where his presence was so keenly felt in the Palais des Nations and the United Nations agencies, Niall MacDermot became the face of the ICJ. He was so impressive in mien and in presentation that, inevitably, some of his grace, intelligence and style rubbed off onto the ICJ. Fortunate was the organisation to have, for so long, such a dedicated and charismatic representative.

I saw Niall MacDermot at work at the triennial meetings of the ICJ in Nairobi, Kenya and in Caracas, Venezuela. He worked closely with the then Chairman of the Executive Committee (Mr Bill Butler). They obviously had a warm, personal relationship; yet each was his own man. Each had the measure of the other. Each respected the office which the other held. When I was elected to the Executive Committee in Caracas, I came to know Niall MacDermot much more closely. The record of the organisation shows that there were some aspects of his administration of the ICJ of which I was critical. This is not said here in any way to diminish his stewardship. Perhaps the differences were cultural, perhaps generational. In many ways, Niall MacDermot represented the best of the British tradition in

administration. As a child of a legal culture which is overwhelmingly derived from that of England, I was all too well familiar with the great strengths and occasional weaknesses of that tradition. The strengths do not need to be repeated. There is no doubt that the Anglo-American dominance of the world in the immediate aftermath of the Second World War had a profound effect on the post-World War II endeavour to defend the causes for which the ICJ was founded. The language of the *Universal Declaration of Human Rights* and the *International Bill of Rights* is specially familiar to lawyers of the common law tradition. To a very great extent these instruments are written in a language with which Niall MacDermot, one of Her Majesty's Counsel learned in the law and I, were well familiar.

Yet a weakness of public administration in the United Kingdom remains, in my opinion, its embrace of the high ideal of service by an elite and its disinclination to accept the value of transparency and involvement of others. In his closing years, I must often have irritated Niall MacDermot because of my repeated calls for a more transparent administration for the ICJ in Geneva and involvement of the National Sections and Affiliated Organisations, far away. I had voiced these opinions at Nairobi. I repeated them at Caracas. Perhaps because some members (and certainly many in the Sections and Affiliated Organisations) supported my ideas of greater transparency, I was elected to the Executive Committee. But Niall MacDermot remained an administrator of the old school. In this respect, he was entirely true to himself and to his beliefs. He did not really see great

utility in publicising the financial records of the ICJ, even when these might disclose the predicament for which the organisation needed assistance from nation states, donors and Sections and Affiliated Organisations. In my conversations with Niall MacDermot, I often gained the impression that he regarded the Sections and Affiliated Organisations as bodies from whom unquestioned loyalty was expected for the decisions made in Geneva. The energetic activities of the Australian Section often stepped on his toes. They occasioned strongly expressed protests to the Section voiced through me. Not a few of these protests were justified. Niall MacDermot was a staunch defender of the prerogatives of the Secretariat of the ICJ in Geneva and of the Commission. As for closely involving the Sections and Affiliated Organisations, he was less enthusiastic. Doubtless some of his reservations derived from the limited resources of the ICJ and the difficulty of maintaining daily contact with so many far-flung bodies associated with its international mission.

On one of my journeys to Geneva when I was serving as a member of the Executive Committee, he took me apart. He told me, candidly, of his anxiety about his failing memory. He was then, of course, of a great age. But I had noticed no significant instance of lack of mental acuity on his part. That remarkable instrument, his brain, still seemed to me to work with its established skill. Yet Niall MacDermot was coming to the view that he could not discharge his duties to the high standards which he had set for himself. It was his ultimate gift to the ICJ that he recognised this and insisted that the Commission find a

successor. How many distinguished, senior executives of his calibre would have taken that step? I am convinced that it was taken out of self-respect but also out of his great devotion to the ICJ which had become the wellspring of his professional life.

As governors are wont to do, the Executive Committee of the ICJ was a little slow and unsure in the steps to be taken to find a successor to Niall MacDermot. He continued to serve with distinction and with only rare instances of loss of total command. He remained a most congenial host when the Executive Committee met in Geneva. When, as is inevitable and healthy, differences sometimes arose in the Executive Committee, he rode them out, remembering that his service was to the Commission and not to the transient personalities who sat around its table. In this, as in all things, he was a true professional. But he maintained his insistence that his time had come to depart and that we should get on with the job of finding his successor. Eventually that choice fell to Adama Dieng who was the first head of a major human rights organisation to be chosen from a developing country. He calls it the South but as someone from the real South, I prefer the old description. Other human rights organisations have followed. But the ICJ, with MacDermot at the table, made the choice of an internal candidate who, in many ways, MacDermot had groomed for the position. He never overstepped the mark or pressed for the selection. To the very end, he was the model of propriety.

When Niall MacDermot retired, there were dinners and speeches of the appropriate kind. I gathered the distinct impression that he found all of this burdensome. He was not the kind of man to like praise. In fact, he resisted humbug in all of its forms. He was a no-nonsense man who sought to make his contribution and then to depart with the same grace and responsibility that he had exhibited throughout his service.

The Commission promptly elected Niall MacDermot to an exceptional position as one of its Members. He attended the Triennial Meeting in Cartigny, France, in this capacity. He showed loyalty to his old friends. But he was not about to damage the high reputation he had gained amongst all Members of the Commission. Nor was he about to divert the spotlight from his successor in whose achievements he took obvious pride.

I wrote to the Lord Chancellor of the United Kingdom suggesting that if any Englishman abroad deserved the honour of knighthood it was Niall MacDermot. Instead, by the mystery of such things, he was promoted to be a Commander of the Order of the British Empire. He had previously been awarded a lower rank in that Order. By the time his post-retirement honour came, the British Empire had disappeared. There was something of an irony that this champion of newly independent countries, of every tradition and tongue, should be honoured by his own land in the way he was. He deserved more; although he never asked for nor sought it. But the real memorials to Niall MacDermot can

be found throughout the world where the cause of the ICJ is still championed. They can be found in the normative development of human rights. They can be found in the corridors of the United Nations offices in Geneva and New York. They can be found in the initiatives in the developing world, particularly in Africa, to spread principles of human rights and the rule of law and to develop the legal profession and paralegals so as to uphold the rule of law in practical ways. They can be found in the high tradition of professionalism which still marks the work of the ICJ. They can be found in the ongoing commitment of the ICJ to the interconnection between civil and political rights (on the one hand) and economic and social rights (on the other). This was an interconnection which Niall MacDermot and Bill Butler rightly emphasised during the long period that they served together at the helm of the ICJ.

When the history of the human rights movement of the 20th century is written, and historians trace the extraordinary development of international law and practical initiatives that began in the high ideals of the League of Nations, were seemingly dashed in war, Holocaust and nuclear explosions but rose again, phoenix-like in the United Nations, after 1945, the part of Niall MacDermot will be properly honoured. For a long time he and the ICJ were indistinguishable. In the end, his contribution was to leave the organisation a stronger, more principled and more professional place than he found it.

Now, new ideals and approaches are being adopted by the ICJ. That is the way it should be and the way Niall MacDermot would have expected. Those who have come after will necessarily leave their mark. But so long and distinguished was Niall MacDermot's service that his mark on the ICJ is indelible. It was a mighty contribution to human rights, the rule of law and the independence of judges and lawyers. His tall, distinguished graceful physical presence is no more. But his spirit is with us. And his work goes on.