

# RESPONSE TO QUESTIONS ABOUT FUTURE OF ICJ

International Commission of Jurists  
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The Hon. Michael Kirby AC CMG

# **RESPONSE TO QUESTIONS ABOUT THE FUTURE OF THE INTERNATIONAL COMMISSION OF JURISTS**

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## 1. Contribution to programme.

I support the Commissioners contributing effectively to the ICJ's programme and work. I have some hesitations about the Honorary Members. In the past, retired Commissioners sometimes sought to extend their influence beyond their term. The concept of Commissioners serving for a maximum of 15 years is one that I support. It is essential that there be a turnover and change in the Commissioners, both in background, experience and age. Honorary Members should, in my view, be available to participate as invited. Thus, I took part, when invited, in a telephonic committee selecting the President when that office last fell vacant. Likewise, Justice Chaskalson led a major enquiry. Wisdom is good. But new ideas are better.

## 2. Enhancement of network

The new information technology is a development since my beginning in the Commission. This allows all of us to be kept informed on media releases; reports; missions; internal problems etc. of the ICJ. The current level of such material is appropriate to the (modified) participation of Honorary Members like myself. Each generation has to give way to the next. Sometimes that is hard for high-flying lawyers. But they have to get used to it.

## 3. Financial stability

There are difficulties in some Commissioners being involved in fund raising. Until earlier this year, I was a serving judge and that would have

been forbidden in our tradition. They can turn up at fund raising functions. But, at least with judges, they cannot lend the judicial office to fund raising, in Australia at least. Other Commissioners might not be so constrained. The likelihood is also that judges and ex-judges have no contacts or expertise in fund raising. That is so in my case.

#### 4. Oversight and management

I certainly agree that there should be strong oversight by the Executive Committee of the Secretariat and especially of financial questions. The Commissioners, in the nature of their diversity and limited day to day involvement, cannot really be expected to shoulder that task. Proper reportage to the Executive Committee and (where appropriate) to the Commission as a whole, should be left to the Executive Committee. Financial reporting within the ICJ has always been limited. I would support greater transparency and provision of more information to Commissioners, including honorary Commissioners. I always did so. The ICJ was too secretive. Yet it should not be too much. The Commissioners cannot be expected to run the organisation and that would be a misunderstanding of their role which is substantive and conceptual, not daily and practical. Even more so in the case of Honorary Members.

#### 5. Improving the efforts

In the past, the ICJ was a rather closed and untransparent organisation. I have an impression that, starting with my time on the Executive Committee, it has improved. But doubtless it could improve further. There is a need for transparency in personnel; financial, policy development and activities. The ICJ is quite good in media outreach. It is important to keep an eye on manifest neutrality and the avoidance of

the appearance of unacceptable partisanship in international rule of law issues. (The Israel/Palestine conflict springs to mind.) In their nature, they tend to be red button topics. The ICJ needs also constantly to renew the focus of its attention. Thus, during my time as Chair and President, a wide range of new activities were embraced for the ICJ, not without vigorous debate. These included (1) sexuality; (2) HIV; (3) technology; (4) privacy; (5) biotechnology; (6) peoples' rights.

As the oldest, most senior, most "dignified" and experienced human rights NGO, the ICJ should always be ahead of the game. It should be perceiving and defining new topics of human rights and the rule of law. There is no doubt that the ICJ has got much better at this in the last decade or so. It now has many more competitors. It has to isolate those things that it does best. It needs to work closely with other NGOs upon projects of common concern. One such project is, and should be, the very slow progress being made in the United Nations, in the world, in the Commonwealth of Nations in removing the criminal offences based on sexuality. (41 of 53 Commonwealth countries still criminalise consensual, adult, homosexual conduct). The ICJ needs to identify the activities it does best and, by a combination of history, quality performance and integrity, be accepted as the doyen of international human rights organisations.

The ICJ should be in the forefront of new information technology and in creative outreach through global networks beyond those reached by a formal press release. Improving the distribution of recorded commentary for media services should be a high priority. The way in which Gareth Evans QC put the International Crisis Group (ICG) on the map, by repeated, brilliant performances on BBC/CNN, is the gold standard that

the incoming SG of the ICJ should aspire to. It can be done as the ICG demonstrated by transparency, availability and by delivering a product that was distinctive, high quality, well researched, apparently neutral and useful to right-minded people in the international community and the United Nations.

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