

ABORIGINAL DELEGATION TO THE U.N. COMMISSION ON HUMAN RIGHTS

In August 1983, Messrs Paul Coe of the Aboriginal Legal Service, and Lyall Munro presented a statement in Geneva on behalf of the National Aboriginal and Island Legal Services Secretariat to the U.N. Commission of Human Rights (Subcommission of Prevention of Discrimination and Protection of Minorities - Working Group of Indigeneous Populations).

This attendance was widely reported in the Australia media, the statement said that:-

"The new Australian Government, led by Mr. Hawke, has the legal and political responsibility to meet the demand by Aboriginal people for Land Rights and social justice. We believe that the Australian Government is now obliged to over-ride state laws to guarantee Aboriginal human rights.

We will outline three particular areas in a little detail. There are:

- (a) The struggle for land;
- (b) The struggle against discrimination;
- (c) Mining company activities.

Land Rights

Aboriginal people regard the land not only as an economic base but also as the foundation of all culture. There is no future for us without the restoration of some of our land to us. Only the granting of land rights will avoid the final destruction of our society and ourselves. Land rights is not only compensation for 200 years of oppression but is our only basis for the future.

Only in two States have honest attempts been made to provide legislation guaranteeing land to aborigines. These States are South Australia and the Northern Territory. Even in these areas there have been movements to undermine the progress made ..."

The statement called for more action in the field of discrimination. In relation to mining companies it argued that mining companies often discover minerals on land inhabited by aborigines, but because they have no secure title the aborigines are powerless to resist exploitation. It alleged that the activities of mining companies in relation to the oil at Noonkanbah, the Ashton Diamond Mine, the uranium mines in Arnhem Land, the bauxite deposits at Gove, the bauxite deposits in North Queensland, and the asbestos mine at Baryulgil in N.S.W. were examples constituting the cutting edge of efforts to destroy the remains of aboriginal culture. For a report on the 1982 Session of the Subcommission, see 77 AJIL 651 (1983).

Note: For discussion of some international law issues relating to Aboriginal rights in Australia see Research Papers 9 and 10 in the Australia Law Reform Commission in Aboriginal Customary Law Reference (available from the ALRC, G.P.O. Box 3708, Sydney, N.S.W. 2000).

D.f.

INTERNATIONAL COURT OF JUSTICE ELECTIONS

The terms of office of the President, Sir Humphrey Waldock (UK), Judge Isaac Forster (Senegal), Judge André Gros (France), Judge Nagendra Singh (India) and Judge José María Ruda (Argentina) expired on 5 February 1982. Sadly Sir Humphrey died on 15 August 1982. Elections were held to fill these five vacancies on 5 November 1982. After three ballots in the General Assembly and

four in the Security Council, the Indian and Argentinian judges were re-elected, and the following new judges elected: Guy Ladreit de Lacharrière, (France) Sir Robert Jennings (UK) and Kéba Mbaye (Senegal). Sir Robert will require little introduction to Australian international lawyers: see 76 AJIL 364 (1982). M. de Lacharrière was formerly a legal advisor to the Quai d'Orsay, the French foreign office, and played a major role in the preparation of the French position in the Nuclear Tests Case. Readers may be interested in his article on that case: Commentaires sur la position juridique de la France a l'égard de la liceité de ses expériences nucléaires [1973] Annuaire française de droit international 335, where M. de Lacharrière discusses, inter alia, France's failure to appear before the Court, and her subsequent withdrawal of her declaration accepting the Court's jurisdiction under the optional clause, article.

In March 1982, after the death of the Egyptian judge, Judge Abdullah El-Erian, elections were held to fill this vacancy on the court. Ambassador Mohammad Bedjaoui, a distinguished Algerian international lawyer, was elected. M. Bedjaoui has written widely on a number of important questions, including the New International Economic Order. M. de Lacharrière has also recently been appointed to a seven member GATT panel to advise on problems affecting the international trading system during the 1980's: Australian Financial Review, 24 November 1983, 8.

D.F.

NEUTRALITY AND THE IRAQUI - IRAN WAR

The reports to the effect that France is proceeding to, or has in fact, delivered certain Super Etendard aeroplanes to Iraq, and the possible reactions by Iran if her shipping in the Gulf is attacked, perhaps through the use of Exocet missiles, is of great concern not only in relation to the war itself, but also in relation to shipping generally within the Gulf. In 1959, in his important work, Legal Controls of International Conflict (Sydney, 1959 at 402), Professor Julius Stone observed: "Neutrality as an institution is threatened from forces of belligerent and neutral encroachment as well as neutral retreat". The Hague Convention No.13, 1907, Article 6, incorporates what was believed to be the customary rule forbidding the supply by a neutral to a belligerent of "war ships, ammunition or war material of any kind whatsoever". The old rules on neutrality do not seem to have recovered from the decision of the Roosevelt administration to become the "arsenal of the democracies" and help Great Britain before United States entry into the Second World War. The succession of deviations away from the old standards applicable to a neutral may now be sufficient to say that those old rules no longer apply.

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DISARMAMENT

The Vatican has indicated it would be prepared to undertake a mediation role between the U.S. and the USSR after the Soviet withdrawal from the medium arms limitation talks. The Vatican has already accepted a role in the resolution of international disputes; for example it is apparently still involved in the attempted resolution of the dispute between Chile and Argentina after the latter denounced the award formally made by Queen Elizabeth II in the Beagle Channel Arbitration.

D.F.

EXTRADITION OR SELF HELP

The lawfulness of an arrest is a matter for the law of the state in which the arrest takes place. If the Government of State A believes that a person present in State B should be brought before the jurisdiction of State A to be tried, the sole permissible method is by seeking extradition, for example under a treaty or by some ad hoc arrangement. Extradition, however, may be difficult