

International Human Rights Day and Tibet

Justice Kirby Collection

Date: 10 December 1994

Author:

Type: test

Event: Interfaith Service for International Human Rights Day

Location: Ashfield, Sydney

Publisher: **Publisher** - Was the paper published?

The Hon Justice Michael Kirby AC CMG

Chairman of the Executive Committee of the International Commission of Jurists

Tibet is a geographical place. Its exact borders may be disputed by some. But its existence cannot be doubted.

The Tibetan people are a distinct people. I do not believe that anyone doubts that. The question, therefore, is how they should be governed.

The People's Republic of China says that Tibet and its people should be governed within that great land, in an entity smaller than traditional Tibet and as an autonomous region of China. Obviously, in the light of the break-up of the Soviet Union, Yugoslavia and other countries, China is concerned about separation movements, threats of secession and dangers of destabilisation. His Holiness the Dalai Lama has recognised these concerns on the part of China and its peoples.

But if the Tibetan people are a distinct "people" for the purpose of international law, they are guaranteed a right to self-determination. That is a right to decide how they will be governed. The self-determination of peoples is, in a sense, a reflection (on the international stage) of the self-determination of individuals which gives rise to the demand for respect for basic human rights in every land.

China justifies its invasion and occupation of Tibet, with military force, upon the basis of ancient legal claims dating back to the time of the Emperors. These claims are disputed by Tibetans and by some international scholars. But the United Nations *Charter* has recognised - as the world now generally does - that government must rest upon the consent of the people governed. That is the liberationist idea behind the peoples' right to self-determination recognised in international law.

Ultimately this right will be vindicated in the case of the people of Tibet. But the vindication cannot just be assumed. Nor should it be delayed unduly, lest population changes and border realignments affect the outcome of the dispute.

During the recent visit to Australia of the distinguished Chairman of the National People's Congress of China, I was present at the dinner at Parliament House, Canberra when the Foreign Minister (Senator Gareth Evans) raised with the Chairman the concern of many Australians about the self-determination of the Tibetan people. I myself raised that concern with His Excellency the Ambassador to Australia of the Peoples' Republic of China.

International Human Rights Day and Tibet

Justice Kirby Collection

The issue will not go away. Every free person must take every proper opportunity to raise it and to insist upon it. Far away in Tibet, people who know nothing of our endeavours, depend upon us. What is involved is as much the integrity and dignity of China and its peoples as of Tibet and the Tibetan people.

As another year ends, we should send from Australia a message of encouragement and cheer to His Holiness the Dalai Lama and to the stalwart people of Tibet. The many other changes in our world beckon us to the hope that we will live to see the people of Tibet exercise the right to self-determination which is theirs by international law and by their own peaceful but persistent demand.