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A Five-Minute Brief on World Peace through Law

A FIVE-MINUTE BRIEF ON WORLD PEACE THROUGH LAW

By

THE COLORADO BAR ASSOCIATION COMMITTEE ON WORLD PEACE
THROUGH LAW

The concept of world peace through law is not new, but organization of the Bar to promote it is new. In the past year, the American Bar Association has formed a *Committee on World Peace Through Law*, under the energetic leadership of last year's ABA President, Charles S. Rhyne. A similar committee has been formed, through President McHendrie's efforts, in the Colorado Bar Association. The members of the Colorado Bar Committee are: David V. Dunklee, Judge Hubert Glover, Stephen H. Hart, Winston S. Howard, William J. Knous, William R. Loeffler, Douglas H. McHendrie (ex officio), David J. Miller, John A. Moore (Secretary), Richard H. Shaw, Lucius E. Woods, and Wayne D. Williams (Chairman).

Already, five regional conferences of U. S. lawyers have been held by the ABA Committee. The program of the Committee has attracted nationwide attention in the press. Its chairman is vocal and imaginative. It is very likely that there will be an increasing amount of attention to, and discussion of, this essentially legal and supremely important field in the coming months, and the bar can render valuable service by stimulating and providing leadership for such discussions and conferences as may be held. The Committee believes that every lawyer should acquaint himself with this field as a matter of public duty.

Objectives of the Committee are: (1) To focus attention upon, and promote understanding of, the function of law as a means of preserving peace; (2) To explore the possibility of holding conferences of lawyers on world peace through law—first, in the major international regions of the world, and finally, on a world-wide basis; (3) To increase the use of the present International Court of Justice and to consider whether additional international courts, possibly on a regional basis, should be established; and (4) Over-all, to apply, internationally, proven legal techniques and institutions for maintaining peace and justice which function in every ordered society—i. e., rules of law and courts to adjudicate controversies according to law.

The plans for international regional meetings, and for the World Conference, have been outlined in a report of the ABA Committee. The Committee said that such meetings probably would include:

“(1) Means of increasing use of the existing International Court of Justice; (2) Establishment of regional courts of international law; (3) Extension of the jurisdiction of international courts; (4) Extension and improvement of institutions and procedures for arbitration of disputes between governments, and of disputes growing out

of concession contracts and international business transactions; (5) Improved international cooperation for economic advancement of all nations; (6) Consideration of means to strengthen the United Nations both by Charter changes and by increased use of existing UN machinery for peaceful settlement of disputes under the rule of law; (7) Clarifying uncertainties in existing international law and adapting existing rules of international law to changing conditions to further the growth of a body of international law; and (8) Methods to compile, analyze and report legal decisions and other developments in the international field."¹

The International Court of Justice is the principal judicial organ of the United Nations, but it has been used infrequently. It has decided only ten adversary cases in its thirteen years of existence; yet every member of the U. N. is party to the statute forming the Court. Examples of recent, important disputes appropriate for submission to the Court are: Nasser's seizure of the Suez Canal, the question of Israel's right to use the Canal, the rights of the Western powers in Berlin, impending nationalization of sugar plantations in Cuba, British fishing rights off the Iceland coast, and aggression by Red China in Tibet—to name only a few. None of these disputes has seen the inside of a courtroom.

The permanent seat of the Court is at The Hague, Netherlands, but it may sit elsewhere. It is a court of fifteen full-time judges, elected in the Security Council and General Assembly for nine-year terms, and paid by the U. N. No two judges may be nationals of the same country. (The United States has had one judge on the present court ever since its formation.)

At present, the Court has jurisdiction: (a) to give advisory opinions at the request of authorized U. N. agencies, and (b) to decide controversies between nations which the parties refer to it. Only nations can be parties in adversary cases, and the law to be applied is international law, including treaties and principles of equity when the parties so agree. By special action, nations may accept, in advance, compulsory jurisdiction of the Court over international disputes in which they become involved, but this operates only as to other nations accepting the same obligation. Thirty-three nations have accepted this compulsory jurisdiction, but many of these acceptances contain special reservations.

The United States has accepted the compulsory jurisdiction of the Court, with special reservations. This action was taken by the President, with the advice and consent of the Senate, in 1946. The most important reservation by the United States is that the Court's compulsory jurisdiction shall not extend to "disputes with regard to matters which are essentially within the domestic jurisdiction of the United States *as determined by the United States*." Such a limitation operates reciprocally, and the United States' redress before the Court is thus severely restricted. Any defendant nation may deprive the Court of jurisdiction when sued by the United States simply by determining that the matter is within its domestic jurisdiction.

¹ A.B.A. News (June 1959).

Chairman Rhyne has characterized this particular limitation as "disastrous to the rule of law internationally." Repeal of the limiting words, "as determined by the United States," is one of the first steps favored by the ABA Committee, and at least one resolution for such repeal is now pending in the U. S. Senate.²

One of the main objectives of the Colorado committee is to furnish the members of the bar with basic information and news of developments in this field. That is why this statement has included a brief description of the composition and jurisdiction of the International Court of Justice. It is the earnest hope of the Committee that our bar may be encouraged to give these problems further study, and for that purpose, several articles, which should be available to most lawyers, are recommended by the Committee.³

Comments from all lawyers will be welcomed by the Committee. Please send them to the office of The Colorado Bar Association, 525 Mile High Center, 1700 Broadway, Denver 2, Colo.

² Senate Resolution 94.

³ Rhyne, *Concluding Statement*, A.B.A.J. 589 (June 1959); Luce, *The Way of the Law*, A.B.A.J. 482 (May 1959); *What Law Day Is About*, *Life*, May 11, 1959, p. 432.

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