

**FAILURE BY UNITED NATIONS MEMBERS TO PAY THEIR DUES
TRANSGRESSES PRINCIPLES OF INTERNATIONAL LAW**

Schwebel P's Address to the United Nations General Assembly

On 26 October 1999 the President of the International Court of Justice, Schwebel P, addressed the Members of the United Nations General Assembly in New York on the occasion of the presentation of the 1998-1999 Report of the Court. The following is an extract from his address.

Schwebel P stated that during the period under review (1 August 1998-31 July 1999) the Court was seised of 18 new contentious cases. He noted that this figure was "far more than has ever been filed within any 12-month period before". He observed that the range of issues raised before the Court increasingly included questions related to major international crises such as the hostilities in Kosovo and in the Congo.

He made the following observations on the failure by United Nations Members to pay their dues:

1. it had the gravest effects on the life of the Organization and it transgressed the principles of free consent and good faith which are at the heart of international law and relations;
2. the financial resources of the Court cannot be divorced from those of the Organization that provides them;
3. the financial fabric of the United Nations must be repaired, most fundamentally by renewed performance of the treaty obligations of the members of the United Nations to pay their assessments upon them, as determined by the General Assembly in the exercise of the authority deliberately and expressly entrusted to it by the terms of the Charter; and
4. the binding character of those assessments had been affirmed by the Court in 1962, when it held that the exercise of the power of apportionment creates the obligation of each Member to bear that part of the expenses which is apportioned to it by the General Assembly.

Schwebel P referred to the extent of recourse by states to the Court as "immensely encouraging" and he pointed out that the process was continuing. For example, Pakistan had filed an Application against India recently in respect of the shooting down of a Pakistani naval aircraft.

Further, Chile has publicly announced its intention to bring to the Court the Pinochet case against Spain. Schwebel P acknowledged that even though increased recourse to the Court stretched its human and financial resources, he was hopeful that the trend would “promote wider adherence to the compulsory jurisdiction of the Court”.

EXPLORING NEW WAYS FOR THE COURT’S ADVISORY FUNCTION

Turning to the advisory function of the Court, Schwebel P suggested a broader use of this mechanism by other international tribunals. He proposed that:

In order to minimise significant conflicting interpretations of international law, there might be virtue in enabling other international tribunals to request advisory opinions of the International Court of Justice on issues of international law that arise in cases before those tribunals that are of importance to the unity of international law.

He added:

In respect of international tribunals that are organs of the United Nations, i.e., the international tribunals for the prosecution of war crimes in the former Yugoslavia and Rwanda, no jurisdictional problem in their requesting the Security Council to request advisory opinions on their behalf appears, should they wish to do so...

[T]here [was] room for the argument that even international tribunals that are not United Nations organs such as the International Tribunal for the Law of the Sea, or the International Criminal Court when established, might, if they so decide, request the General Assembly – perhaps through the medium of a special committee established for the purpose – to request advisory opinions of the Court.

PERSPECTIVES FOR THE FIRST CENTURY OF THE THIRD MILLENNIUM

As the international community moves into the next century, Schwebel P noted the importance of the Court’s role and continued as follows:

[T]he principles for which the Court stands are universal principles that merit universal support...As the Court enters the first century of

the third millennium, it stands for international law, not international lawlessness; for the peaceful settlement of international disputes in conformity with international law, not with the will of the more powerful party; for international organization, not for international anarchy or for a State sovereignty which purports to be above the law.

The century which is about to close is a century of great achievement and profound loss, of extraordinary scientific and technological advance and of atavistic reversion to barbarism...[it] is as marked by its invention of the concentration camp and the refugee camp as it is by its invention of the airplane and of the exploration of space.

Schwebel P noted that it was now 53 years after the creation of the International Court of Justice. As such, the Court had more than justified the perception that a "world court can fundamentally foster peace through the adjudicated settlement of international disputes and the development of the body of international law".

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