

Obituary for Harold Evans, by Kate Dewes Easter 2006 for 'Peace Researcher'

Harold Evans, former magistrate, accomplished musician, peace campaigner and world-renowned 'Father of the World Court Project', died after a long illness on Good Friday. He was the son of a solicitor-general, a Royal Air Force officer, the husband of a German Admiral's daughter, personal assistant to Prime Minister Peter Fraser and Associate of New Zealand's Justice Northcroft at the Tokyo International Military Tribunal. After his retirement in 1979 he joined the Christchurch Peace Collective which, in 1986, organised the local visit of US international lawyer Richard Falk. This was life-changing and set Harold on a decade-long struggle to outlaw all nuclear weapons via an advisory opinion on their legal status from the International Court of Justice.

His many writings marshalled the legal and moral arguments to underpin the project, and by example he inspired many to join him. This amazing project succeeded in having resolutions passed at both the World Health Assembly in 1993, and the UNGA in 1994, requesting 2 separate, but related opinions from the Court. Although it started as a one-man crusade, it attracted support from over 700 organisations worldwide; most of the 110 Non-Aligned states, and over 4 million individually signed declarations of public conscience. It was a testament to what one man could inspire and lead in its early years.

My first contact with Harold was in June 1979. I had not been back in Christchurch very long and was not aware of his reputation as an independent thinking magistrate who ruffled many collegial feathers by speaking out on a wide range of legal issues. Harold phoned to ask if he could join our newly formed Peace Collective. We had Owen Wilkes visiting at the time and he warned us that we should vet all potential members in case we were infiltrated. Ironically, it was Owen who gave Harold the 'all clear' as he had been the judge who had given him a very lenient community sentence during the Omega protests. It was from this little group that Harold launched many of his open letters on issues of peace and nuclear weapons. He rarely spoke of his experiences at the Tokyo War Crimes Tribunal or as the secretary to Peter Fraser. It wasn't until we were sorting his papers for the Peace Collection in the Macmillan Brown Library that I discovered he had written to Prime Minister Nash in 1958 calling for immediate and unilateral suspension of nuclear testing and had questioned NZ support for the British during the Suez crisis.

He never shied away from contentious issues in court – for example, in 1967 he dismissed a case against a homosexual couple. In 1978 he wrote his first Open letter opposing the appointment of former PM Keith Holyoake as Governor General and sent copies to all MPs in 1979. Over the next 20 years he published over 27 Open Letters or Memoranda at his own expense. They ranged from 4-170 pages covering topics such as visits by nuclear ships, the roles of the church and the Queen in opposing nuclearism, the Falklands, War, the South African Rugby Tour, the nuclear free legislation. He took every opportunity to educate others about nuclear issues; for example he published Lord Mountbatten's final speech opposing nuclear weapons in *The Press*.

It was Professor Richard Falk that sparked his enthusiasm for using international law and the World Court. He was so inspired, he followed Falk to Auckland. Later that year he met Sri Lankan Professor Christopher Weeramantry, and jurist and former Liberal MP Ted St John in Australia who convinced him of the case for the criminality of nuclear weapons. They became close friends and advocates for the cause.

He also discovered an article by Niall MacDermott, the Secretary General of the International Commission of Jurists entitled 'Are Nuclear Weapons Legal?' He asked these four experienced international lawyers to join him in his quest. The other two of his 'six wise men', as he called them, were former Attorney General Dr Martyn Finlay and former Ombudsman Sir Guy Powles. It was their opinions which formed the basis of the Open Letter he personally delivered to the Prime Ministers of Australia and NZ in March 1987. He then sent it to all 73 UN member states with representatives in both countries. Most responses were negative or non-committal.

But Harold was undeterred – he set about garnering support from NZ International Commission of Jurists, the Peace Foundation, and the NZ branches of Lawyers for Nuclear Disarmament and International Physicians for the Prevention of Nuclear War (IPPNW). He began to receive significant media coverage both here and in Australia for his idea and in October 1987 published a full page advertisement in *The Press* to mark Nuremberg Day. It coincided with the 5 day legal conference in Christchurch and was a way of educating the 2,000 lawyers attending. It called for a permanent International Criminal Court, asked the lawyers to sign the appeal by lawyers against nuclear war and to support his new project. As usual, no support was forthcoming from the legal fraternity – many of whom were affronted by the use of Open Letters – 'it was not the way lawyers worked'. Some local lawyers told me that they were shocked by his

choice of attire – a windbreaker and small haversack instead of a lawyer's suit and briefcase, and that 'he didn't embody the nuances, the etiquette, the unwritten characteristics of the profession'. It was precisely these characteristics that endeared him to the increasingly influential peace movement here.

It must have been a lonely and frustrating path for Harold at this time and he relied heavily on a small core group to give him feedback on his ideas and help him promote them. As a diplomat and lawyer, it was quite a challenge for him to learn to work cooperatively in our small groups. He frequently attended rallies and marches against visits by nuclear warships and nuclear testing – holding placards and speaking out publicly. He even wrote letters to the Swedish government in protest at the imprisonment of Owen Wilkes.

He was pleased when in June 1988, as a member of the government delegation to the UN Special Session on Disarmament in New York, I promoted the World Court Project in my address to the delegates and began sounding out diplomats and leading international NGOs in the UN. At home, we gained unanimous support from the Public Advisory Committee on Disarmament and Arms Control and Sir Guy Powles, Ted St John and Harold addressed the Minister and committee. Despite this, the government was not prepared to run with this alone.

It therefore became imperative to garner more national and international support. A small band of committed Kiwis gathered around Harold, inspired by his vision and enthusiasm. The doctors secured support from their international body in 1988. Harold travelled to the UK and convinced the International Peace Bureau (IPB) to take up the cause and then almost single-handedly convinced the fledgling International Association of Lawyers Against Nuclear Arms (IALANA) to adopt a resolution in 1989. He returned via Malaysia where he addressed the Malaysian PPNW. They issued a joint appeal with lawyers to all the Heads of Government attending the Commonwealth Heads of government meeting in Kuala Lumpur.

Despite these resolutions being passed, none of these organisations committed themselves to the project with resources or enthusiasm. Harold became very frustrated with them and told them so. He had carried the campaign at great personal expense for many years and felt a growing sense of urgency for action. He tried again to convince lawyers to speak out and give support by distributing open letters to all 3,000 delegates attending the Commonwealth Law Conference in Auckland which included 250 judges and Law Ministers from around the

world. Professor Weeramantry used his keynote address to challenge them to support the World Court Project. But, there was still no response.

With the election of a National government in New Zealand in 1990, there was no hope of any government action on the initiative and it languished for a while, until in 1991 Alyn Ware and I found support from quite a few nations to take up the baton. To cut a very long story short, we were able to convince IPPNW, the IPB and IALANA to launch the project publicly in Geneva in 1992. Erich Geiringer, George Salmond, and other NZ doctors played a key role in getting a resolution passed in the WHA in May 1993 and by October the 110 Non Aligned movement countries sponsored the UN resolution requesting the advisory opinion on threat and use of nuclear weapons. It caused a furore in the UN. The nuclear weapon states sent demarches to capitals and threatened UN delegates with cuts to aid and trade. The pressure was too great and it was deferred until 1994. After intense lobbying by international NGOs, and committed leadership within the NAM, the resolution went through – and NZ, under a conservative government voted for it and spoke strongly at the Oral hearings at the Court in 1995.

It took nearly 18 months for the judges to give their opinion, and it was one of the most exciting nights of my life to be with Harold and a crowd of politicians, the media and local well wishers as the outcome was faxed through from Rob Green at the Hague. Although the judges dismissed the request from the World Health Organisation, it did not dodge the question from the UN.

Among other things, the Court advised that

... a threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law,

and

... there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to complete nuclear disarmament under strict and effective international control'...

We were disappointed that the Opinion was not as clear cut as it should have been. However, it has become a benchmark for a whole range of activities by NGOs and governments, including our own, to hold the nuclear weapon states accountable. The 10th anniversary of the Court's historic Opinion on 8 July will be marked by a Mayors for Peace-sponsored conference at The Hague, and

another to strategise about going back to the Court for another Opinion at the European Parliament. Alyn Ware, Rob Green and I will take these opportunities to honour Harold's pioneering contribution.

In 1996, the government awarded him a Queen's Service Medal for his contributions to the judiciary and the anti-nuclear movement. In 2001 parliament passed a unanimous resolution endorsing the World Court Opinion and calling on all nuclear weapon states to pursue their obligations to bring to a conclusion negotiations leading to nuclear disarmament. In 2003 he received one of the eight inaugural Peace City awards. Next year there will be an exhibition at the Canterbury Museum marking the 20th anniversary of the nuclear free legislation and the beginning of the World Court Project. It will feature Harold's contributions and will be a vehicle for New Zealanders and tourists alike to follow Harold's example of how they can also make a difference by acting on his favourite dictum – 'think globally, act locally'.