

## **HUMAN RIGHTS AND THE NEW WORLD ORDER**

Speech by Senator the Hon Gareth Evans QC, Minister for Foreign Affairs of Australia, to the World Conference on Human Rights, Vienna, 15 June 1993.

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The victory for personal freedom that was won with the end of the Cold War has had a darker side. We have been forced to recognise that democracy does not automatically lead to economic growth, that institutions can be fragile and that forces of disintegration can be strong. The international community is confronting, both in old and new forms, the problems posed by regional conflicts: continuing humanitarian crises and massive violation of human rights. In this environment, the expectations of the UN human rights system are immense, but there is a substantial question mark over the capacity of this system to deliver.

In human rights, no less than engineering, effective machinery is often the key to success. Since 1945, the international community has created an extraordinarily impressive array of human rights machinery, both treaty-based and charter-based. But it is severely underfunded, understaffed and poorly co-ordinated, and is not meeting the steadily increasing demands placed upon it. A major task before this World Conference - the first for 25 years - will therefore be to end the disparity between the proclaimed priorities of the United Nations and its allocation of resources for the protection of human rights.

At the outset, however, there are some basic principles that need to be strongly restated. The Conference needs to reassert that human rights are universal and indivisible; that the promotion and protection of these rights is a responsibility for all states, irrespective of their particular political and economic systems; and that it follows from this that individual states cannot any longer credibly erect barriers to scrutiny.

It would be a deeply unhappy development if we allowed the unproductive East-West ideological confrontation of the past to be replaced by a similarly sterile North-South divide. We should not exaggerate the differences between us, for there is much common ground to be found. One constantly hears the argument that the West or the North is seeking to impose its values or national interests on societies which have

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their own values based on very different religious and cultural systems. But the reality is that there is no significant value or cultural system anywhere in the world which does not aspire - at least publicly - to increase human dignity and freedom from fear. The Universal Declaration of 1948 would not have been acceptable to the international community if it did not reflect human rights traditions and themes evident in the whole range of countries and ideologies represented in the UN's membership.

Recognition of such essential needs as freedom and dignity is implicit in some of the earliest written codes that have come down to us from ancient Babylon, which talk of the need to help the poor and dispossessed; in Hindu and Buddhist texts which focus on the human condition; in notions of human virtue and compassion which characterise early Confucianism; and in the natural law tradition of Western philosophy. Throughout all, there is recognition that in human relations, some things are always rights, and it is from this common ground that we can agree on minimum standards of behaviour. No state can, or is ever likely to publicly try to justify such things as torture, slavery, arbitrary killings, disappearances or detentions.

Another argument one constantly hears is that some categories of rights are more equal than others - in particular that the International Covenant on Economic, Social and Cultural Rights has to be the real touchstone for developing countries, and that economic development must in fact have priority since it reduces or removes the conditions which give rise to human rights abuse.

Such arguments are simply not persuasive. The drafters of the Universal Declaration and the two Covenants not only refused to accept that economic rights and political rights are mutually exclusive, they refused to accept any ranking of human rights. A much more persuasive argument is that a society which respects and promotes individual freedoms - with the mobility, expressiveness and inventiveness that go with them - is more likely to enjoy economic growth than one in which claims of collective or state rights are used to suppress civil or political freedom. It would be helpful if the force of that proposition were much more widely understood and accepted.

On the other hand, the developed world must for its part do more than simply talk

about the indivisibility of human rights. If we are to reconstruct a unity of purpose, we in the developed world have to give full recognition and emphasis to economic and social rights - rights which have in fact been sadly neglected in the past 25 years. This World Conference should, as one of its primary objectives, put forward specific measures to promote the implementation of economic, social and cultural rights. Such measures might include action aimed at raising the profile of these rights, in part through education, and through states making a clear statement of commitment to them at the national level. Such commitment may be reflected, for example, in states' overseas development assistance programs, as suggested in the proposal that 0.5% of such assistance should, by the year 2000, be earmarked for human rights-related projects. It is also important in this context that we understand the significance attached by developing states to the right to development and poverty alleviation. Without the developed world recognising such a right, we run the risk of driving a greater wedge between the governments of the North and South.

The break-up of some states in recent years, notably in Eastern Europe, has highlighted the particular human rights problems posed by ethnic nationalism and the associated question of the rights of minorities. It is not a problem unique to the former Soviet Union or Yugoslavia: the seeds are also present in the Asia Pacific region and Africa. There is no easy answer to the aspirations of ethnic minorities for their own political entities, particularly when self determination would in such cases be synonymous with fragmentation and itself be a source of threat to international peace and security: war itself, particularly civil war, engenders many of the greatest abuses of human rights.

Most such aspirations to self determination are ultimately best met by stricter observance of human rights - in particular through establishing guarantees of individual and minority rights and building democratic institutions and processes through which minority groups can pursue their interests in a peaceful way.

Many similar concerns confront indigenous peoples. These are of fundamental interest to Australia because there is no doubt that the interaction of Aboriginal and Torres Strait Islander Australians with the rest of the community continues to pose human rights challenges in our society. In this International Year of the World's Indigenous People it is imperative that this World Conference on Human Rights sends a clear message encouraging states to ensure that indigenous peoples can participate in all aspects of society and that United Nations agencies give due attention in their programs to the needs and aspirations of indigenous

peoples. It is also important for the Working Group on Indigenous Populations to complete as soon as possible its work on the draft Declaration on the Rights of Indigenous People and to continue thereafter to be an effective forum for indigenous peoples.

If these various problems to which I have referred are to be resolved, I believe a very important component of the process will be repeated practical exchanges between countries on particular human rights problems, and on the concrete steps needed to guard against abuse. This will involve a dialogue not just between governments, but to some extent between and within cultures.

There is much that the United Nations can do in a forward-looking way in this regard, particularly in the allocation of more effort and resources to developing well targeted measures to strengthen legal infrastructures and national machinery which contribute to respect for human rights. It can do this through measures such as:

- providing expert advice and practical assistance in the holding of free and fair elections;
- giving technical and legal advice on the drawing up of constitutions or the establishment of institutions at the national level to protect the human rights of citizens;
- providing advice in the functioning of the judiciary and the police, and on legislative and other measures to strengthen the rule of law; and
- giving sufficient resources, and political support, to the human rights components of United Nations peacekeeping operations (e.g. in Cambodia where such a component has been a key element of UNTAC).

Mr President,

What can realistically be achieved right now, here in Vienna, at this Second World Conference on Human Rights? I have touched, in a broad-brush way, on the general impetus that Australia believes the World Conference should give to the handling of human rights in the years ahead. But there are also a number of very specific outcomes that Australia would like to see in the final Vienna Declaration.

We certainly need to agree, for a start, that the United Nations system must deliver the resources necessary for strengthening human rights activities. At the present time less than one percent of the total United Nations budget is allocated to this field. This is reflected in the state of the machinery and the current difficulties confronting the Center for Human Rights. The fact is that the budget for the Center has remained largely static for twenty years and is now smaller than the budget for Amnesty International in London.

Machinery - whether old or new - will only continue to work if it has regular infusions of oil: the immediate source of lubrication here, of course, is money. In Australia's view we need to include in the Vienna Declaration a precise funding target of a doubling by 1998 of the proportion of the UN budget devoted to human rights.

Specific areas in need of immediate assistance are the advisory services and technical assistance programs of the Center for Human Rights. These must be strengthened and supported in a practical way, and the international community should use the occasion of this Conference to commit itself to substantially increasing the Center's Voluntary Fund. To demonstrate our own commitment, I am happy to announce today that Australia will provide \$A300,000 to the Center's Voluntary Fund for the purpose of strengthening the domestic infrastructures which support human rights and, in particular, national human rights machinery.

We have earmarked this money because Australia would also like to see the World Conference endorse measures to develop independent, national human rights machinery. The "Paris Principles" which were endorsed by the Commission on Human Rights at its forty-eighth session provide important guidance on the fundamental features of such machinery. Australia welcomes recent developments in a number of countries towards establishing such national institutions - including the announcement last week by our friend and neighbour Indonesia that it will set up a National Commission on Human Rights headed by a former Chief Justice. We have already provided, on a bilateral basis to a number of countries, a substantial degree of cooperation and assistance on these matters through the Australian Human Rights and Equal Opportunity Commission, and will be happy to continue to do so.

As another specific outcome which would promote, in a practical way, improved

observance of human rights standards, Australia has put forward a proposal regarding National Action Plans. Under our proposal, the Conference would invite each State to draw up a written plan of action identifying steps it could take to improve its observance of human rights in accordance with international obligations. Each State would choose whether or not to commit itself to an action plan, with those choosing to do so having sole responsibility for their own action plans, and taking their own individual circumstances as the starting point. Such National Action Plans could, among other things, form the basis for proposals under UN programs of technical assistance in the field of human rights.

Another priority area for the World Conference, in Australia's view, is the development of a practical program designed to achieve universal acceptance of the core human rights instruments and to improve the effectiveness of existing treaty bodies and human rights political organs. In this context, I commend the report prepared by my friend and compatriot, Professor Philip Alston, Chair of the Committee on Economic, Social and Cultural Rights, on the Effective Implementation of International Instruments on Human Rights. The conclusions and recommendations of that report provide many excellent ideas which I hope will be taken up in the final outcome.

A further major issue the Vienna Declaration needs to address is the equal status and human rights of women. To date there has been little overlap between the work of mainstream human rights bodies and the Commission on the Status of Women (CSW), which, since its inception in 1946, has taken the lead in elaborating the United Nations' approach to women's human rights. To some extent, CSW's separation from mainstream human rights bodies has had its advantages, for it has allowed CSW to take action quickly to resolve problems of particular concern to women and to develop international norms safeguarding the rights of women, most recently in the important area of violence against women. This process, however, has meant, that the mainstream bodies have not given detailed consideration to women's rights issues. Specific action is now needed to ensure that these issues are fully integrated into mainstream human rights forums.

Children and the disabled are two vulnerable groups whose rights must not be marginalised. The human rights system must develop effective programs to combat such abuses as child slavery and child prostitution and to protect the rights of the mentally ill and those with physical disabilities.

At least two other machinery matters will be the subject of considerable

discussion at this Conference. One is the Amnesty International proposal to establish a Special Commissioner on Human Rights. Australia sees considerable merit in this proposal, particularly as it would raise the profile of human rights within the UN political processes. There are other, parallel, proposals before us for streamlining and making more effective existing mechanisms, particularly that of the Center for Human Rights. Such proposals should not be seen as mutually exclusive, and I would hope at the end of the day that the best elements of all proposals can be blended to produce the most effective machinery possible.

The other matter with which we do need to deal concerns proposals for an international human rights court. A feature of the post-Cold War period has been a growing call for a mechanism to try individuals for breaches of international humanitarian law and other international crimes. The establishment of an ad hoc tribunal to deal with such breaches in the former Yugoslavia is well advanced. The renewed vigour of the International Law Commission's work towards drafting a statute for an international criminal court is particularly gratifying as a means of addressing this general issue. I have also noted with great interest the proposal by the International Commission of Jurists in favour of the establishment of a permanent international penal court to prosecute those responsible for gross violations of human rights and humanitarian law.

What these proposals have in common is a desire to make those who are guilty accountable to the international community. This is not a new idea. I record with some pride the fact that Australia's Foreign Minister in the immediate post-War period, Dr Herbert Vere Evatt - who was President of the General Assembly when the Universal Declaration was adopted in 1948 - made a proposal that an International Human Rights Court be established. It may be that in the current profusion of proposals in this area we are seeing an idea whose time has at last come. If this endeavour is to be really successful, however, we need to ensure that any mechanism we set up has the flexibility to be adapted to the variety of situations where gross human rights violations occur, and that the commitment of the international community to pursue the perpetrators is firm and clear.

It is clear that there is much work to be done over the next few days to ensure that the final outcome of this Conference does justice to the issues confronting the international community.

We must maintain our resolve not to retreat from what has been achieved, and at the same time we need to build on those accomplishments. We need to work in a

way which puts effectiveness above rhetoric and emphasises a constructive approach to dialogue and institution building.

The imperatives that guide Australia's approach to human rights are, I believe, the same that drive all of us here. The first is a moral one: recognition of the worth and dignity of the human being. The second is grounded in pragmatism: recognition that the evolution of just and tolerant societies brings its own returns in higher standards of international behaviour, and in the contribution that internal stability makes to regional, and ultimately global, peace and security.

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