
HUMAN RIGHTS QUARTERLY

Human Rights at the Dawn of the 21st Century

Interregional meeting organized by the Council of Europe
in advance of the World Conference on Human Rights
Strasbourg, 28-30 January 1993
Conclusions by the General Rapporteur

Mary Robinson, President of Ireland

Madame le Secrétaire Général,
Distinguished representatives,
Ladies and Gentlemen,

I. INTRODUCTORY REMARKS

It has been a special privilege for me to attend this conference and to act as your general rapporteur especially at an interregional and intercultural meeting attended by experts from many parts of the globe and by a broad spectrum of the human rights community comprised of independent experts, NGOs, and government representatives. I assume this role with enthusiasm for two reasons. First, I am conscious that the moment is ripe for momentous change. The collapse of the ideological barriers and the conversion of formerly authoritarian regimes to democracy mean that not only has freedom become a reality to millions of people but that new opportunities for consensus as to the way forward for more effective ways of promoting and protecting human rights are within our grasp. There is a palpable feeling of good will—which was evident from the tone of the discussions—that compels us to the realization that we must seize the day. At the same time, as Madame le Secrétaire Général has emphasized in her opening address, there is a sense of urgency. On the one hand, there are signs of disillusion and resignation in Eastern Europe after the dissipation of understandable eupho-

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ria. On the other, we are confronted with our own impotence to prevent the atrocities that are occurring on our doorstep in former Yugoslavia or to combat the hunger, poverty, intolerance, religious extremism, and violence which are ushering in the dawn of the twenty-first century.

Second, I share with you a firm and tested belief in the power of ideas. Human rights are no longer the preserve of visionaries. They are pressing concerns which are vital and relevant to the lives of every human being. The brief history of the human rights movement teaches us that, notwithstanding the political difficulties, the omnipresent obstacles to change, the gross inequalities of wealth and the daily burden of oppression that surrounds us, international legal standards, by giving specificity to the concept of democracy, can, and do in fact lead to the improvement of peoples' lives. It is already a quantum leap in international relations that today countries can no longer say that how they treat their inhabitants is their own business. The state's duty to protect human rights is not only owed to individuals within its jurisdiction but to the international community as a whole.

It is a tribute to the talents, skill, and experience of the participants in this conference that such a rich tapestry of ideas and proposals has been woven over the last few days. I have interpreted my own role as that of a listener rather than that of an expert, whose task is to highlight the main proposals and insights that have emerged.

I find the metaphor of listening to be entirely appropriate for the occasion since listening to others is central to my own perception of what human rights are all about. We must listen very carefully to others. We have a duty to do so. We must listen especially to those whose voices are rarely adequately assertive—the poor, the marginalized, and the handicapped or those NGOs that speak on their behalf. In so doing we demonstrate in the simplest but most effective manner possible our respect for the dignity of others—a requirement at the very root of human rights. If we do not show ourselves capable of doing so, our intellectual contribution to devising more effective responses to human rights issues risks being out of tune with the real dimensions of the problems facing us.

Several observations of a general nature must be made at the outset. The first relates to the fruit of the last World Conference in 1968—the Proclamation of Teheran—since it provides an important indication of the magnitude of the tasks facing the international community. So many of the human rights problems identified in the Proclamation in areas such as equality, gross violations, development, and illiteracy are still with us—some perhaps in a more virulent form. Such is the gap between precepts and practice, affecting many millions of people, it is tempting to succumb to despair. But this would not be an appropriate response. We must see the Proclamation as an important staging post in the growth of international concern for human rights which underscores the need for continuous re-appraisal of our efforts in a manner which is both self-critical and realistic.

We should also acknowledge our achievements since 1945 in the form of standard setting and in the establishment of effective regional systems such as the European Convention on Human Rights or the creation of preventive mechanisms such as the more recent European Convention for the Prevention of Torture which is steadily proving its influence in examining conditions of detention. But here also self-criticism and self-assessment are of the essence.

In the second place we should ask ourselves what we expect from the World Conference. Our expectations should be realistic. The Conference is not likely to take operational decisions which lead to instant improvement. Rather it can create the condition for future changes by indicating a new direction or providing a fresh impetus. Hopefully, it will lead to an increased priority for human rights in the United Nations. Most important of all, perhaps, it ought to be used by the entire human rights community in the widest sense as an occasion for stimulating public awareness about human rights. Rio must come to Vienna. The patience and care that must be taken to instill these values in the public conscience has been described by Vaclav Havel, in a characteristically poetic manner, as a labor of love:

Je crois qu'il faut apprendre à attendre comme on apprend à créer. Il faut semer patiemment les graines, arroser avec assiduité la terre où elles sont semées et accorder aux plantes le temps qui leur est propre.

On ne peut duper une plante, pas plus qu'on ne peut duper l'Histoire. Mais on peut l'arroser. Patiemment, tous les jours. Avec compréhension, avec humilité, certes, mais aussi avec amour.

II. PROPOSALS FOR ACTION TO BE TAKEN

But I must now be more specific about the fruits of our own labors. I perceive six areas where there is consensus as to decisions that should be taken by the World Conference.

First, it should reaffirm the basic principles of the universality and indivisibility of human rights, recognizing once more that violations are of legitimate concern to the international community.

Second, it should reaffirm the principle that human rights are best protected by national institutions in the context of a legal and political culture supportive of human rights.

Third, it should examine ways of improving effective implementation of international human rights standards.

Fourth, it should recognize and endorse the role played by NGOs in the promotion and protection process.

Fifth, it should recognize that democracy, pluralism, and respect for human rights are essential for social and economic development.

Sixth, it should examine appropriate means of upgrading the promotion and protection of economic, social, and cultural rights.

Permit me to examine each point in turn with reference to the ideas and suggestions made during discussions.

A. Affirmation of Universality and Indivisibility

There is general agreement amongst participants that one of the most important aims of the World Conference will be to stress yet again the universality and indivisibility of human rights and to resist claims that the minimum standards contained in human rights instruments are essentially Western in nature and not appropriate to countries with different religions and cultural traditions, particularly in the areas of women's rights, the rights of the child, and the death penalty. There is a perceived need to reassert and reaffirm the indispensable truth that the protection and promotion of human rights is a duty for all states, irrespective of their political, economic, or cultural system and to guard against the erosion of universally accepted standards in the name of regional "particularities." At the same time we should re-emphasize that violations of human rights are a legitimate concern of the international community.

The subversion of the principle of universality undermines the very foundations of the commitment of the international community to insist on minimum standards. Arbitrary detention, disappearances, and violations of the rights of children do not contribute to feeding and clothing a nation or furthering a religious or cultural tradition. But as Professor Tiruchelvam has highlighted in his paper, we must go further than rhetoric. We must go back to listening. More thought and effort must be given to enriching the human rights discourse by explicit reference to other non-Western religions and cultural traditions. By tracing the linkages between constitutional values on the one hand and the concepts, ideas, and institutions which are central to Islam or the Hindu-Buddhist tradition or other traditions, the base of support for fundamental rights can be expanded and the claim to universality vindicated. The Western World has no monopoly or patent on basic human rights. We must embrace cultural diversity but not at the expense of universal minimum standards.

B. Human Rights are Best Protected by National Institutions

Another development of great significance to the issues of this Conference is the women's movement worldwide. We can learn from the ways in which women from the eurocentric world and the world of the South have been

coming to know one another. It is instructive to see how links have been established between networks of women's organizations, and even more instructive to note the institutional approaches adopted which are open, enabling, and participatory. Women have been finding new ways of relating and new voices, defining new roles or redefining old ones in a manner which has a powerful message for all concerned with the promotion of human rights. The major themes of the women's movement—equality, development, violence against women, and peace—have undergone significant changes as the women's movements themselves have come to a deeper understanding of the implications of their concerns. In the process, men have often felt threatened—but not just men. Women have also felt threatened because change is always disturbing. The energies, the perspectives, and the voices of women must be given a more central place and integrated fully into the human rights debate not least to ensure the appropriate gender balance. It is through NGOs at national and international levels that the voice of women is increasingly heard.

It is also an important reality that international mechanisms for protecting human rights are subsidiary to the national system. Human rights are better protected at home subject to the system of outer-protection afforded by international bodies. We should, however, be careful to ensure that the existence of international mechanisms is not used as a pretext for failure to take appropriate measures at the national level.

States should ensure that effective national remedies exist in respect of human rights violations. The incorporation of treaty standards into national law is one important way of ensuring adequate judicial protection but also of contributing to the formation of a legal culture more sensitive to human rights concerns. Judicial protection is, however, not enough. It needs to be supplemented by a variety of national agencies each with a mandate of protection.

On the other hand, attention should be given to the nurturing of a human rights culture which is indispensable for the proper operation of national laws and institutions. The role of the actors of civil society—such as the media, trade unions, NGOs—so often the first targets of totalitarian regimes—was considered essential to the formation of this culture and ultimately to the extent of human rights awareness. Of special importance in this context is human rights education in schools and in professional training, especially for officials responsible for key sectors such as prisons or the security forces. Assistance programs for newly emerging democracies also play an important role.

The World Conference should give a new impetus to the national dimension and explore ways of generating financial support for education initiatives and for the widest possible distribution of basic human rights texts in the different languages.

C. Enhancing Effective Implementation of International Human Rights Standards

As regards international machinery, ways must be found to encourage universal ratification of the UN Covenants and Protocols. This could involve giving more publicity to non-ratifying states or entering into a constructive dialogue to explore the reasons for their reticence. It was also considered vital to actively encourage states to withdraw reservations to these instruments.

Undoubtedly the World Conference provides an opportunity for improving the implementation of existing standards and the effectiveness of mechanisms. Particular attention must be devoted to considering ways and means of preventing violations from occurring. Failure to do so could deepen public skepticism of the role of the UN in this area. The most compelling weaknesses concern (1) the absence of an early-warning system to signal danger and of a focal point within the UN to which those who are close to a deteriorating situation can communicate information and (2) the inability of the UN organs to react speedily and effectively to urgent situations or gross systematic violations of human rights. The absence of powers to order binding interim measures at both European and universal levels must also be urgently reconsidered.

The idea was proposed that the time had arrived to create a high or special commissioner for human rights. He or she could be mandated to take investigating initiatives in situations of emergency as well as coordinating all of the UN's human rights activities and ensuring the integration of human rights issues in respect of other UN activities such as peace-keeping and peace-building. Although there was some dispute as to whether the mandate should cover both protection and coordination and whether the Commissioner should be located in Geneva close to infrastructures or in New York close to political decisionmaking, the idea of such an office was broadly supported.

A special commissioner or other office with similar functions could more efficiently address the needs for urgent action and greater coordination of resources. As such it should be given serious consideration. Yet its success is ultimately bound up with the need for a fundamental re-evaluation of the UN human rights budget. Less than 1 percent of the UN budget and .75 percent of its staff is disproportionately low for the ambitions of effective implementation in an era of increased responsibilities. It was alarming to learn, for example, that the UN Committee on Economic, Social and Cultural Rights has no expert staff and is serviced by one secretary. Clearly the financial and human resources made available must be significantly boosted. In particular, the UN Centre for Human Rights must be placed in a position where it can offer advisory services and technical assistance programs without infringing on effective human rights monitoring.

Strong views have been expressed that violations of women's rights have been largely ignored by UN bodies—especially procedures for implementing standards prohibiting gender discrimination. A clear consensus has emerged from this meeting that the World Conference must adopt recommendations for reform of existing human rights mechanisms so that adequate attention can be given to violations of women's human rights in the areas that fall within their mandate. Special consideration should be given to violations that affect women disproportionately such as rape or restrictions on women's legal capacity. It was felt that there was urgent need for a UN Special Rapporteur on these pressing and neglected problems.

Finally, the recent events in former Yugoslavia involving ethnic cleansing and systematic rape have highlighted the need for the international community to send a clear signal to those responsible for gross human rights abuses that they will not be able to act with impunity. Further consideration should be given to the creation of an international criminal tribunal at regional or global level with powers not only to punish but also to grant reparation to victims. The Vienna Conference provides an important occasion to explore the relationship between human rights law and humanitarian law with particular attention being given to methods of implementing the basic humanitarian standards set out in the Geneva Conventions and Protocols.

D. Recognition of the Role Played by NGOs

As has been remarked, the credibility of the World Conference will depend critically upon the extent to which it is open and responsive to the concern of NGOs from all regions. Indeed, the role of NGOs is a thread which links all the topics of this conference. Their creative energy is a vital resource. The effectiveness of the work of the UN and other international organizations in this area will depend on the extent to which they take NGOs into a real partnership. Where would the promotion and protection of human rights be today without the skills, experience, dedication, and commitment of the thousands of men and women working in these organizations? In a real sense they are the voice of the voiceless. They are also the major standard bearers for women's rights. But how can this partnership be improved on?

Three concrete proposals have emerged. The first is that NGOs enjoy the broadest possible participating rights in the World Conference. It is frankly disturbing to hear that NGOs from Eastern European and other countries who do not enjoy consultative status and who have not, because of a Catch-22 situation, participated in a regional preparatory meeting may have no *locus standi* in Vienna. Surely some way should be found of accrediting these organizations before the Vienna Conference if we are not to exclude a sizeable section of the associative community.

The second is that the expertise of NGOs on the ground be properly utilized by states in preparing their reports for submission to international bodies. They could be consulted in the preparatory phase or given the possibility of submitting comments to the national authority or more actively associated in the drafting of the report. The third proposal is that the crucial role of NGOs in monitoring human rights violations in the field (where many have lost their lives) be recognized by the adoption of the UN Declaration "on the protection of human rights defenders."

E. Development, Democracy, and Human Rights

Participants have stressed the need for the World Conference to continue the progress that has been made in the international community in asserting the basic principle that human rights must be central to development. There was consensus that the success of the World Conference depended on placing emphasis on people as the subject of rights and on seeking ways to help the poorest sectors to exercise their freedom of expression and association so vital to political progress. Yet the implementation of the principle should be managed in a way which avoids counter-productive confrontation and further polarization between North and South.

Views were expressed that developed countries should be seen to take economic, social, and cultural rights more seriously. In addition, measures taken by donor governments because of deficiencies in the human rights record of developing countries should not be marked by selectivity and political expedience if their stand on the universality of basic principles is to be credible. Donor agencies should adopt operative guidelines which are based on transparent criteria. It should be understood that credibility is related to the absence of disparity between domestic practices and international policies on human rights questions.

At the same time, the human rights record of developing countries, particularly in cases of widespread and systematic violations, is central to developmental assistance and may give rise to appropriate responses. The form that these responses take should not, however, be rigid. The donor community, in consultation with NGOs, must develop a framework of cooperation with the developing world which permits constructive dialogue and action on mutual concerns.

It was also strongly felt that international financial institutions such as the World Bank should integrate human rights concerns more consistently into their development projects. The effect of these projects on indigenous peoples, minorities, and trade union rights should be taken into account. The notions of good governance and the rule of law should be related more precisely to a proper human rights discourse.

The notion of solidarity is central to these issues. But solidarity between North and South also arises in a more dramatic context to which we should already turn our minds. I understand that by the year 2000 the World Health Organization envisages that there will be 40 million persons in the world who are HIV positive, an extremely high percentage of whom will be in developing countries. The demands on international solidarity with countries particularly affected will challenge all of us in a most compelling manner.

F. Upgrading Economic, Social, and Cultural Rights

The World Conference must make a serious effort to upgrade the protection of economic, social, and cultural rights. As Professor Alston has stressed, the Vienna Conference must sound the alarm bells "warning of the large-scale, deeply ingrained neglect of economic, social, and cultural rights over the past quarter of a century since Teheran." The international community has left far behind the cold-war ideological dispute as to the status of these rights. The interdependence and indivisibility of both sets of rights has been accepted and endorsed by the international community. How could it be otherwise? How can we proclaim our humanity and turn a blind eye on the squalor and misery of millions? But delivery on taking these rights seriously has been characterized by relative neglect and half-heartedness. These difficulties are also present within Europe where the European Social Charter of the Council of Europe has not been high on the list of state priorities, has not been ratified by all member states, and has an over-cumbersome enforcement mechanism.

That we invest our energies in finding a realistic and imaginative way forward is imperative. The rights to food, health care, shelter, and education are not negotiable. The death of 40,000 children every day from malnutrition is an affront to our conscience.

Numerous suggestions for improvement have been made involving the active promotion of ratification of the Covenant on Economic, Social and Cultural Rights, rethinking and reordering the reporting system and upgrading the resources at the disposal of the Committee set up by the Covenant. These and other suggestions, particularly Professor Alston's ten point plan of action, merit a more important place on our agenda.

But I will limit myself to highlighting two observations which should guide our thinking. First, there must be a concerted effort to ensure recognition of economic, social, and cultural rights at the national and regional levels. If there is no solidarity at these levels progress is not likely at the international level. They must be given the space to elbow their way more aggressively into our social and legal cultures. The startling observation has been made that there is practically no education about these rights. We have

done little to inform people that they have them. Second, we should give careful thought to the reflection that the process of upgrading may require different skills and expertise to those normally involved in the judicial model of human rights implementation. It has been said that unless we widen the circle of actors normally involved in human rights work, who may feel ill at ease or ill-equipped in what has become a highly specialized and complex area, the prospects for undertaking the necessary reforms will be slim. The time has come to recognize that a new impetus needs not only political will and allocation of greater resources but the involvement of trained, more precisely targeted, multidisciplinary skills.

III. CONCLUSION

I cannot speak of development and human rights without evoking the misery and hardship that I encountered on a visit to Somalia in October last year. I witnessed, at first hand, human suffering, degradation, and humiliation on a scale that defies adequate description. I saw children dying from malnutrition in their mothers' arms. I visited a Somali refugee camp in Northern Kenya where there were 60,000 people without a single latrine.

My inner sense of justice and equality was outraged at what I had seen. The world is capable of providing the 2,600 daily calorie allowance for every man, woman, and child. We have food mountains and large tracts of land taken out of production. Are we not diminishing our own sense of humanity by failing to address the starvation and destitution of so many of our fellow human beings? How can we assert the universality of human rights by ignoring the life chances of millions of people?

This painful act of witness, on behalf of the people of Ireland who were deeply concerned at events in Somalia, has a potent relevance to our proceedings. It taught me that the problems of Somalia and other countries of Africa were of such a scale that they could not be left exclusively to the United Nations, the European Community or governments and that a people-to-people response was also necessary for effective action. An individual assumption of responsibility and engagement on a large scale would surely impact on political priorities.

So too with human rights. There are natural limits to the effectiveness of national and international laws. We must strive to make them more effective to be sure. But at the end of the road it is our capacity as individuals to be concerned and moved by injustice that is the real driving force behind the human rights movement. We must ensure that the seeds of such individual responsiveness are firmly planted and nourished in our national cultures. This must be the goal of national education programs. We must elevate the rights of others to a higher platform in our collective conscience.

In Somalia a distraught mother said to me “we need very basic things, we need the world to understand.” Let us all listen very carefully to this simple human plea. And let us ensure that above the din of legal argument and contention others hear it too.