

## LAW AND SOCIETY TRUST

### Fortnightly Review

No 3 Kynsey Terrace, Colombo 8  
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1 & 16 July 1993 Volume III Issue No 61

#### OBJECTIVES

*The Law and Society Trust Fortnightly Review keeps the wider Law and Society community informed about the activities of the Trust, and about important events of legal interest and personalities associated with the Trust.*

*With this double issue of July 1993 we complete three unbroken years of publication of the Fortnightly Review. As a fitting finale to the August 1992 - July 1993 year, we cover for our readers some of the main issues raised at the World Conference on Human Rights held at Vienna, Austria, 14 - 25 June 1993.*

*Await the first issue of Volume IV on August 1st 1993!*

## HUMAN RIGHTS - A GLOBAL UPDATE

# WORLD CONFERENCE ON HUMAN RIGHTS

VIENNA -  
JUNE 1993

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# THE SINGLE HUMAN COMMUNITY

By

**The Secretary General of the United Nations,  
Boutros Boutros-Ghali**

The World Conference on Human Rights being convened today at Vienna marks one of those rare, defining moments when the entire community of States finds itself under the gaze of the world!

It is the gaze of the billions of men and women who yearn to recognize themselves in the discussions that we shall be conducting and the decisions that we shall be taking in their name. It is the gaze of all those men and women who, even now, are suffering in body and spirit because their human dignity is not recognized, or is being flouted. It is the gaze of history, as we meet at this crucial juncture!

When in 1989 the United Nations General Assembly requested the Secretary-General to seek the views of Governments and the organizations concerned on the desirability of convening a world conference on human rights, it was demonstrating remarkable historical intuition.

Two months earlier, the Berlin wall had fallen, carrying away with it a certain vision of the world, and thereby opening up new perspectives. It was in the name of freedom, democracy and human rights that entire peoples were speaking out. Their determination, their abnegation – sometimes their sacrifices – reflected then, and still reflect, their commitment to do away with alienation and totalitarianism.

Thus preparations for today's Conference have gone hand-in-hand with an impressive acceleration of the course of history.

That conjunction of events must not be seen as pure chance or mere coincidence. It is always when the world is undergoing a metamorphosis, when certainties are collapsing, when the lines are becoming blurred, that there is greatest recourse to fundamental reference points, that the quest for ethics becomes more urgent, that the will to achieve self-understanding becomes imperative.

It is therefore natural that the international community should today feel the need to focus on its own values and, reflecting on its history, ask itself what constitutes its innermost identity – in other words, ask questions about humanity and about how, by protecting humanity, it protects itself.

The goals of the Conference faithfully reflect the following key questions:

What progress has been made in the field of human rights since the Universal Declaration of 1948?

What are the obstacles and how are they to be overcome?

How can implementation of the human rights instruments be enhanced?

How effective are the methods and mechanisms established by the United Nations?

What financial resources should be allocated for United Nations action to promote human rights?

And, at a deeper level, what are the links between the goals pursued by the United Nations and human rights, including the link between development and the enjoyment of economic, social, cultural, civil and political rights?

These are universal questions, but there is no single answer to any of them. While human rights are common to all members of the international community, and each member of that community recognizes himself in them, each cultural epoch has its own special way of helping to implement them. In this connection, a debt of thanks is owed to Member States which, at the regional level, have reminded others of this reality.

Yet this reminder must be a source of positive reflection, not of sterile misunderstanding.

Indeed human rights, viewed at the universal level, bring us face-to-face with the most challenging dialectical conflict "myself" and "others". They teach us in a direct, straightforward manner that we are at the same time identical and different.

Thus the human rights that we proclaim and seek to safeguard can be brought about only if we transcend ourselves, only if we make a conscious effort to find our common essence beyond our apparent divisions, our temporary differences, or ideological and cultural barriers.

In sum, what I mean to say, with all solemnity, is that the human rights we are about to discuss here at Vienna are not the lowest common denominator among all nations, but rather what I should like to describe as the "irreducible human element", in other words, the quintessential values through which we affirm together that we are a single human community!

I do not want to underestimate the nature of our undertaking. Yet in such an area, this is no time to seek cautious compromise or approximate solutions, to be content with soothing declarations, or, worse still, to become bogged down in verbal battles. On the contrary, we must ascend to a conception of human rights that would make such rights truly universal!

There lies the challenge of our endeavour; there lies our work; there stands or falls this Conference in future evaluations.

An awareness of the complexities of the debate is the first step towards developing a method of debate. We should be under no illusion: a debate on human rights involves complex issues. Human rights should be viewed not only as the absolute yardstick which they are, but also as a synthesis resulting from a long historical process.

As an absolute yardstick, human rights constitute the common language of humanity. Adopting this language allows all peoples to understand others and to be the authors of their own history. Human rights, by definition, are the ultimate norm of all politics.

As an historical synthesis, human rights are, in their essence, in constant movement. By that I mean that human rights have a dual nature. They should express absolute timeless injunctions, yet simultaneously reflect a moment in the development of history. Human rights are both absolute and historically defined.

The reason I began with these statements of principle – at the risk of appearing very abstract – is that I am convinced that there will be no appropriate solutions to any of the issues that we shall be considering in the coming days, even the most technical, unless we bear in mind the fundamental dialectical conflict between the universal and the particular, between identity and difference.

What makes our task especially urgent is the fact that with the development of communications, every day the whole world is called to witness the free enjoyment – or the violation – of human rights.

Not a day goes by without scenes of warfare or famine, arbitrary arrest, torture, rape, murder, expulsion, transfers of population, and ethnic cleansing. Not a day goes by without reports of attacks on the most fundamental freedoms. Not a day goes by without reminders of racism and the crimes it spawns, intolerance and the excesses it breeds, underdevelopment and the ravages it causes!

And what confronts those men, women and children who are suffering and dying is a reality that is more unbearable than ever; we are all similar, yet history emphasizes our differences and separates us on all sorts of grounds: political, economic, social and cultural.

We have indeed learned that it is possible to view differences as such with respect as sources of mutual enrichment; yet when differences become synonymous with inequalities, they cannot but be perceived as unjust. Today, all peoples and all nations share these feelings. That fact in itself is a step forward in the conscience of humanity.

The more so since to move from identifying inequality to rebelling against injustice is only possible in the context of a universal affirmation of the idea of human rights. Ultimately, it is this idea which allows us to move from ethical to legal considerations, and to impose value judgements and juridical norms on human activity.

Let us not delude ourselves, however! Because judgements are based on this scale of constraints and values, it is also part of the power stakes. No doubt this is why some States seek – often and by various means – to appropriate human rights for their own benefit, even turning them into an instrument of national policy. There is no denying that some States constantly try to hijack or confiscate human rights.

Of course, in saying this, I do not mean to point a finger at any member of the international community. I only want to stress that human rights, in their very expression, reflect a power relationship.

Let us be clear about this! Human rights are closely related to the way in which States consider them; in other words, to the ways in which States govern their people; in yet other words, to the level of democracy in their political regimes!

If we bear all these problems in mind, I am positive that we shall avert the dual danger lurking ahead of us at the outset of this Conference: the danger of a cynical approach according to which the international dimension of human rights is nothing more than an ideological cover for the realpolitik of States; and the

danger of a naive approach according to which human rights would be the expression of universally shared values towards which all the members of the international community would naturally aspire.

These considerations should remain present in our minds throughout our discussions, so that we might be bold in our proposals and firm in our principles.

In this regard, I should like to issue a solemn call: that this Conference should measure up to the subject matter and that it should be guided by a threefold requirement, which I shall refer to as "the three imperatives of the Vienna Conference": universality, guarantees, democratization.

Let us deal first with the imperative of universality. To be sure, human rights are a product of history. As such, they should be in accordance with history, should evolve simultaneously with history and should give the various peoples and nations a reflection of themselves that they recognize as their own. Yet, the fact that human rights keep pace with the course of history should not change what constitutes their very essence, namely their universality!

Secondly, there is the imperative of guarantees. Every day we see how discredited human rights and the United Nations itself would be, in the eyes of the world, if the declarations, covenants, charters, conventions and treaties that we draft in order to protect human rights remained dead letters or were constantly violated. Human rights should therefore be covered by effective mechanisms and procedures to guarantee and protect them and to provide sanctions.

Lastly, there is the imperative of democratization. In my opinion, this is essentially what is at stake as we approach the end of the century. Only democracy, within States and within the community of States, can truly guarantee human rights. It is through democracy that individual rights and collective rights, the rights of peoples and the rights of persons, are reconciled. It is through democracy that the rights of States and the rights of the community of States are reconciled.

It is on those three imperatives – universality, guarantees and democratization – that I should like you to reflect.

The imperative of universality will undoubtedly be in evidence throughout our debates. How could it be otherwise? Universality is inherent in human rights. The Charter is categorical on this score: Article 55 states that the United Nations shall promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". The title of the 1948 Declaration – universal, not international – reinforces this perspective.

However, this concept of universality must also be clearly understood and accepted by everyone. It would be a contradiction in terms if this imperative of universality on which our common conception of human rights is based were to become a source of misunderstanding among us.

It must therefore be stated, in the clearest possible terms, that universality is not something that is decreed, nor is it the expression of the ideological domination of one group of States over the rest of the world.

By its nature and composition, it is the General Assembly of the United Nations that is best equipped to express this idea of universality, and we should pay tribute to the human rights standard-setting in which it has been engaged for almost 50 years now.

As a result of its activities, the areas of protection have become increasingly precise: punishment of genocide, suppression of genocide, abolition of slavery, efforts to abolition of slavery, efforts to combat torture and elimination of all forms of discrimination based on race, sex, religion or belief.

Moreover, the subjects of those rights have been more clearly defined: right of peoples; protection of refugees, stateless persons, women, children, disabled persons, persons with mental illness, prisoners, victims of enforced disappearance; protection of the rights of migrant workers and their families; and protection of indigenous people. In this connection, the General Assembly is to be commended for drafting, as part of the activities relating to the International Year of the World's Indigenous People, a universal declaration for consideration next autumn.

The set of instruments resulting from this standard-setting by the United Nations General Assembly is now our common property. It has enough to satisfy all States, all peoples and all cultures, for the universality it affirms is that of the international community as a whole.

If we look closely at these instruments, and the World Conference on Human Rights affords an ideal opportunity to do so, we may be struck by, and justifiably proud of, the ceaseless efforts made by the General Assembly to develop on the very idea of universality.

While a general, abstract concept of human rights, born of liberal values, prevailed initially, as we can see from the text of the 1948 Universal Declaration, the input of the socialist States and the States of the third world helped broaden this initial vision. The 1966 Covenants bear witness to the broadening of our vision. They enable us to affirm, and I wish to emphasize this here, that civil and political rights and economic, social and cultural rights are equally important and worthy of attention.

We all know, however, that the General Assembly did not stop there: it expanded still further on the concept of universality by enunciating, after these collective rights, what I like to call rights of solidarity, rights which bring us back to a projected universality involving the joint action of all members of society both nationally and internationally. Since Article 1 of the Charter enunciated the right of peoples to self-determination, the General Assembly has proclaimed the right to a healthy environment, the right to peace, the right to food security, the right to ownership of the common heritage of mankind and, above all, the right to development.

I believe that this last right, in particular, shows just how modern the concept of universality is. The General Assembly went a long way towards recognizing this when, as early as 1979, it asserted that "the right to development is a human right" and that "equality of opportunity for development is a prerogative both of nations and of individuals who make up nations".

This idea was expressed even more clearly when, in 1986, the Assembly adopted a Declaration on the Right to Development which states that "the human person is the central subject of development and should be the active participant and beneficiary of the right to development". In that same instrument, the Assembly emphasizes the corresponding duties which this right imposes on States: the duty to cooperate with each

other in ensuring development, the duty to formulate international development policies and, at the national level, the duty to ensure "access to basic resources, education, health services, food, housing, employment and the fair distribution of income".

I think that this approach to the concept of universality is the right one and that it is this course that we should follow.

We must recognize that while ideological splits and economic disparities may continue to be the hallmark of our international society, they cannot interfere with the universality of human rights.

I believe that at this moment in time it is less urgent to define new rights than to persuade States to adopt existing instruments and apply them effectively.

I also believe that regional organizations have a positive role to play in making States increasingly aware of this problem. Regional action for the promotion of human rights in no way conflicts with United Nations action at the universal level – quite the opposite.

I understand the recent regional meetings on human rights as reflecting a concern to remain true to this concept of universality, no matter what serious problems or legitimate questions it may raise.

The imperative of guarantees should be the second concern of our Conference. What do human rights amount to without suitable machinery and structures to ensure their effectiveness, both internally and internationally? Here again, the Vienna Conference must not lapse into unproductive debates or futile polemics. To avoid this, the Conference must go back to the very essence of human rights in international society, and to what is unique about them.

I am tempted to say that human rights, by their very nature, do away with the distinction traditionally drawn between the internal order and the international order. Human rights give rise to a new legal permeability. They should thus not be considered either from the viewpoint of absolute sovereignty or from the viewpoint of political intervention. On the contrary, it must be understood that human rights call for cooperation and coordination between States and international organizations.

In this context, the State should be the best guarantor of human rights. It is the State that the international community should principally entrust with ensuring the protection of individuals.

However, the issue of international action must be raised when States prove unworthy of this task, when they violate the fundamental principles laid down in the Charter of the United Nations, and when – far from being protectors of individuals – they become tormentors.

For us, this problem is a constant challenge, particularly since the flow of information and the effect of world public opinion make the issues in question even more pressing.

In these circumstances, the international community must take over from the States that fail to fulfil their obligations. This is a legal and institutional construction that has nothing shocking about it and does not, in my view, harm our contemporary notion of sovereignty. For I am asking – I am asking us – whether a



State has the right to expect absolute respect from the international community when it is tarnishing the noble concept of sovereignty by openly putting that concept to a use that is rejected by the conscience of the world and by the law! Where sovereignty becomes the ultimate argument put forward by authoritarian regimes to support their undermining of the rights and freedoms of men, women and children, such sovereignty – and I state this as a sober truth – is already condemned by history.

Moreover, I believe all members of the international community have an interest in international action being thus defined and directed. Nothing would be more detrimental to States themselves than to leave private agencies or non-governmental organizations to take sole responsibility for protecting human rights in individual States.

Yes, States must be convinced that the control exercised by the international community ultimately results in the greatest respect for their sovereignty and spheres of competence.

The Vienna Conference has therefore rightly decided to evaluate methods and machinery for guaranteeing human rights with a view to improving them. It is indeed important that all of us here be aware of the changes that have taken place, where such forms of control are concerned, at the administrative and jurisdictional levels and in the operational sphere.

At the administrative level, the number of procedures for guaranteeing human rights has been increasing for years, not only within the United Nations, but also at such specialized agencies as the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) and at such regional organizations as the Council of Europe and the Organization of American States.

Within the United Nations, a proliferation of bodies each entrusted with monitoring implementation of a specific convention can even be noted.

At a more general level, the Commission of Human Rights and the United Nations Centre for Human Rights must be accorded a special place.

The Centre, in particular, has undergone profound changes in recent years.

Initially designed to carry out studies and provide information on all aspects of human rights, the Centre has gradually been called on to contribute to the implementation of conventions, and to participate in ad hoc committees of special rapporteurs set up to investigate such wide-ranging matters as summary executions, disappearances and instances of arbitrary detention.

However, guaranteeing human rights also means setting up jurisdictional controls to punish any violations that occur.

In this area, regional organizations have shown the way – particularly in the context of the Council for Europe, in the form of the European Court of Human Rights, and in the Americas, in the form of the Inter-American Court.

I would draw your attention in this connection to the current efforts by the United Nations to promote both a permanent international criminal court and a special international tribunal to prosecute the crimes committed in the former Yugoslavia.

It was in February of this year that the Security Council decided to establish such a tribunal "for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991".

In asking the Secretary-General to consider this project, the Security Council has given itself an entirely new mandate. On 27 May, the Tribunal was established by a unanimous decision of the Security Council, acting under Chapter VII of the Charter. This method has the advantage of giving immediate effect to the establishment of the Tribunal, since all States are required to take the necessary steps to implement a decision adopted in this manner. The Council has thus created, in the context of an enforcement measure, a subsidiary organ as envisaged in Article 29 of the Charter, but one of a judicial nature.

I cannot discuss the development of measures taken by the Organization to safeguard human rights without mentioning the decisive action taken by the General Assembly in the area of humanitarian assistance.

Since December 1988, when the General Assembly adopted resolution 43/131 on humanitarian assistance to victims of natural disasters and similar emergency situations, the notion of a right to humanitarian assistance has, to a certain extent, become one of the areas in which human rights can actually be guaranteed.

We have seen this reflected in the Organization's operations in the Sudan, in Somalia, in the special case of Iraq and, today, in the former Yugoslavia.

Once again, these resolutions are not intended to justify some ostensible right of intervention, but simply to reflect one of the key ideas lying behind current efforts to safeguard human rights: the relationship between such guarantees and the imperative of democratization which the international community is rightly embracing today.

The imperative of democratization is the last – and surely the most important – rule of conduct which should guide our work. There is a growing awareness of this imperative within the international community. The process of democratization cannot be separated, in my view, from the protection of human rights. More precisely, democracy is the political framework in which human rights can best be safeguarded.

This is not merely a statement of principle, even less a concession to a fashion of the moment, but the realization that a democracy is the political system which best allows for the free exercise of individual rights. It is not possible to separate the United Nations promotion of human rights from the establishment of democratic systems within the international community.

Let me not be misunderstood nor unwittingly cause offence.

When, like so many others before me, I stress the imperative of democratization, I do not mean that some States should imitate others slavishly, nor do I expect them to borrow political systems that are alien to them, much less try to gratify certain western States – in fact, just the opposite. Let us state, forcefully, that

democracy is the private domain of no one. It can and ought to be assimilated by all cultures. It can take many forms in order to accommodate local realities more effectively. Democracy is not a model to copy from certain States, but a goal to be achieved by all peoples! It is the political expression of our common heritage. It is something to be shared by all. Thus, like human rights, democracy has a universal dimension!

To avoid misinterpretations and misunderstandings, we must all agree that democratization must not be a source of concern to some but should be an inspiration for all States! In this spirit the United Nations, in its mission to guarantee human rights, has an obligation to help States – often those that are the most disadvantaged – along the ever difficult road to democratization.

This is why we must distance ourselves from sterile polemics and act constructively to build the link effectively between democracy, development and human rights, a link we already recognize as inescapable.

One thing is certain: there can be no sustainable development without promoting democracy and, thus, without respect for human rights. We all know that, on occasion, undemocratic practices and authoritarian policies have marked the first steps taken by some countries along the road to development. Yet, we also know that if these States do not undertake democratic reforms once they have begun to experience economic progress, they will ultimately achieve nothing more than disembodied growth, a source of greater inequity and, eventually, social unrest. Democracy alone can give development its true meaning.

This analysis must lead the developed countries to take an increasingly responsible attitude vis-a-vis States that are engaged in the democratization process. More than even before, each one must realize its own responsibility in what is a joint undertaking. Each one must understand that development assistance contributes to the promotion of democracy and human rights. This in no way diminishes the overriding responsibility of all States, including the developing countries, to promote democracy and human rights at home. This matter is of concern to the entire international community, for only through individual development can peace for all be ensured!

Each passing day shows that authoritarian regimes are potential causes of war and of the extent to which, conversely, democracy is a guarantor of peace. We have only to look at the mandates given to the United Nations forces to see the connection which the Organization is making, at the operational level and in the most concrete terms possible, between peace-keeping, the establishment of democracy and the safeguarding of human rights.

The mandate given to the United Nations operation in Namibia from April 1989 to March 1990 was an early but powerful demonstration of this evolution. Since 1991, a number of major operations have incorporated this political dimension – the safeguarding of human rights and the restoration of democracy – in their mission. We have seen this in the operations in Angola, Mozambique, El Salvador, Somalia and, of course, Cambodia.

Many States, in fact, know full well how desirable it is to receive the electoral assistance which they are requesting with increasing frequency from the United Nations.

In 1989, a mission was set up to monitor the electoral process in Nicaragua. The following year, a similar mission was set up in Haiti. Requests for electoral assistance continued to increase at a steady rate, and in

the autumn of 1991 the General Assembly endorsed the creation, within the Department of Political Affairs, of an electoral assistance unit, which became operational in April 1992.

Since then, equipped with this new tool, the United Nations has been better able to meet the requests for electoral assistance from many States: Argentina, Burundi, Central African Republic, Chad, Colombia, Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Guyana, Kenya, Lesotho, Madagascar, Malawi, Mali, Niger, Rwanda, Romania, Senegal, Seychelles, Togo, Uganda ... the list is impressive.

Such requests fall into a variety of categories: the organization and holding of elections, their monitoring and verification, on-site coordination of international observers and with the many forms of technical assistance required for democratic elections to take place smoothly.

This is a major undertaking for the United Nations, and one whose magnitude must be stressed. The supervision and monitoring of elections do not in themselves constitute long-term guarantees of democratization and respect for human rights. This is borne out, unfortunately, by the experiences of Angola and Haiti. The United Nations cannot guarantee that there will be enough of a sense of democracy for election results to be respected.

And so we have to do even more. We must help States change attitudes, convince them to undertake structural reforms. The United Nations must be able to provide them with technical assistance that will allow them to adapt their institutions, educate their citizens, train leaders and set up regulatory mechanisms that respect democracy and reflect a concern for human rights. I am thinking specifically of how important it is to create independent systems for the administration of justice, to establish armies that respect the rule of law, to create a police force that safeguards public freedoms, and to set up systems for educating the population in human rights.

It is my conviction that our task is nothing less than setting up a civics workshop on a global scale.

Only by heightening the international community's awareness of human rights in this way and involving everyone in this effort can we prevent future violations that our conscience, and the law, will condemn. Here, as elsewhere, preventive diplomacy is urgently needed.

I look to the Conference to offer suggestions, innovations, and proposals to give increasing substance to this human rights diplomacy!

Through these thoughts and illustrations I hope that I have shown that the United Nations has taken a decisive turn in its history. Imperceptibly our determination to respect human rights is now beginning to be reflected, through concrete and pragmatic efforts, in everything we do.

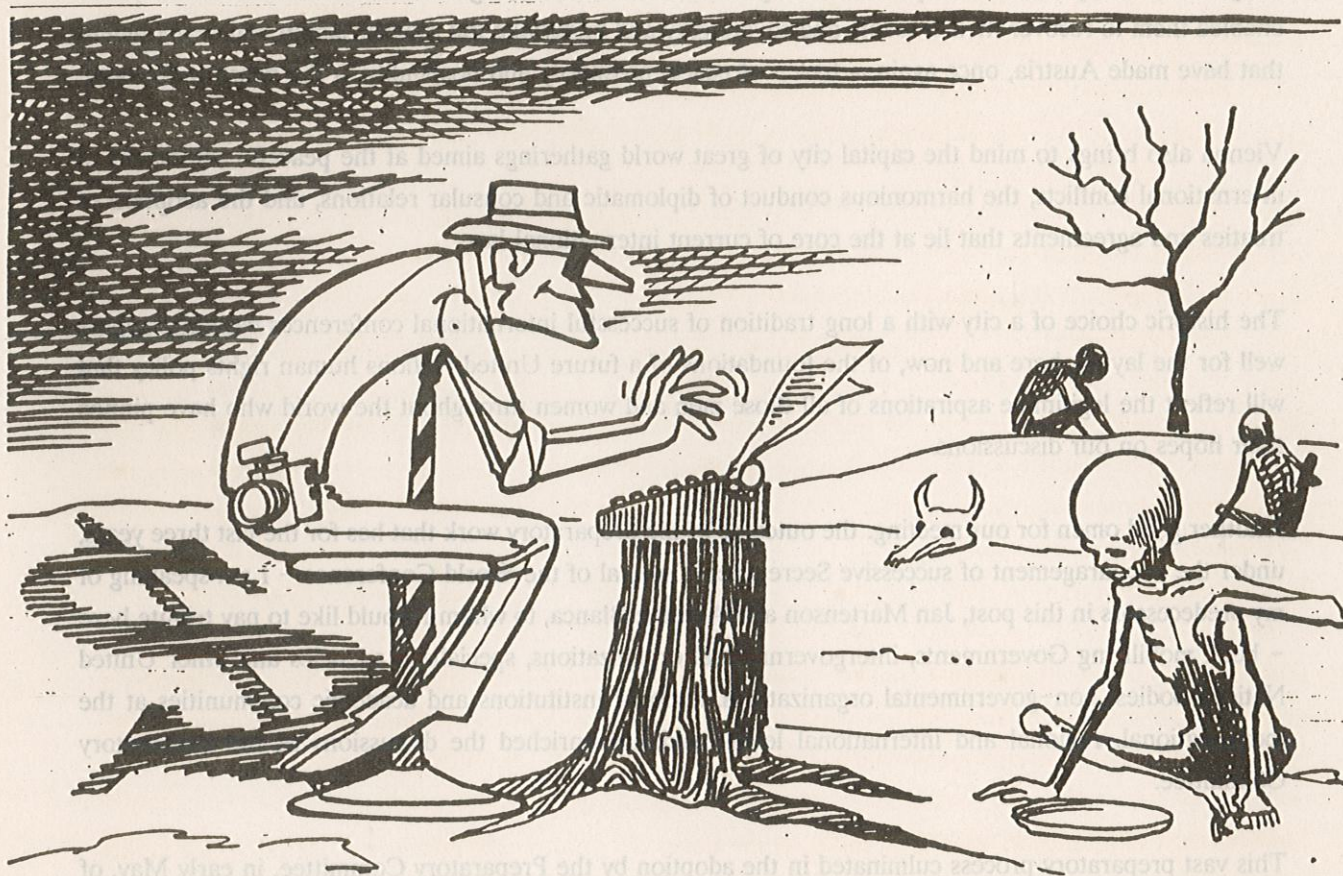
This has been an important lesson for us which we must bear in mind throughout this Conference: the safeguarding of human rights is both a specific and a general goal. On the one hand, it requires us to identify increasingly specific rights and to imagine increasingly effective guarantees. But it also shows us that human rights permeate all activities of our Organization, of which they are, simultaneously, the very foundation and the supreme goal.

Allow me, then, by way of conclusion and at the outset of this Conference to make a final appeal:

May human rights create for us here a special climate of solidarity and responsibility!

May they serve to bind the Assembly of States and the human community!

And, finally, may human rights become the common language of all humanity!



NINAN.

### HUMAN RIGHTS VIOLATIONS

## **AN OBJECTIVE APPROACH AND CO-ORDINATED STRATEGY TOWARDS HUMAN RIGHTS**

**By**

**Secretary-General of the World Conference, Ibrahim Fall**

My functions as Secretary-General of this Conference make it my pleasant duty and distinguished honour to thank, on behalf of the United Nations, the people and authorities of Austria for hosting our meeting in this prestigious city.

Vienna is the centre of the rich and dynamic culture of a people whose history and art are synonymous with the grandeur and power of Europe and whose political determination, together with moral rearmament, have enabled them to recover their freedom and sovereignty and undertake the reconstruction and development that have made Austria, once again, a haven of peace, prosperity and hospitality in the heart of Europe.

Vienna also brings to mind the capital city of great world gatherings aimed at the peaceful settlement of international conflicts, the harmonious conduct of diplomatic and consular relations, and the adoption of treaties and agreements that lie at the core of current international law.

The historic choice of a city with a long tradition of successful international conferences certainly augurs well for the laying, here and now, of the foundations of a future United Nations human rights policy that will reflect the legitimate aspirations of all those men and women throughout the world who have pinned their hopes on our discussions.

Another good omen for our meeting: the outcome of the preparatory work that has for the last three years, under the encouragement of successive Secretaries-General of the World Conference – I am speaking of my predecessors in this post, Jan Martenson and Antoine Blanca, to whom I would like to pay tribute here – been mobilizing Governments, intergovernmental organizations, specialized agencies and other United Nations bodies, non-governmental organizations, national institutions and academic communities at the local, national, regional and international levels, and has enriched the discussions of the Preparatory Committee.

This vast preparatory process culminated in the adoption by the Preparatory Committee, in early May, of the draft final outcome, appearing under the symbol A/CONF.157/PC/98.

Several lessons for immediate and future action are to be learned from this long preparatory process for the Conference:

The first lesson is a political one: the need to adopt a new approach to United Nations action in the field of human rights. This approach must not be based on the use of human rights questions for political ends associated with rivalries or special interests, leading to the double-standard policies left over from the Cold War and its aftermath. It must be an objective approach based on the universality, indivisibility and interdependence of all human rights and reflected in an attitude of equal vigilance and equal treatment for all human rights violations whatever their origin.

Besides a change of attitude and behaviour on the part of Governments, this implies a significant strengthening of the status, mandates, powers and resources of the bodies responsible for monitoring respect for human rights, to enable them to act more independently, effectively, rapidly and flexibly and to increase the credibility and acceptability of their decisions.

This applies to treaty bodies, made up of independent experts who are nevertheless lacking in authority and sufficient means. It applies all the more to bodies made up of government representatives.

In this connection, the Commission on Human Rights must be strengthened, following expansion of its membership, if it is to fulfil its mandate in general, and in particular if the rapporteurs, experts and representatives whom it entrusts with fact-finding and inspection missions concerning human rights situations, who often cannot accomplish their missions for lack of means or lack of cooperation from the Governments concerned, are to be able to fulfil their mandates.

Similarly, a better geographical and gender balance among rapporteurs, together with more effective treatment of all aspects of women's rights in all activities of the Commission and its rapporteurs, would help to promote such an objective and non-selective approach in United Nations human rights activities.

The very indivisibility of human rights requires the handling of economic, social and cultural rights on an equal footing with social and political rights, notably by setting up a system of indicators to assess the progress achieved in implementing those rights and by elaborating and adopting an optional protocol which would endorse the right of petition.

The second lesson to be drawn from the preparatory process of the World Conference is operational. It relates to the absence or inadequacy of coordination among the strategies, policies and actions of the various United Nations human rights bodies and institutions, a situation which leads to duplication of effort, waste, lacunae and discord, straining the meagre human and financial resources available and prejudicing the efficiency and performance of activities in the field.

At the conclusion of our discussions, it needs to be possible to set in motion specific measures for a genuine institutional policy of coordination among United Nations human rights activities; the example to be followed is that of the Committee on the Rights of the Child, which brings in all the pertinent United Nations institutions in a coordinated manner when the situation of the rights of the child in any one country is considered. This example should become a cardinal principle for action for each country and for each category of rights, in particular, the rights of women, of indigenous populations, of minorities, or disabled persons and of other vulnerable groups, but also, in a comprehensive and integrated manner, for all human rights strategies and policies of all institutions right through the United Nations system.

Yet again, the intrinsic nature of human rights, the necessarily complementary nature of our activities, the judicious use of our resources and the need for optimum performance and efficiency require such a comprehensive and integrated approach to be adopted generally. This will require coordination machinery at the highest level, the institution of which should be requested by this Conference.

The third lesson to be drawn from the preparatory process of the World Conference relates to strategy. It is obvious today that the existing machinery does not lend itself to the flexibility, rapidity and efficiency

required by the frequency, gravity and extent of certain human rights violations, which are growing increasingly frequent and are going unpunished for lack of appropriate structures and procedures.

In addition to this problem of handling mass violations of human rights rapidly and efficiently, we now face the prospect of crisis aversion; this requires yet more recourse to early-warning techniques, preventive diplomacy, and early treatment of the underlying causes that may give rise to serious and large-scale violations of human rights.

The discussions within the Preparatory Committee reveal two schools of thought – one which merely favours the improvement of existing structures and machinery and another which favours this improvement together with the creation of new structures and machinery. Neither the negotiations during the second session of the Preparatory Committee, nor the subsequent informal consultations have enabled any kind of consensus to be achieved.

In the choice which the Conference will be called on to make, it should take into consideration all the advantages and disadvantages of each option, in terms of present and future needs in a world which, if care is not taken, is liable to descend into violence, leaving machinery and procedures which, to say the least, are unsuitable, powerless to intervene.

The need to overcome the obstacles and violations which prevent the universal enjoyment of human rights is another aim towards which our discussions should tend and in respect of which we should recommend specific action; in addition to the lack of universal ratification of the main human rights treaties and agreements and/or the failure to respect them, an exhaustive list has been prepared of obstacles to and violations of these rights and freedoms.

It is obvious that this is not sufficient. The very roots of such obstacles and violations, whether of civil and political or of economic, social and cultural rights, must also be attacked, both nationally and internationally.

It must be admitted that without fundamental changes in the structure of social, economic and political relations within States and in relations between States, it would not seem easy to do away with these obstacles and violations. In our humble opinion, the democratization of these relations needs to play a fundamental role here if a world of justice, peace and solidarity is to come into being.

Before closing, I should briefly like to mention one last lesson from the preparatory process; the burning question of the resources devoted to human rights. Briefly, because here States really are unanimous both in acknowledging that the human, financial and other resources are meagre and in declaring their support for a qualitative improvement. Beyond this, however, there are still differences of opinion as to where the additional budgetary resources are to come from.

I shall confine myself to the remark that the most ardent proclamations issuing forth from our meetings will have no effect on real-life situations if they are not supported by adequate resources from clearly identified sources.

Besides, one of the characteristic features of the preparatory process, as reflected in the draft final document submitted to the Conference, is precisely the exponential growth in requests from States for technical assistance and advisory services in the field of human rights. These requests are concerned with preparing



for and organizing democracy, establishing and operating national institutions to promote human rights, establishing research and documentation centres, disseminating national laws, training people in human rights, evolving independent judiciaries, giving the population at large a general legal background, etc. Not only are these requests qualitatively large for individual countries, they come from a variety of countries and continents.

Lastly, I should like to mention one matter which received special attention during the preparatory process: the fate of indigenous peoples. The commemoration on 18 June of the International Year for Indigenous People, which is currently in course, will provide me as Coordinator with an opportunity to dwell a little on this.

Ladies and Gentlemen, if we are to get through all these topics during our meetings, we will have to be organized.

The functions of the different settings in which our discussions will take place must be considered and understood as a whole: the plenary should be where we hear and exchange views on current political perceptions of and prospects for human rights from the viewpoints of our respective Governments; the Committee of the Whole should tackle the same questions from a broadly topical viewpoint, taking an historical approach, in order to come up with practical options and recommendations agreed to by States, international organizations, specialized agencies, non-governmental organizations, treaty bodies and other human rights experts and national institutions; and the Drafting Committee's task will be to combine the proposals into an operational United Nations programme of action on human rights, setting out the political outlines, the chronological steps, the institutional frameworks, the practical means, and the financial and other resources that must be brought into play in order to ensure that men, women and individuals belonging to vulnerable groups can fully exercise their rights in a universal, objective and non-selective manner within a framework of international action based more on cooperation than on confrontation.

One last thing:

However important our work may be – and I hope it will be very fruitful – the success of the Vienna Conference will not be judged just by the immediate outcome of our meetings, that is, the recommendations which come out of our discussions. It will also be judged by our common political will to turn these recommendations into concrete action, beginning at the next session of the General Assembly, in the Third Committee in the case of strategic and political options and in the Fifth Committee for the financial and other resources which must be found in order to give effect to our recommendations.

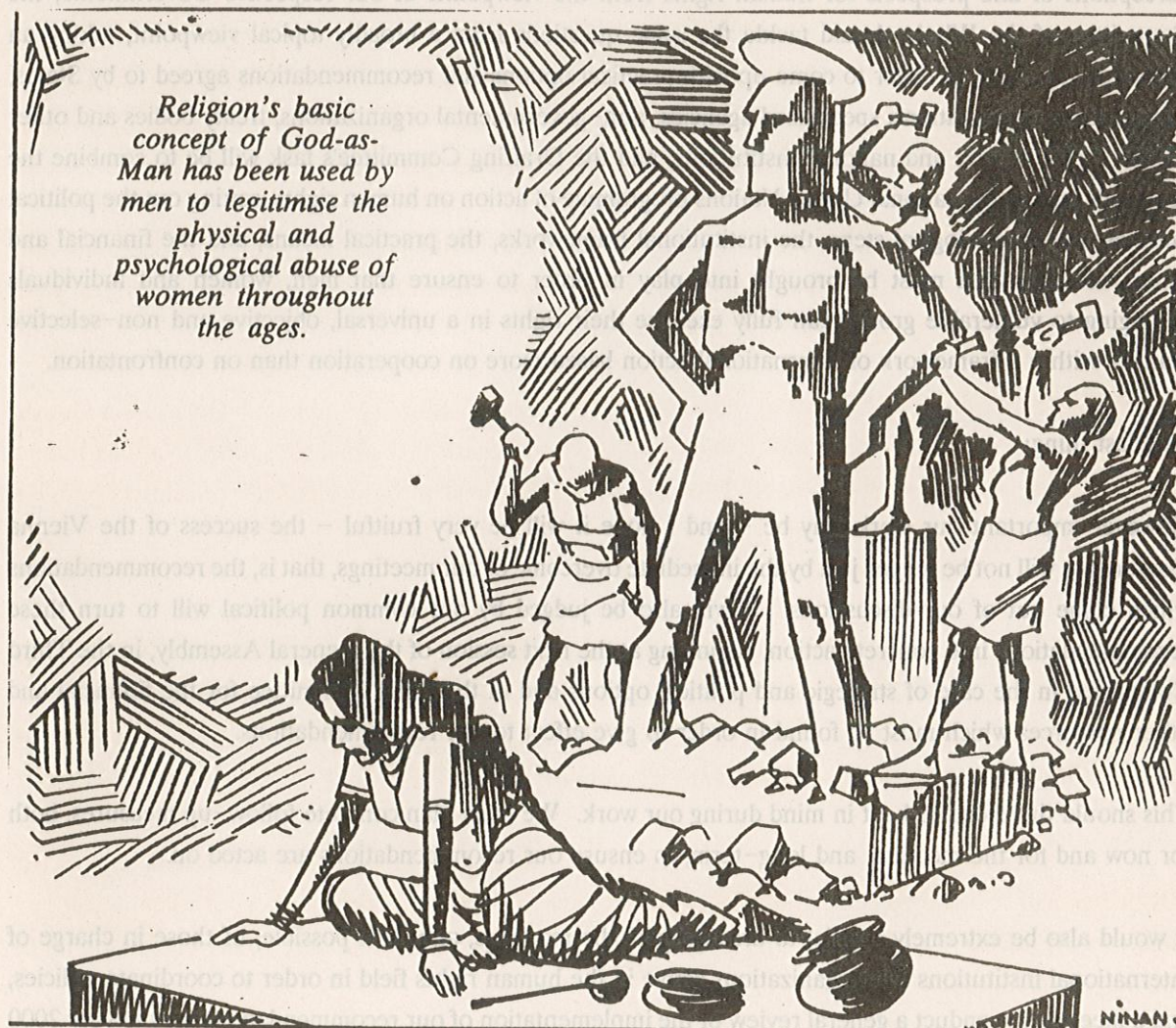
This should therefore be kept in mind during our work. We must plan concrete follow-up measures, both for now and for the medium and long-term, to ensure our recommendations are acted on.

It would also be extremely helpful to arrange periodic meetings, annual if possible, of those in charge of international institutions and organizations active in the human rights field in order to coordinate policies, and a meeting to conduct a general review of the implementation of our recommendations for the year 2000 or, in 1998, for the fiftieth anniversary of the Universal Declaration of Human Rights.

We must mobilize all our energies in this noble endeavour to improve, strengthen and expand cooperation and coordination in the protection and promotion of human rights within a framework of partnership based on trust and nurtured by the general commitment to serve human rights and freedoms.

Given the legitimate expectations of people around the world and the collective attention they deserve, it is therefore the duty of Governments, treaty bodies, experts and rapporteurs, international organizations – first among them the United Nations – national institutions, both regional and universal, and, lastly, non-governmental organizations – whose commitment to the service of human rights, whose active and positive participation throughout the preparations for this Conference, and whose large-scale presence in our midst I am pleased to acknowledge – all together to combine their efforts collectively and permanently in order to take up the present and future challenges of a new United Nations policy at the dawn of the next millennium.

Then, and only then, will the symphony we are starting to compose today be a finished symphony. Only then shall we have made ourselves worthy of the inspiring harmonies of Mozart's Magic Flute.



**CONCLUDING RECOMMENDATIONS FROM SIX REPORTS**  
**COMMISSIONED BY THE CENTRE FOR HUMAN RIGHTS**

**TOWARDS A MORE EFFECTIVE AND INTEGRATED SYSTEM OF  
HUMAN RIGHTS PROTECTION BY THE UNITED NATIONS**

by

Nigel Rodley

Summary of Recommendations:

The following is a guide to the recommendations that emerge from this paper:

- (a) The work of the United Nations for the protection of victims of human rights violations is of supreme importance and should be given commensurate priority by all parts of the United Nations system, including Member States and the Secretariat as a whole (paragraphs 2 and 73).
- (b) It is necessary to ensure that all the models and techniques available to the United Nations be used as part of an integrated system aimed at providing the most effective response, on the basis of properly conceived strategies to human rights problems in individual States (paragraph 63).
- (c) Secretariat resources and management need to be such that existing machinery can be serviced not only more adequately but also in a manner that insures their optimum utilization in accordance with the goals stated in (b) above (paragraphs 38, 41, 59, 60 and 62).
- (d) A top-level coordinating official, perhaps to be called United Nations Coordinator-General for Human Rights, should be appointed with the power of initiative to ensure that available United Nations human rights machinery is deployed as necessary to maximum effect, and to ensure coherence and cooperation between the human rights programme and other programmes that have, or should have, a human rights component (paragraphs 27, 34, 39 and 64-72).
- (e) If a particular human rights situation appears in a given number of thematic bodies' reports for more than a given number of years, a country rapporteur should be appointed. If this is not possible, one of the thematic bodies should be charged with conducting a study, including a visit to the country in question, on behalf of all the concerned bodies (paragraphs 43 and 60).
- (f) Alleged overlaps between treaty and non-treaty bodies being more apparent than real, choices will only occasionally need to be made and these are best left to the victims or other authors of communications, subject to the advice of the Secretariat. Cooperation between the treaty and non-treaty bodies should be encouraged (paragraphs 46-51 and 61).
- (g) The Secretary-General's good offices deserve further development and could best be deployed in close consultation with the standing machinery (paragraph 28).

(h) It is too early to envisage a "super-thematic body" and the trend towards creating new individual thematic bodies is to be welcomed (paragraphs 26, 37 and 59).

(i) There is a need for the thematic bodies generally to be able to share resources, harmonize their practices and concert their activities (paragraph 59)

(j) The 1503 procedure should be maintained at least until recommendation (e) above is in place and functioning effectively, but in the case of non-cooperation by the State concerned or a situation being considered for more than a brief period of time, it should automatically be transferred for action in the public procedure. In any event a minimum rationalization requires that once an alleged 1503 situation is under consideration, new communications should automatically go to the stage of next examination (paragraphs 34 and 58)

(k) The advisory services programme is potentially a valuable promotional and preventive resource; it should not be abused and undermined as a substitute for country scrutiny when this is needed (paragraph 18).

(l) On-the-spot monitoring techniques can and should be expanded and when these are put in place within the framework of a peace-settlement, they should be properly articulated with other activities of the human rights programme (paragraph 19).

## **STRENGTHENING OF THE UNITED NATIONS HUMAN RIGHTS PROGRAMME: ONE OF THE PRIORITIES OF THE ORGANIZATION**

by

**Maria Vassiliou**

### Summary of Recommendations:

#### Recommendation 1:

Strengthening of the coordinating role of the Centre for Human Rights within and outside the United Nations (paras. 58-67).

#### Recommendation 2:

Strengthening of the political role of the Assistant Secretary-General for Human Rights (paras. 68-70).

#### Recommendations 3:

Increase the cooperation between the Security Council and the Commission on Human Rights (paras 71-75)

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Increase the cooperation between the Security Council and the Commission on Human Rights (paras 71-75)

Recommendation 4:

Increase the flow of information between the Commission on Human Rights and the General Assembly (paras. 76–82).

Recommendation 5:

Raise the level of the Centre for Human Rights to the level of a Department (paras. 128–131).

Recommendation 6:

Establishment of Human Rights Regional and Local Offices (paras. 132–137).

Recommendation 7:

Establishment of a Research and Training Institute for Human Rights, affiliated with the Centre for Human Rights (paras. 138–141).

Recommendation 8:

Establishment of a human rights library and information and documentation unit with the Centre for Human Rights (para. 142).

Recommendation 9:

Increase the human and financial resources of the Centre for Human Rights, in particular, increase the funds for the human rights programme from the regular budget of the United Nations well beyond present levels (paras. 144–165).

Recommendation 10:

Strengthening of the New York Office of the Centre for Human Rights (paras. 166–169).

Recommendation 11:

At least 0.5 per cent of the total development cooperation budgets be devoted to human rights programmes (paras. 170–173).

Recommendation 12:

Increase contributions by Governments to Voluntary Funds for human rights activities. Establishment of a board of trustees for the Voluntary Fund for Technical Cooperation in the Field of Human Rights (paras. 174–178).

Recommendation 13:

Re-examination and readjustment of the financial process concerning "ECOSOC mandates" (paras.180-191).

Recommendation 14:

Increase the involvement of the Centre for Human Rights in the planning, programming, budgeting and evaluation processes relating to the human rights programme. The head of the Centre should participate in the PPBB, when the Secretary-General's budget proposals for the human rights programme are considered (paras. 192-204).

**ENHANCING THE UNIVERSAL APPLICATION OF HUMAN RIGHTS  
STANDARDS AND INSTRUMENTS**

by

Fausto Pocar

RECOMMENDATIONS

On the basis of the analysis previously carried out, the following list of recommendations is submitted for urgent action to be taken by the World Conference, with a view to improving the universalization of existing human rights instruments. Such action is recommended in order to follow on and strengthen efforts and steps made or that might be made in the future to that effect by United Nations bodies and treaty bodies concerned with human rights matters. Separate action required by such bodies and dealt with in this study is not reproduced hereafter.

In order to enhance ratification of existing international instruments, the World Conference should recommend that an analytical study be undertaken by the General Assembly and/or the Commission on Human Rights, aiming at identifying difficulties encountered by States at the municipal level in ratifying human rights instruments. The study should be carried out in cooperation with the States concerned and eventually a Working Group (or a Special Rapporteur) may be established to that effect, that would regularly report to the General Assembly and/or the Commission, as appropriate.

The World Conference should consider ways and means to promote the establishment of national institutions on human rights, having among their responsibilities to encourage ratification of international conventions or accession to them, as well as the exchange of experiences with similar institutions in States of the same region or subregion.

In order to remove disincentives to acceptance of conventions that may derive from the burden thereby imposed on States parties in the framework of the cooperation with States parties, the World Conference should consider, among the measures intended to improve and facilitate such cooperation, the possibility of rationalizing the reporting obligations by replacing the current plurality of reports by one comprehensive



and global report and, in the long term, by merging the existing treaty bodies into one single permanent supervisory body that would consider such global reports acting under the authority of each of the various instruments.

In order to reduce the increasing number of reservations to human rights instruments, the World Conference should make a firm appeal to States parties that reservations be reduced to a minimum. Moreover, further consideration should be given to the problem by requesting the General Assembly to undertake an analytical study of issues of incompatibility arising out of reservations, appointing an independent expert, or giving a mandate to the Commission on Human Rights (and its Sub-Commission) to that end.

In order to ensure that people living in new States having succeeded to States parties to human rights treaties continue to benefit from the protection afforded thereby, the World Conference should adopt a firm position taking the view that human rights treaties devolve with territory, and urge the above-mentioned new States to confirm formally their succession in respect of any pre-existing obligations undertaken by their predecessors, as from the date of their independence. To this effect, the Secretary-General might be requested to send a note verbale to such new States fixing a delay whose expiration would automatically imply confirmation of pre-existing obligations.

## **THE EFFECTIVENESS OF UNITED NATIONS METHODS AND MECHANISMS IN THE FIELD OF HUMAN RIGHTS: A CRITICAL OVERVIEW**

by

Maxime Tardu

### GENERAL CONCLUSIONS

How far have the United Nations succeeded in encouraging States and individuals to respect human rights? Although our study cannot offer an exhaustive, precise and quantified reply to this question, it does provide the basis for a general assessment of the situation.

It is first necessary to recall the limitations imposed by the Charter: Where human rights are concerned, the mission of the United Nations is to be construed as an obligation to provide the means rather than to deliver results. Fulfilling that mission must involve cooperation among sovereign States, not the erection of a supranational structure.

Despite these limitations, the United Nations has made considerable progress. It has won universal recognition for the international legitimacy of human rights. In other words, to an increasing extent, States, other authorities and individuals are adopting as a fundamental ethical and legal frame of reference the standards proclaimed by the Universal Declaration of Human Rights and expounded in the instruments that followed.

This is being reflected in Government attitudes in a variety of ways. Human rights are tending to be cited as frequently as other objectives, such as the national interest, economic development and the preservation

of peace, in the statements made in the General Assembly, at summit meetings and elsewhere. The United Nations human rights treaties, which are being ratified at a faster pace, will soon be universal. Much national legislation incorporates United Nations standards, sometimes verbatim.

Even more significantly, many States are actively cooperating with the United Nations in the context of non-conventional mechanisms, such as the system of special rapporteurs; and no Government, even among those most heavily criticized, has withdrawn from a United Nations monitoring system.

Various factors underlie this trend, not least the rising popular demand for personal dignity and fulfillment, the fruit of progress in communications and education, and the renewed awareness of the fundamental link between peace and human rights. Among these many factors, the catalytic effect of the pluralist public debate at the United Nations, where the conduct of States is constantly being tested against universal standards, has, in my opinion, played an essential role in the worldwide legitimization of human rights. Thanks to the United Nations mechanisms centred on public debate, a "good mark" for human rights has become a priority objective of inter-State rivalry.

However, despite this proclaimed legitimacy, we have seen a recrudescence of mass atrocities, which often appear to be linked with inter-ethnic or inter-cultural conflicts, while the widespread persistence of structural inequalities, at both national and international level, also contradicts the ideal of the Universal Declaration.

Is the effectiveness of the United Nations merely an illusion? Systematic skepticism would be as misplaced as foolish optimism. The Organization has shown itself to be effective by placing the legitimacy of human rights at the centre of inter-State relations; but the next step must be for this legitimacy to become entrenched as a human rights culture.

The legitimacy of human rights is still too feeble to withstand the formidable forces sometimes unleashed by nationalistic or xenophobic passions, fear and hatred of the other or the powerful interests behind unjust socio-economic structures. More precisely – and this is peculiar to our century – it is always invoked, but often perversely. Thus, human rights, in the guise of the right of peoples to self-determination, have been cited in an attempt to "justify" the "ethnic cleansing" in Bosnia. Again, the right to emigrate has been invoked in support of the "brain drain", which is preventing the third world from exercising its right to development.

This perverse application of human rights standards is facilitated by the vagueness, ambiguity or incompleteness of too many United Nations instruments (see Part II). To close these loopholes, the United Nations should adopt standard-setting strategies leading to much more precise rules, which limit or rule out reservations. It should regularly study the new problems of human rights, as well as the re-emergence of old ones (for example inter-ethnic tensions), in order to identify guidelines for solving them. Effectively defending human rights means knowing what rights one is fighting for.

Another major weakness of the United Nations system of deterrence is the inadequacy or non-existence of emergency mechanisms (see part III). The perpetrators of mass atrocities commit them with all the more confidence when they know they can count on any response by the United Nations coming too late. By the time their actions have been investigated and condemned, the situation appears irreversible (for example the mass expulsion and expropriation of one ethnic group by another) and evidence and witnesses have

disappeared. The question of urgency is becoming more and more critical as technical progress in weaponry and communications makes violations more frequent. Overcoming its traditional mistrust, the United Nations should delegate effective inter-sessional powers to the chairmen or officers of the bodies concerned.

The effectiveness of the United Nations is also reduced by the frequent use of the same techniques discussing investigation and critical recommendation which are applied to every infringement whatever their degree of seriousness. Like every other system of deterrence, that of the United Nations should be graduated and provide severe legally-binding penalties – diplomatic and cultural exclusion, economic boycott, and even United Nations military intervention under Chapter VII – for governments found guilty, after investigation, of a pattern of massive violation of human rights.

The charter does not lend itself readily to such measures. Recourse to the Security Council under VII, which has been increasingly used during the last 10 years in connection with human rights problems, has the advantage of rapid intervention and the possibility, in some circumstances, of mobilizing powerful resources. In this respect, the end of the cold war between East and West affords certain opportunities. However, to be entirely credible, recourse to the Security Council should avoid any arbitrary selectivity. In this connection despite the end of the cold war, the right of veto will always constitute a major obstacle when the state charged with violations is one of the five permanent members or one of their close allies. Setting up an exceptional "hors veto" system for serious violations of human rights, such as genocide, would require the amendment of the charter which, under present conditions, remains purely de lege ferenda.

More frequent recourse to the International Court of Justice is certainly desirable, at least in the minimal form of advisory opinions. However, with respect to human rights, the court could be truly revitalized only by throwing it open, directly or indirectly, to suits brought by individuals which would involve the amendment of the Statute. At present, however necessary, such a development would also appear to be de lege ferenda.

Like the Nuremberg law, the fairest and most effective system of deterrence would include, in addition to measures against the States concerned, penalties for both individuals and associations and bodies guilty of the most serious violations of human rights. Such penalties could be imposed by a permanent international criminal court, in response to charges brought – directly or indirectly – by the victims, to the extent that the action taken by the state was deemed inadequate. A court of this kind is already envisaged in certain human rights treatise. Setting one up would not require the amendment of the charter. The new political hands dealt at the multi-lateral table, reflected in the resumption of work at the International Law Commission, mean that such a project need no longer be perceived as laughably unrealistic.

The penalty system should be backed up by preventive monitoring and early warning mechanisms. At present, such mechanisms are almost non-existent. Creating them should be one of the highest priorities of the United Nations in the field of human rights. In my opinion, really effective prevention would involve the periodic publication of comprehensive reports on the human rights situation throughout the world, together with the presence in the field of regional and sub-regional human rights advisors, who would give governments their opinions and act in liaison with the UNDP regional and local offices and the specialized agencies concerned (see part III, last section).

However, no international monitoring and deterrent system even one with powers of prevention, could bring about a lasting and profound change in attitudes and behaviour. For this to happen, the legitimacy of human rights must become a human rights culture. To this end, in this second phase of their campaign for human rights, the United Nations and UNESCO should develop a broad technical assistance and education strategy. At present, we can discern only the sketchy outline of such a policy (see Part IV). Human rights education, in particular, should be rethought and specifically readopted to the cultural and vocational diversity of those to whom this is addressed. It should be delivered as close as possible to the human rights "battle fields", for example by encouraging the dispatch of young trainees to the United Nations missions in Bosnia, Cambodia and Somalia.

An impossible task? Perhaps. But it is the price which must be paid if our descendants are one day finally to realize the promise of the Universal Declaration "in a spirit of brotherhood".

**ON THE RELATION BETWEEN DEVELOPMENT AND THE ENJOYMENT  
OF ALL HUMAN RIGHTS, RECOGNIZING THE IMPORTANCE  
OF CREATING THE CONDITIONS WHEREBY  
EVERYONE MAY ENJOY THESE RIGHTS**

by

Hubert Wieland Conroy

Recommendations

On the basis of the conclusions drawn in this chapter, the World Conference might wish to recommend that the international community take appropriate measures to bring into being the national and international conditions. Thus, the World Conference could adopt the following additional recommendations:

The United Nations General Assembly should declare the Universal Declaration of Human Rights an integral part of the Charter of the United Nations.

Machinery should be developed for coordination between the various agencies in the United Nations system to offer developing countries integrated assistance projects capable of promoting, as effectively as possible, increased enjoyment of all human rights. The coordinating machinery should also provide for proper coordination with the Centre for Human Rights.

The Commission on Human Rights should periodically and systematically examine the situation regarding the enjoyment of human rights in each country of the world, without exception. The examination could be carried out principally with reference to the rights enshrined in the Universal Declaration of Human Rights and with reference to all the reports submitted by the country in question and considered by the various human rights treaty bodies, as well as to information from the relevant specialized agencies within the United Nations system. Such an examination would be the best guarantee of strict application of the criteria of universality, non-selectivity and objectivity, and would have two consequences of the utmost importance:

### Preventive

Following the developments in the human rights situation in each country, as seen from such an examination, would make it possible to detect, from the very outset any deterioration in the enjoyment of human rights.

### Pedagogical

The systematic nature of such an examination would make it possible not only to draw the international community's attention to situations in which human rights were not fully observed, but also to take cognizance of measures adopted in those countries in which human rights were seen to be enjoyed more fully.

The Secretary-General should appoint in consultation with the General Assembly, a high commissioner for human rights whose functions might include responsibility for submitting to the Commission on Human Rights the systematic and periodic examination of the enjoyment of human rights throughout the world referred to in the previous recommendation.

The Commission on Human Rights should devote greater attention to problems connected with the enjoyment of economic, social and cultural rights, so as to restore a healthy balance in the treatment given to civil and political rights, in view of the indivisibility and interdependence of all human rights; to this end, it could consider the creation of non-treaty mechanisms in respect of economic, social and cultural rights. The Commission on Human Rights should also regularly examine the reports of the human rights treaty bodies.

The specialized agencies of the United Nations system should prepare an annual consolidated country-by-country report on the degree to which the human rights within their competence are enjoyed (for example, WHO and UNESCO in the case of the right to health and the right to education, respectively) and submit it periodically for consideration by the Commission on Human Rights.

An optional protocol should be negotiated and adopted to permit the Committee on Economic, Social and Cultural Rights to consider communications relating to the enjoyment of those rights, in accordance with the conclusions of the Committee. Such information could be an extremely valuable means of ascertaining the effects of government action and international cooperation in this sphere, as well as the impact of the external situation upon the efforts of States parties, and a basis for recommendations to the Centre for Human Rights and the relevant international agencies on the changes needed to achieve the desired objectives.

The Centre for Human Rights should be strengthened and reshaped so as to enable it fully to assume its secretariat function deriving from the large number of existing mandates, to gain an overview of the enjoyment of internationally recognized human rights, and to coordinate the activities of rights throughout the world and to maintain a constructive dialogue with all countries about the range of difficulties they encounter in effectively promoting the enjoyment of all human rights.

The Centre for Human Rights, in conjunction with UNESCO, should prepare a method for teaching basic human rights concepts capable of being effectively used from the first years of schooling in the various regions of the world.

The possibility of providing individuals affected by violations of their human rights with greater access to international bodies be studied, since a human rights doctrine that makes no provision for the subjective capacity of the individual to press his claim to those rights before the relevant bodies might ultimately give greater importance to the rights of states than to those of individuals.

The means of strengthening participation by non-governmental organizations in the Commission's decision-making be studied, bearing in mind that it is through such organizations that individuals express themselves.

Those States which have not already done so should establish a national public institution with the highest possible legal and political status and responsibility, *inter alia*, for continuously monitoring the extent to which human rights are enjoyed nationwide, for effectively interceding with the other authorities in cases of violations and for ensuring a frank and constructive dialogue between NGOs and the Government.

The World Conference should urge the international community to intensify its efforts to achieve a prompt and effective liberalization of the world economy, and highlight the importance of such liberalization for the development and overall enjoyment of all human rights.

## **POVERTY, MARGINALIZATION, VIOLENCE AND THE REALIZATION OF HUMAN RIGHTS**

by

Paulo Sergio Pinheiro

Malak El-Chichini Poppovic

Tulio Kahn

### **CONCLUSIONS**

#### **CREATING CONDITIONS FOR THE FULL REALIZATION OF HUMAN RIGHTS**

##### **AN AGENDA 21 FOR HUMAN RIGHTS, DEVELOPMENT AND DEMOCRACY.**

*The evergrowing dimension of poverty worldwide and the increasing disparities between North and South, rich and poor, is endangering the ethical foundation of our Planet and penalizing the future of coming generations.*

*One person in four lives in absolute poverty and nearly half of humanity at the margin of poverty. The polarization between rich and poor countries has taken dramatic proportions, as the inequality ratio has more*

than doubled in the last 30 years. This situation is jeopardizing the democratization process, questioning the development models and threatening international security.

Poverty can no more be seen as a fatality in a world that has the means to alleviate the suffering and attend the needs of hundreds of millions of innocent victims, women, men and children.

Poverty, described as the lack of satisfaction of basic human needs, is a human right violation. But it is also, at the same time, an economic problem linked to national and international development policies, and a social and political issue that has to do with entitlement of liberties and freedoms, popular participation, and above all democracy. The three dimensions, human rights, development and democracy are closely interrelated, and have to be considered when dealing with economic, social and cultural rights. Unidimensional approaches to issues related to these rights would be incomplete, biased and little effective.

This is why our proposal for the World Conference is the creation of an **AGENDA 21 FOR HUMAN RIGHTS, DEVELOPMENT AND DEMOCRACY**. This Agenda would encompass the various aspects of human rights, economic, political, social, cultural and civil, reflect all major revindications by movements and groups – racial minorities, migrants and refugees, indigenous people, women's rights, etc; and involve the international community, the governmental and non-governmental entities and the society at large.

We are aware that it is an ambitious proposal that will require time for discussion and elaboration, but we are also convinced that the advantages and benefits for all involved could be tremendous.

Focusing mainly on the economic, social and cultural rights, a few of these aspects can be spelled out:

The debate in turn of these rights will:

- raise awareness as regards the magnitude of the poverty problem and of its consequences; and pressure national and international entities to take action;
- give a wider diffusion to the ideas and contents of international human rights instruments;
- make an unambiguous statement to the recognition of these rights as human rights;
- contribute to build a consensus that development can no more be reduced to economic growth, and that equitable, human and sustainable are the prerequisite attributes of any development model; and that human rights are an integral part of the process.
- undo the myth that rapid economic growth in poor countries is incompatible with human rights.

#### **A. INTERNATIONAL COMPACT FOR HUMAN RIGHTS**

Recent and current examples of international cooperation suggest that the time for international efforts to deal with the important issues of equity and justice at the global level has come. The philosopher Norberto Bobbio calls our attention to the rebirth of contractualist doctrines, motivated by the idea of a founding

contract for a global society, distinct from partial societies. Different from previous contractualist doctrines, the current doctrines are introducing, among the conditions of the new alliance, mechanisms which deal with issues of justice.

In its 1992 Human Development Report, UNDP proposed a New Global Compact for Development, to create "a new world order: an order based on mutual respect between nations, on greater equality of opportunity for the world's people and on new structures for international peace and security." (UNDP-HDR 92, 197). This initiative is indeed a vital first step towards concerted action in the field of human development.

*Focusing on the specific problem of poverty, we would like to go a step further by suggesting a compact based on necessity, and not only on the goodwill of states. Our postulate is that international security, as an indivisible international public good, must be preserved for the welfare of all, and that one of the elements that is threatening international stability is the magnitude of the poverty problem. As market forces cannot be relied upon to guarantee this stability, concerted efforts should be undertaken by poor and rich countries, to eradicate poverty.*

*For this reason, the adoption of pro-development measures cannot be considered as an act of paternalism or pure altruism, but a vital necessity to promote peace and justice in the world. As in the case of national security, international security requires collective action towards a common interest. Unfortunately, the common interest is rarely achieved spontaneously by individual action in pursuit of individual interest, thus creating the need to reach a compact that would translate this global concern into an agenda of concrete intervention, the nearest possible thing to a global welfare state.*

*At this juncture, we are faced with the classic collective action problem known as "prisoner's dilemma". The preferred option for all is concerted action, the preferred option for each individual country is no action. The creation of a new global compact for development could prove to be an alternative to overcome this dilemma.*

*This compact should not be limited to strictly economic issues. It should encompass cultural, technological and ethical aspects. The wasteful lifestyle by industrial countries cannot be sustained on a global level, and not even anymore on national level. Industrial countries are suffering from growing income disparities within their own societies, as well as growing unemployment and poverty, with the consequent rebirth of xenophobic and racist outbursts of violence. Out of the necessity for a better global world an alternative development pattern should emerge, that will not increase polarization between countries, nor associate economic growth with gross human rights violations.*

## B – NATIONAL COMPACT FOR HUMAN RIGHTS

State and society must jointly struggle for a better world for all and progress on a global scale.

### a) Role of the State

Governments have the primary responsibility of alleviating poverty and ensuring progress in the human development of its people. As regards HR, the role of the State is to respect, to protect and to promote their effective realization. This function of the State is double-faced: on the one hand,



as bearer of the monopoly of legal violence, the State has to put limitations on its powers and actions; and on the other hand, as guardian of public order, it must be the protector and provider of all liberties.

The poor are today the most vulnerable "minority" in every society, although being a majority in most. They are "institutionally excluded and systematically discriminated against" in societies governed by laws that are not applied and markets that exclude them (UN, 1991). Whereas the responsibility of the State is clear-cut and immediate in the case of political and civil rights, the determination of its responsibility in the case of economic, social and cultural rights lacks definition and precise obligations. It is therefore imperative for the States to create systems of governments that institutionalize the protection of HR. In the fulfillment of its obligations, the guiding principle must be equity. Government of developing countries should:

Respect of HR:

- to implement the provisions of the main international instruments;
- to adopt public policies in favour of the poor, and make sure that social services reach them;
- to respect the political and social rights of the poor without discrimination of race, religion, gender, region, ethnic group; and to allow their access to the benefits of development;

Protection of HR:

- to ensure the access of the poor to justice;
- to protect the rights of the poor against economic exploitation on the part of the non poor;
- to protect the poor against violence and HR abuses on the part of its own apparatuses;
- to eliminate corruption in public administration;

Promotion of HR:

- to launch a decisive campaign in favour of the eradication of poverty and against inequity, corruption, and discrimination against marginalized and destitute groups;
- to gain the support of the entire society in this campaign;
- to strengthen democratic institutions and increase popular participation
- to create networks of solidarity regionally and internationally;

The failure of the state to ensure its most basic obligation – to ensure the human rights of its citizens – is in itself a negation of modernity and progress. No country can accede to full democracy and promote human development without fulfilling this obligation.

b) Role of Civil Society

The societies of developing countries are internally divided into a modern sector and a peripheric sector, formerly called traditional sector. This is no more the case given that, in many countries the poor have been marginalized and in the process lost their culture and identity. The big challenge of today's developing countries is to rebuild the bridge between those who participate and the "losers".

NGOs and human rights entities have played a vital role to defend victims of autocratic regimes on all continents, especially in the 1970s and 1980s, and continue to do so in countries that are still using authoritarian practices against its opponents. Their struggle against human right abuses of political and civil rights has been and continues to be courageous, well targeted, efficient and in many cases successful. Their actions have been, in many instances, supported by the mobilization of the society and the existence of a network of support to the cause at regional and international level.

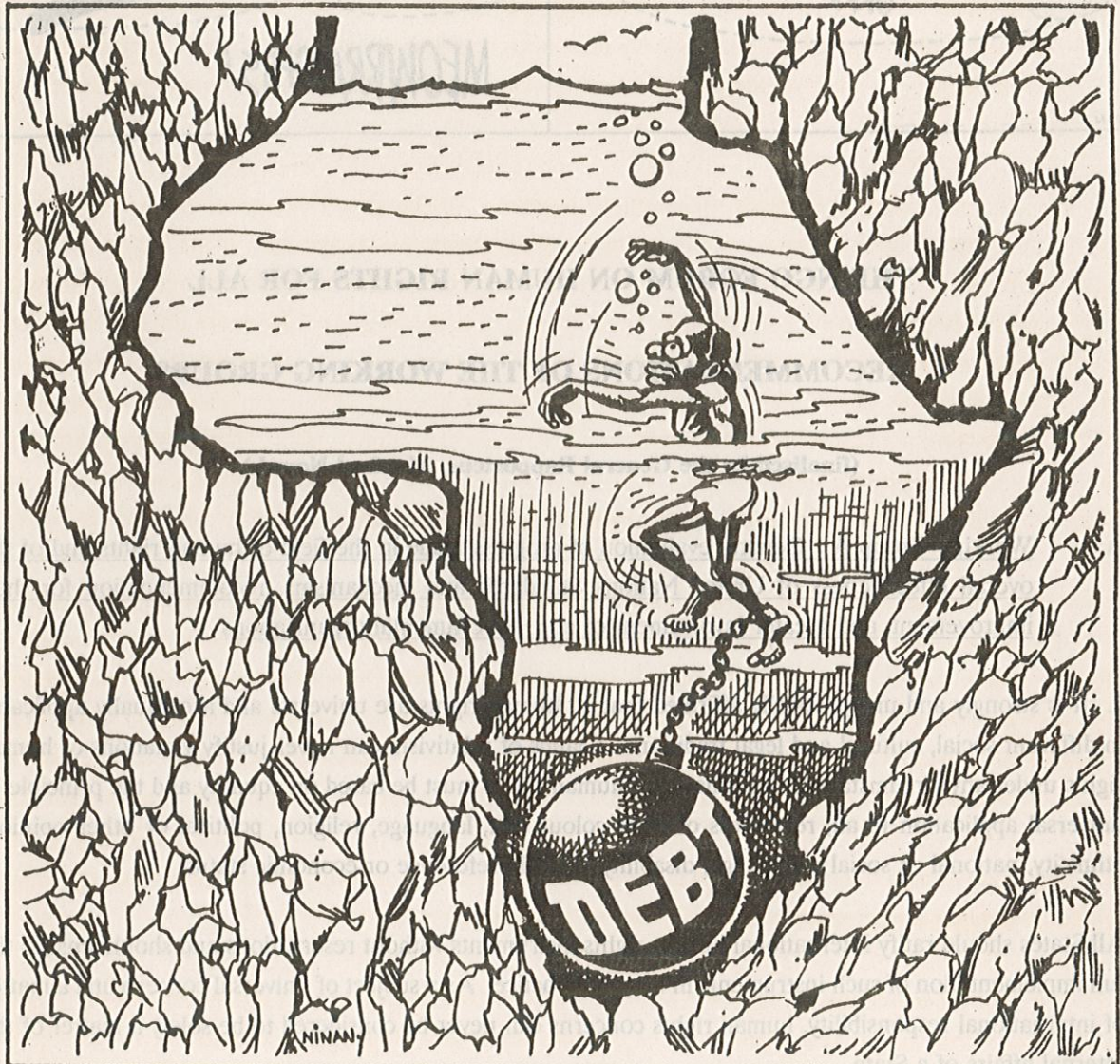
In comparison, the present fight against poverty is, at the same time, wider and less precise. The group of victims, the poor, cannot be as easily defined as is the case of political opponents or dissident minorities. Their number is infinitely higher, and their profile much more difficult to draw as they do not constitute a homogenous group. Their rights are also more difficult to defend as it lacks the support of the public opinion, as the poor are seen by many as "les classes dangereuses". Civil society has in many instances kept out of this struggle. The small educated middle-class of the "non poor" has not taken concrete action to prevent human rights abuses and struggle for law enforcement and justice in favour of the destitutes. Moreover, because of the weakness of the political representative system, popular participation has been limited.

On the other hand, the fight is no more limited to human rights entities, all organized groups have social and economic equality as an objective in their programmes. New actors are revindicating their social, economic and cultural rights: women, racial minorities, rural workers, indigenous people, etc. These revindications are mostly formulated in terms of collective rights, as the defense of individual rights is no longer sufficient. Moreover, in the case of these violations, the role of the civil society is vital, as the state cannot bring about solutions on its own (Stavenhagen, 1990; Poppovic, 1992). Today more than ever an alliance is needed between state and society, poor and rich, human rights entities and other groups. Without a mobilization of all the forces and a massive popular participation, democracy will be jeopardized.

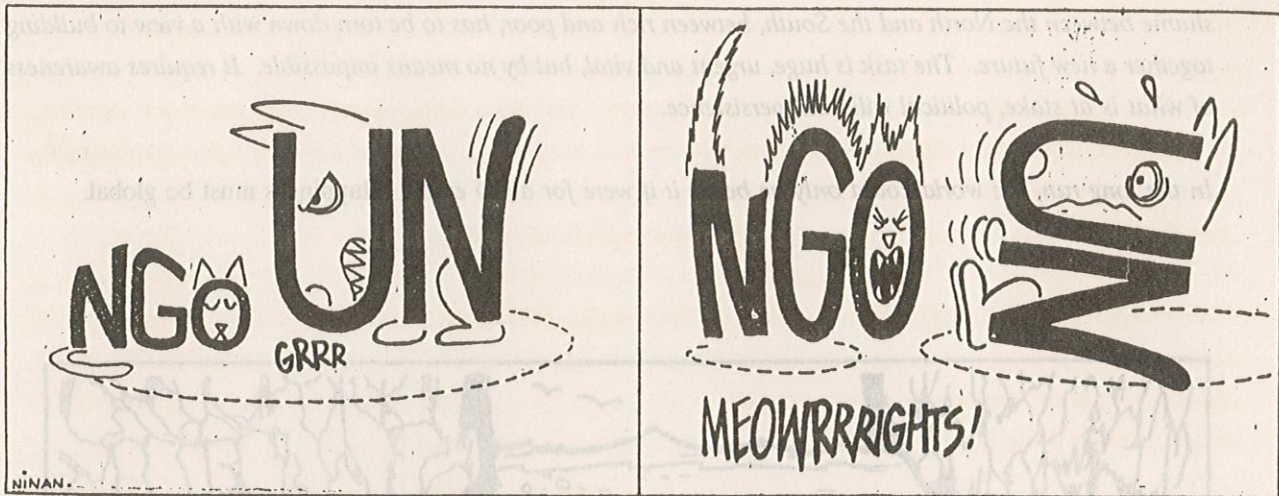
*Time is short. Our common future is in danger. The gradual approach to the implementation of economic and social rights cannot be acceptable in the present conjuncture. Immediate concerted action has to tackle the everspreading problem of poverty that is threatening stability at national and international level. The images of poverty, destitution and violence on our TV Screen are but an instant glimpse of a tragedy, where hundreds of millions of innocent people are suffering in a world that would have the means to attend to their needs. What is missing is not food or resources at planetaria level, but the solidarity of those who have achieved freedom from want. The "apartheid", between those who are "expendable" and those who have a say, must be dismantled both within nations and in inter-state relations.*

*There is no magic solution, and we are fully aware that the process of integrating the poor in the new world order will neither be painless nor without resistance. However, we do believe that the still erected wall of shame between the North and the South, between rich and poor, has to be torn down with a view to building together a new future. The task is huge, urgent and vital, but by no means impossible. It requires awareness of what is at stake, political will, and persistence.*

*In the long run, the world could only be better if it were for all to enjoy. Happiness must be global.*



DROWNING IN DEBT



## THE NGO FORUM ON HUMAN RIGHTS FOR ALL

### I. RECOMMENDATIONS OF THE WORKING GROUPS

(finalised by the General Rapporteur, Manfred Nowak)

A. Working Group A: General evaluation of progress made in the field of human rights and of the overall effectiveness of United Nations Standards and mechanisms, recommendation for their improvement, and greater involvement of non-governmental organizations

1. It is strongly and unequivocally affirmed that all human rights are universal and are equally applicable in different social, cultural and legal traditions. Claims of relativism can never justify violations of human rights under any circumstances. International human rights must be based on equality and the principle of universal application to all, regardless of race, colour, sex, language, religion, political or other opinion, ethnicity, national or social origin, age, disability, sexual preference or economic status.

All States should ratify international human rights instruments without reservations and should ensure the full implementation of such instruments in law and practice. As a subject of universal concern and a matter of international responsibility, human rights concerns can never be considered to be solely a matter of the internal affairs of a State.

2. All human rights are indivisible and interdependent and measures should be taken to ensure the protection and promotion of all rights – civil, cultural, economic, political and social.

International mechanisms of protection should be established and maintained in respect of all rights. These should include the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights to provide for an individual complaints procedure.

3. An office of a High Commissioner for Human Rights should be established as a new high-level independent authority within the United Nations system, with the capacity to act rapidly in emergency situations of human rights violations and to ensure the coordination of human rights activities within the United Nations system and the integration of human rights into all United Nations programmes and activities.

4. Specific and concrete reforms should be implemented to strengthen and improve the effectiveness of the United Nations mechanisms and procedures for the protection of human rights, including extending the possibility of access to them by non-governmental organizations and victims.

The budget provision for United Nations human rights activities should be significantly increased to comprise 3-5 per cent of the United Nations regular budget. In particular, the Centre for Human Rights should be greatly strengthened and provided at all times with adequate staff and funds to carry out all its responsibilities fully and effectively.

5. A permanent, independent and impartial International Penal Court should be established to prosecute gross violations of human rights and humanitarian law, including genocide, arbitrary killings, disappearances, torture, apartheid, war crimes and other grave breaches of the Geneva Conventions. Non-governmental organizations should be able to have an input into its work.

6. Women's rights should be fully integrated into the United Nations human rights programme. Mechanisms to protect women's rights should be further developed, including by the appointment of a special rapporteur on violence against women and gender-based discrimination, the elaboration of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the removal of reservations incompatible with this Convention and by ensuring gender parity at every level of the United Nations system.

7. Human rights education and other means to promote awareness of human rights and of international procedures for their protection is of fundamental importance. Governments should include human rights issues in all formal and non-formal governmental organizations in this field. Additional resources for human rights education work should be made available by the United Nations. Governments should also ensure that proper training in human rights is provided for law enforcement and other relevant officials.

8. States should ensure strict respect for the rule of law, including safeguarding the independence of the judiciary and the implementation of measures to eliminate impunity, as an essential element of the protection of human rights at the national level. National institutions for the protection of human rights should be able to function effectively and independently and should never be used as a means to shield a Government from scrutiny of its human rights record.

9. The indispensable work of national, and international non-governmental organizations for the promotion and protection of human rights should be recognized and defended at all times. The rights of non-governmental organizations to organize and to operate freely should be protected by all States and the draft declaration on human rights defenders should be speedily adopted and fully respected. Consultative status for non-governmental organizations with the Economic and Social Council should be expanded to include a greater range of non-governmental organizations working at the regional and national levels in a way that preserves and strengthens the rights of non-governmental organizations associated with such status.

B. Working Group B: Assessment of the present state of the rights of indigenous peoples

The Working Group on Indigenous Peoples,

Acknowledging the extensive work done by indigenous peoples over the last two decades, developing statements and positions on indigenous rights, such as the Kari Oca Declaration, the Indigenous Peoples Earth Charter and the International Labour Organisation Convention on Indigenous and Tribal Peoples, No. 169,

Emphasizing that the world's indigenous peoples have lived on their lands before colonization and continue to reside there manifesting distinct characteristics which identify them as nations, distinguishing them from minorities and identify them as peoples with the right of self-determination,

Considering the fact that in the majority of countries where indigenous peoples live there are military incursions and persisting insurgencies by States that continually use violence against indigenous peoples in the form of systematic campaigns of genocide, ethnocide, extermination, development aggression, population transfers, forced assimilation, invasions and militarization,

Noting that indigenous peoples are a vital and structured whole and not the remains of traditions or customs, the United Nations should support the solution of indigenous peoples problems by the indigenous peoples themselves, especially with regard to culture, forms of land ownership, language, traditions, forms of organization, technologies, education, intellectual beliefs, art and other creative activities and this in accordance with the indigenous conceptions of life and their own vision of providing for their future,

Strongly urges that indigenous peoples be recognized with inherent, distinctive, collective rights including rights of self-determination, self-government and autonomy.

**RECOMMENDATIONS OF WORKING GROUP B**

The NGO-Forum tenders the following recommendations for adoption by the World Conference on Human Rights:

1. To build on the International Year of the World's Indigenous Peoples, 1993, by proclaiming the International Decade of the World's Indigenous Peoples, with adequate resources and clear programmes of action to be decided on, in partnership with indigenous peoples.
2. That after the United Nations Working Group on Indigenous Populations has finished the task of drafting the Universal Declaration on the Rights of Indigenous Peoples, the Working Group be upgraded to a permanent United Nations body, with adequate resources, for the protection of the rights of indigenous peoples. The mandate of such a permanent body should be determined by the United Nations in partnership with indigenous peoples' organizations.
3. That the United Nations Commission on Human Rights appoint a High Commissioner to monitor the recognition and implementation by Governments of indigenous peoples' rights and that such monitoring of the situation of indigenous peoples be made a permanent agenda item of the Commission on Human Rights.

4. Because indigenous peoples live in all areas of the world and in the spirit of building on the emerging relationship between the United Nations system and indigenous peoples, we recommend that future meetings of United Nations indigenous rights bodies be regularly convened in regional centres especially in areas that have concentrations of indigenous peoples.

5. Because the right to development is an important human right for indigenous peoples, we urge the United Nations to ensure that its funding and technical assistance and development programmes recognize and respect indigenous peoples' rights and work in partnership with them. The United Nations should provide these services and assistance to development programmes initiated by indigenous peoples.

6. We call on the United Nations to adopt the strongest possible draft of the Universal Declaration on the Rights of Indigenous Peoples. Indigenous peoples shall have access to participate in the drafting and review process as it moves through the Commission on Human Rights, Economic and Social Council and the General Assembly. We urge the United Nations to hasten this already lengthy process and bring pressure upon States to ratify the finished document as soon as possible.

7. We urge the United Nations to recognize the unique relationship and immemorial ownership of the land which indigenous peoples have and to support the retention and recovery of their traditional territories.

C. Working Group C: Evolution of the present state of the protection of women's rights

Women throughout the world have been engaged in organizing and preparing at the local, regional and international levels for the World Conference on Human Rights. In all regions it has been found that the United Nations and Governments have by and large failed to promote and protect women's human rights, whether civil and political or economic, social and cultural. Women's subordination throughout the world should be recognized as a human rights violation with due account to those structures of oppression that intersect and compound such subordination. Examples of such oppressive structures include those based on race, ethnicity, national origin, class colonialism, age, sexual orientation, disability, culture, geography, immigration or refugee status and other considerations. The full realization of women's human rights requires the elimination of all forms of discrimination and the achievement of equality for all women. Therefore, we recommend the following measures to ensure that women's human rights are systematically recognized in all areas of the work of the United Nations:

1. All United Nations treaty bodies, thematic and country rapporteurs and working groups, independent experts, specialized agencies and other bodies entrusted with protecting human rights should address violations of women's human rights by including gender-specific abuses in the areas that fall within their mandate (through advisory services and training programmes, reporting, monitoring and complaints procedures, etc.). Each body should prepare a report on the effectiveness of these initiatives for the 1995 World Conference on Women.

2. In order to promote the equal realization of women's civil, political, economic, social and cultural rights, we urge the appointment of a special rapporteur on gender discrimination, violence against women, sexual exploitation and trafficking in women by the Commission on Human Rights. The Special Rapporteur should be authorized to receive and report on information from Governments, non-governmental organizations

and intergovernmental institutions, to respond effectively to allegations of violations against women, and to recommend measures to prevent continuing violations. The Special Rapporteur should also report to the Commission on the Status of Women to assist its policy-making function.

We call upon States which have not yet ratified the Convention on the Elimination of All Forms of Discrimination Against Women (Convention on Women) to do so immediately and encourage States to withdraw those reservations to the Convention on Women which are obstacles to its effective implementation and to object to reservations by other States parties that are incompatible with the object and purpose of the Convention.

4. The United Nations must strengthen implementation procedures under the Convention on Women by, inter alia, adopting an optional protocol establishing an individual and group complaints procedure and expanding the resources of Committee on the Elimination of Discrimination against Women, which is charged with overseeing the governmental implementation of the Convention.

5. We call upon States to effectively implement the Convention on Women and its recommendations through the elimination of discriminatory laws, policies, practices, customs, and religious prejudices and through positive measures to advance the equality of women. States should present to the Committee on the Elimination of Discrimination against Women a plan of action for this including monitoring mechanisms at the local level and circulate it inside the country to non-governmental organizations.

6. The World Conference should recommend effective United Nations implementation procedures to eliminate the violence against women that is endemic to all societies. Various forms of violence against women and sexual exploitation breach guarantees established in the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments, including: the rights not to be arbitrarily deprived of life, liberty and security of person; the right not to be subjected to torture or other cruel, inhuman and degrading treatment; the right to just and favourable conditions of work; the right to equal protection of the law; and the right to be free from all forms of gender discrimination. All appropriate treaty bodies and human rights organizations should address gender-based violence as an aspect of these fundamental rights. Nation States should enforce or create new measures to prevent and respond to gender-specific violence in both the public and private spheres, including affirmative measures to eliminate the conditions that breed this violence.

7. The World Conference should urge the adoption of stronger measures against sexual exploitation and trafficking in women as a violation of human rights that obligates States to adopt laws and policies addressing local and global situations, including conditions that render women vulnerable to sexual exploitation, and to prosecute perpetrators and provide for restitution, services and assistance to victims.

8. Democracy, human rights and peace are incompatible with the poverty and exploitation that women at all stages of their lives experience in disproportionate numbers. This Conference should urge Governments to affirm and propose initiatives and mechanisms that make concrete the indivisibility of political, civil, social, economic and cultural rights and the right to development; they should bring about an end to the policies of structural adjustment; which lead to violations of such rights and have a particularly discriminatory impact on women. Women should have effective and equitable participation in shaping all financial measures and development programmes, with a view towards establishing a more just economic order that guarantees the economic rights of women.



9. The World Conference should reaffirm the right of women to the enjoyment throughout their life span of the highest standard of physical and mental health as affirmed in the Convention on Women. This requires Governments to respect women's fundamental rights to accessible quality care, reproductive health, health education and to ensure that motherhood results from a free and informed decision by each woman.

10. All international instruments should be applied equally to women and culture and religion should not be used as a shield to evade responsibility for defending the fundamental human rights of women. To ensure the universality of human rights, Governments should devise measures to counter all forms of religious intolerance and cultural practices which deny women's human rights and liberties. We call upon the Commission on Human Rights to appoint a Special Rapporteur responsible for monitoring systematic violations of women's rights in States where Governments are based on religious fundamentalism.

11. Systematic crimes against women are crimes against humanity, and the failure of Governments to prosecute those responsible for such crimes implies complicity. In order to ensure that those responsible for such abuses will be brought to justice, a permanent International Penal Court, with universal jurisdiction over war crimes and crimes against humanity, as well as gross and systematic violations of fundamental human rights, including gender-specific abuses such as rape, sexual slavery, forced sterilization and forced pregnancy, should be established. Such a court should have jurisdiction over crimes committed by United Nations personnel as well as by State officials and individuals.

12. The World Conference should give consideration to the gender-specific needs of women political prisoners, refugee women, exiled women, internally displaced and migrant women. It should call for international and national measures recognizing feared or actual persecution based on gender as a basis for refugee status and political asylum. Governments should be urged to implement immediately the 1991 Guidelines on the Protection of Refugee Women issued by the United Nations High Commissioner for Refugees, to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and to ensure the rights of these women to citizenship, health, safety, work, legal aid and education.

13. The World Conference should declare that women's access to decision-making power in all fields is crucial to democracy and the enjoyment of their human rights. States should set goals and timetables to secure equal representation of women at all levels of decision-making. The United Nations should also set goals and timetables to secure equal representation of women (including women from diverse backgrounds) on all its bodies.

14. The World Conference should recognize that human rights education is a human right and should reaffirm that the United Nations and Nation States have an obligation to disseminate human rights information, to support local non-governmental organizations working to create human rights awareness, and to help communities protect themselves against violations. All publications related to human rights teaching, peace and international education should contain information about women's human rights and the Convention on Women.

15. The United Nations should develop procedures to expand access of non-governmental organizations with expertise in the field of human rights of women to all United Nations structures and activities relating to human rights.

D. Working Group D: Examination of the relationship between human rights, development and democracy with particular attention to the role of non-governmental organizations in fostering popular participation and in creating awareness of the necessity of solidarity between the North and the South.

1. The universal ratification of United Nations human rights treaties and the withdrawal of reservations to them. Such ratification should constitute an essential condition for new and continued membership in the United Nations system.
2. The democratization of the structure of the United Nations itself, with the abolition of the veto in the Security Council and of the weighted voting in the international financial agencies.
3. The examination by the United Nations of the compatibility of structural adjustment programmes undertaken by its international financial agencies with the relevant provisions of the United Nations human rights treaties. The request by the Economic and Social Council of the United Nations to the International Court of Justice of an advisory opinion on the matter.
4. The examination and redefinition by the United Nations of the role of its international financial agencies in the interests of development, democracy and human rights.
5. The integrated and holistic approach to the right to development as propounded in the United Nations Declaration on the Right to Development of 1986 aimed specifically at poverty elimination and empowerment of the people everywhere, through effective gender and class representation of different sectors of society in institution decision-making processes.
6. The recognition of impoverishment of large sectors of the population as a gross violation of human rights – civil, political, economic, social, cultural – in their entirety.
7. The condemnation of the monopolization of decision-making processes in international economical relations. The call upon non-governmental organisations to launch a global campaign of popular resistance to the present Uruguay Round of GATT negotiations in order to prevent the massive violations of human and peoples rights in both South and North.
8. The drastic reduction of military expenditure to the benefit of the social sector and the prevalence of peace.
9. The reaffirmation of the indivisible character of human rights and the inseparable links between human rights, democracy and development.
10. Closer attention to the links between democracy, development and the satisfaction of basic human needs, with special attention to the most disadvantaged sectors of the population – mainly women, children, youth and disabled people.
11. The elimination of the mechanisms of external debts as linked to the commitment of all countries to devote considerably more resources to the promotion of basic human rights, and to establish fair and just international trade relations.

12. The abolition of economic conditionalities that have negatively affected the realization of basic human rights.
13. The equitable, meaningful and effective monitoring by non-governmental organizations of negotiations between Governments and the international financial agencies.
14. The recognition that the universality of human rights ensues from, and is enriched by, cultural diversity, which should never become a justification for the denial of those rights (especially with respect to women, as well as ethnic and other minorities).
15. The recognition of the guarantee of the right to life in its wide dimension, with emphasis not only on the security of the person but also of dignified living.
16. The recognition of participatory democracy as encompassing the exercise of the full range of economic, social, cultural, civil and political rights, with particular attention to the right to organize.
17. The guarantee of the right to information as comprising the right to receive, to produce and to have access to impartial and uncensored information, free of monopoly.
18. The urgent adoption of a new strategy of formal and non-formal education on human rights, peace, gender, democracy, development and the environment, at all levels (family, communities, schools, etc.), in order to promote a universal consciousness of such global themes.
19. The condemnation of violations of the right of self-determination as well as practices such as armed invasion, territorial occupation, the practice of economic sanctions and blockades.
20. The removal of obstacles to and the fostering of solidarity between non-governmental organizations of the South, as well as those of the South and the North.
21. The adoption of appropriate measures by the United Nations and Governments to combat violence against women. Such violence – including sexual harassment – constitutes a violation of human rights as well as an impediment to their full development.
22. The adoption of appropriate measures by Governments to repeal all existing discriminatory legislation against women, and to eliminate such discriminatory practices as well.
23. The standardization of the language of human rights instruments so as to eradicate gender bias (e.g. replace "droits de l'homme" by "droits humains" or "droits de la personne humaine").
24. Urgent attention to recognize and promote the rights of indigenous peoples and to put an end to the violation of those rights.
25. Urgent attention to put an end to distinct forms of discrimination based on disability manifested in all circumstances. In this connection, to draw the attention of Governments to the proposed new instrument of the United Nations, the Standard Rules on the Equalization of Opportunities for Disabled Persons.

26. Urgent attention to put an end to continuing violation of the rights of migrant workers, refugees, internally displaced persons and stateless persons.
27. Urgent attention to the growing erosion of workers' rights and the consequent need to improve the mechanisms of their supervision and enforcement by human rights organs.
28. To recommend the adoption of follow-up mechanisms of supervision in connection with the reporting systems under United Nations human rights instruments.
29. The importance of civil institutions, as the basis of participatory democracy, must be guaranteed to ensure respect for human rights and to realize genuine development. These institutions, such as trade unions, professional and consumer organizations and women's organizations, to name a few, play vital roles in the articulation, promotion and defence of human rights. Respect for the rights of civil institutions must therefore be guaranteed.
30. Urgent and effective steps must be taken to ensure that multinational corporations and other non-State violators of human rights are subjected to the standards and obligations of international human rights law.

E. Working Group E: Examination of current trends in human rights violations as a result of racism, xenophobia, ethnic violence and religious intolerance with a particular focus on minorities. What should the appropriate response of the United Nations be?

#### Racism, racial discrimination and xenophobia

1. Nations that have still not done so should be encouraged to become parties to the International Convention on the Elimination of All Forms of Racial Discrimination and to make a declaration under article 14 thereof recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive individual petitions. They should become parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, in view of its possible early entry into force. Moreover, nations should be encouraged to ratify all other relevant instruments relating to the rights of women, children and all other persons who are the subject of discrimination.
2. Non-governmental organizations, in cooperation with national and international institutions, have an important role to play in combating racism, racial discrimination, anti-Semitism, xenophobia and ethnic violence. All efforts should be made to strengthen national institutions designed to promote racial and intercultural harmony, to establish such institutions where they do not yet exist and to promote interaction between national and international levels.
3. Immediate and effective action should be taken in the fields of teaching, education, culture, the media and other information to combat racial prejudice and to promote understanding, tolerance and friendship among nations and among racial, ethnic and religious groups. In particular, history and textbooks should describe in an accurate way inhuman and criminal policies and practices carried out in the name of fanatic ideology, religious bigotry, or ethnic exclusivity.

4. National and international policies against racism and racial discrimination should particularly focus on the root causes, specially the economic and social deprivation that often underlies and exacerbates these problems, and should be instrumental in implementing solutions to these problems. Particular attention should be paid to the worsening economic conditions in the "developed" countries as a source of increasing incidents of racism, racial, discrimination and xenophobia. The imposition of more restrictive immigration laws as a response of Governments to incidents of racism and xenophobia is a source of great concern.

5. The newly appointed Special Rapporteur on racism and racial discrimination should be provided with all the resources necessary to implement his mandate. In his work he should give priority attention to these areas where the problems of racism and racial discrimination have been traditionally ignored, notably the regions of North America and Europe.

6. Pursuant to presentations made by women of various ethnic backgrounds, the United Nations should take account of and establish mechanisms in order to eliminate double discrimination which affects women belonging to ethnic groups that are discriminated against. This implies that:

- (a) Violence against women as well as the sale of and the traffic in women and girls shall be considered to be a gross violation of human rights; and
- (b) All forms of discrimination in employment, in education and other fields shall be considered to violate economic and social rights as well as the right of women to equal opportunities in development.

#### Religious intolerance

1. In order to further the understanding and practice of the interdependence and universality of human rights, the United Nations should sponsor further reflection and work on the interrelationship of freedom of religion and belief with other human rights.

2. Greater attention should be given to the way racism and religious intolerance are fostered by the persistent refusal of Governments and religious systems to address gender inequity. Accordingly, Governments should devise measures and review laws to counter all forms of religious intolerance affecting women's human rights.

3. The United Nations and related organizations should give greater prominence to interfaith dialogue as a means of promoting peace, understanding, tolerance and respect for diversity of religion or belief.

4. The role of the Special Rapporteur on religious intolerance should be expanded to pay more attention to recommendations presented by non-governmental organizations. Urgent action must be taken on behalf of persons who are being arrested on grounds of religion or belief. The effectiveness of the work of the Special Rapporteur would be enhanced by the preparation of a world report which should not only include information on difficulties encountered but also on progress made in the areas highlighted by the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

5. In dealing with problems of religious intolerance, Governments must not impose restrictions outside the limitations set forth in the relevant international instruments.

### Other issues of discrimination and the rights of minorities

1. As an effective means to implement the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, United Nations agencies and bodies should enter into dialogue with Governments and relevant non-governmental organizations and establish a wide-ranging programme which should include measures in the field of public participation, information, education and training, as well as effective anti-discrimination measures.
2. In order to give to minority issues the central place they deserve in the United Nations system, the United Nations Commission on Human Rights should establish a working group on minority issues to consider especially those issues that require early action.
3. Effective mechanisms should be developed to counter discrimination against various disadvantaged groups such as men and women discriminated against for reasons of sexual orientation, people with disabilities, people oppressed because of caste, the old or the very young, widows, linguistic minorities, conscientious objectors to military service, displaced persons, refugees, migrant workers, those who are HIV positive or are living with AIDS or other diseases, homeless children, sex workers and sexually exploited people. Particular attention should be paid to trade union rights and to discrimination in employment and the removal of barriers in communication and social and physical environments.
4. Special attention should be paid to gross violations of human rights committed by non-State entities which are not accountable to the world community, and whose abuses include assassinations, systematic killings, sectarian massacres, the taking of hostages and assault on property.
5. Due protection should be afforded to children who are victims of armed conflicts, displaced by political violence, or abandoned. Traffic in children, false adoptions, denial of a child's identity, sale of children's organs, child prostitution and any abuse that impairs their development should be condemned.

### Enforcement

With respect to all of the foregoing, all States should be vigilant in taking measures on an ongoing basis to ensure that the foregoing recommendations are implemented to assure protection against both intentional and inadvertent infractions through legislative, judicial, administrative or other means deemed appropriate under the legal system of each State.

#### F. Working Group 1: Military forces, paramilitary forces, police and political repression, missing persons, disappearances, torture, foreign occupation and human rights

The Working Group met on 10 and 11 June 1993 and heard speakers as well as representatives of organizations from the following countries or areas: Argentina, Australia, Bangladesh, Bhutan, Burma, Cuba, Cyprus, Denmark, East Timor, India, Ireland, Japan, Kurdistan, Kuwait, the Lao People's Democratic Republic, the Pacific Islands, Pakistan, Palestine, Philippines, Puerto Rico, the Republic of Korea, the Sudan, Switzerland, Turkey and the United States of America.

The Working Group acknowledged that the people in many countries were suffering from various types of serious violations of human rights: Physical and psychological torture, including the use of drugs;

extrajudicial executions; enforced disappearances and displacement; arbitrary detention; economic blockade; violations of due process of law and of their rights to free movement and the enjoyment of property; freedom of development, education and health care; freedom of speech, thought and communication; conscientious objection to military service; the right to be free of cruel and inhuman treatment and the right of self-determination. They were becoming refugees, missing persons and enslaved.

### **General recommendations**

**The Working Group called on Governments to recognize that gross violations of human rights exist in many countries. It urged the immediate restoration of human rights which were presently being violated and which could be achieved by:**

- (a) The right of all nations to self-determination;**
- (b) Recognition and immediate action against violators of human rights;**
- (c) Free movement of persons;**
- (d) Proper housing for persons and their families.**

**In order to counteract these abuses and others not mentioned, it recommends that Governments:**

- (a) Address the root causes of exploitation and domination which are, inter alia, foreign occupation, poverty and powerlessness among the people;**
- (b) Respect the work of human rights activists and ensure that human rights as defined by the Charter of the United Nations have the first call on state resources;**
- (c) Ensure that the proper legal procedures are invoked without impunity, if the existence of human rights abuses are proven;**
- (d) Create new structures and instruments to identify potential internal conflicts at an early stage;**
- (e) Create in each country a climate in which individuals can express themselves freely, through their culture, religion, sexual orientation, ethnic affiliation, etc.**

## **Workshop organised by OXFAM UK/Ireland, Vienna**

**14 - 25 June 1993**

### **Workshop on social and economic rights, 16 June 1993 Austria Centre, Vienna**

#### **Introduction by Pedro Nikken:**

The situation of social and economic rights has deteriorated rather than improved during the almost 30 years after the adoption of the Covenant on Economic, Social and Cultural rights. Both in theory and practice there are close links between civil and social rights.

This workshop will address the question how to redress this situation: through the strengthening of existing legal mechanisms.

#### **Tricia Feeney (rapporteur):**

The Vienna conference shows a new development: leading human rights NGOs have started to legitimize social, economic and cultural rights (SECR). Development NGOs need legal advice on how to use UN mechanisms.

#### **Hector Faundez:**

SECR have equal status to civil and political rights (CPR). Now is the right moment for NGOs to urge governments to introduce an optional protocol for SECR and thus accept the right to petition on these rights.

#### **Joe Komakoma (Workers' Pastoral Centre, Lusaka, Zambia):**

Gave an account of his direct experience with the denial of SECR as a result of policies instigated on behalf of the IMF (lifting of subsidies on food, school fees, health care). Social justice is the first casualty of such policies. The biggest problem is the ignorance of people with regard to their rights. The Workers' Pastoral Centre works to empower people in that sense. However, little can be expected from this as it is a broader and international problem.

#### **Philip Alston:**

SECR are often not seen as human rights at all, neither by governments (as this would restrict their scope of action) nor by NGOs. On the other hand, it is widely accepted that CPR are non-negotiable whatever the circumstances. With regard to the denial of SECR governments often put forward external reasons for not fulfilling them, like war or IMF policies. Governments and, sadly, most human rights activists see SECR as negotiable and long-term. However, to be human means to have enough food, education and health care.



The UN Committee on Social, Economic and Cultural Rights may be relatively insignificant, but is the only body consistently working on those rights. The Human Rights Commission does not work in this field at all. The Committee can only be effective if it receives genuine information about the situation concerning SECR. However, although most governments acknowledge SECR in theory, they often give, willingly or not, false reports about the situation in their own country. In addition, SECR should be seen as absolute obligations and not comparative; a government must be able to demonstrate it has done everything possible to fulfill them.

Therefore the Committee needs reliable information submitted by NGOs; all NGOs must be able to appear in person before the Committee to give evidence. A consistent monitoring system may seem academic and detached but is the only way to ensure that governments fulfill their obligations concerning SECR.

(Answer to question of Antonio Augusto Cancado Trindade about the feasibility of an optional protocol): an optional protocol is indispensable to handle complaints made by individuals and groups. It makes SECR concrete. The Committee believes that rules restricting complaints, on the grounds that domestic remedies must be fully exhausted first, are not relevant. There are virtually no domestic remedies possible for this kind of case. With regard to the question of Special Rapporteurs: more rapporteurs are necessary.

(Answer to question of Wolfgang Heinz): about standards/general comments: the Committee produced 4 general comments and 2 drafts. About the relationship with ILO: ILO covers labour rights and, to some extent, the right to social security. Basic rights to health and housing are not covered by ILO nor by UNESCO.

**Tricia Feeney:**

The paper by Philip Alston will be circulated; we intend to establish a loose network exchanging information.

About international financial institutions: there is a big gap between rhetoric and practice of the World Bank. We would like to see some form of accountability emerging. It is unclear whether an optional protocol would cover these cases.

**Neelan Tiruchelvam:**

One major concern is that there is only one vision: that of the market economic model. Alternatives are ignored.

This contribution focusses on 2 slogans: universality and indivisibility of rights. So far two major concerns have been stated: first that of the impact of structural adjustment programmes (SAPs) on SECR, and, connected to this, the failure to see any alternative apart from market economy, which has been adopted by an increasing number of governments. Second, SECR are being downgraded and marginalized with regard to mechanisms of implementation. Governments tend to play CPR and SECR off against each other. This is predicted on the belief that human rights must be subordinated in the interest of development. This belief is fed by the subordinated in the interest of development. This belief is fed by the experience of newly industrialized countries. Both CPR and SECR are in this view seen as obstacles in the way of development.

Another point focusses on political conditionality. In the Bangkok declaration a strong concern is expressed that human rights performance should not be linked to development assistance. Demands of good governance and the reduction of military expenditure are seen as an infringement of sovereignty, and a sign of Northern dominance and moral condescension. However, human rights groups especially in Southern Asia take a different approach: national sovereignty should not be a barrier to international scrutiny on human rights. In that view development assistance to repressive regimes is a serious setback to human rights and to development. This is a serious internal debate, which cannot be resolved in Vienna.

Conditionality should not only be linked to CPR but also to SECR (e.g. gender equality). In addition, in order to enjoy credibility, Northern countries should maintain integrity and consistency in relation to conditionality, that is, equal standards must be applied to refugees and migrants in the North, and no political or ideological motives should play a role in the granting or withholding of development aid.

**Antonio Cancado:**

There is an imbalance in the UN system regarding SECR. In 1990 for the first time there was strong criticism of international financial institutions and they were called upon to pay attention to human rights issues. The World Bank is bound by its constituent charter and therefore no human rights issues are considered. How can the World Bank and IMF be bound to the Covenant on SECR?

**Roland Gaete (World Development Movement):**

The conditionality imposed by Western governments is to a great extent inconsistent with the models development imposed by the West (for example through SAPs). For example in Zambia barriers are imposed by the West on their export. There is an inconsistency between conditionality and financial/economic policies pursued by the West. Third World countries are discriminated against in terms of world trade, causing problems for the fulfillment of SECR in those countries. Governments will therefore pass the buck. Therefore a consensus will have to be found on the level of the UN General Assembly that financial policies should have a strong human rights dimension which would make double standards impossible.

**Rick Wilson (Lawyers Committee for Human Rights):**

The Lawyers' Committee urges the US government to ratify the SEC Covenant also for domestic policies. The US Bill of Rights concentrates on CPR to the exclusion of SECR. No basic rights are recognized, and they are denied to citizens. According to Warren Christopher the Universality issue means the export of the market economy. The development of other models is ignored.

**Antonio Cancado:**

The Inter America Commission of Human Rights has SECR within its mandate; CPR are not isolated.

**Wolfgang Heinz:**

Will the African charter reflect the effort to include collective rights, CPR and SECR but include no means of enforcement.

**Hanne Lund (Danchurchaid):**

Development agencies should consider how their own programmes relate to human rights. Self reflection and sharing of experiences is necessary.

**Andrew Anderson (Amnesty International):**

So far Amnesty's focus has mainly been on CPR. Now Amnesty tries to broaden its view and mandate to include SECR. This should be developed further in cooperation with other NGOs.

**Pedro Nikken concludes:**

this new coalition is important and it should address the problem of the denial of social justice. A transfer of resources from North to South should take place. Northern NGOs should support Southern NGOs in changing the system.

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The LST Review is published about 20 times a year. Annual subscription rates inclusive of postage have been adjusted due to rising costs of production as follows:

Local : Rs. 300/=

Overseas subscription has been adjusted as follows as postal rates have been increased in Sri Lanka:

South Asia/Middle East	US \$ 25
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**Volume II (Aug 1991 – July 1992)** Rs. 425/= or US \$ 30

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**The Law and Society Trust's Symposium on**

**"Human Rights in South Asia"**

**Vienna, June 15, 1993**

A symposium on 'Human Rights in South Asia' organised by the Law and Society Trust was held in the Vienna International Centre on 15th June. Dr. Neelan Tiruchelvam, Director of the Law and Society Trust, stated that the objective of the symposium is to develop a human rights agenda for South Asia having regard to the priorities and strategies that need to be adopted by the civil society institutions. He argued that it was civil society institutions which could play a creative role in reconceptualising South Asia as a region which was held together by a common commitment to values such as pluralism, democracy, human rights and respect for diversity. The LST had prepared a detailed report called the Ahungalle Report, which developed a human rights agenda in relation to civil/political rights, socio-economic rights, group rights and gender issues. He called upon the participants to review this agenda and to ask themselves a question as to whether the ideological challenges to pluralistic and democratic values called for new strategies to empower civil society institutions. The symposium was presided over by Asma Jahangir, the Secretary-General of the Human Rights Commission of Pakistan.

Dr. L.M. Singhvi, India's High Commissioner to the United Kingdom referred to the long political and legal history of South Asia and argued that the existing legal and political institutions, although imperfect, could be strengthened and revitalised to redress grievances and to resolve conflicts. He added that while South Asia has no difficulty in accepting the universality of human rights, this universality needed to be contextualized if it was not to lose contact with reality. The real challenge was therefore to reconcile the universal human values with the need to ensure that these values are rendered meaningful, given the particularities and specificities of a regional and a national context. He agreed that non-governmental organisations and human rights groups have a particular responsibility to ensure that the political institutions were rendered more accountable and effective. He felt that there was no need for an adversarial or confrontational relationship between the state and the human rights groups and that there was a congruence of interest which should enable them to protect values and institutions, which was mandated by their Constitutions. While he was willing to concede that the courts system was not perfect in preventing arbitrary arrests or discriminatory treatment, they had proved to be substantially effective and in his own professional experience. He was able to obtain redress on behalf of many persons and groups whose fundamental rights had been denied.

Several human rights activists questioned the optimism that was implicit in Dr. Singhvi's presentation with regard to the status of human rights in India. Mr. Ravi Nair of the South Asian Human Rights Documentation Centre pointed out that although human rights groups would welcome a non-adversarial relationship with the state, many human rights activists had been exposed to arbitrary detention and in the case of the Andhra Pradesh Civil Liberties Union, 3 activists had been killed. Mr. K.G. Kannabiran, President of Andhra Pradesh Civil Liberties Union pointed out that although he had been originally invited by the Andhra Pradesh Government to participate in a discussion on the draft Human Rights Commission Bill, this invitation has been subsequently withdrawn on the directions of the Home Ministry. These were not actions which were conducive to a constructive relationship between the state and the civil society. He

further pointed out that the legal and policy framework with regard to human rights organisations in India was unduly restrictive with regard to their ability to secure external funding or receive charitable contributions. Justice Rajindar Sachar who is a member of the UN Human Rights Sub-Commission also pointed out that there were long delays in the disposal of habeas corpus applications and there was a progressive decline in public confidence in the effectiveness of judicial remedies for the protection of human rights.

Dr. Kamal Hossain, former Foreign Minister of Bangladesh felt that it was important for the human rights groups to ask themselves the questions as to why the conditions in relation to human rights in many parts of South Asia were much worse than they were when the transition of political power took place more than four decades ago. The political leaderships in South Asia had failed two generations. This decline has been particularly marked in institutions such as bureaucracy, the party system, the administration of justice and the maintenance of law and order. Much of the human rights abuses in the sub-continent may be attributed to policing methods and the abuse of police powers. He added that if the next generation was to have a better future in terms of individual freedom and respect for human dignity, civil society institutions must work in close concert across national boundaries. He particularly referred to the problems of multi-ethnicity and the need to devise structural arrangements and policies which will enable minority groups to protect their identities and equitably share political power. Bangladesh was founded on the principles of self-determination but self-determination need not be equated with secessions. So long as there is no massive and gross abuse of human rights and the minimal willingness to co-exist, alternative solutions need to be explored. Dr. Nihal Jayawickrema, the Ariel F Sallows Professor of Human Rights at the University of Saskatchewan felt that Dr. Kamal Hossain's approach to self-determination was too restrictive. He felt that the majority community must recognise that they cannot be the sole arbiters of redefining multi-ethnic polities. Minorities must also have the right to determine their political status and their political destiny.

Justice Dorab Patel concurred with the view that over the decades the minor and appellate judiciary in Pakistan had been progressively eroded of their legitimacy. He felt that within the Pakistan context, human rights groups had to struggle against forces of religious extremism who imposed restraints on the freedom of expression of those who did not necessarily share their beliefs. Secular and pluralistic values continue to be threatened by the forces of intolerance and the courts were often helpless and unable to provide meaningful relief. Ms Asma Jahangir concluded that the protection of human rights called for human rights groups within the sub-continent to increasingly adopt a regional approach through cooperation and exchange of information. She felt that the existing networks between human rights groups needs to be strengthened to enable them to address problems of internal conflict which were deeply linked to some of the more serious human rights abuses within the sub-continent.

*Printed and published at the Law & Society Trust, No.3, Kynsey Terrace, Colombo 8, Sri Lanka*

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