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SECOND WORLD CONFERENCE ON HUMAN RIGHTS, VIENNA, AUSTRIA

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Human Rights Conference in Vienna

The Second World Conference on Human Rights organised by the United Nations took place in Vienna, Austria between 14-26 June 1993. The conference occurred twenty-five years after the first such conference held in Teheran. It took place in the vast conference centre a short train ride from the centre of Vienna at the cross-roads of Europe.

Participating in the conference were representatives of virtually every one of the 171 countries represented in the United Nations Organisation. But there were, in fact, two conferences. In one, the representatives of the nation states took turns to address the official conference. It was here that Foreign Ministers of many states came to declare their commitment to the system of human rights established under international law by the growing body of treaty and customary law. Their words were broadcast to monitor television screens in the nearby conference hall where the non-governmental organisations (NGOs) of the world gathered.

The differences between the two meetings could not have been more striking. The one was quiet and solemn, with delegates speaking up to midnight, often to an empty hall and passive observers. The

other was a seething mass of more than a thousand pressure groups, representing deep human concerns with a great variety of differing aspects of human rights. In the NGO meeting a vast parade of large and small organisations, old and new, were crammed into corridors, seminar rooms and other meeting places. Tables were littered with books and pamphlets denouncing governments and others and illustrating abuses of human rights in the four corners of the world. Other videos played incessantly - many showing gruesome messages of torture and cruelty. Sometimes the victims of human rights oppression simply sat on the floor quietly singing or sharing experiences with anyone prepared to watch and listen. Outside the hall angry loud hailers blared the denunciations of the Sikhs, the Kurds and others, until the patient Austrian police moved them on.

From time to time there was a meeting between the two parts of the Vienna conference. To the credit of the United States Administration, it arranged at noon on most days for the official delegation to brief NGOs on United States perspectives of the developments in the main conference and the process leading towards the drafting of the conference document, the *Vienna Declaration*. As well, some of the leading human rights groups were permitted to observe the world conference in the main hall. Some even took part in discussions towards the finalisation of the conference document until excluded upon the insistence of China and other like-minded states.

### The Asian perspective

One of the most dramatic developments during the conference which attracted world-wide attention, was the arrival in Vienna of the Dalai Lama of Tibet. He is not only the spiritual leader of Tibetan Buddhists but the symbolic leader of the Tibetan government

in exile. The delegation of the People's Republic of China endeavoured to exclude the Dalai Lama from the World Conference upon the footing that Tibet is now a part of China. However, such was the protest at this prospect that a compromise was arranged. The Dalai Lama was met by the Austrian President, Mr Thomas Klestil and permitted to speak at the NGO meeting held in parallel with the official conference. The Dalai Lama attracted a huge supportive audience from the activists for human rights. Many officials from the parallel conference also turned up to hear him speak. Recent reports of fresh unrest in Tibet added significance to his participation in the Vienna meeting. China, on the other hand, condemned his involvement in the conference as being contrary to its purpose. In a statement, the Chinese delegation asserted that some Western nations, under the banner of protecting universal human rights, were seeking instead to interfere in the internal affairs of other countries and to impose their own ideology and version of democracy on such countries.

Different perspectives of human rights in several Asian countries had marked the preparatory work towards the Vienna conference. In all parts of the world, a series of satellite conferences over the past three years have prepared the way for the Vienna meeting. The regional conference for Asia took place in Bangkok in March 1993. Significantly, representatives from Australia and New Zealand were not invited to participate but only to observe. At the end of that meeting, the suggestion was made that more attention should be paid in Vienna to cultural differences in assessing the demands of human rights. But even in Bangkok, a parallel NGO meeting took place in which Australian NGOs played an active rôle. The Bangkok NGO Declaration on Human Rights denied relevant differences in human rights, asserted their universality and

contending:

*"As human rights are of universal concern and are universal in value, the advocacy of human rights cannot be considered to be an encroachment upon national sovereignty."*

A number of the speeches of the official Asian participants in the Vienna Conference questioned this universalist idea. One of the most thoughtful was in a speech by Indonesia's Foreign Minister, Mr Ali Alatas. He stated that the conference was no place for the strong to be preaching to the weak:

*"In a world where domination of the strong over the weak and the interference between states are still a painful reality, no country or group of countries should arrogate unto itself the role of judge, jury and executioner over other countries on this critical and sensitive issue."*

Whilst not seeking to hide behind the "cloak of non-interference", Mr Alatas called for understanding by the West of the traditions and social values of developing countries, many of which were themselves endowed with ancient and sophisticated cultures.

To like effect was the speech of the Foreign Minister of Singapore, Mr Wong Kan Seng. He took pains to call attention to the changes in perspectives of human rights in Western countries themselves. He pointed out that notions of "democracy" had advanced significantly this century. Women did not have the vote in the United States until 1920. African Americans only gained effective voting rights in some States after 1965. Not all democracies had trial by jury. Some still had the death penalty. Others abhor it. Laws on abortion or rights for homosexuals differed widely from one state to another and even within countries. Mr Wong concluded:

*"This multiplicity of state and local laws [in the United States of America] is not decried as a retreat from*

*universalism. On the contrary, the clash and clamour of contending interests is held up as a shining model of democratic freedom."*

China added its voice to the same theme. It stated that Western campaigns to force its human rights standards on the world might be viewed as an attempt to keep people in poverty and to humiliate other governments:

*"They emphasise only individual and citizens' political rights and belittle their economic, cultural and social rights, even denying or opposing their human rights subsistence and development."*

However, not all Asian participants agreed with this theme. The former President of the Philippines, Mrs Cory Aquino told the conference that during the dictatorship of President Marcos "the loudest cries I heard were not for food but for freedom and democracy". Similarly, the Dalai Lama, in his speech to the NGO conference said that:

*"The deeper human nature needs to breathe the precious air of liberty."*

In his speech to the conference, the Australian Foreign Minister, Senator Evans, warned against a "sterile" debate over cultural values and human rights. He made it clear that Australia supported the universality of human rights and denied any attempt to impose its own values or culture on people with different religious and cultural systems. He disputed that there was any significant nation or cultural system that did not aspire, at least publicly, to the increase of human dignity and freedom from fear and want. Senator Evans supported the inter-relationship of social and economic rights with political and civil rights.

### Meeting "a sham"?

In the face of the attempted exclusion of the Dalai Lama, the expulsion of NGO representatives and the media from the conference statement drafting group, the deep divisions about universality and future strategies and the almost complete divide between the "official" conference and the NGO meeting, the Secretary General of Amnesty International, Mr Pierre Sané was moved, at the mid-point of the two week meeting to describe it as "a sham". He called the first week of the conference "a week of shame". He declared the event to be "a total flop". This strategic statement attracted a great deal of publicity throughout the world because of the important place which Amnesty International has secured in the international human rights movement. Prior to the conference, Amnesty had adopted a series of objectives including:

- \* The reaffirmation of the indivisibility and inter-dependence of civil, political, economic, social and cultural rights;
- \* The encouragement to all nations to sign and comply with international treaties for the protection of human rights;
- \* The provision of adequate funds to the United Nations to fulfil its human rights mandate; and
- \* Support for the creation of a UN Special Commissioner on Human Rights.

The last-mentioned objective excited opposition from a number of countries, including China, which feared the possibility of interference in the "internal affairs" of sovereign nations.

The International Commission of Jurists (ICJ), one of the oldest of the human rights NGOs, issued a special publication describing its important rôle over the past forty years in the

establishment of the norms of international human rights. Also contained in the publication was the ICJ's Agenda, identifying major human rights issues for the future. These included:

- \* The special issued of human rights affecting women;
- \* The impact on human rights of religious fundamentalism;
- \* Human rights and sexual orientation;
- \* The impact of modern technology on human rights, including the Human Genome Project; and
- \* Human rights and environmental degradation.

#### A permanent international penal court

The other publication issued by the ICJ for the World Conference was a position paper on the establishment of a Permanent International Penal Court. Pressure for the establishment of such a court within the machinery of the United Nations became the major strategy of the ICJ at the World Conference. In May 1993, the United Nations Security Council voted unanimously to establish an eleven member international court, with its seat at the Hague, the Netherlands, to try people accused of war crimes arising from the current conflict in the former Yugoslavian States. The proposals for such a court envisage jurisdiction being limited to offences committed after 1 January 1991. The Secretary General of the United Nations (Dr Boutros Boutros-Ghali) called for the subscription of more than \$US30 million as the cost of operating the new court in its first year. The mandate of the court is to include cases involving grave breaches of the Geneva Conventions, violation of the Convention Against Genocide, and other serious crimes against humanity and the laws of war. A number of states (including the remnants of Yugoslavia), condemned the move as discriminatory upon the ground that it focused the proposed Court's jurisdiction solely



on war crimes and in one region of the world.

It was this concern which was met by the ICJ proposal that an International Penal Court of general jurisdiction should be established as a permanent organ created either by a multi-lateral treaty or an amendment to the *United Nations Charter*. As a pragmatic solution, the treaty was urged as the best way to carry the proposal forward without delay. The ICJ Paper reminded the Vienna Conference of the speech made to the first conference in Teheran by the ICJ's then Secretary General, Sean MacBride, in 1968. This called for the establishment of a Universal Court of Human Rights. The need for international institutions to safeguard human rights and to punish offences against international law was an important theme of the ICJ contribution to the 1993 World Congress. See *International Commission of Jurists, Towards Universal Justice*, June 1993, Geneva.

The ICJ was represented in Vienna, in a well attended session, by the President of the ICJ (Sr Ruiz-Giminez, Spain), the Chairman of the Executive Committee (Justice Michael Kirby, Australia) and the Secretary General (Mr Adama Dieng, Senegal). Before this session a large meeting of all participants in Vienna with past or present associations with the ICJ met to reflect on the conference and on future action. The ICJ session in the conference was briefed by ICJ Commissioner and Executive Committee Member, Professor Christian Tomuschat (Germany) on the work of the International Law Commission towards the establishment of an international court to try crimes against the Peace and Security of Mankind. Professor Tomuschat is a Past chairman of the International Law Commission. That Commission has, for some time, been seeking to codify the principles of a general international criminal code. It presented an extensive report in 1992. It is hoped that the project will be completed by

ILC in 1994.

A number of national representatives in the governmental conference (including Senator Evans of Australia) expressed interest in the ICJ proposal for the establishment of a permanent International Penal Court in their speeches to the "official" conference.

### The Vienna Declaration on Human Rights

The final statement of the UN conference was adopted on 20 June 1993. It reaffirmed the commitment of the Organisation to the "purposes and principles" of human rights contained in the *Charter* and the *Universal Declaration*. It gave no ground to the suggestion that human rights were other than universal in nature, applying equally to all peoples regardless of racial, cultural and religious traditions or levels of economic development. To this extent, the conference represented an important reaffirmation of the universality of human rights norms.

The formal closing session of the conference was delayed by more than six hours as last minute debate proceeded over the wording of the statement (A/CONF.157/DC/1/ADD.1, 24 June 1993). One of the chief points of contention was the inclusion of a recommendation that the UN General Assembly should consider "as a matter of priority" establishing a "High Commissioner for Human Rights for the promotion and protection of all human rights". Also included in the recommendations was the endorsement of the establishment of a Special Investigator Into Violence Against Women. A notable achievement of the Vienna conference was the participation of nearly a thousand women's organisations. In fact, women's human rights groups emerged as the strongest lobby at the Vienna conference. Another notable shift was the large number of NGOs representing indigenous peoples. A proposal for the appointment of a Special Investigator Into

Violence Against Women was put by the United States Secretary of State, Mr Warren Christopher during his contribution to the conference. Most NGOs included in their programmes special sessions on particular human rights questions affecting women. For instance, the ICJ followed its session on the proposed International Penal Court with a special workshop on women's rights. Mr Reed Brody of the International Human Rights Law Group in Washington noted that "for the first time women's groups can now make demands on the United Nations. For the first time the United Nations will have to deal with them". Ms Roxanne Carrillo, an official of the United Nations Development Fund for Women claimed that "the key factor" in the success of women's groups at the conference was their unity. But, when measured by the concluding statement, Ms Carrillo could only claim the new found attention to women's rights as a "half-step forward for the women of the world".

**Evaluation: failed chance or new opportunities?**

The value of the conference was accepted by Mr John Shattuck, the chief American delegate who, to his credit, gave regular briefings to NGOs about developments as they occurred in the governmental conference. He concluded that the final statement had stopped any "back-sliding on human rights". It was, "on balance ... a strong, forward-looking document". International and local media reflected similar themes emphasising, in particular, the apparent rejection of the notion of the divisibility of human rights or the subordination of civil and political rights to social, economic and cultural ones or *vice-versa*.

On the other hand, the Secretary General of Amnesty International concluded that it was "a summit of missed opportunities". Mr Sané declared that it had dealt with "the past and not the future, reaffirming principles agreed to 45 years ago

instead of addressing the challenges of the future".

Other leaders of the human rights movement, including Mr Adama Dieng, Secretary General of the ICJ, stressed that the practical outcome of the conference would depend upon the responses of the UN General Assembly to the Conference Statement. These would not be known until later in 1993 and 1994.

One of the main practical achievements of the conference lay in the personal contacts between NGOs working in the front line of human rights protection and agitation. In the surging mass of people in the NGO conference, close friendships were forged between individuals, whether working for Amnesty, the ICJ, International Alert, the Watch Organisations or the smaller specific groups protesting about the plight of the Kurds, the East Timorese, the indigenous people of Brazil or the victims of oppression in Africa. The sight of human rights activists from Russia, speaking in perfect English, moving from one NGO session to another, inviting comment on human rights development in that country was a signal of at least one major change which had occurred since the last world conference in Teheran in 1968. Indeed, one of the factors which tended to reduce the traditional territorialism amongst NGOs was a realisation of the huge tasks faced by the world human rights movement, in the new countries which have been opened up to human rights action and the ample opportunity for cooperation in common causes. To that extent, the world's governments, by bringing so many leaders of the NGO movements together, may have unintentionally contributed a new dynamic to the international pressure for the effective recognition of human rights in all parts of the world.

The Final Statement of the Vienna Conference looks forward to the 50th Anniversary of the *Universal Declaration of Human Rights* in 1998. It calls on the International Law Commission to "continue

its work on an International Criminal Court". It makes numerous suggestions for improving cooperation, strengthening UN monitoring procedures and improving human rights education. With the events in the former Yugoslavia in mind, and foreshadowing the establishment of appropriate mechanisms, the following statement is worth noting:

*"The world conference stresses that all persons who perpetrate or authorise criminal acts associated with ethnic cleansing are individually responsible and accountable for such human rights violations, and that the international community should exert every effort to bring those legally responsible for such violations to justice."*

Some commentators, such as Manfred Novak of the Austrian Human Rights Institute, have suggested that the opponents lost the main battle to dump the proposed Human Rights Commissioner. On the other hand he suggested that the idea, as adopted in its modified form was doomed to years of bureaucratic wrangling. "Instead of appointing a new commissioner, they referred it back for further study. It could take years before it comes into being". These words reflect former President Carter's lament that the United Nations has become "almost totally incapacitated" in dealing with countries which disregard human rights and protest indignantly that any criticism is an interference in their internal affairs.

It therefore remains to be seen whether the modified words of the Conference Statement, so energetically fought over in Vienna, can be turned to practical account for the defence of human rights in the world in which practical reality all too often falls short of conference aspiration.

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\* Chairman, Executive Committee, International Commission of Jurists who in that capacity attended part of the Vienna Conference of NGOs.