

*Check against delivery*

**Human Rights Council**

**12<sup>th</sup> session**



**Statement of Ms. Navanethem Pillay  
United Nations High Commissioner for Human Rights**

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**Geneva, 14 September 2009**

Mr. President,  
Distinguished Members of the Human Rights Council,  
Excellencies,  
Ladies and Gentlemen,

On the occasion of my first anniversary in office, allow me to discuss the salient human rights issues that have shaped the past eventful twelve months and that are likely to remain of the utmost concern for the human rights community in the foreseeable future.

A year ago, I stated that the United Nations principles of impartiality, independence and integrity would guide me in discharging my mandate. I added that I regarded my Office as a springboard for the protection, betterment and welfare of all and a place where all would be given a fair audience.

Developments of the past year have given our priorities a renewed sense of urgency and have also thrown the spotlight on emerging issues. They have put in sharp focus the need to promote, and protect human rights more effectively. I refer particularly to the effects of the economic crisis, the flaring-up of conflict, as well as continuing discrimination and violence against women, minorities, migrants and other vulnerable groups. On the positive side, we have seen commemorations all over the world of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights, the expansion of international human rights law through the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the adoption by the Durban Review Conference of an outcome document that will strengthen our efforts to address racism, racial discrimination, xenophobia and related intolerance. I urge all States to adopt the General Assembly resolution endorsing the outcome document.

Distinguished Members of the Human Rights Council,

I look forward to your forthcoming discussions related to the special sessions, including those on the occupied Palestinian territory, and the global food and financial crises.

For the present address, I shall focus on several specific overarching issues that, I believe, affect many States and that form the roots of chronic human rights conditions as well as emergencies. These issues will engage my Office as thematic priorities over the next biennium.

## **OVERARCHING HUMAN RIGHTS CONCERNS**

### **THE SCOURGE OF DISCRIMINATION**

The first observation that I wish to offer is that there persist huge gaps between lofty pledges and national realities. And let me underscore that it is primarily the responsibility of governments to address these gaps by giving full effect to both long-

standing and newly established human rights standards. They have willingly accepted these obligations as their own and must comply with them.

Turning to some of the specific issues that command our attention and action, let me reiterate that eliminating discrimination is a duty of the highest order. No country is immune from this scourge. Our main objective is to help promote discrimination-free societies and a world of equal treatment for all. The grounds of discrimination are many and multifaceted. In the interest of time, I will now discuss only some of their most egregious aspects.

For example, indigenous peoples in many countries endure age-old discrimination and exclusion, including land grabs, the suppression of traditional customs, and outright violence. Deadly attacks, such as those witnessed in southern Colombia recently, continue to take place. I commend initiatives to put an end to such discrimination and violence. Bolivia, for example, has incorporated the provisions of the Declaration on the Rights of Indigenous Peoples in its January 2009 Constitution. I hope that other States in Latin America and elsewhere will follow suit. I welcome Australia's recent endorsement of the Declaration and I hope that Canada, New Zealand and the United States, who voted against this important initiative, will reconsider. For its part, OHCHR will make the fundamental principle of non-discrimination the leading theme of a sustained outreach effort.

I followed with concern the recent disturbances in the Xinjiang Autonomous Region and those previously in the Tibetan Autonomous Region and surrounding areas. While condemning such violence and urging the Chinese authorities to respect human rights in upholding the law, I also encourage them to reflect on the underlying causes of such incidents, which include discrimination and the failure to protect minority rights.

The protection of minorities is a key concern around the world. One of the minorities mentioned in the Durban Review Conference outcome document are the Roma. Despite efforts undertaken by Member States and international and regional organizations, anti-Romani sentiments in Europe continue to be strong.

For example, my Office has received credible reports regarding a number of fatal attacks against Roma in Hungary. Ill-treatment of Roma by police has been reported in Slovakia and elsewhere. In Italy, there has been abundant documentation of discrimination and degrading treatment affecting the Roma population. Available information indicates that in Bulgaria many Roma have limited access to the health care system because they lack identity documents and health insurance. Problems in the area of education for Roma children have been recorded, for example, in the Czech Republic. Regarding access to housing, direct and indirect discrimination against Roma, Sinti and Travelers and/or forced evictions are known to have taken place in a number of countries, including Finland, France, Ireland, Lithuania, Poland, Portugal, Romania, Serbia, Spain, Slovenia, Sweden and the United Kingdom. While I am aware of good faith efforts to address this problem, more must be done to end such discrimination.

Excellencies,

Women's human rights continue to be denied or curtailed in too many countries. For example in the Gulf region, despite recent positive developments, such as the election of four women to the 50-member Kuwaiti Parliament, the election of nine women in 2006 to the Federal National Council of the United Arab Emirates and the recent appointment of the first female deputy minister in the Kingdom of Saudi Arabia, the overall situation of women falls well short of international standards.

To overcome this inequality, a crucial step in the right direction is the ratification and implementation of key human rights conventions, as well as the removal of the numerous reservations expressed by many Gulf countries regarding those human rights treaties they have chosen to accept. Such reservations severely hamper the applicability of these standards.

In some cases, even when States have ratified international conventions, application of the law is often arbitrary. Lubna Hussein, a former UN staff member in Sudan, was sentenced to prison earlier last week on charges of dressing in an indecent manner – essentially because she was wearing trousers – in a wider pattern of discrimination and application of discriminatory laws against women in Sudan. Her arrest and that of 13 other women was in violation of Sudan's international obligations as a State party to the International Covenant on Civil and Political Rights. I welcome the announcement of her release and call on the government to take all necessary steps to address the equality gap.

#### **THE TOLL OF VIOLENT CONFLICT AND THE IMPERATIVE OF CIVILIAN INVIOABILITY**

All too often it is discrimination and harmful prejudice that sow the seeds of war. In the course of the last decades, millions of civilian lives and livelihoods have been lost in both international and internal armed conflicts. In the face of such appalling toll, ten years ago the United Nations Security Council passed Resolution 1265 on the protection of civilians in armed conflict, and in 2005 the World Summit pledged to adhere to the norm of responsibility to protect civilians from the worst abuses.

Yet grave violations of international human rights and humanitarian law remain a tragic common denominator of ongoing conflicts, as civilians continue to be targets of attacks motivated by ethnic or religious hatred, and by the ruthless pursuit of economic greed and political control. Conflicts continue to exact a tragic toll in Afghanistan, Colombia, the eastern part of the Democratic Republic of Congo, in the occupied Palestinian territory, Somalia, Sri Lanka, Sudan, Yemen and elsewhere. An intolerable number of displaced persons continue to live in camps. In Sri Lanka, internally displaced persons are effectively detained under conditions of internment. Humanitarian agencies' access to these camps remains restricted, and the mandates of relief agencies are increasingly coming under threat.

In some of these conflicts ethnic minorities and indigenous peoples bear the brunt of hostilities. In virtually all of them women and children suffer disproportionately. Let me reiterate that sexual violence is almost invariably a foreseeable consequence in situations of conflict and in a climate that fosters mass atrocities. We must do a better job of ensuring that victims of sexual violence obtain full and real justice. In this regard, I welcome the recent announcement of a zero tolerance policy in the Democratic Republic of Congo, and we are hoping that this announcement will be followed by concrete and immediate action to hold perpetrators accountable, particularly as reports of sexual violence continue.

Crucially, as this Council and other UN institutions have underscored, in situations of armed conflict combatants must ensure that effective measures are put in place to guarantee respect for international human rights law and international humanitarian law, including the principle of civilian inviolability. I urge the international community, including this Council, to insist on full accountability for all violations and to ensure assistance to the victims. I also urge all those States contributing to military operations, whether it be in their own country or in other countries, to enhance their efforts to prevent civilian casualties, which in Afghanistan and elsewhere remain at unacceptably high levels.

There is also a clear need to focus on preventing conflict, rather than reacting only after violence has been unleashed. We should devote more attention to creating an environment conducive to concrete action. Levelling the playing field in law and practice to achieve substantive equality for all is an indispensable step. Fostering institutions and vehicles that make political, social, and cultural participation flourish would be helpful to defuse communal tension and encourage respect for the rights of others. We should also be prepared to monitor and highlight emerging or established patterns of abuse, to denounce and put a stop to them when they do occur, and to prevent their recurrence. This Council is well positioned and adequately equipped to consider concrete measures to protect human rights and propose appropriate remedies for violations.

The protection of human rights in situations of armed conflict, violence, and insecurity will be another thematic priority for OHCHR.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS: CORRECTING AN IMBALANCE**

Excellencies,

If the Durban Review Conference represented a springboard for renewed action against discrimination, the adoption of the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights by the General Assembly should also revitalise the pursuit of these rights. Promotion and protection of these rights are imperative, particularly against the backdrop of the economic recession that has severely affected the most vulnerable. Although indications point to a recovery of the leading world markets, for countless poor the effects of recession will be long lasting. According

to current projections, more than half of all developing countries could experience an increase in extreme poverty this year.

Economic, social and cultural rights, like other human rights, are the birthright of every human being. A child excluded from primary school because of school fees, a woman paid less than her male colleague for the same work, a family forcibly evicted from their home, a man left to starve when food stocks lie unused—these are all instances of individuals denied their economic, social and cultural rights.

I encourage Member States to promptly sign and speedily ratify the Optional Protocol on Economic, Social, and Cultural Rights, thereby showing their determination to correct the unsustainable imbalance between the haves and the have-nots.

The realization of economic, social and cultural rights, I trust, will be a thematic priority for this Council as it will be for my Office.

### **CROSSING BORDERS: HOPES AND PERILS**

Ladies and Gentlemen,

In a tragic repetition last month, the deaths of migrants at sea, as well as the hardship of those who are left stranded near the shores of Libya, Malta, and Italy, once again drew attention to the plight of migrants and refugees. Today, on the assumption that boats in distress carry migrants, ships pass them by ignoring their pleas for help, in violation of international law. In many cases, authorities reject these migrants and leave them to face hardship and peril, if not death, as though they were turning away ships laden with dangerous waste. Their fate is thus sealed as they try to cross the Mediterranean, the Gulf of Aden, the Caribbean, the Indian Ocean, and other stretches of water. In clear violation of international law, they are abandoned and rejected without proper check of whether they are fleeing persecution. All too often migrants and refugees encounter the same callous rejections at land borders.

Indeed, the millions of people who risk their lives and safety in order to cross international boundaries in search of a better life present one of the most serious human rights problems in our world today. Countless migrants fall prey to human traffickers who prosper the most where government scrutiny is at its weakest. States have an obligation to respect, protect and fulfil a wide range of human rights of all individuals under their jurisdiction, including all migrants, regardless of their immigration status. The practice of mandatory detention of irregular migrants, their criminalization and ill-treatment in the context of border control must cease.

A key step in the right direction would be to give effect to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The low level of acceptance of this crucial international instrument is deeply disturbing and an indication that we are not addressing this concern seriously. I

look forward to working with you in ensuring the realization of human rights in the context of migration, which is another thematic priority I have identified for my Office.

## **THE SUPPRESSION OF FREE VOICES**

Mr. President,

Allow me to draw your attention to another alarming global trend, namely attacks against peaceful opponents and critics of those at the helm of power. Human rights defenders face arrest, abduction, torture and even death for their engagement in promoting and defending human rights. Intimidation, repression and attacks against journalists are equally disturbing.

We should all be dismayed by the recent sentencing of political opposition leader Aung Sang Suu Kyi to a further period of house arrest by the Myanmar authorities. Her unfair and arbitrary detention, along with that of more than 2,000 other political prisoners, makes a mockery of Myanmar's commitment to democratic transition, and I call for their immediate and unconditional release.

We should all be dismayed by the recent sentence of twenty years' imprisonment imposed on Sri Lankan journalist J.S. Tissainayagam, who had been critical of the army's treatment of Tamil civilians. His conviction raises serious concerns about respect for the right to freedom of expression.

And we should all be dismayed when opposition officials or human rights defenders such as Jestina Mukoko are abducted in Zimbabwe, beaten and held incommunicado for months. I call on the Government to shed light on this case and on those of other detainees, and to hold perpetrators to account.

Likewise, we should be dismayed by the abduction, torture and murder of Raúl Lucas Lucía and Manuel Ponce Rojas, two human rights defenders working to promote and protect the human rights of indigenous peoples in Mexico. I trust that the investigation that has been launched will result in full accountability for these crimes.

In July, I was shocked to learn of the kidnapping and shooting in the Northern Caucasus of well-known human rights activist Natalia Estemirova. I joined international and national partners in condemning this attack and in calling on the Russian authorities to conduct a thorough, transparent and independent investigation. I used the opportunity to underscore the need for governments to do much more to protect human rights defenders.

These cases are just a few of the most prominent ones. However, in all regions of the world and in too many countries, brave human rights advocates, journalists and dissidents face abduction, arbitrary detention, torture and even death to defend their rights and freedoms and those of the communities they serve or represent.

The recent elections in Iran and the subsequent protests over the result were a reminder of both the vitality of Iran's civil society and political life, but also of the towering constraints that peaceful activism faces. I call on the Government to release those detained for peaceful protest, to investigate reports of their ill-treatment, and to ensure respect for human rights.

I remind all Member States of their obligation to protect human rights defenders, as well as the press, from any form of violence, intimidation or discrimination, and to hold accountable those who are responsible for any such acts of violence, intimidation or discrimination. Peaceful political opposition must not be repressed.

Ladies and Gentlemen,

Clearly, no human rights defender is safe when democratic institutions of governance are inadequate and unaccountable, when the rule of law remains an aspiration rather than a reality, and when corruption, co-option, or coercion hold sway.

Democratic deficits, in particular, remain a significant obstacle to the protection of human rights and respect for the rule of law.

The elections in Afghanistan, which were a cause for hope, have been marred not only by insurgent violence, but also by heightened pressures on freedom of expression, and on political participation, as well as by a severe backlash against women's rights. The failure to tackle impunity weakens efforts to build the rule of law. I hope that the Government and its international partners will make accountability and justice central elements in the next stages of Afghanistan's transition.

In Honduras and Fiji constitutional order has been subverted and democratic space undermined. In both cases legitimacy must be restored and the rule of law respected.

The issues of political participation, and free and fair elections have a direct impact on the realization of human rights, and I believe that they deserve attention and scrutiny by the Council.

In this context, allow me to add that it will be important that political leaders in Guinea and Madagascar uphold their recent commitments to see that, free and fair elections take place in a timely manner.

In societies transitioning from conflict to peace, the temptation to compromise human rights for short-term political gains must be resisted. It is in fact only through the firm establishment of human rights and the rule of law that a solid foundation for sustainable peace, security and development can be built. Accountability for violations that have been committed is critical to restoring public confidence and trust. Transitional justice should be seen as a core component of peace.



Combating impunity and strengthening accountability both in situations of peace and conflict will remain an important priority for OHCHR.

Similarly, efforts to combat terrorism cannot compromise fundamental human rights. We must be able to ensure full accountability for violations of human rights relating to capture, interrogation methods, and detention conditions, whether it be in Afghanistan, Iraq, or any of the countries that participate in rendition of terrorism suspects. In this respect I welcome the intention of the United States to close the Guantanamo detention facility and the recent U.S. initiative to investigate allegations of torture of detainees. Any officials involved in any way in torture must be held accountable.

### **THE HUMAN RIGHTS SYSTEM: GREAT EXPECTATIONS**

Distinguished Members of the Human Rights Council,

The Human Rights Council must achieve a sense of shared purpose and be a paragon of international cooperation on behalf of human rights. To ensure its credibility, this body should be prepared to confront violations wherever and whenever they take place. A failure to rise to this challenge would constitute a betrayal of the victims of human rights violations all over the world who place faith in the United Nations and, in particular, the Human Rights Council. I know that you can meet the international community's expectations, and I welcome the opportunity to assist you in such endeavour.

When the Council reviews its work and methods as provided by General Assembly resolution 60/251, it will be of utmost importance to ensure that it firmly maintains its focus on pressing human rights issues and specific situations. Such focus is -- and should remain -- this body's core responsibility. As the General Assembly envisioned, the upcoming review of the Council will offer a forum to evaluate achievements, to identify challenges and address shortcomings. The reform framework should also encompass a systematic reflection on the Universal Periodic Review, with a view to ensure that it is a reliable and truthful mirror of country situations and a platform for action on implementation gaps. In sum, this review process will only be successful if it leads to meaningful improvements in the lives of victims worldwide.

I wish to take this opportunity to underscore the importance of the treaty bodies, both through their reporting and individual complaints mechanisms, as well as through the UPR process. The overall success of the human rights protection system, marked by the increase in the number of human rights instruments and corresponding monitoring bodies, together with greater compliance by States parties with reporting obligations, pose greater demands on the treaty bodies and on my Office. While this success is most welcome and encouraging, I would like to ask States parties to human rights treaties and other stakeholders to initiate a process of reflection on how to streamline and strengthen the treaty body system to achieve better coordination among these mechanisms, as well as in their interaction with Special Procedures and the UPR.

The work of the Special Procedures mandate holders is also of the utmost importance. All States should do more to support the Special Procedures' normative and fact-finding work, in particular by ensuring that their recommendations help shape reform at the national level. The Universal Periodic Review has underlined the importance of the work of Special Procedures mandate holders. Indeed, I have been heartened by the fact that more and more States recognize the value of the work of the Special Rapporteurs as reflected by the increased number of invitations they have received. Yet this record is not uniformly positive, as there continue to be States that have not provided access to these experts who should have standing invitations everywhere and be able to visit at any time. All stakeholders should continue to protect the independence and freedom of these experts, which underpin the integrity, impartiality, and effectiveness of this critical human rights mechanism.

Our joint priority must be the strengthening of this mechanism, also with the view of progressive development of international human rights law.

Allow me now to call your attention to another important aspect of protection, that is, the need to strengthen independent National Human Rights Institutions. These institutions can effectively support Governments and international mechanisms in bolstering the implementation of human rights. I also urge you to provide more space for civil society's participation in your debates.

Excellencies,

Let me conclude by pointing out that there is clearly a need to continue to invest in human rights in terms of political will and courage, imagination and resources. The international community has entrusted the Human Rights Council with the leading responsibility in ensuring that human rights are given the full attention and priority that they deserve and require.

Early in this millennium there remain serious violations of human rights, which States have within their power—and responsibility—to prevent, protect against, and redress. States and all other stakeholders, including those who are suffering from the deprivation of human rights, look to this Council for guidance and support. They must not be disappointed. My Office stands ready to assist you to the best of our ability and to help you discharge the critically important mandate bestowed upon the Human Rights Council.

As I have said many times, no country in the world can claim to be free of human rights violations. I have referred to a number of specific situations in order to illustrate these violations, but not for the purpose of comparison or selectivity. I want to reiterate my commitment to the impartiality and independence of my Office. My goal, and I trust our common goal, is to focus on and protect all human rights for all.

Thank you.

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