

Check against delivery

**Human Rights Council
First Session**



**Statement of Ms. Louise Arbour
United Nations High Commissioner for Human Rights**

Geneva, 23 June 2006

Mr. President, Excellencies, Ladies and Gentlemen,

As you embark upon your program of work, I am delighted to accept your invitation to engage in an interactive dialogue with you on some concerns and substantive issues.

Next week, we will be addressing you in the context of technical cooperation, advisory services, human rights education and capacity-building. This will provide an opportunity to describe some of OHCHR's activities in more details.

You have before you my report to the Commission, which describes our progress in implementing the Strategic Management Plan, as well as several reports—some country specific, some thematic—which the Commission mandated, and which serve to inform this Council of some of the activities of OHCHR in the course of 2005-2006. These reports will be presented, and updated if need be, in September.

These documents can be used as a backdrop to my remarks today. Along with my own missions, and the wealth of information generated by our work in assisting the Treaty Bodies and the Special Procedures, they provide the basis for the reflection that I would like to share with you, and which is centered on various themes that I consider to be of particular significance.

As I indicated in my earlier address to the Council, I am persuaded that, properly understood, poverty continues to be the most serious, invidious and widespread human rights violation that we must confront. Governments' responses to other human rights challenges may become, in the end, mere palliatives absent enforceable plans and the determination to tackle poverty. For it is poverty and underdevelopment—both in cause and effect—that exacerbate abuse, neglect and discrimination, denying millions the enjoyment of their civil, cultural, economic, political and social rights, and ultimately their right to development.

The world community has acknowledged that reducing poverty is a shared responsibility: the Millennium Development Goals set concrete targets for such joint international efforts. However, the MDGs must be placed within the wider human rights context expressed in the Millennium Declaration, as the appropriate framework to counterbalance those inevitable effects of market globalization that exacerbate inequalities in peoples' access to growth and prosperity.

Next to poverty, discrimination constitutes another widespread source of disempowerment and of denial of rights, freedom and dignity. Even though guarantees of non-discrimination figure prominently in every international human rights standard, laws in some countries, and practice in many, in all regions of the world, still permit or tolerate discrimination, not least against women and girls. Indeed, gender discrimination remains one of the most widespread human rights violations.

Discrimination exposes many groups and individuals—from indigenous peoples to migrants to persons with disabilities—to systematic violations of their human rights, particularly in connection with dramatically unequal enjoyment of economic, social and cultural rights.

Racial discrimination is also ever present, and in some regions may even be growing, fuelled by fear of terrorism, or anxiety over competition for employment. Those fears are easily manipulated with results often difficult to predict or control.

The proliferation of acts and expressions contributing to the exacerbation of cultural and religious tensions is producing new cleavages within and between communities, and has recently led to unprecedented levels of violence and destruction, on the ashes of which trust and tolerance must now be rebuilt. The use of harmful stereotypes and the perpetuation of myths that demonize, ridicule, or insult deep-rooted religious feelings and a profound sense of identity, must be denounced as vigorously as the right to champion unpopular ideas must be asserted and protected.

Discriminatory practices can easily infiltrate and pervert governments' efforts to discharge their responsibility to combat, by all lawful means, both the local and the global threat arising from terrorism. Either in fact or in law or both, Governments normally enjoy a monopoly on the use of overwhelming force. Depending on the nature of the regime in place, that monopoly is subject to a range of restrictions which protect against tyranny by the state. Further, under international human rights and humanitarian

law, there are a series of constraints that bind all States with no exception. These include the absolute ban on torture and the right to a fair trial.

The magnitude of harm caused or threatened by contemporary terrorist organizations has brought two questions to the fore. First, whether States are losing, in fact, their monopoly over the use of overwhelming force and if so, whether the existing legal framework must yield to this new reality. It is unhelpful to minimize the significance of either issue, as our collective security depends on the proper answer to both. It is vital that at all times Governments anchor in law their response to terrorism. To suggest otherwise, to disregard the law or to carve out improper exceptions, as has been attempted by many Governments, would lead to a steady erosion of fundamental rights and, ultimately, undermine the legitimacy of Government action itself.

Of particular concern in recent years has been the increasing challenge to the absolute prohibition on torture that has emerged in the context of counter-terrorism activities.

In the face of that reality, the obligation of non-refoulement, which requires that no individual be returned to a country where the real risk of torture and ill-treatment is present, cannot be seen as a mere legal nicety. International law requires that the prohibition of torture be ensured by active measures: in addition to not engaging in acts of torture themselves, states have a positive obligation to protect individuals from exposure to torture. No cogent argument, whether normative or empirical, has been

advanced to support a departure from the torture prohibition in the fight against terrorism. Whatever its asserted effectiveness, torture delegitimizes State action to the point where the State can no longer assert its moral authority.

Moreover, the reported existence of secret detention centers where suspects are held incommunicado, is also of grave concern. Such practices also have a corrosive effect on the rule of law and human rights, and create an environment ripe for other abusive conduct.

The Optional Protocol to the Convention against Torture, which entered into force yesterday, is the clearest repudiation of the attempts to erode the protection conferred by the Convention against Torture. I take this opportunity to pay tribute to the twenty states that have ratified the Optional Protocol: Malta, Albania, the United Kingdom, Denmark, Liberia, Argentina, Mexico, Croatia, Mali, Mauritius, Georgia, Poland, Sweden, Costa Rica, Paraguay, Uruguay, Maldives, Spain, Bolivia, and Honduras. An additional 23 States have indicated their intention to ratify the Optional Protocol. I exhort those that have not done so to ratify the UN Convention against Torture, and its Optional Protocol as an important practical measure of good faith and meaningful commitment to preventing torture and ill-treatment, and protecting the human rights of those within their jurisdiction.

I further call on States to disclose, investigate and prosecute all alleged abuses of human rights and violations of international humanitarian law, including those

perpetrated in the context of the fight against terrorism, as a mean of reasserting the authority of the state under the rule of law.

Excellencies, Ladies and Gentlemen,

Democracy and democratic practices enhance the enjoyment of rights. Efforts, however, must go beyond the signing of peace accords and even the holding of credible elections, vital though both are. Legitimate, independent, and effective institutions of governance are necessary to bolster and sustain democracy and development, as well as to meet the human rights requirements of both effective participation and genuine accountability. This is acutely so with regard to providing checks and balances on the executive branch, in particular through an effective legislative forum and a strong and independent judiciary. Judicial systems' lack of professionalism or their long history of intimidation and subservience often prevent accountability, and negate recourse for past and current abuses. In many countries the absence of a connective tissue between state institutions and the citizenry is sorely manifest. As a result, social frustration and exposure to abuse severely undermine the confidence necessary for democracy and development to progress.

Nothing can exemplify such unmet expectations better than the delay encountered by victims in obtaining justice and reparation. Where impunity is the rule for past violations, it should come as no surprise that it also prevails for current crimes. Human

rights defenders in particular remain subject to ongoing threats, harassment and, in some cases, fatal attacks.

In contrast to these deficiencies, there is cause to celebrate the accomplishments of many national courts throughout the world, which have sought to assume an assertive role in combating impunity and protecting a range of human rights, including, increasingly, in the social and economic spheres. Examples can be drawn from courts in Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Croatia, Ecuador, Finland, Germany, India, Latvia, Mexico, Portugal, South Africa, Switzerland, the United Kingdom, and several courts in the USA.

In addition to the classic institutions of governance, attention must be paid to the preservation of civil society's space. Although civil society's transparency represents a crucial element of its legitimacy and efficacy, the trend to adopt or amend legislation pertaining to the creation, functioning, control and closure of nongovernmental organizations must be kept under careful scrutiny, as it may have a serious impact on human rights defenders. Lawyers, judges, trade unionists, journalists, and students have seen their organizations denied registration, or subjected to unwarranted interferences from the executive and even forced to close.

Mr. President,

OHCHR's presence in the field is a vital part of our mandate. Our activities, engaging the full mandate of the High Commissioner, do make a difference in three significant ways: in the depth of our understanding of a country's dynamics and needs; in opportunities to interact directly with relevant actors, particularly Government officials, in order to strengthen capacity and signal problems as they arise; and in the quality of our interaction with United Nations country teams so as to actualize our efforts to mainstream human rights in the UN system.

The willingness of Governments to include OHCHR in their efforts to promote and protect human rights should be viewed as the most positive indicator of a Government's serious commitment to the realization of rights. In the course of last year, we have established a presence in Nepal, Uganda and Guatemala, and I expect we will soon open an office in Togo. Our continued presence in Cambodia and Colombia also reflect the need for a sustained, longer term investment in the pursuit of action plans for human rights.

Equally important is the access granted to Special Procedures mandate holders. In their monitoring, investigative, and reporting capacities, they are the trusted eyes and ears of the international human rights community. They give voice to the victims of human rights abuses, factual elements to Governments to shape appropriate remedial policies, and will offer invaluable guidance to this Council as they did to the Commission.

In contrast to this level of engagement and interaction, closed door policies must be a source of grave concern. When countries deny access to my Office—or to Special Procedures—or when they otherwise withhold cooperation, we face a dual problem. First, though reports, particularly from civil society, might point to serious urgent or chronic problems, the United Nations is barred from forming its own, independent diagnosis of the human rights situation. Without proper assessment and cooperation, the international community's ability to render effective assistance is dramatically curtailed and human rights violations remain unaddressed.

In that context, I regret that my Office was unable to complete a comprehensive assessment of the facts related to the killings of possibly several hundred persons in May 2005 by Uzbek military and security forces in the town of Andijan, in eastern Uzbekistan. Following our mission to Kyrgyzstan, where we gathered information from eyewitnesses of the Andijan events, the Government of Uzbekistan was unwilling to accede to our request for access to the country. The Government was also unwilling to allow us to monitor the subsequent trials on acceptable terms.

Lack of access is also a grave concern with respect to the serious human rights situation in the Democratic Peoples' Republic of Korea. Reports from refugees, who have escaped the country, describe dire conditions in labour camps, grave food shortages and a lack of the most basic freedoms, such as freedom of expression, religion and assembly. The Special Procedures and my Office have been actively trying to encourage the Government to avail itself of our assistance and the international community's

support to help address these issues. However, to date, our efforts have yielded no result. I have been unsuccessful in engaging in dialogue with the Government—as mandated by the Commission on Human Rights.

In addition, situations of armed conflict, of national emergency, of humanitarian crisis and of occupation raise, inherently, acute human rights concerns.

Widespread breaches of human rights standards in Iraq have been widely reported. Ordinary civilians continue to bear the brunt of violence in the country. In particular, the assassination and intimidation of judges and lawyers is undermining the ability of the courts to carry out their duties. OHCHR is looking forward to cooperating with the newly appointed Government which, I hope, will take the necessary measures to ensure the protection of human rights and full respect for the rule of law in Iraq.

In Myanmar, the marked worsening of the humanitarian situation is a cause for mounting international concern. Particularly exposed are those living in Eastern Myanmar, where intensified military operations in recent months have led to the forcible eviction and mass displacement of thousands of civilians. I would like to take this opportunity to salute Daw Aung San Suu Kyi, the Nobel Peace Laureate, whose birthday fell on June 19, and who continues to be kept under house arrest by the Myanmar Government, having been kept in detention for many years for her peaceful advocacy of fundamental democratic freedoms.

Since the beginning of 2006, developments in the Occupied Palestinian Territories have consumed the attention of the international community. As elsewhere, human rights advocacy can contribute to, but cannot by itself, offer adequate protection to vulnerable civilians. Only a political solution to this long festering conflict will bring an end to the unspeakable suffering and loss of life. But pending that, compliance by all duty bearers with their responsibilities under international humanitarian and human rights law – at the moment sorely lacking – is essential and not for compromise.

As you know, I visited Sudan on the eve of the Abujia peace accords. At that point, violence, both in terms of the frequency and intensity of attacks, had reached a level of gravity not seen since late 2003 and 2004. The Abudja accords are unlikely to yield their intended benefits to the people of Darfur, absent a radical shift of emphasis from State security to human security. In this regard, I urge the Government of Sudan to seek the assistance of UN peacekeepers in its effort to establish sustainable peace.

Finally, Somalia can no longer remain the neglected crisis of Africa. Violence, displacement and chaos are exposing civilians to massive suffering.

Excellencies, Ladies and Gentlemen,

This sombre assessment should not freeze us with impotence. Targeted, but comprehensive interventions and early responses to unfolding crises prevent escalation of harm and contribute to redress. The solutions, resources and instruments for change exist

as they never have before. As you engage this year in ensuring that this Council is able to live up to the expectations that its mere existence has created, I offer you once again my full support and that of my colleagues in Geneva, in New York, and in our duty stations throughout the world.

Thank you.