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# **Vienna + 20**

## **Human Rights are indivisible**



**Opening address**

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**Office of the High Commissioner for Human Rights**

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Excellencies, ladies and gentlemen,

Thank you for the opportunity to journey back into the past, and to measure the distance we have covered since the Vienna World conference on human rights, 20 years ago.

It is also an occasion for me to recall and pay homage to Stéphane Hessel, for whom it is my heart-felt and painful duty to replace at this podium.

A diplomat, writer, member of the French Resistance and survivor of the Buchenwald concentration camp, Stéphane Hessel was an inspiring and beloved example of humility, clarity, perception and depth, and I believe I speak for many of the people in this room when I say that I sorely miss his presence among us today.

I met Stéphane Hessel in Strasbourg in January 1993, at a cross-regional preparatory meeting for the Vienna conference which was being held under the auspices of the Council of Europe. It was barely six months before the conference was due to take place, and the general assumption was that it was going to be a failure. A failure so terrible that it might even lead to a roll-back of human rights protection around the world.

Despite the efforts of some leaders, including former US President Jimmy Carter, there were many disagreements on the agenda. Like the 1968 Tehran conference, 25 years before Vienna, it seemed that the delegations would break apart into blocs, each grasping tightly onto their highly fortified positions — the Western countries favouring the primacy, or exclusivity, of civil and political rights; the East bloc and many developing nations arguing for economic and social rights above all.

In addition, there was a bloc of countries pushing for what they called “third generation” human rights; these spanned a number of variously defined group rights and collective rights. And there was another sizeable group of countries who vigorously argued that the Universal Declaration of Human Rights was in some deep sense the product of a specifically Western culture, possibly imposed by colonial powers, and that in reality human rights should be understood to vary according to the characteristics and traditions of different cultures, so as to accommodate the peoples that were not around the table in 1948.

These were some very deep, very sharp differences — potentially irreconcilable. Moreover, as many of you here today will recall, the world was undergoing a series of tectonic shifts at that time, and some of them seemed extremely ominous.

The collapse of the Berlin Wall had created a global surge of hope, and indeed it was the main factor that had inspired the Vienna conference to be called in the first place. It had seemed to be the right moment for a new world to review its agenda for human rights, from basic principles to implementation.

But at the same time, the cannons were rumbling just next door, in the former Yugoslavia. There were charnel houses and killing fields less than a day’s drive from the conference rooms where our meeting was to take place.

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It was in this difficult, conflicted period — the run-up to what promised to be a very trying conference — that I met Stéphane Hessel on a bus. We were both on our way to the Palais de l'Europe, in Strasbourg. I had no inkling that he was an Ambassador, or that he had worked at the UN during the process of writing the Universal Declaration, or that he was in fact one of the leading figures in our modern human rights landscape. What I knew from the start was that he was friendly, funny, humble, with a sharp mind and no pretensions whatsoever. He was in his mid 70s, though he looked far younger, and he could recite the entire Universal Declaration by heart. Over dinner, poetry spooled out of him. He was both a learned man and completely devoid of ego. It was a joy and a never ending lesson of life to be in his company.

It turned out that Stéphane Hessel had been asked to chair the discussion on the relationship between human rights, development and democracy at that preparatory conference in Strasbourg. And I, who was then the UN Special Rapporteur on summary executions, had been invited to preside the commission on the protection of human rights and development. So we did have quite a lot of work to do in common together with President Mary Robinson of Ireland who volunteered to be the rapporteur of the cross regional Strasbourg conference.

Ladies and Gentlemen,

As our working relationship blossomed, we watched the larger process of developing consensus in Vienna unfold. Just a few weeks before the Vienna conference, Ibrahima Fall, the Secretary-General of the conference, still had quite literally hundreds of parentheses on his draft document for consensus. But gradually those parentheses fell away, and were replaced by agreement.

The key point, I now believe, was acceptance of what became almost a magic formula: the universality, indivisibility and interrelatedness of all human rights. This was the single factor that was most responsible for crafting the agreement that ultimately emerged. It allowed a number of States that had been resisting the entire notion of economic and social rights – because they saw them as a laundry-list of aspirations rather than rights intrinsic to human dignity and freedom – to take these economic and social rights on board, and it really anchored them within our discussions.

For example, the right to development. Several delegations would essentially get up and leave the room if a discussion of the right to development was tabled. There was a very binary mindset: either political rights, OR economic rights. But if you phrased this as indivisibility — as an inter-related and inter-dependant constellation of human rights, each of them a meaningful contribution to enjoyment of the others — those same delegations would stay in the room.

The debate regarding the alleged cultural specificities of human rights was resolved in a manner that to me seemed to strongly recall the legacy of the African Charter on Human and Peoples' Rights, which had been adopted in 1981. Ibrahima Fall was indeed a member of the drafting Committee of the African Charter. The African Charter states that "civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality" and makes liberal reference to the primordial importance of rights and freedoms in traditional African cultures. It seeks, in its article 29, to preserve and reinforce Africa's positive

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cultural values. (One example of those values would be the traditional freedom accorded to griots to criticize without risk of reprisals the conduct of the powerful. This in a sense prepares the way for freedom of expression and information).

This approach — of working with positive traditional values to strengthen attachment to the rights laid down in the Universal Declaration — was a particularly interesting one, given that African countries could not easily be suspected of seeking a colonial domination over other regions. As I've noted, in the run-up to Vienna a number of countries were asserting that human rights varied according to national and regional characteristics. These were countries which had not been present in 1948, when the Universal Declaration of Human Rights was adopted, because they did not at that time yet exist. The underlying notion was that criticism of your government for its failure to respect individual liberty and dignity was a kind of betrayal, a form of cultural imperialism, so that such critics were somehow working in the service of foreign, possibly colonial, interests.

I had myself an experience of this kind and had to confront the then President of Benin, Mathieu Kerekou, while leading an Amnesty International delegation.

Of course all countries *are* not the same, and all voices must, naturally, be heard. But these cultural specificities in no way erode the universality of human rights. Indeed aspiration to equality of all human beings, in dignity and rights inspired the fight against colonialism and doctrines of racial or cultural superiority. And the formula that ultimately created consensus on this point was: you choose your path, but the goal is something we hold in common. Your specificity will influence your way to advance towards the common goal, but that goal — of human dignity and human freedom, via the specific human rights elucidated in the International Bill of Rights — is something we share.

This inclusive approach, which wraps in the resilience and flexibility of every culture's traditions to strengthen a common goal, has since then been used many times, to shield the International Bill of Rights from various specious attempts to alter its integrity with claims of cultural or religious singularity.

And so the Vienna Declaration became one of the strongest human rights documents of the past century. It emphasized that human rights are universal, indivisible, interdependent and interrelated, and took the key notion of universality a step further by committing States to the promotion and protection of all human rights “regardless of their political, economic, and cultural systems.”

Dear Participants,

What emerged from Vienna was powerful new recognition of **women's rights** as human rights. The Declaration called for universal ratification of the Convention on the Elimination of All Forms of Discrimination against Women, and the integration of women's rights into all UN activities. It recommended adoption of the Declaration on the Elimination of Violence against Women and endorsed the creation of a Special Rapporteur on Violence against Women.

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Today, denial of rights to women — including sexual violence and domestic violence, subjects that had always been conceived as private crimes rather than human rights issues — are the subject of detailed reports by all the world's governments in the course of the remarkable Universal Periodic Review, and this concerted global scrutiny of a long-neglected subject is just one of the many achievements of Vienna.

Mindful of the horrific abuse that continued in Bosnia, the Vienna conference was particularly vocal regarding **impunity**. Thus just one month after, the first ad hoc international criminal tribunal since Nuremberg was established, the Vienna Declaration encouraged the International Law Commission to push on with its work on establishing a permanent international criminal court.

A number of you in this room work closely on cases before the European Court of Human Rights, and you will understand the importance of this process.

The Vienna Declaration also amplified treaty implementation and their international and national monitoring. For instance, the Optional Protocols to the CAT, to CEDAW and to the ICESCR provide very important tools for the implementation of treaty bodies obligations; so is the expansion of special procedures to all sets of rights. It also called for new momentum in developing national human rights institutions. The thrust here was to "bring human rights home".

This meant recognizing that human rights are not abstract words on an international treaty, but very real and practical rights to which every child, woman and man in every country are entitled.

They are also not limited to legal cases before the courts, but cut transversally across professions such as education, medicine and more.

National human rights institutions such as the German Institute of Human Rights — which was, I believe, set up following Vienna — are best placed to embed human rights into their home territory.

Vienna also acknowledged the crucial importance of civil society organizations. An unprecedented 800 NGOs were present, and they contributed with striking energy to the proceedings and to the mobilization of public opinion worldwide for a positive outcome of the Vienna Conferences.

Some of them are with us today in this room, as part of the German Human Rights Forum that was established following Vienna, and now counts 48 members.

But today we are seeing human rights NGOs under attack in several countries as "foreign agents" who face surveillance and even unacceptable reprisal. And I wonder, if Vienna were to be restaged today, whether they would be accorded as much prominence and respect as they were in 1993.

Women, children, persons with disabilities, indigenous people, representatives of minorities and migrants: individuals from all these groups testified to their experience at Vienna, and their concerns are reflected in the Declaration and Programme of Action. This laid the foundation for

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further development of international legal standards, their subsequent codification and establishment of means to encourage implementation.

Dear Friends,

It was also in Vienna that, upon an initiative from Amnesty International, NGOs pushed very hard for the creation of a High Commissioner for Human Rights. This was an old, blue-sky notion that had always seemed far too politically divisive and far-fetched to function. Most at the preparatory conference in Strasbourg thought it completely unrealistic. For one thing, how could the East bloc, the West and developing nations ever agree on who would become High Commissioner?

But the remarkable consensus that emerged, day after day, at the Vienna conference, made it possible for the idea of a High Commissioner to be accepted, too.

So as we discuss the legacy of the Vienna World Conference, we do also need to look at everything the Office of the UN High Commissioner for Human Rights has achieved, because in a very real sense, OHCHR is the child of the Vienna Conference.

The post of High Commissioner was created to ensure that an independent, authoritative voice would speak out against human rights violations wherever they occur; to coordinate and supports the work of a range of different bodies; and to bring the weight of the United Nations to the work of supporting human rights for all.

With only two field presences in 1993, OHCHR now operates in 58 countries, and these field offices have increasingly played a human rights protection role — which is the ultimate aim of OHCHR — through their direct interventions, advocacy, monitoring, and contribution to legislative and policy reforms.

OHCHR has also become the focal point for commissions of inquiry and fact-finding missions into violations of human rights and humanitarian law, whether through mandates of the Human Rights Council, the Security Council, the Secretary-General or upon the High Commissioner's own initiative.

In addition to ensuring that human rights promotion and protection has become an integral feature of the UN's peacekeeping and peace building, OHCHR has endeavoured to be increasingly responsive to crises, with a rapid response capability. The Office deploys staff for human rights monitoring or assessments in cases of deteriorating human rights situations, and recently has participated in UN responses to humanitarian crises such as the Haiti earthquake in 2010. These crisis response activities are increasingly contributing to the fight against impunity, and have been paving the way for international criminal investigations opened by the ICC.

In order to play a key role in UN efforts in the most critical situations, OHCHR must continue to expand its crisis capabilities, and explore new opportunities to engage effectively. In the late 90s it became a key member of the UN prevention and early warning framework team. The recent establishment of the UN Operations and Crisis Centre is an opportunity to provide more early-warning and crisis-related human rights information to senior decision-makers. But becoming a

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more systematic, operational and predictable actor in humanitarian and human rights crisis response remains a challenge.

Ladies and Gentlemen,

Alongside the Office of the High Commissioner, the entire human rights system of the UN has grown stronger since Vienna.

The Human Rights Council began its work in 2006, replacing the Commission on Human Rights. The Council has gained credibility for its brave and steadfast positions in the face of controversy. It has adopted approximately 456 resolutions which address a wide range of issues, some of them very sensitive — such as the protection of human rights on the Internet — and others serving to create a consensus on thorny issues such as “combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief.”

In particular, the Human Rights Council has been notable for its successful management of the unique and remarkable Universal Periodic Review. This process — which examines every UN Member State’s human rights record without exception — requires governments to take charge of assessing and challenging each other’s detailed submissions regarding human rights measures in a number of specific topics, including women’s rights, domestic violence and gender-based discrimination. Other stake-holders, including non-governmental organizations, UN country teams, Treaty body experts and Special Rapporteurs, may also be involved in these Universal Periodic Reviews, and I can assure you that it is often a very powerful process.

During its first cycle, which ended in 2011, the Universal Periodic Review examined every UN Member State’s human rights record without exception, and it is now embarked on a second cycle. Implicit in this cycle is the need for every country to make progress regarding a number of benchmarks and recommendations that arose during the first round. Noting that the entire UPR procedure is also webcast — and thus available not only live but also permanently via the Internet — I think there can be no person in this room who does not appreciate what a ground-breaking process the UPR really is, and its potential for creating real advances in human rights in countries across the globe.

In June 1993, there were just 26 Special Procedures with thematic or country-based mandates. Today there are 48 separate mandates with 72 experts appointed by the Council. This combination of independence, expertise and UN-bestowed authority is a powerful one.

The human rights treaty bodies have also grown in number and weight. Two major new international treaties – on Persons with Disabilities and Disappearance – and nine important substantive and procedural Optional Protocols have been adopted since Vienna. In 1993, the seven treaties and protocols had received 742 ratifications by States. That number has grown to 2010 ratifications of 18 treaties and protocols.

Dear Participants

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If we were to gather again in Vienna today, would we have a better text, or would the final declaration fall back from our 1993 commitments?

The global context was ominous in 1993, and it is ominous again now.

I refer not only to the upheavals in the Middle East and North Africa over the past two years, and to the crisis in the Sahel, but also to the painful global financial and economic crises and threats to the environment that make Vienna's focus on economic, social and cultural rights especially relevant. Migrants, minorities and indigenous peoples remain the most vulnerable; the low ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is a matter of great concern.

In addition, terrorism and counter-terrorism have created a situation that seems to once more call into question rights we had thought were agreed on for good. I refer of course to acts of forced disappearance, arbitrary detention, and torture which pull us back to practises unbefitting of mankind.

There has been significant progress since Vienna in tackling impunity for international crimes. In particular, ad hoc tribunals such as those for Former Yugoslavia, Rwanda, Sierra Leone and Cambodia, but also the establishment of the International Criminal Court — the world's first permanent tribunal with powers to prosecute suspected perpetrators of international crimes.

Yet here too, we still have a long way to go. The ICC can only become involved if the State concerned is among the 122 State Parties to the Rome Statute, or if a situation is referred to it by the Security Council. Two important situations – Darfur in 2008, and Libya in 2011 — have been referred, but the Security Council has so far failed with regard to Syria, despite OHCHR's repeated reports of widespread or systematic crimes and violations.

Despite some truly inspiring advances in combating impunity and ensuring accountability both internationally and at the national level, far too many people with command responsibility continue to escape justice following gross human rights violations. Since Vienna, hundreds of thousands of people have died in genocides in Rwanda and Bosnia Herzegovina. The Palestinian territories are still occupied. Massive violations have occurred in Iraq and Sri Lanka. And war crimes continue to be committed in numerous internal conflicts, including those in Afghanistan, the Democratic Republic of the Congo, Mali, Syria and Sudan.

Moreover, despite tremendous progress, there continues to be some resistance within the UN and the international community regarding the priority that needs to be given to human rights issues. The economic context affects the UN as a whole, but has particular impact on OHCHR, which has since its inception been financially fragile. For many years, limited funding to OHCHR (we painfully moved from 1% to 3% of the UN regular budget) revealed unwillingness to support a strong human rights mandate, and this problem may re-emerge.

Many other challenges will face us in coming years. The spectre of discrimination and prejudice continues to fall across entire communities, creating obstacles to free choice, twisting lives, inciting hate and violence on the basis of perceived differences in birth or belief. Thus,

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because of spurious assertions based on national, ethnic or racial origin or religion, Muslim, Jews, Roma, Christians and indigenous people live, in various regions, under the threat of violence, and are prevented from playing full roles in their society.

Another example of such prejudice is the problem of discrimination against lesbian, gay, bisexual and transgender people. Recently there has been significant movement, including the first formal UN debate on the issue, which took place in March 2012 at the Human Rights Council. The atmosphere at the outset was tense and some States walked out rather than engage in discussion. There was also a walk out at the Durban Review conference against Racism and Xenophobia in 2008. But different States were involved and the very fact that there was a structured, formal debate among States was in itself a step forward.

Yet another thorny topic that will require sustained attention in years to come is helping companies and corporations to develop human rights agendas. Important economic actors, both transnational and national, need to understand the nature and legal protection of economic, social and cultural rights; the right to health; the right to housing; and, the right to water. We will also need to provide training and support for partners engaged in the realisation of economic, social and cultural rights, including NGOs, judges, lawyers, and national human rights institutions, as well as civil servants and regulators.

In fact, in a more general sense, translating States' human rights commitments into reality is perhaps the single most important challenge of our time, following a long period devoted more to standard-setting. The demand on OHCHR's field offices for technical assistance has increased steadily, and national human rights institutions can also play a crucial role. We also need to enhance the United Nations' ability to improve the human rights of all. And this means we must also continue striving to mainstream human rights throughout the UN system, particularly in terms of the UN's development agenda. This mainstreaming has been something of a challenging process, to date, but as part of drawing up post 2015 goals, we have seen some significant advances, including on 30 September 2010 when, under the leadership of High Commissioner Navi Pillay, 16 UN agencies agreed on a joint declaration on the human rights of migrants in irregular situation. Human rights are now much more widely regarded as indispensable assets, and, indeed, as the foundations, of a global partnership for development.

Dear Participants,

As we embark today on an agenda that promises to be rich with insight and practical advice, it seems to me I can do no better than to urge all of you to honour the memory of Stéphane Hessel, by striving for a world in which his vision of human freedom and dignity can be realized in the spirit of article 28 of the UDHR. All of us, I believe, are convinced that this world can only come about if there is greater accountability, the complete elimination of discrimination and prejudice, a more equitable allocation of resources, and a globalized freedom from want and from fear. Laws and international bodies are a necessary baseline, but the real work is to strengthen the “girdle of brotherly hands”, and of equally sisterly hands to make human rights, at last, a reality for all.

Thank you.

