

**ADDRESS BY DR. SALIM AHMED SALIM  
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AT THE DIALOGUE ON THE FORMULATION OF  
THE AFRICAN HUMAN RIGHTS STRATEGY.**

**OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS (OHCHR) GENEVA  
5<sup>TH</sup> NOVEMBER 2001**

**Chairperson**

**The High Commissioner for Human Rights  
Mrs. Mary Robinson**

**Excellencies**

**Ladies and Gentlemen**

I would like to convey my sincere appreciation to the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, for inviting me to this Regional Consultative Dialogue aimed at developing an African Regional Strategy on human rights activities and programmes on the African Continent. I feel honoured also for being given the opportunity of addressing this auspicious gathering at the opening session.

I wish to congratulate the High Commissioner and her team for the excellent work they have been doing, and in this particular case for committing themselves to pursuing a participatory approach in their work programme for Africa. By organizing this dialogue, that engages a cross-section of actors on the issue of human rights, you have eloquently demonstrated, Madam High Commissioner, that the task that you and your

colleagues have been assigned, is indeed a collective endeavour that involves all of us in Africa, and the world at large.

In reflecting and conceiving a Human Rights Strategy for Africa, the High Commissioner and her colleagues should further be commended for drawing our attention to the symbiotic linkage between Human Rights and Human Security. Thinking about this later component, that is - human security - has gained currency in the post-cold war period with the re-examination of the whole notion of international security, whereby the focus on the human person is drawing attention on the totality of threats that impinge on social security.

For us in Africa, there cannot be a better conjuncture for engaging in this important dialogue. Indeed, as we enter the new century and new millennium, the Leaders of our Continent and the people at large have reinforced the determination to accelerate the process of realizing the cherished desire of living in unity and solidarity; in peace, security and stability; as well as in conditions of improved welfare for everybody.

This determination was vehemently promulgated in the Sirte Declaration adopted by African Leaders on 9 September 1999, in the Libyan coastal town which has lent its name to the Declaration, subsequently operationalized by the historical signing and ratification of the Constitutive Act, establishing the African Union adopted in Lome, Togo, on 11 July 2000. The process of building the Union within a revitalized framework for cooperation and integration will definitely entail developing dynamic and integrated programmes and activities for realizing the African vision. I

believe that the emerging Regional Strategy for Human Right will constitute an important input to the operationalization of the African Union.

During this same period, our Leaders have been consulting among themselves as well as with other leaders in the International Community to develop a coherent strategy for overcoming the structural bottlenecks that hinder rapid development in the Continent. The initiative that is evolving and the partnerships that are being forged sets Africa into a new trajectory for development within which human rights and human security should feature prominently.

This dialogue, therefore, has implications that go far beyond the Office of the High Commissioner. The final output should have a bearing on the shaping of Africa's destiny at this new conjuncture.

**Chairperson**  
**Excellencies**  
**Ladies and Gentlemen:**

There is a seeming irony that after centuries of oppression and humiliation; through slavery, colonialism and apartheid; and after the gallant struggles by the African people to obliterate these vices by sacrificing martyrs, and being subjected to excruciating hardships, the average African woman and man has yet to enjoy the full gamut of the basic human rights. The irony is compounded by the fact that for almost two decades immediately after independence, almost invariably, every African country was pursuing a development strategy that was oriented to providing the comprehensive basic needs to the people. Couched in various ideological

packages, programmes were put in place with the objectives of empowering and involving the people, catering to their essential needs as human beings, and granting respect and real meaning to their lives in a total manner. The international community was fully supportive of these initiatives, providing the highest level of financial, technical and material assistance.

It was remarkable that during this period, despite the abject poverty that prevailed, a refugee from one country was treated with honour and hospitality in another country to a point, in many places, of enjoying all the privileges of citizenship. Borders were open for asylum seekers almost throughout the Continent.

Of course there were some degree euphoria here and there. However, on the whole, African countries embarked upon the post-independence period with an ardent desire to ensuring human security of its citizens, within a context of an integrated realization of all aspects of human rights. The notion of human rights was embedded into the framework of working towards achieving human development, in its broader sense, without diffusing the distinct importance of human rights. In fact, in a number of African countries there was an endeavour to enshrine a Bill of Rights into the national constitutions. In most cases these rights were justiciable in Courts of Law.

For a number of reasons, whose details may not be relevant for this occasion, the development strategies pursued at this early period did not yield the expected results, including the creation of a foundation for

guaranteeing the broader security of the citizenry. Neither do I have to overstate the consequences of this failure and its political, economic and institutional ramifications. Nevertheless, whatever the outcome, there are important lessons that can be derived from that early period of heightened commitment and expectations, supportive international community, willing governments, and a population sensitive to oppression and humiliation.

I would venture to predict that alongside the distortions and anomalies in the execution of the programmes, the failure to internalize and institutionalize the human right dimension and its linkage with human security within the larger development agenda, contributed significantly to the marginalization and ultimate subordination of human rights issues. There was a strong inclination to pursue high levels of development at the expense of every thing else, including human rights. This was the case even when the avowed mantra of development was - human centredness.

The period through the mid-1970s up to the early part of the 1990s is sometimes designated as the bleak one for Africa's human rights and human security records. It was characterized by a constriction of the space for political participation, erosion of the rule of law, the pervasiveness of abject poverty became the dominant dynamic that captured the African Continent. There was an increasing incidence of *coup d'etats* and unconstitutional changes of governments, heightened physical insecurity and attendant violations of human rights, proliferation of violent conflicts leading to loss of lives, refugees and displaced people, and even genocide of hundreds of thousands of people.

Much of the discourse and thinking about the state of human rights and human security in Africa tends to take as a reference point the trends of this period. Perhaps, there may be a justification for that, may be because there were the most dominant. There is also a tendency, especially when demonstrating the linkage between human security and human rights only to highlight the dismal statistics about poverty and insecurity, and also to catalogue the abuses and violations of human rights when referring to this period.

It is appropriate, however, to acknowledge at the same time, that there have been important initiatives taken in an effort to surmount the challenges of this period. Indeed, Africa does take pride in advancing the corpus of international human rights instrument by developing its Continental norms and institutions, many of which have gone further than the international instruments in advancing the respect of human rights.

As early as the 1960s, recognizing the challenge of the refugees problem in the Continent, at the height of the struggle against the remaining vestiges of colonialism and also apartheid, the OAU adopted the *Convention Governing the Specific Aspects of the Refugees Problems in Africa* as a complement to the *1951 International Convention Relating to the Status of Refugees*. The OAU Convention expands the narrow conception of a refugees as defined in the International convention to include also: “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his/[her] country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his

country or origin or nationality.” The Convention encourages Member States to “use their best endeavours to receive refugees and to secure the settlement of those refugees who, for well founded reasons, are unable or unwilling to return to their country of origin or nationality.” It entrenches an obligation of burden sharing among African States in tackling the problem of asylum and transboundary displacement and reinforces an obligation not to return a person to a place where they are likely to face persecution.

Similarly, in 1977, at its Libreville Summit, the OAU adopted the *Convention on the Elimination of Mercenarism in Africa*. Indeed, the existence of mercenary armies, and the broader phenomenon of what one analyst called ‘mercernarisation’ of warfare, whereby militias and army units become engaged in commercial activities as an integral part of their means of supporting themselves and conducting operations, is a major problem in many parts of the Continent. The OAU Convention against mercenaries, which entered into force in 1985, so far, seems to be the only active international instrument of its kind, bearing in mind that the *International Convention against the Recruitment, Financing and Training of Mercenaries* adopted by the UN General Assembly on 4 December 1989 has not yet entered into force.

The adoption of the *African Charter on Human and People’s Rights* in June 1981 marked a radical development in the collective efforts in African States to develop new norms and standards recognizing the existence of human rights and the need to protect them on the African Continent. The Charter adopted by the Assembly of African Heads of State and Government at its 18<sup>th</sup> Session in Nairobi, Kenya, entered into force on

21 October 1986. In March 1999, it attained full ratification by all 53 members of the OAU, with the deposit of Eritrea's instrument of ratification.

The Charter's expressed purpose is to ensure adherence to the principles of human and peoples' rights, freedoms and duties. It incorporates those human rights already recognized and encoded in various international and regional human rights instruments. Addressing the issue of the necessity for economic and social development in the continent, the African Charter provides for the "right to development" which was not previously or widely acknowledged in other human rights instruments. In this regard, the African countries acknowledged that it is essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality, and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights. Furthermore, the Charter imposes obligation on State Parties, individually and collectively to ensure the exercise of the right to development [Article 22 (2)]. I am confident that the realization of this fundamental right will contribute to achieve a better future for our people.

The African Commission on Human and People's Rights created under the Charter became operational in 1987 and was entrusted with the mandate to promote and protect human rights guaranteed by the Charter. The challenge is to the Commission to ensure that African countries abide by their obligations. I should like to recall at this juncture, the adoption in Ouagadougou, Burkina Faso, by the 34<sup>th</sup> Session of the Assembly of Heads of State and Government of the OAU of a Protocol to the African Charter on



the Establishment of an African Court on Human and Peoples' Rights which aimed at strengthening the mechanism of protection of human rights in the continent. I regret that, to date, only five countries have ratified this important instrument.

Another Human Right instrument that was negotiated and agreed upon is the *African Charter on the Rights and Welfare of the Child*, which was adopted in 1990 and entered into force in November 1999. Among the major components of this Charter is the call to adopt measures for stopping the phenomenon of child-soldiers, as well as eradicate child labour, sexual exploitation of children, trafficking in children and protect children in conflict situations as well as refugee children.

It is important to mention at this juncture that the experience of the past three decades in Africa has underscored the dialectical linkage between the occurrence of conflicts, particularly of the violent nature, and the violation of human rights as well as the obvious threat to human security. While to a large extent major conflicts have been caused by the rampant violation of human rights and threats to the security of certain sections of society, the outbreak of such conflict has led to a further violation of rights, thus creating a vicious circle.

In June 1993, African Leaders decided to establish a Mechanism for Conflict Prevention, Management and Resolution whose primary objective is to anticipate and prevent situations of potential conflict from developing into full-blown conflicts, and to contain and arrest conflicts that have erupted. This Mechanism makes a normative shift and breakthrough in post-

independence Africa and in the history of the OAU by providing a clear legal basis for responding to both conflicts within as well as between African States. It inscribes a collective responsibility to the maintenance of peace, security and stability in the Continent and transcends the old constraints of the OAU Charter that prevented interference into what was considered to be internal affairs, and respecting the sovereignty and territorial integrity of Member States even if atrocities are being committed.

As part of the preventive mandate, measures are being taken to develop an Early Warning System that would enable the anticipation of conflict outbreaks and prepare for their prevention. To a large extent the indicators to be monitored should include the different dimensions of human rights and human security. Likewise, in the process of mediating and resolving conflicts aspects of human rights and humanitarian law have been given primary emphasis. The nature of conflict in Africa today pose a major challenge with regard to giving primacy to the application of human rights principles in the process of conflict resolution. For the OAU, the experience of mediating in the conflict between Ethiopia and Eritrea has been a success and more so because we were able to ensure that human rights were respected. Indeed, it was incorporated in the Agreement, that “parties shall afford humane treatment to each other’s nationals and persons of each other’s national origin within their territories”. This no doubt constitutes an important achievement, which we hope will be carried out successfully in other arena of conflicts. It is equally important that the same spirit should prevail even in times of crisis. We should ensure that human rights are respected at all times. This can be done if we implement the various instruments at our disposal.

In July 1999, in Algiers, Algeria, African leaders adopted the *OAU Convention on the Prevention and Combating of Terrorism*. At this particular time, I need not to overemphasize the importance of this instrument which aims at combating all forms of terrorism and the dangers it poses to the stability and security of States and their nationals. To date, 36 countries have signed the Convention and it is important that the process of ratification which is proceeding, be expedited as soon as possible. The entry into force of this Convention will mark a step towards the realization of one of our fundamental objective: peace, security and stability on the continent.

Finally, in terms of the initiatives being taken in Africa to develop norms and instruments for the promotion of human rights and human security, it is important to mention the Constitutive Act of the African Union that will soon replace the Charter of the Organization of African Unity. This new instrument contains far reaching provisions which incorporate human rights into the core of the new Union. In addition to the objectives enunciated in the OAU Charter, the Constitutive Act goes further and aims at promoting democratic principles and institutions, popular participation and good governance; promoting and protecting human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments, and: promoting cooperation in all fields of human activity to raise the living standards of African peoples.

The Constitutive Act also establishes a new right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity. In addition, the Act commits Member States to the

promotion of gender equality, promotion of democratic principles of human rights, rule of law and good governance; to respect for the sanctity of human life; and to discourage unconstitutional changes of government. Indeed, the Constitutive Act presents new opportunities and challenges for the promotion of human rights and human security in the Continent.

**Chairperson  
Excellencies  
Ladies and Gentlemen:**

I have given this somewhat long catalogue of initiatives taken by the African Leaders in their quest to ensure human security and to build a basis for the promotion of human rights in order to make one simple point. Africa has consistently considered the linkage between human rights and human security to be fundamental. It has endeavoured to realize the full materialization of this linkage and there are important lessons from that experience. For much of the period however, both at the national and Continental levels a number of instruments have been developed and some mechanisms put in place to advance the course of human rights and security. The problem, however, is that few of these instruments have been fully operationalized and applied. The challenge ahead is to ensure that these existing instruments are made to work throughout the Continent. The bottlenecks that impede their full application have to be identified and resolved. The new norms and standards have to be internalized into the every day living of the African people.

Having said that, I wish to make a second point, albeit briefly.

The dominant understanding of the state of human rights in Africa has often focused on the relationship between the state on one hand, and either individuals or communities on the other hand. A major preoccupation of promoting the respect of human rights tends to focus on improving the relationship between these two spheres and the attendant institutional structures.

The experience of the past two decades directs attention to another dimension that gravely impinges on human rights in Africa. This concerns a whole host of factors that are non-coercive and non-state related, which emanate from the environment and sometimes from our daily interactions as individuals. In terms of numbers, it is possible to say that the devastation in terms of undermining human rights meted by these factors has been more in some places than the traditional institutional violations.

I am referring in this connection to factors such as the catastrophe caused by the HIV-AIDS pandemic. Apart from the millions of deaths and physical suffering it engenders, in many places, People Living with HIV-AIDS are being denied their basic rights and subjected to stigma, discrimination, hostility and blatant deprivation of some of their basic needs, including employment. It is these kinds of attitudes that foster the silence that in turn contributes to the further spreading of the disease.

Another factor that impinges on the state of human rights in the Continent is the recent spate of secretarianism and discrimination, which sometimes degenerates into xenophobia. Some of you, I believe, might have been in Durban a couple of months ago, where you addressed this

phenomenon and considered its implications to human rights. The increasing incidence of violence associated with primordial identities, including ethnicity, religion, region, raises serious concern. It is an indication of simmering tensions, often associated with other causes, but end up assuming sectional identities. Definitely such situations constitute a severe threat to human security and urgent attention need to be given towards preventing them.

The scourge of corruption continues to haunt Africa. Whereas one can argue that it is not unique to the Continent, its consequences to society tend to be amplified within the African socio-economic context. Corruption denies a majority of the people equal access to basic rights. Indeed, the whole security of a people is threatened when corruption permeates a society.

All these factors are compounded by the condition of poverty and scarcity that dominate the lives of most of our people. In this respect, it is not only the social and economic rights which are undermined; but poverty has been a contributory factor in hampering the enjoyment of civil and political rights in Africa.

**Chairperson**

**Ladies and Gentlemen**

This second point I am trying to underscore and conclude with is that apart from the violent conflicts that afflicts some parts of the Continent, and which have caused serious violations of human rights, there are other factors

that threaten the overall security of the people in Africa. These threats continue to cause devastation and suffering and contribute to or exacerbate the denial of human rights. And for so long as these threats continue to undermine the security of the people, the enjoyment of human rights will equally be hampered. It is therefore necessary in developing strategies and programmes for the promotion of human rights in Africa the modalities of intervening in these factors need also be addressed.

I thank you.