



Statements and Speeches

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THE COMMISSION ON HUMAN RIGHTS AFTER THIRTY YEARS

A Declaration by Ambassador Yvon Beaulne, Canadian Representative to the Thirty-sixth Session of the United Nations Commission on Human Rights, Geneva, February 4, 1980

The decade which is now ending marks a decisive stage in the evolution of human rights. In the first 30 years of its existence, with the collaboration of the experts of the sub-commission, the Commission has acquitted itself admirably of the tasks which the General Assembly confided to it. Since the entry into force four years ago of the two covenants based on the universal declaration of 1948, the Commission's role has been enlarged. It now acts not only to enunciate principles but also to ensure that they are respected everywhere.

Experience has shown that the implementation of international instruments is much more complicated than their elaboration. The Commission has been faced with resistance and opposition. However, even if the execution of the mandate given it by the international community has become more difficult, the Commission must continue to fulfill it as best it can.

Since 1976 the Commission has improved and reinforced the procedures concerning massive violations of human rights. The debates of the last session served to dissipate a great number of uncertainties and ambiguities on this score, and brought clarification which defined the limits and possibilities of these tools. However, a majority of delegations have drawn back from certain actions, the need for which seems to us even more evident today. The Commission has preferred, for example, to delay the examination of a situation which constitutes one of the greatest tragedies of our time and which a special rapporteur, the President of the sub-commission, described for it in a well-documented report. Other initiatives, notably concerning thousands of disappeared persons and massive exoduses of populations, suffered a similar fate, while the situations which these initiatives were designed to remedy were in the meantime aggravated. Would these situations not have been different if the Commission had dealt with them at the appropriate time?

Many proposals, including some of considerable interest, have been presented to the Commission with a view to improving its performance. Of course it is necessary to seek constantly to ameliorate the methods at our disposal. For myself, I believe that our most important difficulties are not technical in nature. We are not short of time, nor of documentation; we are short of will and sometimes of good will. We could go faster and further if we truly wished to do so.

What paralyzes our Commission above all is the narrow and obsolete conception some governments hold of their responsibilities to the international community for their actions in the field of human rights. However, it is not possible to maintain seriously

today, as certain jurists have done in a less enlightened age, that the manner in which a state treats its citizens concerns it alone. In respect of human rights, states have assumed obligations to the international community of which they are a part. They must, as a consequence, answer for their behaviour in this field, not only to their peers on the bilateral level and to their partners within alliances or collective enterprises, but to all states of the international community.

As representatives of member states of the United Nations we cannot fail to comment on situations which distress our contemporaries, or abstain from seeking solutions to these situations. Such evasion cannot be justified by geographic, historic, ideological, political, racial, religious or cultural affinities. It is the entire international community which is involved in violations of fundamental human rights and not one or another group of governments. Furthermore, public opinion, at least in countries where it can be manifested, is unanimous in rising up against violations of fundamental liberties wherever they occur. Human solidarity cannot be compartmentalized artificially by frontiers. On the domestic level, public opinion has led many governments to modify their attitude towards certain situations so as not to affront the convictions of their citizens; at the international level, this same public opinion has helped to bring about the fall of dictatorial regimes over the past year. Indeed, who can deny the determining role which it has played in the evolution of attitudes with regard to these regimes? Furthermore, there are times when silence is no longer permitted because such silence would imply indifference or acquiescence. To permit crimes to be perpetrated and to multiply without comment, surely, is to become the accomplice of the crime. If one contests the Commission's right to intervene in the internal affairs of states, with a few exceptions, the Commission surely has a duty to intercede on behalf of persons which it has a reason to believe are threatened in their fundamental liberties.

Surely it can interpose itself on behalf of such persons without interfering in matters outside its competence and without drawing upon itself the reproach of meddling in affairs which do not concern it. All governments linked by the same international obligations can legitimately enquire into the manner in which each of their partners acquits itself of its obligations within its borders.

When its efforts are without avail, the Commission has no other recourse than to appeal to public opinion, which remains its ultimate weapon. However, this weapon does not always produce the required effect. Here, too, attempts are made to diminish its impact. It has been said that the cement of the civil multitude remains reason, or more precisely, the exercise of reason.

At the ideal level, the city has but one passion, that of justice, but the desire for justice, even if it involves the heart, finds its scope and its source in the spirit, in the clear idea of what is owed to the citizen by the city and to the city by the citizen. Civilization is born out of dialogue. The political community is a community where people debate. Debate is necessary to the blossoming and development of public opinion, which those who hold the power must know to govern according to the wishes of the people. Where debate is forbidden, where information is directed, where

the press is not free or where censorship reigns, how can public opinion exist? A large part of mankind is unfortunately still deprived of the means of expression.

Despite these defects, the Commission seems less impaired than one might have thought. How otherwise would one explain that so many governments seek to prevent situations in which they are involved being brought to the tables? Still, the Commission is not an international tribunal. Its objective is not to punish governments, but to alleviate the fate of the victims.

To this end, the Commission has experimented with mechanisms which it has been obliged to invent to respond to violations of human rights without wounding the susceptibilities of governments, while at the same time obtaining their co-operation. These mechanisms are now operational, and their use will no doubt become easier. My activities as president did not end at the conclusion of the thirty-fifth session but continued until now in various forms. In this context, it would without doubt be appropriate to follow up on resolution 22 of last year, which envisages meetings of the bureau between sessions when circumstances require, as well as providing the Human Rights Division with the personnel it needs to fulfill its functions. It is of the greatest importance indeed that the Human Rights Division have at its disposal sufficient resources to carry out the increasingly heavy tasks which have been assigned to it. For myself, I wish to take this occasion to warmly thank the Director, Mr. Van Boven, and his staff for their constant support. I have become aware in working closely with them of their great competence, and of their devotion and profound attachment to the cause of human rights.

The Commission has taken prudent steps in new directions, opening for example on the right to development in its regional and national ramifications. Draft conventions on torture and on the rights of the child are now on the way to completion, as well as a draft declaration on the rights of ethnic, linguistic and religious minorities.

We understand it is becoming urgent to envisage intercessional action on the part of the Commission and to extend the duration of meetings of the Commission and the sub-commission. With the agenda items that we have debated in public session, and the situations which we have studied in camera, I believe that the balance sheet is favourable.

However, in comparing these accomplishments with what remains to be done, the results surely seem derisory. How can we not begin with anguish the thirty-sixth session of the Commission, which is opening against a backdrop of armed conflict? The spirit of *detente* is threatened. The world is in a state of alert. It is timely for the Commission to recall that force does not suffice to guarantee security and that peace does not rest on armed force alone. Let me quote in this respect one of the most prestigious champions of human rights and of peace, His Holiness Pope John-Paul II: "in the final analysis, peace is but the respect of the inviolable rights of man".

The champions of human rights must not let themselves be intimidated by the rattling of sabres. Security is not threatened uniquely by military confrontation but by

economic disparity and threats to civil and political rights. National security must ensure the security of citizens and not compromise it. The time has come not to abandon attempts at disarmament but to renew them, not to neglect human rights but to insist that the United Nations and its member States recognize the privileged place they must occupy in international relations.

My predecessor in this forum, President Keba M. Baye, deplored last year that each of us presented himself here bearing instructions and bound by the decisions of his Government. Instead of working to realize a common ideal, many members of the Commission strain their ingenuity to defend fixed political positions, responding to solely ideological and economic interests in an organ which should aspire to universality and whose principal concern should be the dignity of the person. Alas, we are meeting here as representatives of our countries and the Commission is not a debating society where each can unburden himself freely. Diplomats do not live solely by simulation and dissimulation, contrary to the legend attached to their profession; in reality their strength lies in their integrity. If one cannot trust their word, international relations will be constructed on too fragile a foundation. Our official character should not prevent us from conducting ourselves as persons of good faith and good will. Despite all that divides us, let us apply ourselves to developing techniques of practical co-operation. Whatever our differences, I believe that beyond philosophical arguments, we must strive in our work to conciliate in a pragmatic manner the aspirations which are shared by all people and which are evidence of their ineradicable hope for a better, more just and more fraternal society.