



STATEMENT

BY

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SOUTH AFRICAN MINISTER OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT

AT THE 61ST SESSION
OF THE UNITED NATIONS COMMISSION ON HUMAN
RIGHTS

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Chairperson

Madam High Commissioner for Human Rights

Distinguished Delegates

First and foremost I would like to convey my Government's congratulations on Indonesia's assumption of the Chairpersonship of the 61st session of the Commission on Human Rights. As the Asian region assumes this tremendous responsibility to chair this Commission, our thoughts go out to the countries of the region, including African countries, which have been devastated by the tragedy of the Tsunami. We wish you and members of the Expanded Bureau every success on all the challenges that lie ahead. In the same breath we extend our appreciation to your predecessor, Ambassador Mike Smith of Australia, for the professional manner in which he conducted the affairs of the last session.

The UN Commission on Human Rights faces, perhaps more than ever before, serious questions about its role especially in the manner in which it responds to the global human rights challenges. The fact that this Commission has not been able to unite behind its stated mandate has constrained its ability to respond effectively to global human rights challenges. We do not support the assertion that this Commission was created only to condemn human rights abuses. We view the mandate of the Commission as a positive one which calls on all of us to respond constructively to human rights situations by assisting States to create internal capacities to protect and promote

human rights as well as ensuring the elimination of their violations. It follows therefore, that consistent with this mandate we should continuously seek constructive strategies in collaboration with those of our partners requiring our assistance to improve their human rights situations.

Chairperson,

My delegation fully supports the mandate of this Commission. The tendency to selectively emphasise civil and political rights to the detriment of economic, social and cultural rights can only undermine the mandate of our Commission. As it will be recalled, the International Bill of Human Rights is predicated on the two Covenants and the Universal Declaration of Human Rights. Another form of selectivity that we find problematic is to create a false impression that human rights are violated only in the developing countries. Between the last session and now, we have witnessed appalling scenes of torture with impunity in certain parts of the world. We have also sadly witnessed many cases of arbitrary detentions without appropriate remedies to those who have been wrongfully deprived of their liberties. These wrongful acts should not go unpunished and require this Commission to respond in a manner which ensures our collective responsibility to protect the victims of human rights violations.

Chairperson,

The three reports recently published by the United Nations Secretary General present further challenges. In this regard we stand ready to support any initiative seeking a co-ordinated approach to the relevant

recommendations contained in these three reports which are relevant to this Commission. We are fully supportive of the general thrust and approach adopted by the Secretary General's Panel on Threats, Challenges and Change. My Government welcomes and supports the Panel's recommendation on the centrality of the agenda for development as a cardinal element to resolving global threats and challenges.

Professor Jeffrey Sachs, in his Millennium Project Report (MPR) entitled "Investing in Development: A Practical Plan to Achieving Millennium Development Goals" also adequately affirms the centrality of the agenda for development. It is imperative therefore, that we collectively respond to the global threats and challenges by focusing more on development issues. This approach will have the added spin-off effects of addressing the global hopelessness of poverty, underdevelopment and incubated anger of extremity which manifests itself in destructive practices.

Chairperson,

We urge this Commission to demonstrate commitment to the priority issues within its mandate such as the global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance. The 1993 Vienna Conference on Human Rights identified the right to development as a priority for this Commission. The General Assembly resolution 48/141 of 7 January 1994 which created the Office of the High Commissioner for Human Rights specifically highlighted the issue of the realisation of the right to development as

one of the core mandates of the Office of the High Commissioner. We are concerned that four years since the Durban Conference against Racism, the Anti-Discrimination Unit (ADU) in the Office of the High Commissioner for Human Rights remains poorly resourced and serviced and therefore has not been able to fully fulfil its mandate.

Chairperson,

We are encouraged that the evil scourge of trafficking in human beings has received special focus and visibility during this High Level Segment of the Commission. This illegal and immoral trade has exposed the vulnerability of women and children who are its main victims. We appreciate the efforts of the Government of Sweden for having brought this issue to the attention of the international community during this session of the Commission.

Chairperson,

My Government deposited the following instruments of ratification with the Office of the Secretary –General of the United Nations on 20 February 2004:

- The United Nations Convention against Transnational Organised Crime.
- Protocol to Prevent and Punish Trafficking in Persons, especially women and Children, supplementing the United Nations Convention against Transnational Organised Crime.
- Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Organised Crime.

My Government is in the process of drafting legislation dealing with trafficking. However, much more still needs to be done to protect our women and children. We therefore look forward to this session of the Commission in adopting concrete measures to combat this social evil.

Chairperson,

The South African Government is committed to the consolidation of the African agenda which focuses on the deepening of democracy, eradication of poverty and under-development and the achievement of peace and security on our continent. To this end, the African political leadership has put in place new continental structures to further consolidate the African agenda with the view to achieving a continent that is prosperous, peaceful, democratic, non-racial, non-sexist and united, and which contributes to a world order which is just and equitable.

For us as a country, human rights can only be affirmed in their practical enjoyment. It is for this reason that during the first decade of our democracy our main preoccupation was about delivering basic social services to areas where they did not exist before. As a Government we have evolved a social contract to practicalise the enjoyment of economic, social and cultural rights because we believe in their justiciability. It is in this context that my Government fully supports the current initiative spearheaded by the Government of Portugal to elaborate an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The disagreements that exist on the need for this Protocol are

unnecessary because it is the duty of States to ensure delivery on all the rights elaborated in this Covenant.

As South Africa enters the second decade of our democracy, we do so on the understanding that we will continue to consolidate on the achievements of our first decade. We are resolved to deepen democracy and to further strengthen our structures of governance to make them more responsive to the needs of our people. There is a healthy interaction between the Government and other organs of society, such as organised labour, private sector, civil society, non-governmental organisations, and community based organisations, who continuously engage with each other to determine priority issues for our nation building.

As we continue on this path, we are acutely aware of the challenges posed by our three and half centuries of colonialism and apartheid which cannot be erased overnight. Although we are open to criticism and scrutiny by the international community, as evidenced by our open invitation to the Commission's Special Procedures to visit our country if and when they wish, we would appreciate it if such criticism is located within the context of our history.

Chairperson,

The UN year of reform culminating in the Millennium Review Summit galvanised the international community with the UN playing a central role to come up with strategies and an action oriented agenda to effectively deal with the problems that face all of us. To this end, we

support the initiatives contained in the Commission for Africa. In more practical ways than ever before, let us make poverty a history in the affairs of mankind. The best place for us to deal with problems of violations of human rights in a transparent, fair and equitable way is in the Commission.

Releasing human rights reports conducted by some organizations and States that are inaccurate about other countries other than the Commission itself, serves only to contribute to the poisoning of the atmosphere during the proceedings of this Commission. Added to this concern is the slow progress in the Middle East peace process. We believe that peace in the Middle East can only be achieved through negotiations; that only a political solution to the Israeli-Palestinian conflict can guarantee a just, lasting and comprehensive peace in the region.

In this regard, the South African Government welcomed the talks last February between Israeli Prime Minister Ariel Sharon and Palestinian President Mahmoud Abbas in Sharm el-Sheik, Egypt.

My Government regards this first high level contact, in more than four years, between Palestinians and Israelis as a first-step towards the peaceful resolution to the conflict. We hope that this latest contact leads to continued negotiations, which could further lead to the effective dissolution of the current stalemate and thereby create a favourable environment for the implementation of the Road Map in full.

The Road Map provides the best mechanism to address the crisis in the Middle East. South Africa calls upon the international community and the Quartet to revive the Road Map and work towards its implementation, without any preconditions. Otherwise, failure to implement the Road Map threatens to perpetuate the stalemate and instability, which make the Middle East a threat to international peace and security.

Chairperson,

In conclusion, on behalf of my delegation, I would once again like to assure Indonesia, as Chairperson of the Commission on Human Rights, of our full support as it tackles the challenges ahead. I also want to urge the Commission to be positive and proactive as it attempts to fulfil its mandate of assisting nations to construct internal capacities to protect and promote human rights as well as ensuring the elimination of their violations.

Thank you.