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THE VIENNA DECLARATION AND PLAN OF ACTION: AFTER FIVE YEARS

*By Warren Allmand**

Chair – The International Centre for Human Rights and Democratic Development, which I represent, is pleased to be part of the Coalition which organized this conference.

The International Centre is an independent Canadian institution with an international mission. Its mandate is to defend and promote those rights set out in the International Bill of Rights which includes the *Universal Declaration of Human Rights (Universal Declaration)* and the two *Covenants* (the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*).

We do this by advocacy and capacity building through four theme programmes in thirteen core countries, and at the international and regional human rights bodies. That is why we are here, and why we were in Vienna in 1993, principally to organize the special tribunal on Women's Rights as Human Rights, which had considerable impact.

This year we are marking the 50th anniversary of the *Universal Declaration* and the 5th anniversary of the *Vienna Declaration and Program of Action*.

The adoption of the *Universal Declaration* on December 10, 1948 was an outstanding achievement; an important landmark in human history, which Eleanor Roosevelt described as the Magna Carta for all mankind. Today, it is difficult to believe that such a document, with so many basic principles, could have been accepted by so many diverse nations, with different ethnic, religious, linguistic, cultural, and political backgrounds. But it was done. It did happen. These 30 articles, these outstanding commitments, were accepted by the majority of nations, from all continents. This was a recognition by the whole world that certain rights belonged to all human beings. It was a revolutionary development in International Law for two reasons; first, because it was the first time that International Law gave a high priority to individual rights and second, because it dealt with economic and social rights.

The *Universal Declaration*, however, was not a treaty, but a declaration, a proclamation, a statement of universal standards, a manifesto, principally of moral authority.

That is why these principles were made more specific and put in treaty form, with the two *Covenants* in 1966, the *International Covenant on Civil and Political Rights (Covenant on Civil and Political Rights)* and the *International Covenant on Economic, Social and Cultural Rights (Covenant on Economic, Social and Cultural Rights)* (referred to as, collectively, the "*Covenants*").

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Despite these outstanding instruments, the *Universal Declaration* and the *Covenants*, it was recognized that much still had to be done, to codify and enforce human rights principles. New tragedies, new problems and new issues continued to appear. As a result, we had new conventions focussing more specifically on certain issues.

Racial discrimination in 1969, discrimination against women in 1979, torture in 1984, children in 1989 and migrant workers in 1990, plus other International Labour Organization (ILO) and UNESCO treaties. While these instruments represented real progress, there were still problems with ratification, compliance and new forms of violation, which led us to the World Conference on Human Rights in Vienna from June 14-25, 1993 (otherwise known as the Vienna Conference).

The purpose of this conference was, first, to remind all states of their commitments already made in accepting the *Charter*, the *Universal Declaration*, the *Covenants*, and other human rights instruments. Secondly, the goal was to update these commitments in virtue of new and changing conditions, to remove those obstacles which prevented their full realization, to provide for peoples still under colonial or foreign occupation or domination, to more specifically include women and Indigenous peoples whose rights were not fully covered in earlier documents, to provide more effective measures to guarantee and monitor the implementation of human rights standards and, finally, to have nations once again solemnly commit to these fundamental principles and a plan of action.

This conference was a tremendous event, with over 170 states participating and thousands of NGOs, academics, national and regional agencies in attendance. For many NGOs, this was their first major human rights conference and they made an outstanding contribution. Two-thirds of the NGO representatives were from the Southern Hemisphere, compared to only 200 NGOs which attended Tehran in 1968 – mostly from the North. One example of the NGO contributions was the decision to give a platform to the Dalai Lama, who was denied the right to speak at the main conference. Although he had been invited, China objected, and he was turned away, his freedom of speech and expression violated at a major human rights conference. But the NGO conference invited him to speak and gave full attention to his remarks.

It is not possible this afternoon to deal with all the conclusions and recommendations made at the Vienna Conference, but I will deal with what I believe to be the most relevant for this panel. The *Vienna Declaration and Program of Action* had a preamble and two parts. The first part was the *Declaration*, which had 39 articles and dealt with principles. One of the major statements under this part was that all human rights are universal, indivisible, interdependent and interrelated. Another was to reconfirm and clarify the right to self-determination. The second part was the *Program of Action*, which had six sections and 100 articles, a very comprehensive document. Section 1 covered increased coordination on human rights within the United Nations System, which recommended among other things, the establishment of a High Commissioner for Human Rights, more resources, and a stronger Centre for Human Rights. The second section on Equality, Dignity and Tolerance (the longest part), dealt with racism, minorities, migrant workers, women, children, torture, disappearances and disabled persons.

Here the conference recommended, among other things, to complete the drafting of the *Declaration on the Rights of Indigenous Peoples*, and the proclamation of an international decade of the worlds' Indigenous peoples to start in January 1994, to complete the ratification of the convention on migrant workers, to mainstream equality of women throughout the UN system and to increase cooperation between the Committee on Status of Women and the Centre for Human Rights, to appoint a Special Rapporteur on Violence Against Women, to push for universal ratification of the *Convention on the Rights of the Child*, to ban land mines and to raise the minimum age for military recruitment. The third section was on Cooperation, Development and Strengthening of Human Rights, and its principle recommendation was to adopt an optional protocol to the *Covenant on Economic, Social and Cultural Rights* to allow for individual petitions. The fourth section was on Human Rights Education. The fifth section on Implementation and Monitoring Methods recommended the establishment of the International Criminal Court (ICC), the adoption of the *Declaration on Human Rights Defenders*, and the strengthening of the special procedures (special rapporteurs, experts, working groups). The sixth and final section was on follow-up and recommended a review of the progress made on the *Vienna Declaration and Program of Action* by the Secretary General, ECOSOC and the General Assembly in five years time, i.e. this year. We must recall that 171 states approved the *Vienna Declaration and Program of Action*. As a result of this last and 100th recommendation, three regional NGO conferences were held in Canada, one in the west, one in the east, and one in Central Canada at our Centre on May 27, 1998, all of which prepared reports for the Global NGO Review Forum on the *Vienna Declaration and Program of Action* which took place in Ottawa on June 22-24, 1998. The Ottawa forum attracted 250 representatives from 150 international NGOs, civil society institutions and Indigenous peoples from around the world.

Well, what progress has been made? Has the *Vienna Declaration and Program of Action* had any impact? Any success? Well, yes, there has been some. To begin with the position of the High Commissioner has been established and the Centre for Human Rights has been restructured. How this will effectively help the enforcement of human rights remains to be seen. The special tribunals in Yugoslavia and Rwanda were established and they are becoming more effective every month in the battle of impunity, with important judgments on rape and violence against women. More significant was the adoption this summer of the *Statute creating the International Criminal Court (ICC Statute)* and the recent House of Lords judgment regarding Pinochet and immunity. We also have the inauguration of democracy in South Africa in 1994, the adoption of the *Landmines Treaty*, and the Peace Agreements in Northern Ireland and Guatemala. We also had the adoption of the *Declaration on Human Rights Defenders* by the Centre for Human Rights earlier this year and await its adoption by the General Assembly this week.

With respect to women's rights, the Special Rapporteur on Violence Against Women was established; there were breakthroughs on gender violence and gender crimes in the *ICC Statute*, and the Beijing Conference in 1995 went further than the *Vienna Declaration and Program of Action* in affirming women's rights, but it is recognized that

there are still too many reservations to the *Convention on the Elimination of All Forms of Discrimination Against Women*.

Consequently, there are some successes. What about the failures or unresolved human rights problems? Well, there are still too many horrible internal wars and conflicts, i.e. Algeria, Colombia, Kosovo, Sierra Leone, The Congo/Rwanda, Mexico/Chiapas. There is still repression in Burma, Afghanistan, Malaysia and China; we still have the colonization of East Timor and Tibet; nuclear testing in India and Pakistan; and the uncontrolled arms trade with the export of armaments and war from the developed world to the developing world as part of a pattern of economic and cultural domination. We can point to the world-wide distribution of military bases and the arms exports to the developing countries, which during the last 20 years are estimated at \$220 billion.

Then we have the increased use of the death penalty in the United States, Jamaica and Trinidad and the mistreatment and rejection of refugees; and despite the movement to democracy in certain countries, the continuing abuse of security laws and the interference with the judiciary by the executive. With respect to the *Draft Declaration on the Rights of Indigenous Peoples*, not much progress has been made. I was in Geneva last week to attend the working group and no new articles were approved. After thirteen years only two articles have been accepted. In addition, there are the continuing attacks on many of the clauses and principles in the *Universal Declaration*. Some countries, such as Malaysia, China and Indonesia have said that the *Universal Declaration* and the *Covenants* must be reconsidered because they basically reflect Western Judeo-Christian values and not Asian values. This position, however, is not supported by the oppressed peoples of these countries and, therefore, must be strongly rejected. Those values are universal and are attached to all human beings. The Asian values argument is simply a subterfuge for oppressive governments to maintain power.

Finally, we have the record with respect to economic and social rights; the right to food, housing, health care, education and protection against unemployment.

In most countries these rights have been marginalized or rationalized out of existence. There has been an attempt to have them described as options or goals, but not really as rights, totally ignoring the wording and intention in the *Universal Declaration* and the *Covenants*.

Just last week, the United Nations Committee on Economic and Cultural Rights condemned Canada, both the federal and provincial governments, for the violation of their obligations under the *Covenant on Economic, Social and Cultural Rights*. Much of this has taken place under the policies of globalized trade, where there is pressure to scale down social and economic programs to the lowest common denominator in order to be competitive and attract investments. The result has been increased poverty, with more people sleeping in frozen streets, eating at food banks and out of garbage cans, and dying of preventable disease. All of this is happening with GDP and national wealth increasing. The pie is getting bigger, but many are getting less; they are getting smaller pieces. Unfortunately, there is still no optional protocol to the *Covenant on Economic, Social and Cultural Rights* as recommended at Vienna; that is a provision which would allow for

individual grievances and petitions like the optional protocol to the *Covenant on Civil and Political Rights*. Nevertheless, grieving individuals and NGOs are learning how to better use the present system, as was demonstrated in the Canadian review this past month.

As I said earlier, as we begin to correct certain human rights abuses to solve certain problems, new ones appear on the scene. As we approach the new millennium, I see two serious emerging human rights issues, which were virtually not mentioned at Vienna.

The first relates to the elderly and is more applicable to developed countries. While modern science, medicine, and technology have enabled people to live longer, their quality of life and mental health has been declining and in many cases is deplorable; individuals half alive, over-medicated, in wheelchairs and with Alzheimer's disease. There is an increasing number of suicides and a growing use of alcohol and drugs. When I visit homes for seniors, I find them worse than prisoners. These seniors have fewer friends and visitors and little caring there. The attitude seems to be, put them away where we cannot see them. In former days, with the extended family, parents, children, grandparents, aunts and uncles lived close together and took care of each other. As we help people stay alive longer, how do we assure their human rights?

The second issue is similar, and relates to the physically and mentally disabled. As we find cures for physical illness, mental illnesses are becoming more numerous; schizophrenia, depression, addiction. We have all agonized as we follow the *Latimer* case in Saskatchewan. How do we resolve these cases? How do we respect their rights set out in the *Universal Declaration* and the *Covenants*? Do we need declarations on the rights of the elderly? On the rights of the mentally and physically disabled? These are among the challenges before us, they are material for another Vienna.

In conclusion, I want to express my appreciation for the opportunity to address this important conference and to congratulate those who did the day to day organization to put it all together. It is my hope that the deliberations here will have lasting impact and contribute to an improvement in human rights in Canada and abroad.

Thank you.