

# CONTESTATION IN VIENNA: THE UN HUMAN RIGHTS CONFERENCE

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**T**hree regional meetings and four Preparatory Committees formed the backdrop to the World Conference on Human Rights held in Vienna, Austria from the 14th to the 25th of July 1993.

The first regional meeting was that of African states in Tunis in early November 1992. This was followed by the Latin American regional meeting in San Jose in January this year. The final regional meeting was held in Bangkok in April bringing together State representatives of the Asia Pacific region. All three regional meetings allowed access to representatives of human rights NGOs who were able to lobby states delegations and to attempt to influence the final declarations coming out of the three regions.

The declaration coming out of Bangkok however fell far short of the aspirations articulated by Asian human rights activists. It sought to dilute the concept of universality and indivisibility of human rights by speaking of the need to accommodate cultural, religious and historic specificities. The Asian states also sought to invoke the right to national sovereignty in an attempt to preempt what they saw as interference from Western governments on issues of human rights, particularly civil and political rights and their efforts to link development aid to human rights performance.

The Statement made in Bangkok by Ambassador Goonetilleke, the leader of the Sri Lankan delegation could be quoted to illustrate the general stand taken by

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Asian states. The argument of cultural specificity was put thus:

It is evident that in keeping with our different cultural traditions, certain national and regional specificities have emerged in the application and observance of universal human rights standards. Emphasising national and regional particularities does not detract from the universal nature of human rights; rather it is a reflection of varying historical, political, economic, social, religious and cultural realities within which governments ensure these rights. Based on the principles of equality and mutual respect therefore no country should seek to impose on others its own standards or priorities.

This is a difficult argument to follow. There is a set of standards accepted by the international community as universal, that is, applicable to all human beings by the fact of their humanity. The problem is not to let these be affected, in fact diluted, by cultural or whatever specificities but to evolve towards their acceptance by all cultures.

The three Regional declarations together with representations from Western countries who did not have a regional meeting of their own formed the basis of a draft document that was discussed at the final prepcom meeting in Geneva in April. Out of this preparatory process extending over two years, three regional meetings and four preparatory committees emerged the final draft referred to as PC98 which was submitted to the World Conference on Human Rights in Vienna as the draft from which the final declaration was to be hammered out.

The draft declaration spanning 32 pages was riddled with about 200 brackets indicating areas where there was as yet no agreement. Paragraphs dealing with the right to self determination, the monitoring and implementing of human rights standards, the right to development as an inalienable human right, external debt, torture, extrajudicial execution, disappearances and arbitrary detentions, racism, racial discrimination and xenophobia, the role of NGOs in the promotion of human rights, etc. were among the many important matters enclosed in brackets. The document was also extremely thin on specific recommendations and the section dealing with

“action on Human Rights” was almost entirely in dispute, in particular important and essential paragraphs dealing with the strengthening of the UN Centre for Human Rights and the creation of a High Commissioner for Human Rights.

The draft document before the World Conference therefore was fraught with dispute on even the most fundamental principles of universal rights as enshrined in the UN Charter and its various instruments, giving rise to a genuine fear that Vienna would in fact only serve to put the clock back. And although the stated objectives of the Conference were to evaluate the work of the UN in the promotion and protection of human rights and to recommend steps that would improve the effectiveness of the UN human rights instruments and mechanisms, many people doubted the ability of the conference to get beyond the discussion on basic principles.

The proceedings started with some controversy over the denial of access to the World Conference to Nobel Peace prize winner, the Dalai Lama. It was alleged that China had held the state representatives to ransom and into refusing observer status to the exiled Tibetan leader. This led to the boycott of the opening session of the World Conference by 14 other invited Nobel peace laureates. The Secretary General of Amnesty International, an organisation that has won the Nobel Peace Prize, commented that the action “shows the political commitment these governments have to the aims of a conference which is intended to evaluate the progress of human rights in the world and then starts by banning access to a Peace Prize winner”. The Dalai Lama was finally allowed into the NGO area of the Conference Centre amidst much media fanfare and escorted to the Amnesty International tent outside the Centre where he addressed a large gathering of NGO activists and observers amidst a cold evening shower.

The World Conference was preceded by a three day meeting of representatives from over 1300 NGOs who discussed special interest issues in a number of workshops and formulated a common platform for lobbying Government delegates. Regional NGO groupings also decided to lobby government delegates on positions established in the Regional declarations that preceded the World Conference. NGO representatives also incorporated some of the common issues raised in oral statements delivered at the Plenary of the World Conference. As at the Regional Meetings, NGOs accredited by the Secretary General of the World Conference were allowed access to the Plenary sessions and a limited number of representative NGOs were able to gain access to the Main Committee. However NGOs were given only limited access to the all important drafting process. After much discussion and protest, including a walk out of the Austria Centre by NGO representatives, they were finally allowed in on informal sessions of the drafting committee but were

barred from all closed door meetings. While NGOs welcomed the fact that the UN system was finally recognising the value and worth of their contribution in the promotion and protection of human rights, and allowed them access to all of the regional meetings and the World Conference, it was also clear that they were welcome only so far and no further. All the substantive discussion on principles and the setting of standards took place behind closed doors. NGOs had no way of knowing what their governments were proposing, opposing or refusing to take a stand on. All of the lobbying and pressuring was therefore possible only on the basis of hearsay and NGOs were dependent on a few sympathetic and well intentioned state delegates for their information.

In the high powered, specialised and pressurised lobbying process that is a hall mark of the UN system’s decision making process, this reliance on second hand information was woefully inadequate and certainly prevented NGOs from becoming satisfactorily involved in the most important component of the Conference.

The drafting process itself started amidst some hiccups, with certain European nations continuing to raise the issue of NGO participation. China was accused of leading a group of hard line countries intent on stalling the drafting process, while certain Asian states were reported to be continually taking positions in opposition to Western governments. To add to the impasse, Pakistan took every opportunity to express reservations over Indian proposals; Malaysia angrily denied that countries of the South were responsible for the slow progress of the drafting committee and challenged the West to open the drafting process to NGOs and the media, accusing the West of using delaying tactics. All this bickering and delay finally resulted in the Conference working into the small hours of each morning, during the second week, in an attempt to finalise the declaration. Special task forces were set up to discuss contentious issues and work out suitable solutions while the drafters got on with their work. However lack of time did mean that the ‘less’ contentious issues got by while the more difficult issues, in particular sections dealing with implementation and enforcement had to be watered down in the rush to reach consensual agreement.

The section on Self Determination was among the first sensitive issues to be debated. While the opening paragraph declared that “All peoples have the right to self-determination”, the Conference failed to go beyond the recognition of the right to self determination of “peoples living under colonial or other forms of alien domination or foreign occupation.” It failed to recognise the rights of indigenous peoples to self determination or to recognise the right to self determination of ethnic groups living under non-democratic governments engaged in systematic and gross violations of their human rights.



Another issue that was contested with vigor, especially by Asian states, was the universality of human rights. PC 98, the draft document, stated that 'regional and national specificities must contribute to the strengthening of the universality of human rights.' This was rejected after much discussion and the states finally affirmed that human rights are universal. However they did add a rider that "... the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind" while it was "the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms".

Another shortcoming was that the Conference was finally limited to concentrating only on bracketed paragraphs. The chair of the drafting committee steadfastly refused to re-open for discussion any of the paragraphs agreed upon during the final Prep Com in Geneva. This meant that a weak statement on the freedom of expression, dealing only with the media and arrogating to states the responsibility of guaranteeing the media 'freedom and protection within the framework of national law', was adopted. Human rights activists were extremely wary of states being allowed the freedom of using 'national law' to deal with the media, a measure that could spell danger to local journalists and which abdicated the responsibility of the community of states to set international standards to deal with the right to and protection of the freedom of expression. Activists were also most concerned that the crucial issue of communication, so absolutely essential to the protection and promotion of human rights, was totally ignored in the final declaration.

Another paragraph which remained closed for discussion, by virtue of the fact that it had been already agreed upon in Geneva, was that dealing with asylum, racism and xenophobia - this was in spite of the fact that Germany had tightened its asylum laws in the preceding weeks to deny political refugees automatic right to asylum and France had brought to power a right wing coalition government that announced the setting up of a zero immigration target. Many activists were concerned that the further closing of Western borders would lead to a rise in racially motivated violence and insisted that a discussion on racism and xenophobia within the context of strict immigration regulation and asylum laws should have taken place in Vienna.

A further concern was that the focus on the issue of refugees had shifted from one centred around asylum to 'include the development of strategies to address the root causes and effects of movements of refugees and other displaced persons' and their solutions in the country of origin.

A prior decision also meant that States and NGOs were barred from making country specific interventions at the

main sessions of the Conference. However, the Organisation of Islamic Conference (OIC) was able to table a draft special declaration on Bosnia-Herzegovina a day before the end of the conference amidst controversy and protest. The declaration calling among other things for the lifting of an UN arms embargo on Bosnia was both country specific and had to be put to a vote, contravening a Prep-Com decision that no country specific issues would be dealt with in Vienna and breaching the 'principle of consensus' in the decision making process. Of the 143 countries participating in the Plenary vote, 88 countries voted in favour, Austria being the only Western nation among their number. 54 countries abstained and the Russian Federation cast the single dissenting vote. The declaration and vote however remained only a symbolic political gesture as none of the five permanent members of the Security Council voted in favour.

A draft declaration on Angola, calling for the UN to implement an immediate ceasefire, was then tabled by African nations, who insisted that Angola too merited special treatment on par with Bosnia and was adopted by consensus.

The World Conference also served to bring to the surface flaws in both the States and Human Rights advocates positions on fundamental principles of human rights. The NGO Forum ended in complete chaos and disarray and the creation of a new liaison committee in place of the previous joint planning committee. One of the main contributory factors was the invitation issued to former US President Jimmy Carter to address the final session of the NGO Forum. The Latin American and Caribbean NGOs indicated that they were opposed to the symbolism of a former president of the US addressing such an important forum, however the invitation once issued was not retracted and former President Carter was subjected to heckling and booing and denied a hearing. This led many human rights activists and observers to sharply criticise the action as a denial of the right to freedom of expression. "Human Rights were violated...., ironically by Human Rights defenders" said a statement issued by the International Commission of Jurists noting further that "Those who are meant to be the voice of the voiceless silenced Jimmy Carter". The joint NGO committee representing Latin America and the Caribbean however justified its action as a result of the refusal to be granted time before the Carter address to place its opposition to the presence of a former US President at the closing session before the house.

The World Conference on Human Rights commenced following a week-end slaying of at least 20 Somali civilian demonstrators by Pakistani troops forming part of the UNSOM 11 peacekeeping force in Somalia in retaliation to the gunning down of 23 Pakistani troops



by suspected loyalists of warlord, General Aidid. The conference ended preceding the week-end in which President Clinton unilaterally deployed fighter gunships to destroy an alleged espionage centre in Iraq. These events served in no uncertain terms to reflect the dilemma and inadequacy of the UN system to deal with major human rights issues. In particular the UN Charter which allows the Security Council the right to authorise the use of force to prevent aggression and threats to international peace; the role of the UN as a peace-keeper; the decision of when and when not to use force and above all the composition of the UN Security Council. The World Conference and its final declaration unfortunately made scant headway in attempting to redress these inadequacies.

In contrast to the grey carpeted, grey walled, windowless committee and conference rooms in which black suited states delegates made long winded speeches or acrimonious debates, representatives of over 1300 NGOs made the basement of the Conference Centre a dynamic hive of activity and a vibrant mosaic of colour. Every thing from rape to racism; development to democracy; self determination to sisterhood; nationalism to networking; communication to children; Bosnia to Burma; Cuba to China, got discussed in over fifty forums each day. Discussion and debate apart, evenings were filled with music, dance and drama ranging from the Middle East to Malaysia, Latin America to Africa and Asia. NGOs also refused to limit their activities to the basement of the Austria Centre. They bombarded states delegates with slogans, placards and leaflets at the entrance to the Conference Centre. A group of Aztec Indians danced and celebrated rituals to the sun in an attempt to reclaim a sacred headdress stubbornly locked up in an Austrian museum. White headscarfed mothers from the Mayo del Plaza in Argentina joined hands with the 'Women in Black' from Palestine to protest against the military atrocities and rape in war torn former Yugoslavia. Kurdish refugees staged a hunger strike and Sikhs and Kashmiris demonstrated together.

One of the most successful and moving events at the NGO forum was a day long tribunal conducted by the Women's Global Network where a number of women spanning the five continents gave their testimony before a packed audience to a panel of international judges re-telling the horrors of political violence, domestic violence, economic violations and cultural and ethnic discrimination - all abuses of women's human rights. A moving plea against all forms of fundamentalism and religious intolerance ended the testimonies, leaving a never to be forgotten impression on the minds of the hundreds of women and men who attended the tribunal throughout the day. This was part of a highly organised and visible women's lobby that continued its tireless pre-conference work to achieve tangible results in Vienna.

Among the Vienna recommendations were a Special Rapporteur on violence against women; integration of women's concerns into all UN operations; strengthening the convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the passage of the pending Declaration of Violence Against Women. "The task ahead is to ensure that what has been promised is implemented" said Charlotte Bunch, one of the women from the Global Network who worked tirelessly over a period of more than two years to achieve this result at Vienna.

Amnesty International combined its lobbying and negotiating work at the Conference with a high profile public presence in Vienna. An Amnesty tent was situated in a public park adjacent to the Austria Centre and Amnesty organised many public discussions and meetings in the tent that were country specific, open to the public, and sought to accommodate those people and groups barred from the UN sessions. They also set up an Amnesty urgent action kiosk in the centre of Vienna calling on the people of Austria to send signed petitions and messages supporting Amnesty urgent actions to many parts of the world, attempting to stop arbitrary killings, executions and to protect people who had received death threats. Violations of human rights which continue and continued to be made by the very States debating the promotion and protection of Human Rights at the Austria Centre. A march from the Vienna Centre to the nearby Danube island by Human Rights activists carrying cut outs of human figures painted black signifying 'shadows' of 'disappeared' persons, a week end festival of music and cultural 'happenings' on the island, the making of a mosaic of 'faces' depicting the thousands of persons 'disappeared' on St. Stephen's Platz and a demonstration in front of the Austria Centre on the final morning saying 'stop trampling on human rights', where placard carrying activists protested in turn before each Government delegation alighting from their vehicles to attend the final sessions.

The World Conference finally did produce a declaration that affirmed the principles enshrined in the UN Charter of 1948, a step forward from 1948 being that over 180 nation states endorsed the Vienna declaration where only just over 50 states were party to the Charter in 1948. However the 'principle of consensus' in decision making resulted in vague formulations that could mean all things to all people. Nevertheless, the Conference was positive as far as the human rights of women and children were concerned and definitely moved forward in this regard. It also marked the presence and participation on a large number of non-governmental organisations working for the promotion and protection of human rights. NGOs noted that this was valuable access to the UN system. NGOs have finally come to stay and to be heard.