

HUMAN RIGHTS IN THE 1990s

Address by Senator Gareth Evans, Minister for Foreign Affairs and Trade, to Amnesty International Australia, Sydney, on the occasion of Amnesty International's 30th Anniversary, 26 August, 1991.

Two thousand years have not weakened the force of Juvenal's question: who will guard the guardians? Governments guard the welfare of their citizens, but who guards them? Well, for 30 years now, with courage, accuracy and impartiality, Amnesty International has done just that. I have been a long-standing member of Amnesty and a willing participant in its efforts to defend the fundamental rights and dignity of the individual. It has sometimes earned criticism and sometimes applause but always recognition of its importance in the effort to win greater international observance of human rights.

Over those thirty years, and particularly in very recent years, significant changes have taken place in the nature of the human rights issues preoccupying the international community and the way in which it deals with them. The outstanding development - one that has affected almost every item on the international agenda - is the decline of ideological and security competition between East and West. The collapse of communist regimes throughout East Europe and in the republics of the Soviet Union has been accompanied by a dramatic expansion of democratic freedoms. Individuals and groups which, only a short time ago, were the object of repeated representations from Western governments and non-government organisations now enjoy at least the rudiments, and in many countries much more than that, of political and civil liberty.

The failed coup in the Soviet Union last week underlined dramatically how fragile some of this achievement has been, and what stood to be lost in terms of human rights from a reimposition of authoritarianism. Quite apart from what was at stake within the Soviet Union itself, in multilateral forums the cooperation of a reformist Soviet government has been invaluable on human rights matters. Its attitude in the Commission on Human Rights has opened the way for the United Nations to address the human rights situation in such

countries as Cuba and Iraq - with Libya, the only countries in the world to support the coup. And the Soviet Union's more reasonable attitude on human rights has had a sobering effect on states which could once rely on its diplomatic protection.

The magnitude of the changes in Europe has obscured similar although slower developments in some parts of the Third World. Over the last decade authoritarian and repressive regimes in Latin America have steadily given way to democratically elected civilian governments which have tried, sometimes against the odds, to restore political and civil freedoms to their citizens. In a number of individual states of Asia and Africa - among them Uganda and Mongolia, but nowhere more obviously than in South Africa itself - dramatic advances have been made.

At a different level, in the Middle East we have seen the attempts of the international community, acting on the basis of United Nations Security Council resolutions, to provide physical protection for Iraq's Kurdish minority against Iraq's own government. If the international community can act like this in Iraq, can it then intervene elsewhere to protect the human rights of other groups? The principles of sovereignty and non-intervention being as strongly entrenched as they are, at this stage the international community is not ready to provide an affirmative answer - but the probabilities are that, one way or the other, "exceptional circumstances" will continue to be defined from time to time.

All these developments amount to an immense advance in the protection of civil and political rights: those recognised as universal by the international community and embodied

specifically in the International Covenant for Civil and Political Rights, and more generally in the Universal Declaration of Human Rights - including the rights to life, to freedom from arbitrary arrest and torture, to freedom of movement, speech and association, and to vote and participate in public affairs.

It has to be said, however, that for all these advances, the battle for universal recognition and observance of these rights in practice is by no means won. There are continuing problems in several East European countries, most spectacularly in Yugoslavia but not confined to there. And, more worryingly, in a number of developing countries - including some in our own region -

something of a rear-guard action is being fought against the notion that the familiar civil and political rights are really universal rights at all.

The argument is made that the International Covenant on Economic, Social and Cultural Rights is the only real touchstone for developing countries. At its strongest, the argument is that political and civil rights have no real application at all in non-Western societies, being based on values developed in very different religious, cultural and social environments. More often the argument is that these are subordinate, later in the queue: economic development must have priority, since it enables the conditions to be addressed which give rise to human rights abuses.

These are not arguments that these days have much persuasive force. Neither Australia, nor the international community as a whole (as evident from the terms of the Universal Declaration of 1948 and the two International Covenants of 1966), accepts that economic rights must take precedence over political rights, or that the two are mutually exclusive. A society which respects and promotes individual freedoms - with the mobility, expressiveness and inventiveness that go with them - is more likely to enjoy economic growth than one in which collective or state rights suppress civil or political freedom.

But the questioning of the validity or primacy of political and civil rights was all too clear in the developing world's support for the arguments used in the Commission on Human Rights by the Chinese Government to defend itself after the Beijing massacre. China argued that the interest taken in its treatment of its own citizens by outside governments amounted, under the terms of the United Nations Charter, to interference in the internal affairs of a country. China proclaimed its right to restore order by any means to maintain the collective well-being - a well-being which it saw in economic rather than political terms.

A growing concern is that with the strength developing countries now have in international forums, including the Commission on Human Rights, these kinds of views will be translated into international humanitarian law. Thus, ironically, as the East-West stalemate on human rights has given way to real progress, a North-South divide threatens to emerge that, if not handled carefully, could impede the spread of that progress. I don't wish to overstate the problem: my own experience, in discussions over the years with colleagues and friends from a range of cultural backgrounds, is that when you finally get down to it they do

not deny the fundamental, universal nature of both civil and political and economic, social and cultural rights. But it is an issue to which we, and other countries who share our values, have to be alert and sensitive in the conduct of our own human rights policy.

Australia's level of activity on human rights issues is, on most reckonings, greater than that of any other country in the world. In 1990, which was not particularly exceptional, we raised 460 new cases of human rights concern involving individuals or groups in eighty-two countries, as well as pursuing cases first raised in earlier periods. I have tried to ensure that those representations have been characterised among other things by absolute consistency of approach as between different countries, close attention to detail, and a willingness to respond to criticisms directed at us.

We certainly accept that International covenants impose obligations on Australia just as much as on other countries. In this respect, for example, we were happy to present, earlier this month, reports on race relations in Australia to the Committee of the Convention on the Elimination of all Forms of Racial Discrimination. And I am pleased to say that we have recently taken a major step forward in more fully embracing our international human rights obligations by announcing our intention to sign the first Optional Protocol to the International Covenant on Civil and Political Rights. We had for too long been dragging our feet on this, which involves recognising the competence of the international Human Rights Committee to accept complaints from individuals alleging violations of their civil and political rights after they have exhausted domestic remedies.

A sensitive question that arises for Australian policy is how to deal with human rights issues in our own region, given the inclination I have already mentioned - which is certainly evident there - to de-emphasise civil and political rights in favour of less immediately constraining economic, social and cultural rights.

The basic approach we have adopted is not to compromise in any way in our own policy principles, but to engage in constructive dialogue rather than counter-productive declamations. The best hope of achieving an improvement in the observance of human rights lies in a non-confrontational approach based on mutual understanding. We are trying to understand regional perspectives on human rights, not necessarily with a view to accepting them, but in the hope that

we can reach a common agreement on how better to observe human rights. Our emphasis all the time is on there being certain universal values which apply to people irrespective of their cultural, social or religious background. And our method is to try through rational and open discussion to establish common ground out of different perceptions.

As a Western country living squarely within the developing world, and one which has worked consistently in international forums to develop understanding between western and developing countries, we have reasonably good credentials for this task. Regional countries might not welcome our bilateral and multilateral approaches on human rights matters, but they do take them seriously. The level of our activity, its non-discriminatory and universal approach, and our willingness to accept international scrutiny of our own behaviour have all given us real credibility as a country with genuine, non-political objectives in the human rights field.

In considering how to move these dialogue processes forward, there are a number of specific strategies which suggest themselves - at the fully international level, the regional level and bilaterally. Let me spell out some of them.

In making international mechanisms, particularly the Commission on Human Rights, work more effectively, it is helpful to appreciate that most countries are more willing to cooperate with scrutiny of their human rights records by thematic rapporteurs rather than specific country rapporteurs. The Sri Lankan Government, for instance, resisted the appointment of a rapporteur to investigate allegations of human rights violations in Sri Lanka itself, but has cooperated with a working group charged with the investigation of disappearances on a world-wide basis.

Again, more countries might be amenable to concerns about human rights if less use were made in the Commission of confrontational and condemnatory language. These ringing resolutions can sound fine but achieve little. In cases such as these, it is not essential that the process be up to the perfectionist canons of developed countries, as long as there is enough agreement to get a process going which could lead to better observance of human rights. That agreement is

far more likely to arise from an approach based, where possible, on consensus and cooperation.

Again, I would like also to see the United Nations and countries interested in human rights pay more attention to preventive measures that could be of real, practical benefit. Training and education could be provided to the judiciary, the police and other relevant bodies to help them meet their obligations under international covenants on human rights. Non-government organisations could play a role in this. Of course this won't bring about a sea-change overnight. But with something as serious as human rights, we have no right to ignore the possibility of incremental but real advances.

On the regional level, Australia has long supported the formation of a regional body for the protection of human rights, of the sort that exists in other parts of the world. Other countries, particularly the Philippines and Indonesia, have begun to promote this idea. We believe that the United Nations should increase its activities in the region, perhaps by holding a session of the Commission on Human Rights in it. This would underline to our neighbours that human rights issues are on the international agenda and require the same sort of responsible handling that they are accustomed to give to other items of international cooperation.

Bilaterally, we shall continue to raise human rights cases, relying largely upon Amnesty and other organisations for information on which our approaches are often based. But we can also extend the dialogues on human rights issues that we have already begun with some countries. We shall also strongly encourage the formation of national human rights bodies of the sort that has been established in the Philippines and is being considered by Indonesia - not in the unrealistic hope that these bodies will be a panacea for human rights ills, but because they provide a channel that can lead to a wider awareness of human rights responsibilities.

It is one thing, of course, to have a reasonably clear set of principles and strategies, quite another to make them work in practice. Let me, finally then, give you two recent examples - involving China and Burma - of how we have recently been trying to move the dialogue process forward in our own region.

When I secured last April in Beijing Foreign Minister Qian Qichen's agreement

to receive an Australian human rights delegation, I was under no illusions that we could achieve quick, dramatic results. The aims of the Delegation were serious but realistic. We saw this as an opportunity to impress upon the Chinese Government that its treatment of its own citizens would be the basis of judgement by the international community and affect China's international relationships; to convince the Chinese leadership that its interest lay in the adoption of more humane policies towards its own citizens, irrespective of varying interpretations of human rights; and generally to underline to the Chinese that human rights issues had a legitimate place on the international agenda.

The eight-person delegation, led by Senator Chris Schacht, and containing China linguists and human rights specialists like Professors Stephen FitzGerald and Alice Tay - made its visit for twelve days in July. In the course of its visit it urged the Chinese Government to ratify the major international human rights instruments. It discussed frankly with the Chinese authorities the extent of political freedoms, the fate of political dissidents caught up in the crack-down after the Beijing massacre, the human rights situation in Tibet and other concerns. It made representations about nearly two hundred prisoners of conscience, mostly arrested after the pro-democracy demonstrations and the disturbances in Tibet over the last three years. It obtained for the first time a response on some of these cases.

The Delegation did not take a confrontational stand in its discussions with the Chinese authorities - and I don't hide the fact that some of the discussions were very difficult. It tried to understand Chinese perceptions and the Chinese judicial and penal systems. At the same time it argued that political and civil freedoms were compatible with economic and social modernisation. In the end, the Delegation managed to conduct a substantive dialogue, and the Chinese Government

indicated its willingness to keep open this channel of communication and to receive another visit on human rights matters.

I believe that the visit - a full report of which I will be tabling in the Parliament within the next three weeks - was a success in showing how we can combine our strong attachment to the promotion internationally of human rights with an approach that avoids confrontation and tries to obtain practical results.

The Chinese Government, for whatever motivation, was at least willing to take a first step down the dialogue path. That has proved to be rather more difficult in the case of Burma. The situation in Burma, where a totally unrepresentative military regime continues to repress the clear wish of its people for democratic change, has been one of the region's most serious and long-standing human rights problem areas. Some progress seemed to be being made last year, not least with the acceptance by Burma of an independent expert appointed by the Commission on Human Rights to report on the situation there. But a follow-up exercise this year has so far run into the sand. Australia has been direct and robust in its own response to the situation, and we will continue to be so, but we have to acknowledge that our voice is being taken no more seriously than Europe's, or the United States's or anyone else from the developed world.

One hope is that Burma's ASEAN neighbours will use their influence with the regime to change its approach to domestic political reform and human rights: following discussions between ASEAN Foreign Ministers and ourselves, the Europeans and North Americans at the recent ASEAN Conference in Kuala Lumpur, ASEAN Ministers agreed to take up human rights issues with the Burmese in their own non-confrontational way, initially in the course of a visit from incoming ASEAN Ministerial Chairman Raul Manglapus of the Philippines. It may be that this more indirect approach will be helpful in

breaking through Burma's 30 years of isolationism, and its obdurate imperviousness to external pressure. We can only hope so.

The examples I have given of our approach to regional human rights developments should give a reasonable picture of the overall character of our policy. We shall certainly be sensitive to the aspirations and the perspectives of the developing countries in our region, particularly in the way in which we go about pursuing human rights objectives, but we shall remain robust in our commitment to furthering the observance of all those fundamental human rights widely recognised by the international community. There is no contradiction between these two characteristics: condemnation is sometimes useful, but it is the task of responsible, imaginative diplomacy to find surer ways of achieving our foreign policy goals.

The unique contribution Australia can make will come increasingly from our focus on human rights developments in our own region and from our ability to

help bridge the divide between North and South that will be a central feature of the human rights debate in the nineties. And whatever the nineties bring in the area of human rights, I am sure that the partnership that we have enjoyed with Amnesty so far will continue to produce achievements of which we shall both be proud.

* * *