

*Mary Robinson*  
*The Future of Human Rights Globally*  
*The 2002 Mitchell Oration*  
*Adelaide, Australia*  
*11 November 2002*

Ladies and Gentlemen,

It is a great pleasure to be here in Adelaide and to have been invited by the Equal Opportunity Commission of South Australia to deliver this year's Mitchell Oration. I must say that the thought of actually delivering an oration rather than an ordinary speech is somewhat of a daunting task! When I look back at the distinguished 'orators' who have stood here before me I feel honoured to be part of this annual event.

In accepting the invitation to join their ranks, I was also mindful of the great opportunity of being able to pay tribute to Dame Roma Mitchell. As you all know well, "Roma the First", as she was widely known here at home, was a pioneer in the struggle for women's rights in Australia. My earliest memory of reading about Roma was when she became the first woman appointed as a Supreme Court Judge in Australia in 1965. Her record as Judge, in addition to her role as the first President of the Australian Human Rights Commission, made her a human rights advocate of international acclaim. Even well into her eighties, she travelled far and wide, working on behalf of women, aboriginal and other peoples, the aging and those living in poverty.

In reading about Roma, and talking with those who knew her well, what is clear to me is that her inner sense of justice, even at an early age, shaped her life's work. During her years at university, Australia was in the grip of the Great Depression. Roma understood the plight of her people in human rights terms. As she put it:

*"I always felt that justice demanded that we shouldn't have depression again and I think that strongly influenced me in practice as well as elsewhere."*

What I would like to explore tonight is how that inner sense of justice, so evident in Roma and the countless other advocates who work on behalf of the marginalised and voiceless, often in life threatening conditions around the world, translates into the practical actions needed to address the human rights challenges of our times. I will set these thoughts against my experience over the past five years as United National High Commissioner for Human Rights, during which I saw for myself in countries in every region that despite the many obstacles which remain, the human rights message of equality and dignity continues to resonate and is increasingly being used by civil society to work for change both nationally and internationally.

Clearly, in the wake of 11 September last year, the environment for human rights advances has changed significantly, in some cases putting at risk progress already achieved. Calls for global justice have been increasingly muted by calls for global security.

The terrorist attacks in the United States and subsequent attacks, including last month's horrific events in Bali, together with Security Council consideration of action against Iraq, and heightened tension relation to North Korea, cast a deepening shadow over our attempts to strengthen a culture of human rights internationally. In Bali, many of those who perished were from Australia - and I empathise with you as a national and extend my sincerest sympathies to those who lost family and friends in that senseless act of terrorism. I have previously described such actions as a crime against humanity - all humanity.

Too often we have witnessed that democracy and the rule of law can be the first casualties when human security comes under attack. The first impulse is to crack down in such a way that essential elements of a democratic society, including respect for human rights and the rule of law, are suspended. South Africans have an Afrikaans word for this: 'kragdadigheid', which best translates as the enforcement of power. But in times of crisis it is level heads and the proper exercise of power that is essential for the survival of democracy.

I appreciate that Australia has been faced with such issues in recent years. Having a deal with sizable numbers of refugees arriving on your shores has been an enormous challenge. Indeed, a substantial portion of the recently released Annual Report (2001-2002) of your Human Rights and Equal Opportunities Commission revolves around this matter. I can only echo the unease of the Human Rights Commissioner, Dr. Sev Ozdowski, about his concern over detention centres in this country resulting in the "diminution of an individual's rights" and a lack of regard for the concept of "proportionality" in terms of the actions taken. He argues convincingly the need to fulfil both the "letter and the spirit" of your human rights commitments.

It is this notion of taking these commitments seriously, and recognising our shared responsibility for their implementation in the wider context of an increasingly interconnected world, which I believe is the key to the future of human rights globally. As Professor Alice Tay, the President of the Australian Human Rights and Equal Opportunity Commission, said in her 1998 Mitchell Oration, "the more seriously human rights are regarded, the more secure and elevated the human condition." I couldn't agree more. But that will take new thinking, new approaches and new alliances. In these uncertain times, the human rights movement must, I believe, prove its value once again, both locally and internationally, if it is to succeed in shaping a more just world.

So again, thank you for inviting me to share some thoughts with you this evening on the future of human rights.

### ***Taking human rights seriously***

How do we move on from proclaiming the rights of people and the obligations those rights give rise to on the part of states and the international community, towards effective implementation of those rights and obligations? How can we best ensure that the rhetoric of human rights is matched by reality?

Taking human rights seriously means, first and foremost, holding governments accountable to their legal obligations. We shouldn't forget that governments

have voluntarily made their international treaty commitments. To illustrate this, let me remind you that the United Nations Convention on the Rights of the Child, for example, has been ratified by 191 countries. The Convention on the Elimination of Discrimination Against Women has been ratified by 170 countries. In fact, all the world's governments have ratified at least one international human rights treaty. The human rights agenda is their agenda. Australia has a record to be proud of, having ratified all six core international human rights instruments.

Over the past five years, I witnessed the emergence of a powerful movement for change through civil society groups engaging in a deeper democratic discourse, using the tools of the legal commitments governments have made under the major international human rights instruments. Human rights advocates in different regions of the world are working with governments in preparing the required reports to the six treaty monitoring bodies, and, where necessary, preparing parallel or alternative reports. In my final country visits as High Commissioner over the last few months, I saw this for myself in Cameroon, South Africa, Mexico, and Peru; in Cambodia, East Timor and even beginning in China.

Human rights have become our common benchmark for justice - but they have yet to become our common framework for action. As I stand here today, I cannot but ask the question: Can we honestly say that in most countries, developed and developing alike, these commitments are fully understood and accepted or that the resources necessary to ensure their realisation have been marshalled?

In one sense, the answer is evident: racial discrimination and gender inequality remain daily realities; the most vulnerable and disadvantaged in the world, those living in poverty, are routinely cast aside, even by resource-rich societies; millions of refugees and internally displaced persons cannot return to their homes; religious and ethnic minorities are persecuted; opposition to oppressive regimes is met with brutal force; those who defend the rights of others are silenced, imprisoned, and even killed.

### ***Strengthening national human rights protection***

We need to ask ourselves, why is there still such a gap between aspirations and actions? In seeking the answer, we must consider first the role of the state in today's world. The human rights approach has historically addressed nation states. It has assumed that states have a shared understanding of expectations and performance, are accountable and are capable of reform.

Clearly, bad performance on the part of some governments continues to be caused by lack of respect for the rule of law, by corruption and by repressive measures that prevent accountable governance. What I found, visiting many countries over the past five years as High Commissioner, was a genuine willingness on the part of most governments to make good on their human rights commitments, but a lack of capacity to make meaningful changes in their own national protection systems. By national protection systems, I mean the entire institutional arrangements that function under the national,

constitutional and legal order to ensure that human rights, based on the international commitments of the State, are advanced enjoyed and defended.

Human rights cannot be realised in the absence of effective and accountable institutions. Where courts are corrupt, over-burdened and inefficient, basic civil rights will be violated. Where social ministries are under-resourced, disempowered or lack qualified staff, basic rights to adequate health care, education and housing will remain unfulfilled. Institution building and reform is neither easy nor particularly newsworthy - it is, however, essential.

The future of human rights globally will depend to a large extent on whether countries are successful in building their own national structures to ensure the protection of human rights. These structures will need to respond to local conditions and cultures - in the process respecting ethnic, cultural, religious and linguistic diversity. Independent, national human rights institutions such as the Human Rights and Equal Opportunities Commissions in this country can, if they are adequately resourced and appropriately accessible to the people, be one important tool for transforming the rhetoric of international instruments into practical reality and providing assistance and redress for the people they serve.

Of course, experience also show that national human rights commissions or similar bodies can operate most effectively in societies where the domestic infrastructure reflects the state's commitment to democracy and the rule of law - a pluralistic and accountable parliament, an executive ultimately subject to the authority of elected representatives and an independent, impartial judiciary.

What will it take for national protection systems in every country to be strengthened? First, it will take political will and the full participation of civil society. But I am convinced that won't be enough in many developing countries. There it will also take huge increases in resources. Where will those resources come from? In an age of globalization, what is the extent of our responsibility as a global community to help those countries in strengthening their own systems of governance? They are already faced with the enormous challenge of trying to benefit more from a global economy and "develop" their way out of poverty, while paying off accumulated debt, fighting HIV/AIDs and a host of other priorities. Can we expect that without increased support from the developed world, they will be successful in building the infrastructure necessary for human rights protection?

The future will require that we think in new ways about our individual and shared responsibilities for human rights. Achieving human security requires joint action to address the challenges of our times. Whether it is health, the environment, or the fight against terrorism, to name but a few, individual governments can't make meaningful progress on global issues working in isolation. The same is true for human rights.

You may have heard that I will be devoting a considerable amount of my time over the coming months in helping to build broad-based support for human rights capacity building at the national level. I plan to focus initially on

supporting countries in Africa through the framework of the New Partnership for Africa's Development (NEPAD) and the newly formed African Union. Whatever reservations there may be, African government leaders have committed themselves through NEPAD to delivering pluralistic States with transparent administrations, effective institutions and sound regulatory frameworks, all underpinned by the rule of law and respect for international human rights standards.

African leaders have made the commitments. But questions hang over how innovative approaches such as the peer review mechanism, whereby governments will hold each other accountable for good governance, will be implemented. Clearly, resources - both financial and intellectual - are desperately needed if we are to see meaningful change. Building a national protection system must be country-led, requiring both the political will of the government and the involvement of civil society. And help from the outside must be offered in support, so that the approach is truly sustainable.

My hope is that new and existing links between universities, research centres and professional legal bodies in the North and other parts of the South with counterparts in individual African countries will be developed. In this way, increased resources could be marshalled for projects to support national human rights capacity building.

### ***Globalization and human rights***

While few would question that the primary responsibility for protecting human rights with national governments, there is increasing recognition that if human rights are to be implemented effectively it is also essential to ensure that obligations fall where power is exercised, whether it is in the local village or in the international meeting rooms of the WTO, the World Bank or the IMF.

As power shifts upward and downward, the future of human rights globally will also require that scrutiny follows in both directions. This is the other theme I am planning to explore in my post-UN work. Essentially, my argument is that the binding human rights framework must become part of the rules of the road of globalization, These human rights commitments, along with legal commitments made on environmental, labour and other standards, must play a bigger role in shaping the decisions of governments in every policy arena, domestic or international.

We will need to consider how the human rights framework can help in answering Arundhati Roy's questions in her book, *Power Politics*, in which she writes: "What is happening to the world lies, at the moment, just outside the realm of common human understanding. Who can translate cash-flow charts and scintillating boardroom speeches into real stories about real people with real lives? Stories about what it's like to lose your home, your land, your job, your dignity, your past, and your future to an invisible force. To someone or something you can't see. You can't hate. You can't even imagine". Her critique of globalisation argues passionately for a new "politics of accountability".

It is these complex challenges posed by an insecure era, one that has continuities with the past as well as new threats, risks and mutual vulnerabilities which have led to the new work I am undertaking. I am fortunate to be working on this new project - the Ethical Globalisation Initiative - with three committed partner organisations - the Aspen Institute, the State of the World Forum and the International Council on Human Rights Policy.

We want to explore how the rights-based approach and experience of the human rights community can be brought into the wider debate on globalisation and how those campaigning for a more equitable global market can more effectively use the human rights commitments of governments to work with others in shaping a more ethical globalisation. Many human rights advocates recognise the potential of this normative legal framework to be a vehicle for human development and democracy. Yet little has been done to date within the framework of international human rights norms to protect and promote the interests of those who are currently excluded from the perceived benefits of globalisation.

Today's globalisation has left many people feeling, and rightly so, that they have been left behind. They feel powerless and see their governments as being unable to respond to local and national priorities. Many of the countries which made progress during the 1980s and 1990s in opening up their markets and political systems have recently confronted increased social and economic tensions and some have fallen back into authoritarianism or conflict.

Unlike some critics who believe that globalisation should be stopped or slowed at all costs, my views resonate with those of Amartya Sen, who points out that globalisation is not a new phenomenon. It has been around for thousands of years. It is neither a curse or, as he calls it, "a benediction". He cites various instances of early globalisation, for instance the example of Europe, in 1000AD, absorbing Chinese science and technology and Arabic Mathematics.

On the positive side, Sen believes that globalisation has enriched the world scientifically and culturally and resulted in economic benefits. To reject globalisation in favour of insularity and isolation would be a great mistake. Sen suggests that globalisation offers great opportunities for overcoming different types of insecurities, and yet the nature of the contemporary world also adds to the incidence of these insecurities. For example, what happened on September 11 in New York and the events that followed it illustrate a kind of insecurity that is peculiarly global in style and content. The terrorists are not just "home-spun localists, but globally organised bands of activists". The anti-globalisation protests that we have witnessed over the last few years are among the most globalised events in the contemporary world.

So the challenge we face - and we must face it - is one of addressing equity and fairness in each country and the global community. In my view, this can only be achieved through a human rights-based approach to development. Whist [sic] this might seem to be an obvious assertion, it does require a shift from recognising people in need as individuals with rights, with valid claims,

rather than objects of care, benevolence and charity. Such a shift in our thinking clearly requires a significant change in attitude and practices among governments and development agencies. The need for such a change is becoming increasingly obvious, particularly with the increased commitment to engage people as agents themselves for development.

In past years there have been those who have argued that economic policy is not necessarily synonymous with a central focus on human rights. As many of you now know, I disagree with this view and believe that civil and political rights - the more conventional elements of human rights - go hand in hand with economic, social and cultural rights, sometimes referred to in human rights jargon as "second generation" rights.

One of my partners in the Ethical Globalisation Initiative, the Geneva-based International Council on Human Rights Policy, is working on a draft report which explores the extent to which richer countries are under an obligation to ensure that economic, social and cultural rights are respected and fulfilled in poorer countries. Drawing on legal, ethical and practical arguments, the draft builds a strong case for internationalising responsibilities for these rights.

In an age in which we debate the intervention of outside military forces to stop genocide and crimes against humanity, we must not shrink from the notion that the governments of more powerful countries should do what they can to ensure that basic rights to food, safe water, education, shelter, and health care are met in the developing world. At a minimum, our governments, operating independently and through the framework of international organisations ought to ensure that their own policies, practices and programming do not exacerbate rights deprivation elsewhere.

In reading Alice Tay's 1998 Mitchell Oration, I was challenged by her reflections on economic, social and cultural rights. As she said,

"The clashes and conflicts of rights are now encroaching into the argument concerning the basic provisions of life, such as food and shelter, on the basis that these are basic human rights. The social and political climate points to seeing these needs as an integral part of the human rights discourse. Yet it has also bred an adversarial culture around rights - rights now have to fight each other for a place in the sun."

Although I disagree with her assessment that there is a particular danger in proclaiming these kinds of rights in law as it narrows their content and places the attendant duties and strategies for their realisation in a purely legal context, I agree with her whole heartedly that the full promotion of economic, social and cultural rights will demand a deep cultural change in many societies and across humanity as a whole. As she so eloquently puts it:

"To believe in human rights is to believe that certain values essential to human dignity deserve special protection, and that they should not be sacrificed for the sake of greater efficiency or prosperity or for any aggregate of lesser interests which fall under the heading of rights."

That means thinking in new ways about almost every aspect of human development. With every new program or initiative we undertake, at whatever level, we need to ask questions about the benefits for human rights and the effects on human rights. This should become a standard practice. Only in adopting this attitude can we [sic] hope to mainstream a rights-based approach to development. This applies as much to East Timor and Papua New Guinea as it does to Angola or Mongolia.

Public acceptance of key decisions is essential for equitable and sustainable development. Acceptance emerges from recognizing rights, addressing risks, and safeguarding the entitlements of all groups of affected people, including the poor, women and other vulnerable groups. Decision-making processes and mechanisms should be used which enable properly informed participation by all groups of people, and that result in the demonstrable acceptance of key decisions.

A good example of the type of effective, rights based development practice which I would like to see more of has been proposed by the World Commission on Dams which released its report in 2000. This multi-stakeholder Commission found that while "dams have made an important and significant contribution to human development, and benefits derived from them have been considerable in too many cases an unacceptable and often unnecessary price has been paid to secure those benefits, especially in social and environmental terms, by people displaced, by communities downstream, by taxpayers and by the natural environment." Applying a "balance-sheet" approach to assess the costs and benefits of large dams that trades off one group's loss with another's gain is seen as unacceptable, particularly given existing commitments to human rights and sustainable development.

The Commission report proposed a framework for decision-making which recommended seven strategic priorities, including 1) gaining public acceptance, 2) comprehensive options assessment, 3) addressing existing dams, 4) sustaining rivers and livelihoods, 5) recognising entitlements and sharing benefits, 6) ensuring compliance, and 7) sharing rivers for peace, development and security.

It proposes that a rights-based approach be adopted, in consonance with the United Nations Charter, the Universal Declaration of Human Rights, the United Nations Declaration on the Right to Development and the Rio Declaration on Environment and Development. The Commission report uses these core documents to develop a framework of decision-making based on five core values and shared understandings - equity, efficiency, participatory decision-making, sustainability and accountability. These guidelines can be used in other policy making and development projects as well. It is this type of approach that the human rights community needs to study and foster in other areas if it hopes to make an impact on the direction of globalisation.

The future will depend as well on our ability to make human rights relevant beyond the fields of law, political philosophy or international relations. Human rights must be explored and understood just as much by economists and entrepreneurs as by politicians, philosophers and policy experts.



Take the example of the private sector. There can be no denying that open markets and an increasingly global economy have increased the power and influence of the business sector, multi-national corporations in particular. But it is crucially important that governments retain control over conditions in the workplace and for the way in which vulnerable sectors of their communities may be exploited by business interests.

The corporate sector must be encouraged to make informed assessments of the relevance of human rights to the environment in which they do business. This includes a careful assessment of the effects of moving jobs around the world, sometimes enriching one area but in the process impoverishing another. Equally difficult, it also means considering the impact of corporate activity in countries where human rights abuses are widespread. The effects of globalisation will demand principled leadership to address issues of economic and social equity, the rule of law and meaningful participation in real decision-making.

In many ways, all these issues come down to the need for more human rights education at every level - beginning with how we teach human rights to our children. A strong emphasis on human rights, inclusivity and the values of social and economic justice in the classroom will ensure that children have a well-grounded approach to their own rights and responsibilities as they mature into adulthood. It is also the best place to begin nurturing an understanding of difference diversity. Too often it is inherent difference that is the source violent conflict, between individuals, groups and nations. In making human rights education a priority, we are seeking nothing less than the reconstruction and development of a new moral order through the transformation of all our institutions and minds, while being on the lookout for those purveyors of hatred and xenophobia who still insist that human diversity is an evil to be resisted.

### ***Conclusion***

Ladies and Gentlemen,

I will close by asking all of you a question I find myself pondering a great deal these days: What will history say about how we, at the start of the 21st century, took on the task of fulfilling the vision of human rights forged in the century before?

My hope is that it will show that in a time of unprecedented change, during which humanity was simultaneously being brought closer together by technological innovation and pulled further apart by growing inequalities between rich and poor, we took action because we believed human rights were central to humanity's hopes for the future.

Thank you.