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**Address by  
Ms. Louise Arbour  
UN High Commissioner for Human Rights**

**on the occasion of the  
8th Session of the Human Rights Council**



**Geneva, 2 June 2008**

Monsieur le Président,  
Mesdames et Messieurs les membres du Conseil des droits de l'homme,  
Excellences,  
Mesdames et Messieurs,

Je suis très heureuse de cette occasion qui m'est donnée de pouvoir m'adresser à vous avant que ne s'achève mon mandat de Haut Commissaire à la fin de ce mois. J'ai déjà dit à plusieurs d'entre vous en privé à quel point l'exercice de mon mandat en tant que Haut Commissaire a été gratifiant, et combien j'ai apprécié travailler avec vous pendant de cette phase critique de la réforme du système des droits de l'homme des Nations Unies. Permettez-moi d'exprimer ma gratitude à tous les membres du Conseil des droits de l'homme passés et présents, ainsi qu'aux membres de la dernière session de la Commission des droits de l'homme, pour l'esprit de coopération dont ils ont fait preuve devant le défi du changement et du progrès. En particulier, je tiens à souligner le respect et l'admiration que j'ai pour ceux qui ont conduit ce processus, y compris les ambassadeurs Wibisono de l'Indonésie et Rodriguez-Cuadros du Pérou qui ont présidé les dernières sessions de la Commission des droits de l'homme, ainsi que les Ambassadeurs De Alba et Costea qui ont habilement dirigé les travaux du Conseil des droits de l'homme et ont supervisé la construction des nouveaux cadres institutionnels. Beaucoup d'autres mériteraient d'être remerciés pour cette réalisation remarquable, en particulier les présidents des différents groupes de travail du Conseil et les coordonnateurs des groupes régionaux.

Je tiens également à rendre hommage aux nombreuses organisations non gouvernementales qui ont énormément contribué à la réussite de ce changement institutionnel. Enfin, je suis sûr que vous tous joindrez à moi pour reconnaître le professionnalisme et le dévouement de mes collègues du Haut-Commissariat qui, directement ou indirectement, ont appuyé le processus de réforme tout en maintenant un engagement sans faille à la substance et au but de notre mission.

Je voudrais en particulier exprimer toute ma reconnaissance à deux personnes qui m'ont épaulée très étroitement au cours des quatre dernières années: Mehr Khan Williams et Kyung-wha Kang. Je les remercie non seulement pour le travail remarquable, mais avant tout pour leur appui et leur amitié.

Alors que je m'appête à partir, je voudrais vous faire part de quelques réflexions sur la période de mon mandat. Comme à l'habitude, je vous présenterai aussi un bref aperçu des questions courantes.

Excellencies,

It is indisputable that thus far the reform of the human rights machinery, which the World Summit embraced in 2005, represents the most tangible achievement in the institutional renewal process of the United Nations system. By comparison, other

innovative proposals, such as the creation of a more representative Security Council, still languish in the “to do” folder of reform-minded advocates.

In terms of institutional reform, we must recognize the significance of the Universal Periodic Review process. The UPR could provide a vehicle for scrutiny of the implementation of rights and norms beyond anything ever attempted by the Commission on Human Rights. Two whole cycles of reviews will be necessary before we can fully measure the added value and real impact of the UPR. In the meantime, this process will benefit from the constructive linkages which are emerging with treaty bodies and special procedures. When all States are equitably and transparently called to account for their human rights shortcomings, and when proper remedial prescriptions are articulated by the HRC, it will become apparent that the Council represents more than a distinction without a difference vis-à-vis its predecessor. This should serve to dispel the concern that this body would simply perpetuate the playing out of parochial interests, while failing to generate a cohesive vision of human rights, genuine innovation, and universal compliance with standards and norms.

In my view, the UPR’s effectiveness could be further enhanced through contributions by independent experts and appropriate follow up mechanisms. However, the constructive participation of all States under review has already made absolutely clear that consideration of human rights at the national level is no longer regarded as a taboo.

Since I took office, the special procedures have also bolstered their collective impact and cohesion, as well as the effectiveness of their individual mandates, by creating a Coordination Committee and abiding by the code of conduct adopted by this Council. I am pleased with the wide support that the Council has shown for the large majority of mandates and welcome the extension of those mandates. I encourage the creation of new mandates where protection gaps are identified. The new mandate holders bring considerable experience and expertise to the human rights machinery, as well as new perspectives, which will undoubtedly enrich the work of the Council. I urge this body to continue supporting the vital functions performed by special procedures and to further strengthen this system as a crucial tool in the promotion and protection of all human rights.

In addition to its significant institutional and procedural reforms, the Council has already made its own mark in norm development with the International Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; as well as the Declaration on the Rights of Indigenous Peoples.

Yet skepticism has not been fully dispelled. The Council was designed to ensure and maximize the individual contributions of its 47 members. The pursuit of consensus, often a desirable objective, and the reduction of individual contributions to regional or communal positions may at times erode the clarity with which members of the Council and this body as a whole could and should speak on critical human rights protection issues.

Increasing recourse to special sessions, in a variety of situations, will reinforce the relevance of the Council. I particularly welcome the first thematic special session on the right to food which this body held two weeks ago.

This thematic special session served to illustrate the interdependence and complementarities among rights that the Universal Declaration on Human Rights had envisaged. The Declaration made clear that both freedom from fear and freedom from want are indispensable preconditions to live a life in dignity. It unequivocally linked destitution and exclusion with discrimination, and unequal access to resources and opportunities. Its framers understood that social and cultural stigmatization precludes full participation in public life, as well as the ability to influence policies and to obtain justice.

Yet this unified approach was undermined by the post-War II logic of blocs competing in the arenas of ideas, power, and influence which also affected human rights. With the end of the Cold War, civil and political rights took priority in the domestic and foreign policy agendas of influential and wealthy States, while economic, social and cultural rights have been relegated to the backburner of advocacy.

The Council now has an opportunity to correct this regrettable discrepancy and level the human rights playing field by adopting the Optional Protocol to the 1966 International Covenant on Economic, Social and Cultural Rights. The new Protocol addresses an historic imbalance by establishing also for the Covenant on Economic, Social and Cultural Rights a vehicle to expose violations which is similar to those created since 1966 for other core human rights treaties.

Concerns about the unsatisfactory progress made in the implementation of the Millennium Development Goals, in addition to the current food crisis and the pressing humanitarian demands generated by natural disasters, highlight the need for a comprehensive articulation of fundamental human rights, including the right to life, to security, to food, health and shelter, so as to make explicit the obligations of governments, individually and collectively, and to move from a culture of charity to a culture of entitlements and international solidarity. In this regard, I welcome the newly-established link between the right to development and the MDGs, which helps to mainstream this right into the international community's agenda.

Ladies and Gentlemen,

Ultimately, the gross inequalities tolerated among and between States reflect the pervasiveness of entrenched discriminatory views and practices. Discrimination on the basis of race, ethnic origin, color or creed has long been identified as a prevalent and invidious form of exclusion. This discrimination and all related forms of intolerance must continue to be forcefully combated as prescribed in the Durban Declaration and Plan of Action.

We must guard against using criticism of a State or a group of States as a proxy for the expression of hatred against peoples, their origins or beliefs. We must forcefully condemn all those deplorable and manipulative distortions that hide sinister purposes, such as anti-Semitic or Islamophobic agendas, or that convey any other form of intolerance. At the same time, we should not hesitate to condemn human rights violations, irrespective of the origins of the perpetrators. We must expose abuse without fearing accusations of insensitivity to cultural diversity aimed solely at forestalling reasonable and fair criticism. This approach must be applied to the actions of all States, as well as to the conduct of groups and individuals.

Expanding now on other specific forms of discrimination, let me underscore that it is often both the action and inaction of States, jointly with the behaviour of groups and individuals, that condone or foster gender-based discrimination, frequently leading to violence against women and girls. Public outcry and headlines tend to concentrate on egregious cases of female genital mutilation, sexual slavery, and degrading treatment of all sorts. But “lower intensity” discrimination, often sanctioned by law, makes millions of women second-class citizens, exposes them to abuse and condemns them to daily hardship and suffering, including poverty. A key aspect of women’s legal disenfranchisement in many countries is the limitation placed on their ability to own or manage property, including through unjust divorce or inheritance laws. Women’s freedom of movement is hindered in some States by laws which require male guardianship. Inadequate legal protection or lack of law enforcement often allows violence against women and girls, including rape, to go unpunished.

Likewise, a failure to understand or accommodate diversity has inevitably led to an erosion of the rights of minorities and vulnerable people within a country, and those of individuals who move across borders, including refugees or migrants. Fears and mutual suspicious, engendered by the security environment that has prevailed in the past few years, have exposed minorities to additional risks and abuse.

Let me also point out that the perpetuation of prejudices continue to deny equal rights and dignity to millions worldwide on the basis of nothing more innocuous than their sexual identity or orientation, or their ancestry, in the case of caste discrimination. Whether these are explicitly articulated grounds of prohibited discrimination or not, it remains that they are immutable personal attributes, or, as in the case of religious adherence, they are personal choices that could only be forcibly abandoned at an unconscionable personal cost.

Against this background and the moving target of interests and values, international human rights law cannot be pigeon-holed to deny protection to those whose discriminatory exclusion is real, and who are entitled to turn to the law for their protection. It must provide the best, the most reliable and fairest guidance for managing and protecting the multiple identities that each of us carries and the values and principles that each of us embraces, for ourselves, and for each other.

Consequently, OHCHR is committed to the development of international human rights law in a manner that is responsive to current preoccupations and debates. A case in point regards the exact legal contours of the demarcation line between freedom of expression and hate speech, particularly in relation to religion, in the face of incidents that polarize societies, create tensions and fuel xenophobia and racist attitudes. In order to protect individuals and groups, we must develop a better understanding of the permissible limitations to freedom of expression by taking into account the mandatory prohibition of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. OHCHR will thus organize an expert consultation on this topic which will also provide guidance on how to ensure the fullest respect for freedom of expression both in multicultural societies and in homogenous ones that may have little tolerance for discordant voices.

In order to strengthen our ability to prevent and punish genocide, the worst crime generated by discrimination and intolerance, I have also proposed and reiterate now the need to study the possibility of creating a dedicated mechanism to monitor the application of the Convention on the Prevention and Punishment of the Crime of Genocide. Another option could be pursued by creating an inquiry procedure through an optional protocol to the Convention for the Elimination of Racial Discrimination which could sound an early warning about situations at risk of degenerating into genocide. The Durban Review Conference, scheduled to take place next year, as well as the 60<sup>th</sup> anniversary of the convention on genocide in December, offer two excellent opportunities to begin such a reflection.

Before concluding this thematic update, I would also like to bring to your attention the question of witnesses protection in the high-profile investigations and trials of serious human rights violations that are increasingly undertaken in several countries. In the worst cases, witnesses have disappeared or have been killed. As a result, the judicial process and the population's faith in it have been compromised, while a climate of impunity kept festering. Witnesses in such high-profile cases, testifying as they often do against actors who are or were either part of a State apparatus or closely linked to it, require a particularly sophisticated form of protection. Thus, I call on States to work cooperatively to enact adequate laws and to put in place effective measures of protection in order to ensure the safety of witnesses, the steady flow of testimony, and, the integrity of the judicial process which will ultimately contribute to breaking the cycle of impunity.

Mr. President,

In presenting now some country-specific updates, allow me to contextualize further the concerns I have expressed a moment ago regarding discrimination against migrants. The recent attacks on foreigners in South Africa have shocked and continue to alarm the international community. The Government of South Africa must be commended for taking action in an effort to protect the groups most likely to be targeted. Its decision to impose a moratorium on deportations is also highly laudable. In Europe repressive policies, as well as xenophobic and intolerant attitudes, against irregular immigration and unwanted minorities are also of grave concern. Examples of these

policies and attitudes are represented by the recent decision of the Government of Italy to criminalize illegal immigration and by the recent attacks against Roma settlements in Naples and Milan.

In Somalia, we are still facing a major humanitarian and human rights disaster. Drastic security constraints in that country make it particularly difficult to monitor the dramatic human rights situation and adequately address protection issues. OHCHR plans to deploy a mission to Kenya and Somalia in July tasked with making a first-hand assessment of the human rights conditions on the ground. We are also contributing to strengthening the human rights capacity of UNPOS through the establishment of a human rights unit.

Distinguished Members of the Human Rights Council,

Since we last met, the aftermath of natural disasters in Myanmar and China has continued to mobilize the attention and concern of the international community. I take this opportunity to convey my sorrow and condolences to survivors in these countries for the loss of so many lives. In the face of such catastrophes, no government would ever be fully ready and equipped to respond to all the needs of the population. International assistance is therefore crucial. It is the right of victims to expect such assistance and it is the duty of governments and the international community to do everything in their power to facilitate it. In the case of Myanmar, the obstruction to the deployment of such assistance illustrates the invidious effects of long-standing international tolerance for human rights violations that made such obstruction possible.

Moving to a positive note, I am pleased to announce that on 10 June, my Deputy will sign with the Government of Kyrgyzstan the Memorandum of Understanding establishing an OHCHR Regional Office for Central Asia. This is the fruit of several years of negotiations and a significant step in the advancement of cooperation between OHCHR and the countries of the region. Overall, during the past two years, much progress was achieved in opening OHCHR regional offices. The enduring difficulties in the establishment of a Regional Office for North Africa and one for Southwest Asia are unfortunate. I hope that my successor will be able to bring these projects to completion.

I also hope that Council members will continue to enhance their constructive engagement with the High Commissioner which should be the hallmark of the relationship between the Council and OHCHR. In this regard, I would like to remind you that we are circulating a Strategic Framework for comment.

Ladies and Gentlemen,

Let me conclude this brief overview by celebrating the tangible progress in the promotion and protection of human rights that has been accomplished in recent years by the United Nations. At the same time, I wish to warn against the continued pursuit of narrow parochial political agendas that represents the greatest impediments to the full realization of many rights which are, otherwise, clearly within our reach. Thank you.