

# **The Fight against racism and the rights of minorities in the 21<sup>st</sup> century**

By Gay McDougall

This is not my first time in Australia. I was here in about 2002, but only in Melbourne - and I have learned in the recent days that there is quite a large distinction between Melbourne and Sydney. But it is my first time in Sydney. You know, I've had an interest in Australia for some time. When I was serving on the UN Committee on the Elimination of Racial Discrimination I was assigned to be the Australia Rapporteur to lead the Committee in an examination of the amendments that had just been made in 1998 to the Native Title Act, and it was an experience that was extremely educational for me. I think it was an experience that was a little uncomfortable for the Government of Australia at that time, but it taught me a lot about similarities between the issues that are being coped with here in Australia and many that I see in other places of the world – particularly, now in my work as independent expert on minority issues.

You know, everyone begins by asking me to give them the definition of minorities. Let me just address that right away. It is a definition which does not focus on numbers, but on power relations. One which looks at distinct groups in society - distinct by race, ethnicity, religion, linguistics etc. But those which are the non dominant groups in the society, such that they are unable, because of the history of discrimination and oppression, to enforce and seek to protect rights themselves.

Through my work on CERD for four years - and now I'm completing my third year as independent expert - it is amazing that I can see out there a world of minority groups all living on the margins of their societies. They are all hungry, poor, brutalized by police, excluded from politics and vilified in their national and local medias. For example, they are the Dalits in India, the nearly forgotten Pygmies in Central Africa, the Western Shoshoni who have been robbed of their lands in the south-west part of United States and the Afro Brazillians in the Favelos in Rio and Sao Paulo. They are the Hindus in Bangladesh, and the Muslims in India, the Kurds in Turkey, the Tibetans in China, the Tamil in Sri Lanka the Roma all through Europe, west and eastern Europe,

and of course they are the disposed Aboriginal peoples here in Australia.

I was just, in January, in Thailand for a meeting of a network of groups forum Asia that pulled together minority groups from all over South East Asia. It was amazing the number of groups that came that I was hearing about for maybe the first time. So it is a world full of minority groups out there. And what I have learned over the years is that racism is ubiquitous. It is a global phenomenon, exists in every country, practically every region of the world. I've been thinking that it is made different by language, culture, but the experiences of exclusion and subordination, violence and dis-coordination are remarkably similar from one region to the other.

So there is a world of people out there that are experiencing similar things and they are looking to the international community for a set of laws and standards that might protect their rights. And they're looking for forums in which those expanded rights might be pleaded?

Certainly there is the Universal Declaration of Human Rights, now 60 years old this year. In 1948 it was termed a common standard for all humanity, in a time when notions of equality were really just beginning to be included in documents - international policy documents.

Since 1948, the fundamental rights that are expressed in that declaration have now been elaborated into about six or seven core international treaties. Since I have been here it has been interesting and rewarding to note that Australia has ratified almost all of them. We're talking about the International Convention on the Elimination of Racial Discrimination. On discrimination against women. We're talking about the two covenants, one on civil and political, the other on economic social and cultural rights. The convention on migrant rights. Now, I think we have not quite gotten to that point yet. The Convention on the Rights of the Child and two very seminal, now consensus space declarations. One which guides my work, the Declaration on the Rights of Persons Belonging to a National or Ethnic Religious or Linguistic Minorities, and the relatively new, but hard fought for, Declaration on Indigenous Rights. Again something that I hope your new

government is going to take a good look at, and remove the opposition of Australia to that declaration.

So now we have so much more than the Universal Declaration of Human Rights, a standard for all humanity. Now we have an elaboration of standards and international rights which, I think, when taken with the other, constitute a legal and conceptual framework for the fight against racism, as it is in the 21st century, and the protection of marginalised minorities all over the world. A core of all of these documents, you'll find, is the principal of the right of non-discrimination based on race, and you'll also find the right to equality an affirmative or negative right, as some say, and an affirmative duty on governments.

A framework that recognises both collective and individual rights that are important to group identity and that establishes the obligations and identities of states to guarantee life with dignity for everybody would be heaven for jurisdictions. Everyone - citizen, non citizens, documented, not documented, illegal, legal, whatever - for everyone within the jurisdiction, the borders of the state.

And as I said, importantly it's not just a document of restraints on governments. Government has the obligation to do something affirmative to create the environment in which different cultures can thrive. And of course, when governments ratify, they could take on these obligations. They commit themselves to review and revise their laws, statutes, policies, practices to bring them into conformity with these international obligations. And the government submits to international scrutiny, primarily by treaty bodies - independent experts who review on a regular basis, compliance - but also to individuals like myself - independent experts who are charged by the UN Human Rights Council to go country to country and take an on-the-ground assessment of the implementation. That has given me a unique vantage point from which to learn what racism is about in the 21<sup>st</sup> century.

And so what I want to do tonight is talk about four areas of concern that come up repeatedly - as I come from this unique vantage point - and look at what is happening in terms of racial discrimination in the world today. The four areas of concern are: poverty, xenophobia, hate speech and incitement to hate, and social conflict. I have just got time to say a few words about each category.

## Poverty.

At the conclusion of the world conference on racism at Durban, South Africa in 2001, there were maybe over 180 nations that agreed in the closing document to that conference. I want to paraphrase one of the provisions: They agreed that poverty, under-development and economic disparities are closely associated with racism and racial discrimination. They contribute to the persistence of racist attitudes and practices, which in turn generates more poverty. What is clear, as you travel around the world, is that in every region of the world the most discriminated against minorities are the poorest of the poor. They suffer disproportionate levels of extreme poverty and often it's (because of) deliberate policies of economic exclusion. In all too many cases, they are left behind and disregarded in poverty reduction or alleviation strategies that fail to take their unique circumstances of discrimination and exclusion into account. With these sort of policies, that are supposed to raise all those at the same time, this sort of misses the realities of most minority populations.

In human terms, this translates into families living in extreme poverty and squalor and unhealthy conditions: perhaps in death and bonded labour. (It translates to) illiterate or poorly educated children growing up without hope of a better life - whose childhood is grief and very hard. It translates into communities that are isolated and poorly serviced, where there is a widespread expectation among all members of the community that they will experience ill health and early death: where there is distrust and fear of government, local authorities or police and, in many cases, a justified expectation that they will be under violent attack. The psychological damage to individuals and communities living under these kinds of conditions is immense and it is lasting.

Now a word about newcomers: immigrants, refugees and asylum seekers.

Globalisation has dramatically increased the impetus to (inaudible) on unequal development of various national economies, increased the impetus and the opportunity for the movement of people from the locations of poverty, war or persecution to locations where there is hope - be it in an adjoining country or the next continent. Some move across borders as refugees or asylum seekers. But

increasingly people move as economic migrants documented or undocumented. This is not a new phenomenon. But it certainly is one that has accelerated in recent decades - one that has transformed every country in the world into a nation where there is a population of diverse backgrounds, races, ethnicities, religions and languages. Today, one in every 50 human beings is either a migrant worker, refugee or asylum seeker, or an immigrant living in a country that they were not born in, living there temporarily or permanently. So, that's over 175 million people.

These are not short term trends. This is what our world is like now. As globalisation increases, so too will the labour flows. And this should be considered a benefit to both the sending country and the receiving country. But in almost every place that I've been, in every region in the world, the reaction has been fear, a sense of loss of a national identity, an increase in racially inflammatory public statements and xenophobia. New members of society wind up marginalised, vilified and victimised. They face discrimination in employment, find themselves living in ghettos and socially excluded. Those who are lawfully in the new country nevertheless face pressure to alter their cultural and religious identities as a precondition for full inclusion and acceptance in the new society.

They and their children, for generations, may have to come with feelings of rejection because they simply don't fit some rigid notion of a national identity. They don't fit - maybe they can't fit - those rigid notions of national identity. Those who may not be lawfully in their new countries face lots of extreme vulnerability: the super exploitation of their labour and the unjustified denial of most of the human rights. And then there is the public discourse about diversity.

One of the trends that my colleague, Doudou Diene who is the Special Rapporteur on Racism, speaks of often, is the re-legitimisation of notions of racism in intellectual and political discourse.

There is another context in which this is happening. For example, there are new movements of seeking to position notions of racial superiority in the emerging science of the mapping of human genome and also in empirical data that is coming out of sort of routine scholastic testing. There is a rise in political party platforms which incite or encourage racial divisions through extreme right

white positions on matters of immigration and asylum issues. And in this post 911 world, new credence has been given to the views of politicians that deliberately link issues relating to national security with thinly veiled racist notions about people of Muslim faith or Arab heritage - and they seek to legitimise some of the previously discredited security measures, like racial profiling based on how people look. And these are political tools which are explicitly calling for exclusion and hostility. These are tools that are being used in countries that otherwise consider themselves democratic.

There is also a growing trend of the denigration of religions a la the Danish cartoon incident. For those of you who might be living on the moon, let me say that that is when the anti-Islamic cartoons were published in Denmark that were clearly intended to inflame passions in a sensitive minority community. I just came here almost directly from Geneva, where I was there for a session of the UN Human Rights Council, and this issue was inserted into every single debate that I was either part of or observing. And here is the way the question was being formulated: whether there is a hierarchy of rights placing freedom of speech on a level of protection that is higher than the level of protection that is for freedom of religion or protection against incitement to racial hatred. That is the way that's being formulated.

You know, I think my own mandate under the Declaration on Ethnic Religious and Linguistic Minorities really sort of articulates a better standard than the sort of standards of restraint that governments generally feel are appropriate. That is, under my declaration the governments are not only obligated to tolerance -, I hate the word "tolerance", but anyway - not only obligated to tolerance, but to promote a positive attitude towards cultural pluralism on behalf of the state, but also in the larger society.

So again, the standard is one, not just of the government standing back and saying you know I have (inaudible), but rather that there is an affirmative responsibility on government to create an enabling society where cultures - different cultures - can thrive.

Finally, a word about conflict prevention.

I sometimes think there is confusion about the causes of violent conflicts that arise in societies where there are clearly defined

different ethnic, religious or racial groups. I don't want to be overly simplistic. I think that wars that have ethno-religious components really are deeply complex, and we've got to better understand them if we have the hope of avoiding, in this century, the kind of bloodshed that we saw in the last century. But I think it is really important that we dispel the sense that diversity is in and of itself another cause for tension and conflict: you know – “in ‘this country’ these tribes just can't get along - let's just wash our hands of it - something primordial about it”.

The other thing is, what this leads to besides the obvious, is that there are some countries that, in an understandable quest for national unity and to prevent conflict, conclude that the appropriate thing for them to do is to suppress differences rather than to celebrate them. And I think this is exactly the wrong analysis. I think the when you look closely at these issues - you even look at Kenya - this is a situation where there has just been an explosion and the instant reaction in the media was, “Oh my god! The kykus and the weows! It is something that goes back to the beginning of humanity!” But when you take the time to be an intelligent reader of the circumstances you see that there are more fundamental causes to the conflicts, and they generally lie below the surface, sometimes intentionally varied by those who have an interest in stoking the conflict.

In some situations the purveyors of violence are actually seeking power or profit by immoral or illegal means. And they often find very useful cover in deflecting blame, either on the old ethnic tensions argument, which seems to go down easily with a lot of people out there, or deflecting blame onto those in the society who have been most powerless or more different. I've got a colleague who refers to these people as conflict entrepreneurs. Then they've shown violent conflicts that are caused by failures in governance and public administration systems that either deliberately or inadvertently might be delivered by a capacity problem. They fail to achieve a kind of even handed response to social or political or economic needs in these societies. So in their response, they create a situation where a group identifies as having been targeted or cheated or whatever. So when you look at all these realities, it is all the more accurate to call these kinds of wars conflicts of greed, rather than ethnic conflicts.

But the bottom line is that we haven't learned the early warning signals. We've got to learn to heed the multi-ethnic societies that are on the verge of a meltdown. We've got to develop strategies to help the government and the international community to make appropriate responses before it descends into conflict. And by appropriate responses, I'm talking about structural issues that are persuading government and society to put in place the kinds of normative and institutional infrastructure for equality, inclusion and peace at an early stage before the slide into conflict even begins.

So to wrap up, perhaps it has always been clear, long been clear, that ethnicity and religion are among the most potent mobilising forces in society. But this is suddenly exacerbated when ethnicity or religion also mark the fault lines between the haves and the have nots, between the powerful and the powerless, between those who have hope and those who despair. And these are tensions that exist in all regions of the world, be it Europe, Africa, Asia, the Americas or, I'm sure, here in Australia. Racism and exclusion are practices that generate inequalities that waste human potential, stagnate economic development and, in all too many cases, end in a kind of social instability that can threaten peace and security. Racism robs our communities, our nations, our geographic regions, of the necessary social cohesion that enables everybody to benefit from the richness of diverse populations.

It does make me sad to have to acknowledge that today there seems to be a growing suspicion, not a decreasing suspicion, of otherness or difference everywhere I go. This kind of climate of fear and distrust is dangerously open to abuse by those who might seek to exploit divisions between different religious faiths or those that might wish to justify oppression in the name of national security. So I think these are troubling times. I see my mandate as an independent expert on minority issues as calling on me to promote the fundamental rights for non-discrimination and equality, (to promote) that are the key pillars of the Universal Declaration of Human Rights will be 60 years old in December and which is as relevant today as it was then. And I think this is a message that I have to call on everybody. All of us, we have a responsibility to take this message forward.

So thank you very much for having me here with you this evening. Thank you for the experience I've had in Australia and the opportunity I've had to learn about the issues here. I'm very

appreciative of what I've learned and the kind of openness and fellowship that I've found here today.

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