Human Rights Council 33rd Session

Opening Statement by
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Mr President,
Director-General,
Excellencies,
Colleagues and Friends,

I am honoured to address this first session of the Council’s second decade.

After two years as High Commissioner, I believe it is important for me to share with you in this oral update our concern over an emerging pattern: the growing refusal on the part of an increasing number of Member States to grant OHCHR, or the human rights mechanisms, access – either to countries generally, or to specific regions, when that access is requested explicitly, or in other instances to engage with us.

Why and for what reason, do those who deny access place their shield before us? I intend to devote this statement mainly to this single issue. Before I do, I wish to first draw on some general observations of our present circumstances.

In my statement before the 32nd Session of the Human Rights Council, I questioned the extent to which we did indeed have an international community. It is easy to take for granted we are committed to working together, because we have no choice. The organization we belong to was not created by humanity for trivial reasons, but was exhaled by a world broken and devastated by two immense wars. The entire human rights framework was likewise the product of catastrophe – enlightened yes, but given the scale of wartime savagery, it was created out of the sharpest and most profound necessity. Indeed, even today, the climate change and SDG agenda are anchored, layers deep, in that most strongly-held belief: only by working together can we solve our common problems. There is no alternative. No other choice offering any hope. We must remain committed to collective action.

Yet for some in power today, and others labouring to attain it, it would seem there are alternatives, and they claim to know better. Only dreamers, fools, they seemingly believe, think in terms of ‘we the people’, or in we ‘nations united together’, or in we as individuals who all hold equal rights. What is this United Nations? Outdated, laughable nonsense – bureaucrats and gilded elites! And those who believe this, think little of dividing humans into categories, and frightening or abusing the vulnerable; battering the truth; attacking regional or even international organizations – threatening to withdraw from them, abandon them, and jettisoning international law. And some are on the cusp of attaining political power. Others are already exercising it.

In the next several months, the centrifugal forces tearing away at us will remain strong: terrorism and its main exponent Da’esh, hateful and despicable as it is, will likely continue to mark its presence on us; while the alienation and frustration of many throughout the world who feel short-changed by poor governance and corruption will fuel the work of the deceivers. A number of elections will be held in well-established democracies, with dangerous xenophobes and bigots running for office, and what falls to us then could begin to determine, as never before, the future course of “we the peoples” of this earth. I will address this further next week in New York, at the UN Summit for Refugees and Migrants.
Mr President,

Ten years ago, when the Human Rights Council was created, it was designed to be more relevant than its predecessor; more credible; more impartial; and more focused on the rights and voices of victims.

On each of those points, the Council has achieved important successes. And yet I am concerned about a growing polarisation within this body, as well as by increasing and clear attempts by States to block or evade human rights scrutiny –as I stated at the outset of this update.

I am told repeatedly by members of Government and Permanent Missions that human rights are being misused as a pretext for interference in the affairs of sovereign nations. It is suggested the struggle against discrimination violates cultural values. Officials have protested that human rights officers observing a public street demonstration are "interfering" in the State's internal affairs. Statements by my Office regarding credible allegations of violations – including excessively broad and violent security sweeps; prosecutions that appear politically motivated; and the massive use of capital punishment for crimes not consistent with the norms laid out by the ICCPR – are deemed "biased", "irresponsible", "misleading" or based on "false" premises. Monitoring activities, and advocacy intended to help better protect the people of your countries, are refuted as somehow violating the principle of State sovereignty – or even the UN Charter.

Mr President,

It may be useful to recall the many attempts made by the apartheid régime of South Africa to claim that the General Assembly’s resolutions opposing apartheid constituted a prohibited "intervention" in its domestic jurisdiction. These efforts to shield serious human rights violations from outside scrutiny were conclusively and repeatedly rejected by the General Assembly.

Under international law, wrongful "intervention" – as prohibited in Article 2(7) of the UN Charter – is by nature coercive. And it should be obvious that my Office has no coercive power. No activity that we undertake can possibly be considered constitutive of a prohibited "intervention". We seek to strengthen national protection systems, not violate them. We do not threaten invasion, nor do we finance or organize sedition; we request access, in order to establish a neutral clarity about the facts on the ground. And access only becomes possible when the State extends an invitation to us; it cannot be forced open by OHCHR.

We request access so we can better work to help bring your laws and practices in line with international agreements which you, the States drafted and ratified – and to assist you to comply with recommendations which you have publicly, and often fulsomely, accepted.

Are human rights exclusively a national issue? Governments have the responsibility to uphold their human rights obligations and to respect the standards. But the human rights of all people, in all countries, also require – unquestionably – our collective attention. The Vienna Declaration, adopted unanimously 23 years ago, confirmed this: "the promotion and protection of all human rights is a legitimate concern of the international community." This language was also
echoed by GA Resolution 48/141, which calls on the High Commissioner to "play an active role in removing current obstacles... to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world".

Mr President,

Human rights violations will not disappear if a government blocks access to international observers and then invests in a public relations campaign to offset any unwanted publicity. On the contrary, efforts to duck or refuse legitimate scrutiny raise an obvious question: what, precisely, are you hiding from us?

I classify as refusals of access all unreasonable delays, elaborately ritualised and unreasonably prolonged negotiations, and responses to specific requests which seem to seek to fob us off with inadequate alternatives to real, fact-based assessment. Access delayed is access denied: two weeks is surely amply sufficient to secure a decision from all relevant officials. Claims that insecure conditions make it impossible to give my staff access are also less than acceptable. My staff work with great courage in some of the world's most severely threatened communities, and will continue to do so when called upon – or at least, we could be the judge of that.

States may shut my Office out – but they will not shut us up; neither will they blind us. If access is refused, we will assume the worst, and yet do our utmost to nonetheless report as accurately as we can on serious allegations. Our remote monitoring is likely to involve witness testimony, credible third-party reports and use of satellite imagery, among other techniques. Certainly, remote monitoring is a poor substitute for in-person observation by expert analysts. It makes it more difficult to verify and confirm the competing allegations of any party – including the Government. I regret that imprecision, and encourage all States to assist us to correct it, by permitting my teams unhindered access to events on the ground when requested.

I want to emphasise that some States do continue to cooperate fully. This was recently the case of the Republic of Congo, despite the severity of the violations alleged. The report of that mission is being finalised, and the prompt access granted by the authorities is appreciated.

In contrast, Syria, despite repeated requests, has granted no access to OHCHR or to the Commission of Inquiry since the crisis began in 2011. This is a State led by a medical doctor and yet is believed to have gassed its own people; has attacked hospitals and bombed civilian neighbourhoods with indiscriminate explosive weapons; and maintains tens of thousands of detainees in inhuman conditions. Words cannot convey how profoundly I condemn this situation. The Government, which is responsible for some of the gravest violations on record in the history of this Council, has regularly sent notes verbales to my Office reporting abuses by armed groups. But it offers no possibility whatsoever for independent scrutiny.

For the past two and a half years, Venezuela has refused even to issue a visa to my Regional Representative. Its comprehensive denial of access to my staff is particularly shocking in the light of our acute concerns regarding allegations of repression of opposition voices and civil society groups; arbitrary arrests; excessive use of force against peaceful protests; the erosion of independence of rule of law institutions; and a dramatic decline in enjoyment of economic and
social rights, with increasingly widespread hunger and sharply deteriorating health-care. My Office will continue to follow the situation in the country very closely, and we will state our concerns for the human rights of Venezuela's people at every opportunity. Respect for international human rights norms can create a narrow path upon which the Government and the opposition can both tread, to address and resolve peacefully the country’s current challenges – particularly through meaningful dialogue, respecting the rule of the law and the Constitution. My Office stands ready to assist in addressing the current human rights challenges, and I thank the Secretary-General of the Organisation of American States for recommending that Venezuela work with my Office on a Truth Commission, which could indeed offer the people an important voice.

My concerns regarding the rights of people living in south-east Turkey remain acute. We have received repeated and serious allegations of on-going violations of international law as well as human rights concerns, including civilian deaths, extrajudicial killings and massive displacement. We continue to receive reports of destruction and demolition of towns and villages in the south-east. Due consideration must be given to the humanitarian and protection needs of thousands of displaced and otherwise affected people. I have requested access to this area for a comprehensive independent assessment by my staff. But despite our on-going cooperation with the Turkish authorities across a number of other topics, that access has not been granted. We have therefore set up a temporary monitoring capacity based in Geneva, and we will continue to inform this Council of our concerns. While I thank the Government of Turkey for its personal invitation for me to visit the country, this does not replace our request for effective and unfettered access to the south-east by a team from OHCHR, which is so urgently needed.

While Ethiopia has made impressive gains in terms of economic development, we are deeply concerned about repeated allegations of excessive and lethal use of force against protestors, enforced disappearances, and mass detentions, including of children, as well as by worrying restrictions on civil society, the media and opposition. I have requested my Office be given access in order for it to conduct a human rights assessment, particularly to the Oromia and Amhara regions. In response, the Government has claimed the recent violence was inspired by outlaw and terrorist groups, and argued it will conduct its own national investigation into the killings of protestors. I welcome a national effort, but believe the Government should also consider the need for an independent, impartial and international effort to affirm or revise the allegations.

May I add that given our privileged relationship with Ethiopia, which hosts one of our regional offices, and our promising draft agreement with Turkey to set up a regional office there, I find it mystifying we are not being given access to areas where the expertise of my Office can so clearly be of immediate and sustained assistance.

Mr President,

Two months ago, I requested the agreement of the Governments of India and Pakistan to invite teams from my Office to visit both sides of the line of control: in other words the India-Administered Jammu and Kashmir and Pakistan-Administered Kashmir. We had previously received reports, and still continue to do so, claiming the Indian authorities had used force excessively against the civilian population under its administration. We furthermore received conflicting narratives from the two sides as to the cause for the confrontations and the reported large
numbers of people killed and wounded. I believe an independent, impartial and international mission is now needed crucially and that it should be given free and complete access to establish an objective assessment of the claims made by the two sides. I received last Friday a letter from the Government of Pakistan formally inviting an OHCHR team to the Pakistani side of the line of control, but in tandem with a mission to the Indian side. I have yet to receive a formal letter from the Government of India. I therefore request here and publicly, from the two Governments, access that is unconditional to both sides of the line of control.

In July I also requested from the government of Mozambique access for an assessment mission to the country, and was hoping for a swift response. Continued armed confrontation between RENAMO and the national army, beginning almost a year ago, has heightened the levels of violence, and we have received reports of mass graves, summary executions, destruction of property, displacement and attacks against civilians. Tensions are exacerbated by economic deterioration across the country, and an increasingly severe humanitarian situation resulting from drought. I trust the Government's response will be received soon.

Similarly, in the Gambia the UN has requested clearance to field a joint mission and we await a positive response. As I outlined at the June session of this Council, we have been alarmed by instances of inflammatory speech, as well as alleged violence against protestors in the context of the electoral campaign, and more recently, death in detention, and reported torture and ill-treatment of detainees. Given the potentially serious repercussions of any further decline in the situation, I believe it is urgent to assist the authorities to maintain respect for all human rights.

In Crimea, the de facto authorities have not granted my Office’s request to open a sub-office of the Human Rights Monitoring Mission in Ukraine on the same conditions as the five other HRMMU sub-offices. We will therefore continue to monitor the situation in Crimea remotely, and we will continue to issue impartial, independent and trenchant information, as is evident from the 14 quarterly reports already distributed, and the 15th which will be presented at this session.

Mr President,

Human rights protection is crucial in the context of protracted conflicts and legally unrecognized or disputed territories, where millions of people live in profound uncertainty. I am deeply concerned over the repeated refusals to permit access for my staff to both Abkhazia and South Ossetia by those in effective control – despite the Secretary-General's emphasis on the importance of that access in the context of the Geneva International Discussions. We continue to receive allegations of violations, including killings, arbitrary detentions, torture and ill-treatment and restricted freedom of movement. Other serious concerns include unresolved queries regarding missing persons and persistent difficulties regarding access to livelihood, education, property rights and administrative documentation, as well as the need to ensure the space for civil society and independent media.

1 The Autonomous Republic of Crimea and the city of Sevastopol are part of the territory of Ukraine, as stated by GA resolution 68/262.
2 Report of the UN Secretary-General “Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia” (A/70/879)
My Office has had no access to the conflict situation in Nagorno-Karabakh, including since the events of April 2016. Consequently, conflicting claims of human rights violations cannot be verified, and the plight of hundreds of thousands of internally displaced people and refugees has not received the kind of human rights scrutiny that it deserves, for the past decades – either from my Office or from the international community.

Mr President,

Discussions with China over the past 11 years regarding an official mission by successive High Commissioners have so far failed to produce an actual commitment to move ahead with a visit. Since 2011, our proposals for joint projects and workshops have also not led to action – despite our strong impression we could bring useful support, including on development, environmental and business topics related to human rights. The highly relevant observations made by the Special Rapporteur on extreme poverty, who recently visited the country, provide a good example of the specific and useful recommendations, which my staff could further build on. I welcome the recent passage of a national law against domestic violence and some progress regarding the country's high number of executions, and I hope my Office can assist China in this effort. I remain deeply concerned, however, over reports of continued harassment of human rights lawyers, human rights defenders and their family members, as well as allegations of discrimination, torture and ill-treatment, enforced disappearances and deaths in custody of members of ethnic and religious communities. First-hand access would allow my Office to better assess the situation, and to see the remarkable achievements of China, particularly in terms of poverty alleviation. I would like to embark on a genuine working relationship with China in a constructive and committed manner.

In 2011, the Government of Nepal chose to close OHCHR's field offices throughout the country, and since then we have encountered great difficulty in engaging on human rights. The Government has explained it has sufficient domestic human rights capacity, and requires no outside assistance. Yet the country continues to face serious and chronic human rights challenges. A decade after the civil war, accountability for gross human rights violations is still not pursued. Nepal remains amongst the poorest of the world’s nations and corruption is high. Despite a huge influx of aid following the earthquake last year, many victims have yet to receive adequate support. There are also severe and long-standing issues of discrimination based on gender, caste, religion and ethnicity, which as the past has demonstrated, could swiftly lead to violence.

Uzbekistan has refused to recognize my regional office for Central Asia in Bishkek for the past ten years, and has given none of its staff access to the country. Despite lack of access, we continue to document very severe human rights violations in Uzbekistan that deserve far greater attention. I hope we will soon be able to overcome these long-standing difficulties, and begin engaging with the authorities in line with their legal human rights obligations and the commitments made by the Government in the UPR.

I also regret also that Armenia has so far not accorded full access to our presence in Tbilisi, which supports countries in the South Caucasus. We have therefore been unable to cooperate and engage fully with the Government, its state entities and civil society organizations.
Mr President,

I regret the Dominican Republic's failure to respond to my offer of support and monitoring capacity in regard to forcible movements of people to Haiti. Among them is a sizeable population of people descended from Haitian immigrants who were stripped of Dominican citizenship following the passage of legislation in 2013. My Office remains concerned about the deportations, which officially commenced a year ago, and is keen to ensure that any movements of people fully comply with international legal norms. I am aware the Government has worked closely with concerned UN agencies in the country, including the Human Rights Advisor, and I commend the establishment of mechanisms to redress wrongful or unlawful deportations. However, I must reiterate my request for unhindered access to border crossing points for a specialised team from OHCHR, and I look forward to closer cooperation on this with the authorities.

Regarding Burundi, while I note the continued cooperation of the authorities with my Office, I am very concerned at the failure of the Burundi delegation to appear or present replies during the Special Session of the Committee against Torture in July – an unprecedented course of action by any State. Deplorably, a number of civil society groups, media and lawyers who cooperated with CAT continue to face the threat of official reprisals. I am also disturbed by the Government’s refusal to comply with the Security Council’s request for a police component to monitor the security situation. You will receive a more detailed briefing on Burundi in the course of this session.

Turning to the United States, I have repeatedly expressed my dismay at the failure of the Government to accept the Special Rapporteur on Torture's request to enter the Guantanamo Bay detention centre and conduct confidential interviews, as is the agreed practice for all the Council’s experts. Guantanamo has long been a space of reported serious violations. The evasive tactics of the US authorities with respect to requests by international human rights mandates are deeply regrettable.

On this and other failures by States to permit appropriate access to Special Procedures mandate-holders, I will report at greater length at a future session of this Council.

Mr President,

The Democratic People's Republic of Korea extended an invitation to me to visit the country, yet has refused to engage on the modalities of the trip or to engage with our Seoul presence. This approach deprives my Office of further understanding the point of view of the DPRK authorities. Our remote monitoring indicates that grave human rights concerns persist throughout the country, including pervasive restrictions on all public freedoms, a vast and brutal prison system, torture, and violations of the right to food and other economic and social rights.

Regarding the Islamic Republic of Iran, my Office has been given no access since 2013 – despite several years of good technical cooperation prior to that date. Our offers to begin a technical dialogue on the death penalty have been systematically overlooked, as have all other proposals of engagement. This is particularly regrettable given the reports we continue to receive of fundamental problems with the administration of criminal justice; continued execution of large numbers of
people, including juveniles; allegations of discrimination and prosecution of religious and ethnic minorities; harsh restrictions on human rights defenders, lawyers and journalists; and discrimination against women both in law and practice.

I seize this occasion to share with you some broader thoughts regarding States' cooperation – or non-cooperation – with country-specific mandates, including Commissions of Inquiry, Council-mandated fact-finding missions and the specific country mandates of the Special Procedures. Currently, Belarus, Eritrea, the Democratic People's Republic of Korea, the Islamic Republic of Iran and Syria refuse to cooperate in any way with these mechanisms. Israel has had a long record of refusing to cooperate with most of them, in terms of allowing access to the Occupied Palestinian Territory.

A number of States have argued that unless the Human Rights Council can secure the approval of the concerned State, it should avoid looking into situations in which governments are alleged to be massively violating their people's human rights. I am wholly unpersuaded by this argument, a position buttressed by the fact that States espousing it use it inconsistently. Country-specific mandates ensure an expert, impartial and intensive monitoring process that keeps information flowing to this Council and to the world. This Council’s clear and universal mandate to address human rights violations is not conditional on the approval of specific governments.

Mr President,

The plural and sometimes overlapping voices of the Council, its mechanisms and my Office are frequently raised in support of each others’ work. Where country-specific mandates are not forthcoming or when the Council is unable to express itself, for whatever reason, it is all the more important that the High Commissioner exercise his or her independent mandate to shine a spotlight on human rights violations.

In Bahrain, I am concerned by harassment and arrests of human rights defenders and political activists, and legislation, which enables revocation of citizenship without due process. I urge greater attention to this situation. The past decade has demonstrated repeatedly and with punishing clarity exactly how disastrous the outcomes can be when a Government attempts to smash the voices of its people, instead of serving them. The authorities of Bahrain would be well advised to comply with the recommendations of the human rights mechanisms and UPR, and engage more productively with my Office, as well as with this Council's Special Procedures.

The President of the Philippines's statements of scorn for international human rights law display a striking lack of understanding of our human rights institutions and the principles, which keep societies safe. Fair and impartial rule of law is the foundation of public confidence and security. Empowering police forces to shoot to kill any individual whom they claim to suspect of drug crimes, with or without evidence, undermines justice. The people of the Philippines have a right to judicial institutions that are impartial, and operate under due process guarantees; and they have a right to a police force that serves justice. I strongly encourage the Philippines to extend an invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions. My Office is ready to assist, including with respect to rule of law institutions and the prevention and treatment of drug use in accordance with international norms.
My Office continues to enjoy broad access in Yemen. But as my recent report has highlighted, the national investigation effort has not been able to provide the impartial and wide-ranging inquiry that is required by serious allegations of violations and abuse. I recommend a comprehensive inquiry by an international independent body. There will be further discussion of this situation later in this session.

Mr President,

Human rights are universal, indivisible and interdependent; if States pick and choose which rights they will uphold, the entire structure is undermined. Yet I am frequently surprised by assertions my Office is insufficiently concerned with economic and social rights. This is a statement often made by representatives of States, which have few or no national accountability mechanisms to ensure that economic and social rights are effectively protected – and have adopted no legislative framework to give domestic legal effect to the CESCR.

I am convinced civil, political, economic, social and cultural rights, as well as the right to development, can only be effective when they are viewed as mutually supportive. And although there is no one correct model, applying human rights in practice requires that they be addressed as rights – not as neutral commodities or optional policy outcomes. I urge all Member States of this Council to move swiftly to establish the legal frameworks, which can ensure implementation and accountability for economic and social rights.

Mr President,

I hope I have made clear this morning that even where the powerful might seek to deflect our work and evade our scrutiny, we and other human rights actors will always continue to seek the truth and stand up for the rights of all people. At a coming session of the Council, I will continue and expand this focus on countries, which maintain minimal engagement with the human rights mechanisms, as well as my Office.

Mr President,

This Council is the torchbearer for the consistent and equitable protection of human rights around the world. It stands for principles, which endorse the freedom of people – everywhere. Our human rights norms empower people to demand governments, which serve them, instead of exploiting them; economic systems that enable them to live in dignity; the right to participate in every decision that impacts their lives. These are the essential steps, which will lead to greater mutual respect and more sustainable development and justice, within a world of greater safety.

I am confident that in the coming decade, the Council will maintain its credibility, and further develop its reputation for consistent action, by clearly upholding the equal value of all human rights, and their equal validity across all geographies, all political systems, and all societies.

Thank you