Interview with Navi Pillay, United Nations High Commissioner for Human Rights*

*Christof Heyns***

Q: Can you tell us about your childhood in Durban and how it influenced your later life?

Like all children of colour growing up in apartheid South Africa, I too experienced racial discrimination, poverty and exclusion. My grandparents were shipped from India as indentured labourers to work on sugarcane plantations. Mahatma Gandhi described the life they were forced to live as 'semi-slavery'. My parents were born in South Africa, and I was the fifth of their eight children.

My father was a bus driver, my mother a homemaker. Theirs was an arranged marriage while both were still in their teens. My father took on odd jobs to supplement his income, including fishing, and my mother grew vegetables in our garden. Both strove to build our house, brick by brick. I remember them as always working hard, but we were never short of food. We were brought up in the Hindu religion which imposed heavy moral standards, particularly on girls. While there was strict control over us, my parents believed in the equality of all their children and educated both boys and girls. It was somewhat revolutionary that they resisted all attempts by the Indian community to marry off their girls at an early age. All my friends in primary school were forced to end their education and become child brides. My three sisters and I were fortunate to have enlightened parents who allowed us the opportunity to become judges and school principals later.

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*On 29 May 2013 in Geneva, Christof Heyns conducted an interview with Navi Pillay, the first African to serve as United Nations High Commissioner for Human Rights (appointment 1 September 2008-2012, renewed for a two-year second term).

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Another fortuitous break was gaining admission to school as there were more children than places in schools. My mother fought her way through long admission lines, often resorting to subterfuge to get us into school, such as using the birth certificate of an older sibling who was already at school, to wangle the next daughter in.

School was a confusing time for us, as we were taught in a language and religion foreign to us, and were distanced us from our own language, culture and moral codes. Our education did not touch the reality outside as there was a prohibition on any subject deemed political. There was, therefore, no questioning of or dialogue on racial segregation, why most jobs were reserved for white people, why black people had to carry passes and were criminalised for seeking work in the city, why we were all poor and lived in slums, or why we were treated as inferior humans as opposed to the very visible privileges of whites.

Teachers were prohibited from raising or answering any of these questions, and were under surveillance all the time by the authorities. I recall one teacher being dismissed from her job for putting up a chart of press reports. It hurt and confused me as a child to see my parents, teachers, and community leaders referred to as 'boys and girls' and denied their dignity. We grew to accept it as normal – our exclusion from public parks, beaches, theatres, and other facilities, despite a deep sense of injustice.

When I was five years old, I testified in court on the robbery of five pounds that my mother had entrusted to me to take to my father. It was his wages for the month. The suspect was convicted but the money was not recovered. This left me worrying about my father's loss for years. I am still a fervent supporter of reparation for victims, something that I later welcomed in the Rome Statute establishing the International Criminal Court.

At the age of ten, I wrote a class essay on the injustice of heavier sentences for black persons than whites in the courts. I must have learnt this from conversations around me as I had no access to the radio or newspapers. At fourteen, I received a bronze medal for a winning entry in a competition held by the Durban Chamber of Commerce on why we should buy South African-made goods. I overheard my teacher say 'had she been a white child, she would have received the first prize'. At fifteen, under the auspices of the SA Jewish Women's Union, I received an award of books for an essay on the role of women in inculcating values and rights in children. This was noted in the daily newspaper.

Clearly our role models were our parents, teachers, and community leaders. As I recall, I was from an early age an enthusiastic participant in debates and speech and writing contests, both at school and in the community, often

competing with adults on subjects I barely understood, such as capitalism, alcoholism, and women's place in the home.

The low-income community of Clairwood, where I lived, had noted my activities and approved of the fact that I was not 'hanging out with boys'. Responding to my school principal's appeal that they help 'the girl with the potential to become someone', they collected funds to send me to university.

Q: What stood out for you during your years at university?

What stood out for me during my years at Natal University was the sudden, tumultuous education on the evils of apartheid. I was in the thick of student discussions, protests, and boycotts against the regime of laws that strangled our civil and political rights and our economic and social rights. The university itself ran racially segregated classes at a potato warehouse in the city, far away from the main campus at Howard College. The facilities and standard of education were sub-standard. Black parents were excluded from graduation ceremonies, or were seated separately.

I recall many humiliations, such as trying to see a Brecht play at the Howard College theatre and being shown to stools hidden behind curtains as entry was denied to black students; and sharing a single textbook with twenty others in the 'non-white' library. Nevertheless, I seized the opportunity to study – a privilege not available to the greater majority of school leavers. My education was sponsored by the people of Clairwood, the City Council of Durban, and the University's fee-remission bursaries. I was daily mindful of worse forms of exclusion and deprivation suffered by my African colleagues who were denied the basic right of living in the cities. I also took the opportunity of reading the volumes of case reports of the Nuremberg Military Tribunals, and this influenced me to believe in a system of international justice for crimes of apartheid.

Upon completing the BA degree, I came up against a hurdle in the form of the Separate Universities Act of 1959[1] which prohibited even the segregated system at the open universities. The law required me, as an Indian, to change to the Indian University at Salisbury Island, outside Durban. I held credits for four law courses in my BA which entitled me to enter the second year of the LLB degree. However, the college had just opened and did not yet offer the LLB degree.
I applied to the Minister of Internal Affairs for an exemption but this was denied. I then heard that the newly established Ministry of Indian Affairs was wooing Indian support. This was an apartheid institution that we had sworn to discredit, and yet my education and career were at stake. I decided to submit

[1]The Extension of University Education Act 45 of 1959 which made it 'a criminal offence for a non-white student to register at a hitherto open university without the written consent of the Minister of Internal Affairs'.

an application for relief. I telephoned the Minister of Indian Affairs who took the call and said, 'Oh you are the girl who sent a hand-written application?' In the end, he bypassed the Minister of Internal Affairs, and granted me the exemption to continue my LLB degree at the Open University.

Q: Please describe your experiences as a lawyer under the apartheid legal system.

One had a choice of becoming an advocate and joining the Bar, which I could do so straight after passing the LLB, or of becoming an attorney and joining the side-bar, which required two years of service as a candidate attorney under the supervision of an attorney. I chose the latter because I wanted to work directly with people. This decision would, for the next thirty years, take me into the world of human rights defenders, representing poor clients, victims of violence and injustice, and opponents of apartheid. Years later, when I compared notes with my colleague and friend, Abdullah Omar (Mandela's lawyer and democratic SA's first Minister of Justice in1994), who had a practice similar to my own, he told me that his wife, Farieda, earned more than he did at her fruit stall on the Cape Town Parade.

Large white law firms generally recruited the best performing students of the LLB class, but I was ignored. I approached many firms for articleship, and sought the assistance of the registrar of the university, Ian Allen. All turned me down giving as their reason: 'We cannot have a white secretary take instructions from a non-white person'. Rarely were white attorneys willing to offer opportunities to blacks, although there were exceptions, like Rowley Arenstein – himself a freedom fighter.

I served two years as a candidate attorney with NT Naicker, a member of the African National Congress who was subject to banning and house-arrest restrictions. He was confined to his home at night and over weekends, and was barred from travelling beyond the city limits. His practice as a criminal defence lawyer suffered, and he was compelled to entrust important cases to a novice like me. I was plunged into a terrifying and intimidating environment as I travelled far and wide providing legal defence to victims of unjust apartheid laws. The experience exposed me to the harsh reality of life for the poor, rural, and vulnerable groups.

The authorities used endless subterfuges to force black farmers off their land, albeit rocky and infertile hillsides, to supply a flow of cheap labour to white mines and industries. Often regular farming activities in black rural communities were criminalised: cattle straying onto fertile white farms were confiscated, and the owners fined for trespassing. Black farmers were forced to dip their cattle in solutions mistrusted by the people. I defended people on spurious charges of failing to 'dip' their cattle, or for trespass, and secured

acquittals on technical grounds. Theirs, however, was a principled struggle of non-collaboration with laws and practices that aimed to drive them off the land. I watched in awe and respect, the tremendous sacrifices they were willing to make for their human rights.

I was one of three women, all Indian, who were admitted attorneys by 1967. The other two did not practice law. There were few opportunities for employment. I was trebly disadvantaged: by race, by gender, and by class, and so I took the bold step of establishing my own law firm, an act that some viewed as 'presumptuous' as I was seen to be trespassing on a male domain. I believe that it was in fact a first for a woman to start and head a law firm in South Africa. After three years I was qualified to offer articles to candidate attorneys, and my husband, Paranjothee Anthony Pillay (known as Gaby), was my first. The contract of articles we submitted was received with consternation by the statutory attorneys' body, the Natal Law Society. This was because under the contract, I was the principal and my husband, my subordinate; under the law, by virtue of our marriage in community of property, my husband was my guardian, and I, as a minor, required his consent to enter into any contract. Fortunately, the Society registered the contract and yet another barrier tumbled through a challenge to the status quo.

In 1971, along with many other members of the Unity Movement, my husband was detained under the Terrorism Act. The law prevented access to detainees, authorised indefinite detention in isolation for interrogation, and excluded the courts' jurisdiction to enquire into the validity of the detention, or order the release of a detainee. Nine of the detainees were subsequently charged and convicted of plotting to overthrow the government.[2] All of them provided sworn affidavits describing the torture and ill-treatment inflicted upon them by the security police during their incarceration. Gaby was not charged; nor was he a listed witness. He was being punished extra-judicially for being an opponent of the regime.

Relying on the affidavit and his power of attorney in my favour, I secured an order against the use of unlawful methods of interrogation against him by the security police. This was the first successful intervention for the protection of the rights of detainees held under the Terrorism Act, at a time when thousands of people were being detained and subjected to torture, and many even killed. The order and annexed affidavits, alleging widespread abuse and torture, were subsequently received in the United Nations in support of sanctions against the country.[3] Personally, it was an agonising experience to hold back the emotions and fears of a wife, and exude the strength of a professional representative.

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[2]*State v Kader Hassim and twelve other*s NPD and AC 1972.
[3]Unreported case: *PA Pillay v Commissioner of Police* NPD 1972 Harcourt J.

The families of human rights defenders were understandably terrified of the reach of the security forces and their power of life and death over them. We were followed, spied upon, harassed, and threatened. Lawyers in the apartheid system were not only themselves victims of indignities, but were targeted for defending opponents of the regime. My work covered people who had contravened banning orders by forgetting to report, trade unionists, and members of all the opposition groups: the ANC, the Unity Movement, the Black Consciousness Movement, and Azapo.

As one of the defence attorneys in the Terrorism Act trial of *State v Kader Hassim and 8 others*[4] and *Harry Gwala and 9 others*,[5] I helped expose the use of torture against witnesses, and argued that testimony produced under torture is inherently unreliable. In *State v Gwala,* the Appeal Court accepted the principle that torture did have the DDD-syndrome effect (dread, debility and dependence), but ruled that torture had not been committed by the police.

In the course of defending clients or preparing for their appeals, I would consult them in Robben Island prison. Each visit was stressful because of the pounding seas, sea sickness, and the fact that I was all alone and under the menacing scrutiny of the warders. On one of these visits, I was told that Kader Hassim had been summarily sentenced to six months isolation with spare diet for handing a petition on the treatment of inmates to the prison authorities. I was urged to seek remedies in court, but was also told that Mandela's advice was to take the route of negotiation rather than litigation in the apartheid courts. I discussed the matter with senior lawyers on the outside, and launched proceedings against the officer commanding the prison.

In a ground-breaking decision that benefited all incarcerated persons, the Cape High Court pronounced for the very first time, that prisoners are not property but have rights: the right to lawyers; the right to a trial when charged with breaking prison regulations; the right to work, food, exercise, and cigarettes.

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[4]Hassim *Trial of Kader Hassim and twelve others, 1971-1973 (inclusive).* Johannesburg: Microfile [197-?] 9 reels of microfilm. The records consist of the 1971-1972 trial transcript and related documents in criminal case 99/71 in the Supreme Court of South Africa (Natal Provisional Division). Kader Hassim and twelve others were charged with participating in terrorist activities and conspiring to overthrow the government of South Africa in 1970 as members of the African People's Democratic Union of South Africa and of the Non-European Unity Movement. The records also include the judgment of the appeal brought before the Supreme Court of South Africa in 1973. YALE CRL catalogs under: Hassim Kader Defendant. *The State v K Hassim and Twelve Others in the Supreme Court of South Africa, Natal Provincial Division*. Johannesburg: Microfile [19 -?] 7 reels of microfilm (negative) At head of title: Criminal Case no 99/71; and Hassim Kader, Defendant *The State v Kader Hassim and Twelve Others in the Supreme Court of South Africa (Appellate Division)* Johannesburg, Microfile [19-?] 2 reels of microfilm.

[5]*Harry Gwala and nine others* case no CC 108/76.

The judgment ended a seven-year period of no legal visits. Indres Naidoo, who served a ten year sentence in Robben Island prison, told me that he and others had been bitten by dogs unleashed on them by prison guards. Their treatment changed after this because of access to lawyers. Although I had not met Mandela while he was in prison, he knew of me through of this case.

Under the apartheid system, lawyers could not and did not separate their professional work from their commitment to realising human rights. Later we saw that many of us lawyers were named in the Bureau of State Security's hit list.[6]

Q: How did you get into Harvard? How did it feel to go there?

It had not occurred to me to interrupt a demanding legal practice to undertake further studies until, on a visit to Harry Gwala and others in Robben Island prison, they encouraged me to discuss their case with judges with international experience. In 1981, I applied for and was selected to study for the LLM degree by the Harvard-South Africa Scholarship programme. The students at Harvard had pressured for the admission of black students from South Africa to compensate for Harvard's continuing investment in companies doing business in South Africa. The anti-apartheid campaign was very vocal on the campus. The coursework was challenging, and the students highly competitive. The high standard of the discourse was a far cry from the pseudo-education I had received from our potato warehouse. What helped me was that I was by then a mature mid-career lawyer. My LLM thesis was on 'Change in South Africa through the Trade Unions'.

I saw a gap in our expertise on international law as no South African university was offering courses in international humanitarian law or human rights law, and so I selected my courses to fill this need. I completed my Doctorate in Juridical Science in 1988, also at Harvard, defending my thesis on the political role of judges in the apartheid system, and positing that apartheid laws were inconsistent with human rights. Apartheid had been declared a crime against humanity by the United Nations, and therefore judges should not help with the implementation of oppressive laws. My promoter was the late US judge, Leon Higginbotham Jr.

Back in my Durban office a few colleagues asked how these extra degrees helped me; it is not as if you can charge more fees. However, years later, they did stand me in good stead to hold the offices of international judge and High Commissioner for Human Rights.

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[6]Truth and Reconciliation Commission disclosure of list dated 1987. See http://www.justice.gov.za/trc/search.html.

Q: How were you appointed as a judge of the High Court of South Africa, and later as a judge of the International Criminal Tribunal for Rwanda in Arusha?

In January 1995, soon after the democratic government was sworn in, I was appointed acting judge of the High Court in Natal. I had by then practised as an attorney for close on thirty years. It was the first appointment of a black woman and a member of the side bar. The Bar Association resolved to 'monitor' my performance, which in turn attracted letters to the press from the public asking why the Bar had not monitored apartheid era judges. I was welcomed by the all-white male judges, who were generous in their advice and support. A wonderful surprise was receiving a personal call of congratulations from President Mandela. He said 'your appointment gives me great personal joy. I hope it will soon be permanent.'

At the end of my term, President Mandela and the Minister of Justice, Abdullah Omar, nominated me to the United Nations Security Council and General Assembly as judge on the UN International Criminal Tribunal for Rwanda. South Africa had recently been welcomed back to full membership of the UN, and this was the country's first opportunity to participate in an election for high office. I was elected and was the only woman among the first six judges. It was pleasing to note that I had received the vote of every single African country, indicating that gender was not an issue. I had no desire to leave South Africa during the exciting years of change, and when I went to Arusha, Tanzania, where the tribunal is situated, I did so with the intention of resigning after a year. I remained and served as judge and president of the court for eight and a half years, mainly because victims and witnesses who had lost everything in the genocide in Rwanda told us judges that they had waited for the day when they would see justice being done.

Q. The first time I remember meeting you was when you came back to South Africa from Arusha for a conference and you were talking about the logistics there.

The Security Council decided on Arusha, Tanzania, as the seat of the ICTR. The judges were elected and only after this were the court, prison, and offices built. It took almost two years for the court to become fully functional. In the beginning we faced many logistical obstacles. There were no computers or telephones, research facilities, or a library. The power supply fluctuated, as did water supplies, housing was scarce and roads were impassable in the rainy season. During the dry season, we felt trapped in windowless offices and courtrooms. We judges wrote to the then UN Secretary-General asking 'Please may we have windows?' – we received no reply!

I held the first hearing for the issue of an indictment and warrant of arrest, in a hotel room using a typewriter borrowed from the manager and a crudely

carved wooden stamp. Interestingly, two South Africans were key players in the Tribunal's first indictment: me as the judge, and Justice Richard Goldstone as the prosecutor.

The UN did not allow us to assume office, or be on the payroll, for a year, and yet there was a need for judges to conduct preliminary hearings for which we had to travel from our homes. Had we not cooperated, justice would have been delayed. Judge Lennart Aspegren from Sweden held hearings with detainees in a Cameroonian prison. A core group of judges, the registrar and the staff steadily overcame obstacles to get the Tribunal moving.

We were all national judges, each familiar with our own system. It was a challenge to get together and devise internationally acceptable rules of evidence and procedure. We also wrestled with defining concepts of international law and definitions of crimes that were new to us. The first judgment in *Akayesu*[7] established precedents for the crime of genocide, crimes against humanity, and rape in the course of armed conflict. As there was no commonly accepted definition of rape in international law – this being the first prosecution – we defined rape in gender-neutral terms and departed from the body part requirement of penetration. I am delighted that the definition was received with approval by the South African Constitutional Court when it addressed the disparity between the treatment of rape of little boys and that of girls.[8]

In the *Media* case,[9] we had to determine the criminal responsibility of three accused persons who spread hate propaganda on *Radio Télévision Libre des Mille Collines* and in the *Kangura Journal.* Here again, it was difficult to research previous jurisprudence. I was grateful to an academic colleague in the United States for providing us with a photocopy of the *Streicher* decision on anti-Jewish incitement.[10]

The defence counsel from the US argued that freedom of speech was on trial, and that if we failed to follow the strict protection standards laid down by US courts, the Tribunal would lose credibility. We found, on the facts, that there was explicit incitement to kill members of the Tutsi ethnic group. The judgment ruled that freedom of the media was not absolute, but came with responsibilities not to incite violence and hatred.

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[7] *Prosecutor v Jean-Paul Akayesu* ICTR-96-4-T.
[8] *Masiya v Director of Public Prosecutions Pretoria (The State)* CCT54/06 [2007] ZACC 9; 2007 5 SA 30 (CC); 2007 8 BCLR 827 (10 May 2007).
[9] *Prosecutor v Nahimana, Barayagwiza, and Ngeze* ICTR 99-52-A.
[10] Judgment of the International Military Tribunal for the Trial of the German Major War Criminals, Nuremberg, 30th September and 1st October, 1946. London: HMSO, Cmd 6964, Reprinted 1966 at 100-102.

Q: As UN High Commissioner for Human Rights, how does your approach differ from that of your predecessors?

The Office of the High Commissioner for Human Right has a clear and powerful mandate from the UN General Assembly: the full protection of all human rights of all persons. This includes both civil and political rights, and economic and social rights. I have tried to address the skewed focus on the first set of rights only, as I appreciate that the right to development and economic rights are highly relevant for poor and vulnerable communities, not only in developing countries but the world over. I am also focussing on the rights of neglected groups, such as women, minorities, migrants, indigenous people, people with disabilities, and lesbian, gay, bi-sexual, and transgender people. Each High Commissioner has built on the foundations in place.

I came to an office of a thousand staff spread over Geneva, New York, and fifty-eight field presences. These are highly qualified individuals with a deep commitment to human rights and this is the core value of the office. I saw my responsibility as providing leadership with office-wide participation. I established a senior management team, including staff representation, to make recommendations on policy, action plans, and strategies for advancing human rights protection. I have encouraged greater transparency, forthrightness, and balance in our work on country-specific reports and monitoring. From my judicial experience, I bring my emphasis on tolerance and respect for diverse points of view, and verification of information that we gather.

With the full support of my colleagues, I have steadfastly upheld the human rights framework created by states in the various treaties. I regularly restate the principle that the UN is a norm-based institution, and that we cannot support positions that do not meet the UN standards. Even within the UN, I am sometimes told: 'Yes, but that is the ideal. We have to be practical and be sensitive to political considerations. We work with governments in delivering aid or promoting development and need access to governments.'

I hold that human rights cannot be traded for access; justice cannot be subordinated for peace; and people must be at the centre of state policies and actions. We make strong calls upon governments to carry out their obligations. Our messages now reach millions of people across the globe through social media, and in turn, we receive masses of information and complaints of violations from civil society. It is easy to criticise; but my office does much more by providing expert assistance and training materials to states to help them achieve changes in laws and practices, and to implement recommendations made by other states under the Universal Periodic Review conducted by the Human Rights Council, as well as comments from the treaty bodies and special procedure mandate holders. We also provide substantial support to strengthen civil society organisations and human rights defenders.

A very welcome development is that I have been invited to address the Security Council on human rights concerns more often in the past eighteen months than in the entire lifetime of the office. In my addresses, I underscore that peace, development, and security cannot be dealt with in isolation from human rights.

In order better to assess human rights protection on the ground, we have increased the frequency and numbers of visits to countries led by all three of the heads, the High Commissioner, Deputy High Commissioner, and Assistant Secretary-General for Human Rights.

Q: What are the main challenges you face as High Commissioner?

The major challenge is to persuade governments to implement the standards and norms that they undertook when they adopted the framework of treaties, and accepted recommendations made to them by other states in the Human Rights Council. There is a lack of political will to incorporate and adhere to these standards in national laws and practices. Unfortunately, governments fail to protect their own people and some deny the OHCHR access to monitor violations and offer assistance and expertise to redress violations. The increased restrictions on NGO participation in many countries and reprisals against them for criticism of the authorities, is troubling.

I am also concerned that although human rights is accepted as one of the three pillars of the UN – together with peace and security, and development – it is not given equal importance and not properly funded. At a time of great awareness of human rights through the social media and civilian protest, we are unable, because of limited resources, to respond to the enormous increase in the demand for our services, from both states and civil society.

Q: What do you regard as your main achievements?

The work of my office is a work in progress, and I hesitate to claim any major achievements, apart from the increased awareness of human rights in world discourse to which we have contributed, and a plethora of discriminatory laws that we have been instrumental in amending. The year 2013 is the twentieth anniversary of the establishment of the OHCHR, and the important strides made by OHCHR are being noted at events commemorating the Vienna Declaration and programme of work.

Q: Do you have any regrets as High Commissioner?

I wish that greater attention is paid to, and resources made available for, the prevention of human rights violations, as my office consistently warns that when unaddressed, neglect of human rights leads to conflict and destabilisation. Vast amounts of financial and human resources are poured out to remedy after-the-

event situations – such as displacement of people in conflict situations and peace-keeping interventions – to the detriment of protection and prevention mechanisms available from my office.

Q: How would you describe life as High Commissioner?

The mandate of the High Commissioner is so extensive, that unlike other heads of UN agencies that focus on a single specific area, our work is extremely exacting and tense. In order to protect all rights of all people all over the world, we must remain constantly vigilant. It means that both my senior managers and I work long hours each day, and undertake many country missions in order to assess the human rights situation first hand, and hold workshops and training sessions for authorities and NGOs. The social media and communications to and from individual and civil society organisations have added to the pressure on us to respond swiftly to critical complaints. I am always conscious that I would be failing in my duty if I were to relax and fail to use the power of my office to keep the spotlight on advancing protection, every minute of every day.

Q: Do you have a sense that your legacy in the ICTR and the ICC is under threat by the approach taken by the African Union to the ICC?

I trust that the recent initiatives at the AU to bolster the mandates of the African regional institutions to include criminal jurisdiction over serious crimes, is just that: an end to impunity for serious crimes and the dawn of justice for victims. Many countries in Africa are signatories to the Rome Statute and subscribe to a determination to end impunity for the crimes of genocide, war crimes, and crimes against humanity. The Rome Statute specifically places the primary responsibility for holding investigations and prosecutions on states. The AU should, therefore, be concentrating on complementing the work of the ICC, rather than challenging its jurisdiction.

Apart from the Security Council referrals in respect of Darfur and Libya, all the other countries currently under investigation by the ICC – Uganda, DRC, Central African Republic, Ivory Coast and Kenya – invited the ICC's help on the ground that they were unable or unwilling to render justice. The ICC has been very helpful for these countries. I fully support the strengthening of regional institutions, and stand ready to provide expert guidance and support for them. However, I am concerned that unless these regional institutions are properly funded and resourced, their core work of receiving individual complaints will suffer. I am also mindful that there has been little progress when opportunities have presented for national prosecution of serious crimes, such as the case of the former Chadian dictator, Hissen Habre, holding out in Senegal.[11]

[11] See http://www.hrw.org/habre-case.

Q: On the prospects for human rights protection in Africa, the African Human Rights Court development has been slow and the SADC tribunal recently collapsed. Where do you see hope for the future for human rights protection in Africa?

If there is one message that reaches my office strongly, it is that people in African countries are demanding justice and good governance. Under the circumstances, I am dismayed that the SADC tribunal has been stymied by the action of SADC leaders, whom I tried to reach on the matter. The Tribunal provided access to justice for individual complainants who lacked access in their national courts, such as in Zimbabwe. The governments concerned have recognised this need, and must now show good faith in ensuring the proper functioning of the institutions they themselves have established.

Q: Do you have concrete plans after your term of office as High Commissioner?

I have no plans for the future. I am committed to perform to the best of my ability in my final year. I remain, of course, fully committed to playing a lasting role in the protection of human rights, even though it may not be a formal role. My absence from South Africa for more than fifteen years was unplanned and was thrust upon me. I look forward to returning home.