A Life in the Service of Justice and Human Dignity

Good evening everyone. I'm truly impressed by the size of this crowd, which means I have to speak louder. I hope you can hear me.

I would like to acknowledge that we are gathering on Gadigal land, and I pay my respects to elders past and present. I was here in Australia about 15 years ago, as High Commissioner for Human Rights, leading a UN delegation here, and I dutifully made these acknowledgements in every one of my speeches, so I'm really wondering why you haven't gone further than a mere acknowledgement.

I salute the state of Victoria, who have drawn a treaty, and I hope that it will be national soon. I am so much into International Criminal Court, dare I mention that what you are acknowledging is an international crime.

But standing here today, I am reminded how improbable this journey of mine has been - from the dusty streets of apartheid-era Durban to the halls of the United Nations in Geneva and to this hall and the award. My story, in truth, is not only my own. It belongs to all those who believed that the law, even in the darkest times, could be used as a beacon of hope.

I was born (you know it's in my speech, my daughter put it in here, so I have to give you the age then) I was born in 1941 in segregated South Africa, the daughter of Indian-Tamil parents who worked tirelessly so that their children could have an education. My grandparents were brought by the British as indentured labourers to work in the sugar cane fields. As you know, Mahatma Gandhi called their conditions of labour semi slavery. But what I want to stress is that within three generations, there's the grandparents who were labourers; the next generation, my parents, had jobs- my father was a bus driver; my mother a homemaker. We

did not have much, but we had values: dignity, faith in education, and the conviction that every person, no matter their colour or gender, deserves a chance. So, I credit that community of very poor indentured labourers, who thought of building their own schools, so that within three generations you have this dramatic change. In my own family we have two judges and two school principals.

Under apartheid, that belief of discrimination was radical. The system told us, every day, that we were less than others. Schools were inferior, opportunities limited, and our very movement controlled. I grew up watching my parents and neighbours live with quiet resilience, even as laws denied us basic rights.

When I decided to study law at the University of Natal, few women, especially women of colour, chose such a path. I should pause here to tell you how I got to university. My school teachers went around my poor community of Clairwood and told them as they went door to door that here we have a student who has potential and she should be sent to university. All those poor people, who I'm sure would much rather have used their pennies to support their own children, yes they donated to let me go to university and supported me for three years there. I had many opportunities to repay and thank this community, and I told them you sent me to university and then I went further and I want you to know how I've delivered on your trust. They were very interested in all the international tasks that I had undertaken.

The law, as it was written, protected apartheid. But I believed that law could also be a tool to fight injustice from within. And when I graduated, no white law firm would employ me, so I did what I had to do: I opened my own practice in 1967,

the first non-white woman to do so in Natal Province. Even my non-white colleagues said that's being very presumptuous because women cannot manage a law firm. I want to pause here briefly to say to you – Mandela describes his experiences in 1941 and mine are 25 years later. He writes that he was fortunate to be accepted as a candidate attorney in a white law firm, but they told him in order to be successful as an African lawyer, you have to know your place. And you see the teacups that are there – those are for the white staff. You have to bring your own tin mug to drink your tea. I found 25 years later when I knocked on doors for jobs, I was trebly discriminated. One on class: that you were poor. Does your father have lots of money? Can you introduce business to the firm? And on race: that we can't have white secretaries take instructions from a black person. And on gender: you are married. What if you have children? Now, no young women would put up with those levels of discrimination. That's why we have to credit all the women ahead of us who made these dramatic changes.

I spent 30 years as a defence lawyer in South Africa. I defended women and men who were imprisoned for standing up against apartheid. I represented detainees who were tortured, families who could not find their loved ones, and political activists brought before courts designed to silence them. Many of those cases never made headlines. Sometimes I lost. I carefully say sometimes - most times I lost, because the law itself was unjust. But even then, I believed that every small act of defiance mattered.

Practicing law under apartheid was an education in courage. It taught me that injustice is not abstract - it has a human face. It is the mother waiting outside a prison gate, a child denied schooling, the man whose confession was beaten out

of him. It was for those people that I chose to stay, to fight within a system that sought to exclude us. The common phrase was you can't get any justice in the apartheid courts and Nelson Mandela said so years before. He was charged under the racial hostilities act, and he refused to plead guilty or not guilty and he said this is a white man's court, I don't expect justice here. The magistrate said to him that yes, that's a fact, this is a white man's court and that's the way things will be - as if it will stay forever. So I myself didn't believe that we will get any change from apartheid to democracy in my lifetime, but we did, mainly because of collective action from civil society all over the world, including Australians.

I want to give you a little idea of what kind of cases we did in the early days, so I'm talking about 1965 and so on. I know most of you are thinking we weren't born then, yes? I was an article clerk to a lawyer who was banned and house arrested and he couldn't leave the city of Durban, and he had to be home by 5pm every day. I was just out of university, knew nothing about court work, and I was doing these important cases, one of which was right in the rural area in Zululand, and I was there to defend an African farmer, who was charged for failing to dip his cattle. I think you understand about dipping - when I'm talking in the States, they don't know what I'm talking about. I presume for health reasons you have to dip your cattle. And he came in from a very long way- he came into court on time by 9am but he had left home at 4am, coming from his home, walking all the way to get there. And as the case started, I realised that the state witness said that the dipping wells were broken at the time. And so I quickly said to my client - we can get out of this. If the wells are not working, how do they expect you to dip your cattle? You can get away with it. So let me say that – I said I'll close the case and I'll say that. You know you're talking about a 22 year old lawyer doing a case for

the first time. And he said no no no no – I'm going to go into the witness box and explain. He was part of the defiance campaigns started by the African National Congress, under Chief Albert Luthuli and they were deliberately refusing to dip their cattle. And he wanted to say that. He went into the witness box – made his speech. The magistrate and prosecutor loved it because now there is a wilful disobedience of the law. He was sentenced to a fine, they confiscated his cattle, he had to pay this lawyer – first to travel there and then for the defence. I learned immediate lessons from people like that because I had been taught by white lecturers at Natal University. This is the real life. His conduct to me was the stuff of heroes.

When democracy finally came to South Africa, it was not the end of the struggle - it was a new beginning. In 1995, I was appointed as an acting judge of the High Court, the first non-white woman to serve on that bench. I had this early morning call on a Saturday morning on the phone in my kitchen. And the woman said hold on for the President, and I thought ha ha, it must be my brother playing the fool. But it was President Mandela, and he said to me congratulations, it gives me great joy, and I hope it will be permanent soon. And of course I could not speak, couldn't utter a single thing. People often ask me, well why did President Mandela appoint you? Well, there's no way I'm going to ask him that, besides that I got tongue tied. But walking into that courtroom for the first time as a judge, I thought of all the people who had been denied justice there. I hoped that my presence would symbolize a new era, one in which justice could finally serve everyone.

In that same year, President Mandela himself nominated me to the United Nations General Assembly, where I was elected as a judge at the United Nations International Criminal Tribunal for Rwanda. This was the second ad hoc tribunal that the UN Security Council set up. The first one was for former Yugoslavia. One year later, the Rwanda Tribunal. The genocide in Rwanda, as Mohamed so graphically explained to you - and Mohamed I must complement you for the research you've done, because I'm the only one here who would know the extra work he has done on the subject. It's true, that genocide shocked the conscience of the world, where close to a million slaughtered in a hundred days with handheld machetes that were not manufactured in Rwanda. When I arrived in Arusha, Tanzania, where the Tribunal was based, there was no precedent for what we were about to do. We were building international justice as we went along. And the work was harrowing. We listened to survivors recount horrors beyond imagination. Women who had seen their families murdered, children orphaned, entire communities destroyed. It was in that setting that we made this historic decision in the case of Jean-Paul Akayesu, the mayor of Taba. We ruled that rape and sexual violence of Tutsi women could constitute acts of genocide. And all this was based on the evidence that we had heard. But it was the first time that an international court recognised that women's suffering in war was not incidental- it's not collateral damage, it's not trophies that the soldiers can take away- it was deliberate, and it was criminal.

And it's true - that judgment remains one of the most meaningful moments of my career. Let me say I was the only woman on that bench. My two colleagues were male, from Senegal and Sweden. But guess who the defence lawyers took on appeal to the appeal court? Yes, the women judge – that I was biased, that I was

influenced by the women protesting in Kigali. I throw that in to tell you it follows us all the time, this discrimination. For centuries, women's pain in conflict had been ignored or dismissed. In that courtroom, survivors' voices changed the law, and I will never forget their courage, their insistence on being heard.

I have limited time, but I would love to tell you how this definition has been followed: adopted in the Rome Statute, adopted by two states in the United States, adopted in my own country, South Africa, because it is a gender neutral definition and it could happen to men and women because its invasion of a person of a sexual nature under coercive circumstances. We studied the definitions of most countries. Germany had a good one, but we common law countries – that's Australia, South Africa, UK - we still had the old British laws that rape involves the penetration of the penis in the vagina. The Constitutional Court had a case before it where a boy child had been sexually abused and the sentence was much lower than if it had been a girl child, and they thought the suffering of the victim is the same. Justice Richard Goldstone- our judge on the Constitutional Court, and who was the first prosecutor at the ICTY- told me that he alerted the Constitutional Court judges to look at the Akayesu definition and that's how it was followed.

In time, the other fourteen judges elected me President of the Tribunal, and I was pretty pleased. I thought merit being recognized at last. Yeah, no – sorry to say one of the judges said to me, we elected you because you're a woman and we know that you women work very hard. As president of the Tribunal, I learned that justice is not just about punishing perpetrators - it is also about restoring dignity to victims, which was missing in those statutes. There was no reparation and no

help for the victims, and here we were spending millions to prosecute a few people – but leaders of the Rwandan genocide. We worked to make proceedings fair, to document the truth, and to show that even after atrocity, the law can have the last word. After nearly a decade at the Tribunal, I was elected as one of the first eighteen judges of the International Criminal Court in The Hague. Once again, I found myself at the frontier of legal history, helping to establish a permanent world court that could hold individuals - not states, not armies, not parties - but individuals accountable for the gravest crimes known to humanity. And what I was able to contribute in the International Criminal Court is to spell out the rights of victims, because that statute recognized the rights and dignity of victims. So, they had a right to participate in the proceedings, they had a right to have a counsel representing them, and they had a say in the crimes that were being charged and so on. So that is also very new; it is absent in our systems. So, I think international law is well placed to influence national judicial systems.

But justice is not only global- it must also be local. It must reach the person in the village, the woman in the camp, the prisoner behind bars. Law that does not touch human lives is not justice; it is paperwork. And this is why I respect these rights that we spelt out in the International Criminal Court. They also have an expanded list of sexual crimes. I wouldn't call them new crimes, but they are crimes that have been criminalized for the very first time such as sexual enslavement.

In 2008, I took up what would become the most visible and politically complex role of my career as United Nations High Commissioner for Human Rights. When I walked into that office in Geneva, I understood the weight of the task and how

different that was. As a judge I was judgemental; here I had to be an advocate and get conversions to more advances in protections of human rights. I was the first woman of colour, the first person from Africa, to hold that position. And I was the first woman who came from civil society and NGOs, so really I thought and acted differently from all the appointments- almost all the appointments at the high level at the UN, who were former heads of state or foreign ministers and so on. But my job as High Commissioner was to speak truth to power, often to the very governments that funded our work. It was not an easy assignment. Human rights is never comfortable for those in authority. I spoke out on Syria when others remained silent; on Sri Lanka, when truth was inconvenient; on discrimination against LGBT persons, when some states said these were not human rights issues – don't introduce new human rights here. I said then, and I repeat now: the universality of human rights means just that - universal. No one is excluded, and no one is above accountability.

Some of the things I'm proud to have done while High Commissioner for Human Rights is, for the very first time, placed caste-based discrimination on the agenda, because India had effectively kept that issue out from the Durban Racism Conference and from the UN. And they protested very loudly to me- don't bring caste in, that's an internal matter for India – in fact caste is our word. And I said to their ambassador no, I've now met people from Japan, from Nepal, from Mauritania, who all suffer caste-based discrimination. So that's on the agenda for the very first time. I also helped put on the agenda the rights of Indigenous peoples and supported their first world conference at the United Nations.

During my tenure, I travelled to refugee camps, prisons, and conflict zones. I met victims of torture and survivors of sexual violence. Their stories haunted me, but they also inspired me. I wanted the world to see their humanity, not just their suffering. I believed, and still believe, that the job of a High Commissioner is not to comfort the powerful, but to give voice to the powerless.

I want to describe to you that I led a delegation, as High Commissioner, to South Sudan, the world's most recent state. We went by UN helicopter to the north, the Blue Nile area. There my staff had prepared for me to meet with a number of women. We sat under the trees with the Nile mud under our feet. There were groups of women from different tribes. They didn't speak the same language, so there had to be interpretation in four different dialects. Two of the women stood up- and before I do that, let me say, then I looked at the women. Some of them had all their four front teeth missing. That's the way they branded them like you brand cattle, to indicate which tribe they belong to. And of course, they had all these various gashes on their face – that's another means of branding them.

Two of the women described to me that their husbands and sons were entering their 15 year old daughters into marriage to very old men, in exchange for cattle. The girls refused, and these fathers then killed their daughters. And the mothers said: we know where they are buried in our backyard, we informed the police, but nobody has done anything about it. Do we who bore these children not have any rights over them? I gave them a lecture on rights and human rights- everything belongs to them. But as I left, I felt a sense of hopelessness.

The rhetoric of human rights for all, that we speak of in Geneva, was so far from their reality. But I had mistakenly underestimated those women..

A week later the ambassador of South Sudan came to see me. He had a big smile on his face and he said something has happened in South Sudan that has never happened before: those women whom you addressed got together and went to see the governor of their state and demanded: we want our rights. You know the importance of that is it's about them – it's about the people we speak to. We have to encourage and let them know they can – they have rights and they can assert it. There will be people who would help support that.

Throughout my career, I have been asked how I kept going in the face of such horror, such resistance, and such politics. My answer is simple: I drew strength from the people whose rights we defend. From the Rwandan woman who testified despite her trauma. From the Sri Lankan mother who refused to accept her son's disappearance. From the activists and lawyers who risk their lives every day to demand freedom. It is they who taught me that human rights work is never about despair - it is about persistence. We do not have the luxury of giving up, because injustice never takes a day off.

Looking back, I see that my journey has been shaped by three convictions. First, that the rule of law is the foundation of a just society. Second, that women's rights are human rights. And third, that human dignity is universal. I have seen that affirmed in the eyes of many so-called victims.

No one's dignity depends on their nationality, religion, gender, or whom they love. Our shared humanity is what binds us and defending that humanity is what gives our lives purpose.

These are the things that motivate me and continue to motivate me. Right now, it's you who motivate me. Thank you very much for your reception.