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Minerva 29

Citizens for Global Solutions
WORLD FEDERALIST INSTITUTE



“Might I sound a note of caution?”

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*We need to respond to terrorism,
not only by legislative means and security measures,
but with the armory of common values, common standards
and common commitments on universal rights
that define us as one global community
and which enable us to reach beyond our differences.*

Mary Robinson

Armory for Human Security

A frequently asked question: why refer to Minerva, goddess of war?

Pursued for a time, in her helmet and cuirass of mail, by Mars, Minerva is not a mere amasser of armaments or trophies of martial power. In the merging of Greek, Etruscan and Roman traditions, she is the inventor of numbers and musical instruments, and possible mother of the Muses. Responsible for domestic skills, such as spinning and weaving, and for all arts, she is patroness of painting, sculpture, poetry, pedagogy, and medicine. She may well be as fierce as the god of war, but her mandate is broader and recognizes the safeguarding constraints of civilization. Revered by women, Minerva also was “worshipped by men who sought cunning, prudence, and courage in military affairs” (Robert E. Bell, *Women of Classical Mythology*).

It might be prudent to reflect on that congeries of qualities in this season of alarming impotence and heightened insecurity. For when violence is abroad in the land, as it usually is, fear blindly props up the intolerance that perpetuates whatever is feared. And, as paranoid extremes clash, courage requires an element of caution that is difficult to calibrate to a degree of strength & skill that can overcome vain posturings or preemptive strikes and can rise above pernicious eschatological fantasies.

Fear of terror, merging with fear of alien people & cultures & faiths that is shared with presumed enemies, is distorting the political scene in many places, while fear of unrelenting poverty & disease engulfs much of the world, where terror is only one among many far more pervasive threats with which to contend. The violence being committed t/here is everyone’s responsibility.

A paper presented in 1996 by Pat Duffy Hutcheon to a conference of the Interna-

tional Sociological Association reminds us that Hannah Arendt warned young revolutionaries of the 1960s that power and violence should not be confused. “Violence can destroy the old power, [Arendt] said, but it can never create the authority that legitimizes the new. Violence is therefore the poorest possible basis on which to build a government. ‘To substitute violence for power can bring victory, but the price is very high; for it is not only paid by the vanquished but it is also paid by the victor’ [*On Violence*, p53]. She considered this particularly dangerous because ‘the means ... of destruction now determine the end — with the consequence that the end will be the destruction of all [legitimate] power’. Only terror is left!”

These days much explicative attention is expended on terror as a tool of the powerless, even though most of the most powerless — women — use it least. Meanwhile, torture and other forms of sanctioned terror do not display impressive power, as its perpetrators imagine, but expose suppressed intimations of illegitimacy. And, when allegedly used for “intelligence”, they clearly signal its lack. Government well founded on freely exchanged information and minimal deceit does not need to resort to violent displays of empty power. Inviting disrespect, fear-mongering dissemblers in leadership roles are terribly pathetic as well as dangerous.

Even without experiencing — yet — the full panoply of totalitarian machinery, how can we (as Americans) escape from rule by fear when that is itself so fearsome? Why have we (as humankind) learned so little from the history of this dilemma? If we are afraid of anarchy but can’t talk honestly about our expectations of government and about the beneficial arts of politics rather than the exclusionary advantage-seeking perversions of it, what hope can we have? How do we (as world citizens) propose to build deepest legitimacy and widest benefit into the transnational institutions & protocols that need creation or rehabilitation?

Various explorations of these questions are presented in each issue of *Minerva*; many more are needed from people already living with the courage of their world citizenship convictions — and from people who recognize the testament of Burmese prisoner of conscience Aung San Suu Kyi, the 1991 Nobel Peace Prize laureate: “Fearlessness may be a gift, but perhaps more precious is the courage acquired through endeavor, courage that comes from cultivating the habit of refusing to let fear dictate one’s actions.”

In ancient legend, Minerva, like her counterparts in Vedic and other traditions, exemplifies that courage. In contemporary history, each of us can personify it in pursuit of authentic, hopeful, multifaceted human security.

A world of true security is only possible when the full range of human rights — civil & political, as well as economic, social and cultural — are guaranteed for all people. What we need now is a new approach — which begins with a broader understanding of what defines human and global security. We must craft a policy that manages and balances our increasing interdependence with our increased vulnerability. Governments from both the North and the South must expand their thinking and policies to encompass a broader understanding of security beyond the security of states.

- **Mary Robinson**, former UN High Commissioner for Human Rights

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The so-called soft threats — hunger, lack of safe drinking water & sanitation, and endemic diseases — kill millions each year, far more than so-called hard or ‘real’ threats to security. They cannot be ignored until the hard threats have been taken care of.

- UN Assistant Secretary General
Ramesh Thakur

In this interconnected world, security threats to people in faraway places have a way of migrating.

- David Brancaccio,
hosting the Stanley Foundation
documentary, “Security Check:
Confronting Today’s Global Threats”

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Minerva

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Renewing the Commitment to the Rule of Law and Human Rights: The Way Forward

Mary Robinson

This Dankwart A. Rustow Memorial Lecture, presented by the Ralph Bunche Institute for International Studies and the CUNY Graduate Center Department of Political Science on 21 September 2004, is published by permission of **Mary Robinson**, former President of Ireland (1992–1997), UN High Commissioner for Human Rights (1997–2002), and Executive Director of Realizing Rights: The Ethical Globalization Initiative.

[Opening amenities] . . . By observing the 100th anniversary of [the birth of Ralph Bunche], you have paid tribute to an extraordinary individual's contribution to academia, to the work of the United Nations and to the promotion of peace. But you have done something more. The Ralph Bunche centenary anniversary has served as a timely reminder of this country's proud history of leadership and commitment to international law and institutions. It has also been a reminder of how much that kind of leadership is needed today, here at home and around the world.

I would like to speak this evening about why I believe there is such an urgent need for the United States to reflect on its own historic role in establishing a global system of rules and institutions. And why I believe the time has come for this country to renew its commitment, in words and deeds, to the rule of law, and to the international human rights standards and system it did so much to establish. Equally important, there is a need to recognize how both connect to the goal of ensuring true human security for all people.



I make this call for a renewed commitment, not as a critic, but as a long time friend and strong supporter of the United States. I was privileged to come to this country as a student, nearly forty years ago, and was inspired by the American people and American democracy. Years later, as President of Ireland, I saw in new ways the deep connections between our peoples and our systems of government. And as United Nations High Commissioner for Human Rights, I witnessed how vital this country's role was in giving leadership on human rights around the world.

I wish to stress as well that I am acutely aware of the daunting challenges before us. We are confronted today with a dangerous array of threats to peace and security – from terrorists who are prepared to attack anywhere, at any time, without regard for human lives; to failing and failed states, unable to secure even the most basic structures of governance, and at risk of, or already becoming the breeding grounds for future terrorists. Other threats, from the proliferation of weapons of mass destruction to the global HIV/AIDS pandemic, to international criminal syndicates which traffic in everything from small arms to the most vulnerable human beings all require leadership and joint action. It is precisely these dangers, and the changing, more interconnected world we live in, that make respect for the rule of law and human rights so important today.

Standing up for those principles and the international systems which have been built to uphold them, requires, I believe, not only holding fast to long standing national and international obligations but also thinking in new ways about what security means here at home and for people around the world. It requires us to move outside our comfort zones and acknowledge a more expansive notion of human security. I believe that concept – human security – could serve as a bridge, a unifying framework, which reconnects the people of the United States with people from every part of the planet in greater awareness of our common humanity and our common future.

If we are to find that way forward, it is important to reflect on the events of recent years and how they look now both here and around the world. As we know, some have argued

that the terrible attacks of Sept. 11 2001 were so heinous, so unprecedented, that the only possible response was a global “war on terrorism”. These voices point out that the enemy is not a nation state and is not willing to respect fundamental standards of international law which protect civilians. Fighting terrorism, it is said, therefore requires new strategies and sometimes “exceptional measures”.

Three years after 9/11, I believe we must evaluate those assumptions and ask ourselves if such measures were justified. Were the decisions taken by the US government, for example, to hold detainees at Guantanamo Bay without Geneva Convention hearings, to monitor, detain and deport immigrants against whom no charges had been made or to put in question long held commitments, such as, forbidding the use of torture, justifiable actions to protect the American people?

Some believe strongly that they were necessary to guard against further terrorist attacks. What is clear is that the language of being “at war with terrorism” has had direct, and nefarious, implications. It has brought a subtle – or not so subtle – change of emphasis: order and security have become priorities that trump all other concerns. As was often the case in the past during times of war, the emphasis on national order and security frequently involves curtailment of democratic processes and results in violations of human rights. The bi-partisan Commission which has investigated the actions leading up to and following the events of 9/11 has prompted an important debate in this country about the effectiveness of these strategies, and how best to protect America in the future. That debate should continue.

***International law
is no longer a specialty.
... It is vital if judges
are to faithfully discharge
their duties.***

**Supreme Court Justice
Sandra Day O'Connor**

A good start was made by the International Commission of Jurists, when, during its biennial conference at the end of August '04, 160 international lawyers from around the world adopted a Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism. That Declaration acknowledges that terrorism poses a serious threat to human rights, and affirms that all states have an obligation to take effective measures against acts of terrorism but it sets out the boundaries as follows:

“In adopting measures aimed at suppressing acts of terrorism, states must adhere strictly to the rule of law, including the core principles of criminal and international law and the specific standards and obligations of international human rights law, refugee law and, where applicable, humanitarian law. These principles, standards and obligations define the boundaries of permissible and legitimate state action against terrorism. The odious nature of terrorist acts cannot serve as a basis or pretext for states to disregard their international obligations, in particular in the protection of fundamental human rights.

“A pervasive security-oriented discourse promotes the sacrifice of fundamental rights and freedoms in the name of eradicating terrorism. There is no conflict between the duty of states to protect the rights of persons threatened by terrorism and their responsibility to ensure that protecting security does not undermine other rights. On the contrary, safeguarding persons from terrorist acts and respecting human rights both form part of a seamless web of protection incumbent upon the state. Both contemporary human rights and humanitarian law allow states a reasonably wide margin of flexibility to combat terrorism without contravening human rights and humanitarian legal obligations.”

The Declaration then affirms 11 principles which states must give full effect to in the suppression of terrorism and calls on all jurists to act to uphold the rule of law and human rights while countering terrorism. This Berlin Declaration, available at <www.icj.org>, restores the balance which was lost in the aftermath of 9/11. It is a declaration which should hang in law offices and judges' chambers throughout the world. It is the rule of law charter to counter the imbalances of the “new normal”.

[continued]

As a non-citizen, but someone who is fortunate to be able to spend a good deal of time here in the United States and speak with Americans from many walks of life, I feel it important to raise issues that are less discussed here, namely, the consequences of US actions abroad. The reality is that by responding in the way it did to the attacks of 9/11, including through the subsequent wars in Afghanistan and Iraq, the United States has, often inadvertently, given other governments an opening to take their own measures which run against international human rights standards and undermine efforts to strengthen democratic forms of government.

I saw this first hand during my final year as High Commissioner for Human Rights. Repressive new laws and detention practices were introduced in a significant number of countries, all broadly justified by US actions and the new international war on terrorism. The extension of security policies in many countries has been used to suppress political dissent and to stifle expression of opinion of many who have no link to terrorism and are not associated with political violence. I will never forget how one Ambassador put it to me bluntly in 2002: "Don't you see, High Commissioner? The standards have changed."

The sad reality is that over the past three years, the view that governments will ultimately only rule by power and in their own interest, rather than by law and in accordance with international standards has been strengthened significantly. We must continue to challenge this approach and do everything possible to maintain the integrity of international human rights and humanitarian law norms in the light of heightened security tensions. Not just because it is the right thing to do, but because it is the most effective strategy in countering the forces which fuel terrorism. The United States can make a vital contribution to that effort through its own example, by living up to its time honored commitments to justice and respect for the rule of law, and by calling for greater concern for human rights at home and on the world stage.

But we must do more. We must also win the war of ideas and make the case that a

world of true security is only possible when the full range of human rights – civil and political, as well as economic, social and cultural – are guaranteed for all people.

What we need now is a major course correction — a new approach — which begins with a broader understanding of what defines human and global security. We must craft a policy that manages and balances our increasing interdependence with our increased vulnerability. Governments from both the North and the South must expand their thinking and policies to encompass a broader understanding of security beyond the security of states.

Again, we can and should look to the best traditions of US leadership for guidance and inspiration. President Franklin Roosevelt, in his 1944 State of the Union Address, argued that security "means not only physical security which provides safety from attacks by aggressors," but also "economic security, social security, moral security." He stressed that "essential to peace is a decent standard of living for all individual men and women and children in all nations. Freedom from fear is eternally linked with freedom from want."

While in the United States and Europe the focus since 9/11 has been on state security and combating acts of terrorism, millions of other people on the planet have continued to be at daily risk from violence, disease and abject poverty. Their insecurity stems from worry about where the next meal will come from, how to acquire medicines for a dying child, how to avoid the criminal with a gun, how to manage the household as a ten year old AIDS' orphan – theirs is the comprehensive insecurity of the powerless.

For women, gender is itself a risk factor threatening human security: the secret violence of household abuse, the private oppressions of lack of property or inheritance rights, the lifelong deprivations that go with lack of schooling and the structural problem of political exclusion.

Freedom from want is an empty promise today for more than 800 million people who suffer from undernourishment, for the

30,000 children around the world who die each day of preventable diseases, for the thousand million people still without access to clean water supplies or the 2.4 billion who lack access to basic sanitation.

An unprecedented number of countries actually saw their human development indicators slide backwards in the 1990's. In 46 countries people are poorer today than in 1990. In 25 countries more people go hungry than a decade ago. The picture that emerges is increasingly one of two very different groups of countries: those that have benefited from more open markets, free movement of capital and new technologies and those that have been left behind.

Of course, the reasons for this situation are many. For example, more and more people are conscious of the intolerable burden of debt on the poorest countries – a debt often incurred over long periods by former dictators which never benefited the general population. What is less appreciated is that poor countries are currently financing the huge deficit here in the United States. The World Bank's report, *Global Development Finance: Harnessing Cyclical Gains for Development*, puts it this way: "Since 2000, the developing world has been a net exporter of capital to the advanced economies". This is one of the global inequities we must bear in mind. Not only is more debt relief for the poorest countries essential but rich countries such as the United States should no longer borrow cheaply from poorer ones who need those resources for development at home.

Statistics give us the numbers we account for in addressing inequalities, but they fail to convey the humiliation, the hopelessness, the lack of dignity involved. Listening to a family living in absolute poverty it is this lack they speak of: the lack of self respect, the indignity and humiliation of a refugee camp, the invisibility of being homeless, the helplessness in the face of violence, including violence caused by those in uniform who should protect.

What I began to appreciate as President of Ireland – on visits, for example, to Somalia and Rwanda – and became convinced

of during my five years at the UN – is that the underlying causes of practically all human insecurity are an absence of capacity to influence change at personal or community level, exclusion from voting or participating in any way in local and national decision making, and economic or social marginalization. The key to change lies in empowering people to secure their own lives. For this people need the means to try to hold their governments accountable, at local and national levels.

This broader understanding of human security was examined by an independent Commission on Human Security, co-chaired by Amartya Sen and Sadako Ogata. Their report, *Human Security Now* (2003), proposes a new concept which shifts from a focus on the security of the state to the security of the people – to human security. The emphasis is on the extent to which human security brings together the elements of security, of rights and of development.

The report identifies two underlying concepts, protection and empowerment, which lie at the heart of human security. The first of these, protection, is primarily a state responsibility, but where states are unable or unwilling to address large scale abuses, an international responsibility to take appropriate action must be acknowledged, as was examined and clarified by the International Commission on Intervention and State Sovereignty in its report: *The Responsibility to Protect* (2001) which Tom Weiss and his colleagues here at the Ralph Bunche Institute contributed so much to producing.

The Commission on Human Security describes the second concept, empowerment, as: “People’s ability to act on their own behalf – and on behalf of others ... People empowered can demand respect for their dignity when it is violated. They can create new opportunities for work and address many problems locally. And they can mobilize for the security of others.”

I saw this for myself in every country I visited as High Commissioner. Human rights groups, women’s groups, environmental movements, child advocates, mi-

nority groups, those tackling poverty were all increasingly seeing the value of applying their governments’ human rights obligations to budget analysis, legislation and social policies to expose failures to implement progressively rights to the highest standards of health, to education and adequate housing among others. They were also challenging money spent on unnecessary military equipment or projects benefiting only a small elite. Invariably, the work was under-resourced, undervalued and often resented by those in power. But change was possible.

Now these groups have additional tools available in the commitments both developed and developing countries have made to achieve the Millennium Development Goals by 2015. . . . These eight goals, you will recall, include: halving those in extreme poverty and hunger by 2015; achieving universal primary education for boys and girls by 2015; and specific targets for promoting gender equality and empowerment of women; reducing child mortality; improving maternal health; combating HIV/AIDS, malaria and other diseases; ensuring environmental sustainability and developing a global partnership for development.

An opportunity presents itself to reinforce the empowerment of grassroots organizations in every region by linking two processes that provide them with tools of accountability. We should help them to link their country’s undertaking to achieve the Millennium Development Goals, and the country’s legal commitments to progressively implement economic and social rights under the relevant international treaties, together with developed countries commitment to substantial new resources for financing this development.

To date, large parts of civil society have not been actively engaged in promoting the MDGs and mobilizing to pressure their governments to take effective action. Indeed, my experience of speaking to audiences in this country, including political scientists, sociologists and economists is that a substantial majority has never heard of the MDGs! Some human rights groups have expressed concern that the Millen-

nium Goals sideline more pressing issues or ignore previous commitments such as the women’s rights platform of the 1990s including violence against women and reproductive rights. Another criticism is that the MDG process is top-down. Civil society was not involved in formulating the MDGs which are seen by some as an attempt at a one-size-fits-all approach.

While I recognize that these are legitimate concerns, we should not forget that the MDGs were placed within the context of commitments that governments reaffirmed in September 2000 in the Millennium Declaration, to promote human rights, democracy and good governance. These commitments:

- ❖ To respect and fully uphold the Universal Declaration of Human Rights
- ❖ To strengthen the capacity of all countries to implement the practices of democracy and human rights
- ❖ To implement the Convention on the elimination of discrimination against women (CEDAW)
- ❖ To ensure respect and protection for the rights of migrant workers and their families
- ❖ To work collectively for a more inclusive political process, allowing genuine participation by all citizens in all countries and
- ❖ To ensure the freedom of the media and public access to information are vitally important to achieving the development goals and should be given greater prominence.

Making more of the links between human rights, human development and human security could also have a positive impact on the allocation of resources. Additional money to support the MDGs was pledged by the United States at the 2002 Conference on Financing for Development held in Monterrey, Mexico, through the Millennium Challenge Account. The European Union has also increased its commitment. However, there is still a wide disparity between the global spending on official development assistance, which amounts to around \$60 billion a year, and the annual

amount developed countries spend on items such as agricultural subsidies in the amount of \$300 billion, and global military expenditure of \$900 billion.

It was estimated at Monterrey, by an eminent panel of economists chaired by former president of Mexico Ernest Zedillo, that an additional \$50-60 billion annually on development assistance would be needed to ensure full implementation of the Millennium Development Goals by 2015. If this extra expenditure would in fact make the world more secure, does it not seem like a good investment?

The project I now lead here in New York, Realizing Rights: The Ethical Globalization Initiative (EGI), is seeking to extend a human rights analysis and strong gender perspective into issues of trade and development; into health issues – particularly the pandemic of HIV and AIDS in sub-Saharan Africa – and into migration. We seek to be a catalyst which engages leaders in government, in business, the trade union movement, the women's movement, and people of faith in thinking creatively about how – from different perspectives – we can create multi-stakeholder approaches to addressing global problems and help grassroots and social movement groups to empower themselves. We believe this empowerment can be strengthened with knowledge of the additional tools by which to hold their governments accountable for both their human rights commitments and the implementation of the Millennium Development Goals with additional resources over the next ten years.

Let me close by asking: what could all of you do to support such efforts? One possibility is to learn more about and engage with the emerging US human rights movement which is seeking to reclaim the full legacy and meaning of international human rights here at home. I see this movement taking shape in many places. For example, a growing number of US medical professionals and groups such as Physicians for Human Rights are pushing for greater recognition of the right to the highest attain-

able standard of health for all and demonstrating the impact this shift would have on the way decisions are made about health spending and access to health services, especially for the most vulnerable.

US development and humanitarian NGOs are increasingly aware of the human rights covenants and conventions that have been ratified in the countries where they are working, they know what reports have been submitted by governments on their rights performance and the comments of the relevant treaty monitoring committees, and they know if there have been visits and reports by UN experts. They are linking this information to their own work and in particular how they seek to empower grass roots civil society groups in using this framework to push for results. Interest is growing in relation to issues such as fair trading and socially responsible investing. Consumer power can help shape corporate social responsibility.

Many challenges face this emergent US human rights movement. The government's ongoing aversion to international law and institutions and the lack of awareness about international standards amongst the general public must be addressed. I would encourage all of you . . . to continue your work to make the example of leaders like Ralph Bunche known to wider circles of Americans. Sadly, many Americans aren't aware of the Universal Declaration of Human Rights or the role this country played in creating the international human rights movement. You can help by joining those who are seeking to reclaim American traditions of engagement with international institutions and law as the best hope for a more peaceful and just world.

We live in difficult but hopeful times. The challenge of speaking out against the erosion of civil liberties, even during times of crisis, needs to be a priority in the foreseeable future. Calling on all nations to hold fast to their international legal obligations and to reaffirm their commitment to multilateralism will require concerted efforts. But we should also be hopeful. A

movement which is seeking a fairer world, where all people are guaranteed basic human security, is growing. The people of this country should join their voices to that growing chorus. The key lies in renewing the commitment here at home to human rights for all.

Let me borrow inspiration once again from a poem Seamus Heaney wrote for Amnesty International. The poem, "From the Republic of Conscience", tells the story of a visit to a place where:

*You carried your own burden,
and very soon
your symptoms of creeping privilege
disappeared.*

It explains that:

*At their inauguration, public leaders
must swear to uphold unwritten law
and weep
to atone for their presumption
to hold office.*

The poem concludes this way:

*I came back from that frugal republic
with my two arms the one length,
the customs woman
having insisted my allowance was myself.*

*The old man rose and gazed into my face
and said that was official recognition
that I was now a dual citizen.
He therefore desired me when I got home
to consider myself a representative
and to speak on their behalf
in my own tongue.
Their embassies, he said, were everywhere
but operated independently
And no ambassador would ever
be relieved.*

The poem encapsulates beautifully the human rights concept of personal responsibility, which is at the heart of building an ethical globalization. May you all be dual citizens, and may none of you ever be relieved.

Terrorism as an International Crime

Leila Nadya Sadat

Leila Sadat, Henry H. Oberschelp Professor of Law at Washington University School of Law, and Commissioner, US Commission on International Religious Freedom, is a member of the Board of Directors of the Citizens for Global Solutions Education Fund.

This excerpt from her essay, "Terrorism and the Rule of Law", in the *Washington University Global Studies Law Review*, 3:135 (Winter 2004), is reprinted by permission.

The essay opens with the following epigraph from **Thomas Hobbes**:

Nature hath made men so equall, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himselfe any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others. . . .

- *Leviathan*, Ch. XIII

. . . Although the second half of the twentieth century witnessed tremendous growth in the normative content of international criminal law with the adoption of several important counter-terrorism treaties, including a series of treaties relating to air safety and airplane hijacking, maritime navigation, fixed platforms on the continental shelf, hostage taking, and the safety of internationally protected persons,³⁷ the international community was, nonetheless, not united in its condemnation of international terrorism. Persistent debates remained whether there was any uniform definition of the crime. In particular, members of the non-aligned group of countries argued for the exclusion of violent actions undertaken by groups fighting in the struggle of national liberation movements.

Moreover, despite the significant progress made in criminalizing particular offenses through the adoption of international treaties, there is little doubt that enforcement of those treaties was problematic. Most antiterrorism conventions impose a form of "universal jurisdiction by treaty",³⁸ which grants any state to which the alleged terrorist travels jurisdiction to prosecute him or her. Additionally, these treaties generally impose upon states the duty to try or extradite international terrorists (*aut dedere, aut judicare*), and in this manner create a net through which the terrorist has difficulty escaping. Yet these instruments notwithstanding, legal experts vigorously debated whether terrorism could generally be considered a universal jurisdiction crime, due, in part, to the difficulties concerning its definition. Additionally, the crucial enforcement mechanism of the counter-terrorism treaties, *aut dedere, aut judicare*, was generally not believed to be a norm of customary international law, although certain prominent scholars argued to the contrary.³⁹ Thus, to the extent a terrorist remained on the territory of a "friendly" or incompetent state, that is, a state which was either powerless or not inclined to investigate and punish the criminal in question, that terrorist could largely avoid the application of international law.

Many of these difficulties have been ameliorated in recent times, due to the tremendous progress not only with regard to the enforcement of international norms condemning terrorism, but in parallel areas of international criminal law. To begin with, in 1993 and 1994 the Security Council took the unprecedented step of establishing the two *ad hoc* tribunals for the Former Yugoslavia and Rwanda.⁴⁰ Although there was initial scepticism as to whether those tribunals would be able to indict and apprehend those thought most culpable in the wars and atrocities committed in Rwanda and the former Yugoslavia, they have been effective and successful, even if not perfect, institutions. Building upon those precedents, the International Criminal Court Treaty was proposed, negotiated, and adopted and entered into force decades sooner than most would have thought possible.⁴¹ Those institutions' jurisdiction does not encompass the crime of terrorism, except to the extent that acts of terrorism could be considered crimes against humanity. But the Lockerbie trial, which did address acts of terrorism, is an example of international enforcement that was successfully undertaken by the international community.

The last decade also brought progress in achieving an international consensus on the *per se* illegality of widespread attacks on civilian populations. In 1994 the General Assembly took the position that "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable".⁴² The Declaration also required states to "refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other states, or from acquiescing in or encouraging activities within their

territories directed towards the commission of such acts".⁴³ The 1994 Declaration was followed two years later by a second Declaration along the same lines, suggesting the general willingness of the international community to address the problem of terrorism and terrorist havens.⁴⁴

The attacks of September 11th, like the tragic wars in the Former Yugoslavia, the Rwandan genocide, and the horrific bombing of Pan Am 103, presented the world with yet another opportunity to further strengthen the enforcement of international criminal law norms, and fill the gap in enforcement that has plagued efforts to control international terrorists. Indeed, if we leave aside the question whether the acts of September 11th were armed attacks or war crimes, they could clearly be characterized as acts of international terrorism⁴⁵ and crimes against humanity.⁴⁶ They involved the intentional killing (murder) of several thousand civilians and appear to have been carried out pursuant to a widespread and arguably systematic attack against a civilian population pursuant to the policy of the al Qaeda criminal organization, thus fulfilling the definition of crimes against humanity in the Rome statute for the International Criminal Court.⁴⁷ Moreover, there is no doubt that the attacks violated several of the international terrorism conventions referred to earlier,⁴⁸ and that the perpetrators could be prosecuted in US courts under several different federal statutes.⁴⁹

The US government and the international community generally characterized the attacks of September 11th as criminal acts, as evidenced by the Security Council Resolutions adopted after the fact. Security Council Resolution 1373 is extraordinary in this regard. First, building upon the experience of the past decade, the Council assumed that the offenses were crimes of universal international jurisdiction that could be defined by the international community (and presumably could be the subject of adjudication by an international tribunal) and followed by international enforcement action. That is, the Security Council, invoking its Chapter VII authority, has suggested, through its pronouncements after the fact, that the acts of Sep-

tember 11th amounted to international crimes over which the international community (and presumably states, a subject beyond the scope of the present essay) may assert universal international jurisdiction.⁵⁰ Although this is consistent with the position the Council has taken in asserting jurisdiction over the crimes committed in the Former Yugoslavia and Rwanda, it is a dramatic extension of those precedents because it suggests that they now apply to acts of international terrorism.

Moreover, as alluded to above, there was substantial debate prior to September 11th, 2001, whether terrorism was a universal jurisdiction crime at all. Many national tribunals had opined that it was not, and the Princeton Principles of Universal Jurisdiction, adopted in January 2001, nine months prior to the attack, omitted terrorism from the list of crimes over which States could presumptively exercise universal jurisdiction.⁵¹ Whether Resolution 1373 is the codification of custom, instant custom, or a new form of Security Council "legislation",⁵² its adoption suggests a sea change in *opinio juris* on the issue of terrorism as a universal jurisdiction crime, enacted against the backdrop of a custom that had already been evolving in that direction.

In addition, Resolution 1373 appears to suggest that the principle *aut dedere, aut judicare* is also a matter of customary international law. That is, to the extent a crime is a universal jurisdiction crime, this principle appears to apply as a matter of customary international law. This would represent a tremendous advance in the enforcement of international criminal law norms by national legal systems. Resolution 1373 also provides that states must "deny safe haven to those who finance, plan, support, or commit terrorist acts or provide safe havens", suggesting, like General Assembly Resolutions 49/60 and 51/210,⁵³ that states may not serve as safe havens for terrorists without running afoul of international law. The question that remains is, of course, what consequences flow from a state's breach of this obligation.

Given the general prohibition in the UN Charter against the unilateral use of force

by states in resolving international disputes, the course of action that appears most consistent with the existing framework of international law is to request the Security Council to intervene in cases involving terrorist attacks launched from one state against the territory of another. Although some have made the case for the legality of the October 7th military response of the United States despite the absence of any explicit authorization of the Security Council, it should be noted that the facts of that case are quite unique. The Afghanistan situation involved attacks significant both in scale and symbolism, prior demands from the Security Council to the Taliban to turn over the individuals suspected of their organization, at least some evidence of complicity between the terrorist organization and the *de facto* government of Afghanistan, virtually universal and worldwide condemnation of the attacks themselves, and few questions as to their source. In other cases, the responsibility of a state may be much less evident, and the unanimity of the international community much less sure. In the case of September 11th, the United States could have obtained a third Security Council Resolution to enforce Resolution 1373. This final Resolution, like the famous Resolution 678 that authorized operation Desert Storm, would have required the Taliban regime of Afghanistan to turn over Osama bin Laden and his accomplices, based upon evidence establishing the equivalent of "probable cause"⁵⁴ that he and the al Qaeda network were responsible for the attacks of September 11th. The resolution could have set a deadline for doing so, and authorized states to use "all necessary means" to effectuate his capture if the Taliban refused to surrender him, just as Resolution 678 did in 1990 with regard to the Iraqi invasion of Kuwait.⁵⁵ There is no doubt that this hypothetical international "arrest warrant" would have been issued by the Security Council at the United States' urging — the world expressed both its sorrow and solidarity with the United States in the wake of the September 11th attacks, and at the time Resolutions 1368 and 1373 were adopted, bin Laden was threatening the United Nations as a future target of his terrorist network. In this way, the US-led military action and response to interna-

tional terrorism would have set an important precedent and would have reinforced the normative content and institutional framework of international law.

IV. CONCLUSION

The temptation to jettison legal constraints is understandable when faced with a hostile enemy that does not itself obey the law. Perhaps there are times when law fails, or when civil disobedience is appropriate if law itself becomes illegal or immoral. But the attacks of September 11th did not present such a case. Indeed, the hideousness of the acts themselves so shocked the international community that they provided a unique opportunity to strengthen a growing international consensus condemning attacks on civilians whatever the motivation.⁵⁶ This is not to suggest that a military response was necessarily illegal under the circumstances, only that any military actions taken must, to be effective in the long term, employ force in service of the rule of law. The ultimate test of America's strength will not be its ability to respond militarily to threats all over the world, threats that are by definition, random, designed to inflict terror, and carried out by very small numbers of individuals willing to die in the process of carrying out their criminal design. Instead, America's strength will lie in its ability to persuade others to join its cause against international terrorism and to establish international institutions and international norms to do so, norms which states are

willing to enforce domestically.⁵⁷

The attacks of September 11th presented the United States with an extraordinary opportunity to reshape the norms of international law to promote their effective enforcement. International conventions against terrorism that proved ineffective to the extent terrorists could take refuge in states that had either unwillingly or willingly become accomplices to their action were to be enforced by Security Council action in the event that other means proved ineffective, and the terrorists' activities threatened the maintenance of international peace and security. Moreover, international military action, guided by law and explicitly authorized by a Resolution of the Security Council, would seemingly have proven no less effective than a military campaign launched on more ambiguous terms. Viewing the anti-terrorism campaign in Afghanistan as an international criminal law enforcement operation, rather than an act of retribution would also have created a positive precedent for future cases. The present unilateralist approach provides states wishing to do so with the opportunity to eliminate dissidents and those otherwise opposed to their rule, including governments or rebels in neighboring states, by labeling them "terrorists", and therefore not subject to the normal legal constraints that govern the use of force.⁵⁸ This erosion of the rule of law is in the interest of no state in the world, not even the world's only superpower. While the terrorists of September 11th may have

been self-styled warriors, they and their ilk are not combatants engaged in international armed conflict, but pathological criminals that require arrest and deterrence.⁵⁹ Although it is now fashionable to suggest that we must abandon liberal regimes in favor of a new Hobbesian reality when faced with the menace of ruthless international criminals, Hobbes himself did not suggest that "going it alone" was the solution to survival in the state of nature. Instead, because even the strongest man can be felled by the weakest, with a knife in the back as he sleeps, cooperation and trust are prerequisites for survival in a world where life is, otherwise, nasty, brutish and short.⁶⁰

One can only hope that, with time, the United States government will return to the measured process of building effective multilateral regimes, and abandon the unilateralist path it now appears to tread. There may be a place or even a need for the use of force in response to the deadly acts of international terrorists, but military power must be employed judiciously and subject to the constraints of international law. Bombing bin Laden may salve the pain of those victimized by his crimes, but it is unlikely either to bring him to bay or prevent the commission of future atrocities.⁶¹ This is particularly true if the military action and subsequent policies of the US government further erode respect for the rule of law, and lessen the moral leadership that the United States could otherwise provide.

ENDNOTES

37. See Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft, Sept. 14, 1963, 20 U.S.T. 2941, 704 U.N.T.S. 219; Hague Convention on the Suppression of Unlawful Seizure of Aircraft (Hijacking), Dec. 16, 1970, 22 U.S.T. 1641, 860 U.N.T.S. 105; Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Sabotage) *opened for signature* Sept. 23, 1971, 24 U.S.T. 564, 974 U.N.T.S. 177; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (*opened for signature* Mar. 10,

1988), 1678 U.N.T.S. 349; Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf *opened for signature* Mar. 10, 1988, 1678 U.N.T.S. 201 (1988); International Convention against the Taking of Hostages *opened for signature* Dec. 17, 1979, T.I.A.S. No. 11081, 1316 U.N.T.S. 205; Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents *opened for signature* Dec. 14, 1973, 28 U.S.T. 1975, 1035 U.N.T.S. 167.

38. JORDAN J. PAUST ET AL., *INTERNATIONAL CRIMINAL LAW: CASES AND MATERIALS* 157 (2d ed. 2000).

39. See generally M. CHERIF BASSIOUNI & EDWARD M. WISE, *AUT DEDERE, AUT JUDICARE: THE DUTY TO EXTRADITE OR PROSECUTE IN INTERNATIONAL LAW* (1995).

40. The ICTY was Established by S.C. Res. 808, U.N. SCOR, 48th Sess. 3175th mtg. at 2, U.N. Doc. S/Res/808 (1993). The Tribunal's statute appears in an Annex to the Secretary-General's report, *Report of the Secretary-General Pursuant to Para-*

graph 2 of Security Council Resolution 808, S.C. Res. 808, U.N. SCOR, 48th sess., U.N. Doc. S/25704/Add. 1 (1993). The Security Council adopted the Secretary-General's draft of the statute without change in Resolution 827. S.C. Res. 827, U.N. SCOR, 48th sess. 3217th mtg., U.N. Doc. S/Res/827 (1993); The ICTR was Established by Security Council Resolution 955, S.C. Res. 955, U.N. SCOR, 49th Sess., 3453rd mtg., at ¶ 2, U.N. Doc. S/Res/955 (1994).

41. See generally LEILA NADYA SADAT, THE INTERNATIONAL CRIMINAL COURT AND THE TRANSFORMATION OF INTERNATIONAL LAW: JUSTICE FOR THE NEW MILLENNIUM (2002); Sadat & Carden.

42. Declaration on Measures to Eliminate International Terrorism, G.A. Res. 49/60, U.N. GAOR 6th Comm., 49th Sess., 84th plen. mtg., U.N. Doc. A/49/60 (1994).

43. *Id.*

44. Declaration on Measures to Eliminate International Terrorism, G.A. Res. 51/210, U.N. GAOR 6th Comm., 51st Sess., 88th plen. mtg., U.N. Doc. Res/51/210 (1996).

45. This Essay, admittedly, does not address the often difficult question of terrorism's definition. For a discussion of this question, see generally James A.R. Nafziger, *The Grave New World of Terrorism: A Lawyer's View*, 31 DENV. J. INT'L L. & POL'Y 101 (2003).

46. To the extent that the al Qaeda movement indiscriminately targets persons of particular nationalities for extermination, its actions could even be considered genocidal in character. See also *id.* at 108.

47. Rome Statute, art. 7(1)(a).

48. See *supra* note 37 and accompanying text.

49. Obviously, the death of the Sept. 11 hijackers precludes their prosecution. However, the indictments of other notable terror suspects are instructive regarding possible criminal charges brought against their accomplices. For example, the indictment of John Phillip Walker Lindh included the following charges: conspiracy to murder nationals of the United States, in violation of 18 U.S.C. §2332(b)(2) (2002); conspiracy to provide material support and resources to foreign terrorist organizations (Harakat ul-Muhahideen and al Qaeda), in violation of 18 U.S.C. §

2339(b) (2002); conspiracy to contribute services to al Qaeda, in violation of 31 C.F.R. §§ 595.205 and 595.204 and 50 U.S.C. § 1705(b) (2002). Lindh pled guilty to a charge of supplying services to the Taliban, in violation of 50 U.S.C. § 1705(b) (2002), 18 U.S.C. § 2 (2002). United States v. Lindh, 227 F. Supp.2d 565 (E.D. Va. 2002). Richard Reid was indicted for attempted use of a weapon of mass destruction, in violation of 18 U.S.C. §2332a(a)(1) (2002); attempted homicide, in violation of 18 U.S.C. § 2332 (2002); placing explosive devices on an aircraft, in violation of 49 U.S.C. §§ 46505(b)(3) and (c) (2002); attempted murder, in violation of 49 U.S.C. § 46506(1) (2002) and 18 U.S.C. § 1113 (2002); interference with flight crew members and attendants, in violation of 49 U.S.C. § 46504 (2002); attempted destruction of aircraft, in violation of 18 U.S.C. §§ 32(a)(1) and (7) (2002); using destructive device during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c) (2002); and attempted wrecking of mass transportation vehicle, in violation of 18 U.S.C. § 1993(a)(1) and (8) (2002). Note that Reid's motion to dismiss the final charge has been granted. United States v. Reid, 206 F. Supp.2d 132 (Mass. 2002). Finally, Zakarias Moussaoui was indicted for the following: conspiracy to commit acts of terrorism transcending national boundaries, in violation of 18 U.S.C. §§ 2332b(a)(2) and (c) (2002); conspiracy to commit aircraft piracy, in violation of 49 U.S.C. §§ 46502(a)(1)(A) and (a)(2)(B) (2002); conspiracy to destroy aircraft, in violation of 18 U.S.C. §§ 32(a)(7) and (34) (2002); conspiracy to use weapons of mass destruction, in violation of 18 U.S.C. § 2332(a)(a) (2002); conspiracy to murder United States employees, in violation of 18 U.S.C. §§ 1114 and 1117 (2002); and conspiracy to destroy property, in violation of 18 U.S.C. §§ 844(f), (i), (n) (2002). United States v. Moussaoui, 333 F.3d 509, 509 (E.D. Va. 2003). The prosecution in the case was recently barred from seeking the death penalty and from bringing forth testimony that Moussaoui "had any involvement in, or knowledge of, the September 11 attacks" as a sanction for the United States' refusal to allow enemy combatant detainees to testify on Moussaoui's defense. United States v. Moussa-

oui, 2003 U.S. Dist. LEXIS 17253 at 16 (U.S. Dist., 2003).

50. SADAT, *supra* note 41, at ch. 5.

51. THE PRINCETON PRINCIPLES ON UNIVERSAL JURISDICTION, Principle 2(1) (Princeton Program in Law and Public Affairs, 2001). The Restatement of Foreign Relations Law (Third) suggests that certain acts of terrorism are increasingly accepted as universal jurisdiction crimes, such as "assaults on the life or physical integrity of diplomatic personnel, kidnapping, and indiscriminate violent assaults on people at large." RESTATEMENT THIRD OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 404 cmt. (a) (1986).

52. See generally Paul C. Szasz, *The Security Council Starts Legislating*, 96 AM. J. INT'L L. 901 (2002).

53. See *supra* notes 42-44 and accompanying text.

54. For the argument that "clear and convincing evidence" of a State's complicity should be the standard for a unilateral action based on self-defense in response to a terrorist attack launched from the territory of that State, see Mary Ellen O'Connell, *Evidence of Terror*, 7 J. CONFLICT & SECURITY L. 19, 21-28 (2002). This is not quite the same issue as what evidence should be required in order for the Security Council to issue the equivalent of an "arrest warrant" for the capture of a suspect in a case of international terrorism. 55. S.C. Res. 678, U.N. SCOR, 45th Sess. U.N. Doc. S/Res/678 (1990). For an excellent treatment of recent Security Council practice involving Chapter VII see Mary Ellen O'Connell, *The U.N., NATO, and International Law after Kosovo*, 22 HUM. RTS. Q. 57, 67-70 (2000).

56. Anne-Marie Slaughter, *The Future of International Law: Ending the U.S.-Europe Divide*, in A DEFINING MOMENT — INTERNATIONAL LAW SINCE SEPTEMBER 11, Crimes of War Project, <http://www.crimesofwar.org/sept-mag/sept-contrib.html> (visited Sept. 6, 2003).

57. Cf. JOSEPH S. NYE, JR., THE PARADOX OF AMERICAN POWER (2002).

58. This has occurred in Russia, in China, in Israel, and in Uzbekistan, for example.

59. See also W. Michael Reisman, *International Legal Response to Terrorism*, 22 HOUSTON J. INT'L L. 3.

60. Of course, under Hobbes' scheme, for cooperation to work there must be some power of enforcement, which is why he has often been cited for the proposition that the state of nature is preferable to cooperation in international affairs, unless it can be argued that the current collective secu-

rity mechanism of the U.N. or the new International Criminal Court can provide such an enforcement mechanism. Thanks to Professor Larry May for bringing his wonderful analysis of Hobbes to my attention. See LARRY MAY, CRIME AND HUMANITY: PHILOSOPHICAL RE-

FLECTIONS ON INTERNATIONAL CRIMINAL LAW (forthcoming).

61. Cf. Michele L. Malvesti, *Bombing bin Laden: Assessing the Effectiveness of Air Strikes as a Counter-Terrorism Strategy*, 26 FLETCHER FOR. WORLD AFF. 17 (2002).

NOTES: Borders and People at Risk

Border control is one of the most emotional issues of the so-called "globalized" world. It tends to jumble together the plights of refugees, asylum-seekers, immigrants, temporary migrants, and trafficked persons and, increasingly, to confuse them with enemies or potential terrorists. The UN endeavors to define these shifting populations, their enduring rights, and the responsibilities of others in relation to them.

Refuge

The new UN High Commissioner for Refugees, interviewed in this issue, reminds everyone that "refugees are very often the first victims of terrorism". And the wider environment for them is increasingly hostile, seriously hampering the UNHCR's efforts to protect them, said Erika Feller, the agency's Director of International Protection, to its 68-nation governing executive committee (Geneva, 5 October). The difficulties range from arrests of UNHCR-sponsored lawyers taking up cases such as rapes in camps to executions by irregular armed groups.

Feller described the past 12 months as a time of sharp contrasts – "one of high rates of voluntary return and falling asylum numbers, but also of protracted refugee situations and waning generosity on the part of certain host states. Abuse of children, violence against women, *refoulement* of refugees and restriction of basic rights, such as freedom of movement, are endemic in many displacement situations. There has been marked progress in the building of asylum systems in a number of host states, while others have tightened their controls

for anti-terrorism reasons and because of an increasingly complex migratory situation. Refugees have been repeatedly mischaracterized as criminals or 'possible terrorists', or as illegal migrants whose protection is considered a secondary issue. ..."

She reiterated that protection is not a choice, but an obligation. "States have conferred on [UNHCR] quite a specific mandate, one that allows for no choice in whether to implement it; it is obligatory, not discretionary in its character," she said. "We understand that, on occasion, the exercise by UNHCR of its protection responsibilities may be uncomfortable for some governments. This is inherent in a mandate which requires UNHCR not only to provide assistance and technical advice, but also to step in to defend the rights of refugees where these are in jeopardy, including in the face of inaction, inability, or deliberate acts of concerned state actors. UNHCR does this as a humanitarian, non-political act, as the agent of the international community. No judgement is implied going beyond that the situation of persons of concern to us demands such a protection intervention. States have formally declared – and this in the 1951 Convention – that giving asylum cannot be construed as a hostile act. It is a humanitarian necessity."

"UNHCR's competence to provide international protection to refugees and to determine eligibility for protection under its mandate exists independently of states' obligations to provide international protection under the 1951 Convention and its 1967 Protocol," Feller said. "The mandate of the office is contained in a statute which has no geographic boundaries; it applies in any state, signatory or non-signatory."

Migration

Meanwhile, international migration reportedly has more than doubled in the past four decades. According to the *World Migration Report 2005*, released in June by the International Organization for Migration (IOM), by the end of 2004 there were 185 million migrants worldwide, or roughly one of every 35 persons, with flow patterns changing in unexpected ways. "Migration today touches every country in the world, with all 191 sovereign states now either points of origin, transit or destination, and often all three at once," observes Brunson McKinley, IOM Director General ("Migration is here to stay, so get used to it", *International Herald Tribune*, 24 June 2005).

In countries around the world, migration is seen variously as a means to contribute to economic growth by way of money sent from abroad by scattered workers, as a threat to the labor market of the country of employment, or as a drain on the public services of the host country.

Mr McKinley notes that "the perception that migrants represent a financial burden on host countries is not sustained by research. A study by Britain's Home Office calculated that in 1999 and 2000, migrants contributed \$4 billion more in taxes than they received in benefits. A recent study by the Institute for Public Policy Research found that the contribution of immigrants to public finances is significant and growing, from 8.8 percent of Britain's tax receipts in 1999-2000 to 10.0 percent in 2003-2004. In Germany, according to research conducted by the International Labor Organization, the average immigrant makes a positive net contribution of \approx 50,000, or \$60,630, during his or her lifetime." He adds that "costs are more appar-

ent when effective management policies are not in place” and acknowledges that the costs of social and cultural tensions are harder to assess.

But while these “cost-benefit” equations of migration are being debated, the migrant herself struggles. “Vilified by politicians and the popular media, often subject to discrimination and human rights violations, many migrants live their lives on the margins of societies unwilling or unable to accept or integrate them fully,” observes Amnesty International. “The vulnerability of migrants . . . is exacerbated significantly in the case of ‘irregular’ or ‘undocumented’ migrants. There is a high demand, emanating from governments and societies in many diverse regions of the world, for cheap and flexible labor. This demand is often filled through the recruitment of migrant workers into the informal sector of the economy; these migrant workers and members of their families are ‘irregular’. In many situations documented by Amnesty International, it appears that the ‘irregularity’ of these migrant workers and their families has led policy-makers to the conclusion that these migrants do not have fundamental human rights in spite of the fact that they make a substantial social and economic contribution to the communities they reside in. Many are treated as less than human.” Common abuses — even of children — include detention, threats, beatings, sexual assault, other torture, and arbitrary expulsion.

During the lengthy period that Irene Fernandez (introduced in *Minerva* #12, 1998) was on trial for exposing horrendous treatment of migrant workers in Malaysian detention camps (she was charged in 1995 with maliciously publishing false news and sentenced in 2003 to one year in jail, under appeal), conditions there reportedly have worsened, and in 2004 the government planned to expel up to one million “irregular” migrants. Large-scale expulsions also have occurred in Europe; for example, the deportation this year of hundreds of people of African & Middle Eastern origin to Libya from the Italian island of Lampedusa has raised questions about the Italian government’s determination to deal fairly with migration challenges.



Irene Fernandez, founder of Tenaganita (Women’s Force) in 1991, has been awarded one of the 2005 Right Livelihood Awards, to be presented at the Swedish Parliament on 9 December. “The award recognizes our work and brings into focus the plight of hundreds and thousands of migrant workers who suffer constant abuse, harassment and exploitation,” she told Inter-Press Service (5 October). “The recognition will spur us to work even harder.”

Despite the many serious risks, the ‘World Survey on the Role of Women in Development’ (a December 2004 report to the United Nations General Assembly from Secretary-General Kofi Annan) says that “gender inequality can be a powerful factor in precipitating migration when women have economic, political and social expectation that opportunities at home do not meet.” And women migrants may move to situations where they have greater importance to their families or home communities or “where they are empowered to exercise greater autonomy over their own lives”. Alternatively, women who do not migrate when husbands or children do, may “find themselves taking on new, decision-making roles and responsibilities”. There is still a “dearth of data”, however, especially data broken down by gender and age, so no one is sure how these factors influence local and national attitudes toward women’s rights & opportunities in relation to international standards.

In an August report prepared for the current General Assembly session, Mr Annan says that, with worker migration becoming increasingly feminized (60% of the annual Jamaica migrant labor force and 70% of the Indonesian, for example) it is more important than ever to allow women residency status independent of men, to ratify and implement international instruments prohibiting violence against women, and to offer effective support for women migrant victims of violence, including giving them access to shelters, legal aid and medical, psychological, social and economic assistance. Much more education about their rights is needed for migrant women and the general public. It should highlight the positive contributions made by women migrant workers and dispel the misinformation that leads to xenophobia & racism in destination countries and can put migrant women at risk of violence and abuse, he says.

Mr Annan urges all states to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which came into force in July 2003, to provide that all migrants, irrespective of their immigration status, should be able to enjoy certain fundamental rights: the right to be free from torture, the right to equality before the law and in conditions of work, and the right to urgent medical care. As of last International Migrants’ Day (18 December 2004), 27 states had ratified the convention and must report to the UN Committee on Migrant Workers.

Although migratory pressures are intensifying, “no international migration institution or mechanism frames or manages the rights of people who move between countries,” notes Mary Robinson’s Ethical Globalization Initiative (EGI). “At the national level, policies tend to focus overwhelmingly on the legal exclusion of unauthorized migrants, making the need for a policy framework to guide this phenomenon ever more urgent.”

Promoting “a broader and more informed international and national policy debate on global migration policy” is one of the EGI’s main tasks. To that end, it

- endeavors to shape public opinion on the issue of migration;
- convenes global high-level working group meetings to coincide with regional meetings of the Global Commission on International Migration (GCIM) that bring together national and global leaders and migration and human rights experts; and
- issues policy papers on migration and development in Africa for consideration by the GCIM.

The December 2003 establishment by UN Secretary-General Kofi Annan of the Global Commission on International Migration (GCIM <www.gcim.org>) — to which Mary Robinson has been appointed — was intended to provide “an opportunity to . . . influence new thinking on global migration policy”. It has “a unique mandate — and finite lifespan [end of 2005] — in which to analyze gaps in current policy approaches to international migration and provide a framework for a coherent, comprehensive and global response”. The GCIM is committed to “reframe the current debate on migration in a way that grips the public and political imagination”.

The Global Commission’s report (5 October), “Migration in an interconnected world: New directions for action”, calls for better behavior by recipient, source and transit countries, and recommends that the UN create a new “Interagency Global Migration Facility” to coordinate worldwide immigration policy. Some critics, such as Gregory Maniatis, from the Migration Policy Institute in Washington, reportedly object to emphasis on a global agency instead of “national and regional solutions” or faulted the report’s insufficient “concreteness”, while acknowledging that the report “has captured some important current ideas, such as a new emphasis on temporary or circular flows, where migrants move for a period and then return” (*Financial Times*, London, 5 October). The Commission says the “facility” is not meant to be a new agency but rather a short-term way to manage overlaps and gaps among existing institutions.

While the Secretary General studies the GCIM’s marshalling of six general principles and related recommendations, the Commission wants the core group of 32 countries behind its existence to promote its proposals ahead of a ‘high-level dialogue’ on international migration and development next October.

Meanwhile, the European Commission has welcomed the GCIM report as a tool that will allow “a balanced approach in the migration and asylum field” and an “important step towards the development of a comprehensive approach to international migration at the global level”.

Trafficking

Anti-trafficking movements, while not keeping pace with trafficking networks, are becoming more vigorous, although hobbled by harsh controversies about sex, prostitution, and religion.

According to the US Department of State’s *Trafficking in Persons Report* (2004), every year an estimated 600,000-800,000 people are trafficked across international borders; 70% of them are female and 50% are children. This number, growing at an alarming rate, is in addition to an indeterminate but far larger number of people trafficked within national borders.

Trafficking victims may be forced into commercial sex work, sweatshop, farm or domestic labor, or forced to work as child soldiers. Involuntary servitude involves two common aspects of the suffering of trafficked persons: coercion and the denial of freedom. Amnesty International notes that “trafficking places individuals in extremely vulnerable circumstances where their basic human rights are violated, including the rights to life, liberty, personal security, privacy, mental and physical integrity, freedom from slavery, and freedom from torture and other forms of inhumane or degrading treatment. . . . Trafficking exposes its victims to grave physical and psychological health risks.”

“. . . The complex issue of trafficking is of growing international concern. Under the UN Protocol to Prevent, Suppress and Pun-

ish Trafficking in Persons, governments are held responsible to curb trafficking within their state and across international borders. It is also the responsibility of governments to ensure that victims of trafficking have access to appropriate housing, adequate counseling and information in regard to their legal rights, medical, psychological, and material assistance, and employment, educational and training opportunities” (AIUSA Women’s Human Rights Online Bulletin, October 2005).

On 7 October, the United States Senate gave its advice and consent to ratification of the Trafficking Protocol.

*By its very nature,
[human trafficking]
constitutes an acute
violation of human rights
and reports today suggest
that more people are
being trafficked than
ever before.*

Louise Arbour,
UN High Commissioner for Human Rights
Beijing, August 2005

*Terrorism must be fought
with total determination.
But asylum is and must
remain a central tenet
of democracy.*

- **António Guterres**
3 October 2005



António Guterres became the 10th UN High Commissioner for Refugees on 15 June (photo by Migration Policy Institute). He heads an agency with more than 6,000 staff in over 115 countries, serving 17 million refugees and displaced persons with a budget of over \$1 billion.

In a career of more than 25 years of public service, Mr. Guterres served as Prime Minister of Portugal from 1996 to 2002. As Prime Minister, he led the drive for international intervention to halt the violence in East Timor following the Timorese vote for independence, and co-chaired the first EU-Africa summit. He founded the Portuguese Refugee Council in 1991.

On 1 August, during his first visit to Washington in his capacity as High Commissioner, after less than three weeks in office, he was interviewed by MPI Director Kathleen Newland and Migration Information Source Editor Kirin Kalia.

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Interview with António Guterres, UN High Commissioner for Refugees

Kathleen Newland & Kirin Kalia

You have an extraordinary curriculum vitae, with more than 25 years of public service behind you, including six years as Prime Minister of Portugal — but others with more direct refugee experience were on the short list of candidates for High Commissioner for Refugees. What skills and qualities that you developed as a politician and prime minister put you in a position to do this job?

I have a lot of respect for all personalities who were on the short list prepared by the Secretary General. Any one of them could do the job as well as I can. I consider myself privileged. I have a wonderful family and education. I was engaged in politics at a revolutionary time, and then as democracy flourished in Portugal.

I have been very active in international political activity and always had a very strong interest in refugee problems. As a member of the Parliamentary Assembly of the Council of Europe, I chaired the relevant Committee [on Demography, Migrations and Refugees]. I was also much involved with NGOs in Portugal.

You founded the Portuguese Refugee Council in 1991 — what led to that?

Our priorities were fighting social exclusion of refugees and creating conditions for equal opportunity. The situation in Portugal made me particularly interested in migration and asylum seekers, and my responsibilities in the Portuguese Council of State included immigrant integration. Portugal has a long tradition of emigration, but it was not really prepared to absorb new communities. A lot had to be done, such as adopting legislation that was asylum-friendly. It was important to involve civil society in that effort.

Protection of refugees remains to many people a legal abstraction. How do you make it concrete?

Protection means the opportunity to fully enjoy your rights. Some of those are legal rights, like those associated with citizenship; others have to do with material conditions like shelter, food, and the education of children — which are the minimum requirements of a welfare society.

Protection needs to encompass a comprehensive approach, ensuring that refugees can exercise the full spectrum of their rights. We need to see providing material assistance as an instrument, not a value in itself. From UNHCR's perspective, that is the kind of assistance we are supposed to deliver.

On your fourth day as High Commissioner, you went to Uganda and visited a refugee camp. You spent the night of World Refugee Day in a tent, among UNHCR staff. Direct exposure to a refugee situation can be a searing experience. Can you tell us something about your first exposure, or the one that made the strongest impression on you?

Of course, I had very often seen refugee situations before the recent trip to Uganda. I suppose the one that made the greatest impression on me was visiting Somalia during

the worst of the crisis in the early 1990s. It was really terrible to go to Mogadishu and see the destruction. The conditions in the refugee and IDP camps were appalling, and people were suffering terribly.

How did you come to decide that you wanted to spend the next chapter of your life working on refugee issues?

Quite central for me is the Biblical “parable of the talents”. Having been given great opportunities and privileges, I am obliged to make sure I use them in the best way so others can benefit from them. After a career in politics, I thought, “What would make sense, what would be a good way to use my energies?” I wanted to use them to the benefit of those who face the most dramatic challenge in today’s world, and you cannot find people in more need than refugees.

One of the first things that you are bound to face at UNHCR is the difficult question of how to deliver services and protection to internally displaced persons (IDPs). For more than 20 years, a rather circular discussion has been going on about how to organize an adequate response. How do you anticipate that you will approach this issue?

I think we need to confront the needs of IDPs directly, and not only in a way that is concurrent with UNHCR’s mandate for refugees. There are clearly gaps in the international community’s abilities and mandates to provide protection and support for IDPs. I don’t believe we at UNHCR can stay away from the problem. But we don’t have the capacity to solve it alone.

We need to be engaged in good faith with other UN agencies, with donors, and with NGOs in order for our office to be able to play a global role with IDPs. We need to agree on a clear division of labor among agencies. It is important to follow a consistent approach through these very difficult situations. It must be consistent with a vision for protecting not just refugees but persons displaced in their own countries.

The spontaneous arrival of asylum seekers is a politically charged issue in a great many countries today. Some of those governments that have mounted the greatest challenges to the idea of territorial asylum are UNHCR’s major donors. You have a great deal of experience in European politics, as Prime Minister and as a member of the European Council. Do you expect challenges to asylum to be a continuing theme of your tenure?

Unfortunately, yes. There is a huge misperception in public opinion about asylum, on two levels. At one level, there is confusion about the relationship between asylum and security questions. At another level, people do not distinguish between refugees and voluntary migrants.

It is my deep belief that mixing asylum and refugees into the security debate is a big mistake. States are concerned with fighting terrorism and ensuring security. That can and should be entirely compatible with fair procedures for asylum. If you are a terrorist, the worst way to enter a country is through the asylum door — you will be registered, fingerprinted, photographed, and connected to public service agencies. I do believe it’s important to face the populist approach that makes asylum seekers out to be some kind of threat; important to cooperate with NGOs and other leaders to clarify the situation of people who are in need of refuge. I think we can deliver a strong, unambiguous message about the asylum-security nexus.

The asylum-migration nexus is a more difficult set of perceptions to address. People leave their home countries for two kinds of reasons. One, they leave in search of better

Internally displaced people are said to number 20 to 25 million, more than double the nine million refugees who are recognized as such, having crossed a border, and their plight — as in Darfur — often is just as bad, acknowledges Mr Guterres. “This is undoubtedly the international community’s biggest failure in terms of humanitarian action,” he told Reuters in September. His agencies deal with some IDP situations on an ad hoc basis, in the absence of a convention specifying obligations, although a clearer policy is being developed, partly because of changing international attitudes toward sovereignty and the essential governmental responsibility to protect.

A dangerous hypocritical discourse has emerged that encourages the labour of migrant workers, while denying their humanity.

- Amnesty International

conditions; two, they leave because they are persecuted, threatened, or because of war. One is voluntary and one is involuntary. One group must have permission to enter another country legally, while the other has a right to seek asylum. The public needs to understand the difference.

I recognize that in many countries, there is a close connection between asylum and other kinds of migration, with both voluntary and involuntary migrants moving through the same channels and often even in the same vessels. It is difficult to clarify the different obligations states have to migrants and refugees.

Governments need to work honestly with NGOs and civil society to make the public understand that we must take care of protection needs even when we adopt a border-control policy designed to limit unauthorized migrant flows. UNHCR is there to help governments fulfill their obligations to protect refugees and to help the authorities distinguish between refugees and migrants who are not in need of international protection.

With good will and a humane perspective, we can preserve the institution of asylum in modern times.

Democratic governments respond to public opinion, and public opinion is often seen as opposed to migrants and refugees. What role does public education play in UNHCR's work?

I believe we have a lot of improvements to make in that role. Technology has changed things dramatically. But we are still old-fashioned at UNHCR. We need a bigger capacity to interact with public opinion — directly and through the media — elected representatives, and NGOs.

Governments should not simply react to public opinion. They need to provide leadership and promote values in an active way. The debate about asylum is a debate about the values of a society. Asylum is a way of helping people in need and protecting those who are unjustly persecuted.

I would go further and say that asylum is one of the fundamental institutions of democracy, because it helps to preserve people's freedom of religion, thought, and association. So if we want to protect the values of democracy, we must defend the right to seek asylum.

How do you convince the media to pay more attention to asylum and refugee issues?

In my political experience, what really is news is not when a dog bites a person, but when a person bites a dog. The media look for what is sensational, and may overlook the rest.

Take the situation of Sudanese refugees in Northwest Uganda, for example. They are not in camps, they are in settlements. They farm land, their children have access to schools, they have medical support. This is not news. But we must keep telling the story of refugees even when it is not sensational.

Our duty is to go on insisting, to be patient, and, in the end, the values we fight for will be realized by the people even if they are not as attractive to the media as a scandal.

There is a politically populist wave that tends to mix everything — asylum, migration, security and terrorism — and that is very detrimental to the issue of asylum. [And beneath that issue is a question about the standards of tolerance needed to maintain cohesion in multi-ethnic and multi-cultural societies (Reuters interview with António Guterres, 27 September).] Either we have a tolerant atmosphere or we will have a nightmare in the future.

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Trafficking, Smuggling, and Human Rights

Jacqueline Bhabha

In recent years, the smuggling of human beings across international borders has grown rapidly. A small-scale cross border activity affecting a handful of countries has become a multimillion-dollar activity that is global in scope.

Information about human smuggling — the numbers of people smuggled, the conditions that they endure in transit and their treatment on arrival — is patchy at best. It is currently estimated that some 800,000 people are smuggled across borders every year.

These figures mask the complex and various experiences of the men, women, and children caught up in such processes. Those who are smuggled include political refugees, those fleeing conflict and violence of various kinds, and economic migrants in search of a better life.

This is by nature a secretive, illicit activity, and one that is increasingly controlled by transnational organized crime syndicates. What little we do hear, however, gives ample cause for human rights concerns — numerous press articles describe cases of migrants drowning in unsafe vessels or suffocating to death in overcrowded truck compartments and ships, or being victimized for revealing information about smuggling gangs.

Many of those who do reach their destination find themselves locked in cycles of violence, exploitation, and abuse. These violations tend to go unreported because the victims fear arrest and deportation on one hand, and retribution by smuggling gangs on the other.

The spread of human smuggling needs to be understood in the context of globalization and migration. Since 1965, the number of international migrants has doubled to some 175 million persons at the turn of the millennium. Prospects of a better life abroad, poverty, economic marginalization, political and social unrest, and conflict are all incentives to move.

In an increasingly interconnected world, movement is easier. As push and pull factors encourage increasing numbers of people to migrate, these individuals in turn collide with the many legal obstacles to entry that industrialized countries have put in place.

However, opportunities to immigrate legally are severely limited. Migrants, including asylum seekers, have increasingly resorted to illegal entry and unauthorized stays, and ever-larger numbers use the services of smugglers to evade the system, compounding their vulnerability to exploitation and ill treatment.

Human Rights and the Definitions of Smuggling and Trafficking

Despite the plethora of human rights concerns associated with human smuggling, it is in fact the law enforcement imperative — the war against terrorism, narcotics, and irregular migration — that have moved this issue up the international policy agenda.

In 2000, states drafted two new protocols to the UN Convention on Transnational Organized Crime (UN TOC) dealing with trafficking and smuggling respectively. The Trafficking and Smuggling Protocols, more commonly known as the Palermo Protocols, came into force on December 23, 2003 and January 28, 2004 respectively.

The Palermo Protocols are framed around a central dichotomy between coerced and consensual irregular migrants. Whereas people who are trafficked are assumed not to have given their consent and are considered to be “victims or “survivors,” people who are smuggled are considered to have willingly engaged in a criminal enterprise.

There is also a gender dimension to these distinctions: whereas those who are smuggled are mostly assumed to be men, victims of trafficking are associated with the traditional targets of protective concern — women and children.

Trafficking

The UN TOC Convention brought to a close decades of frustrating and inward-looking debate about the distinction between human trafficking and human smuggling. Trafficking is defined as:

...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

...The consent of a victim of trafficking in persons to the intended exploitation... shall be irrelevant where any of the means set forth (above) have been used. The recruitment, transportation, transfers... of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth (above).

This definition of coercion is expansive, reflecting perhaps the concerted input and interest of the human rights and feminist lobbies in the drafting of this protocol (an interest that was less evident in the Smuggling Protocol).

Coercion is not simply brute physical force, or even mental domination, but includes “the abuse of a position of vulnerability.” This can potentially encompass a very broad range of situations, since poverty, hunger, illness, lack of education, and displacement could all constitute a position of vulnerability. Whether a particular arrangement constitutes “abuse” may be as much a question of assessing the market or “going” rate for pricing a particular migration service as of characterizing a personal interaction.

Second, the trafficking definition requires exploitation, but exploitation itself is undefined. However, the trafficking definition does include exploitative actions, such as prostitution of others, as well as a range of non-sexual labor relationships that are “practices similar to slavery” such as indentured or bonded labor, child labor, or oppressive forms of labor. It is agnostic on whether prostitution itself constitutes exploitation, reflecting the deeply polarized views within UN Member States on the topic.

In sum, the protocol’s critical ingredients for trafficking in persons are the presence of exploitation and the fact of coercion. Cross-border transport of the trafficked person is not required, provided the offense is “transnational in nature” as defined in the UN TOC (Article 4).

Smuggling

In contrast, the term “smuggling”, following general practice, refers to consensual transactions where the transporter and the transportee agree to circumvent immigration control for mutually advantageous reasons. The Smuggling Protocol defines “smuggling of migrants” as:

“the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (Article 3).

The two critical ingredients of this definition are illegal border crossing by the smuggled person and receipt of a material benefit by the smuggler.

Comparing the Protocols

The protocols share several key features. Both require state parties to criminalize the relevant conduct of traffickers or smugglers, to establish and implement domestic law enforcement mechanisms, and to cooperate with other states to strengthen international prevention and punishment of these activities. Both stipulate that the migrants themselves should not be subject to criminal prosecution because of their illegal entry.

An interesting innovation is that both protocols require states parties to concretely address the root causes of vulnerability to trafficking and smuggling (see for example (Article 9(4) of the Trafficking Protocol and Article 15(3) of the Smuggling Protocol).

Finally, neither protocol explicitly requires states to implement any particular immigration benefits for victims, to regularize or expand lawful access to their territory, or to address the chronic mismatch between supply and demand by increasing supply.

However, the two protocols do differ in several key respects, particularly in the protections they afford migrants. The Trafficking Protocol addresses the need for protection of trafficked persons in some detail and provides for a broad range of protective measures.

Though the requirements are couched in optional rather than mandatory language — “each state shall consider implementing... in appropriate cases...” and “...shall endeavor to provide” — they establish a useful framework for intervention to enhance human rights protections for trafficked persons.

Article 6(3) in particular requires states to consider “implementing measures to provide for the physical, psychological, and social recovery of victims of trafficking in persons.” This includes cooperation with NGOs; provision of housing, counselling, medical, psychological, and material assistance; and employment and training opportunities.

The two protocols do differ in several key respects, particularly in the protections they afford migrants.

It even requires states to consider adopting legislation to enable trafficking victims to remain in their country “temporarily, or permanently, in appropriate cases” according to Article 7. If domestically enacted, adequately funded and energetically enforced, these measures would constitute significant benefits for trafficked persons.

The Smuggling Protocol, by contrast, contains rather minimal reference to the protection needs of smuggled persons. The preamble to the protocol does set out “the need to provide migrants with humane treatment and full protection of their rights,” and expresses concern that “the smuggling of migrants can endanger the lives or security of the migrants involved.”

This, combined with the prohibition on criminalization of migrants, articulates an important and useful international commitment to a basic level of protection. This is significant given the pervasive use of de facto punitive measures against smuggled migrants.

The Smuggling Protocol also requires states to “ensure the safety and humane treatment of the persons on board” vessels that are searched (Article 9); and to implement their preexisting, absolute obligations under international law, to protect the right to life and the right not to be subjected to torture or to cruel, inhuman, or degrading treatment or punishment (Article 16(1)).

States parties are also required to embark on a range of prevention measures (Article 15), including strengthening domestic information programs to increase public awareness of the dangers facing smuggled migrants and collaborating with other states to prevent migrant recruitment by criminal gangs.

But there are no provisions regarding medical, psychological, or social recovery, which include help with housing, employment, and job training. States also are not obligated to collaborate with NGOs, or to provide temporary legal residency as in the Trafficking Protocol. Nor are the inclusive rights to non-discriminatory treatment derived from relevant international law included in the convention.

Moreover, even the requirement to afford at-risk smuggled migrants protection is very heavily qualified: states should “take appropriate measures to afford migrants appropriate protection” against violence from smugglers and where their lives are endangered. But “appropriate” to whom and what? This clause undercuts the more robust protections afforded by the recently ratified 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

At the same time, the protocol explicitly endorses the possibility that states can detain smuggled migrants provided they are afforded the requisite consular access, and it requires states to remove smuggled migrants back to their home countries expeditiously.

Thus, in terms of protections, migrants are better off being classified as trafficked than smuggled; however, the distinction in practice may obscure more than it illuminates.

The Consent/Coercion Seesaw

First of all, the distinction between trafficking and smuggling is difficult to implement in practice. Rarely are there “pure” cases of one or the other. Children kidnapped without their parents’ consent and migrant workers lied to from the outset are at one end of the spectrum, while the opposite end includes completely transparent cross border transportation agreements where a fee is mutually agreed on and the relationship between transporter and transported ends once the border is crossed.

The vast variety of migration strategies and circumstances defies easy categorization. At the point of departure and at multiple stages of the journey, it may well be unclear which category of irregular migration is at issue — trafficking or smuggling.

And the most accurate classification may change over time. The available evidence suggests that most transported undocumented migrants consent in some way to an initial proposition to travel, but that, en route or on arrival in the destination country, circumstances frequently change.

At what point should the decision about how to characterize the conduct be made? States tend to favor the point of departure as an indication of the migrant's "true intentions". Rights advocates favor the time of arrival or stay as an indication of the migrant's needs. Yet, the state's perspective usually wins because it is very difficult for someone who was a sex worker prior to departure to ever claim successfully that she was trafficked, even when subjected to severe human rights violations.

Second, the distinction depends on a flawed conception of human agency. It presupposes a hard and fast divide between two motivational states — consent and coercion. At first sight this is plausible. States and rights advocates want to distinguish agreements people enter into voluntarily from those they enter into as a result of coercion, because the latter are not real agreements and should not bind the coerced person.

But the distinction between coercion and consent is complex. How should coercion be characterized? Does someone with a gun to their head consent to hand over their money when robbed? Most would say no. But does someone who sells his kidneys because his children are starving consent?

Translated into the migration context, do persecution, destitution, and heartache from prolonged family separation constitute "guns" to the head? Are refugees "choosing" to avail themselves of the services of travel professionals to get false travel documents, cross unguarded borders, or create fictive identities — or are they "coerced"?

The trafficking protocol defines coercion to include not only force (e.g., kidnapping) but also "the abuse of power or of a position of vulnerability." The latter, however, is not defined, and it remains to be seen whether states and courts will interpret it as including extreme poverty. If they do, many cases currently considered instances of human smuggling will be brought under the Trafficking Protocol. If they do not, then the political point of expanding the concept of coercion beyond mere physical force, fraud, or deceit could be lost.

A further complication arises in deciding how to characterize situations of "mutually advantageous exploitation," a very common circumstance for smuggled migrants. The transporter benefits from his or her profit, the transportee benefits from gaining access to an employment opportunity, even if the smuggling fee is exploitative.

Yet, many of the employment opportunities that smuggled migrants are keen to access constitute "forced labor" in international law terms—paradoxically, they are forced but chosen opportunities. Are these workers smuggled because they surely consent, or are they trafficked because the exploitative offer is actually a threat? Not accepting means they lose the opportunity to find work.

There is no question that smugglers take advantage of migrants' desperation or vulnerability. But are all exploitative offers coercive and is coercion always exploitative? The answer is no: hawkers selling tickets to the Olympics may charge exploitative prices, but they are certainly not coercive; conversely, a parent forcing a child to travel abroad to practice a foreign language before an exam is coercive but not exploitative.

Therefore, just because the smuggler's offer is exploitative does not necessarily mean the migrant is coerced. For that to be the case, states need an independent yardstick. If the migrant has no other acceptable options, then the exploitative offer becomes coercive. For instance, if the migrant would starve, or be unable to get medicine for a child unless he or she took up the offer, then the offer would be coercive.

In these situations, the fact that the migrant consents to be smuggled (because the deal is mutually advantageous) does not alter the fact that it is coercive. The critical issue is

Many of the employment opportunities that smuggled migrants are keen to access constitute "forced labor" in international law terms — paradoxically, they are forced but chosen opportunities.

to determine which alternatives are considered acceptable and which are not.

The question of acceptable alternatives comes back to international norms, and to what philosopher Alan Wertheimer calls the “moral baseline.” In assessing what counts as coercive and what counts as consensual, states are forced to engage in moral decisions about what types of conduct are acceptable or permissible in a society and what are not. Slavery and slavery-like work are clearly not acceptable. But what about destitution — lack of access to essential food, medicine, and shelter?

This discussion applies to the distinction between smuggling and trafficking. If the person consents to be transported knowing what the working conditions abroad will be like, then, according to UN TOC, the person is smuggled — unless the con-

sent was obtained by force, by undue influence, or “abuse of a position of vulnerability” because the person had no morally acceptable alternatives.

But by this standard, many people who are now considered “smuggled” should fall within the category of trafficking victim, even though they have formally consented to travel and/or to engage in exploitative work in the destination state.

Conclusion

From a human rights perspective, migration is an inherently risky activity. Despite the potential rewards and benefits, switching the familiar for the new, and the status of a national for that of a non-national or alien in a world in which the state is still the prime guarantor of rights entails material, social, and psychological challenges.

These risks are heightened when combined with an irregular status. The UN TOC and its two protocols on trafficking and smuggling mark an important step forward in the battle against some of the most exploitative and dangerous situations that migrants can encounter. Although motivated primarily by law enforcement concerns, the protocols contain important protective measures, which, if implemented fully, could significantly advance the human rights of migrants.

However, it is critical that these new provisions be read against the corpus of existing human rights law and labor standards that already exist to protect the rights of migrants and that policymakers strike an appropriate balance between the security interests of states and the human security entitlements of migrants.

Pouring New Wine into Old Bottles: Understanding the Dilemmas of Contemporary Trafficking Work

Alice Miller

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This short essay explores the dilemmas faced by anti-trafficking activists working to bring human rights to bear. Although the essence of ‘trafficking’ is most often framed as about gender, sexual harm, and prosecution of ‘traffickers’, effective rights interventions in ‘trafficking’ must be situated in a deeper understanding of the modern reality of globalization. While I am not arguing that understanding gender or sexual harm are irrelevant in anti-trafficking work, hyper-attention to stories of sex slaves weakens our interventions. It is critical to understand the histories of the frameworks (like ‘trafficking’) in which we work. Failing that, we become inadvertent pawns, allowing governments to take up the rhetoric of rights without a real shift in power. Anti-trafficking work is on the edge of this form of complicity.

To understand how we have come to this dangerous edge, reverse the proverb about the trick of pouring old wine into new bottles. Trying to use contemporary human rights strategies within the framework of ‘trafficking’ finds us pouring new wine into old bottles: residues of the law and ideology of the late 19th and early 20th century campaigns against ‘white slavery’ linger in the ‘old bottle’ of the trafficking framework. Despite our demand that “more rights, not fewer rights” must be the basis of state responses to trafficking, the anti-trafficking framework has served at times to justify limiting rights.

Signs of danger?

A recent warning of co-option flashed globally when the President of the US linked his moral crusade against trafficking (all trafficking rendered as 'sexual slavery') to the war against terrorism in a UN General Assembly speech in September 2003. However, there were earlier warning signals: in 1995, the Philippines temporarily suspended visas for domestic workers going to Singapore in response to allegations of abuse, in 1998, Nepal denied visas to women for their protection. Although some activists struggled to keep a rights-focus in the US Victims of Trafficking and Violence Protection Act of 2000, the law only provides full remedies for trafficked persons willing to cooperate with prosecution. In what other human rights abuse is a remedy *conditional*? Jyoti Sangera, advisor on trafficking in the OHCHR, has been alarmed at evidence that anti-trafficking activists have become complicitous in regulating borders, such as interdicting young women on the India/Nepal border.

Contemporary rhetoric on trafficking harnessed the language of rights and horrendous harm – indeed, often slavery (or when focused on sex trafficking, of sexual slavery) to move *some* persons out of the category of despised illegal migrant and into the category of deserving victim. This move is connected to the astounding recent growth of international criminal law. In 2000, the UN adopted a new constellation of trans-national criminal law treaties, including one specific to trafficking, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. While effective and fair prosecution for servitude and violence, whether in providing sex, picking tomatoes or harvesting shrimp, is a key component of rights work, it is notable that other aspects of rights work have languished. The 1990 International Convention on the Rights of All Migrant Workers and Members of their Families took over ten years to come into force, and so far only primarily sending countries have ratified it. At the 2001 World Conference against Racism, receiving states of the North and South

fought against recognizing rights for irregular migrants. In the 2001 UN General Assembly on HIV/AIDS, states refused to reference persons in sex work as rights holders. There has been almost no progress made in compelling richer states or the international financial institutions (IFIs) to revise structural adjustment policies or destructive trade restrictions, even in the face of evidence of their role in rights violations, including exploitation in new and irregular markets.

More on the 'old bottle' of the trafficking framework: why history matters

The first wave of anti-trafficking coincided with the waves of migrating women within and out of Europe and North America from the mid-late 19th to early 20th Century. As Elaine Scully has noted, the 'white slavery' panic arose as a response to a rapidly changing world, shaped by paradigms of colonial power, immigration, social hygiene and urban angst ... entangled in issues of class, gender, race, and sexuality. Anti-trafficking's ideological and legal roots tap into beliefs that prostitution (violation of women's dignity) is the central harm of trafficking, and yield one remedy: rescue and return. Of course, only some women were worth rescuing in the name of re-asserting control of some men over all women of all colors, of some nations over all colonized peoples. Yet, today as 100 years ago, the focus on sex trafficking serves another purpose. What Carole Vance in "Innocence and Experience" calls trafficking "melodramatics" (melodramatic pseudo-documentaries) claim to be part of a critique of global inequality, yet their rescue stories displace attention from geo-political economic conditions. Rescue and prosecution of brothel-owners resonate with this story; advocacy on the WTO does not.

Markets, movement, borders, exploited migrants, gender and citizenship

Yet, contemporary analysis of 'trafficking' reveals that it primarily results from people with the need – and agency, albeit constrained — to move, and who must pay agents to get them past increasingly high barriers. This position, combined with fail-

ure to accept that irregular migrant workers need rights, renders them vulnerable to traffickers and exploitation in the exploding, unregulated markets. In "Planet of Slums", Mike Davis plumbs recent UN reports on shelter to expose the future of global poverty. By the year 2050, the majority of the world's poor will live in megacities, sprawling urban areas unable to absorb the labor of or provide essential services for intra and trans-national migrants. Yet the poor move to these cities because their rural livelihoods have been destroyed by Northern-directed trade and development policies, impacts often amplified by local political repression. For many women, movement is linked not only to the destruction of traditional livelihoods, but also to gendered and ethnicized subordination operating within tradition.

In this brave new world, there is exploitation by the poor of those more poor, (think of children enslaved as domestic workers in Haiti for families only marginally less poor), as well as exploitation of the less poor (persons able to pay smuggling agents) by new capitalists, such as textile mill owners on the Thai/Burma border or brothel owners in Bosnia Herzegovina. In "Why Migration Policies Fail", Stephen Castles exposes contradictory border and labor policies — strong states often promote economic policies (trade restrictions, SAPs) that compel movement, then trumpet restrictions at the border: claims to "...exclude undocumented workers may really often be about allowing them in through the side doors and back doors so that they can be more readily exploited". In regard to the exploitation of person in the sex sector, this double discourse of condemnation and reliance on that sector facilitates exploitation with impunity. As described in Lin Lean Lim's 1998 Report for the ILO, states derive large proportions of their GNP from sex sectors, but refuse to grant those working – or trapped — in those sectors rights.

People remain in need of real protections, whether working locally or migrating, and the power to participate in the policies that determine their lives. Yet, their claims as citizens disappear in the current stories of "trafficking", as contemporary anti-traf-

ficking reports tell stories which retain the impress of anti-vice and social purity movements. The hypocritical focus on sexual harm masks the absence of concrete steps to create the conditions for sexual – or economic –rights for women and men. Instead, they are increasingly patrolled while capital moves. We come full circle:

without the ability to intervene meaningfully against state practices and interests that generate unsafe migration, we are left helping – through the operation of the criminal law— those very same states regulate the movement of already constrained persons. All anti-trafficking work is not rights based. As rights activists, we

must begin to work with economic justice as well as anti-impunity and prosecution activists. By this, we can re-affirm human rights in the context of globalization as a tool of struggle, and ensure that the women and men on whose behalf we claim to work are actual beneficiaries.

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The is an excerpt from their article, “International Approaches to Human Trafficking: The Call for a Gender-Sensitive Perspective in International Law”, in *Women’s Health Journal*, April 2004 (Latin American and Caribbean Women’s Health Network, <www.reddesalud.org>).

The essay opens with the following epigraph:

“The illegal trade in drugs, arms, intellectual property, people and money is booming. Like the war on terrorism, the fight to control these illicit markets pits governments against agile, stateless and resourceful networks empowered by globalization. Governments will continue to lose these wars until they adopt new strategies to deal with a larger, unprecedented struggle that now shapes the world as much as confrontations between nation-states once did.”

- Moisés Naím, “The Five Wars of Globalization”, *Foreign Policy Magazine*, January/February 2003

The UN Trafficking Protocol and CEDAW: At Legal Odds

Phyllis Coontz & Catherine Griebel

Despite the comprehensive legal approach to trafficking in persons represented by the UN Trafficking Protocol, from a feminist and human rights perspective the document is flawed. Through its indirect treatment of women and tentative language regarding the obligations of the State to guarantee victims’ civil rights, such as due process and unconditional protection, the Protocol fails to extend meaningful rights.

The focus of the UN Protocol is on criminalization, deportation and border control strategies, resulting in a supply-side approach that places primary responsibility on law enforcement and pays scant attention to the demand side of the problem or to factors of economic inequality between developing and developed nations. The total neglect of a fundamental actor — the trafficked person —in many ways reinforces the structural factors that give rise to human trafficking. This serious ellipsis likewise reveals the distance between new UN rhetoric concerning economic, social and cultural rights and non-discriminatory treatment of women on one hand and the enforceability of the instruments of international law on the other, which continues to depend on former notions of state sovereignty, notions that historically have been framed and carried out by predominately male UN assemblies. In so doing, the Protocol contradicts and compromises the gains that have been made to ensure gender equality through the international legal system.¹⁹

Such contradictions permeate the UN system. For example, the female subject is treated quite differently in the UN Trafficking Protocol and the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),²⁰ the exemplary international legal document addressing women. To appreciate how the UN Trafficking Protocol resonates with a type of state-centered, paternalistic language reminiscent of former discriminatory international lawmaking, it is helpful to review three conceptual models regarding women’s treatment in international law proposed by Natalie Kaufman Hevener.

Varying Conceptual Models in Feminist Law: Protective, Corrective and Non-Discriminatory Legal Action

In *International Law and the Status of Women* (Boulder, CO: Westview Press, 1983), Natalie Hevener-Kaufman analyzed all the major international agreements dealing with

women since 1945 and defined three categories: protective conventions, corrective conventions and non-discriminatory conventions.²¹ Even though they were first formulated two decades ago, Hevener-Kaufman's classifications are still relevant to women's status and treatment in UN documents.

Protective Conventions

Hevener-Kaufman describes the legal language of protective conventions as limiting the female to her role as wife and mother. In circumstances where the woman steps outside of this domain, "her presence may be seen as necessitating protection if her primary role is to be preserved".²² Hevener-Kaufman explains that in any circumstance where the woman is acting outside of her societal boundaries (whether they be physical, conceptual or geographical), legal measures are put in place in order to "protect" her subordinate status: "...[women] are subjected to the paternal power of the State, which seeks to protect them by completely proscribing or restricting their participation in certain areas of activity."²³

Classic examples of protective action at the international level are particularly evident in the economic sphere and include the original Convention Concerning Night Work of Women Employed in Industry, drafted by the ILO in 1919, and the 1935 and revised 1946 ILO Convention Concerning the Employment of Women on Underground Work in Mines of All Kinds.²⁴

Corrective Conventions

Corrective international legal action affecting women typically addresses disparities between men and women and targets women in international legal conventions where men are not perceived to be victims or are not equally threatened by the illegal activity in question. Normally, corrective legal action is linked to protective or non-discriminatory conventions but serves to "right a wrong."²⁵ Hevener-Kaufman notes that corrective action "seeks to establish genuine equality before the law, something which solely nondiscriminatory action

does not achieve without a lengthy waiting period, if it achieves it at all".²⁶

The corrective legal approach was first used by the UN in a series of agreements addressing prostitution beginning in 1994.²⁷ These international agreements emphasized the punishment of the organizers of prostitution and not the women. While these agreements were latent with protective language, they were the first such agreements focused solely on women, as men were not perceived as victims and therefore were not subject to the same legal treatment. Other important conventions using corrective techniques were the 1957 Convention on the Nationality of Married Women and a 1956 International Labor Organization Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery. This convention makes special reference to institutions that exploit women's marriage, property or inheritance rights.

Above all, the introduction of corrective legal action indicated an opening in international law for increased attention to women and their equal claims to fundamental human rights under the UN Charter.

Non-discriminatory Conventions

The watershed for the third category was the drafting of the 1979 Convention on the Elimination of Discrimination against Women (CEDAW), which represents the first bill of rights for women. According to Hevener-Kaufman, the nondiscriminatory approach was designed to "revise the legal system in such a way that sex will no longer be a basis for the allocation of benefits and burdens in society".²⁸ However, the author emphasizes that accompanying corrective measures are still needed and that to achieve a progressive realization of equal rights for women in the law, the two approaches must coincide.

The first objective of a non-discriminatory approach to international law is to create and promote a new language of gender equality while the second is to acknowledge and make amends for former dis-

criminatory laws.²⁹ This shift from "protecting" and limiting women's roles to explicitly acknowledging, correcting and setting new benchmarks for future legal and public policy affecting women is significant; globally, the treaties provide evidence of social attitudes moving gradually toward the equal treatment of women in all spheres of daily life.

Evaluating the CEDAW and the UN Protocol

The CEDAW was a watershed for women's rights in the UN system because it obliged the international community and signatory States to make redress for discriminatory language of earlier UN documents and pushed for more progressive roles of men and women. However, a comparison of the documents reveals a discrepancy between women's treatment in the more recent UN Protocol and in CEDAW. This is particularly evident in the CEDAW Articles dealing with civil and employment rights.

Civil Rights

In the civil rights arena, a major hallmark of CEDAW was its declaration that women worldwide have the same claim to civil liberties — such as property rights, the right to vote and hold office — as men, regardless of the national or cultural context. For example, Article Two of Part I of CEDAW states:

State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) to establish the legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public

institutions the effective protection of women against any act of discrimination.

Similarly, in Part IV, Article 15 of CEDAW, women's legal rights under law are reintroduced. The document specifies:

1. State Parties shall accord women equality with men before the law. 2. State Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

With these provisions women, like men, are guaranteed due process as victims of a crime and are responsible actors in those crimes committed against them with a full range of legal options. However, the Trafficking Protocol is vague and ultimately non-committal with respect to the right to due process and in other provisions.

For example, the opening phrase of the Protection of Victims section of the Protocol states: "1. *In appropriate cases and to the extent possible* under its domestic law, each State Party shall the protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential" [emphasis ours]. Under item 2 of the same section the Protocol reads: "Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, *in appropriate cases*: (a) information on relevant court or administrative proceedings; (b) assistance to enable their views and concerns to be presented and considered at *appropriate* stages of criminal proceedings..." [emphasis ours].

The intent of the CEDAW clearly was to place women on an equal plane with men under the law and to reverse a global perception of women as third parties to the legal process. And yet as the binding language of the Protocol reveals, women take a backseat to the criminal justice process. The US model similarly relies almost entirely on criminal law involving the State

as the voluntary investigator, prosecutor and plaintiff. In the case of human trafficking cases tried in the US, federal prosecutors are unlikely to try cases they cannot win, leaving the trafficking victim entirely dependent on the will and benevolence of the Department of Justice and Attorney General's office.³⁰ As legal scholar Ratna Kapur writes in response to legal treatment of violence against women, "There is no space in this construction [of the victim subject] for ... the articulation of a subject that is empowered. ... Additionally, [the victim construction] encourages States to resort to the criminal law to address women's rights issues, an arena of law in which nation-states enjoy the powers of moral surveillance and regulation."³¹

A related issue is the treatment of proceeds confiscated from convicted traffickers. The UN Convention against Transnational Organized Crime (which addresses restitution for human trafficking) states: "1. Proceeds of crime or property confiscated by a State Party pursuant to articles 12 and 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures." Item 2 goes on to stipulate that: "When acting on the request made by another State Party in accordance with article 13 of this Convention, State parties shall, *to the extent permitted by domestic law and if so requested*, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners" [emphasis ours].

In response to these Articles, Ann Jordon, author of *The Annotated Guide to the Complete UN Trafficking Protocol*, asserts that "National laws in many countries will need to be revised in order to ensure that disposal of assets is done in a manner that benefits trafficked persons. ... Governments should not keep the assets for other purposes, and those that do are guilty of profiting from the traffickers' criminal acts."³² Jordon articulates precisely the type of rights-based rhetoric found in CEDAW by pointing out the trafficked persons' legitimate claim to assets confiscated from

the trafficker. She also points to the weakness of the UN Trafficking Protocol's restitution approach, which provides no definite process as to how a female trafficking victim actually goes about recovering assets from her trafficker. The UN Protocol further demotes female victims' rights by including the option of creating a law enforcement account with preference given to law enforcement efforts in developing and transition economies.³³ These stipulations favor state agencies and law enforcement and cut female victims out of the legal process. While the law enforcement fund has notable benefits, the provision nonetheless begs the question of whether assets rightfully belonging to victims would be so easily redirected if trafficking were a crime affecting white men. In reality, of course, it primarily afflicts poor women.³⁴

Women's Employment Rights and Economic Inequality

The sections of CEDAW addressing employment are also relevant to the analysis of the UN's current legal approach to trafficking in women and children. In Part III, Article 11, the Women's Convention asserts:

1. State Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) the right to work as an inalienable right of all human beings; (b) the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) the right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service... (d) the right to equal remuneration, including benefits, and to equal treatment in respect of equal value, as well as equality of treatment in the evaluation of the quality of work; (e) the right to social security, particularly in the case of retirement, unemployment, sickness, invalidity, and old age....

The UN system has been criticized frequently for its contradictions on issues of the poor and women. On the one hand, the

UN created CEDAW and has provided a vital platform for advocating women's equality in the international order. However, the UN has failed to take a decisive stand on the failure of the dominant development paradigm (neoliberalism) to address structural inequalities and the adverse impact of austerity packages on women.

Although the deeper structural issues of women's social and economic rights are outlined clearly in CEDAW, the Trafficking Protocol hardly mentions the structural economic inequalities that create the endless supply of women vulnerable to the trafficking market in Africa, Eastern Europe, Asia and Latin America.

Although admittedly the problem of enforcement of economic and social rights at the international level is highly contentious, the Protocol's failure to give even minimal attention to the supply and demand aspects of trafficking is troubling. For example, the idea of sanctioning the clients of prostitution and thus taking a stab at demand is a difficult legal area to address internationally when the criminal target varies between pimp, procurer and prostitute in different national prostitution laws. Nonetheless, wholesale pardoning of the clientele is untenable for achieving the Protocol's long-term goal of eradicating trafficking. Just as the Protocol frames victims' protection using conditional phrases, demand-side issues could likewise be addressed — especially sex tourism operations and the widely reported trafficking markets surrounding UN Peacekeeping and US military missions. The total neglect of the issue of demand in the Protocol suggests that the UN instrument lacks a viable remedy for the deep-rooted causes of trafficking.

Another solution is suggested by scholars and activists from the liberal feminist camp. They argue that the legalization of prostitution is a viable strategy for learning more about the sex industry and for meaningfully extending rights and services to migrant laborers involved in sex work. This approach recognizes worldwide so-

cial, cultural and economic inequalities and the nature of transnational legal and illegitimate commerce. As mentioned earlier, while "exploitation of prostitution" is intentionally left undefined in the Trafficking Protocol, the binding language is restricted nonetheless to criminal sanctions of traffickers, and the Protocol does not contemplate a labor regulation approach in the least. Thus, there is no room for the interpretation of an empowered migrant woman who is operating in response to global economic realities affecting her and her family. Nor is there a realistic contemplation of whether such women are better served by prosecution of their traffickers or by labor regulations and more gender-sensitive approaches to local development and labor force models. Instead, the UN Trafficking Protocol simply allows for state discretion regarding the criminalization of prostitution.

As a result, the UN Protocol ignores the socio-cultural ramifications of criminalizing prostitution. In receiving countries where prostitution is illegal, trafficking victims are often stigmatized for their "immorality," which is compounded by their problematic status as illegal migrants. As Nora Demleitner explains in her essay on migrant women trafficked into prostitution, "Not surprisingly enforcement of anti-trafficking laws is often absent or low. When the laws are enacted, their impact often falls on women rather than the traffickers, replicating enforcement patterns against prostitution generally."³⁵ Overall, the realities of women working in prostitution — whether it be voluntary or forced — and the threats to their rights by traffickers, clients and law enforcement alike should be the focus of major research and policy attention. The Trafficking Protocol all but ignores this crucial issue of human rights and gender equity.

Conclusion

It is difficult to reconcile many of the issues this paper raises about the Trafficking Protocol: the use of conditional and

vague language when referring to persons who are trafficked has little meaningful effect, and the lack of concrete international anti-trafficking measures is practically unimaginable given the transnational nature of human trafficking. These grave shortcomings — in addition to the divide in the current anti-trafficking debate — have resulted in a UN instrument ill-equipped to deal with flexible networks of criminals who understand and take full advantage of the limitations of the modern State, the economic inequalities between origin and destination countries, and the particularly discriminatory approach to women in legal systems around the world.

In its current form, the Protocol overemphasizes the criminalized aspects of trafficking and relegates the rights and needs of women and children to a subordinate position in the international legal framework. The fact that the UN High Commissioner and NGOs have rushed to publish complementary documents reminding the international community of the need for a more integral approach to human trafficking³⁶ further calls attention to the disregard for women's rights and the double standard in international law.³⁷

This brief and preliminary assessment of the UN Trafficking Protocol and CEDAW illustrates the work that needs to be done to make these two pieces of international law mutually reinforcing and beneficial for trafficked persons. For international agreements to address the complexities of human trafficking, a significant effort will have to be made to embrace the realities that women face, particularly women in developing countries. Likewise, women must be recognized as subjects of rights, especially those relating to freedom of movement, employment and the right to legal counsel, private claim of action and restitution in criminal proceedings. Because trafficking predominately affects women, the anti-trafficking model will perpetuate "protective" notions of women's treatment in international law until changes are made in these areas.

ENDNOTES

19. The State Department has developed a three-tier system to reflect the extent to which governments comply with the “Victims of Trafficking and Violence Protection Act of 2000” passed by the US Congress. Tier 1 countries (e.g., Austria, Canada and the UK) comply fully with the Victims’ Act minimum standards for the elimination of trafficking. Tier 2 countries (e.g., Angola, Philippines, Guatemala and Brazil) are making progress toward compliance. Tier 3 countries (e.g., Belarus, Bahrain, Greece, Israel, Saudi Arabia and Russia) are making no progress. We believe this three-tier system is instructive because it illustrates the range of variance among States in their responses to trafficking.
20. CEDAW contains an article on prostitution that calls on States to take measures to “suppress all forms of traffic in women and the exploitation of prostitution” (Article 6). This article was not intended to include all prostitution.
21. *Women Watch*, the Website of the United Nations Division for the Advancement of Women, cites only one declaration drafted after (and subsequently not included in) Hevener-Kaufman’s work: the Declaration on the Elimination of Violence Against Women of 1993.
22. Hevener-Kaufman, Natalie. *International Law and the Status of Women* (Boulder, CO: Westview Press, 1983), 6.
23. *Ibid.*, 7.
24. For a full explanation, see Hevener-Kaufman, *International Law and the Status of Women*.
25. *Ibid.*, 22.
26. *Ibid.*, 9.
27. The original agreement was drafted in 1904 and extended through conventions in 1910, 1921, 1933, and 1947.
28. Hevener-Kaufman, *International Law and the Status of Women*, 12.
29. *Ibid.*, 18-22.
30. Interview with an official at the Midwest Immigration and Human Rights Center, April 15, 2004.
31. Ratna Kapur, “The Tragedy of Victimization Rhetoric: Resurrecting the ‘Native’ Subject in International/Post-Colonial Feminist Legal Politics,” *Harvard Human Rights Journal* 15 (Spring 2002): 36-37.
32. Jordon, *The Annotated Guide*, 16.
33. The level of corruption and police violence against women in many countries targeted for these monies is a major concern; this stipulation in many ways further defeats a rights-based, feminist approach to trafficking. For a further discussion of this Convention Article, see Jordon, *The Annotated Guide*, 16.
34. Susan Tiefenbrun, “The Saga of Susannah, A U.S. Remedy for Sex Trafficking in Women: The Victims of Trafficking and Violence Protection Act of 2000,” *Utah Law Review* 17 (2002): 111-113.
35. Nora Demleitner, “The Law at Crossroads: The Construction of Migrant Women Trafficked into Prostitution” in *Global Human Smuggling in Comparative Perspective*, eds. David Kyle and Rey Koslowski (Baltimore: Johns Hopkins University Press, 2001).
36. Examples of two such documents are *Human Rights Standards for the Treatment of Trafficked Persons*, coauthored by the Global Alliance against Traffic in Women, the Foundation Against Trafficking in Women and Global Rights; and the UN High Commissioner for Human Rights publication, *Recommended Principles and Guidelines on Human Rights and Human Trafficking* ([http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument))
37. For more information on these documents, see: http://www.globalrights.org/site/DocServer/Traff_AnnoProtocol.pdf?docID=203 and <http://www.gaatw.org/>

“Like other international treaties, CEDAW amounts to a bill of rights, rights that may too often be honored in the breach, not so very different from ‘life, liberty and the pursuit of happiness’. We may not need those rights in exactly the same way as women facing honor killings or genital mutilation. But, as we are so quick to note on other fronts, when the United States stands up for a principle it sends a message to the world about how that principle ought to be valued. Yet while America signs off on trade agreements and refugee treaties, it refuses to join the world community in standing up for the rights of women.”

- Anna Quindlen,

Newsweek, 21 March 2005

UPDATES: Convention on the Elimination of All Forms of Discrimination Against Women

In June the Massachusetts Joint Judiciary Committee held a hearing on HB706, which applies CEDAW and other international human rights treaties and standards “to attain social justice in the Commonwealth”. An impressive list of endorsers had been amassed by the Massachusetts Human Rights for All Initiative — “a collaborative response of Amnesty International, the Coalition for a Strong United Nations, the Massachusetts CEDAW Project, Massachusetts Welfare Rights Union, Survivors Inc., and the Women’s International League for Peace and Freedom to the opportunity HB706 offers for deepening our understanding of and commitment to universal human rights.” Six people spoke in support; there was no public testimony in opposition.

Excerpts from written submissions to the committee:

“Human rights brings a human-centered approach to evaluating government performance and ensuring that policies and programs are responsive, efficient and fair.

. . . Anchoring our assessments of government performance in a model that cen-

ters human dignity and equality ensures that government fulfills its first and most significant obligation: to represent and serve the people. But it also dresses this lofty goal in sensible clothing that should appeal to all who support efficient and streamlined governance: e.g. a pro-active approach that seeks to identify problems and gaps before they squander resources and/or cause egregious harms.”

- Barbara Schulman,
coordinator of the New York City Human Rights Initiative, a coalition of over 80 community-based organizations, service providers, advocacy groups, policymakers, labor unions and human rights activists and educators working to strengthen human rights standards in the United States, particularly in New York City

“The work on HB 706 recognizes that the citizens of the State of Massachusetts must be guaranteed basic economic and social rights standards in order to protect the liberty and dignity that every democracy owes to its citizens. . . . It cannot be a question of investing in education at the cost of protecting health, or investing in security at the cost of education — but rather solutions must emerge from a solid commitment to guarantee all fundamental rights.”

- Catherine Albisa,
executive director of the National Economic and Social Rights Initiative

“Passing HB706 is an important step in bringing the state of Massachusetts in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and other international human rights agreements. . . . I fervently urge the Massachusetts Joint Judiciary Committee to vote in favor of HB706, to . . . ensure not just the well-being, but the very survival of hundreds of thousands of women, children and men, both international and domestic victims of modern day slavery.”

- Mei-Mei Ellerman,
coordinator of Polaris Project Boston

The Massachusetts bill, similar to those passed unanimously by the Pennsylvania House of Representatives in 2002 and 2003, begins a process of examining state

laws and regulations for congruence with international human rights standards. In addition to authorizing public hearings into the status of human rights within Massachusetts, HB706 requires a review of existing state law and regulations. MassCEDAW has been working with the Community, Law and Difference program at Northeastern University’s School of Law to develop a methodology for conducting such a review and to “better understand the nature and scope of the gaps in human rights protections that would be addressed by the bill”. This “preliminary legal review examined five narrow topics, . . . in particular through the lens of CEDAW”: government benefits to poor families, pregnancy discrimination in employment, health care for older women, predatory lending, and violence against college women. “In each case, the findings were mixed. In some respects, Massachusetts’ law is consistent with the protections and guarantees offered under human rights law. Yet, despite the adoption of an Equal Rights Amendment to the Commonwealth’s constitution in 1976, troubling gaps continue to disadvantage the state’s women. . . . These snapshots offer only a partial picture of the ‘fit’ between international human rights standards and Massachusetts state law and regulations. Moreover, they do not address the political question of how Massachusetts might act to raise the bar of human rights protections offered to its residents. That is, however, a question we hope the passage of House Bill 706 will precipitate.” FMI: <<http://www.suffolk.edu/cwhhr/lcd.html>>

At the first public hearing on the NYC Human Rights Initiative’s innovative legislation, based on standards from CEDAW and CERD (Convention on the Elimination of Racial Discrimination), thirty-four community leaders testified. As of 31 July, 32 City Council members had signed on as cosponsors. Results of the second hearing, in October, will be posted at <www.nychri.org>. WILD for Human rights says the model of implementation is similar to San Francisco and includes the ordinance, a race and gender analysis, and a City Taskforce as a monitoring body. The Human Rights in Government Operations Audit Law or “Human Rights GOAL” ex-

pands on the current NYC Human Rights Law, and, say its promoters, “emphasizes the centrality of good governance to ensuring human rights for all New Yorkers. Human Rights GOAL will equip our City government with the practical tools it needs to accurately assess its policies’ impacts upon different populations of New Yorkers; promote equality by enabling the City to stop discrimination before it happens; and give residents a greater say in solving the problems facing their communities. When we put universal human rights standards to work to address the problems facing the most vulnerable members of our local communities, we help to build a human rights culture from which we all ultimately benefit.”

For more on the Massachusetts & NYC initiatives and San Francisco’s pioneering methods of implementing CEDAW in the absence of US ratification, please review *Minerva* 26–28. Since the adoption of CEDAW by San Francisco, city departments have begun incorporating the treaty’s recommendations into hiring practices and budgets relating to services ranging from juvenile rehabilitation and domestic violence to public transportation.

WILD for Human Rights (Women’s Institute for Leadership Development for Human Rights <www.wildforhumanrights.org>) — primarily dedicated to working on local implementation of international treaties, in particular, CEDAW — has provided training and technical assistance, based on its successful San Francisco model (included in the UNIFEM collection of best practices worldwide), to the California cities of Berkeley, Santa Cruz, San Jose, Santa Clara, and Santa Rosa, and is exploring prospects in Atlanta and elsewhere. Chicago has passed a CEDAW resolution, and a coalition there is working on the details of its implementation.

CEDAW in handy pocket-size booklet form is available in multiples of 10 for \$5 (inclusive of postage and handling) from the Massachusetts CEDAW Project, c/o The Center for Women’s Health and Human Rights, Suffolk University, 8 Ashburton Place, Boston, MA 02108 <info@masscedaw.org>.

Millennium Development Goals & CEDAW

Caren Grown

Caren Grown is Director of the Poverty Reduction & Economic Governance team at the International Center for Research on Women (Washington, DC), seeking “to improve policies & programs to increase women’s control over productive assets and to expand their income-earning opportunities and capabilities”. Previously, Dr Grown was with the Center for Economic Studies at the US Census Bureau and then was a Senior Program Officer at the John D. and Catherine MacArthur Foundation. She holds a PhD in economics from the New School for Social Research, with specializations in gender, labor, and development economics. She has edited three special issues of *World Development* on macroeconomics, international trade, and gender inequality, and is the co-author with Gita Sen of *Development, Crises and Alternative Visions: Third World Women’s Perspectives* (Monthly Review Press, 1987).

Caren Grown serves on the Millennium Project’s Education and Gender Equality Task force, one of ten thematic task forces that carry out most of the Project’s analytical work. The Millennium Project was commissioned by the UN Secretary-General in 2002 to “develop a concrete action plan for the world to reverse the grinding poverty, hunger and disease affecting billions of people”. Headed by Professor Jeffrey Sachs, it presented its recommendations, *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals*, to the Secretary-General in January 2005. The Millennium Project has been asked to continue operating in an advisory capacity through 2006.

At the Forty-ninth session of the Commission on the Status of Women (New York, 28 February – 11 March 2005), Caren Grown presented this statement as part of a panel discussion of “the linkages between the implementation of the Beijing Platform for Action and the outcome document of the twenty-third special session of the General Assembly and the internationally agreed development goals, including those contained in the Millennium Declaration: Progress, gaps and challenges”.

Before the Millennium Summit in 2000 nearly every country had made a commitment to equal rights for women and girls by ratifying the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Signatories are legally obligated to meet the commitments they specify. Often described as the international bill of rights for women, CEDAW provides for women’s equal enjoyment with men of civil, cultural, economic, political, and social rights. It is unique in establishing legal obligations for state parties to ensure that discrimination against women does not occur in the public sphere or the private sphere.

UN member states also made important commitments to promoting gender equality and women’s empowerment at many of the UN Conferences that were held in the 1990s, including the 1994 International Conference on Population and Development in Cairo and the 1995 Fourth World Conference on Women in Beijing. The declarations and agreements made at these conferences underscored the importance of women’s rights and freedoms, persuaded governments to recognize the gendered consequences of population, social, and macroeconomic policies, and emphasized the importance of mainstreaming gender into all development policies and practice. The inclusion of gender equality and women’s empowerment as Millennium Development Goal 3 is a reminder that many of those promises have yet to be kept while simultaneously offering a critical opportunity to implement them.

Toward reaching Goal 3, the international development community has set this year as the deadline for reaching a first milestone: eliminating gender disparity in primary and secondary education. Unfortunately, progress has been slow and this first target will be missed in 19 countries for primary education and 24 countries for secondary. But it’s not too late to pick up the pace by building women’s capabilities, improving their access to economic and political opportunity, and guaranteeing women’s safety so that the Millennium Development Goal of gender equality and women’s empowerment can be met by 2015.

Because gender inequality is deeply rooted in entrenched attitudes, societal institutions, and market forces that vary from community to community, different steps are needed in different countries. The UN Millennium Project’s Task Force on Education and Gender Equality has outlined seven strategic priorities that require action today if Goal 3 is to be met within the next decade. These interdependent priorities can be applied in any setting, and are the minimum action necessary to alter the historical legacy of disadvantages against women. They include:

- (1) Strengthen opportunities for secondary education for girls while meeting commitments to universal primary education;
- (2) Guarantee sexual and reproductive health and rights;
- (3) Invest in infrastructure to reduce women’s and girls’ time burdens;
- (4) Guarantee women’s and girls’ property and inheritance rights;
- (5) Eliminate gender inequalities in employment by decreasing women’s reliance on informal employment, closing gender gaps in earnings, and reducing occupational segregation;
- (6) Increase women’s share of seats in national parliaments and local governmental bodies; and
- (7) Combat violence against girls and women.

The world community has the knowledge, technology and resources to reduce gender inequalities and empower women. Moreover, many developing country governments and communities already are taking the necessary steps to put these priorities into action. But to avoid missing the 2015 mark, political commitment at the highest international and national levels is needed to institute policies and make the investments that are necessary to achieve a world where women are healthy, safe and empowered to control their own destinies.

1 Strengthen Girls' Secondary Education

To date, global commitments to girls' education have focused on primary education. As a result, during the past decade girls' primary school enrollment rates have increased in most regions. This focus must continue, and international commitments to universal primary education must be met because primary education results in positive health outcomes for girls and women. However, research shows that secondary or postprimary education has the greatest payoff for women's empowerment – in the home, their communities, in labor markets, and in politics. So in addition to universal primary education, the Task Force is calling for a focus on girls' secondary education as well.

Many insights and lessons have been learned during the past two decades on how to eliminate gender disparities in education. The Task Force identifies four strategies that can be used in a variety of countries:

- Make girls' schooling more affordable by reducing fees and offering targeted scholarships;
- Build schools close to girls' homes and allow for flexible class schedules;
- Make schools girl-friendly by improving the safety, design and policies of schools, such as building latrines for girls and allowing married adolescents to attend school; and
- Improve the quality of education by training more women as teachers, especially in secondary schools, using gender-sensitive textbooks, and developing curriculum for girls that is strong in math and science.

In Mexico, the government – concerned by evidence that showed girls dropping out of school at high rates after primary school – initiated in 1997 a cash-for-education program called Progresá. Using an award system that grants girls incrementally higher payments as they progress through primary and secondary school, the program increased girls' primary school enrollment by 1 percent (to 93 percent) and increased secondary school enrollment by between 3.5 percent and 5.8 percent (to between 70 percent and 73 percent). Even small program changes can improve education for girls in short time.

2 Guarantee Sexual and Reproductive Health and Rights

Currently, women's reproductive health remains poor, and in many developing countries, women's reproductive rights are not being fully realized. As a result, maternal mortality rates are high. A women's chance of dying from pregnancy-related complications is nearly 50 times higher in developing countries than in developed countries. Women also are increasingly vulnerable to sexually transmitted infections, particularly HIV. Many sexually active adolescents do not use contraception.

Of the roughly 260 million women ages 15–19 worldwide, both married and unmarried, about 11 percent (29 million) are sexually active and do not want to become pregnant but are not using a modern method of birth control. To ensure the health of women, children and families in developing countries, women must be guaranteed universal access to sexual and reproductive health services through the primary health care system, including full access to sexual and reproductive health information. Comprehensive sexuality education programs also are needed outside of the health care system.

Nearly half of maternal deaths in the developing world occur during labor, delivery or the immediate postpartum period. Access to skilled care and emergency obstetrics services during these periods is critical. However, about two-thirds of births worldwide occur outside of health facilities. Consequently, increasing wo-

men's access to emergency obstetric care is crucial to ensuring maternal health. Skilled birth attendants also are needed. In Tanzania and the Democratic Republic of Congo, special training for non-specialist medical personnel, such as medical assistants and nurses, has led to lower maternal mortality rates in those countries.

A key lesson learned in the fight against HIV and AIDS is that single-purpose programs almost always fail to reach women. Instead, counseling, prevention, and treatment services for HIV and other sexually transmitted infections need to be integrated with other reproductive health services and made available through the primary health care system. Such an approach best helps the most vulnerable girls and women, such as poor women and adolescents. Moreover, when it comes to HIV and AIDS or any other reproductive health issue, men are important allies in improving women's health. They should be engaged both as partners and agents of change.

3 Infrastructure To Ease Time Burdens

Women's & girls' ability to go to school and participate in civic activities often is limited by their responsibilities at home. Routine tasks such as drawing water, collecting firewood or walking to market can take hours, not minutes. One study found that women in Zambia spent more than 800 hours a year collecting firewood and an additional 200 hours fetching water.

The time burden on women and girls can be dramatically reduced with the appropriate infrastructure: efficient energy sources, accessible and affordable transportation, and water and sanitation systems. Cooking fuels such as kerosene and LPG are recognized as good substitutes for traditional biofuels because of their higher thermal efficiency and relative lack of pollutants. Feeder and main roads can greatly expand women's opportunities, especially when combined with accessible and affordable modes of transportation. Finally, increasing women's participation in the design and implementation of infrastructure projects can help to overcome obstacles to access and affordability.

In Mali, the UN Industrial Development Organization and the International Fund for Agriculture worked with communities and women's groups to design and create platforms with a 10-horsepower diesel engine that supplies power for various activities, including agricultural milling and de-husking, lighting, welding and pumping water. Between 1999 and 2004, some 400 platforms were installed across the country, reaching 8,000 women. A study of the impact in twelve villages found several beneficial impacts. Women were able to save time and labor and shift into income-generating activities, leading to an average daily increase of \$0.47. More girls also stayed in school until grade 5, and women's health improved because they were able to visit local clinics more often.

4 Guarantee Property and Inheritance Rights

People who own and control assets such as land and housing have more economic security, are more likely to take economic risks that lead to growth, and receive important economic returns including income. Yet women in many countries are far less likely than men to own or control assets. Ensuring women's property and inheritance rights is a crucial step in empowering women.

Since 1995, there has been growing awareness and policy attention to this issue. But there is no easy fix. Interventions must be context-specific and considered carefully. To begin, countries need to identify the points at which discrimination occurs, including complex and archaic legal systems, deep-rooted social and cultural norms, and a persistent lack of awareness of individual rights and legal protections.

Within countries, several types of changes are necessary to ensure women's property rights: amending and harmonizing statutory and customary laws, promoting legal literacy, supporting women's organizations that can help women make land claims, and recording women's share of land or property. In areas that are moving toward formal land registration systems, joint titling can enhance women's access to land, helping to guard against capricious decision-

making by a spouse and protecting against the dispossession of women due to abandonment, separation, or divorce.

In Vietnam, marriage and family laws were revised in 2001, requiring both the husband's and wife's signatures on any document registering family assets and land use rights. This significantly changed the former policy where certificates only had space for one signature – typically the husband's – and women could only claim their rights in the presence of their husband. Following the revision of the law, the Vietnamese government selected two communes for a pilot project to reissue land title certificates with joint signatures. The project organized village meetings and distributed leaflets about the new law. As a result of the pilot, some 2,600 households now have joint titles. A 2002 evaluation concluded that the project also enabled the establishment of a gender responsive land administration system, improved the ability of local governments to implement land reform, enabled local practices to comply with national law, and disseminated knowledge on national law in remote communities.

5 Reduce Gender Inequality in Employment

In the past two decades, women increasingly are employed, in part because of global economic changes. Between 1990 and 2002, women's share of nonagricultural employment increased in 93 of 131 countries. Yet women's status in the labor market remains significantly inferior to men's. The preferential hiring of men, occupational segregation, and women receiving lower pay for equal work are all examples of gender inequality in employment which continue. Not only do such inequalities contravene women's right to work, but they are costly for women, their families, and their communities.

Interventions to address employment barriers and constraints take many forms, but they should be focused on reducing women's reliance on the informal market, closing the gender gap in earnings and reducing occupational segregation. Expansion of national policies and programs to

provide support for care—of children, people with disabilities, and the elderly—is an important intervention to enable women to participate in paid employment. In addition, broader economic and social policies are needed, such as supporting employment-enhancing economic growth in low-income countries; providing social protections like health and disability insurance; enforcing equality opportunity legislation, and reforming pension systems to reduce gender inequalities. The International Labour Organization (ILO) Decent Work initiative provides an international framework for promoting equal access to and treatment in employment.

6 Increase Women's Seats in Government

Ensuring that women can participate in decision making on equal footing with men in all political arenas is key to empowering women. In the past decade, some countries have made notable progress in increasing women's representation in political bodies. Still, in only 14 countries do women hold 30 percent or more of the seats in their national parliaments.

Three factors have proven successful in boosting women's participation in parliaments and local bodies. Gender quotas and reservations are an effective policy tool to increase women's representation. Strong women's movements and government policies that reduce women's multiple burdens also can facilitate women's political participation.

7 Combat Violence against Women

Violence against women occurs in epidemic proportions in many countries around the world. Surveys in various countries have found that between 10 percent and 69 percent of women report having experienced domestic violence.

Though no single intervention will eliminate violence against women, a combination of infra-structural, legal, judicial, enforcement, health, and other service-related actions can significantly reduce it and its consequences. First and foremost, however, violence against women must be

viewed as unacceptable. The Task Force recommends that the UN Secretary General, alongside heads of state, spearhead a global campaign establishing this norm and mobilizing resources and support to implement national plans to end violence against women.

Regional organizations can also play a role. The Inter-American Development Bank (IDB) has helped reduce domestic violence through its lending programs. Since 1998, the IDB has approved more than \$123 million in lending for the control and prevention of domestic violence in five countries: Chile, Columbia, Honduras, Jamaica, and Uruguay. These loans raised substantial domestic counterparts in the five countries. Some loans also integrated gender concerns in project components such as providing victims treatment; and ensuring that domestic violence data are collected in national crime information systems, police are trained to handle domestic violence cases, and the courts train judges and probation officers on intra-family violence. Some funding also goes to women's non-governmental organizations that specialize in the research, advocacy, and treatment of violence against women.

Making It Happen

Although no country has successfully addressed all seven strategic priorities, some countries have shown that significant progress can be made to empower women and reduce gender disparities. The problem is not a lack of practical ways to ad-

dress gender inequality but rather a lack of change on a large and deep enough scale to transform the way societies define and organize men's and women's roles, responsibilities, and control over resources. To make change happen, countries need:

- **Political Commitment** – Political leaders must be committed and help mobilize individuals and institutions at all levels of government and within international bodies;
- **Technical Capacity** – Leaders and others need technical expertise and knowledge of how to mainstream gender concerns into development policies and programs;
- **Institutional and Structural Change** – Women's groups, civil society, and government agencies need to push for change in the rules, structures, and processes that specify how resources are allocated and how tasks, responsibilities, and values are assigned in institutions and society more broadly;
- **Adequate Resources** – Government and nongovernmental organizations need adequate funding for direct interventions, and to build capacity, collect data, and evaluate programs and policies for gender equality and women's empowerment; and
- **Accountability and Monitoring** – Governments, international institutional and civil society organizations need systems and best practices to ensure that fundamental change is broad-based and lasting.

Moreover, cost does not have to be a barrier. The Task Force collaborated with the UN Millennium Project to create a needs assessment methodology to help countries and organizations calculate the costs for fulfilling the different strategic priorities. Though not exact, the estimates provide a guide to the level of investment needed to achieve gender equality and women's empowerment. Results from the assessment in Tajikistan – though preliminary – are illustrative, suggesting that the cost of universal primary and expanded secondary education would be roughly \$20 per person annually. The cost of setting up a primary health care system for child and maternal health, major infectious diseases, and sexual and reproductive health would average about \$29 per person annually. The cost of gender-specific interventions to meet Goal 3 in Tajikistan is estimated at \$10.56 million each year, which is 0.003 percent of its gross domestic product, and which contrasts with debt-servicing payments which accounted for about 4 percent of GDP in Tajikistan in 2001.

The next 10 years provide a new window of opportunity to take action on a global scale to achieve gender equality and empower women as part of meeting all of the MDGs. Governments and international organizations must set the tone and create the environment to make this possible. With adequate space and resources, women's organizations can help transform societies in ways that remove the women's constraints, guarantee their rights, and allow women to fulfill their potential.

From the first annual report by the Global Governance Initiative of the World Economic Forum:

The Millennium Declaration Goals are too large and too complex for governments to achieve alone. Governments may bear primary responsibility, but a broader response will be required for the international community to have any prospect of realizing the Declaration's ambitious expression of the global public interest. So the initiative has also attempted to assess what role the private sector, civil society and international organizations can be expected to play in achieving common objectives. Even after accounting for the efforts of such diverse actors towards a common purpose, the warning is clear: the world community is devoting less than half of the effort necessary to meet any of the goals. Yet, the positive results of many innovative programs from all sectors also give reason to be cautiously optimistic about our ability to solve these "solvable" problems.

A New Way of Doing the World's Business

Mary Robinson

This assessment of the recent United Nations summit, from the *International Herald Tribune* of 25 September 2005, is reprinted with permission.

NEW YORK - There was a vacuum here at the United Nations summit this month, an aching space demanding to be filled. What was lacking, quite simply, was leadership: the vision that could have put backbone into long overdue reform and new purpose into the multilateral drive to tackle poverty.

We didn't get it. And the disappointment felt by civil society across the world is palpable. Instead of opening a new chapter for the UN, we got a summit of fudge: the self-important restatement of goals already agreed and some shameful backsliding on old promises. As the leaders headed home, the world's desperate poor were left largely where they had been at the beginning of the week.

The New York Times called it "the Lost Summit," but I think that's too bleak. Rather, it was the week that the UN had its bluff called. What we saw was a 20th century institution - built on governments primarily concerned about their sovereignty - failing to address the complex and urgent problems of a 21st-century world that demand shared responsibility and joint action.

Just five years ago, the UN launched this new era in a spirit of hope with the Millennium Development Goals, those brave targets for real reduction in poverty. But those promises now seem set to join the pile of broken pledges that mark the old UN's history.

There were things to welcome in the summit agreement. One was the firm language over "responsibility to protect," that will now allow the international community to take uninhibited action when faced with acts of genocide. But this was just a single leg of a stool whose other props failed to materialize. The urgent issue of a new human rights council was pushed to the back burner, and nothing came up on how to tackle the trade in small arms - which are the real weapons of mass destruction. But, most distressingly, there was no significant impetus on development spending: the summit left the triumphal announcements after the G-8 meeting this summer looking hollow.

Curiously, however, the vacillations in the General Assembly chamber seemed to energize the people outside it. All around the UN building there were groups coming together, meetings of like-minded power brokers determined to move things forward on poverty and security. Here there was some hope. I saw senior representatives of the UN agencies and the World Bank linking up with some progressive governments and leaders from civil society and the business sector. Innovative moves came out of these, like the launch of new partnerships on maternal and child health and new approaches on climate change.

My own group, Realizing Rights: The Ethical Globalization Initiative, was getting business leaders together with civil society to give new energy to the World Trade Organization's Doha round. We're also working on new ways to strengthen local health systems. There is the Clinton Global Initiative and the Helsinki Process, in which I've had an interest from the beginning, where many different stakeholders, led by Finland and Tanzania, are coming together with fresh ideas.

This is a new way of doing business. It's forced on us by the realization that intergovernmental bodies are not getting the job done. Harnessing all stakeholders to solve problems is a radical new way forward. For too long these different communities -

corporate, civil society and development professionals - have operated alone. That has wasted talent and resources.

The summit's failures have made the tasks ahead more clear. What is needed now is concerted effort to fill the gaps that our leaders have left. Civil society, re-energized by the mass protests around the G-8 summit this summer; businesspeople with the vision to see that a secure and healthy world is a better place in which to operate will be critical actors in the times ahead.

From these new partnerships may well come the drive to push forward that revitalization of the UN we so badly need; to hold our leaders to account for those commitments they made five years ago and to achieve a successful conclusion to the Doha trade round.

The United Nations is too often blamed for the faults of the governments that constitute it. "We the peoples of the United Nations," begins the famous charter. Taking the UN back to the people should be the guiding principle now - letting their energy reshape it for the 21st century.

In today's world, no state can protect itself alone. A transparent and accountable United Nations is in the United States' interest. We know the UN needs reform, but it also needs resources.

- **Mary Robinson**, former UN High Commissioner for Human Rights, in a speech at Grace Cathedral during the 60th Anniversary celebration of the United Nations in San Francisco, 26 June, 2005

NOTES: Some Other Reactions to UN Reform World Summit

In anticipation of the United Nations 2005 World Summit in September, the NGO Working Group on Women Peace and Security (NGOWG) welcomed the report of the Secretary-General, *In Larger Freedom: towards development, security and human rights for all*, saying (April 2005): "We share the view of the Secretary-General that development, peace and human rights are inextricably linked and that their realization should be underpinned by the rule of law. Furthermore, we support his call for a new security consensus based on the recognition that all threats are interconnected and that 'in today's world no state, however powerful, can protect itself on its own'."

The NGOWG nevertheless was "deeply concerned by the lack of gender analysis and gender perspectives" throughout the report and offered recommendations to the negotiators regarding gender equality in all realms, gender mainstreaming in the UN system, engagement with civil society, participation of women in disarmament initiatives and in peacebuilding, and the goal of "a more consistent, timely, effective, ethical, and depoliticized Security Council response to situations where large numbers of civilians, particularly women

and girls, are under direct and systematic attack or threat of attack".

Reminding everyone that "the Millennium Development Goals do not represent the entire development agenda as other processes are also important", the Working Group urged that "clear links are made between achieving MDGs and implementing the outcomes of the UN global conferences of the 1990s, including those on women".

Yifat Susskind, Associate Director of MADRE, complained on 10 September that, "now that women's organizations, along with all non-governmental groups, have been shut out of the World Summit, it's left to UN Member States to ensure that the summit's outcome document can lead to policy changes that will benefit the world's poor", based on the MDGs, despite their "serious weaknesses".

To ensure that women's voices w[ould] be heard" at the Summit, three international rights organizations — the Centre for Women's Global Leadership, Development Alternatives with Women for a New Era, and the Women's Environment and Development Organisation (WEDO) — joined forces as the "Gender Monitoring

Group of the World Summit". They presented a position paper, *What's At Stake for Women*, and a series of critical press releases during the summit, and they endorsed Peruvian activist professor Virginia Vargas, one of two "civil society" speakers invited to address the assembled leaders on the closing night. She said:

A life without fear is not possible while political power is in alliance with the economic power of the arms trade. This alliance has no legitimacy to decide when a situation is an "imminent threat" or a "latent danger" because they themselves are the greatest threat and the biggest danger; because they resort to lies and to an arbitrary unilateralism to satisfy their thirst for permanent war.

We call for a general disarmament, not a "progressive" or a "selective" one. We call for a change in the logic of conflict resolution, broadening the approach to include other causes of fear. A life without fear for millions of women also requires consideration of violence as a brutal violation of human rights, in all its spheres — domestic, sexual and in armed conflicts. A life without fear is built by challenging racism, recognizing the rights and the autonomy of indigenous peoples. A life without fear must be built on a reaffirmation of the rights of social movements, such as women's movements, to contribute to a peace agenda. A life without fear requires

respect for the international agreements that represent a global ethical responsibility.

On 14 September, the “Reaching Critical Will” project of the Women’s International League for Peace and Freedom — along with the Lawyers’ Committee on Nuclear Policy, Greenpeace International, and the Arms Control Association — sent a letter to ambassadors expressing “bitter disappointment” that the Outcome Document adopted the previous day has no disarmament and non-proliferation section: “We are shocked that a process designed to revitalize the United Nations and create a comprehensive system of collective security tackling both new and old threats and addressing the security concerns of all states does not address the threats posed by nuclear weapons. Once again, a handful of spoilers were able to thwart the consensus developed by governments who understand the magnitude of this urgent threat. . . . Consequently, Governments . . . have missed an historic opportunity, not only to reinvigorate disarmament diplomacy but to take positive steps towards making the world a safer place.” Emphasizing “the need for action in this field”, they urged vigorous pursuit of “the creation of forums for progress, including revitalization of the First Committee of the General Assembly”.

Amnesty International (26 September) welcomed the decision by UN members to adopt a Summit Outcome Document “that unambiguously acknowledges that human rights are one of the three pillars of the UN, along with development and peace and security. The recognition that human rights are central to the UN, as well as states’ decision to double the regular budget resources of the Office of the High Commissioner for Human Rights over the next five years are long overdue concrete advances in human rights protection. Other positive outcomes of the Summit include the unqualified acceptance by all states of their collective international responsibility to protect people from genocide, war crimes, ethnic cleansing and crimes against humanity; strong commitments to end discrimination against women and impunity for violence against women; and the deci-

True liberty will only be possible if indivisible, universal and interdependent human rights are placed at the centre of the structure and the dynamics of the United Nations and if new structures incorporate the processes of democratisation . . . The United Nations cannot continue to be a forum solely for governments, as has been the case in this summit — democratic rebuilding must be open to multiple contributions from social movements and democratic forces to build a different world, without poverty and exclusions. The United Nations must recover its mission by being truly representative of ‘we the peoples’.

- Virginia Vargas

(of the Centro de la Mujer Peruana Flora Tristan; Articulación Feminista Marcosur; International Council of the World Social Forum; Feminist Task Force of the Global Call to Action against Poverty), 16 September 2005.

sion to further mainstream human rights throughout the UN system. These positive outcomes reflect the commitment of a growing number of states from all regions to improve the capacity of the UN to promote and protect human rights, also evident in one of the Summit’s most important decisions: to create a Human Rights Council. Governments must now rapidly and effectively implement the human rights commitments they have undertaken in the Summit’s Outcome Document.” Amnesty is urging that the General Assembly negotiate the details of an effective Human Rights Council and establish it without delay, at the same level as the Security Council, the General Assembly and the Economic and Social Council (ECOSOC): as a principal organ. “The new Council must have credibility in the eyes of the world and especially of those in need. It must preserve all the strengths of the Commission on Human Rights, but it must also be able to protect human rights with more authority, more credibility and more effectiveness than the Commission has done.”

In establishing the Human Rights Council, Amnesty recommends that:

- Governments must ensure that the Council is operational by February 2006;
- Governments must ensure that they will create a new Human Rights Council that substantively improves the UN’s promotion and protection of all human rights, so the new body must:
 - meet regularly throughout the year;
 - have a mandate to consider any matter relating to the promotion and protection of all human rights,
 - regularly examine the human rights record of all countries and effectively deal with urgent situations;
 - retain the strengths of the Commission on Human Rights, especially the unique rules and practices for participation by NGOs and its system of independent human rights experts, the “Special Procedures”;
 - have electoral rules that effectively provide for genuine election of Council membership (precluding ‘clean slates’), that provide for election by a two-thirds majority of the General Assembly and that ensure that Council membership is effectively open to all members;
- Having welcomed the positive contribution to the promotion and implementation of human rights programmes by NGOs, governments must ensure that NGOs have full access to the open, transparent and inclusive negotiation process decided upon so that they can contribute to the Council’s creation in a timely and effective manner.

Amnesty also recommends that

- Governments should announce their plans to integrate the promotion and protection of all human rights into national policies in their statements to the Third Committee of the General Assembly;
- Governments and the UN Secretary-General must ensure that states’ resolve to support further mainstreaming of human rights throughout the UN system is translated into concrete steps at all levels of the organization, including in decision-making, programming and planning of funds, programmes and agencies;

- Governments must ensure that their resolve to double the Office of the High Commissioner for Human Rights' regular budget resources within five years is translated into specific and substantial budgetary allocations when the UN budget is adopted in the Fifth Committee later this year;

- Furthermore, governments must continue to increase the OHCHR's overall budget resources, with the aim of doubling these over the next five years;

- The Security Council should invite the High Commissioner for Human Rights to brief the Council regularly on human rights issues and developments;

- On the 60th anniversary of the UN, every government should develop an action programme to ratify or accede to all international human rights treaties and protocols adopted within the UN system by a set date no later than 2015;

- Governments must ensure that human rights and human rights institution-building are effectively integrated in the activities of the new Peacebuilding Commission, and support the early establishment of the rule of law assistance unit in the Secretariat to facilitate those efforts;

- When deciding on operational details for the Peacebuilding Commission, the General Assembly must acknowledge the expert knowledge of NGOs to the Peacebuilding Commission and provide for their effective contribution to its work;

- All states should review their laws and practices to ensure that all measures to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law;

- The Counter-Terrorism Committee of the Security Council should regularly request all countries to report on how they are implementing the requirements of paragraph 85, on the progress made and the difficulties they encountered;

- The Security Council should ensure, and the Secretary-General advise, that the sanctions listing and de-listing provisions will be transparent and will meet international standards for due process;

- States should develop a legally binding instrument – an Arms Trade Treaty — to regulate the transfer of arms in accordance with states' obligations under international law, including human rights and humanitarian law.

“Although the Summit document supports implementation of the 2001 UN programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (94), Amnesty International regrets that world leaders failed to seize the opportunity of the Summit to agree to develop a legally binding international instrument on arms transfers in accordance with states' obligations under international law. There is growing international support for an Arms Trade Treaty to help curb the flow of arms to those using them to commit abuses of human rights and international humanitarian law.”

Amnesty International welcomes that, “for the first time, UN members have accepted their collective responsibility to act to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity if ‘national authorities manifestly fail’ to act to protect them. The Summit’s decision reinforces existing responsibilities under customary and conventional international law, and reaffirms that human rights are a concern of the international community as a whole that transcends state sovereignty. Whether states will implement their newly established resolve, and how well they will do so, will depend on the political will of the permanent five members of the Security Council to act to prevent and halt perpetration of these international crimes in the future and of the willingness of the General Assembly to exercise its powers under the UN Charter. . . . AI regrets that some permanent members of the Security Council opposed the proposed invitation to all permanent members of the Security Council to refrain from using their veto in cases of these grave crimes under international law.

Amnesty also finds it “unjustifiable that a document of such historic importance as

the Summit Outcome Document can exclude any reference to the need to end impunity for crimes under international law and a call for support for the International Criminal Court. This happened because one country refused to agree to any mention of the ICC in the document. Amnesty International welcomes the strong commitment to ending impunity and support for the ICC expressed by numerous states during the negotiations and urges them “to continue to express this support in forthcoming resolutions of the General Assembly and other UN bodies”. With Citizens for Global Solutions and many other organizations, AI continues to call on states that have not yet done so to ratify the Rome Statute and the Agreement on Privileges and Immunities of the ICC and to implement these effectively in national law.

Amnesty also deplores that “many development objectives in the Outcome Document are aimed at the realisation of the rights to education, the right to the highest attainable standard of health and other measures aimed at freedom from want, but, regrettably, the document fails to acknowledge their human rights foundations”.

More encouragingly, states “decided to take effective measures to better protect internally displaced persons taking the Guiding Principles on Internal Displacement as an important international framework, committed to safeguard the principle of refugee protection, and reaffirmed their determination to take measures to ensure that the human rights of migrants, migrant workers and their families are protected”.

Amnesty also welcomes the fact that the Summit Outcome Document “calls on states to prevent and criminalize the recruitment of children in armed conflict contrary to international law and to pay priority attention to becoming a party to the Convention on the Rights of the Child”.

In Amnesty International’s view, “among the Summit’s key achievements is the strong language on gender issues. This should be followed through by

- Undertaking an immediate review of laws that may discriminate against women, “re-

pealing those that do discriminate and taking concrete action to guarantee the right of women to own and inherit property”;

- Promoting and protecting “the sexual rights and reproductive rights of all women, including their right to have control over and decide freely and responsibly on matters related to their sexuality”;
- Ensuring “full and effective implementation” of Security Council resolution 1325.

Women’s Edge concluded (6 October 2005) that “some progress on women’s issues was one of the very few bright spots in an otherwise disappointing UN World Summit”, where “insurmountable political differences between leaders of poor developing nations and the West, especially the United States, killed any chance of progress. While the US focused on terrorism, weapons of mass destruction and reform of the United Nations, poor nations prioritized poverty reduction, debt relief,

the threat of infectious diseases and making global trade more equitable. The final document was a weak compromise, which left most divisive issues unresolved.” Lamenting the likely impact on women of insufficient commitment to all the Millennium Development Goals, Women’s Edge acknowledged that, “[o]n the face of it, the third Millennium Development Goal on equality for women was one of the Summit’s few successes. It has been expanded from its original focus on education for girls to include several new commitments: to prosecute those who commit violence against women, to provide universal access to family planning services, to ensure equal rights for women to own and inherit property and to increase the representation of women in governments worldwide. World leaders also agreed to repeal all laws that discriminate against women and promised to implement the landmark Security Council Resolution 1325, which promotes women’s increased participation in international peace and security negotiations.”

The summit missed a historic opportunity to make a real difference in ending poverty, which is the biggest roadblock to improving women’s lives.

- **Ritu Sharma**,
President and Co-Founder
of the Women’s Edge Coalition.

Post-Summit Reaction: The Good News

Barbara Crossette

Barbara Crossette, former *New York Times* bureau chief at the United Nations, is consulting editor to UNA-USA’s *The InterDependent*. This article, from the UNA-USA E-Newsletter of October 2005, is reprinted by permission of the United Nations Association of the USA and Ms Crossette. The views expressed do not necessarily represent those of UNA-USA.

In the rush to pronounce the UN’s 60th anniversary summit a failure because some major structural reforms remain in dispute among member nations, there has been a tendency to overlook some very significant gains in the final agreement. Arguably, some of the pledges made in the social and humanitarian fields have far greater potential for helping the poorest people at the ends of the earth improve their lives than any tinkering with bureaucratic structures in New York.

Granted, the abject failure of nations to agree on how, specifically, to form a new human rights council in place of the discredited Human Rights Commission was one glaring exception to the hope of putting people first. Developing nations themselves killed that hope, fearing too much scrutiny. That’s not a good omen.

But member nations did accept — to the surprise of many — a new concept that has been under discussion around the organization since the turn of this millennium: the “responsibility to protect”. That provision in the final agreement says unambiguously that when governments fail to take action against enormous crimes within their borders such as genocide, war crimes, ethnic cleansing and crimes against humanity — including incitement to these crimes — the rest of the world must be prepared “to take collective action, in a timely and decisive manner”.

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<www.unausa.org>

Only five years ago, Secretary-General Kofi Annan drew a storm of protest from developing nations when he talked about the “right to intervene”. He jokes now that “responsibility to protect” is more diplomatic. But the point that matters is that in one revolutionary step, the UN membership has tempered the long-held view that national sovereignty is inviolate when a population is abused.

Much has been said and written . . . about the importance of bringing the United States into line in support of the Millennium Development Goals, a set of eight measures intended to reduce poverty and spur growth by 2015. That is not the end of the story, however. The US, while unleashing an uproar with demands for hundreds of last-minute changes in the final document (a costly tactic that provoked damaging counter-demands from other nations) actually left many important social provisions in place. John R. Bolton, the US ambassador, did not demonstrate a desire to promote a conservative social agenda.

Perhaps nowhere in the agreement is this more evident than in the section of gender equality and the empowerment of women, increasingly seen as necessary in building stronger societies from the family up. Saying that “progress for women is progress for all”, the document specifically endorses the plan of action that emerged from the Fourth World Conference on Women, held in 1995 in Beijing. That includes a broad range of demands for reproductive health and rights — at least some of which the conservative religious right in the US and its counterparts in Muslim nations condemn.

Furthermore, the summit agreement calls for universal access to reproductive health “as set out at the International Conference on Population and Development”. That meeting was the groundbreaking 1994 Cairo population conference, which also outraged religious and social conservatives for its sweeping reinterpretation of population policies that put women at the center of decision-making in cutting population growth.

The summit document also guarantees “the free and equal right of women to own and inherit property”. To hundreds of millions of women around the world that is a monumental step forward, even though it may take years to bring that guarantee home.

“All forms of discrimination and violence against women and the girl child” are to be eliminated in another pledge. This includes abuses of women in conflict areas, now considered a violation of international law. Again, these guarantees may mean nothing overnight, but they do lay the groundwork for future accountability in many places where people have little more than the pledges of the UN to lean on in crisis. Disappointing to many women’s groups, however, was the absence of a mention of domestic violence, the front line of abuse for so many women and girls.

It is worth remembering that the guardians at the UN of these and other pledges will not be found in the Secretariat, where nations can stall or block action, but in the relevant agencies and programs, where the impetus for change and the willingness to carry it out are far greater.

Home Improvement, Planet Renovation

These notes regularly sample ways that international institutions, instruments, and movements affect women and are influenced by them: the urgencies and achievements of women as world citizens, working every day for peace & true security where common good might flourish.

BEIJING+10

The **Beijing+10** review at the 49th session of the UN Commission on the Status of Women (CSW) was stalled when, during consultations on the draft declaration, the United States proposed amendments apparently aimed at weakening commitments to realizing women’s human rights.

The US proposal sought to restrict the scope of the Beijing commitments by stating that they did “not create any new international human rights” and in particular that they did “not include the right to abortion” (the Beijing Platform for Action stipulates that women “have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence”).

Amnesty International viewed this not only as an attack on that right “but also more generally as an attempt to stifle the evolution of the human rights framework”. Eventually, the United States withdrew its amendment and the Declaration was adopted as originally drafted by the CSW Bureau. Nevertheless, it was “extremely modest in scope and adds little beyond reaffirming commitments made ten years ago”, and an opportunity for progress was wasted (AI statement, 7 March 2005).

Another reaffirmative declaration was issued at the end of a four-day Tenth Anniversary conference in Beijing in August.

RESOLUTION 1325+5

The October five-year anniversary of **Security Council Resolution 1325 on Women, Peace and Security** brings disappointment at UNIFEM and in most parts of the world that more has not been accomplished to include women “in all governance and decision-making processes”, especially peace-building, comments Nyaradzai Gumbonzvanda, a UNIFEM programme director. Only a few countries have passed (usually frail) laws aligned with Resolution 1325, to boost women’s participation in peace processes.

And the United Nations itself has not met its Beijing goal of 50-50 gender balance in the UN system by 2000. SC Resolution 1325 called for Secretary-General Kofi Annan to appoint more women as special representatives to conflict zones, but Canada’s deputy UN ambassador Gilbert Laurin has pointed out that “there is only one woman at the level of special representative of the secretary-general out of approximately 50 such positions”.

Nevertheless, for many women the resolution is a useful framework for their local conflict resolution work — in Somalia, for example, where women formed a sixth clan and eventually won a place in peace negotiations that had promised fair and equal accommodation of the five clans in Somalia, but none of the clans would submit a female representative. “The sixth clan successfully advocated for the inclusion of women’s human rights and affirmative action in the Somali charter,” reports Anja Tranovich (IPS, 19 July).

Following reports over the past two years or more of peacekeepers exploiting women and girls in their area of deployment, eight United Nations missions have been ordered to establish disciplinary units staffed by senior-level experts on personnel conduct. Among the recommended actions proposed by the Secretary-General’s Advisor on Sexual Exploitation and Abuse by United Nations Peacekeeping Personnel, the “Conduct and Discipline Units” are charged with handling complaints and managing data while ensuring compliance with United Nations standards of conduct.

PEACEKEEPER SEX

Meanwhile, Jordan’s UN ambassador, Prince Zeid Ra’ad Zeid al-Husseini, who has served as a UN military observer in Bosnia and did extensive interviewing in the Democratic Republic of Congo, has delivered a report requested by the Secretary General that recommends “overhaul of a tattered UN military system in the world body’s 17 peacekeeping operations of some 64,000 personnel” (Evelyn Leopold, Reuters, 24 March 2005). “The reality of prostitution and other sexual exploitation in a peacekeeping context is profoundly disturbing to many because the United Nations has been mandated to enter into a broken society to help it,” he wrote. Peacekeepers can only be punished by their home countries, and that rarely happens. Prince Zeid proposed that the General Assembly approve binding rules — to be signed by every country contributing troops — that would include prosecutions and setting up funds for victims from docked pay, especially those with “peacekeeper babies”. He recommended that courts-martial be held in the country where the offense takes place so that witnesses could be available and accountability not be evaded, that sex crimes be investigated more professionally, and better communication of the UN’s rules on commercial or forced sex. UN civilian staff who violate the rules should be fired and fined, supporting a trust fund for victims and any children born to them. UN managers and military commanders should be rewarded for excellent adherence and removed from their posts for poor performance. Case progress should be reported regularly to the UN, and a new database should be created to make sure offenders are never deployed again.

Prince Zeid presented these and other recommendations to the Security Council at the end of May, saying, “We, the member states, have refrained, from opening up this subject to public discourse over the last 60 years (because) sentiments of pride, mixed in with a deep sense of embarrassment, have often produced in us only outright denials. And yet almost all countries that have participated in U.N. peacekeeping operations have, at one stage or another,

had some reason to feel deeply ashamed over the activities of some of their peacekeepers.” He estimated that it would take two years to put most of his recommendations in place and said that a legal team was studying “complex issues” of immunities for UN staff and what to do when they commit “frightful offenses, such as murder” (Evelyn Leopold, Reuters, 31 May 2005).

Jean-Marie Guehenno, the UN under-secretary-general for peacekeeping, gave the Council examples & statistics and warned that the problem of exploitation and abuse was likely “to look worse before it looks better” because victims were now more likely to come forward.

Requesting that the Secretary General include in his reports a summary of the “preventable measures taken to implement a zero-tolerance policy”, the Security Council stated that it “condemns in the strongest terms all acts of sexual abuse and exploitation committed by UN peacekeeping personnel. The distinguished and honorable record of accomplishment in UN peacekeeping is being tarnished by the acts of a few individuals.”

PROTOCOL ON THE RIGHTS OF WOMEN IN AFRICA

On **Africa Women’s Day** in July, women’s groups lamented that, more than two years after African Union adoption of the **Protocol on the Rights of Women in Africa**, it still had an insufficient number of ratifications. Amnesty International urged African governments to demonstrate their expressed commitment to make women’s human rights a reality” by ratifying without further delay.

The Protocol guarantees a wide range of women’s civil and political rights as well as economic, social and cultural rights, including: the right to general and reproductive health; the right to life, integrity and security of person; protection from harmful traditional practices; prohibition of discrimination; protection of women in armed conflict; and access to justice.

UNFPA UNDERMINED

For the fourth year in a row, the Bush administration has decided to withhold funding appropriated by Congress for the United Nations Population Fund, based on unsubstantiated abortion allegations. UNFPA Executive Director Thoraya Ahmed Obaid reiterated that one goal of the fund is actually to help women avoid having abortions by enabling them to use family planning resources. "This decision is disheartening because it contradicts clear evidence that UNFPA works hard to end coercion by proving the efficacy and superiority of the voluntary approach to family planning over any other alternative," she said at the World Summit in September. UNFPA estimates that UNFPA the withheld money could prevent as many as 2 million unwanted pregnancies and 4,700 maternal deaths in developing countries and could support promising HIV-prevention efforts and treatment for young women suffering from obstetric fistula. According to the UN News Center (16 September), "The United States is the only country to ever deny funding to UNFPA for non-budgetary reasons in the agency's entire 36 years of operation. . . . The current Administration has so far withheld \$127 million in funds appropriated by Congress."

"We have found that most Americans (up to 70 percent by some polls) support the work that UNFPA is doing, but do not know that it is UNFPA that is doing it," Anika Rahman, President of **Americans for UNFPA**, told a Women's Edge interviewer (6 October). Her group is focusing on "educating legislators who influence US funding for UNFPA and also their constituents", and invites Americans to visit UNFPA field programs to witness the work.. Anyone can get involved by visiting their new website <www.americansforunfpa.org>.

"We cannot make poverty history until we stop violence against women and girls," said Thoraya Ahmed Obaid, at the London of the latest UNFPA *State of the World Population* report (12 October 2005). "We cannot make poverty history until women enjoy their full social, cultural, economic and political rights."

The world can do better. The solutions are well known and effective. They include universal education for all girls and boys, the removal of barriers to women's equal participation in social, cultural, economic and political life, the engagement of boys and men in the struggle for equity, mass awareness raising campaigns, and the implementation of laws and policies that promote and protect the full range of internationally agreed human rights, including the right to sexual and reproductive health. All of these actions fall under the banner of 'equality'.

Equality is an end in itself and a cornerstone of development. Equality is a goal that demands sustained political commitment and leadership.

- **Thoraya Obaid**,
Executive Director of UNFPA, World Population Day, 2005

By providing reproductive health care around the world and actively combating violence against women, UNFPA is assisting women achieve their life's goals and also helping nations to develop economically. UNFPA works to improve social and economic opportunities for adolescent girls in my country of origin, Bangladesh, for example, by finding feasible alternatives to child marriage such as education or employment.

When women are educated and empowered enough to be able to participate in politics and economics, their contributions spur economic development and improve standards of living for all.

- **Anika Rahman**,
President, Americans for UNFPA, interviewed by Women's Edge Coalition, 6 October 2005

AMERICAS AGENDA

Representatives of women's organizations throughout the hemisphere met in Buenos Aires in April at a Gender Forum of the Americas, the first in a series of meetings meant to encourage civil society participation in preparations for the 4th Summit of the Americas in Argentina in early November. The summit theme is "Creating Jobs to Confront Poverty and Strengthen Democratic Governance".

WORLD SUMMIT ON INFORMATION SOCIETY

Many questions have been raised about Tunisian repression of freedom of expression & association as the context for the next phase of the November World Summit on Information Society (WSIS), organized by the United Nations. Demonstrators — including a prominent human rights

defender and lawyer, Radhia Nasraoui — have been beaten by police officers; others have been detained and allegedly tortured. Amnesty International has called on the authorities to guarantee the protection of human rights defenders and civil society activists and ensure that they are able to carry out their activities without interference or fear of persecution. At the conclusion of the first phase of the WSIS that took place in Geneva in December 2003, a Declaration of Principles was adopted, in which respect for human rights and freedom of expression were reiterated as fundamental elements for the building of an "information society" where access to information, ideas and knowledge across the globe is guaranteed without restrictions.

WIGJ at ICC

Women's Initiatives for Gender Justice recently has conducted gender training

seminars for the ICC Registry (specifically for staff dealing with victims and witnesses, reparations and participation issues, and security personnel), for the Darfur investigation team, and for lawyers and human rights activists in Uganda — aiming to “assist in the development of an informed and supportive legal environment for women victims of the northern conflict; support and further stimulate local law reform efforts to promote gender equality; and support Ugandan (women) lawyers to be on the list of counsel authorised to represent victims before the ICC”.

GINETTA SAGAN AWARD TO ANTI-FGM CAMPAIGNER

Amnesty International USA presented its 2005 Ginetta Sagan Award (given for outstanding contributions to the human rights of women and children) to “an extraordinary and courageous human rights activist”, Hawa Aden Mohamed, who has opposed female genital mutilation in Somalia despite formidable opposition, some of it violent. She educates religious teachers about the dangers of FGM, and has organized protests by thousands of woman & girls. She is the founder of the Galkayo Education Centre for Peace and Development, in Puntland, a state in northeast Somalia. In addition to its work to end female genital mutilation, it runs educational programs for girls & women.

DEMOCRACY AWARD TO AFGHAN EDUCATOR

Sakena Yacoobi, founder of the Afghan Institute of Learning, was selected by the National Endowment for Democracy for the 2005 Democracy Award “for her efforts to advance women’s education in principles of democracy, women’s rights, strategies for peace-building and conflict resolution, and the importance of broad political participation in Afghanistan”. Ms Yacoobi said, “With education and literacy, people in Afghanistan - especially women - will be able to understand what democracy means. Through education, women will be able to obtain their rights, understand how they already act as leaders in their everyday lives, and contribute their leadership to help rebuild Afghanistan.”

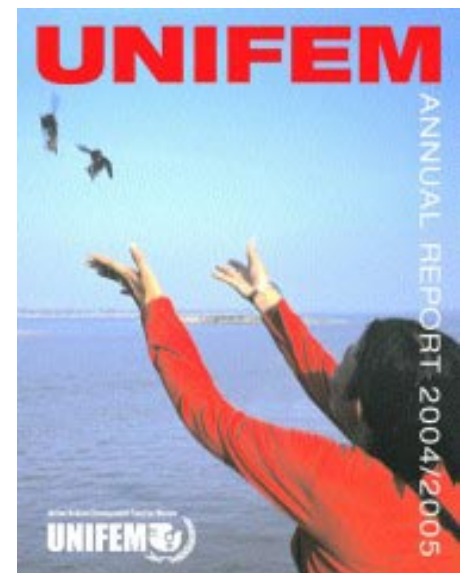
Resources

The **Inter-Agency Task Force on Women, Peace and Security** has prepared an *Inventory of United Nations Resources on Women, Peace and Security* that includes guidelines, training materials, manuals, and reports that entities of the UN system have developed in line with the critical area of concern “women and armed conflict” of the Beijing Platform for Action of the Fourth World Conference on Women (Beijing, 1995) and Security Council Resolution 1325 (2000). The inventory has been produced to increase access of Member States, United Nations entities, civil society and non-governmental organizations to UN resources in the field of women, peace & security. The continuously updated inventory and electronic versions of most of the resources are available at <www.un.org/womenwatch/osagi>. Section I provides resources specific to women, peace & security, grouped alphabetically within the following themes: disarmament/demobilization/reintegration, gender-based violence, humanitarian response, peace operations and post-conflict reconstruction. Section II covers general publications on peace and security that include attention to gender and women’s issues. Section III provides a list of relevant websites. For each resource, the title, the issuing agency, and a brief description of the content are provided, as well as an internet address where it may be downloaded or ordered.

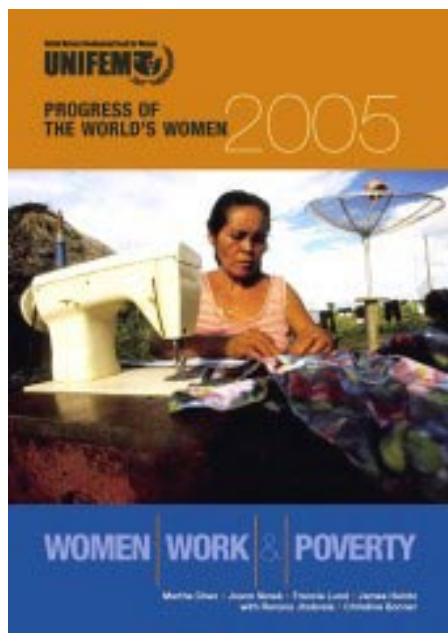
WomenWarPeace.org “is intended to address the lack of consolidated data on the impact of armed conflict on women and girls as noted by Security Council Resolution 1325 (2000). By no means exhaustive, this portal is meant to serve as a centralized repository of information from a wide variety of sources, with links to reports and data from the UN system to information and analysis from experts, academics, NGOs and media sources. Views expressed in external sources may not necessarily reflect those of UNIFEM or other UN departments, agencies, programmes or funds.” The site is supported by the United

Nations Foundation/UNFIP, the United Kingdom Department for International Development (DFID) and the Government of Luxembourg.

Making rights a reality: Violence against women in armed conflict is a new guide from **Amnesty International** — intended especially for those with influence over public services, such as lawyers, teachers and police officers, as well as human rights campaigners — on using the law to press governments to implement their obligations toward women in armed conflict. “States have a duty to ensure women’s right to freedom from violence no matter what the context — war or peace, the home or the street — and regardless of the identity of the perpetrator — parent, partner, combatant or soldier. Over the past ten years, international law in various areas has addressed the worldwide phenomenon of violence against women. The problem is that those with power to secure a transformation in women’s lives are not taking action. Given the gap between standards on women’s rights and the reality on the ground, ensuring that the law is respected and implemented requires the hard work of advocates for women’s human rights. This guide shows how the law can be used as a tool to challenge and inspire governments to make rights a reality for women.” It is available at <<http://web.amnesty.org/library/index/engact770502004>>.



The *UNIFEM Annual Report 2004/2005* documents the organization's work to "foster women's empowerment and gender equality around the world", including "initiatives in promoting women's political participation and leadership in post-conflict situations, easing the burden of HIV/AIDS on women, promoting women's right to own land, and supporting the creation and implementation of gender-responsive budgets".



Progress of the World's Women 2005: Women, Work & Poverty, by Martha Chen, Joann Vanek, Francie Lund, James Heintz, with Renana Jhabvala and Christine Bonner, "marks the fifth anniversary of the UN Millennium Declaration and the tenth anniversary of the Beijing Platform for Action. It argues that unless governments and policymakers pay more attention to employment, and its links to poverty, the campaign to make poverty history will not succeed, and the hope for gender equality will founder on the reality of women's growing economic insecurity. *Progress of the World's Women 2005* makes the case for an increased focus on women's informal employment as a key pathway to reducing poverty and strengthening women's economic security. It provides the latest available data on the size and composition of the informal economy and compares national data on average earnings and poverty risk across different segments of the

informal and formal workforces in six developing countries and one developed country to show the links between employment, gender and poverty. It looks at the costs and benefits of informal work and their consequences for women's economic security. Finally, it provides a strategic framework — with good practice examples — for how to promote decent work for women informal workers, and shows why strong organizations of workers in the informal economy are vital to effective policy reforms. This report can and should be used as a call to action to help advocates, policy makers, governments and the international community 'make poverty history'."

The **Women's Environment and Development Organization (WEDO)** issued in March a global monitoring report, "**Beijing Betrayed**", assessing governments' implementation of the Beijing Platform of Action and the MDGs. "We found that governments have basically failed in their leadership to implement these commitments and that a vast majority of women at the lower economic level are becoming poorer," comments WEDO Executive Director June Zeitlin. "Although there have been some successes, progress has been very uneven. Again it's a question of political will. We are talking about changing patterns of behaviour and age-old discrimination: it doesn't disappear without really concerted action. . . . It's not just about helping women because women are half the population. Women are key agents of change, and yet this fact is not translated into public policy. This is what the monitoring report shows" (interview at UN by Haider Rizvi, IPS, 3 September 2005). FMI: <www.wedo.org>

WEDO also offers an **information and action guide on the Millennium Development Goals**, "their connection to women's equality and strategies to insure they include a gender perspective".

Migrants Rights International is "an independent global monitoring body focusing on the human rights of migrants. It promotes recognition and respect for the rights

of all migrants; advocates for ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; facilitates the efforts of migrant associations and other non-governmental organizations in advocating for migrants rights; and monitors trends and developments in the situation of migrants' rights and welfare." FMI: <www.migrantwatch.org>

The **Migration Policy Institute (MPI)** is an independent, non-partisan, non-profit think-tank in Washington, DC "dedicated to the study of the movement of people worldwide. MPI provides analysis, development, and evaluation of migration and refugee policies at the local, national, and international levels. It aims to meet the rising demand for pragmatic and thoughtful responses to the challenges and opportunities that large-scale migration, whether voluntary or forced, present to communities and institutions in an increasingly integrated world." FMI: <www.migrationpolicy.org>

The **Georgetown University Institute for the Study of International Migration** "focuses on all aspects of international migration, including the causes of and potential responses to population movements, immigration and refugee law and policy, comparative migration studies, the integration of immigrants into their host societies, and the effects of international migration on social, economic, demographic, foreign policy and national security concerns." FMI: <www.georgetown.edu>

Migrant World is a BBC News series of articles, interviews and personal stories about migration around the world. FMI: <<http://news.bbc.co.uk>>

The **International Metropolis Project** is "a set of coordinated activities carried out by a membership of research, policy and non-governmental organizations who share a vision of strengthened migration policy by means of applied academic research. The Metropolis membership is composed of representatives from over twenty countries and a number of international research and policy organizations representing a wide range of policy and academic inter-

ests. Members work collaboratively on issues of immigration and integration, always with the goal of strengthening policy and thereby allowing societies to better manage the challenges and opportunities that immigration presents, especially to their cities." FMI: <www.metropolis2004.ch>

"In Motion: The African-American Migration Experience", an extensive three-year project, presented its results in February in an exhibition at the New York Public Library's Schomburg Center and on its website <schomburgcenter.org>. Center director Howard Dodson told the *New York Times* that the project is organized around 13 migrations, two of them involuntary, and that broadening the examination of migration beyond the slave trade means "you come away with some very different perspectives". Twice as many sub-Saharan Africans — about one million — have migrated to the United States in the last 30 years as during the entire era of the trans-Atlantic slave trade, according to the researchers.

Women, Ink <wink@womenink.org>:

• *The Future of Women's Rights: Global Visions and Strategies* (2004, 224 pages), edited by Joanna Kerr, Ellen Sprenger & Alison Symington, promotes forward thinking, both for women's movements globally and for specific organizations, by 16 authors whose views have been collected by the 100-country Association for Women's Rights in Development (AWID) and Mama Cash, the independent women's foundation based in Amsterdam. All are "deeply concerned at the recent emergence of various trends that may threaten the ongoing work of women's movements in advancing gender equality, women's human rights and sustainable human development" and "see a pressing need for women's movements to evaluate their methods, with a view to improving political work. They show how women should prepare for the current trends and what strategies they should prioritize in order to [avoid being] pushed onto the defensive."

• *The Global Women's Movement* (2005, 224 pages), by Peggy Antrobus, suggests

that, "of all the great social movements of the twentieth century, it is the 30-year spread and consolidation of the women's movement in the North and South that looks set to shape the course of social progress over the next generation. . . . [T]his overview of international women's movements . . . in their changing national and global context . . . looks at where women are now in the struggle against gender inequality, common issues they face around the world, what challenges confront these movements, and what strategies are needed to meet them." It offers "an invaluable aid to reflection and action for the next generation of women as they carry through the unfinished business of women's emancipation."

• *Common Ground or Mutual Exclusion? Women's Movements and International Relations* (2002, 236 pages), edited by Marianne Braig and Sonja Wolte, "opens a range of questions about the prospects for international women's movements to influence the international political agenda. Its contributors come from North and South, and include feminist academics and activists as well as mainstream scholars of international relations, who explore the concrete impacts women have made in areas such as development theory and practice, conflict management and the conceptualization and politics of human rights. They also reflect on how far the traditionally male-defined discipline of international relations has taken on board feminist thinking and recognizes women as actors in international politics. Among the controversial issues it addresses are: the intellectual relationship between feminism and mainstream scholarship; whether the radical potential of social movements and feminist critiques is being lost; how far feminist scholarship is removed from women's movements and politics; and differences in perspectives between women of the South and the North."

• *Feminist Politics, Activism & Vision: Local and Global Challenges* (2004, 392 pages), edited by Luciana Ricciutelli, Angela Miles, and Margaret H. McFadden, "brings together essays of remarkable variety and fresh insights from 24 leading feminists in Africa, Asia, Latin America, North America, Europe and Scandinavia.

The personal accounts, speeches and academic articles collected here reveal a vibrant and multifaceted transnational feminist community in struggle, redefining wealth, work, peace, democracy, family, human rights, development, community and citizenship. . . . At this time, when local concerns from livelihoods to water, from health care to citizenship, are so strongly influenced by global trends, one of the greatest challenges to women's movements is clarifying the links between the local and the global. The book shows that much feminist organizing today is grounded in awareness of these local/global links."

The UN History Project: Women Enrich the United Nations and Development (2005), steered by Deviki Jain, is "an examination of the UN's evolving role in fostering change in values and policies toward women across the world. Issues covered in this volume include the UN's attempts to forge gender equality from the 1940s through the UN Charter, the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and other declarations, resolutions and recommendations of principles that translated into programs and action for women, often far in advance of the legal or actual situations in individual countries. The volume also tracks changes wrought from the first world conference on women in Mexico City to the fourth world conference in Beijing as well as the UN's role in measuring the undervalued contribution of women to economic development and the use of new indices to identify potential for future generations." The study also surveys funding agencies, including "the creation of the women's own innovative and experimental fund that was proposed at the Mexico Conference — the UN Development Fund for Women (UNIFEM); support for women's training through the UN Research and Training Institute for the Advancement of Women (INSTRAW), also proposed at Mexico; as well as concern for reproductive health through UNFPA, and for the girl child through UNICEF." FMI: <<http://www.unhistory.org/publications/women.html>>

Archives of the four global Women's NGO Forums paralleling the UN world conferences on women - The records of the various committees responsible for organizing the four global non-governmental conferences that run parallel to the UN World Conferences on Women — the 1975 International Women's Year Tribune, and the NGO Women's Forums in Copenhagen (1980), Nairobi (1985) and Beijing (1995) — initially collected by the International Women's Tribune Centre (IWTC), are now archived at Smith College in Northampton, Massachusetts (see <www.smith.edu/libraries/libs/ssc/home.html>), to ensure preservation and increase access by researchers. The files include the basic administrative, logistical and financial records of the various planning committees, the registration lists for three of the four Forums (the Nairobi registration lists were lost), and the daily conference newspapers. To these organizational files, IWTC added books, reports, monographs, and periodicals relevant to the four conferences. IWTC still maintains visual archives of the events, including audio tapes of the plenary speeches, posters, and a slide library (FMI: <www.iwtc.org>).

Mary P. Burke UN Women's Conference Archives Project - Professor Mary P. Burke of Suffolk University, who attended every UN Women's Conference since Mexico City in 1975, has donated her extensive collection of conference materials to the Center for Women's Health and Human Rights. Drs Amy Agigian and Laura Roskos are working with the Suffolk University Moakley Law Library's expert staff to catalog the materials, which will be available at the Law Library as a special collection, searchable on the Center's web site, and they are collecting oral testimony from the donor in order to "contextualize the materials and help illuminate the complex process through which these historic international conferences were accomplished". FMI: <cwhhr@suffolk.edu>

The International Information Centre and Archives for the Women's Movement (IIAV), operating from the Nether-

lands, "maintains 85,000 fiction and non-fiction books covering all aspects of the position of women in the past (the oldest book dates back to 1578) and present (current research, papers, government reports and leaflets), periodicals and past volumes of magazines (some dating back to the early nineteenth century), newspaper clippings, including the biographical clippings of 7,500 women, and other media that provide a sense of women's history". FMI: <www.iiav.nl/eng/iiav/index.html>

Isis Journey, a 20-minute VCD (from <isis@isiswomen.org>), "chronicles the organizational life of Isis International, one of the world's first international women's information and documentation centers", from its birth in Rome, through the formation of Isis Women's International Cross Cultural Exchange in Geneva, to the move of Isis International to Santiago and Manila, and the founding of Isis-WICCE Kampala. It features letters, photos, and video clips from the second wave of the women's movement in the early 1970s, drawing attention to the central importance of "communication tools and processes".

The follow-up **Collective Journeys** website <www.collectivejourneys.org> "houses the collective journeys or unique stories of other women's information and communication organizations" in the hope that those organizations, especially from the South, "can gain more visibility . . . and become a stronger voice in the struggle for gender equality and social justice overall."

"Examining Feminist and Social Movements", the Women in Action Issue (No. 2/2004 <isis@isiswomen.org>) of Isis International-Manila's triannual magazine, "pulls together the perspectives and reflections of feminist activists on the changing nature of the women's movement. Focusing on the re-examination of the feminist movement vis-à-vis its renewed alliances with social justice movements" in the context of globalization and fundamentalisms, it includes a strategy conversation among six feminists from India, Fiji, Italy, Malaysia & the Philippines. Gender main-

streaming, "as a strategy to achieve gender equality", also is examined. "Overall, the collection of articles points to a desire to engage in critical self-reflection as a global feminist movement."

The papers of pioneering journalist Perdita Huston (1936-2001), who focused on "giving voice to the views of women affected by the major social, political and environmental issues of our times" (in the words of Anne Walker of the International Women's Tribune Center), are housed at the Maine Women's Writers Collection in the Abplanalp Library on the Westbrook College Campus of the University of New England at 716 Stevens Avenue, Portland, ME 04103 (tel 207-797-7688, ext. 4324; e-mail <mwwc@une.edu>, and the website. Curator Cally Gurley welcomes serious researchers; scholars may conduct preliminary research at the website <www.une.edu/mwwc> in advance of a visit or inquiry. Perdita Huston's last book, *Families As We Are: Conversations from Around the World* (2001), was reviewed by Susan Goodwillie Stedman in *Minerva* #21 (October 2001).

The San Francisco-originated **International Museum of Women (IMOW)**, "dedicated to chronicling and honoring the lives of women across the world", is scheduled to open in 2008, "offer[ing] exhibits and programs that inform visitors about women's issues and roles across cultures and throughout time, [and] provoking questions about the status quo through an examination of individual identity, cultural structures and social order". While searching for a permanent home, IMOW has presented several exhibits already, and is releasing an anthology — "a virtual exhibit and a multimedia education campaign on how women across the world imagine themselves". FMI: <www.imow.org/home.html>

The World Map of Women in Politics 2005, issued in March by the Inter-Parliamentary Union and the UN Division for the Advancement of Women, reveals that seven developing countries — Rwanda,

Cuba, Costa Rica, Mozambique, Argentina, South Africa and Guyana — now rank among the 17 top performers, with more than 30 percent women parliamentarians. The traditional leader, Sweden, has dropped to #2, following Rwanda (48.8% women in the lower house and 34.6% in the upper house). The UK, USA and France are numbers 49, 60 and 70.

“If you look at where we are coming from, the proportion of women in government has unfortunately always been dismal,” IPU secretary-General Anders Johnsson told the IPS (4 March). “For two decades, women’s presence hovered between 11 and 13 percent. Now suddenly, in all regions, we are on an upward curve and for the first time have crossed the 15 percent mark. It’s a very significant and very positive sign — although this is not good enough.” He pointed out that, if the pace fails to pick up, it would take until 2025 for women’s overall representation to reach the critical mass of 30 percent, and until 2040 to achieve gender parity.

The new map shows little change in regional rankings, with the Nordic countries in the lead, followed by the Americas, the rest of the European continent, Asia, Sub-Saharan Africa, the Pacific, and Arab countries. But the biggest change is a near doubling of the percentage of women MPs in the Arab world, from 3.5% to 6.5% — a relatively modest number, but possibly an important trend.

Meanwhile, however, the count of women heads of state or government has declined over the last five years. And within parliaments it remains disproportionately difficult for women to become presiding officers, the report notes, although this is more likely to happen in developing countries and transitional situations.

The **Coalition to Stop the Use of Child Soldiers** has launched a psycho-social web page at <www.child-soldiers.org> “to promote a constructive inter- and intra-disciplinary dialogue on relevant psycho-social issues in the area of children and armed conflict”. Leading experts will contribute up-to-date perspectives, beginning with an

article by Dr Elizabeth Jareg reflecting on lessons learned during her twenty years as a program advisor to Save the Children-Norway, working with children affected by armed conflict. The website also includes a bibliography on DDR (disarmament/demobilization/reintegration).

Looking ahead to the UN Preparatory Committee meeting on Small Arms and Light Weapons (SALW) in January in New York, Amnesty International and the Parliamentary Forum on Small Arms and Light Weapons have developed a **Global Parliamentary Action in support of an Arms Trade Treaty (ATT)**. FMI: <www.parliamentaryforum.org/>

UNESCO and the Palestine Ministry of Women’s Affairs are collaborating on establishing a **Palestine Women’s Resource Center** in Ramallah to serve as an observatory and clearinghouse on information related to women’s issues. It also is expected to do networking, advocacy, and policy-oriented research for gender equality and the human rights of Palestinian women.

“**Conversations with Women on Leadership and Social Transformation**”, by Srilatha Batliwala and Aruna Rao, may be seen at <www.gendernet.org/index.php/SEC41fbd73cde055>.



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