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“Globalization, Migration and Children: The Need for a Human Rights Approach”
Columbia University Institute for Child and Family Policy
Lecture series on "The Future of Children in a Global Society"
18 October 2004

Ladies and Gentlemen,

I would like to thank Columbia University’s Institute for Child and Family Policy for inviting me to take part in this lecture series on “The Future of Children in a Global Society”.

Since taking up my duties as Professor of Practice in International Affairs and International Law here at Columbia University just a year ago, it has been a delight to get to know, learn from and collaborate with the many programs and research centers affiliated with this institution that are doing such important work across a wide range of fields.

The mission of the Institute for Child and Family Policy - to identify and address fundamental and intractable problems in the formulation, analysis, implementation, and evaluation of social policies toward children, youth, and families – is of particular relevance to my current work.

Since completing my term as United Nations High Commissioner for Human Rights in September 2002, I have been developing a new project - Realizing Rights: The Ethical Globalization Initiative – EGI for short - in cooperation with Columbia University, the Aspen Institute and the International Council on Human Rights Policy. Our aim is to demonstrate how internationally agreed human rights standards and mechanisms, particularly those concerning economic, social and cultural rights, can be more effectively used to address some of today’s most pressing global challenges, from inequities in international trade policies and global health standards to the subject I would like to focus my remarks on today – problems associated with the growing movement of people, including millions of children, across national borders.

I am very encouraged by the cooperation the faculty here at Columbia has so generously offered. We have established an academic advisory committee – which Sheila Kamerman serves on – and I believe there are many areas where we can work together. For example, I have been asked to give a keynote address at the 4th World Congress on Family Law and Children’s Rights in Cape Town on March 20th. It would be very helpful to be able to draw on the expertise of Columbia’s Institute for Child and Family Policy in preparing for that World Congress.

Allow me to begin by reflecting briefly on the state of the world’s children. A 2003 study commissioned by UNICEF, and co-authored by the Townsend Centre for International Poverty Research at the University of Bristol and the London School of Economics titled “Child Poverty in the Developing World” makes for sobering reading.

This study found that over one billion children - more than half of all children in developing countries - suffer from severe deprivation of at least one basic human need such as food, safe drinking water, sanitation facilities or health care. The report shows that over a third of children in developing countries suffer from absolute poverty, defined as two or more severe deprivations.

The study's findings are based on a sample of nearly 1.2 million children from 46 developing countries - the largest and most accurate sample of children ever assembled. The authors' aim was to measure the poverty of children themselves, rather than that of larger units such as families, communities or countries. Equally important, it is the first study to use a human rights definition of poverty – based on the legal commitments which nearly every country in the world have made by ratifying the International Convention on the Rights of the Child - rather than the more standard and arbitrary economic measurements of GDP per capita or income per capita.

Considerable differences between countries and regions were found, with children in rural areas most likely to be absolutely poor or severely deprived. Significant gender differences were also found with regard to education deprivation, showing the extent of

discrimination against the girl child, especially in South Asia, North Africa and the Middle East.

Sub-Saharan Africa has the highest level of absolute poverty, with a staggering 65% of 207 million children living in absolute poverty. South Asia is not far behind, with 59% of 330 million children living in absolute poverty.

What must be done to change this situation? We began the 21st Century with an important signal of new commitment. In September 2000, the largest-ever gathering of heads of state adopted the United Nations Millennium Declaration. Recognizing that they had "a collective responsibility to uphold the principles of human dignity, equality and equity at the global level", government leaders emphasized their "duty to all of the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs."

Among other promises, leaders of all countries - rich and poor - committed themselves to a series of measurable targets known as the Millennium Development Goals. Poverty is at the core of the Millennium agenda, with countries pledging to reach benchmarks for eradicating extreme poverty and hunger, improving access to safe water, reducing child mortality, improving maternal health and combating HIV/AIDS, malaria and other diseases by 2015.

Yet we know that more than four years into the agenda we are falling short on all of these commitments. According to the 2003 UN Human Development Report, in 21 countries today, more people are going hungry than in 1990. Infant mortality has increased in 14 countries and life expectancy has fallen in 34 countries. At the current rate, Africa, in particular, would not meet some of these goals for more than 100 years from now.

The UNICEF report tells us that one-size-fit-all solutions and business-as-usual will not do. Strategies to support children need to respond to local conditions. More emphasis needs to be placed on improving basic infrastructure and social services for families with

children, with a particular focus on shelter and sanitation in rural areas. Not surprisingly, the report stresses that a lack of investment in good quality education, health and other public services in many parts of the world is as significant a cause of child poverty as low family incomes.

Last month I attended a conference held in South Africa looking at the situation of AIDS orphans and other vulnerable children. It was organized by AWEPA and UNICEF, and we had the benefit of a rapid assessment of the impact on children of HIV/AIDS carried out in 17 African countries by the UN agencies. The picture was devastating. There are 14 million AIDS orphans on the African Continent, and that figure is predicted to rise to 25 million by 2025. The language

I say all of this about child poverty as a way of leading in to the subject of migration. Poverty is one of the main drivers of today's migration patterns. Poverty forces people to leave their homes in search of a better life for themselves and their children. What do we know about the millions of people who make that decision?

Migrant workers are a fast growing population, most moving from countries which are on the economic margins, or economically weak, to countries whose economies have benefited from globalization, and who may as a result need an additional work force.

Although migration is not a new phenomenon, its growth and dimensions are new, and this should be recognized as one consequence of globalization. It was therefore encouraging that heads of state also included in the Millennium Declaration which I referred to a moment ago the need to

‘Take measures to ensure respect for and protection of the rights of migrants, migrant workers and their families.’

It is true that in some sectors, globalization has increased *the legal movement* of skilled workers to jobs in other countries, with a positive impact on a range of rights. The I.T. sector is an example. Normally, the domestic law of their countries of employment gives

them social, economic and civil rights in their new country of residence. This movement of skilled workers also leads to brain drain, and in some cases to skill shortages in the health systems of poor countries coping with an AIDS epidemic.

Undocumented and illegal migration has risen much more sharply. Many of those who cross a border to take up employment, whether in the formal or informal sectors, do so as undocumented, or illegal, migrants. For many illegal migrants, migration is nothing less than a survival strategy.

Globalization has encouraged the free movement of goods, services and capital. But barriers to cross-border movement of unskilled individuals are still firmly in place, and globalization of markets has not been paralleled by globalization of the work force and labor markets. National sovereignty in immigration matters remains the rule, and a sharp discordance between the number of individuals who wish to migrate and the legal opportunities for them to do so has fueled irregular migration.

Illegal migrants are liable to deportation if they come to the attention of the national authorities so it is understandable that they do not seek protection under the law of the society in which they live. They fear that contact with the police, reporting abusive working conditions, or even taking part in civil formalities such as property ownership, marriage, registration of the birth of a child, or using schools and hospitals, could result in deportation. This creates marginalised communities, which are not in the interests of the host country – particularly at a time when challenges such as preventing the spread of HIV/AIDS and controlling malaria, and TB, require public information, public education and public health measures which make no distinction between citizen, legal immigrant and illegal migrant.

You will also be aware that the globalization of markets has created a fertile climate for abusive forms of migration such as trafficking and migrant smuggling. Transnational organized criminal groups have benefited from the increased mobility and declining international restrictions on movements of goods, money and services which characterize

the new global order. There is increasing evidence that such groups are using international structures and violating the legislation of more than one country to benefit from the changes in world markets and their regulations.

In addition, increasingly restrictive immigration policies on the part of some of the more wealthy States force individuals desperate for work into the arms of unscrupulous traders. These criminal gangs are able to operate with impunity because of ineffective law enforcement compounded, in some cases, by official collusion. This situation has encouraged the most abusive forms of migration such as trafficking and smuggling.

I believe we must address these problems head on by giving greater attention to the rights of migrants. Historically there has been what is sometimes called a protection gap for migrants, falling as they do between the two stools of citizens' rights and those of internationally protected aliens, such as refugees, the stateless and – even - diplomats.

Despite their inherent vulnerability, migrants have never enjoyed a special status under international human rights law, except in the special case of refugees.

Seeking to fill this gap, UN member states agreed in 1990 to adopt new law. *The International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families* codifies provisions found in different human rights treaties, and protects undocumented as well as legal migrant workers. It constitutes the standard which we should apply to protect both regular and undocumented migrants. The Convention affirms the fundamental human rights of all migrant workers and members of their families. It offers a set of standards: protection against arbitrary arrest, rights to due process, privacy, and trade union membership and activity and requires treatment which is 'not less favourable' than that which applies to nationals in respect of pay and conditions of work.

The fact that the migrant workers convention has not yet achieved wide ratification does not mean that child migrants are without protection under international human rights law.

Clear and relevant principles exist in the Convention on the Rights of the Child, which has been ratified by nearly all countries. A quick review of its principles shows that they are good policy from the standpoint of states, as well as essential protection for children and women. They should inform the progressive realization of policies to protect the social and economic rights of everyone – regardless of legal status – under 18, including youth. These include:

- Birth registration and the right to a nationality.
- Free primary health care;
- Access and facilities for the treatment of illness.
- Reducing infant and child mortality through – e.g. – pre and post natal health care for mothers
- Preventative health care;
- Protection from sexual exploitation and abuse;
- National, bilateral and multilateral measures to prevent trafficking.

And while I think there is much that could be done to promote such standards further, the reality is that no international migration institution or mechanism frames, or manages, the rights of people who move between countries. At the national level, policies tend to focus overwhelmingly on the legal exclusion of unauthorized migrants. As population and poverty trends continue to further divide the world into stark divisions: of overpopulated, young and poor states on one hand, and wealthy, aging and declining population states on the other, migratory pressures will only intensify, making the need for a policy framework to guide this phenomenon ever more urgent.

I am pleased to be a member of a new Global Commission on International Migration which seeks to address these challenges. We want to reframe in a more positive way the migration debate around the world. Too little information is available and too many myths need to be broken.

For example, a recent edition of *The Future of Children* – a publication by the Woodrow Wilson School at Princeton and the Brookings Institution – on immigrant children points out that compared with children of U.S. - born parents, children of immigrants are more likely to be born healthier and to live with both parents. Although they are more likely to be living in poverty, and to be without health insurance, the publication notes that immigrant families generally come to America with intact families, strong work ethic and aspirations, and for many, a cohesive community of fellow immigrants from the same country of origin. These strengths can help to insulate children from some of the challenges they face. These stories need to be told and they need to be at the center of policy debates on how best to protect the rights of children.

Let me close by stressing that what is needed most today is a sense of urgency – a sense that more must be done to protect the most vulnerable children – whether they live in war zones like Sudan or on the margins of society in the United States. Our collective challenge is to devise effective policies and advocacy campaigns which can make a difference in the lives of children.

The future can be different. We can make globalization a more values-led and ethical process which benefits all people. Central to that challenge is finding new ways of making progress in realizing the fundamental rights of people in every part of the world.

Thank you.