



# Human Rights Advocates

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## The HRA Annual Meeting

By Jeremiah Johnson

Human Rights Advocates held its Annual Meeting on April 22 at The University of San Francisco (USF) School of Law. The gathering of HRA members, supporters and friends was divided in two parts — presentations by students in this year's Frank C. Newman International Human Rights Law Clinic at USF, and HRA's Annual Meeting.

This past year saw a continuation of human rights advocacy by Frank C. Newman and Edith Coliver interns addressing a wide range of issues affecting human rights including trafficking of persons, immigration and migration, criminal justice, the environment, racism and voting rights. Each of the student's reports can be found in this newsletter and online at HRA's Web site ([www.humanrightsadvocates.org](http://www.humanrightsadvocates.org)).

After the presentation and discussion, HRA members convened the Annual Meeting. Chair Julianne Traylor welcomed everyone and on behalf of all HRA members gave a big public thank you to Anne Wagley for her years of service on HRA's Board. After introductions, HRA members had an opportunity to discuss the substantive work of HRA and reflect on human rights work in general.

It certainly had been a busy year for HRA with active involvement at the Commission on Status of Women, the Human Rights Council, and the Committee on the Elimination of Racial Discrimination. Furthermore, HRA hosted several educational events, published human rights reports, submitted *amicus* briefs and were involved with cases before the Inter-American Commission on Human Rights. HRA members also published several works, including *Roots of Resistance: A History of Land Tenure in New Mexico* by Roxanne Dunbar-Ortiz; *Sentencing our Children to Die in Prison* by Michelle Leighton and Connie de la Vega; and *International Human Rights Law: An Introduction* by Connie de la Vega and David Weissbrodt.

After the presentation and discussion about HRA's financial Report for 2007, Julianne Traylor announced the results of the elections for the 2008-

2009 HRA Board of Directors. The following seven members were elected: Connie de la Vega, Jeremiah Johnson, Conchita Lozano-Batista, Nicole Phillips, Birte Scholz, Julianne Traylor, and Kristina Zinnen

The meeting then turned to an open forum discussion led by Board member Nicole Phillips who reported on HRA's work at the Committee on the Elimination of Racial Discrimination, in particular the Committee's review of the United States Report to the Committee. HRA raised a number of issues at the Committee including affirmative action, juvenile life without parole, and immigration. The conversation moved on to address other human rights issues and ended with a discussion on the practical uses of international human rights law in today's society.

At the close of the meeting, Chair Julianne Traylor thanked HRA members and supporters for all their hard work this year and noted that this year we will be celebrating HRA's 30th anniversary! (See details on page 15).

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## Advocacy at the UN

By Professor Connie de la Vega

Ten students participated in the USF Frank C. Newman International Human Rights Law Clinic in the Spring 2008 representing Human Rights Advocates (HRA) at meetings of three human rights bodies. Two Edith Coliver Interns attended the UN Commission on the Status of Women (CSW) in New York, one Frank C. Newman Intern attended the meetings of the Committee on the Elimination of Racial Discrimination (CERD), and seven Frank C. Newman Interns attended the 7th Session of the Human Rights Council. The latter two bodies met in Geneva, Switzerland in February and March 2008.

The two Edith Coliver Interns were able to attend the full session of the CSW, which gave them the opportunity to see the process from beginning to end. They were joined by Cari Nutt '07, a former Clinic student who attended both the CSW and HRC as an intern. The reports on their work and the Agreed Conclusions adopted by the CSW follow below.

One student attended the CERD meetings that reviewed the United States report regarding its compliance with that treaty. She focused on the issue of special measures or affirmative action and her report follows below. She was joined by HRA Board member, Nicole Phillips, who addressed the issue of migrant workers rights in the U.S. as well as in the Dominican Republic whose report was reviewed by CERD during the second week of its session. HRA National Advisory Board Member, Michelle Leighton, Director, Human Rights



Left to right: Mina Litvak, Rajwant Virk, Elena Gil, Mary Johnson, Sun Kim, Caio Arellano, Professor Connie de la Vega, and Simeneh Assefa

Programs, USF Center for Law & Global Justice, also attended the session and focused on the use of life without parole sentences for juvenile offenders in the United States. All three issues were addressed by CERD in its report on the United States. (See, e.g. ¶¶ 17, 21, 28, 35, 37 of the Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America, CERD/C/USA/CO/6, February 2008.)

The seven Frank C. Newman Interns attended the Human Rights Council and addressed a number of topics addressed below. They included an LLM student from Ethiopia. Six of the students were able to make oral statements at the Council and participated in a variety of activities. While reading those reports, it is important to keep in mind that the Council is still in the process of developing its procedures and modes of operation. It nonetheless adopted 36 resolutions and decisions which included the renewal of a number of the special procedure mandates. The latter included the renewals of the mandates of the special rapporteurs on freedom of opinion and expression (Res. 7/36), right to food (Res. 7/14), violence against women (Res. 7/24) and the working groups on mercenaries (Res. 7/21) and enforced or involuntary disappearances (Res. 7/12). It also addressed country situations which included an extension of the Special Rapporteur on Myanmar for another year (Res. 7/31). It developed new mechanisms, such as the appointment of a special advisor on genocide (Res. 7/25) and water (Res. 7/22). Substantive resolutions such as that on the rights of the child (Res. 7/29) were also adopted. Of interest, one third of the resolutions required a vote instead of passing by consensus. All resolutions can be found at: <http://www2.ohchr.org/english/bodies/hrcouncil/>, in Draft Report (part one) A/HRC/7/L.11 and A/HRC/7/L.11/Add 1.

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## THE CERD REVIEW OF THE UNITED STATES

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### Attending the CERD Meeting

By Nicki Skibola '08

In February, I went to the Committee on the Elimination of Racial Discrimination (CERD) review of the United States' compliance with the treaty. The CERD Committee is a treaty body composed of a panel of experts and meets periodically to review countries' compliance with the treaty or to pass general

recommendations that provide guidance to member states. Prior to the meeting, I worked with HRA to compile a country report in response to the much-anticipated U.S. review.

Most of my work prior to Geneva had been working on an *amicus* brief with Professor de la Vega for the California Supreme Court in a case where the San Francisco minority and women's contracting bidding affirmative action program was being challenged as a violation of the post-Prop 209 state constitution. Our *amicus* argument was that as the Supreme Law of the Land, the Constitution mandates that treaty law (CERD in our case, which has been signed and ratified by the U.S.), is to preempt any conflicting state law. We were arguing that not only is Prop 209, which banned affirmative action in California, invalid so far as it conflicts with CERD, but that the San Francisco ordinance should be upheld because of its compliance with CERD's mandate.

My focus in Geneva was also on affirmative action in the United States, specifically with regard to its slow and steady decline in recent years with measures such as Prop 209 in California and the Supreme Court's Seattle decision. As a treaty, CERD mandates these programs, or "special measures," and we were hoping to get clear language on the parameters of these special measures from the CERD Committee.

Just to give an idea of the importance of the issue, I will briefly mention some California statistics. In fall 1996, Black students made up just over 6% of the students enrolled at UCLA School of Law, the following year, after passage of Prop 209 that number dropped to almost one third of that number, or 2.6%. Boalt Hall at UC Berkeley saw its Black student enrollment cut by half during the same period. (Samantha Levine, *Taking Action to Admit; UCLA Tweaks Its Admissions Process to Stop the Black Student Enrollment Decline*, U.S. News & World Report, May 27, 2007). Perhaps the most shocking statistics are within the larger legal community; as Latinos are 35% of the population but only 3.8% of the lawyers and Blacks are 6% of the population but only 1.7% of the lawyers. (Nancy McCarthy, *Changing the Color of the California Bench*, California Bar Journal, April 2007, page 1).

My first day in Geneva, I found myself at a small meeting with ACLU attorneys and attorneys from the Lawyer's Committee for Civil Rights, all of whom clearly had life-long civil rights careers. Sitting with these brilliant lawyers was intimidating to say the least, and I quickly found myself racking my brain for some way to add something to a very high-level discussion about

Justice Kennedy's concurring opinion in the Seattle decision. After observing the conversation in awe for a few minutes, I thought to myself, what am I doing here? The first couple of days went that way, as I thought that I should at least try to cooperate with the large NGO group that was there to comment on the U.S. report's to the CERD body. By day three, I reached crisis point where I had convinced myself that I was way over my head. I was in Geneva, almost alone, not very familiar with the CERD process, and surrounded by NGO groups who could brilliantly analyze the history of Supreme Court affirmative action jurisprudence, but who were less interested with drafting strong language that could be submitted to the CERD experts.

It was day four that I came to the realization that Professor de la Vega and I had drafted some pretty strong language before the trip, and that even visiting the Human Rights Council the year before had given me a much better grasp on what we were supposed to be doing than the other NGOs who had little experience with the UN.

So, at that point, I decided to have a little more faith in myself and to break away from the NGO community. I focused my efforts on lobbying the committee experts individually and focusing on the strong Prop 209 statistics that we had. With a few bumps here and there, it worked. With the help of a long history of Human Rights' Advocates' focus on the topic of special measures, as well a little self-confidence and persistence on my end, we got some really incredible language into the Concluding Observations. The Committee, with very strong language, basically chastised the U.S.'s argument that only *de jure*, or intentional, discrimination may be remedied through the courts and recommended that state governments adopt legislation to deal with the persisting problem of *de facto* segregation. For the full Concluding Observations, see UN Doc No. CERD/C/USA/CO/6.

Visiting Geneva for the second time was one of the most difficult things I have ever done, but also one of the most powerful law school experiences I have had. Unlike my trip to the Human Rights Council the year before, I did not have the solace of my classmates or Professor de la Vega to guide me through my trip. It was scary and incredibly intimidating at first, but I realized that being a lawyer is not just about how much you know, but its also about being personable, self-confident and really being able to make use of the connections you have. It's about being tolerant and cooperating with others—but also knowing your limits and your potential to effect change on your own. I am really proud of our

work on this topic (and I say our because I by no means take credit for the history of work done on this topic by HRA and Professor de la Vega) and playing my solo part, through the highs and lows, was an absolutely irreplaceable experience.

## Racism in the United States?

By Nicole Phillips

To the embarrassment of the United States government, over 75 non-profit organizations, advocacy groups, and academics attended the session of the Committee on the Elimination of Racial Discrimination in February 2008 to paint a picture of racism in the United States.

The Committee, which met in Geneva, was reviewing the U.S. fourth, fifth and sixth reports in compliance with Convention on the Elimination of Racial Discrimination ("CERD"). The U.S. delegation consisted of approximately 30 high-level representatives from federal agencies such as the State Department, Department of Justice, Homeland Security, and the Equal Employment Opportunity Commission. This delegation was almost three times the size of the U.S. delegation appearing before the Human Rights Committee in July 2007, when the U.S. was reviewed for its compliance with the International Covenant on Civil and Political Rights.

In its presentation before the Committee, a U.S. delegate from the State Department recognized that disparate impacts based on race continue to be a reality in the U.S., involving issues ranging from over-representation of African Americans in prisons, near-segregated housing problems, under-representation of African Americans as home owners, the lack of access to health care, disproportionate incarceration rates, and minority groups being disproportionately affected by sentencing laws and laws that required an ID to vote. The U.S. admitted the disparities were "vexing", but reasoned that the causes were socioeconomic, not racial.

In contrast to the U.S. position, human rights advocates told a different story of racism in the U.S., including sub-standard housing conditions, limited employment opportunities and the lack of access to healthcare among Latino and African American communities; the disproportionate numbers of African Americans and other minority groups on death row and in prisons; high infant mortality and HIV infection rates in African American communities; and racial profiling African Americans, Latinos, and more recent-

ly, Arabs, Muslims and South Asians in the wake of 9/11. Additionally, African American residents from New Orleans testified about police brutality after Hurricane Katrina, as well as the lack of promised housing and aid assistance. Advocates reported to the Committee that the causes of the gross disparities were, at least in part, racially based.

Human Rights Advocates sent three representatives to address the Committee. As USF student Nicki Skibola discussed in her article featured above entitled, *Attending the CERD Meeting*, she successfully insured language in the Committee's Concluding Observations calling for the U.S. to consider special measures (including affirmative action) to address issues of de facto segregation in our education system. HRA National Advisory Board member Michelle Leighton was the only advocate at the Committee session to address the issue of the large number of juvenile racial minorities given life without the possibility of parole sentences ("JWLOP"). The Committee's Concluding Observations call on the U.S. to discontinue JWOP sentencing and to report back to the Committee on its efforts within one year.

I addressed racism and abuse against undocumented immigrants in the U.S. and the lack of judicial remedies available to them, including raids by Immigration and Customs Enforcement (ICE), deaths of migrants crossing the U.S./Mexico border, and the aftermath of Hoffman Plastics Compounds, Inc. v. NLRB, 535 U.S. 137 (2002). As part of a coalition of other immigrant rights organizations, we were pleased to see language in the Concluding Observation calling on the U.S. to address law enforcement brutality against undocumented migrants crossing the U.S./Mexico border, to ensure effective remedies to undocumented workers to human rights abuses by employers, and to report on the detention of large numbers of non-citizens, including trafficking victims and asylum seekers, and their families.

The U.S. has a lot of work cut out for itself before its next periodic report to the Committee, which is due in November 2011.

Human Rights Advocates' Shadow Report addressing many of the issues discussed in this article is available at [www.humanrightsadvocates.org](http://www.humanrightsadvocates.org).

The U.S. report is UN document CERD/C/USA/6, available at: [www2.ohchr.org/english/bodies/cerd/docs/AdvanceVersion/cerd\\_c\\_usa6.doc](http://www2.ohchr.org/english/bodies/cerd/docs/AdvanceVersion/cerd_c_usa6.doc).

CERD's Concluding Observation is UN Document CERD/C/USA/CO/6, available at [www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-USA-CO-6.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-USA-CO-6.pdf).

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# COMMISSION ON THE STATUS OF WOMEN

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## Gender-Responsive Budgeting at the CSW: A Vacation from Women's Issues, Including Gender-Based Violence?

By Erika Dahlstrom Nusser '08

I came to law school to work on women's issues, and attending the Commission on the Status of Women (CSW) for the second year in a row provided a tremendous opportunity to pursue this goal and expand my approach and understanding. Further, the work I completed in preparation for, and at the Commission, strengthened my research, writing, analysis, and advocacy skills, among others. The experience exemplified my notion of what it is to be an attorney, which is to say, a person who is constantly learning – and I learned a lot as an Edith Coliver Intern in the International Human Rights Law Clinic.

The fifty-second session of the Commission last March was more challenging than I expected. I hoped that my experience last year would allow me to hit the ground running, and while I was not faced with the same steep learning curve at the outset, there were new twists and turns that forced me to learn new ways to accomplish my goal at the Commission.

The first twist was the theme of fifty-second session. Each year the Commission focuses on a narrowly defined issue facing women, to encourage countries to come up with and abide by concrete solutions. This year the Commission focused on financing for gender equality and the empowerment of women. (See [www.un.org/womenwatch/daw/csw/52sess.htm](http://www.un.org/womenwatch/daw/csw/52sess.htm) for more information on the theme.) My work on the issue posed recommendations on how countries could use gender-responsive budgeting toward the eradication of physical and sexual violence against women. This linkage to the theme was key, since otherwise delegates would not be responsive to my proposals.

While I made the connection, the delegates did not seem as willing to do so. Certainly most of the delegates that I spoke to understood the link I was trying to make; and the idea that gender-responsive budgeting

has little meaning until it is tied to concrete women's issues. Rather, delegates were simply unwilling to address the issue in such concrete terms. As I heard repeatedly from the European Union members, the delegates just wanted to talk about budgeting. In fact, this would be the position of every delegate I spoke with at length. It seemed the delegates embraced the theme of the fifty-second session as an opportunity to take a vacation from talking about difficult women's issues.

For this reason, my first week at the Commission was very frustrating. I had high hopes for all that I was going to accomplish. After the first week I felt like I had accomplished very little, and I was exhausted. I realized at that point, that my goal needed to change. My efforts were likely not going to have a great impact on the language of the Agreed Conclusions, the outcome document of the Commission. However, I still had the chance to educate delegates about the importance of giving the gender-responsive budgeting mandate some teeth — information that those delegates could take back to their respective countries. It is this micro-level work that is most important because it has the most impact on women.

I spent the remaining week at the Commission talking to delegates and other NGOs about the shortcomings of talking about gender-responsive budgeting in general, undefined terms. In particular, I emphasize that budgeting that fails to account for gender-based violence, fails women in three important respects.

First, it sends a message about who is valued. Governments that fail to provide funding for the legal and social responses required to combat gender-based violence, set a national precedent about the value of women that trickles down to all levels of society. This, in turn, perpetuates the problem. (The adopted version of the Agreed Conclusions does include language on some of HRA's suggested remedial measures. See CSW, Agreed conclusions on financing for gender equality and the empowerment of women (March 13, 2008), UN Doc. No. E/CN.6/2008/L.8.)

Second, it subjects women to preventable violence. A clear human rights violation, and as the Committee on the Elimination of Discrimination against Women clarified in its General Recommendation No. 19, gender-based violence constitutes discrimination and is therefore explicitly prohibited under the Convention on the Elimination of Discrimination Against Women. (CEDAW, General Recommendation No. 19.) Finally, it further victimizes women at the hands of the state. Leaving women with no recourse is a failure to fulfill women's fundamental rights to life, liberty, security,

privacy, integrity and health. State inaction is an attack on the personal dignity of women.

The second turn at the Commission was perhaps more serious, as it potentially could impact the work of all NGOs at future sessions. That involved the decision of the Commission bureau to exclude NGOs from the plenary Agreed Conclusions consultation sessions. This decision dealt a devastating blow to the transparency of the CSW and the UN more generally. Moreover, it cuts off the Commission, the bureau, and the member states from NGOs who are often willing and able to contribute valuable input to the discussion. Indeed, that input was gravely needed at the fifty-second session of the Commission. Due to the uproar that the exclusion caused, it did not last very long.

While these twists and turns made my job more challenging, they are probably representative of what I can expect to encounter as an attorney. My experiences at the CSW (both times) were therefore an invaluable contribution to my legal education. I cannot thank Professor de la Vega, Human Rights Advocates and U.S.F enough for this once in a lifetime opportunity.

## Preventing and Combating Trafficking of Women and Children for Sexual Exploitation: Lobbying at the Commission on the Status of Women

By Jeeni Phillips '08

As an Edith Coliver Intern, I represented Human Rights Advocates at the 52nd (CSW) Commission on the Status of Women. During the two-weeklong event I advocated to prevent and combat the trafficking of women and children for sexual exploitation. My goal at the CSW was to lobby within the framework of this year's the priority theme, "Financing for Gender Equality and Empowerment of Women."

Trafficking for sexual exploitation is considered the largest distinct subcategory of transnational modern-day slavery and is a gross violation of international human rights. The International Labor Organization (ILO) estimates that trafficking is an annual \$28 billion dollar industry. Although it is difficult to know the exact number of persons being trafficked due to a lack of reporting and the operation of trafficking in a secretive shadow world,

the ILO report, A Global Alliance Against Forced Labor, estimates that a minimum of 2.4 million people are victims of forced labor as a result of human trafficking worldwide. Furthermore, an estimated 75 percent of all victims of human trafficking are trafficked for commercial sexual exploitation. When it comes to forced labor as a result of trafficking, women and girls account for almost all forced commercial sexual exploitation.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (hereafter Palermo Protocol), introduced into international law the concept of trafficking in persons. The Trafficking Protocol currently has 117 signatories and 116 state parties. Article 3, subparagraph (a), of the Protocol defines the crime of "trafficking in persons" 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."*

The Palermo Protocol does not define exploitation, but it includes a non-exhaustive list of forms of exploitation. In addition, the Palermo Protocol obligates states to take measures to alleviate the factors that make women and children specifically vulnerable to trafficking, discourage the demand for women and children in trafficking, recognize and consider the special needs of girl children who become victims of trafficking, and to consider "child- and gender-sensitive issues" in the training of officials to prevent trafficking.

Upon arriving at the conference, I attended a daylong NGO orientation prior to the CSW. I quickly discovered that the extensive and advanced preparation necessary to serve as an Edith Coliver Intern was invaluable in achieving my goals at the CSW. Prior to attending the CSW, Erika and I drafted agreed conclusion language advocating each of our respective topics within the budgeting and financing framework. Also, since HRA was only permitted one three-minute statement, Erika Dahlstrom Nusser and I combined our topics in into one joint statement in advance. I was selected to deliver the joint statement to the Commission and was fortunate to present at the end of the second day of the CSW. This gave HRA the advantage of early exposure to the delegates and other NGOs.

Armed with our agreed conclusion language and encouragement from Erika and Cari Nutt (Edith Coliver

Intern '06), I approached my first delegate shortly after presenting our statement on the second day. Although I was successful in gaining access to delegates and many delegates acknowledged the importance of my topic, it was a hard sell getting commitments from them to include specific language in the agreed conclusions. Rather, as I listened to delegate's official statements throughout the first week, I quickly realized the agreed conclusions would be more narrowly focused than in past years and that delegates were uninterested in including specific sub-topics such as combating trafficking, even within the budgeting framework. As one colleague put it, "it is as if the delegates were on vacation."

To add to my difficulty of swaying delegates, all official meetings were closed to NGOs on the third day of the conference. Although this was an unprecedented move, I did not lose hope and switched my focus to attending parallel meetings hosted by NGOs, UN groups, and State parties. Right away I joined forces with the U.S. NGO Caucus, a group of over 50 NGOs, in preparing draft language. It was in this capacity that my legal research and writing skills were utilized. Much to the awe of the other members of the Caucus, in just a few hours I was able to take over ten pages of suggested language and synthesize it into a tailored and focused two-page document, which was greatly received by the group.

The closure of open meetings did not last, most likely due to the uproar of over 5000 participating NGO members. For the remainder of the CSW I focused my lobbying on State parties that had taken affirmative actions against trafficking in their own state. This strategy seemed effective in that one of the last drafts of the agreed conclusion contained language directly from our handout of suggestions. However, by the final draft the language was less specific and did not address trafficking directly. I do believe, based on several of the paragraphs in the agreed conclusions that Erika, Cari, and I had impact.

Overall, I believe HRA's participation at the CSW was a success. We were able to take issues brought-up by HRA in years past and remind delegates that these problems have not been fully addressed or resolved. By joining the U.S. NGO Caucus, I was able to voice my concerns regarding the lack of action being

taken to protect women and girls for the horrors of trafficking and I was able to offer my own personal skills and assistance. In addition, the overall CSW experience was inspiring and a fantastic learning experience. I would like to thank the USF Law School Frank C. Newman International Human Rights Law Clinic for this remarkable opportunity. [The final draft of the Agreed Conclusions from the 52nd CSW is available at: [http://www.un.org/womenwatch/daw/csw/csw52/adv\\_unedited\\_AC\\_resolutions.html](http://www.un.org/womenwatch/daw/csw/csw52/adv_unedited_AC_resolutions.html).]

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## HUMAN RIGHTS COUNCIL

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### The Human Rights of Migrants

*By Mary Johnson '08*

This semester I was able to continue my research on the human rights of migrants in preparation for the 7th session of the United Nations Human Rights Council in Geneva. While Human Rights Advocates has been advocating for protection of migrants' rights for many years, new developments in the United States' immigration policy caused us to expand coverage of the topic to include the human rights implicated by the battery of Immigration and Customs Enforcement (ICE) raids and the increased use of migrant detention centers. Other issues covered in my report include violations of the right to life at borders and violations of migrants' core labor rights. The 1500-word short statement (A/HRC/7/NGO/13) summarizing the issues can be accessed at: <http://documents.un.org>. (All NGO documents from the Council may be found at this site.).

Issues related to migrants' rights are addressed by a fairly substantial body of international law as compared to other topics the Frank C. Newman Clinic interns advocate for at the Council. However, there are significant gaps that need filling, not to mention the palpable resistance from many governments, particularly Western/developed/receiving nations.

Although the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force in 2003 as a mechanism to address this especially vulnerable group of people, only 37 countries have ratified it so far, most of them sending countries. Italy was set to be the first receiving country to ratify the treaty, but the ratification process has been stalled by apparent conflicts with European Union law,

**On May 27, 2008, the Modesto Bee, in Modesto, California, ran a story on Jeeni's work at the CSW. They are very proud that one of their own was able to speak at the UN. <http://www.modbee.com/local/story/310176.html>**

and the delegate I spoke with claims that the new Italian Parliament will have to wait for a directive from the European Commission, which could take quite some time.

Despite the treaty's limited ratification, the rights of migrants are still of great concern at the Human Rights Council even though there has been no substantive resolution from that body dealing exclusively with migrants' rights. While there is a special procedure on migrants, the Special Rapporteur, Professor Jorge Bustamante, was only able to attend one day of the Council's meeting. This meant that the scheduled inter-active dialogue on migrants was less inter-active than most others, although I was able to make my oral intervention on the floor of the Council, which was an edifying experience. While sitting at the NGO speaker post, I surveyed the plenary room full of international policy makers and felt that my role in the process was concrete and important.

Because issues related to migrants' rights intersect with many other human rights, the topic remains at the forefront of the Council's work. The Chairperson of the Working Group on Arbitrary Detention Leila Zerrougui, whom I was able to meet with to discuss the scope of their mandate, considers migrant detention as a form of administrative detention that is directly covered by their mandate. Additionally, an omnibus resolution on children's rights sponsored by Uruguay was passed containing language calling on States to ensure protection for migrant children. (A/HRC/7/RES/29).

Much of the dialogue related to migrants' rights at the 7th session was focused on preparing for the Global Forum on Migration and Development in Manila this coming October. The government of Mexico has taken a stand to improve transparency so that NGO participation is not as limited as it was at the Forum in Brussels last year. According to Mexican Ambassador Luis Alfonso de Alba, government opposition to NGO participation is strong, as is resistance to focusing the dialogue on human rights. While these significant obstacles remain, there is a well-mobilized group of experienced NGOs working towards ensuring that human rights are addressed at the Forum.

My time spent at the Human Rights Council further educated me about the intricacies of international diplomacy. International law is an intellectually fascinating and challenging body of law, and the diplomatic processes that account for its creation and transformation are complex. I am so grateful to have had a chance to build on my understanding of the nuances of international law-making, and I wish to thank Human Rights Advocates for allowing me this amazing opportunity.

## The Right to Vote and the Mandate on the Protection of the Freedom of Opinion and Expression

*By Sun Kim'08*

The right to vote is an important issue that Human Rights Advocates has been working on for a number of years. The right to vote is addressed in the Universal Declaration of Human Rights and is further articulated in the International Covenant on Civil and Political Rights. This year, at the 7th Session of the Human Rights Council, we had an opportunity to bring the right to vote as an issue to the Council's attention under the mandate on the Protection of the Freedom of Opinion and Expression. It is our view that the right to vote is directly related to the freedom of expression. Protecting the right to vote is critical to a functioning democracy as it allows voters to freely express who should run their governments.

The Mandate on the Protection of the Freedom of Opinion and Expression was slated for review and renewal this term and as I witnessed, it was a very controversial issue. First, there were differing views from various countries as to what exactly constituted the freedom of expression. In addition to debates about the definition, there were discussions, oftentimes heated, about the limits that should be placed on the freedom of expression.

The controversy surrounding the 2005 publication of cartoons depicting the prophet Muhammed by Danish newspaper *The Jutland Post* was still a salient issue in the minds of many country delegates. Countries such as Egypt (on behalf of the Group of African States), Pakistan (on behalf of the Organization of the Islamic Conference), and Palestine (on behalf of the Group of Arab States) made an effort to insert language that specifically prohibited protection of expression that was "racist or anti-religious." In one drafting meeting, Egypt and Pakistan walked out of the meeting after their language did not appear in the draft at hand. The following morning, they held their own drafting session to work on the language they wanted inserted in the mandate. Needless to say, there was opposition to the insertion of specific language into the broad mandate by other countries, including the United States, Canada and the European Union.

At the end of the session, the mandate was renewed for a term of another three years but it included

the language advocated by Egypt, Pakistan, and Palestine. (A/HRC/7/RES/36). The language directed the Special Rapporteur, “[t]o report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination.” (A/HRC/7/RES/39). The final vote was 32 in favor, none against and 15 abstentions. The vote for the insertion of this specific language was 27 in favor, 17 against and 3 abstentions. In addition, an oral amendment was added by Cuba and adopted about the “importance for all forms of media to repeat and to deliver information in a fair and partial manner.”

Against this backdrop, I tried to advocate for either including the right to vote under the current mandate, which I learned was not possible at this session, or to make the right to vote a separate mandate. My report focused on the ways in which the right to vote is derogated and how the derogation of the right to vote implicates other human rights. (A/HRC/7/NGO/15). I argued that the right to vote was an important issue that deserved attention but was not included in the current Council’s session. The right to vote was derogated in a variety of ways.

In my report, I focused on the derogation of the right to vote by procedural mechanisms, such as the inconsistency of electronic voting machines in the United States or the requirement in Indiana of a mandatory government-issued photo ID card in order to vote. Further, the right to vote is derogated when there is corruption in the electoral process, such as the recent Kenyan presidential elections. The violation of the right to vote often leads to violations of other human rights, as we have seen in Kenya it led to widespread civil unrest.

In my lobbying efforts, I was successful in setting up a meeting with the Special Rapporteur, Ambeyi Ligabo, at the Palais Wilson to talk about the right to vote. Professor de la Vega, fellow intern Mary Johnson and I went to the Palais for the meeting and talked at length with the Special Rapporteur and Associate Human Rights Officer, Renato Mariani. The Special Rapporteur was very interested in the right to vote and was supportive of our efforts. We realized that it was not possible to insert it into the current mandate but it gave us hope for future efforts. It was also a nice change of pace to visit the Palais Wilson after going to Palais des Nations every day.

Taking a step back from the details of drafting a mandate, I realized this was more of a philosophical debate about how different countries, cultures and religions define something as basic as the freedom of expression. This fundamental debate made me have a legal realist

or even a critical legal theory moment: a realization that law is created by humans and all law is political.

Sitting among the different country delegates, earpiece on my ear, listening to the placement, insertion and deletion of words, I understood that these delegates were working under guidance of their official government’s stance on this particular issue. Whether I thought their opinion was right or wrong was a product of my own biases: my education in an American, individual rights-focused, legal framework that believes the freedom of expression is a fundamental right in a functioning democracy. In that world, the freedom to express my opinion was safeguarded because as long as I was able to express my opinion, someone with the counterpoint or opposing opinion was also allowed to express his.

This creation of a marketplace of ideas was something our legal system is deeply committed to. Listening to these drafting meeting discussions was an exercise in reflection for me, as a future lawyer, to realize that my views were coming from a certain viewpoint and a certain experience.

My experience in Geneva was a highlight of my law school career. It was exciting to go to the UN every day and attend the Council meetings. It further solidified my desire to pursue a career in international law and gave me a small taste of what it might be like in the future. As a 3L, I am extremely grateful I was given this opportunity and I thank Professor Connie de la Vega for all her hard work and support.

## **Torture as a Method of Suppressing Political Dissent in Selected Eastern African Countries**

*Simeneh Kiros Assefa '08*

For my first attendance at the UN Human Rights Council, I chose the theme “Torture as a Method of Suppressing Political Dissent in Selected Eastern African Countries.” As part of my study in “Human Rights and Democratisation in Africa,” I worked as a human rights intern for a local NGO in Uganda for 5 months in 2002. While in this position, my first experience in human rights work, I learned about a person in Uganda who was made to kneel down while 20 kilos of bricks were tied to his genitals, and then made to stand and carry it, sustaining serious injury. When he was taken

to medical care, it was too late and the doctors had to amputate his genitals.

In a very different scenario, in 2007 I was working for the Ethiopian Human Rights Council, a national NGO in Ethiopia. One morning I received a letter from a person in jail, fully describing his situation and how long he had been bitterly tortured. While we were endeavoring to obtain supporting evidence in order to release a special report, a few days later a different story came to my office — the person had passed away. The saddest part of the story is that the person died only an hour before the court handed down its decision on the petition of habeas corpus that he be released from jail.

What is common about these two individuals is that they are victims of terrible forms of torture for merely differing from the ruling party in their views. Uganda had what is called “Movement” to which everyone can be a member; any differing view is a dissent from the views of the president. It was not until 2005, that Uganda introduced multiparty election system by a referendum.

These two stories, as brutal as they are, are only examples; there are various “less” brutal cases in other countries in the region. In my report (A/HRC/7/NGO/14) I focused on three countries: Eritrea, Ethiopia and Uganda. Eritrea has never had an election since independence in 1993; those who demanded an election are in jail; many of them were tortured. Ethiopia had two parliamentary elections in 2000 and 2005, and Uganda had two presidential elections in 2001 and 2006.

As these two elections were relatively contested elections in the history of those two countries, the respective governments responded heavy-handedly. They cracked down on opposition at the lower level and those in the countryside. Such practices are executed in an organized manner but the ruling party makes use of the government machinery, including the police and security forces, sometimes with high pressure on the judiciary. Such torture is committed subsequent to a widespread arbitrary detention usually in secret and/or distant places.

Such practices are contrary to the domestic law of the respective countries and to their international obligations. My recommendations thus included that law enforcement have access to the conventions to which those countries are party by translating them into local languages, that places of detention be designated by law, and that remedies be afforded to victims of torture, among others.

I handed my reports to the Special Rapporteur on Torture, Chairperson of the Working Group on Ar-

bitrary Detention and delegations of countries that are active in the human rights dialogue, democratic, and good governance processes in those countries so that they would support our cause.

It is true that doing research and submitting the report should not be a onetime action for effective human rights advocacy. As Ethiopia is scheduled for Universal Periodic Review in 2009, I am trying to have my organization EHRCO be registered by ECOSOC to continue our participation in the Council’s subsequent sessions and to be able to submit a shadow report. In order to strengthen the organization I am organizing friends and people I know in order to form a support group in the San Francisco Bay Area. It is open to everyone who supports the causes of human rights, rule of law and democracy.

My participation in the UN Human Rights Council’s session was more than an academic exercise. I was introduced to people vigorously working for the same cause; to people who appreciate our work back in Ethiopia. It was an atmosphere where I did not feel as lonely as I had been in my office. That is why I am very much encouraged to continue my work in human rights. I am therefore extremely grateful to Professor de la Vega, the USF International Human Rights Clinic and the Human rights Advocates who supported my participation in the Session. I am also grateful to my fellow students who have been nice and supportive.

## **Holding Private Military and Security Companies Accountable for Human Rights Violations**

*By Caio A. Arellano '08*

This semester, I worked on the issue of corporate accountability mechanisms for human rights abuses committed by private military and security companies (“PSCs”). “Corporate Accountability for Human Rights Violations by Mercenaries and Private Security Companies,” February 18, 2008, (A/HRC/7/NGO/11).

Of course, the most visible and well-documented examples of human rights abuses by PSCs are the abuses of prisoners at Abu Ghraib and the alleged shootings of Iraqi civilians by Blackwater USA employees. However, PSCs operate in more than 50 nations and on every continent except Antarctica. Thus, privatized military activity poses a potentially significant

threat to human rights around the world.

My research focused on violations of the right of peoples to self determination, as well as the right to personal security and the rights of workers. The Human Rights Council addresses this issue through its Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination.

In my report, I recommend stronger domestic regulation and oversight as well as an international scheme for addressing the violations from a regulatory perspective. More specifically, I examine the Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights, adopted in resolution 2003/16 by the former Sub-Commission on the Promotion and Protection of Human Rights.

The general obligations set forth in the Norms, including the right to security of persons, respect for national sovereignty, and the rights of workers, correspond directly with the rights abuses committed by PSCs. The Norms call upon transnational corporations to adopt internal compliance and enforcement mechanisms and requires States to necessary the legal and administrative framework to ensure that corporations take such measures. Despite the enormous amount of effort that went into drafting the Norms and their direct relevance to many human rights abuses committed by corporate actors, the Norms receive scant attention from the Council and the General Assembly.

While in Geneva, I discussed my recommendations in detail with delegates from Cuba, Peru, Honduras, South Africa, Russia, and Pakistan. I also distributed my report and recommendations to Chair of the Working Group on the use of mercenaries and delegates from Venezuela, Ecuador, and the Philippines.

Since the mandate of the Working Group on the use of mercenaries was up for review, my first objective was to support renewal of the Working Group's mandate. However, I also presented council members and other delegates with draft language for the substantive resolution on this issue, which the Council will be presenting to the General Assembly later this year. In particular, I proposed language articulating the need to develop standards for addressing human rights violations by corporations. Overall, the delegates I met with were very receptive to my research and they will hopefully consider including my recommendations in future resolutions.

On the final day of the session, the Council voted to renew the mandate of the Working Group on the

use of mercenaries by a vote of 32 in favor, 11 against, and 2 abstentions. Human Rights Council Resolution, Mandate of the working group on the use of mercenaries as a means of violating the right of peoples to self-determination, 28 March 2008, (A/HRC/7/RES/21).

The International Human Rights Clinic was among the most fun and rewarding experiences in my three years at USF. The clinic provides USF students with a truly unique opportunity to participate in international human rights law at the policy-making level. I am extremely grateful to Professor de la Vega and Human Rights Advocates for their support this semester.

## The Right to Water

*By Rajwant Virk '08*

Attending the Human Rights Council in Geneva as part of the Frank C. Newman International Human Rights Clinic at the University of San Francisco was an extremely educational and memorable experience. My topic focused on the human right to water with an emphasis on corporate responsibility. During this particular session, the right to water was not on the agenda, so in order to address the issue I had to relate it to the right to food. Water is as indispensable a part of the right to food as to the right to health, life and housing.

The human right to water is recognized under General Comment 15 of the Committee on Economic, Social and Cultural Rights. However, further effect needs to be given by the Council and the international community. Water is a limited natural resource fundamental for life and health. Yet over a billion people lack access to a basic drinking water supply and several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked to water. The continuing contamination, depletion and unequal distribution of water is exacerbating existing poverty and harming peoples chances to lead a life in human dignity.

In my written report and oral intervention, I supported a need for a separate resolution addressing the recognition of the right to water. Recognizing the human right to water will hold the Council as well its State members accountable to promote, protect and fulfill the right to water. This would require States to develop national legislation aiming to guarantee the right in a non-discriminatory basis confirming water as a legal entitlement for all its citizens.

In addition, I urged the Council and its members to hold corporations accountable for any activities

in violation of the right to water. Commodification of water in some countries has resulted in price increases leaving the poor without basic water services but resulting in a \$400 billion industry for corporations. In many cases, States have moved towards privatization of their national water supplies with little or no monitoring of corporate institutions carrying out these policies. In countries such as Bolivia and the Philippines high water prices after privatization left citizens without water and numerous protests (termed the “water wars”) called for governments to rescind their contracts. In addition, the harm to the environment has been disastrous resulting in the over pumping of limited ground water resources.

When I arrived in Geneva, I was surprised to learn that a key resolution on the right to water sponsored by Germany and Spain was being discussed in various side meetings. However the resolution draft was far from comprehensive in addressing the right to water. It addressed the equitable access to water and sanitation rather than recognizing it as a definite right to water. In addition it contained no language whatsoever regarding corporation responsibility. So my goal at the session became two fold, first to garner support for the mandate and second to address the language of the draft including reference to corporate responsibility.

I spoke with various delegations, having some experiences that were rather fruitless but others that were encouraging. In addition to lobbying and disseminating my research, I also attended various NGO and IGO meetings covering topics on the right to food, the right to water and climate change. In the end, the resolution adopted by Human Rights Council on March 20, 2008, refers to access to safe drinking water and sanitation and calls for the appointment of an Independent Expert. (A/HRC/7/RES/22). The resolution, however, does cite General Comment 15 which does reference the right to water. However, much more work needs to be done to further promote and protect the human right to water.

My participation in the clinic and being a part of the UN session was extremely rewarding and exciting. I gained in-depth knowledge about not only on my topic but various other human rights issues prevalent in the world today. Just sitting and observing the session meetings provided a wealth of knowledge and education. Overall, it was a great experience and a highlight of my time in law school. I thank Professor de la Vega, HRA and USF for offering me such an amazing opportunity.

## The Human Rights Impact of E-wastes and Sham-recyclers: A Call for Mandate Expansion

By Elena Gil '08

Environmental justice is an issue with which I am very involved and about which I care very deeply. Thus, I was very excited to work on environmental justice issues on an international level as a Frank C. Newman Intern. I researched the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. Too often, the most vulnerable, disenfranchised communities end up enduring a disproportionate burden of transboundary toxic wastes dumping—and this is where an environmental injustice occurs on an international scale.

My research focused on the improper disposal of electronics wastes and sham recyclers. Most of the world's electronic waste ends up in countries such as China, India, and Africa. For example, most of the eighty percent of “recycled” electronic waste the U.S. ships to China ends up in Guiyu, a one-industry town filled with small enterprises called “recyclers.” (Terry Allen, *China is Our E-Waste Dumping Ground* (Jan. 5, 2008), In *These Times*, available at <http://www.alternet.org/story/72529>.) About eighty percent of the families work in the Guiyu recycling industry and recover copper, gold, and other valuable materials from electronics without adequate, if any, protective equipment. (Id.) After extracting the valuable substances, the rest of the product is then dumped. The effects on residents' health include birth defects and some of the world's highest levels of dioxins and lead. Furthermore, the town's drinking water has been rendered useless, with once potable water now able to dissolve a coin in a few minutes. (Greenpeace, *Toxic Tea Party* (Jul. 23, 2007), <http://www.greenpeace.org/international/news/e-waste-china-toxic-pollution-230707> (last visited Jan. 20, 2008)).

One problem with these scenarios is that often, supposedly recycled products end up being dumped in places like Guiyu despite formal recycling efforts in the exporting country. This is possible because recycling wastes are not tracked until their final downstream disposition. For example, the U.S. government does not monitor such exports. A 2005 Government Accountability Office report found that “it is difficult to verify that exported used electronics are actually destined for reuse, or that they are ultimately managed respon-

sibly once they leave U.S. shores.” (Terry Allen, *China is Our E-Waste Dumping Ground* (Jan. 5, 2008), In *These Times*, available at: <http://www.alternet.org/story/72529>.) Thus, people and entities who try to do the right thing and send their e-wastes to a recycler do not really know where the e-wastes really end up.

This problem is compounded by the pervasive lack of certification process for electronic-waste recyclers. Virtually any company can claim it recycles waste, even if all it does is export it.

(Lu Rucai, *The Problem of E-waste* (Jan. 8, 2008), *China Today*, available at <http://www.china.org.cn/english/China/238544.htm>.) The U.S. EPA, for example, admits that it only evaluates the business practices, not environmental practices, of private recycling companies for their inclusion on the U.S. General Services Administration’s (“GSA”) Environmental Services Schedule. (EPA, *Recycling of Electronic Equipment 3* (2006), available at <http://www.federalelectronicschallenge.net/resources/docs/recycling.pdf>.)

This lack of accountability for the final disposition of recycled materials has propelled the undisputed growth of sham recyclers. Sham recyclers are private companies who are supposed to provide recycling services to the government, businesses and other entities, but in reality end up disposing recyclables as cheaply as possible. The cheapest way usually entails exploiting countries that lack the resources to enact or enforce environmental laws regulating the handling of toxic wastes.

Aggravating the problem is that despite international efforts to regulate transboundary movements of toxic wastes, there still does not exist internationally standardized definitions of key terms like “hazardous” and “recycling.” When what constitutes an illegally hazardous product can differ from country to country, entities have the incentive to “shop around” for places that do not consider their toxic goods “hazardous.” (See Jennifer Clapp, *Toxic Exports: The Transfer of Hazardous Wastes From Rich to Poor* 88 (2001)). Governments are likewise encouraged to offer vague definitions in order to attract businesses. Thus, a race to the bottom is propagated and legal transfers of toxic substances cause equally devastating impacts on human rights as do illicit transfers.

My efforts at the Human Rights Council focused upon attempting to expand the toxics mandate to include legal, in addition to illicit transfers of toxics. Furthermore, since geopolitical borders are irrelevant in examining the impact of toxic wastes on human rights, I also worked on expanding the mandate to include domestic and not just

transboundary toxic waste problems.

To this end, I met and exchanged information with many delegates and NGO representatives. Armed with my research, I was prepared to actively contribute to the dialogue and disseminate my report to interested parties. [See short version of report at Human Rights Advocates, *The Human Rights Impact of the Illicit Movement and Dumping of Toxic Wastes*, (A/HRC/7/NGO/25), Feb. 22, 2008].

The issues we outlined at the Council are going to be included in the upcoming mandate renewal debate in June and thus, I felt that my input really helped mold the direction and future of the toxic wastes mandate.

I hope to continue to play an active role in these efforts in the future. Attending the Human Rights Council gave me solid working knowledge of international politics and how they affect the international human rights movement. I hope, in a small way, to have contributed to its evolution and look forward to future opportunities to work on environmental justice and other human rights issues in both international and domestic arenas.

## Juvenile Sentencing, Women’s Rights in Iran, and Human Rights Violations in Tibet

*By Mina Litvak '08*

My trip to the UN Human Rights Council (“HRC”) was the perfect end to my three year law school career and a remarkable start to a legal career in human rights, in which legal activist can bring grassroots human rights efforts to a global forum. I would like to thank Professor Connie de la Vega, the Frank C. Newman International Human Rights Clinic, and Human Rights Advocates for this unique exposure to the international human rights community.

### Juvenile Sentencing

I was enthusiastic about working on the juvenile death penalty and juvenile life without parole as they exemplify the need for even-handed enforcement of human rights across politically, economically, culturally, and ideologically diverse nations. Juvenile life without parole is a practice that continues solely in the U.S., and brings to the fore race, class, and gender issues in the U.S. criminal justice system. My written and oral statements to the

HRC highlighted that youth of color constitute a disproportionate number of the 2,381 child offenders sentenced to life imprisonment without parole (Human Rights Advocates, "Juvenile Sentencing: Juvenile Death Penalty and Juvenile Life without the Possibility of Release," March 2008, Human Rights Council, (A/HRC/7/NGO/24)). For example, in California, Latino children are five times more likely to receive the sentence than white children and African American youth are 20 times more likely. Outside of the U.S., Palestinian children sentenced in the Occupied Territories and children sentenced in Argentina face great difficulties in applying for parole, and thus may effectively be condemned to die in prison. Regarding the juvenile death penalty, Iran and Saudi Arabia continue sentence to death youth who were under 18 at the time of the offense. These are long standing issues undertaken by the Clinic in which we have had many victories in the past, and continue to forge global change.

The UN serves non-governmental organizations ("NGOs") as a forum giving direct access to government representatives with information on human rights issues and who are able to influence governments to take steps toward greater human rights compliance. We thus concentrated our efforts on gathering information on the current laws regarding juvenile life without parole and the juvenile death penalty in countries that have continued these practices. We also became aware that the Arab Charter on Human Rights had come into force just before the HRC began its session, and it contained a provision that could allow for the juvenile death penalty in countries with national legislation permitting the practice.

While the Arab Charter provides that it should be read in conformity with international human rights instruments, including the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights which prohibit the juvenile death penalty, it was important to ensure that would be the case. All parties to the Arab Charter have ratified the CRC with no reservations to Article 37, and most have ratified the ICCPR. Therefore, we concentrated on adding language to the Child Right's Resolution to ensure that regional agreements do not weaken protections afforded to juvenile offenders in international agreements. In addition, the resolution requests governments to stop using the death penalty and life sentences without parole for juveniles. Another goal this year was promoting alternatives to juvenile detention, and we managed to influence the Child Right's Resolution Draft Committee to include language on alternatives to detention in the Resolution (for all of these issues see, "Rights of the Child," Human

Rights Council Resolution 2008/34, 7th Session, A/HRC/7/RES/29, especially Paragraphs 30 and 31).

These achievements provide human rights workers on the ground with authoritative sources in their tireless efforts to enforce human rights. For example, Efren Paredes is an activist sentenced to life without parole in Michigan when he was only 15 years old. Human rights activists who are working with Efren Paredes use statements and resolutions coming out of the UN when battling juvenile life without parole sentences in U.S. courts. Speaking with delegates at the HRC was a unique opportunity to gain international exposure for Efren Paredes' case and to ensure that human rights struggles on the ground are filtered up to the global echelon of human rights decision making.

### **Women's Rights in Iran: Death by Stoning**

I also submitted a statement to the HRC on human rights in Iran. I submitted my statement to the Special Rapporteur on Violence Against Women, Its Causes and Consequences, on death penalty gender discrimination in stoning sentences for the crime of adultery. First, stoning is applied to women more frequently than men (Human Rights Advocates, "Stoning: Violation of International Human Rights Standards," February 2008, (A/HRC/7/NGO/26)). Currently, ten out of twelve people given stoning sentences are women (Amnesty International, Document, March 18, 2008, "Iran: Further Information on Death penalty/ Stoning: Mokarameh Ebrahimi (f)." Available at: <http://www.amnesty.org/en/library/asset/MDE13/051/2008/en/MDE130512008en.html>).

I met with various NGO's working on human rights in Iran. In addition, I attended various side panel meetings addressing Islamophobia as a troubling post 9/11 phenomenon, in which Muslim communities and states have increasingly become targets of religious and racial discrimination. I was pleased to see how Islamic states banded together to combat this form of discrimination on a worldwide scale.

### **Human Rights Violations in Tibet**

By happenstance, I was at the HRC during the tragic eruption of Chinese state violence against Tibetan protestors, after having spent the previous summer in Dharamshala, India teaching human rights to Tibetan youth through the Center for Law and Global Justice. I was initially disappointed to see the issue in Tibet become a testament to the fact that the UN operates under the myth that sovereign states hold equal political weight, thereby masking economic inequality between

states and the fact that many states have compromised their political sovereignty to secure certain economic benefits. This was exemplified clearly in China's ability to censor the Council and prevent countries from raising the issue, while as each minute passed, Tibetan monks and protestors were being killed and tortured. No country had raised the issue after a full week of suppression and over 80 reported dead. Indeed, I began to notice the Chinese delegation increased in number each day.

However, the events that occurred over my final days at the HRC revealed to me the importance of non-governmental organizations' presence at the HRC in raising the concerns of human rights activists. I began working in collaboration with various NGOs to write a letter to the President of the HRC and the chair of the Special Procedures Coordination Committee requesting a UN fact-finding mission be dispatched to all affected areas of Tibet and China immediately. I spoke with a number of state delegates, including the U.S., Canada, and the European Union, about raising the issue. NGOs also collaborated to force a "mini-session" on the human rights abuses by Chinese authorities in Tibet. NGOs were extremely supportive and agreed make oral interventions during general debate of the follow up and implementation of the Vienna Declaration and Program of Action, each attacking a different aspect of the issues unfolding in Tibet. We also planned to distribute white ribbons to be worn to support peace in Tibet, and to display pictures of the protests in the main hall.

This was all carried out on the following Tuesday, once I had already returned to the U.S. Slovenia on behalf of the EU, Switzerland, the U.S., Canada, Australia, Italy, and France all raised or supported statements asking China to urge restraint and calling for a fact finding mission. All Tibetan supporters were continuously cut off by China, Sri Lanka, Zimbabwe, and Cuba, claiming that country specific situations were not to be raised in general debate of the follow up and implementation of the Vienna Declaration and Program of Action. The President eventually suspended the meeting, although NGOs insistently continued to raise Tibet issues after commencement of the meeting later.

Weeks later, the High Commissioner for Human Rights and a collaboration of Special Rapporteurs both eventually called on China to receive a special fact-finding mission, to which China denied admission until a later time (UN News Centre, 10 April 2008, "UN experts urge full access for independent observers, media in Tibet." Available at: <http://www.un.org/apps/news/story.asp?NewsID=26270&Cr=tibet&Cr1=>. See also, UN News Centre, 14 March 2008, "China: UN rights

chief voices concern over tensions in Tibet Autonomous Region." Available at: <http://www.un.org/apps/news/story.asp?NewsID=25980&Cr=arbour&Cr1=>).

Overall, this was an eye opening experience about the importance of fully taking into account the economic and political inequality between powerful nations and other nations, and the prominence of political interests in human rights enforcement. NGOs have an extremely important role in that they are able to more objectively address issues that are of global concern and pressure states to undertake these concerns as well. The experience was invaluable, and it broadened my vision to view clearly the tremendous task human rights activists have achieved and that remains to be carried out.

## SAVE THE DATE

**Saturday, October 25, 2008, 6 p.m.  
Goldberg Room, Boalt Hall, UC Berkeley.**

**HRA'S 30th Anniversary Celebration, including a Tribute to the late Frances and Frank Newman, and Dialogue on Racism and International Human Rights.**

**H**RA is honored to present three distinguished advocates dedicated to protecting human rights against racism.

**Jose Lindgren Alves**, Brazilian Ambassador, National Coordinator for the Alliance of Civilizations, expert of the UN Committee on the Elimination of all Forms of Racial Discrimination (CERD), and recently appointed member of HRA's International Advisory Board, will speak about CERD's efforts to combat racism, including the intersection between racism and freedom of religion.

**Sandra Coliver**, Senior Legal Officer at the Open Society Justice Initiative, former Executive Director of the Center for Justice and Accountability, co-founder of HRA, and dedicated member of HRA's National Advisory Board for many years, will present on hate speech, including speech that is perceived to be insulting to religious sentiments.

**Connie de la Vega**, law professor at the University of San Francisco School of Law, Director of the Frank C. Newman International Human Rights Clinic, and co-founder and past President of HRA, will share her work using international human rights law to broaden the availability of affirmative action in the U.S.

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## IN MEMORY OF FRANCES BURKS NEWMAN

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Frances Burks Newman died in Walnut Creek on Wednesday, June 11, 2008, after a brief battle with pneumonia. Frannie, as she was known to her friends, was the widow of Frank C. Newman, Associate Justice (retired) of the California Supreme Court, and former Dean and Professor Emeritus of the University of California School of Law at Berkeley (Boalt Hall).

Frannie was born on January 14, 1915 in Los Angeles, California to Jesse Burks and Frances Williston Burks, and grew up in Berkeley and Palo Alto. As a young girl she was part of a study on gifted children that was conducted at Stanford University by Lewis Terman. Ironically, she later attended Stanford University on a full scholarship where she received her B.A. and M.A. in psychology in 1935 and 1936 respectively. She graduated Phi Beta Kappa and belonged to the Kappa Kappa Gamma sorority while at Stanford.

After graduating from Stanford, Frannie went to work at the Institute of Child Welfare at U.C. Berkeley while living at International House, resulting in lifelong connections to both. It was during this time that she met Frank at a piano bar where he was playing to support his law studies at Boalt Hall. In addition to sharing a passion for music, they both enjoyed traveling.

Soon after their marriage on January 14, 1940, they headed off to New York, where Frank studied at Columbia University and son Robert was born in 1942. In 1943, the family moved to Washington, D.C. while Frank served during World War II as an officer in the U.S. Navy's Office of General Counsel. Daughter Julie was born there in 1945. In 1946, the growing family returned to Berkeley, where Frank joined the faculty and later served as Dean at Boalt Hall. The family finally settled in Orinda in 1950, where son Ralph and daughter Holly were born in 1952 and 1958 respectively. Frank's participation in various U.N. human rights bodies led the family to Geneva several times over the years, where they enjoyed hiking and skiing and formed enduring international friendships.

In 1971, at an age when most contemplate retirement, Frannie's pioneering spirit led her to a career as a paralegal, a new profession that was first recognized by the American Bar Association just two years earlier.

She began as one of the first paralegals at the firm of Morrison & Foerster, moving on to Hansen Bridgett and then to Shartsis Friese, where she retired in 1998 after 23 years of service.

An avid singer, Frannie performed with choral groups throughout her life, first as a member of the Oakland Symphony Chorus, and later the University Chorus. She also continued traveling – just a year ago, she toured the Columbia River between Washington and Oregon, and the year before cruised the Danube River from Budapest to Bucharest. She also loved to spend time during the summers at her Echo Lake cabin, built by her family in 1925.

When Frank died in 1996, Frannie continued to support Human Rights Advocates, a non-profit group with UN accreditation that was founded in 1978 by Frank and The Berkeley Crew, as he and his students were called at the UN in Geneva. She was instrumental in naming of the Frank C. Newman International Human Rights Law Clinic at the University of San Francisco in his memory. As Boalt Hall Professor David Caron has noted, "If Frank was the spirit of the group, then Frannie was its heart and she will be sorely missed."

Frannie is survived by daughter Holly and her husband Richard Daniels of Petaluma, and long time friend J. Richard Johnston of Lafayette. A memorial service will be held at 2 p.m. on Sunday, September 28, in the Faculty Club at UC Berkeley. The family encourages memorial contributions to Human Rights Advocates or the Frank C. Newman International Human Rights Law Clinic at USF.



## HRA Members Recognized for their Commitment to Human Rights

**H**RA Board Member **Nicole Phillips** has been elected to serve as President of HRA. Ms. Phillips, a former Frank C. Newman intern, practices labor and environmental law at one of the largest union-side labor law firms in the county, Weinberg, Roger and Rosenfeld. She also directs the Dominican Republic and Haiti Human Rights Programs at the University of San Francisco, School of Law's Center for Law and Global Justice. Since becoming a Board Member of HRA in 2000, Ms. Phillips has trained students, prepared reports and advocated at the UN Commission on the Status of Women, Committee on the Elimination of Racial Discrimination and Human Rights Committee. HRA thanks **Julianne Cartwright Traylor** for her dedicated and accomplished eight years serving as President of HRA! Ms. Cartwright Traylor will remain an active Board Member. In addition, **Connie de la Vega** was elected Treasurer and **Jeremiah Johnson** was elected Board Secretary.

**Jose Lindgren Alves** has recently been appointed to HRA's International Advisory Board. Mr. Lindgren-Alves has served as an Ambassador to Brazil for decades, with assignments around the world, including five years in San Francisco and, most recently, Budapest, Hungary. Mr. Lindgren-Alves represents Brazil as an expert on the UN Committee on the Elimination of all Forms of Racial Discrimination (CERD). He has recently returned to Brazil, where he serves as the

National Coordinator for the Alliance of Civilizations. HRA welcomes Ms. Lindgren-Alves to the Board.

HRA National Advisory Board Member **Dinah Shelton** has recently been selected for the distinguished position of the Manatt/Ahn Chair of International Law at George Washington University Law School. Professor Shelton is the author of two prize-winning books, *Protecting Human Rights in the Americas* (winner of the 1982 Inter-American Bar Association Book Prize and co-authored with Thomas Burgenthal) and *Remedies in International Human Rights Law* (awarded the 2000 Certificate of Merit, American Society of International Law), as well as numerous other articles and books. In 2007 she received the Elizabeth Haub Prize for Environmental Law, one of the few U.S. recipients to receive the honor during the past three decades.

HRA International Advisory Board Member **Eya Nchama Cruz Melchor** has been appointed the Official Representative, Office of Human Rights, Department of Human Rights in Geneva, Switzerland, where he will work directly with human rights and fundamental liberties.

### HRA wishes to recognize and thank the following people for their generous donations:

- **Sandra Coliver** and the Open Society Institute
- **Mary Ann Hoisington** (in memory of Frances Newman)
- **Emily Rich** (in memory of Frances Newman)

Last, but certainly not least, we wish to honor and thank the late Frances Newman and her daughter, Holly Newman, for their generous long term support of HRA, to which HRA owes many of its accomplishments.

### Human Rights Advocates

P.O. Box 5675  
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CA 94705

[www.humanrightsadvocates.org](http://www.humanrightsadvocates.org)

Connie de la Vega  
Jeremiah Johnson  
Conchita Lozano-Batista  
Nicole Phillips  
Julianne Cartwright Traylor  
Birte Scholz  
Kristina Zinnen

Newsletter production: Philip Goldsmith



# Human Rights Advocates

## MEMBERSHIP FORM

I want to become an HRA member to support HRA's activities and receive the Newsletter and announcements of events. Enclosed is my check for annual dues, fully tax-deductible, in the amount of:

\_\_\_\_\_ Regular Membership \$35.00  
\_\_\_\_\_ Student or low-income (sliding scale available) \$20.00  
\_\_\_\_\_ Other \_\_\_\$50.00 \_\_\_\$75.00 \_\_\_\$100 \_\_\_\$125 \$\_\_\_\_\_

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Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Country: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Profession/Affiliation: \_\_\_\_\_

HRA Committee Interest:

\_\_\_ Education \_\_\_ United Nations \_\_\_ Litigation/Legislation

\_\_\_ Publications \_\_\_ Fundraising/Finance

**Please return this form to:**

**The Treasurer  
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