



Human Rights Advocates

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Advocacy at the UN

By *Connie de la Vega*

Ten students participated in the University of San Francisco's Frank C. Newman International Human Rights Law Clinic in the Spring 2009 semester, representing Human Rights Advocates at meetings of two human rights bodies. Three Edith Coliver Interns attended the UN Commission on the Status of Women (CSW) in New York and seven Frank C. Newman Interns attended the 10th Session of the Human Rights Council (HRC).

The three Edith Coliver Interns attended the full 53rd session of the CSW, which gave them the opportunity to see the CSW's process from beginning to end. One intern was an LLM student from Uganda, who is hoping to use the expertise she developed to help women in Uganda and Africa. They were supervised by Julianne Traylor, whose expertise on women's issues proved invaluable. They were joined the second week by Cari Nutt, a Clinic graduate who attended both the CSW and HRC. One student made an oral statement covering various topics and all three Interns were involved in a number of activities while they were there. The reports on their work and the Agreed Conclusions adopted by the CSW follow below.

The seven Frank C. Newman Interns attended the 10th session of the HRC and addressed a number of topics addressed below. They included an LLM student from El Salvador, who wants to go back to her country and develop the capacity of non-governmental organizations (NGOs) there. Three of the students were able to make oral statements at the Council and all of them participated in a variety of activities, which included resolution drafting sessions. The students' reports on their work and the resolutions that passed on their topics follow below.



Edith Coliver Interns at the CSW with Julianne Cartwright Traylor. Left to Right: Patience Tusingwire, Rachel Reyes and Aliya Kamali.

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HRA also joined an oral statement presented by Defence for Children International on behalf of a number of NGOs regarding implementation of children's rights in juvenile justice at the national level at the annual full day meeting on the Rights of the Child at the Council.

During its 10th session, the HRC adopted 33 resolutions and adopted 16 outcome documents resulting from country reviews under the Universal Periodic Review (UPR). The resolutions included those covering the topics of the administration of justice, particularly juvenile justice (Res. 10/2), climate change (Res. 10/4), arbitrary detention (Res. 10/9), mercenaries (Res. 10/11), the right to food (Res. 10/12), counter-terrorism (Res. 10/15), combating defamation of religion (Res. 10/22), and the right to religion (Res. 10/25). Twenty-one of the resolutions were passed by consensus. Those that went to a vote included: the resolution on mercenaries which passed by a vote of 32-12-3; the resolution on defamation of religion which passed by a vote of 23-11-13; and the role of health professionals in torture which passed by a vote of 34-0-13. A number of the country resolutions, including those on North Korea, the Democratic Republic of the Congo, and most on the situation in the Middle East went to a vote. The resolutions on the right of Palestinians to self-determination, however, and on Myanmar passed by consensus.

HRA's written statements submitted to the



Frank C. Newman interns at the Council. Left to Right: Professor Connie de la Vega, Alex Tuzin, Marie Montesano, Jeff Kaloustian, Leslie Bennett, Amada Solter, Amol Mehra, Laura Rivera-Marinero

HRC (referred to in the reports below) and the Council resolutions are available at: <http://www2.ohchr.org/english/bodies/hrcouncil/10session/>. HRA's written statement to the CSW and the Agreed Conclusions are available at: <http://www.un.org/womenwatch/daw/csw/53sess.htm>.

UN COMMISSION ON THE STATUS OF WOMEN, 53RD SESSION, NEW YORK

Migrant Domestic Worker Rights

By Aliya Karmali '09

I was fortunate to be one of three USF Law students selected to represent Human Rights Advocates at the United Nation Commission on the Status of Women, 53rd session in New York City during the first two weeks of March 2009. The priority theme of this year's Commission was the "equal sharing of responsibilities between men and women, including care giving in the context of HIV/AIDS." My own report focused on migrant domestic workers as paid care-givers with specific sets of rights as articulated under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Rights of All Migrant Workers and Members of their Families (CMW).

Women migrants make up over 50% of all migrants according to UN-INSTRAW. Most migrants are from countries in the Global South and travel to other countries in different regions of the Global South. My advocacy focused on women migrating from the Philippines to Hong Kong, Latin America to the United States, and Sri Lanka to the Middle in search of employment as domestic workers.

Both the Philippines and Sri Lanka annually receive more national income from migrant worker remittances than their other primary exports such as textiles. Migrant domestic workers are overwhelmingly women of color from the Global South, mirroring the worldwide feminization and racialization of poverty we see in the current era of globalization. They face many of the

same challenges as do non-migrant domestic workers who are employed in their countries of origin, but also suffer extreme racism and xenophobia on account of their status as migrant workers. Sex and gender-based exploitation including physical and mental abuse, rape, and torture is also rampant.

These women are in a veritable legal limbo land, without full protection under the CMW or ICCPR which are mostly gender-neutral in their provisions, with the exception of general non-discrimination clauses.

CEDAW General Recommendation 26 on women migrant workers which was issued in November 2008 just before the 53d session of the CSW opened, provided breakthrough language on the intersection of gender and race-based oppression experienced by women migrant workers, specifically mentioning the plight of domestic workers. CERD General Recommendation 25 on the gender-related dimensions of racial discrimination also recognizes the dual bases of exploitation domestic workers contend with because they are gendered as women, and raced as non-white.

Most delegates and NGO representatives that I approached during my two weeks at the CSW were completely unaware of CEDAW General Recommendation 26. Similarly, there was little discussion of the merits of the Convention on Migrant Worker Rights, despite the fact that the Convention has gained over 40 signatories since it went into force in 2003. This was therefore a great chance to educate a vast array of government officials about the nuances of migrant domestic worker's rights. I found however that my chosen topic was perceived to be somewhat outside the scope of the review theme, which most delegates saw as relating only to inequalities in women's unpaid care giving responsibilities within the nuclear household.

Nevertheless, I split my time directly lobbying government delegates from observing and participating states alike, in addition to NGO representatives, permanent mission work and caucus representatives. Prior to departing for New York, I found out that the Agreed Conclusions outcome document of the CSW 53rd session already included two separate provisions specifically mentioning domestic workers.

One provision focused on protecting domestic worker's labor rights, including working hours and wages, and ensuring their access to social services like health care. The second provision emphasized the importance of protecting girls, including migrant girls, employed as domestic workers from labor and sexual exploitation. In the end, both of these provisions were retained in the final document, with the first provision being expanded

to cover migrant domestic workers, and the second remaining much the same.

These were both small victories that I believe were attributable at least in part to the coordinated efforts of the Migration Caucus which worked with the NGO Caucus overall to ensure that all NGO representatives were educated about migrant domestic worker's rights in order to enable them to effectively lobby delegates on the issue for inclusion in the final Agreed Conclusions.

An interesting issue that arose among members of the Migration Caucus was the tension between promoting the rights of girl children migrant domestic workers, and protecting them from child labor exploitation. A member of an international federation of trade unionists and continued to disagree on the matter, but the position I favored was successfully included in the Agreed Conclusions, and the reference to girl children migrant workers was left in, with an added sentence about States' obligations under ILO provisions to protect girls from child labor.

In terms of process, it was difficult to access delegates for the most part because NGOs are not allowed to lobby on the main conference room floor while meetings are in session, and the formal and informal negotiation sessions were closed to NGOs again this year. This forced us to catch delegates as they were entering or leaving the main conference room, or during parallel events sponsored by permanent missions, during which questions and comments from NGOs were allowed. Human Rights Advocates is currently in the process of submitting a letter to the CSW Bureau requesting that NGOs be granted access to the main government negotiation sessions in order to be able to more effectively lobby delegates.

Individual discussions with delegates from the Philippines were however very supportive and fruitful, with Filipino delegates advocating for domestic worker rights and the ratification of the CMW by destination countries. The EU, Australia, Singapore, and the Holy See (Vatican) were also highly receptive to the issue, and included protective language on migrant domestic workers in successive drafts of the Agreed Conclusions. However, because the Agreed Conclusions were facilitated at a rapid pace with an absolute deadline of the end of Friday March 13th, much of this language was dropped in favor of the original, broader language.

All the same, the experience was invaluable and I thank everyone at Human Rights Advocates and the USF Law International Human Rights Clinic staff for providing me with this incredible advocacy opportunity.

Negotiating the Commission on the Status of Women

By Rachel Reyes '09

As Edith Coliver Interns with HRA, Aliya Karmali, Patience Tusingwire and I were given the wonderful opportunity to attend the Commission on the Status of Women held at United Nations Headquarters in New York. Treading through the worst snow of the winter season and daily braving the frigid temperatures, we walked into the UN with high hopes and determination to influence the final document. I was designated to give the oral intervention highlighting our delegations lobbying issues. However, my specific goal in attending the CSW was to incorporate protections for refugee women and children into the Agreed Conclusions – a seemingly difficult feat in light of the narrow thematic focus of the 53rd session, “The equal sharing of responsibilities between women and men, including caregiving in the context of HIV/AIDS.”

The theme was initially interpreted to account solely for caregiving within the context of the home (i.e., housework). However, I perceived it to be a bit broader. My report extended the idea of “caregiving” to those charged with providing aid and protection to refugee women and children (see *Caring for the Displaced: Combating Sexual Exploitation and HIV/AIDS Among Refugee Camps by Increasing Women’s Participation* available at <http://humanrightsadvocates.org/UN%20Interventions%20list1.htm>; see Statement submitted by Human Rights Advocates, E/CN.6/2009/NGO/32, available at <http://www.un.org/womenwatch/daw/csw/csw53/OfficialDocuments.html>).

Reports from Save the Children UK indicated that, due to patriarchal power structures within camps, humanitarian aid workers and UN peacekeepers were abusing their positions by soliciting sex in exchange for food and supplies. Refugee women and children, especially those widowed or orphaned becoming the sole head of households, became overwhelmingly dependent on humanitarian aid and were forced to engage in this transactional sex. With many large refugee camps located within Sub-Saharan Africa, a region host to two-thirds of the global total of people living with HIV, such exploitation increased the vulnerability of refugee women and children to infection. I advocated for increasing women’s participation at all levels, particularly within camp leadership, in order to minimize or eliminate the root causes of sexual exploitation.

So with business cards and copies of my 15-page

report in hand, I approached delegates with my lobbying proposals. At first, I approached the other NGOs believing collaboration would have more impact on delegates. Unfortunately, many could not connect refugee issues to the idea of homecare, and they focused on their own agendas. I then sought out Member States I speculated had an interest in displaced persons, but again that strategy was fruitless. Finally, discouraged by the indifference I encountered on both the delegate and NGO sides, I took on a broader approach – addressing any and all delegates hoping they would be interested in my issue.

Casting this wide net was a success. When I approached the delegate from the Turkish delegation, she invited me to submit specific proposed language for the Agreed Conclusions if we could get it to her within the hour. So outside Conference Room 2, Cari Nutt (USF Alum and HRA Member), Patience and I hurriedly read through the proposed recommendations submitted by other states. We asked Turkey to support the European Union’s suggestions regarding help for women in conflict, and added our own language to include training programs directed at humanitarian aid workers, peacekeeping forces and government officials. The next day, Turkey submitted their suggested changes along with some of our language to the CSW.

Unfortunately, many of the negotiations of the Agreed Conclusions were closed to NGO participation. However, we managed to receive information into the debates which revealed that tense discussions surrounded the inclusion of the phrases “war-torn” and “foreign occupation,” threatening the more acceptable term “conflict” which addressed the protections Patience and I advocated. Since the passage of the final document requires consensus, this debate impeded finalizing the Agreed Conclusions. As such, delegates negotiated on second Wednesday until 3am and Thursday until 5am, and spent the final day of the CSW in frantic discussions.

So rather than spend the final plenary celebrating the conclusion of the CSW, the delegates continued to argue with each other and with the facilitator. The floor appeared a confused mess with a huge gathering of delegates in one corner debating, a spattering of delegates at different seats arguing, and several other delegates simply sitting alone indifferent to the chaos surrounding them. Among the States, other members were mediating with hesitant countries to encourage and expedite the passing of the Agreed Conclusions. Finally, long after the translators had gone and many had lost patience, all countries succumbed to the pressure, and the Agreed Conclusions were confirmed at 7:30pm. Applause rang

through Conference Room 2, but the tired delegates seemed merely relieved that they had something to take back to their respective capitals.

In the end, the Agreed Conclusions were weakened in many respects. Some NGOs, upset that their agendas were not recognized, called for extending the negotiations, but another delay would have only served to water the document down further. Furthermore, persuading consensus earlier enabled the expansion covering several different needs ignored in the first draft to be retained. And, most importantly, finalizing the Agreed Conclusions enables NGOs to hold governments accountable for the language that was included.

In conclusion, my trip to the CSW revealed the bureaucracy and political schemes prevalent in the UN. But, strangely, I became enamored with seeing world politics played out on the plenary floor. Through this wonderful experience, I found my passion and dedication to continue a career in international human rights reinvigorated.

Protecting Internally Displaced Persons (IDPs) In Sub-Saharan Africa: The Need For A Legal Normative Framework

By Patience Tusingwire '09

Attending the 53rd Session of the Commission on the Status of Women (CSW) at the United Nations Headquarters in New York has been one of the most profound and fulfilling experiences in my law school career and has bolstered my passion of being a women's human rights advocate. As an LL.M student from Uganda at the University of San Francisco School of Law and an International Fellow with the American Association of University Women (AAUW), an organization that provides funding for women scholars and girl education as well advocates for the rights of women and girls, attending the CSW and actually advocating for women's rights at the United Nations was serendipitous. It has been an honor for me as an Edith Coliver Intern representing Human Rights Advocates, an NGO that is very well respected at the UN and for that I most humbly thank Professor de la Vega and Julianne Cartwright Traylor as well as Human Rights Advocates. The work in preparation for the Commission greatly improved my

research, analysis and writing skills, and the work at the Commission my advocacy skills. I also greatly appreciated working as a team with Aliya, Rachel and Cari.

The theme of the 53rd session of the Commission on the Status of Women was the "equal sharing of responsibilities between women and men in care giving including in HIV/AIDS". My topic was the need for a legal framework for the protection and assistance of internally displaced persons (IDPs) in the Great Lakes Region in Sub-Saharan Africa, with the assistance of the Guiding Principles on Internal Displacement, the UN Millennium Development Goals and CEDAW as well as Resolution 1325 on women in peace and security. However, I needed to discuss my topic in relation to the main theme of the session.

The first day in New York, I attended the NGO orientation meeting where all the NGOs were divided into groups and worked on language they would like to include into the final Agreed Conclusions. Just listening to these groups speak made me realize how hard it was going to be to include language specifically referring to the internally displaced persons and refugees in the agreed conclusions. The topic was being narrowly discussed in its context.

The opening day at the CSW was a wake up call for me. I realized that each Country, just like each NGO, had its own agenda it was pursuing and as such I would need to shift my way of thinking and presenting my topic to the delegates I intended to lobby. It was frustrating at first speaking to delegates about IDPs and Resolutions 1325 and 1820, only to be met with blank looks or with remarks like they were focusing on HIV/AIDS and care giving.

This is when I realized I needed a shift in how I was presenting my paper. Listening to the countries give their oral reports also gave me an insight on which countries to approach and how to approach them. As such, I shifted from my approach of trying to lobby governments about the plight of IDPs in camps per se, to asking them whether the camps the IDPs live in fit within the household in relation to the main theme and whether care giving therein is considered as in other households.

There were many obstacles, though, because of the fact of where IDPs live, the camps cannot be equated to normal household where spouses have work and access to social services. I must say at this point that Julianne played a very big role for us at the CSW by helping us in organizing a plan for carrying out our work and she always followed up on what we were doing, whom we had spoken with and most important in-

troducing us to important people to liaise with. In fact one of the members on the Migration Caucus resorted to calling us “the California girls” and they shared a lot of their information with us, we had legitimacy just by the fact that we were representing HRA and that we were with Julianne and of course we were knowledgeable about our topics and had done a lot of preparatory work for the session!

I spent the rest of my time at the CSW lobbying government delegates and presenting them with my report. Rachel and I worked as a team because our topics were similar: refugees and IDPs. We managed to speak with some countries that were supportive of our topics and, thus, we worked on language with them for the Agreed Conclusions, the Outcome document. Although in the end language that specifically addressed IDPs and refugees was not included in the Agreed Conclusions, there is language that addresses women and girls in humanitarian emergency situations, which I consider a small victory, as well as the commitment of member states to achieving the UN Millennium Development Goals which I addressed in my paper.

In speaking to governments, I found out that those countries that have IDPs are actually setting up policies to assist these people. An example that gave me hope was Kenya which has had a problem of IDPs since 2008 because of the post election violence. I spoke to both the Kenyan government delegation as well as NGOs and I learned that they have put in place a new IDP policy called-Operation Turide Nyumbani, in Swahili, which can be loosely translated in English as “operation we go back home”. This along with speaking to groups from Darfur in Sudan, Democratic Republic of Congo as well as the Executive Director of FEMNET a large NGO that advocates for women’s rights in Africa, all who work with IDPs, made me realize that something is being done although the challenges remain and that overcoming them will not be easy.

The fact that Resolutions 1325 and 1830 were being discussed and their implementation advocated for was in itself a good sign and showed that these countries were concerned about internally displaced women and refugee women. I would, therefore, like to continue working with human rights issues and my time at the UN CSW reaffirmed my passion for advocating for women’s human rights and especially in working with the usually socially excluded groups like IDP and refugee women and girls.

I thank the USF Frank.C Newman International Human Rights Clinic and Human Rights Advocates for this very immeasurable learning experience.

UN HUMAN RIGHTS COUNCIL, 10TH SESSION, GENEVA, SWITZERLAND

The Elusive, Yet Imperative Human Right to Water

By Leslie Bennett '09

As a Frank C. Newman intern, under the aegis of Human Rights Advocates, I was able to attend the 10th Session of the Human Rights Council in Geneva, Switzerland and advocate for the right to water. Human Rights Advocates has been organizing around this issue and consequently a resolution was adopted by the Council in March of 2008 which agreed to appoint an independent expert to further research and elucidate the right to water and sanitation. (Resolution, “Human Rights and Access to Safe Drinking Water and Sanitation”, A/HRC/7/ 22, 20 March 2008). Lamentably, this resolution failed to include any rights-based language in referring to access to safe water and sanitation. Therefore, this year Human Rights Advocates sought to reaffirm the momentum towards a solid recognition of the human right to water. Although no resolution was forthcoming on the Right to Water itself, the 10th Session did adopt a Resolution on the Right to Food in which the General Comment No.15 (2002) of the Committee on Economic, Social and Cultural Rights (arts. 11 and 12 of the ICESCR) was recalled in order to stress the importance of ensuring sustainable water resources as part of the right to adequate food, and which encouraged member states, in coordination with their obligations under CEDAW, to take action to address gender discrimination in the realization of the right to food and equal access to water. (Resolution, Right to Food, A/RES/63/187, March 23, 2009. Para: 5 & 33)

The human right to water would seem to many to be a foregone conclusion. Water is a necessity for life and speaks to the enshrined human right to life, dignity, food amongst others. However, despite a multitude of legal bases including international human rights treaties, international declarations and conventions, regional and national constitutions, and recent national court decisions, the right to water remains an implicit need rather than an explicit, stand alone, legally-sanctioned right. The research and paper that I presented on behalf of Human Rights Advocates address the imperative of

recognizing the right to water as an explicit, stand alone human right. The purpose of our advocacy was to highlight the legal basis for the recognition of water as a human right, the need for a rights-based approach to water insecurity and its attendant protections and supervision, and finally issues associated with the implementation of this right.

The reason that a rights-based approach to water is so extremely crucial is at once obvious and opaque. Safe water is a pillar for human development. The lack of adequate water claims millions of lives, compromises dignity and diminishes prospects for economic growth. Water insecurity consigns billions of people to lives of poverty and disease, keeps women and children from education, and creates one of the most daunting crises of the 21st Century. (Bennett, *The Human Right to Water: An Imperative*, Human Rights Advocates accessible at www.humanrightsadvocates.org) Against a backdrop of national security threats, armed conflicts, and a growing illicit trade of drugs and arms, the imperative human security threats linked to a denial of a right to water can get lost. "The 1.8 million child deaths each year related to unclean water and poor sanitation dwarf the casualties associated with violent conflict. No act of terrorism generates economic devastation on the scale of the crisis in water and sanitation. Yet the issue barely registers on the international agenda." (UNDP Human Development Report: Summary, "Beyond Scarcity: Power, Poverty and the Global Water Crisis", 2006 UN Development Programme at p.9). Perhaps this lack of attention to the water crisis results from the reality that water insecurity bears heaviest on poor people in poor countries those without a strong voice in shaping national and international policy on human rights.

As applied to a right to water, a rights-based approach places the individual in a place of power and at the center of development instead of relegating them to passive recipients of aid. A rights-based approach identifies actors as duty-bearers, thereby necessitating the adoption of concrete measures to respect, protect and fulfill the right to water and sanitation and ensuring that the beneficiaries of the rights are parties to decision-making which affects them and guaranteed transparency in the decision-making processes. ("The Right to Water", submitted by Human Rights Advocates, A/HRC/10/NGO/44, 2009). The notions of accountability, non-discrimination and empowerment provide for more sustainable solutions focused on what is required, and not what is externally deemed necessary. Ensuring the right to water and sanitation as an explicit human right feeds into this rights based mechanism for

development and transforms safe water for personal use into a legal entitlement, rather than just a basic need or a commodity. The recognition of this comprehensive right informs a high level of accountability both in national and international judicial bodies and through the UN human rights system in its evaluative techniques and monitoring mechanisms if according water obligations, both positive and negative, are not met by the States parties.

Substantively, the importance of writing and speaking to the rights-based approach to water was underscored by the upcoming 5th World Water Forum which took place in Istanbul, Turkey from March 16 through March 22 of 2009, directly after the closing of the 10th Session of the Human Rights Council in Geneva. The World Water Forum, organized every three years by the World Water Council, is the largest international event in the field of water.

After building a coalition in Geneva with the Spanish delegate whose delegation was to attend the World Water Forum, I was particularly interested to see what resolutions and declarations would come from the Forum. The Spanish delegation supported recognition of a human right to water and affirmed this right based approach in its report to the World Water Forum. However, even with the current advocacy on the recognition of this right, three countries, the United States, Brazil and Egypt effectively blocked a ministerial amendment from recognizing a right to water. ("World Forum Backs Water as a Basic Need", available at <http://www.euractiv.com/en/sustainability/world-forum-backs-water-basic-need/article-180537>) Instead, once again, the right to water was only recognized as a basic human need. With U.S. encouragement, the Ministerial Declaration adopted at the World Water Forum declined to recognize a human right to water. ("World Water Forum Ministerial Declaration Refuses to Acknowledge a Human Right to Water," available at http://lawprofessors.typepad.com/environmental_law/2009/03/world-water-forum-ministerial-declaration-refuses-to-acknowledge-human-right-to-water.html).

In response, Spain along with nineteen other countries officially challenged the Ministerial Declaration released Sunday at the close of the week-long World Water Forum because it defines water as a human need rather than as a human right. Latin American states played a key role in gathering signatures on a counter-declaration that recognizes access to water and sanitation as a human right and commits to all necessary action for the progressive implementation of this right. This move bolsters the importance of the work

that Human Rights Advocates does on this issue. Non-governmental organizations, such as Human Rights Advocates, and the United Nations have mounted a campaign to lobby governments to recognize water as a human right.

The work that I was able to do under the auspices of Human Rights Advocates was timely and vital. I would like to express my gratitude to Human Rights Advocates for articulating a space for law student participation in the growing and important advocacy in the field international human rights particularly for the long eluded human right to water.

The Human Right to Food

By Jeffrey Kaloustian '09

It was a distinct honor to represent Human Rights Advocates as a Frank C. Newman intern at the 10th Session of the Human Rights Council in Geneva in March. The human right to food was a prominent topic at the session given the recent global food crisis as well as the appointment in March of 2008 of Professor Olivier de Schutter as Special Rapporteur. Much of his work over the last year has focused on bringing a human rights framework to the search for solutions to the complex challenge of achieving global food and nutritional security (see www.srfood.org).

The right to food is perhaps the most critical of all human rights, on which nearly all others depend. Without adequate food, life becomes a daily struggle for survival and human development is severely impeded. Despite the fact that the world currently produces enough food to feed the entire global population, today nearly 1 billion people suffer from chronic food insecurity.

I focused my research on the human rights implications of a trend of land-grabbing that has been occurring at an alarming rate since the latter part of 2007 as a result of the dual forces of the world food crisis and the meltdown of financial markets. With food prices high and land relatively cheap, fertile lands are increasingly being seen as a new strategic asset. Both public and private actors from cash-rich nations have been securing control of huge tracts of land in Africa and Asia food outsourcing as well as for pure profit.

An example will be illustrative. In November of 2008, reports surfaced that Daewoo Logistics, A South Korean transnational corporation, had secured a 99-year lease of nearly half of the fertile land (1.3 million hectares) on the island nation of Madagascar. Daewoo re-

portedly planned to put 75% of the land under corn plantation for shipments back to Seoul. The remaining 25% was to go to palm seed oil for biofuels production.

The human rights issues raised by the Daewoo-Madagascar deal are numerous, especially in light of the fact that chronic food insecurity affects 65 percent of the population of Madagascar. A major concern is that the forced displacement of small-scale farmers will deprive them of the productive assets they need to secure their livelihood. Concerns over widespread deforestation and environmental degradation are amplified given that approximately 80 percent of the species on the island nation are endemic to the island. Such a massive expansion of the agri-industrial complex on the island nation also raises concerns over the erosion of cultural and labor rights.

The Director-General of the United Nations Food and Agricultural Organization (FAO) warned that land grabbing runs the risk of creating a neocolonial system. The Madagascar deal was identified by analysts as a contributing factor to popular unrest there that led to over a hundred deaths in violently suppressed protests in February of 2009 and a transfer of power during the Human Rights Commission session in March. Within days of taking office, Andry Rajoelina, the opposition leader who was named president, voided the Daewoo deal.

The report I prepared for the session made a number of theoretical links to the Special Rapporteur's recent recommendations regarding food security, concluding that land grabbing would result in further violations of the right to food, particularly for vulnerable groups in "target nations." The 1500 word statement I authored is *Land Grabbing for Food Outsourcing: A Rising Threat to the Right to Food*, U.N. document A/HRC/10/NGO/45.

While in Geneva I had a brief discussion on the land grabbing issue with Olivier de Schutter, the Special Rapporteur for the right to food. I gave him a copy of my report, raised the Madagascar example, and asked him about the human rights implications of land grabbing. Professor de Schutter has since indicated that HRA's recent work on land grabbing will inform his upcoming reports on related topics.

I also set up a meeting with Mr. Manzoor Ahmad, the Director of the Geneva liaison office of the FAO, who assured me that his agency was analyzing the issue and would be generating an official report. While in Geneva I also had substantive meetings with Dr. Flavio Valente, Secretary General of FoodFirst Information and Action Network (FIAN International) and Carin Smaller, consultant to the International Institute for

Sustainable Development (IISD). I am grateful to each of them for their willingness to engage and to share their perspective.

During a drafting meeting for the right to food resolution I had the opportunity to propose language regarding the need to further explore the concept of “food sovereignty” as it relates to the food security and the right to food. The representative of the Cuban delegation who hosted the session welcomed HRA’s participation, and introduced the language into the draft resolution. Although the language was ultimately removed due to concerns from Western countries over conveying “anti-trade” sentiments, a paragraph was inserted that “stressed the need to guarantee a fair and non discriminatory access to land rights for smallholders, traditional farmers and their organizations, including in particular rural women and vulnerable groups,” (paragraph 6). The resolution on the right to food from the 10th session is expected to be U.N. document A/HRC/RES/10/12.

Participating in USF’s Frank C. Newman International Human Rights Clinic will stand out as a highlight of my law school journey. It was an honor to be working on right to food issues and I am most grateful to have had the opportunity to engage with the United Nations Human Rights Council under the aegis of Human Rights Advocates’ special consultative status. The experience will undoubtedly serve me well throughout my career.

Building Systems of Accountability over Private Military and Security Companies

By Amol Mehra '09

Globalization has increasingly expanded opportunities for growth of transnational business sectors like the private security industry. The corporatization of mercenary forces has the additional problem of reducing the control that States have over their own warfare and the overall level of state-based control over the use of force.

The problems with the current patchwork of precedents prohibiting mercenary activity are numerous, and the Working Group on the Use of Mercenaries as a Means of Violating the Right to Self-Determination and Other Human Rights (“Working Group”) has itself commented on the need for new international regulations,

most likely in the form of an international convention, in order to bring private military and security companies (“PMSCs”) fully out of their legal “grey zone”. In the Resolution most recently passed by a recorded vote of 32 to 12, A/HRC/10/RES/11 (2009), the mandate of the Working Group has been expanded to include the development of this international agreement.

As a Frank C. Newman Intern, I completed a long report, entitled “Bridging Accountability Gaps – The Proliferation of Private Military and Security Companies and Ensuring Accountability for Human Rights Violations”. I also completed a short report officially submitted to the UN and accessible at A/HRC/10/NGO/47. I urged for the use of the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (“the Norms”) as a framework in constructing an international agreement towards this end. The Norms themselves provide the strongest framework for ensuring accountability at the corporate level. The Norms clearly state that within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfillment of, respect, ensure respect of and protect human rights recognized in international as well as national law.

The value of the Norms as compared to voluntary compliance regimes is that they also contain an implementation process, calling on each transnational corporation to “adopt, disseminate, and implement internal rules of operation in compliance with the Norms”. Secondly, the Norms stipulate that the UN shall conduct periodic monitoring and verification of the corporations’ efforts and investigate complaints of violations. Thirdly, States are responsible for adopting and enforcing a regulatory scheme consistent with the Norms. Lastly, the corporations are required to provide “prompt, effective and adequate reparation to those persons, entities and communities” harmed by their conduct, as determined by national courts and/or international tribunals.

While in Geneva, I was able to deliver an oral intervention to the Council, accessible online at <http://www.un.org/webcast/unhrc/archive.asp?go=090306>. Additionally, I was able to meet with members of the Working Group and members of the Secretariat of the Office of the High Commissioner for Human Rights. The Secretariat communicated their support for the work of Human Rights Advocates on the topic, stating that they were eager to have our organization remain involved towards the development of an international agreement. In fact, the Secretariat relayed that they had

received a specific message from the Spanish delegate of the Working Group commending our work, and soliciting our continued participation through an invitation to attend the upcoming Working Group meetings in Geneva, Washington D.C., and New York. This acknowledgment was a tremendous success for Human Rights Advocates and stands as a testament to the strength of the Clinic and to the leadership of Julianne Cartwright Traylor and Connie de la Vega. Following the Working Group's invitation, I will submit another report in April highlighting the strengths of the Norms and the need for a clear implementation process in creating a workable international agreement on the issue.

The International Human Rights Clinic was, most assuredly, one of the most amazing experiences of my academic career. Working towards the promotion and protection of human rights, specifically with regard to accountability over non-state actors such as private military and security companies, has reinforced the notion that we each have a voice, and directed towards the right end, and delivered at the right time, that voice can cause change.

The Arbitrary Detention of Migrants

By Amanda Solter '09

This year Human Rights Watch addressed the issue of detention as it impacts migrants under the session on Arbitrary Detention. With an estimated 200 million migrants worldwide, 20 to 30 million of whom are undocumented, States' policies regarding migrant detention have enormous impact on these individuals.

My written report focused on the increasing privatization of detention facilities, detention issues as they apply to children, maximum limits on time spent in detention, the difficult problems inherent in mandatory detention policies, the intricacies of massive deportation policies and alternatives to detention (The Arbitrary Detention of Migrants, A/HRC/10/NGO/46).

The Human Rights Council did incorporate important language that addressed the situation of migrants in detention in their final resolution. (A/HRC/10/RES/9(2009)). Paragraph 6 of the resolution reads: "[a]lso encourages all States to ensure that immigrants in an irregular situation and asylum-seekers are protected from arbitrary arrest and detention and to take action to prevent any form of arbitrary deprivation

of liberty of immigrants and asylum-seekers, and notes with appreciation that some States have successfully implemented alternative measures to detention for undocumented migrants." Since it was not guaranteed that migrants would even be addressed under this resolution, this language was an exciting development.

However, the privatization of detention centers was an issue that was not raised by the Working Group on Arbitrary Detention but that urgently needs to be examined. The current reality is that U.S. immigration policy has resulted in a shortage of detention facilities with the capacity to adequately detain migrants. In a sinking economy, immigration detention is a rare growth industry.

Congress has doubled annual spending on it in the last four years, to \$2.4 billion approved in October 2008 as part of \$5.9 billion allotted for immigration enforcement through September 2009. In order to deal with rising rates of detention, the government has increasingly contracted with private companies to create and manage detention centers. Quality control is difficult to achieve and many detainees have been "lost" in the system as they are shuffled across the country from one center to another, away from their families and support networks.

Turning over the operation of detention centers to companies whose purpose is to generate profits inevitably produces pressure for increases in detention. Profit depends on bodies to fill the detention center, encouraging the commodification of individuals and the incentive exists to cut costs at the expense of the rights of detainees. The causal link between conditions in detention centers and the company's profit driven model needs to be investigated further. It is imperative that accountability and transparency exist in regards to these corporations in order that migrants' rights are properly protected. HRA hopes to continue to address this issue in future Council sessions.

Participating in the Frank C. Newman International Human Rights Clinic was an exciting culmination to the academic and professional endeavors I have pursued through the course of my law school experience. Being able to see first hand the mechanics of a U.N. body provided me with more insight into the structure and actual workings of the U.N. than any law school class could ever bestow. Engaging in the diplomatic back and forth that goes into every word of a resolution was fascinating. This invaluable opportunity has provided me with inspiration and motivation that will carry me through my career as a legal activist and human rights defender.

Juvenile Criminal Justice

By Marie Montesano '09 and Amanda Solter '09

It seemed nearly unfathomable that states continue to execute juvenile offenders, which children are sentenced to life terms in prison without the possibility of release, and that states have yet to ratify the Convention on the Rights of the Child. Yet, this is the sad reality.

In 2008, Iran executed eight juvenile offenders despite October 2008 instructions by the Iranian authorities for all courts to stop issuing death sentences against juvenile offenders. (Juvenile Sentencing, A/HRC/10/NGO /9.) Subsequently, Iran clarified that the judicial directive would not apply to qesas, or retribution because it “is not up to the government, rather it is up to the private plaintiff.”

We brought this fact to the attention of a panel on juvenile justice that we attended. The panel included a staff person from the Office of the High Commissioner for Human Rights, the Austrian delegate who was sponsoring the resolution on juvenile justice as well as interested NGOs. To our surprise, the reactions of the members were mostly negative.

It was interesting to note that the majority of people present seemed to shy away from offending Iran or rocking the boat in order to accomplish their individual agenda. Despite the fact that the final resolution includes language prohibiting the practice of juvenile executions, there was no further discussion of Iran’s flagrant disregard for this principle. It was an important lesson in understanding the diplomatic give and take that occurs behind the scenes at the Council.

Eleven countries still have laws with the potential to permit the sentencing of child offenders to life without the possibility of release. Currently, however, 100% of child offenders serving life sentences without the possibility of release are in the United States. There are an estimated 2,484 juveniles serving such sentences. Of these juveniles, African-American youth continue to be disproportionately represented.

With a new administration in Washington, it was to be expected that there would be new faces on the U.S. delegation. We made contact with one of these new faces who was responsible for issues related to juveniles. She seemed eager to meet with us and explore the issue. It was inspiring to help Professor de la Vega discuss this important subject with her and know that this is a small step towards changing this abysmal practice in the United States.

This year Human Rights Advocates also recommended the use of alternatives to juvenile

incarceration such as the restorative justice models used by New Zealand and Germany. New Zealand has pioneered an incredibly successful program using restorative justice principles that focuses on rehabilitation, reparation, and victim-offender reconciliation. By emphasizing collective responsibility, New Zealand has greatly lowered recidivism rates of juvenile offenders while keeping children out of prisons. Germany has also chosen to abide by their responsibilities under the Convention by revamping their traditional sentencing structures for juveniles. By replacing the conventional model with a system focused on educational programs and restorative principles, Germany has also greatly lowered their rates of juvenile recidivism.

It was exciting to see our language on this issue appear in the final resolution on “Human rights in the administration of justice, in particular juvenile justice” that was passed by consensus (Human rights in the administration of justice, in particular juvenile justice. A/HRC/10/RES/2 (2009).

Counter-terrorism and the Protection of Human Rights

By Marie Montesano '09

I came to USF because of the International Human Rights Clinic and the opportunity to participate at the UN Human Rights Council in Geneva, Switzerland. Needless to say, I had high expectations for the experience. I was not disappointed. Assigned the topic of the protection of human rights while countering terrorism, I was able to build upon the legal research I had been conducting for Professor Honigsberg for nearly two years prior on legal issues associated with the fight against terrorism. (Counter-terrorism and Human Rights, A/HRC/10/NGO/6.)

Countering-terrorism, of course, is not a new issue. The topic has been of concern to the international community for decades. Following the tragic events of September 11, 2001, however, the international community became increasingly concerned about state counter-terrorism measures violating international human rights and humanitarian law. In particular, reports of torture and the use of extraordinary rendition coming from the United State’s so-called “War on Terror” brought the issue to center stage.

The international community has sought to stress that terrorism does not provide an exception to

core obligations under international law. Unfortunately, a universal definition of “terrorism” has not yet been agreed upon. Rather, ad hoc, definitions can be found in both international treaties and domestic legislation. This was of particular concern to me. Without an internationally agreed upon definition to serve as a model for domestic legislation, there is a risk that individual state definitions of terrorist activity and organizations will be overbroad and sweeping.

Non-terrorist activities and organizations, whether legal or not, should not be restricted by counter-terrorism legislation. In addition, terrorism legislation must reflect the understanding that criminal actions do not automatically amount to terrorist actions.

While at the 10th Session, I encouraged state delegates to include a model definition of terrorism in the draft resolution on counter-terrorism. In particular, I suggested that such a model definition be based upon Security Council Resolution 1566. That definition requires both the intention of causing death, serious bodily injury or the taking of hostages AS WELL AS the purpose of provoking terror, intimidating or compelling a government or organization to do or not do an act.

While I was unable to persuade Mexico, the state in charge of the draft resolution coalition on counter-terrorism, that a model definition should be incorporated, I did raise the issue with several countries and suggested that they look at Security Council Resolution 1566 (Protection of human rights and fundamental freedoms while countering terrorism A/HRC/10/RES/15 (2009).) We have continued to follow up with Mexico, hoping that this issue will be included in a future resolution.

This experience solidified my desire to work in a courtroom and I will continue to pursue a career in international criminal prosecution of human rights violators, however, the knowledge I gained from this experience will undoubtedly prove invaluable to any career associated with international law. Joining hundreds of people in a room to have a formalized, peaceful dialogue about human rights issues is an experience that I will not soon forget.

The realization that as an international community we have been able to structure such a dialogue continues to make me smile. It is true that many consider international law to be lacking in strength, but we have come so far and I believe the forward progress will continue. I am so very grateful to have been able to participate in the Frank C. Newman International Human Rights Law Clinic.

The Right to Vote

By Alex Tuzin '09

Going to the U.N. Human Rights Council (“HRC”) in Geneva as part of the Frank C. Newman International Human Rights Clinic was an incredible experience. I thank Professor Connie de la Vega, Julianne Traylor, the Frank C. Newman International Human Rights Clinic, and Human Rights Advocates (“HRA”) for this tremendous opportunity.

I wrote my report on the right to vote. The right to vote is asserted in the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and several regional international human rights instruments. Nevertheless, derogations remain widespread. Ultimately, I was trying to garner support to urge the Council to appoint a Special Rapporteur to investigate derogations of voting rights, and to better define meaningful commitments and best practices of the right to vote.

In my report, I highlighted the importance of the right to vote by addressing several issues, including: election administration, disenfranchisement based on gender, disenfranchisement based on past criminal conviction, and electronic voting. The 1500-word short statement summarizing the issues in my report (“Written statement submitted by Human Rights Advocates (on the Right to Vote)” A/HRC/10/NGO/8) can be accessed at: http://ap.ohchr.org/documents/sdpage_e.aspx?b=10&se=83&t=7.

In terms of election administration, emphasized elections in Ghana this year, which were essentially fair and nonviolent, and I noted a number of good practices. In contrast, I discussed problems with the recent elections held in Zimbabwe and in Kenya. In particular, the Election Commission in the recent Kenyan election obstructed observers and allegedly manipulated the vote count. This led to an eruption of violence, and widespread human rights abuses. More than one thousand people died. This election underscores the importance of ensuring the legitimacy of elections and how derogation of the right to vote implicates other human rights.

Concerning disenfranchisement based on gender, I focused on Saudi Arabia. Saudi Arabia failed to meet its obligations under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) by denying women the vote in its 2005 elections. At the time, Saudi authorities agreed to allow women to vote in 2009. However, just a few weeks before we went to Geneva, Saudi authorities changed their mind and decided to postpone these elections indefi-

nately. Therefore, Saudi women must continue to wait to exercise their right to vote.

I also addressed disenfranchisement based on past criminal conviction. In the U.S., many citizens who have been convicted are denied their voting rights. In some states, ex-offenders who have fully served their sentences remain barred from voting for the rest of their lives. Such a restriction undermines the right to vote as mandated by the ICCPR. In this regard, I commended South Africa for its efforts to facilitate and encourage its citizens to vote even if they have been convicted and even while they are in prison. South Africa has held that the disenfranchisement of prisoners is a violation of South African and international law, and that the State has a positive obligation to enable its prisoners to vote.

Finally, I discussed electronic voting. In the U.S., the software for these electronic voting machines is easily manipulated. Often there is no paper record, so there is no way to verify the accuracy of the computer tally. Growing concerns over these electronic voting machines have led to several lawsuits in the U.S. and have prompted an increasing number of states to ban their use.

While I was at the Human Rights Council, my main accomplishment was just raising awareness about voting rights issues. I was lucky to be able to make an oral intervention on the floor of the Council during the General Debate on Item 3 concerning the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. As a representative of an NGO, I was able to address certain politically sensitive issues that a delegate may not be able to. Furthermore, as law students, we brought a different but important perspective to these issues, and we focused on international law and the actual text of various treaties more than other NGOs did.

I approached a lot of delegates, including delegates from Ghana, South Africa, India, and Switzerland. I gave them my report and talked with them all about various issues that I had investigated. The Swiss delegation, in particular, expressed interest in raising the right to vote as a future agenda item. In addition to country delegates, I also approached NGOs that were working on related issues, and had an enlightening discussion with the special expert on discrimination.

Through all of these discussions, I learned that although the right to vote is provided for in numerous international human rights instruments, it is actually quite a controversial right. Many countries oppose an obligation to hold elections, but would be more inclined to support an obligation that elections be free and fair. In the future, Human Rights Advocates may gain more traction

by approaching some of these issues through the right to participation in government, which is less contentious.

One of the more dramatic sessions that I attended was the Universal Periodic Review (UPR) of Israel. The UPR is a new mechanism that involves a review of the human rights records of all 192 UN Member States once every four years. Egypt, Palestine, and Iran were particularly critical of Israel's recent military action in Gaza. In fact, at one point, the President of the Human Rights Council had to intervene to assert that Israel was in fact a State, not just an occupying force, as Iran maintained, and that Iran must refer to Israel as "Israel." Documents and webcasts related to Israel's UPR can be accessed at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/ILSession3.aspx>

Through my experience at the UN, I learned that concrete progress on some human rights issues can be complicated and difficult. Nevertheless, at least the Human Rights Council provides a forum for countries to discuss these human rights issues. It was an amazing experience to be able to watch the entire process unfold, and I am extremely grateful to have been given this remarkable opportunity.

Access to Public Information Laws: Tools that improve Citizen Participation and the Work of Human Rights Defenders

By Laura Rivera Marinero '09

I am an LL.M student from El Salvador at the University of San Francisco. I will try to express all my feelings and accomplishments as an intern. In a nutshell, I will say that this experience has been fantastic and enriching from the academic, professional and personal perspective.

I remember the first day that I went to the United Nations building, The Palais des Nations. I saw the Human Rights and Alliance of Civilizations Room and I was astonished. Nearly every nation in the world belongs to the UN and almost all the 192 country delegates were there! Also there were others entities and intergovernmental organizations, such as the Palestine Authority, the International Committee of the Red Cross, and other NGOs. That day I completely understood why the primary role of the UN is to serve as an international forum for addressing a wide range of global concerns.

I did my work on the topic of Freedom of Expression and Freedom of Association. I started my research in December 2008 and I originally conducted research on elections and the right to vote. On January 2009, the Human Rights Council moved the agenda of the Special Rapporteur of Freedom of Expression from March to June 2009. So, a plan B needed to be implemented. Professor de la Vega accommodated my work to the new agenda of the Human Rights Council and I learned to be more flexible and focus my research to the new topics under discussion. Finally, I did my report for the Special Rapporteur of Human Rights' Defenders.* The topic of my report was "Access to Public Information Laws: Tools that improve Citizen Participation and the Work of the Human Rights Defenders" (See A/HRC/10/NGO/7, 2009). My report tried to create awareness that the adoption of laws on access to public information promote public accountability and helps lead to a transparent government, and benefits citizen and human rights defenders' participation.

I had two main goals to accomplish on my trip to the United Nations. My first main goal was to talk with the Special Rapporteur and share my view that Access to Public Information Laws could be a useful tool to promote participation of the NGOs in the Human Rights Council. I did that. I spoke with the Special Rapporteur, I gave her my report and I explained to her why I consider this kind of legislation is useful to increase civil society participation. I talked to her about some country experiences such as Mexico, USA, Chile and Switzerland. I also spoke with delegates, whose countries have enacted this kind of law with the purpose to raise awareness about my topic. No resolution on Human Rights Defenders was adopted this year because the Special Rapporteur just recently started her work on May 2008. I hope my work on this topic will help to lay the foundation for a resolution in the future.

My second goal was to understand how NGOs can actively participate in the international arena and advocate for a cause. I realized how NGO participation is based on a reciprocal relationship. The UN and member countries benefit from information and advice from NGOs with expertise in particular areas, and also NGOs are able to bring their concerns to an international arena. It is important to understand that it is a two way relationship. Sometimes countries want to support a topic, but unfortunately they don't have the expertise, staff and time to research technical aspects or make proposals. This is how NGOs, such as Human Rights Advocates, make a difference and have made a difference in the past, they can provide the information that it is

needed. For me it was fascinating to have a chance to talk with country delegates. I understood that the negotiating system at the UN functions in large part through negotiation blocs, or groups of countries, speaking with a common voice. Identifying who was the country leader was crucial, but more important was to talk with this representative and give them my report.

Finally, I would like to thank Human Rights Advocates and the Franck C. Newman Human Rights Clinic for sponsoring my participation in the 10th session of the Human Rights Council in Geneva. I consider that a program that teaches students how international organizations work and also how civil society can actively participate in that arena is just wonderful. After the conclusion of my master program, I plan to go back to my home country El Salvador and continue working there from civil society. A few NGOs in El Salvador uses the international arena to express their concern for Human Rights. I definitely plan to use this international platform to create awareness of my country's international obligations. So I encourage you to keep track of the smallest country in Central America and I assure you that you will see in my work all the lessons that I have learned from the members of Human Rights Advocates. I would like to special thank Professor Connie de la Vega and Julianne Cartwright for their training and ideas prior to and during our trip to the session of the Human Rights Council. Thank you for sharing all your experience in human rights and also for all your tips, insights and contacts to get the best out of the Geneva experience.

World Conference Against Racism: Mahmoud Ahmadinejad's Free Speech

By Nicole Phillips

On April 20, Iranian President Mahmoud Ahmadinejad addressed a packed assembly hall on the opening day of the World Conference against Racism at the United Nations in Geneva. The crux of his widely reported speech was to criticize as cruel and racist Israel's occupation of Palestine and the U.S. wars in Iraq and Afghanistan. While many government delegates and organizations cheered Ahmadinejad, twenty-three countries, mostly from Europe, walked out of the session in a united protest of the President's piercing remarks.

The United States did not have the chance to walk out. We did not even show up. Along with Cana-

da, Germany, Italy, Poland, Australia, New Zealand, and the Netherlands, the United States did not attend the Conference, objecting to anticipated debate of the Israel-Palestine conflict and efforts by a number of countries at the first World Conference against Racism in Durban in 2001 and in the preparatory meetings for this conference to ban any speech that may incite religious hatred. You may recall the ardent debate in the aftermath of the Danish cartoons depicting the Islamic prophet Muhammad.

I attended the Conference on behalf of HRA, along with Qadir Husan, a human rights lawyer from Iraq who is a student in UC Davis's LLM program. Qadir is preparing his thesis the hate speech, arguing that protecting (rather than regulating) hate speech is necessary to the full enjoyment of freedom of expression, to keep the market place of ideas functioning well, to avoid unreasonable intrusion on individual liberty and autonomy, and to avoid the impairment of democratic life in society.

Qadir and I watched Ahmadinejad's speech. As predicted, politics surrounding Israel and Palestine did dominate. Many reports filed by news organizations from the conference emphasized either support or opposition to Ahmadinejad's speech. Unfortunately, human rights advocates from countries like Sudan and Zimbabwe, who sacrificed sparse resources to travel to Geneva to voice their stories of genocide, poverty and discrimination, were overshadowed by the political drama.

In my opinion, however divisive the politics, the Obama Administration still should have attended the conference. The "boycott" of this monumental global conference was a confusing message to send a world that continues to celebrate President Obama's historic election. The Administration is committed to closing Guantanamo and joined the Human Rights Council, yet its denouncement of this important United Nations conference represented a cold shoulder to the other 189 participating countries seeking unity and consensus on racism. The Obama Administration could have and should have taken a leadership role in the global fight against racism.

Ironically, Ahmadinejad's speech disseminated the very ideas of hatred that Iran proposed to outlaw at the conference, but his speech would be protected in the U.S. Hate speech in the U.S. is generally protected by our First Amendment, unless it incites imminent violence or harasses an individual or individuals. Even though the message of Ahmadinejad's speech was predictable, he is entitled to say what he wants just as we should be able to criticize his words. That is, after all, the principle of freedom of expression. The United Nations should not be controlling the content the speeches

of world leaders, however unsavory.

As I sat in the plenary session listening to the Iranian president condemn the United States, I wished that President Obama could have been there to deliver one of his eloquent, powerful speeches and shift the focus of the conference and media attention away from the hateful antics. Instead, over the course of five days, I listened to speech after speech condemning the U.S. boycott. Far from wresting the spotlight away from Ahmadinejad and championing the fundamental principles of freedom of expression, the United States instead remained in the shadows and endured continued criticism. It was a huge opportunity lost.

GEAR-ing Up for UN Gender Reform

By Birte Scholz and Julianne Cartwright Traylor

As a consequence of over 60 years of almost yearly expansion and growth, the UN today encompasses a mix of agencies, funds and programmes. Some work well together, while others operate independently of each other, often wasting valuable resources in uncoordinated and therefore fruitless efforts. Member States - with their specific agenda - further hamper the implementation of agreed goals and normative agenda.

During the World Summit of 2005, while reaffirming the Millennium Declaration of 2000, Member States determined to address this situation put the question of "system-wide coherence of the UN's operational activities" on the agenda. Reform, it was and continues to be agreed, is needed. The arguments, however, are over the how and where and, of course, the big question of with what (and whose) money.

On Monday, 15 September 2008, Member States adopted a resolution (A/Res/62/277) on the process of System-wide Coherence. According to the text, the work that had already begun would continue, yet would "... focus exclusively and in an integrated manner on 'Delivering as One'" at country and regional levels, harmonization of business practices, funding, governance, and gender equality and the empowerment of women."

Global Campaign for Gender Equality Architecture Reform

The Global Campaign for Gender Equality Architecture Reform, or GEAR, is playing a major role specifically on the issue of gender equality and the empowerment

of women. GEAR comprises of over 275 organizations in more than 50 countries. The Campaign's Working Group is co-facilitated by the Center for Women's Global Leadership (CWGL) and the Women's Environment and Development Organization (WEDO). Representatives of NGOs such as the Huairou Commission participate in the New York UN Lobbying Strategy Group. Human Rights Advocates supports the work of the GEAR Campaign and its representatives have attended meetings convened by GEAR at the United Nations in New York City. The GEAR Campaign is the most vocal and cohesive global advocacy group calling for a newly consolidated and stronger United Nations entity for women.

The UN does not lack mechanisms dealing with gender equality and women's empowerment. Its current gender-focused entities include the Office of the Special Advisor on Gender Issues (OSAGI); Division for the Advancement of Women (DAW); International Research and Training Institute for the Advancement of Women (INSTRAW); and the United Nations Development Fund for Women (UNIFEM). The total number of staff positions in these agencies is 278 and the total funding is 88.7 million USD.

Each UN entity also has gender focal points who work to ensure gender mainstreaming, and departmental focus points also address issues related to gender balance, with gender theme groups at country level. The UN Commission on the State of Women (CSW), created in 1946 as one of the first standing commissions in the UN, is the principle global policy making body on women's advancement and gender equality.

Yet according to the GEAR Campaign, and many others, a stronger entity is needed. Currently a "strong driver at the leadership level is clearly lacking" (GEAR Campaign submission to the UN CSW 53rd Session), and there is no systematic and effective mechanism to deliver on commitments like CEDAW, Beijing Platform for Action, Security Council Resolution 1325 on Women, Peace and Security.

Various Proposed Options

There are a number of proposed options on the table that have been hotly debated over the last three years. These options include:

A. Keeping the status quo;

B. Creating an autonomous Fund for Gender Equality, to which the GA and ECOOSC would report through. However, a Fund/Programme in the UN cannot have policy and normative dimensions. As a Fund is autonomous, it would not play a leadership role in ensuring accountability of the UN Systems.

C. Creating a Department in the UN Secretariat would be limited in that it would operate through a network of technical advisors rather than a permanent field presence- this would therefore have limited opportunities to strengthen attention to gender perspectives across sectors and would not be able to play a major role in implementing functions.

D. Creating a Composite Entity that would combine the four gender-specific entities and integrate all of their existing mandates and build on them.. The new entity would scale up towards having universal coverage in all 150 UN programme countries, and seek solid partnership with women's organizations and other stakeholders to "best meet the needs of women on the ground." The new entity would be led by an Under Secretary and assisted by two Assistant Secretaries General.

With all four options, the UN CSW would remain as the main policy making body.

GEAR Support for the New Composite Entity

Creating a new Composite Entity is the one identified by GEAR, as well as by the Secretary General and many Member States, as the option with the best promise for addressing gaps and ensuring gender mainstreaming and accountability, working toward greater effectiveness in the area of gender equality and women's empowerment.

A Department would not have a field presence, and a Fund/Programme would not be able to link the normative and operational functions- an area which has been consistently noted as weak. As the servicing function would continue within the Secretariat, fragmentation would continue.

The finer points of the proposed Composite Entity

The GEAR Campaign promotes the Composite Entity based on the opinion that such an entity will greatly advance gender equality, the empowerment of women and women's human rights throughout the world. It will be a driver for the UN System on gender, and allow the UN to speak with one voice on gender. It will be able to strengthen links between normative and operational policies.

Only such an entity, argues the GEAR Campaign, would have the required authority and position within the UN for close coordination among UN agencies in planning and implementation of gender-focused activities and strategies, and will be able to provide substantive support to the UN bodies of CSW, ECOCOC, the General Assembly and the Security Council. Such an entity will lead UN system-wide gender mainstreaming and ensure monitoring and

accountability of the UN to women worldwide; and importantly, be able to research, advocate for and monitor the implementation of all major UN agreements and documents on women.

With a strong country presence (over 80%) it will lead innovative and catalytic country driven programming, gender mainstreaming and capacity building, especially focused on technical cooperation in line with national strategies. It will develop and maintain strong and strategic partnerships and make best use of expertise and competencies on the ground.

In summary, the GEAR Campaign is calling for:

1. UN Member States to adopt a resolution to create an Under-Secretary General position to ensure representation and decision making at the highest level, for both policy development and program operations at the global and country level. This post would be higher level leadership in executive decision than is presently in existence;

2. Stronger field presence and policy as well as programmatic mandate to improve the lives of women around the world;

3. Substantial and predictable resources to ensure capacity to meet expectations and deliver results at all levels, ambitiously funded at a minimum level of US\$1 billion with increases over time;

4. Accountability of governments and UN through active involvement of civil society in the new entity, particularly women's NGOs;

5. Promotion of gender mainstreaming by the integration of gender equality and women's human rights, especially at country level and in the UN reform process;

6. Systematic and transparent, and diverse civil society participation in the establishment and working of a new entity.

7. A new Executive Board for the entity, with full participation of civil society.

While the GEAR Campaign has garnered the support for the Composite Entity from many Member States, including the Secretary General, there are differing opinions on the best way forward. The USA's involvement in the GEAR Campaign is recent and well received.

The Composite Entity has the support of the co-chairs of the System-Wide Coherence process, Ambassadors Mbuenda of Namibia and Yanez- Barnuevo of Spain, who, in a meeting with GEAR, emphasised that they were seeking a broad consensus to take real action on the gender entity during the General Assembly in September 2009.

At the official UN General Assembly meeting entitled *Interactive Meeting on Institutional Arrangements*

in Support of Gender Equality and the Empowerment of Women held recently in June, the overall details regarding the staffing and funding of the new gender entity were discussed. While not all Member States agreed with all aspects of the Composite Entity, a majority did call for some action on it, whether it be passage or more information. Member States also called for a draft resolution, specifically calling for actions on the Entity, to be brought during the General Assembly - a critical step in moving forward. The US representative also voiced support for the composite entity during this meeting.

However, there is not across the board acceptance. Funding a 1 billion USD mechanism will not be easy, and there is strong opposition to the suggested breakdown of 16 percent assessed contributions vs. 84 percent from voluntary funds.

But GEAR continues to campaign for a strong commitments from governments - critical in ensuring that an Under Secretary General for Women is put in place and the Composite Entity created in a timely way.

In conclusion, after three years of intensive consultations and debates among Member States, there is a need to take decisive action without further delay. The UN must take on adequate institutional capacity to fully realize the goal of gender equality and the empowerment of women.

To read a more comprehensive discussion of women's concerns about gender equality and gender mainstreaming in the UN and UN Reform: <http://www.cwgl.rutgers.edu/globalcenter/policy/unadvocacy/Gender%20Equality%20Architecture%20and%20UN%20Reforms%20July%202006.pdf>; and at <http://www.wedo.org>.

HRA NEWSMAKERS

Todung Mulya Lubis Wins Defamation Lawsuit for Time Magazine

By Rita Moran

Todung Mulya Lubis, HRA's International Advisory Board member in Jakarta, served as lawyer for TIME Magazine in a decades-long law suit in Indonesia's courts. Time Magazine was charged with defaming ex-dictator Suharto by alleging in a cover story titled "The Family Firm" that Suharto and his children amassed \$73 billion, the bulk of it from oil and mining,

forestry, property, banking and petrochemicals, much of which was lost in the 1997-98 Asian financial crisis.

Supreme Court Judge Hatta Ali ruled recently that the article “did not violate the law” or breach “the press code of conduct,” and that Time owed no money to the Suharto family.

“We have been struggling to find justice for a decade now,” said Todung Mulya Lubis, adding that he hoped the decision would give journalists the courage to do their jobs. “It has been a long road.”

Suharto, who died last year at the age of 87, seized power in a 1965 coup that left up to half a million people dead. He ruled the country with an iron fist, killing or imprisoning hundreds of thousands of political opponents before he was ousted in a wave of street protests one decade ago. He evaded prosecution on charges of embezzling state funds, with lawyers successfully arguing up until his death that he was too ill to stand trial. Neither was he ever tried for human rights abuses.

The administration of current President Susilo Bambang Yudhoyono, who is widely expected to win another five-year term in elections this July, is credited with overseeing the trials and convictions of several high-profile government officials charged with graft.

HRA’s Annual Meeting

HRA held its Annual Meeting on April 14, 2009, at HUSE, School of Law. The following were elected by HRA members at the meeting to serve on HRA’s Board of Directors: Connie de la Vega, Jeremiah Johnson, Kimberly Irish, Conchita Lozano-Batista, Nicole Phillips, Birte Scholz, and Julianne Traylor. All but Ms. Irish are incumbents to the Board. Ms. Irish replaced Kristina Zinnen. HRA thanks Kristina Zinnen for her all her dedicated service to HRA and welcomes Ms. Irish.

Ms. Irish is the Program Director of Law Students for Reproductive Justice, a national non-profit network of law students and lawyers committed to protecting and expanding reproductive rights as human rights. She served as a Frank C. Newman intern in 2006, and

Virginia Leary

August 15, 1926 – April 8, 2009

Virginia Leary died suddenly of a heart attack in Geneva, Switzerland, on April 8, 2009, where she had lived for a number of years since her retirement. She grew up in Salt Lake City, Utah, where she also attended the University of Utah. For her outstanding contributions to human rights, she was awarded the Medal at the American Society of International Law at its annual meeting in Washington, D.C. in April 2008. Professor Leary was a prolific scholar on a broad list of issues. In addition to her outstanding professional career Professor Leary was an exceptional human being. She met with Frank C. Newman Interns almost every year for the past 10 years. Her wit and good humor made her friends wherever she went, as is demonstrated by the following statement of an HRA intern whom she had just met prior to her death:

I am saddened to hear today about the loss of Virginia Leary. In the short few times that I had the pleasure of meeting her, I was impacted by her strength, humor, kindness and spirit. She was a true character, in the grandest sense of the word. I’m reminded of a quote: “The most wasted of all days is one without laughter.” If that’s the standard, I’m sure Virginia didn’t waste a minute. -Amol Mehra

I could not have said it better myself!

Professor Connie de la Vega

lobbied the International Labour Organization and the Office of the High Commissioner on Human Rights in Geneva on human rights violations of migrant workers.

The Board elected the following officers for 2009-2010: Nicole Phillips will serve as the Board’s President, Connie de la Vega was elected Treasurer and Jeremiah Johnson was elected Board Secretary.

Human Rights Advocates

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www.humanrightsadvocates.org

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

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 \$40.00
_____ Student or low-income (sliding scale available) \$20.00
_____ Other __\$50.00 __ \$75.00 __\$100 __\$125 \$_____

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