



Human Rights Advocates

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HRA Educational Event in Honor of Virginia Leary

By Jeremiah Johnson

On October 19th, 2008, Human Rights Advocates hosted an evening honoring the life and work of Professor Virginia A. Leary at UC Hastings College of Law. The event provided friends and family an opportunity to not only pay tribute to an outstanding human rights advocate, but also to discuss some of the human rights issues promoted by Virginia.

The night began with inspiring tributes by Julianne Traylor, Connie de la Vega, Virginia Belletini, and Naomi Roht-Arriaza. Each personal anecdote painted a picture of a remarkable person, full of strength and humor. Virginia was a wonderful colleague, loved and cherished, and we all will miss her.

After the tributes, Professor Bill Ong Hing began the second half of the evening by discussing "Immigration Law and Human Rights." Professor Hing touched on the intersection of immigration and human rights, especially regarding detention, trafficking, hate crimes and the targeting of individuals seeking work. The discussion then turned towards labor and human rights as Nicole Phillips, an attorney with Weinberg, Roger and Rosenfeld and HRA Board member, discussed enforcing "Labor and Environmental Rights". Specifically, Ms. Phillips explored the possibilities of using free trade agreements for human rights enforcement, including labor and environmental protections. (see Ms. Phillips' article, Enforcing Labor and Environmental Rights through Free Trade Agreements, below) Next, Birte Scholz, with the Huairou Commission and HRA Board member, concluded the substantive discussion with "Right to Adequate Housing." Ms. Scholz reminded us that housing is not a service-based issue;



HRA Board Members Connie de la Vega, Julianne Traylor, Nicole Phillips and Birte Scholz with Professor Bill Ong Hing, Virginia Leary's niece Virginia Belletini (with Kitty) and other family and friends.

rather it is a rights-based issue (see Ms. Scholz's article, Housing is a Human Right: UN Special Rapporteur on Adequate Housing Visits the U.S., below).

As the night ended, HRA gave thanks to UC Hastings, especially Dean and Chancellor Leo Martinez, for providing a venue for all of us to gather one more time and express our thanks to the life and work of Virginia A. Leary, human rights advocate.

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Tribute to Virginia Leary

Remarks from Virginia's niece at the Human Rights Advocates Memorial Event

By Virginia Bellettini

“Thank you to all of you present here tonight, to honor my Aunt Virginia Leary. I am Virginia Bellettini, the daughter of Virginia's sister, Mary Ellen Sherry, and here with me tonight are my sister, Judy de Carbonel and her husband, Frank and their daughter, Lisa de Carbonel, and my husband, Tim Bellettini. We are also honored tonight by the presence of Bishop John Cummins, and our very dear family friend, Peter McGrath, both good friends of Virginia's.

I'm not here to talk about Virginia's many professional accomplishments as most of you, her colleagues, know all too well of her tireless efforts as an advocate of human rights and her vast scholarship in international law. Her work in these areas was just one of her many passions in life and the outpouring of affection and praise for her after her death, from colleagues, students and those whose lives she touched in a myriad of ways is a testament to that passion.

But to us, her family, Virginia was also, quite simply, “Aunt Jinny.” Or, as she became known after my arrival and the two Jinny's had to be distinguished, she was “Jinny Major” and I, “Gini Minor.” We all recognized that Jinny was doing very important work that was vital to her, whether in Evanston, France, the Philippines, Sri Lanka, Saskatoon, Buffalo, San Francisco or Geneva. It was sometimes difficult to keep track of her.

And yet, her family was of supreme importance to Jinny too. When Jinny visited we all knew we were in for good times, plenty of laughs and fascinating stories. She faithfully kept in touch with her sister, Pat, in Chicago, her sister-in-law Nancy, in Salt Lake City, and our mom, her sister, Mary Ellen, always wanting to know about their lives and the latest activities of her 21 nieces and nephews. She delighted in sharing our lives and wanted to know what each of us was doing and thinking.

When she began to teach here at Hastings and lived with Mom in Piedmont, it was a wonderful gift, for both of them, to share in daily life. Jinny was just a lot of fun. Combining her love of history with her love of family, one of her projects over the past couple of years has been to write up a history of the Leary family: from her remarkable father, William H. Leary, Dean of Law at the University of Utah for 35 years, and her mother, Catherine, an activist and suffragette who chained her-

self to the White House gates and was imprisoned, to the struggles and triumphs of her siblings: Mary Ellen, Bill, Jack, Peter and Pat. She researched her roots back to Ireland and was so proud of her Irish heritage, she applied for and was granted Irish citizenship. When she died she carried an Irish passport.

This gift to the next generation of Learys will enrich us and inspire us, for quite simply, the lives led by her generation have set a standard that is difficult for us to match. Some of our last phone conversations were all about the treasured bits of family history that I was discovering as I cleaned out my mother's home after her death last year. Jinny delighted in our mutual interest in family history and she was busy working on the next volume of the history at the time of her death.

Jinny was a woman of deep and profound faith, and she thought carefully and critically about her religion and its role in her life. She was committed to the Catholic Church but was interested in faith in all of the ways that is manifested around this globe. Her Geneva bookshelves held works on the Koran, the Buddhist tradition and Confucianism alongside biographies of the saints and sinners of Western (and Eastern) Europe and of the Americas. She was entranced by the variety of life and belief of all peoples, knowing that we share an obligation to be better, to help those in need and to fight for those who cannot fight for themselves.

Over the last few years, it's been increasingly difficult to have Jinny so far away, in Geneva. We all missed her very much and after my mother's death last year, I came to rely upon her comfort and support. But Geneva was her home. She regaled us with tales of her non-stop social life there, the Christmases in the French countryside, the celebrations of Mass in her apartment with her Franciscan buddies, Thanksgiving feasts and Democrats Abroad election events.

I used to kid her and ask if she were hit by a bus if anyone there would know to call the family. Little did I know what I was asking. When I went to Geneva after her sudden death I discovered what a truly rich life she had there. She had a family in Geneva. The outpouring of love and care by her many wonderful close friends in Geneva was overwhelming. It made me feel so happy, despite losing her, that she was so loved and cherished by her family of friends there. Jinny found so much joy and meaning in life. At the front door to her Geneva apartment, she had a taped a postcard that said simply “Vive La Vie”. Live life....as though she needed to be reminded! Jinny lived life - to the fullest - every minute of each day and we're all lucky to have seen how - through her - it can be done.”

Housing is a Human Right: UN Special Rapporteur on Adequate Housing Visits U.S.

By Birte Scholz

We hear of foreign dignitaries visiting our country for “diplomacy”, we hear of famous movie stars or sport celebrities coming to the U.S. to learn from us, but we often do not hear of some of the most important visits - especially if those visits may result in some critique of our country and the way it operates.

Early last month, such a visit took place. From October 22 to November 8, the UN Special Rapporteur on Adequate Housing,¹ Brazilian national Raquel Rolnik, visited towns, cities and an Indian Reservation on a two week official visit to the U.S., investigating the situation of housing. Ms. Rolnik’s mandate focused on public housing, Section 8 housing, homelessness, and the foreclosure crisis. She visited and held town hall meetings in Washington DC, New York, Chicago, New Orleans, Los Angeles and Pacoima, CA, Wilkes-Barre, PA, and the Pine Ridge Indian Reservation, South Dakota.

Her conclusions highlighted the dire reality: “Millions of people in the U.S. are spending high percentages of their income to make their monthly rent and mortgage payment, face foreclosure or eviction, and live in overcrowded and substandard conditions... The number of homeless continues to rise with increasing numbers of working families and individuals finding themselves on the streets. The economic crisis has exacerbated this situation.”

The mission of the Special Rapporteur was facilitated by the National Law Centre on Homelessness and Poverty and the National Economic and Social Rights Initiatives (NESRI), as part of the National Campaign to Restore National Housing Rights, a national coalition of housing rights organizations and community groups working around the country that is calling on the national government to reclaim its historic commitment to provide decent housing for everyone. Hundreds of individuals and organizations were involved in making her visit possible. Using the modern social media tools available, the mission of the Special Rapporteur had its own blog and could be followed on Twitter.

During her 18-day fact-finding mission, the UN expert met with senior Government officials at the local, state, and federal levels, including the Department of State and the Department of Housing and Urban Development (HUD), among others. She held public

town hall meetings in each city visited, and engaged in extensive discussions with many representatives from a strong network of non-governmental organizations, hundreds of residents, and people experiencing homelessness. ‘Housing is a human right,’ was the rallying cry heard throughout each of these public meetings. Her report will be given to the UN Human Rights Council in March 2010.

Ms Rolnik witnessed that low income housing in the U.S. is indeed in crisis. Federal funding for low income housing has been continually cut over the past decades leading to decreased stock and quality of subsidized housing. The trend of U.S. public housing in the last 15-20 years has been focused on developing mixed income communities. Yet this policy results in demolitions of existing public housing, which, the Special Rapporteur pointed out in her presentations, resulted in displacement, discriminatory practices and a reduction in stock of affordable housing for the poor.

Dating back to the National Housing Act of 1934, the U.S. has a longstanding and established history of commitment to decent, safe, and affordable housing. Yet unfortunately, Government policies have traditionally not treated housing as a human right and, as a result, the housing needs of the most vulnerable have gone unfulfilled. Certain groups, such as women, Native Americans, and in particular the most vulnerable, such as the mentally ill or veterans, have not benefitted on an equal basis.

Yet there is hope. The Special Rapporteur expressed her pleasure at the new Administration’s critical thinking and willingness to take on issues of affordable housing and to begin to address decades of budget cuts. She lauded recent announcements to increase budgets for housing, but noted that a wider range of permanent housing options is necessary. The most vulnerable need to be considered, and all who are to be targeted in housing must be a part of the planning and decision making process, as the international human rights norms require.

The visit of the Special Rapporteur itself, on official invitation of the U.S. (Special Rapporteur Miloon Kothari did visit the U.S. in 2005, but not as an “official” visit and thus no report could be made an official UN document) also signals the advent of a new era in housing. While not yet going so far as to call it a human right, the Obama Administration has noted significant commitment to reform practices. With continued advocacy, the day may come where housing rights do in fact become a reality for the 1.6 million homeless persons (in 2009), and the millions more on the verge of homeless-

ness through loss of housing, here in the US.

Ms Rolnik underscored the fact that U.S. housing advocates can and should use international human rights standards to reframe public debate, develop and support legislative proposals, supplement legal claims in court, and advocate in international fora and support community organizing efforts. With increased housing resources at the local, state, and national levels, through the use of human rights law and strategies to change domestic policy and law, each and every American may one day realize the right to adequate housing.

1. The post of Special Rapporteur is an independent post, free from any ties to government or organization. Ms Rolnik has extensive experience in housing and urban policies, as an architect and urban planner. A Brazilian national, she was appointed as “Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context” (the official name of her post) in May 2008.

Enforcing Labor and Environmental Rights through Free Trade Agreements

By Nicole Phillips

Free trade agreements received a lot of attention in 2008, when Congress voted down entry into a free trade agreement with Colombia and then Presidential candidate Barak Obama pledged to strengthen labor and environmental protections in trade agreements. One political motive was to placate workers and unions in the United States – making it more difficult for domestic companies to export jobs to developing countries where the business costs are often cheaper because labor and environmental regulations are so minimal. The potential for strengthening human rights protections outside the U.S. is seen by some as a bonus of free trade agreements, but probably not one of Congress’s main objectives.

Despite the lack of political will, environmental and labor protections are directly related to the issues of trade and therefore appropriate for trade agreements. Trade agreements are of course created principally for economic reasons – to encourage trade by lowering tariffs and reducing other trade barriers. Lower tariffs, the

argument goes, will create an increase in the market and attract investment into developing countries by businesses from the U.S. and other developed nations. The influx of capital and technology will allow the developing economies to strengthen and stabilize.

Free trade agreements are also touted as encouraging further development of domestic political and legal systems. Unfortunately, the reality is that many developing countries have minimal labor and environmental protections and/or lack enforcement capabilities (or the political will to do so). Unless human rights protections in developing countries are fortified through free trade agreements, including accountability mechanisms to bring claims of violations against state parties, the increase in investment and business will only feed the exploitation of workers, the environment, and those who suffer from environmental degradation.

Free trade agreements could be one of the most effective ways to enforce human rights. Labor protections are enshrined in principals of the International Labor Organization and multiple international human rights treaties. Many human rights treaties establish overseeing bodies that require self-reporting from parties to the treaty. Despite the oversight, countries often thwart compliance. They do not submit reports when required, and those that do, deny violations even when cited by the reviewing committee. There are also environmental treaties, but the environmental community complains that the treaties are unenforceable because they lack oversight committees to review compliance. By contrast, trade agreements could hold state parties directly accountable for human rights violations by imposing tariffs against them for turning a blind eye to exploitation of human rights that is related to trade.

Unfortunately, the recent U.S. free trade agreement with Central America and the Dominican Republic has had very little, if any, impact in protecting workers or the environment from abuse. The Dominican Republic-Central American Free Trade Agreement (“DR-CAFTA”), was signed in 2004 by the U.S., Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and by the Dominican Republic in 2007. The Agreement’s environmental and labor provisions are weak, even when compared to the North American Free Trade Agreement (“NAFTA”), signed in 1994.

DR-CAFTA at least contains labor and environmental protections in the main body of the Agreement, unlike NAFTA, which included protections in subsequent side agreements. But the protections themselves are weaker than those in the NAFTA side agreements. The NAFTA labor agreement (called the “North Amer-

ican Agreement on Labor Cooperation” or “NAALC”) promotes eleven basic labor principles: 1) freedom of association, 2) collective bargaining, 3) the right to strike, 4) prohibition of forced labor, 5) protection for children and young persons, 6) minimum employment standards (such as minimum wage and equal pay), 7) employment discrimination, 8) equal pay for men and women, 9) prevention of occupational injuries and illnesses, 10) compensating for occupational injuries and illnesses, and 11) the protection of migrant workers. These standards comply with those set out by the ILO’s Declaration of Fundamental Principles and Rights to Work.

By contrast, DR-CAFTA defines labor objectives more narrowly and only allows claims for those statutes and regulations that apply to: 1) the right of association, 2) the right to organize and bargain collectively, 3) a prohibition on forced or compulsory labor, 4) minimum ages for child employment and elimination of the worst forms of child labor, and 5) acceptable minimum wages, hours of work and occupational safety and health. The result is that any claims of employment discrimination (such as sexual harassment), equal pay for men and women and the protection of migrant workers will not be addressed under the rubric of DR-CAFTA. Parties are merely encouraged to “strive to ensure” that the five ILO international standards reference above are applied domestically.

While DR-CAFTA’s labor section at least establishes minimum standards based on ILO principals, the Agreement does not establish any minimum standards for environmental protection. Instead, each Party may “establish its own level of environmental protection and environmental development policies and priorities,” which basically codifies pre-existing domestic obligations. Any remedies under the Agreement also only apply where there is a “sustained or recurring course of action.” Thus, a onetime incident such as an oil spill would be unpunishable.

Another shortcoming of DR-CAFTA is its weak enforcement provisions. Claims of labor and environmental violations under the Agreement may only be brought if a party fails to enforce its own domestic laws. And there is no “right of action” against another party for failure to comply with the Agreement. Individuals residing in any of the signatory party territories who wish to bring a complaint, whether against their own government or that of another party, must convince a party to invoke the dispute mechanisms on their behalf. But even these provisions are largely unenforceable because there are no possible fines or sanctions that can be applied. Annual monetary damages up to \$15 mil-

lion a year are possible, but the damages are not payable to the afflicted party. Instead they placed into a fund to improve labor conditions in the defending country. Suspension of tariffs is only possible if the fee is not paid. There is a citizen complaint procedure for environmental violations, but the procedure confers no enforceable right of action to private parties and their outcomes will produce no legally binding effect. The Agreement does not require the offending governments to remedy the omission and there is no requirement for that harmed parties receive restitution.

In the U.S., the Office of Trade and Labor Affairs (“OTLA”) is the designated contact point charged with handling submission alleging noncompliance of U.S. trade agreements. The OTLA issues a public report, but the U.S. retains complete discretion and may ignore OTLA’s recommendations.

In April 2008, the first claim for labor violations was filed in the U.S. under DR-CAFTA. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), along with six Guatemalan workers’ unions, filed a submission with the OTLA alleging the mistreatment of union leaders and workers – from illegal firing, to death threats, to murder. As John Sweeney, former President of the AFL-CIO, observed, “Guatemalan workers are being targeted for their union activity. Without the freedom from fear to join unions and bargain collectively, how can we expect any workers to benefit from a trade agreement?” In January 2009, the OTLA issued a public report that overwhelmingly supported the AFL-CIO’s claims, yet declined to recommend that the U.S. take action against the Guatemala government.

Unsurprisingly, no group has found relief through the enforcement provisions of DR-CAFTA. This is not unusual for U.S. trade agreements. As of 2008, only 23 workers’ rights cases against four U.S. trading partners had been filed in the U.S., despite the eight agreements with workers’ rights provisions in thirteen different countries, and reports that violations were occurring repeatedly in at least ten of those countries. In May 2009, the Washington Office of Latin America (“WOLA”) issued a report analyzing the progress of labor conditions in countries party to DR-CAFTA since its inception. WOLA concluded that, “labor conditions in the DR-CAFTA countries have not improved and violations continue unabated. ...[G]overnments are unable or unwilling to reform the labor legislation ... and the judicial systems continue to be inefficient and incapable of enforcing judgments.” (The report is available at www.wola.org)

The Obama Administration and Congress have

unique opportunities to make changes that can have a direct impact on labor rights in DR-CAFTA countries. Minimum standards must be established for environmental protections and strengthened for labor protections. Enforcement mechanisms must also be improved by giving affected individuals and unions a private right of action, with procedures for adjudicating complaints and enforcing damage awards, or at the very least, labor and environmental violations should be treated equally to commercial ones (which have greater sanctions). Hopefully the Obama Administration will not waste a significant opportunity to stand up for human rights.

*The author would like to acknowledge and thank USF law students Ashley Connell, Jeffrey Kaloustian and Jessica Morreale for their brilliant research and reports on this topic as part of USF's Center for Justice and Accountability's human rights program in the Dominican Republic.

Human Rights Advocates: Consultation with Special Representative on Transnational Corporations Professor John Ruggie

By Amol Mehra

On June 18, 2008, the Human Rights Council welcomed the policy framework for business and human rights proposed by the Special Representative of the Secretary General on Transnational Corporations and other Business Entities, Professor John Ruggie. The Special Representative's framework comprises three core principles: the State duty to protect against human rights abuses by third parties, including business, the corporate responsibility to respect human rights and the need for greater access by victims to effective remedies.

The Human Rights Council renewed the Special Representative's mandate in resolution A/HRC/8/L.8 and requested that the Special Representative operationalize the framework,

(g) To continue to consult on the issues covered by the mandate on an ongoing basis with all stakeholders, including States, national human rights institutions, international and regional organizations, transnational corporations and other business enterprises, and civil society, including academics, employers' organizations,

workers' organizations, indigenous and other affected communities and non-governmental organizations, including through joint meetings;

Heeding this call, the Special Representative hosted a consultation with affected stakeholders in Geneva on October 5th and 6th, 2009. I had the great pleasure of attending the Consultation on behalf of Human Rights Advocates to continue our important work on corporate accountability and the mandate of the Special Representative more generally.

My focus was on outreach and coalition building, and most of my time was spent toward these ends. These efforts were fruitful, and more than a handful of NGOs are now connected and informed on our efforts on corporate accountability. I was also approached by the Business and Human Rights Resource Center, based out of the United Kingdom, asking for copies of the submissions I made in the 10th, 11th and Ruggie Consultation to post on their website. This past month, each has been featured on their site, available at <http://www.business-humanrights.org/Home>.

Outside of coalition building, I also delivered an intervention concerning a report that was written for presentation to the Special Representative at the 11th Session in June. The report evidenced the need for strong accountability mechanisms to be created to hold corporations accountable for human rights violations. Through discussing examples of human rights abuses such as the private military and security industry, the private detention industry, and corporate involvement in the illicit dumping of toxic wastes, the report showcased the lacking international standards over corporate actors that have resulted in a proliferation of human rights and environmental abuses. Further, the report covers the Ruggie Framework more expansively, noting the persisting concerns that the Special Representative should consider. A version of this report, with additional contributions by Professor de la Vega, received an offer of publication with the Nuremburg Human Rights Center, and will be published this spring.

As the Special Representative's mandate draws to a close, HRA stands poised as an active participant in the dialogue on these issues. I continue to receive correspondence on these issues from the Working Group on Mercenaries, the Democratic Control over Armed Forces, the Office of the High Commissioner for Human Rights and NGOs working on the subject, and look forward to further contributions in ensuring the promotion and protection of human rights by all actors, including corporations.

Universal Periodic Review: A New Form of Accountability

By Kimberly Irish

The United Nations General Assembly created the Universal Periodic Review (UPR) process on March 15, 2006, through resolution 60/251, which also formed the Human Rights Council. The UPR is a unique mechanism with the goal of improving the human rights situations in the 192 UN member states. Every four years, each of these member states will be reviewed by the Human Rights Council. By 2011, the Human Rights Council will have reviewed every member state. Non-governmental organizations play an essential role in the UPR process by providing key information about states' human rights records at the first stage of review.

Because the UPR is a state-driven process, it is meant to guarantee equal treatment of all countries undergoing review. Member states provide "national reports" on the human rights situations in their countries; however, they alone are not the sole providers of data. Independent human rights experts and groups, human rights treaty bodies, other UN entities, NGOs, and national human rights organizations all contribute information in order to paint a complete portrait. The review focuses on member states' compliance with the U.N. Charter, the Universal Declaration of Human Rights, human rights instruments to which the state is a party, voluntary commitments made by the state, and any applicable international humanitarian law.

There are multiple stages in the UPR process. First, the member state is reviewed by a Working Group (WG) consisting of the 47 members of the Human Rights Council and assisted by groups of three states that serve as *rapporteurs*. The WG produces an outcome document summarizing the discussion. The reviewed state can then make preliminary comments on the recommendations proposed in the outcome document. The final report contains both accepted and refused recommendations. Finally, the Human Rights Council has to adopt the report at a plenary session. The reviewed state is ultimately responsible for implementing the recommendations proposed in the final outcome document.

The United States will be reviewed for the first time under the UPR during the 9th Session in 2010, between November 2 and December 3. Human Rights Advocates will join other NGOs to submit a report on the United States' compliance with its human rights ob-

ligations under both treaties it has ratified and other international human rights standards. The report will be due in April 2010.

Gender Equality Architecture Reform Success: The Road Ahead

By Birte Scholz and Julianne Cartwright Traylor

A landmark moment occurred on September 14, 2009, when the General Assembly unanimously supported and adopted a resolution to create a new gender equality entity to be headed by a new Under Secretary General (USG) (A/RES/63/311 on UN System-Wide Coherence). Women and their allies from around the world had been advocating for a strong focus on women in the UN since the first world conference on women in Mexico City in 1975. Their efforts increased in these past three years, seeking a more influential, better resourced agency on gender equality and women's empowerment. The victory of September 14th did not come easily and much work remains to ensure that a new full-fledged women's agency becomes a reality.

"Here at the United Nations, as you know, the General Assembly has agreed to create a powerful and dynamic new gender equality entity for women's empowerment. Where now we have four women-specific entities, soon we will have one that is better resourced, with a stronger field presence. We look to Member States to finalize this process swiftly. The fifteenth anniversary of the Beijing Declaration and Platform for Action is approaching. How wonderful it would be to have the new entity up and running by then -- don't you agree? I will be working with the Deputy Secretary-General to make this happen."

I will also continue to appoint more women to senior posts. Since taking office, nine new women Under-Secretaries-General have joined my team. I will soon appoint two more women Under-Secretaries-General for the posts of Associate Administrator of the United Nations Development Programme and as head of the new gender equality entity."

Secretary General Ban Ki-Moon, December 1, 2009, (<http://www.un.org/News/Press/docs/2009/sgsm12643.doc.htm>)

These words from Ban Ki Moon underscore not only the importance of the new Gender Equality Entity by the UN, but also the necessity that action be swift and concerted. The Entity will be created in early 2010, hopefully in time for the celebration of the fifteenth anniversary of the Beijing Declaration and Platform for Action adopted at the UN Fourth World Conference on Women in Beijing (1995), which occurs at the UN Commission on the Status of Women's 54th Session in New York from 1-12 March 2010.

The new women's agency will be headed by an undersecretary general, the third highest ranking officer in the UN after the secretary general and his deputy. Currently, a process is underway to put forward names for the post, spearheaded by the GEAR Campaign (an ever-growing network of more than 400 women's, human rights and social justice groups in 80 countries around the world who advocated for this gender equality agency). No names have been announced, but high ranking women, former Presidents, Ambassadors, heads of other UN agencies, and well known activists are being considered for appointment. Ultimately, Secretary General Ban will have the final say. The move to reform the women's entity came after then Secretary General Kofi Annan convened a high level panel on System Wide Coherence in early 2006 to explore how the UN could be strengthened in issues of development, humanitarian affairs and the environment.

Of the high level panel, only three of the 15 members were women. This fact signalled to women around the world that much coordinated work was needed to demand that the Secretary General add gendered equality to the agenda of the work of the panel.

Due to these activist efforts, as well as input from governments and the UN at large, the panel focused on the UN's current work on women's issues and concluded that the UN as structured was too fragmented to meet many of its development objectives for women. The panel recommended consolidating and strengthening the women's machinery at the UN in its November 9, 2006 report, which was endorsed by Secretary General Ban at the UN Commission on the Status of Women in 2007.¹

Certainly, this fragmentation has been felt in the UN's response to women. Women have had a number of women specific entities, such as the Commission on the Status of Women (in place since 1947), the Division for the Advancement of Women (DAW – a unit of the UN secretariat that provides substantive servicing to the CSW and UNIFEM), and the UN Development Fund for Women, which only became a separate agency in 1984. UNIFEM, while based in NY, is

present in only a limited number of countries with little influence. INSTRAW, the International Research and Training Institute for the Advancement of Women, was established in the Dominican Republic in 1983 and carries out research programs on gender and development. Lastly, OSAGI, the Office of the Special Advisor to the Secretary General on Gender Issues and Advancement of Women, focuses on improving the status of women internally within the UN.

Yet the efforts of these agencies and units fail to be cohesive and operate largely uncoordinated, thereby lessening their impact in the overall work of the UN. Also, while most UN Agencies have created focal point posts or programs around gender, gender mainstreaming, as a substitute for women's specific work, often dilutes issues and leaves many important issues off the table.

While some argue that the UN as a whole has been a galvanizing force in defining a global agenda for women's rights and empowerment in relation to peace and security, human rights, poverty eradication and sustainable development, expectations for an agency with moral authority have not been met. The UN fails to lead by example, for what has clearly been lacking has been a strong well resourced and coordinated driver for women's rights and gender equality, at the highest levels of governance and authority. This new gender equality entity will hopefully bring that authority, a stronger mandate, and a level of visibility and importance to women's issues to the UN.

What is planned now is to create a "composite entity" – one that is autonomous and has the stature of a department within the Secretariat, substantially resourced, with high level leadership and extensive field presence. The new entity will blend normative and operational functions to drive the gender quality and women's empowerment agenda at all levels.

Unfortunately, despite the fervor to move forward, stalling has already occurred, especially on the operational level. There have been disputes around funding, governance and delivery at the country level.

Much effort is still required to ensure that the new gender entity becomes a reality. Civil society cannot sit down and wait for the UN to work. As has been clear over the years, the UN moves slowly, at best, if not pushed. The General Assembly and the Secretary General must decide how to advance the gender architecture resolution, appoint an Under Secretary General, determine the funding level and structure, and deal with changing the gender entities described above. All of these tasks are challenging, but enforcing change is particularly problematic, as bureaucracies shun change. One

of the crucial issues that networks such as GEAR emphasize is that civil society representatives must be both active in the transitional process creating the new entity and involved in its on-going work once established.

Civil society must also play a larger role in making sure that promises made are promises kept. This is crucial because the benefits of the promised new gender architecture are immense and could make a real difference in the lives of women and girls around the world.

Readers of this newsletter who would like to sign a petition in support of the new entity that will be delivered to the General Assembly President at the start of the CSW, can click on the following link: <http://www.amnesty.org/en/appeals-for-action/gear>.

1. Secretary General Ban Ki-Moon recommended and the General Assembly approved: 1) Creating a stronger UN organization for women by consolidating the current four units (Division for the Advancement of Women, Office of the Secretary-General's Special Adviser on Gender Issues, United Nations Development Fund for Women and International Research and Training Institute for the Advancement of Women); 2) Creating a new undersecretary general, ensuring a higher leadership status than provided by the current UN women's entities; 3) Giving the agency a dual mandate, including both policy setting functions at headquarters and operational/programming responsibilities at the country level; 4) "Ambitious funding", starting at \$1 billion.

HRA NEWSMAKERS

HRA thanks **Conchita Lozano Batista** for her five years of dedicated service on the Board of Directors. Conchita's expertise in immigration and labor law has been a tremendous asset to HRA in our work on the rights of migrants. We will miss Conchita, but she will be busy as a new shareholder at Weinberg, Roger and Rosenfeld, one of the largest union-side law firms in the country, and with the birth of her son, Santiago Eamon Stack Lozano, on November 29, 2009. Congratulations Conchita!

HRA welcomes **Amol Mehra** to the Board of Directors. Amol graduated from McGill University with a Bachelor of Commerce, concentrating on Global Strategic Management and the Social Context of Business. He received his Juris Doctorate from the University of San Francisco School of Law in 2009. Amol comes to

the Board with a dedicated and creative approach to corporate accountability. As a Frank C. Newman intern, he submitted reports and delivered interventions on corporate accountability to the Human Rights Council and the recent Consultation with the Special Representative on Transnational Corporations, Mr. John Ruggie. Amol's work at the Council resulted in an invitation by members of the Working Group on Mercenaries to participate and submit suggestions towards the creation of an international agreement regulating the use of private military and security companies.

Amol has published articles on international law issues, including the World Trade Organization Government Procurement Agreement, the "Protect, Respect, Remedy" Framework, and on the proliferation of private military and security companies. Amol is currently a Legal Advisor to HRA and co-founder of www.rightrespect.com with former Frank C. Newman intern Nicole Skibola. Amol will be taking Conchita Lozano Batista's seat on the Board of Directors as an interim member until HRA's elections in April 2010.

HRA signed on to a Joint NGO Appeal calling for the reinstatement of the UN Independent Expert for Victims in the Congo that was eliminated in March 2008. Since then, fighting between various forces and the Congolese army have resulted in serious violations of human rights, including extrajudicial killings as reported by the Special Rapporteur on Extrajudicial Executions, Professor Philip Alston.

HRA also signed on to a letter to UN Secretary General Ban Ki-Moon by U.S. law professors and lawyers critiquing recent action by Haiti's Provisional Electoral Council that disqualified 15 political parties from participating in the upcoming parliamentary elections. The letter argues that the decision violates both domestic and international law and has been rebuked by parties and organizations from across the political spectrum, yet the international community continues to support the charade. The community is concerned that, if allowed to stand, the disqualification will cause civil unrest, derail development and rule-of-law efforts, and lead to further human rights violations. To learn more about these issues here is an article by Associated Press writer Jonathan Katz (<http://www.miamiherald.com/news/americas/haiti/story/1374797.html>) and an Op-ed by Brian Concannon and Ira Kurzban (<http://www.miamiherald.com/opinion/other-views/story/1376563.html>) which appeared recently in the Miami Herald.

Human Rights Advocates is accepting nominations for the Board of Directors. The Board will be elected at the Spring Annual Meeting in April 2010 in the San Francisco Bay Area. Board meetings are held once a month in San Francisco or Oakland. If you would like to apply, please contact Julianne Traylor at jtraylor@igc.org by January 22, 2010.

Human Rights Advocates

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Connie de la Vega
Jeremiah Johnson
Amol Mehra (interim)
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 \$_____

Name: _____

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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