Advocacy at the UN

By Connie de la Vega

Eight students participated in the University of San Francisco’s Frank C. Newman International Human Rights Law Clinic during the Spring 2011 semester, representing Human Rights Advocates at the meetings of two UN human rights bodies. Two Edith Coliver Interns attended the UN Commission on the Status of Women (CSW) in New York and six Frank C. Newman Interns attended the Human Rights Council (HRC) in Geneva, Switzerland. One of them also attended the all-day session of the Committee on the Elimination of Race Discrimination (CERD) on the rights of African descendants.

The two Edith Coliver Interns attended the 55th session of the CSW. They were supervised by Cari Nutt, a Clinic graduate who had attended both the CSW and the HRC as a student and had supervised students at the CSW in the past. Nicole Skibola, another Clinic graduate, also assisted with the supervision. While the construction work at the UN in New York continued to create access difficulties, the Interns had an opportunity to see the CSW process from beginning to end, though this year the CSW did not adopt the Agreed Conclusions until a week after the session ended. HRA’s written statement to the CSW (NGO/1) and the Agreed Conclusions are available at: http://www.un.org/womenwatch/daw/csw/55sess.

The six Frank C. Newman Interns who attended the 16th session of the HRC were involved in a number of activities. Five were able to make oral statements before the full Council and many of them were involved in resolution drafting sessions. One student made a statement at the CERD meeting. In addition to discussing their projects with delegates and other NGOs, they were able to meet two of HRA’s International Advisory Board members: José Lindgren Alves and Cruz Melchor Eya Nchama.

The HRC passed 36 resolutions at the 16th session. Twenty-five passed by consensus on issues such as the right to drinking water and sanitation (Res. 16/2), human rights defenders (Res. 16/5), minority issues (Res. 16/6), human rights and the environment (Res. 16/11), street children (Res. 16/12), persons with disabilities (Res. 16/15), torture (Res. 16/23), and the right to food (Res. 16/27). Some resolutions on countries also passed by consensus, including those on Tunisia (Res. 16/19), Myanmar (Res. 16/24), the Côte D’Ivoire (Res. 16/25), and the Democratic Republic of the Congo (Res. 16/35). Eleven resolutions went to vote including the one on Iran (Res. 16/9) that garnered only 22 votes in favor, 7 opposed, and 14 abstentions. There were also 18 decisions including the adoption of various Universal Periodic Review reports, including one on the United States (Dec. 16/115). The HRC resolutions and decisions can be found at: http://www2.ohchr.org/english/bodies/hrcouncil/16session/resolutions.htm.

The resolution on street children also established that the all-day panel on rights of the child at the 19th session will be on the administration of justice, something HRA has been working on for a number of years. The students’ reports on their work and resolutions that passed on their topics follow inside.

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Moving Beyond Awareness Campaigns in Human Trafficking Prevention

By Elizabeth Léone

As I stepped into the tiny yet crowded elevator, I thought about how my past 2½ years of hard work in law school was starting to pay off. The doors opened onto a carpeted landing as several other women, young and old from around the world, and I squeezed through the door and there it was: the General Assembly filled with CSW delegates. As focused as I had been on being chosen to participate in CSW, only now the really challenging part was about to begin.

This year’s CSW priority theme focused on access to education and attainment of employment for women and girls, with a special focus on science and technology. As the sessions commenced, it became apparent that for some less-developed countries, equal access to science & technology was clearly not a priority which led to some tension in meetings. Part of what made this experience so special was being able to see how country delegates and NGOs work through real-world differences in person.

My report was submitted as an official written NGO statement to the Commission (E/CN.6/2011/NGO/1 available at: http://www.un.org/womenwatch/daw/csw/csw55/documentation.htm; for full report, see “Promoting Education and Employment for Women and Girls as Foundations for Effective Human Trafficking Prevention,” at http://www.humanrightsadvocates.org/advocacy-at-the-un/) and is focused on using holistically designed educational and economic initiatives as a means of human trafficking prevention. There are signs that programs which address multiple issues such as job placement, child care issues, health, citizenship status, and community capacity-building not only keep women and girls out of the reach of traffickers, but also spur desperately needed economic development. Only by moving beyond awareness-raising media campaigns can there be real gains in decreasing the economic vulnerability that drives the trafficking of women and girls especially. One of the challenges for me in getting this message across to delegates was framing the issue in a way that would resonate with the priority theme, and ultimately with the finalized Agreed Conclusions. As the first week progressed and I talked with more country delegates and NGO staff, I had to reconsider the language I was using. Much of the discussion during sessions was focused on providing employment opportunities and many voices were competing for attention. With that in mind, I revised my recommendations from the narrowly-framed ‘human trafficking prevention’ to more inclusive definitions of ‘labor exploitation’ and ‘sexual exploitation.’ My goal was to get delegates to address the fact that we cannot discuss employment in a meaningful way without first acknowledging that women and girls are especially vulnerable to economic exploitation. The ability to be flexible and responsive while staying on message is one of the important skills I was able to hone at the CSW.

The temporary set-up and logistics of United Nations renovations meant that access to delegates was often difficult to obtain. When there were times that I could not access the CSW main sessions, I went to parallel events on topics related to human trafficking and other forms of gender-based violence and discrimination. I was able to voice my concern over the lack of language in the Agreed Conclusions Draft and revised drafts regarding exploitation and was able to get my recommended language forwarded to the EU delegate for the CSW. The final adopted Agreed Conclusions do contain a reference to the importance of protecting against exploitation, a small but important inclusion into the discussion.

One of the most interesting and fascinating experiences for me was to witness the diverging opinions involved in sex trafficking prevention – a split I had only come across in research during my years in law school. Prostitution is inextricably linked to sexual exploitation and trafficking of women and girls. The issue of whether or not prostitution should be legalized has unfortunately polarized the debate in sex trafficking. Proponents of criminalization insist that prostitution is unequivocally violence against women. From attending their side sessions, I was able to understand that these proponents’ fears were sparked in part by United Nations and ILO resolutions that were considering prostitution as ‘regular’ employment deserving of standard labor protections. These labor protections are a mark of acceptance, the argument goes, and make it that much more difficult to
rescue women and girls from situations of exploitation. On the other side of the debate are groups that see the selling of sex as viable employment willingly chosen and they resent being labeled as victims. They would rather see prostitution recognized as a profession deserving of health and labor protections with regulations ensuring the safety of the prostitute and her client. While both sides make powerful and compelling arguments, I see that my future challenge as a lawyer will be in discovering ways to bridge this divide and get advocates across the spectrum to focus on exploitation as the main human rights violation.

Overall, I am very grateful for the opportunity to experience global policy on women's issues in action. I was able to meet amazing women from around the world and develop important skills for my future legal career - all while learning more about the kind of law I want to practice and the ways in which I can go forth and make positive changes for women and girls in the human trafficking field.

Discrimination and Violence against Girls in School

By Ann Kariuki

This past semester, I had the pleasure of attending and participating in the 55th Session of the Commission on the Status of Women, as an Edith Coliver Intern. It was an historic session in that we were able to witness the launching of UN Women, a new administrative body under the Secretary General, empowered to continue to address gender equality and empowerment of women around the world.

The theme for the 55th CSW was access and participation of women and girls to education, training, science and technology, including for the promotion of women's equal access to full employment and decent work. The particular focus on science and technology brought up some diverging practical concerns based on the obvious disparities between countries with respect to levels of development. There were those countries that thought that access to and participation in science, technology and innovation was the next step, while many developing country delegates and I, wanted to ensure that barriers to education generally were also addressed and highlighted in the Agreed Conclusions.

Thus, my research focused on barriers to education that women and girls continue to face around the world. Research showed for example, in 2000, an estimated 113 million children in the 6-11 age group were out of school each year and about 40% of these out of school children live in sub-Saharan Africa and about 35% live in South Asia. Additionally, about 55% of all primary school age children around the world not in schools were girls and many of whom dropped out of school because of discrimination and violence they faced on the way to or in the school. For my report I chose to focus on the structural barriers such as violence and discrimination standing in the way of women and girls achieving their right to equal education. (See http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/CSW55-Gender-Violence-in-Schools.pdf.)

I chose this area because on the one hand, the major hurdles that developing countries continue to face in achieving gender parity and equality in education relate to access, affordability, and good quality education. On the other hand, I found that harassment and violence against girls in schools persisted in many developing countries in Africa, Asia, and the Middle East and this was among the major factors contributing to lower completion rates of girls in both primary and secondary levels.

Research showed that gender discrimination in and around school whether by preferential treatment or sexual harassment and violence by teachers and fellow students affected girls’ academic performance resulting in decreased attendance, participation, low self esteem, health issues such as unwanted pregnancies, unsafe abortions and exposure to HIV and other STDs. And while there was mention of discrimination and violence against girls in the area of education under treaty reporting systems such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC), there was no framework or organized standard for collection of data or monitoring and evaluation on a national or global level occurring in this regard.

My work was cut out for me. The first draft of the Agreed Conclusions included no particular mention of girls, violence and education together, but did have a general reference to societal violence against girls and women continuing to persist in Member States. Given our own access barriers in navigating and lobbying the CSW (ironic!), Elizabeth Leone, my fellow Edith Coliver intern and I figured out that the most effective lobbying would begin with pointing out how the Agreed
Conclusion were deficient and how in particular they did not reflect structural barriers that girls were facing in addition to barriers such as transportation, sanitation and indirect cost of education. I tried to reach out to Member States that were highlighted in the various reports I came across, such as South Africa, Benin, Mozambique, Botswana Malawi, Kenya, and Chile.

During the CSW, we also experienced some lack of transparency from closed meetings where delegates worked on drafting and negotiating the Agreed Conclusions. Nevertheless, to my delight, the amended and final Agreed Conclusions addressed my concerns and included language about discrimination and violence in and around schools and the need to tackle the root causes whether based in stereotypes, cultural and social traditions, education curriculum, and how monitoring and evaluation were needed to inform national policies. (See http://www.un.org/womenwatch/daw/csw/55sess.htm#agreed, para 15, 17, 19, 20, 22.)

As a woman from a developing country, this was an amazing experience to join other women leaders from around the globe to address issues close to heart.

UN Human Rights Council, 16th Session, Geneva, Switzerland

International Human Rights and Juvenile Justice

By Dana Isaac

I was fortunate enough to be one of the six Frank C. Newman interns travelling to Geneva to the Human Rights Council. My research was focused on juvenile justice, a topic that I have focused on throughout law school and hope to continue working on as I prepare to enter the legal world. Issues in juvenile justice affect children in many ways, and my work focused on issues in juvenile sentencing, specifically the death penalty, juvenile life without parole and juvenile transfer issues, as well as detention of juveniles.

Issues in juvenile sentencing affect a great deal of juveniles across the globe through various lenses. Juveniles are consistently given adult sentences despite the requirements under international law, either under the Convention on the Rights of the Child, the International Convention on Civil and Political Rights or customary international law that juveniles be treated differently than adults. There has been great progress in some areas, notably in the imposition of the death penalty on juveniles. While three countries continue to sentence juveniles to death, in 2010 Iran was the only country to execute an individual who committed a crime while under the age of 18. Although hundreds of children remain on death row, the curtailed execution of juveniles is encouraging.

Likewise, there have been improvements in the imposition of a sentence of juvenile life without parole. The United States remains the only country in the world to sentence juveniles to life without parole, although 10 countries continue to have laws that would allow them to do so, despite the fact that they do not impose such a sentence in practice. There have, however, been improvements in the United States with the recent Supreme Court case Graham v. Florida in 2010 making such a sentence unconstitutional for juveniles who commit non-homicide crimes. See Graham v. State of Florida, 130 S. Ct. 2011 (2010). Still, approximately 2,466 juveniles who committed homicide offenses will remain locked away for the rest of their lives, contrary to international law.

Juveniles are still subjected to adult sentencing through various mechanisms that transfer their cases to adult courts and judges who are not required to consider the age of the offender. Many countries simply lack a juvenile court system, resulting in children being tried directly in adult sentencing systems that do not consider their status as a minor. Other countries have national statutes that allow children above a certain age to be tried directly in adult courts, such as Indonesia which treats children age eight and above who commit specific crimes as adults. The United States allows prosecutors in specific states the discretion to file cases directly in adult courts, while other states allow prosecutors to transfer cases from juvenile courts to adult courts. All of these mechanisms erode the protections afforded to juveniles under international law by eliminating any consideration of the age of the offender.

My research also concentrated on juvenile detention. International law requires that juveniles are separated from adults in detention facilities. Despite this requirement, many countries do not have juvenile detention facilities. In Zimbabwe, for example, juveniles are detained in the same cells as adults. Other countries,
such as India, Indonesia and the United States, have juvenile detention facilities but have national laws allowing juveniles to be detained with adults in prisons and police cells. The 1,500-word written statement on these issues, focused on juvenile sentencing and detention, can be found at Juvenile Justice: Issues in Juvenile Sentencing and Detention, A/HRC/16/NGO/17. The full report can be accessed at: http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Dana_Marie_Isaac_-_Issues_in_Juvenile_Justice_-Juvenile_Sentencing_and_Detention_Practices.pdf

My work on these topics started earlier in the year since Professor de la Vega and I began collaborating with several juvenile justice organizations located in Geneva to prepare for the all day panel on the Rights of the Child held every year at the Council. This year’s topic was Street Children, and my initial goals were to ensure that language on detention and sentencing issues were included in the resolution, and to push for next year’s all day panel to be centered on juvenile justice. Working with a large group of NGOs is generally challenging, but working with a large group of NGOs in another country proved to be fairly difficult. Despite this, we were able to write an oral statement on the topic of street children and juvenile justice with five NGOs agreeing to co-sign. I was able to make this statement at the all day panel on the Rights of the Child. Furthermore, many of the NGOs we worked with before arriving at the Council agreed to support our proposed topic of juvenile justice for next year’s all day panel. Upon arriving at the Council it was wonderful to meet the individuals we had been collaborating with, and to see that this year’s resolution noted that next year’s panel would be on “children and the administration of justice” (Rights of the Child: A Holistic Approach to the Protection of the Rights of Children Living and/or Working on the Street, A/HRC/RES/16/12).

Another goal of mine throughout the session was to speak with the 10 countries that continue to have juvenile life without parole on their books about eliminating these provisions of their national law. Three of these countries, Argentina, Cuba, and Australia, were present at the Council. It was surprising how many of the delegates did not know about their national laws; almost all of the delegates did not know that such sentences were still on the books in their countries. Although this was initially frustrating, it made me realize what an invaluable opportunity I had to educate delegates about real issues that affect real children. As law students we have the knowledge to make a real difference, and ultimately delegates cannot change laws that they don’t know about. Being able to shed light on an issue that otherwise would have gone unnoticed was just as important as speaking before the Council. The experience that I had in Geneva was one that I will never forget, and taught me that there are so many avenues that one can be an advocate for change. I look forward to putting what I learned and experienced at the Council to practice as I embark on a public interest career.

Food Sovereignty: A Strategy for the Realization of the Right to Food

By Zahra Shakur Jamal

This year, Human Rights Advocates (HRA) continued its work on the right to food with a focus on food sovereignty. I prepared a 1500 word written statement titled Food Sovereignty: A Strategy for the Realization of the Right to Food (A/HRC/16/NGO/19) and a long report on the topic (available at: http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Right-to-Food-Food-Sovereignty-A-Strategy-for-the-Realization-of-the-Right-to-Food-by-Zahra-Shakur-Jamal.03-04-2011.pdf). Both discuss the negative effects of food aid and practices such as large-scale land acquisitions on the food sovereignty of recipient nations. The reports aim to establish that the principles of food sovereignty are largely consistent with the recommendations made by the Special Rapporteur on the right to food, the General Assembly, the Human Rights Council (HRC), and other international bodies and instruments on the right to food. The reports conclude that the principles of food sovereignty can be utilized both by the HRC and governments to promote the realization of just and sustainable food systems, and make concrete recommendations to this end.

The right to food has been universally acknowledged as a fundamental human right. Nonetheless, the right is subjected to regular violations in communities across the globe that face food insecurity, undernourishment and hunger. The UN Food & Agriculture Organization (FAO) has reported that more than one billion people in the world go hungry and undernourished.

Food aid is the most significant tool in addressing problems of hunger and undernourishment. While the provision of direct food aid has saved thousands of
lives in emergency situations, certain forms of food aid continues to undermine the livelihood of local farmers and thus in the medium and long-term can undermine sustainable access to food for the recipient state. For example, Haiti has been receiving food aid for over half a century yet more than three-quarters of the population remains unable to fulfill the basic need for food and in 2008 local production amounted to less than 42% of country’s food consumption, compared to over 80% thirty years ago (A/HRC/16/NGO/19). Food aid to Haiti continues to undermine its food sovereignty since the earthquake.

Food sovereignty is defined as the right of people to healthy and culturally appropriate food produced, to the extent possible, locally, through ecologically sound and sustainable methods. The concept incorporates the right of people to define their own food and agriculture systems by putting those who produce, distribute and consume food at the heart of food systems and policies, rather than the demands of markets and corporations.

A number of international instruments acknowledge the role of food sovereignty in advancing the realization of the right to adequate food. FAO’s Voluntary Guidelines dictate that the donor States must provide food aid in such a way that promotes food safety and does not disrupt local food production. The Food Aid Convention (FAC) echoes these principles. The FAC highlights the importance of a beneficiary focused approach. While both FAO Guidelines and the FAC are clear in setting forth the principles that should govern the provision of food aid, failure of States to adhere to said principles has resulted in threats to food sovereignty in recipient States.

The 2009 Report of the Special Rapporteur on the right to food emphasized that States are required to comply with human rights principles when providing food aid. It should follow then that provision of food aid should comply with the principles of Aid Effectiveness as set forth in relevant international instruments. The Paris Declaration of 2005 calls upon donor states to commit themselves to recognizing the ownership of recipient States over aid and to lining up aid behind the priorities outlined by the recipient states. The Accra Agenda for Action of 2008 calls upon the developing countries’ governments to take stronger leadership on development policies and on donor states to support these efforts by respecting countries’ priorities, investing in their human resources and institutions, and making greater use of local systems to deliver aid.

My report argues that in the context of food aid, the principles of aid effectiveness underscore key concepts of food sovereignty. Holding donors of food aid to aid effectiveness standards of the Paris Declaration and the Accra Agenda would systematically reject the forms of aid that are particularly damaging to local agriculture in recipient nations.

Another issue that I highlight is the need of small landholders of protection from both foreign land grabs and government action. Securing property rights of smallholders can further food security. The paper notes that agrarian reform is needed and should be aimed at legitimizing the property and territorial rights of small producers and landless agricultural workers. The small landowners fall within the impoverished segment, and have been identified “as the single most important group of those who are food insecure in the world today.”

As a participant in the Clinic I attended the Human Rights Council Meeting in the spring. There were two basic components of the work that I did while at the Council. The first was the oral statement that I made, addressing delegates when the right to food was being discussed. While this was a great privilege and an invaluable experience, I found that speaking with delegates on an individual basis was how we were able to get language into the resolution.

The day that the right to food was being discussed on the Council floor was my opportunity to gauge where delegations were on the issue and who we could target to introduce language into the resolution. Some of the countries that we had anticipated partnering with ended up not being our strongest supporters. In fact, the Netherlands, which is one of the countries that we mention in our report as a country that accounts for some of the food aid that are particularly damaging to local agriculture in recipient nations.

In the end, we were able to get some language into the resolution—largely by speaking to the country in charge of drafting the food resolution (A/HRC/RES/16/27), and by rallying support from other countries—some that we had pre-identified and others that were not on our radars but proved instrumental in getting some of our verbiage in. The resolution that was adopted by the HRC is available at: http://www.unhchr.org/refworld/docid/4dc0020e2.html). The experience was very instructive and rewarding for me, and I am very grateful to Professor de la Vega and to Human Rights Advocates for this opportunity.
Violations of the Prohibition Against Torture: The Death Row Phenomenon

By Lisa D’Annunzio

This past spring I was one of six lucky law students who had the opportunity to participate at the 16th Session of the United Nations Human Rights Council in Geneva, Switzerland. My report and lobbying efforts at the Council focused on human rights violations associated with implementation of the death penalty. (For my short report, see: Violating the Prohibition Against Torture: the Death Row Phenomenon and Methods of Execution, A/HRC/16/NGO/13.) Specifically, I addressed two violations of the prohibition against torture or cruel, inhuman or degrading treatment or punishment (Article 7 of the International Covenant on Civil and Political Rights): the death row phenomenon and methods of execution.

The death row phenomenon is a syndrome produced by a combination of circumstances that lead to severe physical and mental deterioration in death row prisoners. These circumstances include: extremely harsh conditions of imprisonment, long periods of time spent on death row, and the constant mental anguish of anticipating one’s own execution. As a result, prisoners become delusional, insane, and suicidal. For example, in California, where the average lapse of time from sentence to execution has been reported as over 20 years, more prisoners have died from suicide than from execution. Some retentionist countries violate the prohibition against torture through their methods of execution. Stoning, beheading, and crucifixion practices continue to take place in the Middle East and Northern Africa. In the United States, violations have occurred through the use of lethal injection. In 2009, an inmate from Ohio was stuck with lethal injection needles at least 18 times as the execution team tried for over two hours to find a suitable vein. He survived the execution attempt and remains on death row. The inmate described the experience as so painful that at times he cried and screamed.

My advocacy efforts in Geneva were centered on a few different goals. To begin with, a new Special Rapporteur on Torture had just been appointed and I wanted to draw his attention to my topic. On our first day at the Council I attended an Interactive Dialogue with the Special Rapporteur and was one of seven NGOs who presented an oral intervention during the meeting. In my statement I defined the death row phenomenon and asked whether the Special Rapporteur would examine the problem and make an assessment regarding when the circumstances that produce the death row phenomenon rise to the level of torture.

After the Interactive Dialogue I approached the Special Rapporteur in order to follow-up with him about my oral statement and give him a copy of my long report on the death penalty. (Report available at: http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Lisa_DAnnunzio_-_Violations_of_the_Prohibition_Against_Torture_-_The_Death_Row_Phenomenon.pdf.) I explained to him that Human Rights Advocates was very concerned about human rights violations associated with implementation of the death penalty. The Special Rapporteur agreed with my concerns and said he hoped to address these issues during his mandate.

Another problem I wanted to address at the Human Rights Council is the current trend towards imposing moratoriums on executions as a step towards abolition. Moratoriums without a deadline for abolition and without a prohibition on new death sentences are not the best solution for preventing violations of the prohibition against torture because they prolong and exacerbate the circumstances that produce the death row phenomenon. For example, Morocco and Pakistan both have moratoriums on executions, but have not abolished the death penalty in law and continue to issue death sentences. The death row phenomenon is brought on by conditions of death row imprisonment. If countries continue to issue new death sentences and keep people on death row, those prisoners will still be at a high risk of developing the death row phenomenon, regardless of whether or not there is a current moratorium on executions.

I brought the issue of moratoriums to the attention of delegates from Italy and Spain because these two countries have been continual leaders in anti-death penalty advocacy. The delegates acknowledged my concerns, but they ultimately view moratoriums as an important first step towards abolition. They explained that their countries were not likely to deviate from this strategy.

My final goal in Geneva was to add or shape language in the torture resolution at the 16th Session. Since the resolution was being sponsored by Denmark, I quickly located the Danish delegate who was assigned to chair the resolution drafting sessions. I gave her my long report and expressed my hope that the death row phenomenon or other issues related to the death penalty could be addressed in the resolution. She explained that this resolution was a renewal of the 2008 mandate of the...
Special Rapporteur on Torture and could therefore not accommodate new substantive language. However, the resolution was already quite comprehensive. Although the resolution does not contain language concerning the death penalty specifically, it does urge states “to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty.” (See the torture resolution, Torture and other cruel, inhuman or degrading treatment or punishment: mandate of the Special Rapporteur, A/HRC/RES/16/23, March 25, 2011.) Acknowledging the right of persons deprived of their liberty to be free from torture is an important initial step towards recognizing the conditions faced by death row inmates.

Overall, this has been one of the most rewarding experiences during my time at USF. I am so grateful to Professor de la Vega, Human Rights Advocates, and USF School of Law for making this Clinic possible.

A Good Year to Advocate for Political Participation and Voting Rights

By Peter Micek

Recent uprisings in the Middle East and North Africa presented an auspicious opportunity to advocate for political participation and the right to vote. I appreciate the support of Human Rights Advocates and relished the opportunity to speak before various bodies at the Human Rights Council regarding these fundamental rights.

Equality of political participation and the right to vote are enshrined in various core human rights treaties, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Yet, instances of voting fraud, intimidation and violence against candidates and their supporters, and disregarded election results abound. In the past year, a clear election winner in Côte d’Ivoire was rebuffed in his attempts to take power. African American men convicted of crimes continued to suffer derogations of their right to vote, even after they served their sentences; indeed, new governors in Iowa and Florida reversed measures that had restored voting rights to ex-felons. Belarusian opposition candidates ended up hospitalized, beaten after a peaceful protest of the reelection of Aleksandr Lukashenko. In Egypt, women’s groups decried failed attempts to make voting safer for women. Both Haiti and Egypt saw their most popular political parties banned from elections.

Of course, none of these issues grabbed headlines like the uprisings in Tunisia, Egypt, Yemen, Bahrain, Syria, Libya and elsewhere in 2011. Even these momentous protests, though, fit into a pattern outlined by previous Frank C. Newman Interns. Violations of the right to vote and participate, over several decades in some cases, result in larger, graver human rights abuses. Single-party rule, rigged elections, and executive intransigence foster the types of economic, social and cultural rights violations that continue to occur in North Africa and beyond.

For these reasons, HRA has attempted to promote a Special Procedure on the right to vote. This year, we lobbied to insert language on voting rights into different mandates and treaty body reports. We took two paths. First, we alerted the Committee on the Elimination of Racial Discrimination, a treaty body, about the deficiencies in voting standards for many minority groups, from the Roma to Afro-Colombians. Second, we lobbied delegates drafting the resolution on the Special Rapporteur on the Situation of Human Rights Defenders to include language promoting political participation.

My opportunity to speak came on the very first morning we arrived at the Human Rights Council. Rather than speaking before the Council, however, I intervened at a meeting of the CERD treaty body. What does my topic of voting rights have to do with CERD and eliminating racial discrimination? For starters, the disenfranchisement of felons in the United States disproportionately affects African American men. An estimated 13 percent of that demographic have lost voting rights. Also, the one day of thematic discussion at the CERD Committee—the day I spoke—dealt with descendents of Africans. To that end, I mentioned that many of Latin America’s Afro-Latino groups, as well as the dominant population in Haiti, suffer political repression and a lack of representation.

The experts who comprise the Committee were receptive to my presentation. A summary was posted under the “Interactive Dialogue” header at http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/64948DE13A6D1033C125784C0068B4CB?OpenDocument. However, the CERD meeting as a whole was not very conducive to NGO participation.

The second prong of our attack was to get lan-

We also lobbied delegates to identify those involved in elections—including candidates and party members, voters, especially female voters, election monitors, and activists for underrepresented groups—as human rights defenders. At a side panel two days before the drafting session, I worked with a Canadian delegate to find a place to insert language in the current version of the mandate. The mandate itself was sparse, just a few phrases with very little substantive direction for the Special Rapporteur. Yet the Canadian delegate helped me find a spot for a short passage regarding election monitors and candidates.

Immediately before the drafting session, I happened to approach a genial-looking Irish delegate to ask his help in proposing the language. This was the year, he agreed, for a proposal on voting rights. However, the subject of HR Defenders was contentious, he said, and the delegates hoped to pass the exact same mandate as was approved three years earlier, with little debate. Nevertheless, during the session, the Irish delegate reminded his colleagues, they were charged with “developing the mandate.” In this spirit, both he and the Canadian delegate introduced our short clause. It was debated for around 20 minutes, then voted down on the grounds that the resolution did not include specific references to rights.

Though our language did not pass into the mandate on HR Defenders, the issue was put forth and received support from a number of delegates. See the final HR Defenders resolution, U.N. Doc. No. A/HRC/RES/16/5 (adopted without a vote), at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/125/06/PDF/G1112506.pdf?OpenElement.

Luckily, some of us were also present in Geneva for the Universal Periodic Review (UPR) of the United States on March 19, 2011. Prof. Harold Koh, Legal Adviser of the Department of State, represented the United States. His presentation illuminated several human rights problems in our country: the high homelessness rates in cities, the issues immigrants face, and the administration of the death penalty. Koh distanced his own views from the government’s support of the death penalty. He admitted the government has had difficulty closing Guantanamo but extolled new policies against harsh interrogation. Afterwards, U.S. civil society groups, including HRA, were invited to speak with the U.S. delegation. Several other interns and I took the opportunity to listen first-hand to the policy-making process and meet Koh, a very friendly, knowledgeable diplomat.

In sum, I had a wonderful and very informative time in Geneva. I participated and saw the fruits of my research, and hope to find more opportunities in international human rights.

**Violence Against Children Deprived of Liberty**

*By Hillary Amster*

The first thing I looked for when applying to law schools was an international human rights clinic. Although many schools had one, none was as robust, hands-on, and impressive as USF’s. Hence it was an extraordinary honor to be a Frank C. Newman Intern and attend the 16th Session of the UN Human Rights Council in Geneva on behalf of Human Rights Advocates. I focused on a new topic for HRA, Violence Against Children, supported at the UN by the Special Representative of the Secretary-General on Violence Against Children. Because the topic is so broad and encompasses all types of violence against all children, I decided to narrow my research to what I believe are the most vulnerable children: those in alternative care institutions and those in the juvenile justice system.

Because of a lack of reporting and reliable data, it was difficult to find hard facts and statistics about violence against children in institutional care and juvenile justice systems. I soon learned however that the issue is a global one, affecting children in all parts of the world, of all races and genders, from all socio-economic backgrounds. I read reports ranging from widespread and systematic abuse in Irish Catholic institutions, to sexual assault in New York girls’ prisons, to young boys running away from torture in an observation home in Orissa, India, only to be caught, returned, and severely beaten. I found a few common themes running through each of these stories and my other research. The first was that for fear of retaliation, children rarely reported...
instances of violence not only by those who were charged with protecting the children, but also by other children or adults with whom they were housed. As such, despite the undeniably heinous crimes, perpetrators often enjoyed impunity. Lastly, when the public learned of the abuse, they were baffled as to how such atrocities could go on for so long without their knowledge.

Both my long report (available at: http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Violence_Against_Children_Deprieved_of_Liberty_-__Hillary_Amster.pdf) and my written statement (Violence Against Children Deprived of Liberty, A/HRC/16/NGO/12) focused on how to address violence against children deprived of their liberty. I not only analyzed the Special Representative of the Secretary-General's three-part agenda, but included some of my own suggestions to States, such as mandating a child's rights ombudsman, specifically responsible for monitoring these institutions, accepting and investigating complaints, and initiating legal proceedings, all in a child-friendly manner.

By the time I left for Geneva, I was, as I was told I would be, an expert in my topic. I was ready to raise awareness of the issue. The most obvious way I was able to do this was through my oral statement, which I was finally able to deliver a day after I had originally planned. It was exhilarating to sit in a room full of distinguished delegates in addition to the President of the Council and the Special Representative of the Secretary-General and watch them pull the ear pieces closer as they actually listened to what I, a law student, had to say about violence against children in institutions and juvenile justice.

Another way I was able to raise awareness was through lobbying. I made an effort to approach not only those countries that had blatantly granted impunity to perpetrators or otherwise needed immediate legal and policy reform, but also those countries that had taken a positive step towards eradicating violence against children deprived of their liberty. I not only analyzed the Special Representative of the Secretary-General's three-part agenda, but included some of my own suggestions to States, such as mandating a child's rights ombudsman, specifically responsible for monitoring these institutions, accepting and investigating complaints, and initiating legal proceedings, all in a child-friendly manner.

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Another way I was able to raise awareness was through lobbying. I made an effort to approach not only those countries that had blatantly granted impunity to perpetrators or otherwise needed immediate legal and policy reform, but also those countries that had taken a positive step towards eradicating violence against children to commend them, and learn about their good practices. In that respect, the Council provided a forum both for me to raise awareness and for me to become more aware.

I felt similarly educated at the many side panels I attended. Most people in attendance at these panels were in agreement that violence against children is "bad," but were really wondering how they could help eradicate it. Thus a panel led by the Special Representative of the Secretary-General and UNICEF on data collection for example, was particularly useful for those wishing to address the issue at its core. As the first Frank C. Newman Intern to focus on this topic, I felt it was equally as important for me to learn as much as possible to bring back to USF, as it was for me to teach others.

The highlight of the trip for me was attending the drafting sessions. I was in awe at how formal and respectful the delegates were to the drafters and to each other, their "esteemed colleagues." I felt that it was there, in the drafting room, that meaningful dialogue really took place, ending in tangible results. It was there that international law was actually made. And it was there that I was personally able to participate in the law making process. After reading through the draft resolution for the rights of the child, I was elated to find that there was a paragraph for which I could propose language relating to my topic. I excitedly showed Professor de la Vega, who encouraged me to raise my hand and address the drafters directly. It was an honor to be invited to speak in such a formal setting, and even more so to be heard, for the next day, my language was indeed adopted into the resolution (A/HRC/16/12). After that, I felt I had truly made a difference, even if that only meant adding five words to a resolution.

Overall, I had an experience whose greatness I simply cannot put into words. I came away with immeasurable respect for, and understanding of the UN Human Rights Council process. I was able to sharpen and exercise all of the skills important to any attorney, especially one in public interest. I learned so much from the Clinic, especially my fellow students that I can carry with me throughout my career. I am forever grateful to Professor de la Vega, Julianne Cartwright Traylor, HRA, and USF for this unparalleled opportunity.

Corporate Accountability Developments

By Connie de la Vega

The three organizations were appreciative of the efforts to clarify the terms, expectations, and reasoning for the use of criteria to ensure that concerns and needs of human rights victims are fully addressed in a legitimate and transparent manner. However, the comment noted concern with the voluntary nature of the criteria and the lack of a mandatory or legal mechanism in place for victims to seek redress. Another concern is the fact that the Guiding Principles do not provide a strong mechanism for situations where States are unable or unwilling to protect citizens from corporate human rights abuses. While States are the main protectors of human rights, the question arises what are victims to do when the State where the abuses take place is unwilling or unable to provide the protection or redress.

Human Rights Advocates also raised these concerns in its written statement to the 17th session of the Human Rights Council. (Corporate Accountability for Human Rights Violations: Ensuring the Promotion and Protection of Human Rights by Non-state Actors, U.N. Doc., A/HRC/17/NGO/3, available at http://daccessdds-ny.un.org/doc/UNDOC/GEN/G11/132/82/PDF/G1113282.pdf?OpenElement.) After reviewing the history of various attempts at the international level to address the issue of corporate accountability since 1972, HRA reiterated the importance of developing international accountability mechanisms when neither the State where the violations take place nor the home State of the corporation take measures for holding corporations accountable. The statement suggests that both criminal liability procedures, such as the International Criminal Court, and civil liability procedures such as the U.N. Compensation Commission, which was established to process claims and pay compensation for losses resulting from Iraq’s invasion and occupation of Iraq, should be considered. Human Rights Advocates suggested the creation of a Working Group by the Council to further develop standards on this topic as well as consider complaints and specific instances of abuse.

On June 16, 2011, the U.N. HRC adopted a resolution establishing a Working Group focused on promoting the implementation of the Guiding Principles, developing a regular dialogue on corporate accountability and discussing possible areas of cooperation with governments. (UN Human Rights Council, Human rights and transnational corporations and other business enterprises, U.N. Doc. A/HRC/RES/17/4.) There are some positive aspects to this new mandate, but since it has focused further activity on dissemination of the Guiding Principles which lack enforcement provisions, problems remain with its approach. It also established a forum on business and human rights that will meet annually for two days. These actions give will give the issue a great deal of time and visibility. The Working Group involves the participation of five members selected from all regions of the world increasing the possibility that a broader and more independent perspective will be included in the work on the mandate. Further, the Forum created under the guidance of the Working Group will give an additional opportunity for all players to participate on the subject since it is open to governments, other bodies in the UN, corporations and other stakeholders. Further, the Working Group will be conducting country visits which may also allow it to see the impact of violations first hand. In addition, recognition is given to the fact that enforcement standards still need to be developed. This is made clear in paragraph 4(e) where the Working Group is requested “[t]o continue to explore options and make recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities.

I addressed these issues at the Human Rights Forum in Lucerne, Switzerland in May 2011 in a keynote speech as well as two workshops. My comments will be published in the proceedings of the 8th International Human Rights Forum.

In addition, Amol Mehra and I worked with Alex Wong, former Frank C. Newman intern, to prepare a report entitled “Holding Businesses Accountable for International Human Rights: The Evolution of Corporate Accountability,” which will be published in July by Friedrich-Ebert-Stiftung, an organization based in Germany.

Promoting Women’s Human Rights in Human Settlements: UNHABITAT

By Birte Scholz

Cities are home to half of humankind—over three billion persons live in urban areas and in 2050, this number is expected to grow to 6 billion persons, or 2/3 of the projected population. This unprecedented growth has positive – and negative - implications. Urban areas set their residents, especially the situation in developing countries where more than 50 percent of the population...
live in slums - without access to water, shelter, sanitation, education or health services. In addition to this, women are most adversely affected as caregivers.

UNHABITAT, the UN Human Settlements Programmes, quietly works on issues of urbanizations from its headquarters in Nairobi, Kenya - the only UN agency (along with UNEP - the UN Environment Program) housed on the African continent.

UNHABITAT’s programmes try to help policy makers and local communities find sustainable solutions to the myriad of issues that come with rapid urbanization. Its goal – “cities without slums” – is supported by a number of strategies, including advocacy of global norms (the leading of which is the Habitat Agenda), analysis of information, field testing of solutions and financing for housing and urban development.

Its main governing body, the Governing Council, meets every 2 years to set the agenda for the main body through passage of resolutions. The Governing Council met this year to pass 11 resolutions related to housing and land, disaster risk management and environmental protection, safety and security—all related to urbanization. A particular resolution entitled “Gender Equality and Empowerment of Women in Sustainable Urban Development” was celebrated as a success by women in human settlements, important especially for grassroots women around the world working towards sustainable development for their communities.

Grassroots women leaders of the Huairou Commission (a global coalition of networks dedicated to grassroots women’s empowerment and partner organization to HRA) present at the Governing Council session lobbied their own governments to ensure their support for the resolution. It was carried through the Governing Council by the governments of Ghana, Tanzania and Zambia, as well as Brazil, Norway and a number of others, and received a vote of approval by the entire Governing Council, consisting of 58 member countries.

The resolution requests the involvement of an advisory group on gender issues for the Executive Director of the agency. The advisory group will advise the Executive Director on gender mainstreaming in the work of UNHABITAT, and as well, provide oversight in the implementation of the gender equality action plan, which is a five-year plan devised by UNHABITAT and partners on ensuring women’s empowerment.

The resolution, importantly, explicitly requests the involvement of grassroots women in both processes. It specifically gives space for a grassroots women representative on the advisory group, and ensures that the inter UN process consult directly with grassroots and community based organizations. This is the first time that a UN HABITAT resolution has given such importance to grassroots women’s organization and representatives.

At long last their contributions to human settlements development and sustainable urbanization are not only recognized, but they are also given a voice in decision making processes – they are given a real seat at the table.

U.S. Must Stand Up to Unlawful Eviction of Haitians from Displacement Camps

By Kathleen Bergin and Nicole Phillips, published June 16, 2011, by the Americas Program

Last month, the Haitian police, a local mayor, and private security agents raided and destroyed three displacement camps in the city of Delmas outside of Port-au-Prince to remove approximately 1,000 homeless earthquake victims. Some residents were warned about the raid the day before, but most were caught by surprise. Residents were given almost no time to collect
their belongings before security forces destroyed them.

The police shot one camp resident in the leg. Others were beaten with batons. At least three who tried to stop the eviction were arrested. When an attorney and community organizer called a press conference at the scene, police and municipal workers charged them with machetes. They survived, but now hundreds of people, including families with small children, have no shelter and nowhere to live just as hurricane season begins.

What happened at Delmas is a snapshot of a larger epidemic of forced evictions that began shortly after the earthquake. The International Organization for Migration estimates that 233,941 Haitians have been evicted from displacement camps, and that 166,000 of the 680,000 people remaining in camps face an ongoing threat of eviction. They say that the “rapid pace of eviction” is causing people to leave the camps even though they have nowhere else to go. Of the more than 180,000 residential buildings destroyed in the earthquake, only 4,100 have been repaired. Only a fraction of the needed temporary shelters have been built.

These violent and extrajudicial evictions not only threaten the lives and dignity of the hemisphere’s poorest people, they also violate Haitian and international law. Evictions that leave people homeless or subject them to violence, threats, or coercion, violate international human rights norms. Even people who occupy land without permission from the owner are entitled to due process protections, including prior notice of an eviction and an opportunity to consult with government officials regarding their relocation.

The evictions in Haiti are especially violent and cruel. Police brutality and surprise raids are common, and basic survival needs are often withheld from camp residents to force them off the land. In one case, people who identified themselves as camp “organizers” set up a wire fence to divide the camp in half, and then denied people on one side of the fence access to food, water and sanitation facilities that were being distributed to people on the other side of the fence.

Last fall, we were part of a team that brought a claim before the Inter-American Commission on Human Rights (“IACHR”) on behalf of displacement camps that resulted in a directive to the Haitian government to protect earthquake victims living in camps from unlawful evictions. The directive urged former President Rene Preval to adopt a moratorium on evictions until displaced people had an alternative and safe place to live. The Commission also ordered the government to provide people who have been illegally evicted with a safe place to live, to establish an effective complaint mechanism to report and respond to unlawful evictions, to implement security measures to protect camp residents, to train law enforcement personnel on the rights of displaced people, and to ensure that international monitors have access to camps and to internally displaced people. It appears that President Preval made little effort to comply with the precautionary measures or otherwise respond to the Commission’s directive.

The duty to protect the Haitian people now falls on Haiti’s new President, Michel Martelly. Martelly pledged to close the camps in six months, starting with six camps during his first 100 days as President. The public still awaits details on how he will meet that ambitious goal without forcibly evicting people. Mayor Wilson Jeudy claimed to have President Martelly’s authority to carry out the Delmas raids with the help of the national police. The President’s staff unofficially denounced the raids after being pressured by the UN’s Humanitarian Coordinator in Haiti, but the brutal actions have so far gone unpunished.

Haitian human rights groups brought a lawsuit against Mayor Jeudy on behalf of displaced residents to stop the extrajudicial evictions and send a message that public officials in Haiti are not above the law. We have returned to the IACHR on behalf of displacement camps to ask for renewed protections against forced evictions under the Martelly government.

The international community also bears responsibility for the desperate situation in Haiti. As the first eviction in Delmas was happening, the UN’s camp coordination body in Haiti, led by the Office for the Coordination of Humanitarian Affairs, cancelled its meeting, squandering an opportunity for humanitarian actors to coordinate a response to the evictions and find shelter for hundreds left without housing. To frustrated Haitians languishing in camps and now fearing government raids, this is another example of the UN’s inability to respond to crisis and protect their human rights. The epidemic of sexual assaults in the camps and a cholera outbreak that has led to 302,401 reported cases and a death total of 5,234 since October, are other examples.

The United States bears responsibility too. Congresswoman Barbara Lee cited “the lack of urgency on the international community’s part,” as one reason for Haiti’s sluggish recovery, and introduced a bill to require accountability for humanitarian and reconstruction aid in Haiti. The bill passed by a voice vote in the House and awaits Senate action.

More recently, Congressional Representatives Don B. Payne, Yvette Clarke, Frederica Wilson and Maxine Waters denounced the evictions at Delmas.
Along with 48 other members of Congress, they also urged Secretary of State Hillary Clinton to dedicate “significant attention” to the worsening situation in the camps, and to ensure “accountability and transparency” in humanitarian aid projects, including those administered by USAID. President Obama and members of Congress should support these efforts.

The U.S. government strongly supports President Martelly and his promise to open Haiti for investment. It condoned the Haitian elections, despite the fact that they were marred by fraud and historically low voter turnout (22.7 percent). Martelly was elected by only 16.7 percent of Haitian voters.

With Martelly at her side last month, Secretary Clinton vowed “to be a good partner for Haiti.” If the U.S. wants to be a good partner for Haiti, first we should make good on our financial commitments to Haitians—the U.S. has disbursed only one quarter of the funds it pledged to rebuild Haiti. We must also ensure that taxpayer money does not support forced evictions or other human rights violations against earthquake victims.

HRA ANNUAL MEETING

HRA held its Annual Meeting on April 11, 2011, at the University of San Francisco School of Law. The following were elected by HRA members to serve on HRAs Board of Directors: Connie de la Vega, Kimberly Irish, Jeremiah Johnson, Amol Mehra, Nicole Phillips, Birte Scholz, and Julianne Cartwright Traylor. All were incumbents.

At its first meeting following the Annual Meeting, the board elected the following officers for 2011-2012: Julianne Cartwright Traylor, President; Connie de la Vega, Treasurer; and Kimberly Irish, Secretary.

HRA thanks volunteer John Kikuchi, Esq. for his invaluable assistance with HRA’s taxes this year.

HRA Newsmakers

HRA Member Recognized for Commitment to Human Rights

HRA congratulates one of its co-founders and current Board Treasurer, Connie de la Vega, on the occasion of her winning the Sarlo Prize which was awarded at the University of San Francisco’s 35th Annual Service and Merit Awards ceremony which took place on May 3rd. The prize recognizes excellence in teaching and is awarded to a faculty member at the University of San Francisco (USF) who exemplifies the ethical principles that guide the university’s vision, mission, and values.

As most of you know, Connie is the founding director of the Frank C. Newman International Human Rights Law Clinic at USF’s School of Law and its students represent HRA at meetings of the UN Commission on the Status of Women in New York City and the Human Rights Council in Geneva, Switzerland, where they advocate for various human rights issues and reforms. Students working with Connie also conduct research, checked article citations, and assist in the writing of communications to the Inter-American Commission on Human Rights and amicus curiae briefs that have been cited in major US court decisions.

At a later law school event, Connie thanked her colleagues at both the law school and other schools for their support of her work, and, in particular, she thanked her students “...whose enthusiasm for social justice continues to inspire the work of the Frank C. Newman International Human Rights Law Clinic both in international human rights bodies as well as in the application of international standards in the U.S.”
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
HUMAN RIGHTS ADVOCATES
P.O. Box 5675
Berkeley, CA  94705

HRA is a non-profit public corporation with 501(c)(3) status; dues and contributions are tax-deductible.