



## HRA Annual Education Event: Violence against Migrant Women

By Jeremiah Johnson

On October 23, 2012, Human Rights Advocates held its Annual Fall Educational Event at the University of San Francisco School of Law. This year, the gathering of HRA members, supporters and friends looked at violence against migrant women. Migrant women who belong to marginalized groups often confront additional obstacles, such as language barriers or cultural insensitivity, when seeking legal protection from violence. The panelists, Jeremiah Johnson, Blaine Bookey and Professor Bill Hing, examined obligations under international human rights law to protect migrant women from violence, in addition to real world efforts and obstacles facing migrant women in the United States and around the world.

As a private immigration attorney and HRA Board Member, I spoke about the obligations of the United States under international human rights law and the obstacles facing migrant women in realizing their human rights. I opened the discussion citing the treaties signed and ratified by the United States concerning violence and migrant women. Specifically, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Discrimination against Women (signed but not ratified), are all relevant to the protection of migrant women from violence. Thus, the U.S. has a legal obligation to guarantee equal protection from violence and a right to effective remedies. This duty requires additional efforts and measures on the part of the U.S. to eliminate practices that create barriers to migrant

women's efforts to seek protection from violence.

Blaine Bookey, Staff Attorney at the Center for Gender & Refugee Studies at UC Hastings, spoke about the protections afforded by U.S. asylum law to migrant women fleeing violence in their home country. However, protection for women fleeing violence as a basis for asylum is still being developed, and the law is in flux, which can lead to disparate results. For example, Ms. Bookey presented two very similar fact patterns of two different women suffering horrific domestic violence with two very different results – one granted asylum, the other denied.

The panel concluded with Professor Bill Hing, an immigration professor at USF and founder of the Immigrant Legal Resource Center in San Francisco. Professor Hing gave a historical perspective of U.S. immigration policy toward women victims of violence before looking at current available protections, including the Violence Against Women Act ("VAWA"). Under VAWA, certain women who have been abused or who have suffered extreme cruelty are able to file a self-petition and gain lawful residence. Professor Hing also discussed T and U visas that provide victims of trafficking and victims of crimes, respectively, to remain in the U.S.

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# The UN Denies Justice to Haitian Cholera Victims

By Nicole Phillips

On October 2, 2012, HRA co-sponsored a film screening and discussion of the short documentary, *Baseball in the Time of Cholera*. The film is about a young Haitian baseball player and Haitian human rights lawyer, Mario Joseph, struggle for justice after the United Nations inadvertently, but negligently, brought a cholera epidemic to Haiti that has killed 7,600 Haitians and sickened 600,000. The movie won a Special Jury Mention at the 2012 the Tribeca Film Festival.

Mario Joseph, who according to the New York Times is Haiti's most prominent human rights lawyer, spoke after the film about his lawsuit against the UN on behalf of 5,000 cholera victims. Mario explained that the evidence is clear that the cholera epidemic started in October 2010 as a result of reckless waste management on a UN peacekeeping base in rural Haiti. Nine independent scientific research groups from around the world present clear and convincing evidence of UN responsibility. The UN's own independent investigation documented unacceptable waste management practices on the base.

Despite this, the UN continues to deny responsibility and has done little to respond to the ongoing epidemic. In November 2011, Mario's organization, the Bureau des Avocats Internationaux, filed claims on behalf of 5,000 victims of cholera, seeking 1) compensation for injuries and deaths; 2) water and sanitation infrastructure to eliminate cholera; and 3) a public apology. In December 2011, the UN Office of Legal Affairs sent an acknowledgement of receipt, promising a response "in due course." The UN has yet to respond to the claims or communicate any information regarding its evaluation process.

The biggest barrier facing cholera victims' ability to access justice is UN immunity from legal action. A Status of Forces Agreement (SOFA) signed between the UN and Government of Haiti bars Haitian courts from exercising jurisdiction over claims against the UN. The SOFA also mandates the establishment of a standing claims commission to hear third-party claims for injuries and deaths, but no such commission has been established in Haiti or in any other country where a peacekeeping mission is present, despite it being a standard clause in these agreements. This situation has resulted in a critical accountability vacuum, and prevents victims of UN harms from exercising their rights to a remedy.

Mario and the Institute for Justice & Democracy in Haiti (IJDH) collaborate with human rights

organizations from around the world to pressure the UN to provide victims of cholera with access to justice. In July, 104 members of U.S. Congress sent a letter to Susan Rice, U.S. Ambassador to the UN, asking our government to take a leadership role at the UN in bringing clean water and sanitation infrastructure to Haiti to end the epidemic.

As a result of our combined advocacy, the Government of Haiti, in consultation with the Pan-American Health Organization, U.S. Centers for Disease Control and UNICEF are expected to launch a program by the end of the year to eliminate cholera in Haiti. This is a great step forward, but we will be monitoring to be sure that the program is finalized, funded and implemented. Two years and 7,600 lives later, we hope the UN delivers on its promises and protects the precious right to life of Haitians.

You can see the award-winning 30-minute documentary for free at [www.UNDeny.org](http://www.UNDeny.org). You can also learn more about the lawsuit against the UN at [www.ijdh.org/cholera](http://www.ijdh.org/cholera).

## The U.S. Double Standard on Elections in Latin America and the Caribbean

By Nicole Phillips

HRA co-sponsored a roundtable discussion on November 15, 2012, at UC Berkeley, Boalt Hall on the ways in which the United States government has influenced both the results and perception of key elections in the Western Hemisphere.

Panelists and election monitors Mana Barai (National Lawyers Guild), Joanna Cuevas Ingram (Lawyers Committee for Civil Rights), Pierre Laboissiere (Haiti-Action Committee), Alexander Main (Center for Economic and Policy Research), and I (the Institute for Justice & Democracy in Haiti) described how elections in Haiti, Honduras and Venezuela played out on the ground and examined the role that the U.S. has played in seeking to distort and even subvert electoral outcomes.

Panelists who monitored elections in Venezuela reported that the October 2012 Presidential elections that re-elected Hugo Chavez were both free and fair. President Chavez won 55% of the vote with an 80% voter turnout. According to President Jimmy Carter,

who founded the Carter Center that monitored the elections, “of the 92 elections that we’ve monitored...the election process in Venezuela is the best in the world.” Yet the U.S. government and the media consistently refer to President Chavez as “the dictator,” distorting elections results. Panelists theorized that this was because President Chavez’s left-leaning government does not support U.S. State Department policies such as privatization. The U.S. and media criticize civil and political violations, but fail to recognize the vast improvement of economic, social and cultural rights. Since 2004, when the government gained control over the oil industry, poverty has been cut in half and extreme poverty by 70%.

By contrast, the U.S. government paid for and supported the 2010 and 2011 elections in Haiti, even though they were flawed and unfair. Haiti’s election process was so faulty that the Carter Center refused to monitor the presidential and parliamentary elections. The electoral council, whose appointment violated the Constitution, excluded all viable, progressive political parties from running, including Haiti’s largest political party led by former President Jean-Bertrand Aristide. Haitians objected to the flawed elections by refusing to vote, resulting in only a 23% voter turnout, the lowest turnout for a presidential election in Latin American since the 1940s. Panelists described how the U.S. government, with the help of the Organization of American States, then arbitrarily pressured the government to alter election results, threatening to cut off aid to Haiti unless they obliged. As a result, two right-wing presidential candidates who had received combined support from only 11% of all registered Haitian voters went to the runoff elections.

Citing other incidents in Honduras and other countries, the panelists concluded that the U.S. government’s policy towards elections in Latin American and the Caribbean continues to be a double standard under the Obama administration. The U.S. is not afraid to wield its financial and political power in the region to support unlawful elections and control election results if that will support perceived U.S. interests. Hopefully the U.S. government will someday realize that undermining the rule of law is never in the best interest of any country, including the U.S.

The event was also co-sponsored by the National Lawyers Guild, the Institute for Justice & Democracy in Haiti, the Center for Economic and Policy Research, Global Exchange, Bay Area Latin American Solidarity Coalition, Black Alliance for Just Immigration, Haiti Action Committee, SOAWatchWest, Task Force on the Americas/MITF, and UC Haiti Initiative.

For more information on the U.S. interference in Haiti’s election, see *The Organization of American States in Haiti: Election Monitoring or Political Intervention?* David Rosnick (Oct 2011), <http://www.cepr.net/index.php/publications/reports/oas-in-haiti>.

## The MDGs, SDGs, and the Post-2015 Development Agenda

By Birte Scholz and Julianne Cartwright Traylor

### Introduction

In 2000, representatives from 189 nations made a promise to essentially free people from extreme poverty and multiple deprivations. The Millennium Development Goals (MDGs) encapsulate eight globally agreed concrete goals, with time-bound targets and indicators for measuring progress in a number of areas, including: poverty alleviation, child and maternal health, reducing HIV/AIDS and other communicable diseases, environmental sustainability, gender equality and women’s empowerment and a Global Partnership for Development.

At the 2010 High-level Plenary Meeting of the UN General Assembly to review progress towards the MDGs, governments called not only for accelerating progress towards achieving the MDGs, but also for thinking on ways to advance the UN Development Agenda beyond 2015 – yes, to invent new goals.

The year 2015 is fast approaching and processes have been evolving not only to evaluate what progress has been made and problems still exist, but also to set the agenda for what should happen after that year.

### UN System Task Force and High-level Panel of Eminent Persons

In September 2011, UN Secretary-General Ban Ki-moon established the UN System Task Team to coordinate system-wide preparations for a post-2015 UN development agenda. Co-chaired by the UN Department of Economic and Social Affairs (DESA) and the United Nations Development Programme (UNDP), the Task Team brings together more than 50 UN agencies, Secretariat departments and other international organizations.

The Task Team’s mission is to assess ongoing

efforts within the UN system, consult all relevant stakeholders and define a system-wide vision and road-map to support the deliberations on the post-2015 UN development agenda. The UN is organizing a series of thematic consultations with academia, media, private sector, empowers and trade unions, civil society and decision makers, taking place between May 2012 and June 2013. The themes of these consultations include: Inequalities (across all dimensions, including gender), Health; education; growth and employment; environmental sustainability, food security and nutrition; governance and population dynamics. Each theme is headed by 2 UN agencies. UN Women, along with UNICEF, is charged with the inequalities thematic area. Already it has commissioned a series of papers to introduce various themes of inequality to the debate. It is currently hosting an e-forum and will continue to host regional based consultations throughout the period. For the latest report of the Task Team see UN System Task Team on the Post-2015 UN Development Agenda Report to the Secretary-General, *“Realizing the Future We Want for All”*, June 2012.

In July 2012, the Secretary-General also appointed a High-level Panel of Eminent Persons on the Post-2015 development agenda ([http://www.un.org/millenniumgoals/Press\\_release\\_post-2015panel.pdf](http://www.un.org/millenniumgoals/Press_release_post-2015panel.pdf)). The Panel is co-chaired by President Susilo Bambang Yudhoyono of Indonesia; President Ellen Johnson Sirleaf of Liberia; and Prime Minister David Cameron of the United Kingdom. The Panel is expected to present a report to the Secretary-General in the second quarter of 2013 that provides recommendations regarding 1) the vision and shape of a Post-2015 development agenda that will help respond to the global challenges of the 21st century, building on the MDGs and with a view to ending poverty; key principles for reshaping the global partnership for development and strengthened accountability mechanisms; and 2) how to build and sustain broad political consensus on an ambitious yet achievable Post-2015 development agenda around the three dimensions of economic growth, social equality and environmental sustainability - taking into account the particular challenges of countries in conflict and post-conflict situations.

Some progress – and in some cases fulfillment – of the goals (as based on reaching particular indicators) has been made. The Secretary General’s most recent report on the achievement of the MDGs (A/67/257, August 2012) claims that the global target of reducing extreme poverty in half was met five years ahead of schedule (in 2010) (attributed to the accelerated poverty reduction in China and India); the proportion of people

without reliable access to improved sources of drinking water has been met; conditions for more than 200 million people living in slums have been ameliorated (which doubles the proposed modest target of 100 million); and claims that gender equality in education (primary) has been achieved, as school enrolment rates for girls are parity with those for boys. (A/67/257, para 3). However, the Secretary-General reminds us in para. 4, that “...the world community still has a long way to go to achieve all the targets by 2015.”

In the intervening time, civil society organizations have also come together under one umbrella campaign aptly named “Beyond 2015” pushing for a strong and legitimate successor framework to the MDGs. The Campaign is built on a diverse, global base, from small community based organizations to international NGOs, trade unions and academics. It is a partnership between the Global North and South, bringing together more than 380 organizations in 80 countries. Thus far, the Campaign has developed a document on the four “Essential Must Haves” needed to be met in order for any new framework to be considered legitimate- these are within the areas of Leadership, Legitimacy, Substance, Accountability. (See [www.beyond2015.org/must-haves](http://www.beyond2015.org/must-haves)).

## Sustainable Development Goals (SDGs)

Related to this process of establishing Post-2015 development is the process of establishing Sustainable Development Goals (SDGs). In June 2012 the UN Conference on Sustainable Development (Rio+20) called for the establishment of an open working group with the view to developing global sustainable development goals which will be agreed by the UN General Assembly (<http://www.unwomen.org/the-united-nations-conference-on-sustainable-development-rio20/>).

The purpose of the SDGs is to address the broad challenges of poverty eradication, environmental protection and sustainable consumption and production. The SDGs address the shortcomings and challenges of the UN’s Millennium Development Goals (MDGs) and seek to provide the foundation for a global green economy. Overall, this means that the architecture of the new global goals should be built in two pillars: reducing poverty and promoting sustainable development. The exact content of the SDGs will be decided in the Rio+20 process and be in some way integrated into the successive framework for MDGs, though how this will happen is not clear, as the two processes of SDG development and Post-2015

review do not seem to be working in unison at this time.

The Open Working Group will include 30 representatives nominated by Member States from the five UN regional groups. The Open Working Group is expected to submit a report to the 68th session of the General Assembly in 2013 with a proposal for SDGs.

The Rio Outcome Document specifies that the SDGs should: address and incorporate in a balanced way all three dimensions of sustainable development (economic, social and environmental) as well as their inter-linkages; build upon commitments already made and contribute to the full implementation of the outcomes of all major summits in the economic, social and environmental fields, including the Rio+20 outcome document; be action-oriented, concise and easy to communicate, limited in number, aspirational, global in nature and universally applicable to all countries; and be coherent with and integrated into the United Nations development agenda post MDGs.

## Concluding Thoughts

What is the future of all of these processes and sets of goals with respect to continuing to make progress towards shaping a cohesive framework to address issues of economic and social development, environmental sustainability and peace and security as discussed in the Task Team's 2012 Report mentioned above? As UN Women notes: "There is a recognized need to work towards one global development agenda for the post-2015 period, with sustainable development at its centre. The Rio+20 Outcome is an important step in this direction, having launched an inclusive intergovernmental process for developing a set of sustainable development goals to be coherent with and integrated into the United Nations development agenda beyond 2015" (See [www.unwomen.org/focus-areas/post-2015/frequently-asked-questions](http://www.unwomen.org/focus-areas/post-2015/frequently-asked-questions))

There will be activities and consultations at the international, regional and national levels to identify priority areas focusing on issues such as international migration and development, population and development, gender equality and empowerment, as well processes focusing on development cooperation and financing for development.

What are some tips for those charged with developing the Post-2015 development agenda? First, they must listen to people, mostly poor women, actively engaged in development in their own communities, ensuring that they are genuinely able to influence

the post-2015 development framework, in ways that strengthen and support the sustainable development work they are already doing. In this regard, for example, UN Women has been working with members of civil society to ensure that gender remains a central part of the Post-2015 Development Agenda. (See, for example, [www.unwomen.org/focus-areas/post-civil-2015/civil-society-engagement](http://www.unwomen.org/focus-areas/post-civil-2015/civil-society-engagement))

Second, they must build on what has already been achieved, both on the ground and the global level. They must not tear up the MDGs and start again; rather they must learn from them, build upon them and implement what international commitments already exist. International commitments and obligations exist in plentitude. A review and revision of the MDGs, including the pillar of sustainable development, can help concretize existing actions and commitments, capitalize on them and lead to a post-2015 development agenda that improves the lives of all around the globe.

The discussions during next year's General Assembly special event in September will not only inform us where we are in the final stages of achieving the MDGs, but also give us an idea of what progress there already is to put into place processes that provide a framework for the post-2015 development agenda.

## News from Geneva

Claudio Marinucci, HRA consultant based in Switzerland, attended the following three events connected with sessions of the Human Rights Council:

**High-level Discussion on Ensuring Human Dignity During Detention** - 21st Session, Parallel Event organized by: Geneva Academy of International Humanitarian Law and Human Rights and the International Commission of Jurists (September 25, 2012)

**Participants:** Hina Jilani, Member of the Panel on Human Dignity, Advocate of the Supreme Court of Pakistan, Moderator; Prof. Manfred Nowak, Member of the Panel on Human Dignity, former UN Special Rapporteur on Torture, and former member of the Working Group on Enforced Disappearances, speaking on "Experiences as a Special Procedure mandate-holder"; Judge Theodor Meron, Member of the Panel on Human Dignity, Judge on the Appeals Chambers of the International Criminal Tribunal for Rwanda and the International Crimi-

nal Tribunal for the former Yugoslavia (ICTY), former President of the ICTY, and Honorary President of the American Society of International Law, speaking on "Human dignity challenges under administrative and criminal detention"; Prof. Shaheen Sardar Ali, Vice-Chair of the UN Working Group on Arbitrary Detention. Professor of Law at the University of Warwick, speaking on "The need to ensure human dignity in detention, combined with and supplementary to the mandate of the Working Group on Arbitrary Detention"; and Prof. Sir Nigel Rodley, Member of the UN Human Rights Committee, International Commission of Jurists Commissioner, former UN Special Rapporteur on Torture.

The main background paper for this High-level discussion entitled *Background Paper on Ensuring Human Dignity During Detention by the Geneva Academy of International Humanitarian Law and Human Rights* acknowledges that there are over ten million people currently in detention worldwide and that it is often forgotten that detainees should continue to enjoy human rights. Many of these detainees do not enjoy minimum standards of human rights, including lack of adequate diet, inadequate health care and education. They suffer from overcrowding and under-resourcing, torture, and sexual abuse. A change in the demographics of detainees is the increase in the number of juveniles and women. These conditions have led to a "...global prison crisis in which human dignity is the primary casualty." The work of the Panel on Human Dignity has identified that ensuring the human rights and human dignity of detainees as one of the main contemporary human rights challenges. For two days prior to this session, the Panel had discussed its new ideas about additional measures that need to be taken to enhance existing international standards surrounding issues of detention. For more information about the work of the Panel, see *Protecting Dignity: An Agenda for Human Rights*, 2011 Report by the Panel on Human Dignity ([www.udhr60.ch](http://www.udhr60.ch)). Human Rights Advocates' document *Prison Privatization and Prison Labor: The Human Rights Implications* was distributed to members of the Panel and other participants.

**The UN responsibility on the protection of asylum seekers How to better protect fundamental rights of the Iranian asylum seekers in Camp Liberty / Camp Asharaf (Iraq) at risk of a third massacre** - 9th Session of Human Rights Council's Advisory Committee Round-table (side event) (August 8, 2012)

Organized by: Mouvement contre le Racisme et Pour l'Amitié entre les Peuples (MRAP), France Libertés

(Fondation Danielle Mitterand), and International Association for Human Rights of Women (WHRIA)

**Participants included:** Professor Jean Ziegler, Vice President of the HRC's Advisory Committee; Anne-Marie Lizin, Honorary President of the Belgian Senate, former Minister and former Special Rapporteur of the UN Commission on Human Rights on Human Rights and Extreme Poverty; Jean Charles Rielle, President of the City Council of Geneva; Eric Voruz, Member of the Swiss Parliament; Christiane Perregaux, Co-President of the Geneva Constitutional Assembly; Elaheh Azimfar, Senior Member of National Council of Resistance of Iran (NCRI), with Gianfranco Fattorini, (MRAP) Moderator.

The complex situation of 3400 Iranian dissidents in Iraq was the main topic of this event. The UN High Commissioner for Refugees (UNHCR) has recognized them as asylum seekers under international law. They have also been attacked by Iraqi forces. Some have been transferred from Camp Asharaf to Camp Liberty. Participants discussed the difficult conditions in which they live – some considered Camp Liberty more like a prison or detention center rather than a refugee camp and that the asylum-seekers are being denied their basic humanitarian and human rights. (See Joint written statement submitted by Fondation Danielle Mitterand, Women's Human Rights International Association, Women's International League for Peace and Freedom, International Educational Development, Inc., and MRAP, UN-General Assembly, Document no. A/HRC/20/NGO/23, 8 June 2012). For a further discussion of these issues see, for example, *Opinions adopted by the Working Group on Arbitrary Detention (of the Human Rights Council) at its sixty-third session, 30 April-4 May 2012, UN General Assembly, Document no. A/HRC/WGAD/2012/16, 17 July 2012.*

**Detention of Migrant Workers – a Global Human Rights Crisis Informal meeting (side-event)**- June 19,

2012 – In addition to special guest, Francois Crepeau, UN Special Rapporteur on the Human Rights of Migrants, three panelists were Claire Rodler, Migreurop, Europe; Colin Rajah, National Network for Immigrant and Refugee Rights, US; and Andy Hall, a researcher and migrant expert at the Institute for Population and Social Research at Thailand's Mahidol University Thailand, with William Gois, Migrant Forum in Asia, Philippines, serving as moderator.

The number of detained in Europe is steadily growing and detention is being used as a message to deter newcomers and to pacify citizens of hosting countries,

while Thailand is an immigration spotlight where there are currently three million migrant workers. Many are detained at work – trafficking. Relative to the US, the strongly racial and abusive situation was discussed and that issue that most migrants in detention have no criminal records. The issue of privatization of prisons has a strong influence also on migrant workers because for example, the use of prison labor in the private sector, in particular agriculture, is an acute phenomenon. Special Rapporteur Crepeau characterized detention of migrant workers as a “global human rights crisis” saying that conditions of detention are often unacceptable for human rights standards and that migrant detention should be monitored. He spoke about the issue of child detention and what he sees at the root of the problem of detention is the perception that migrants are lesser human beings. His latest report as the newly-appointed Special Rapporteur on the human rights of migrants can be found in UN General Assembly document A/HRC/20/24, April 2, 2012.

In addition to HRA’s document on *Prison Privatization and Prison Labor*, relevant documents available at the session were *Detention of Migrants in the United States* submitted by The Advocates for Human Rights to the UN Special Rapporteur on the Human Rights of Migrants, January 30, 2012 (Distributed by the National Network for Immigrant and Refugee Rights, Oakland CA), and *Detention of Undocumented Migrants in Asia* prepared for this side event by Migrant Forum in Asia.

## LITIGATION AND ADVOCACY

By *Connie de la Vega*

*Miller v. Alabama*, 567 U.S. (2012)

On June 25, 2012, in a 5-4 decision the United States Supreme Court held that mandatory sentencing schemes violate the Eighth Amendment when applied to offenders under the age of 18 at the time of the commission of the crime. This case involved two 14 year old offenders who were involved in homicides and had been charged as adults. Once they were transferred to adult court they were subjected to automatic life without parole sentences that did not take their age into consideration. The Court reiterated the limited ability of a judge to accurately sentence an individual who has not yet matured into an adult, noting that it is difficult to distinguish “at this early age between ‘the juvenile offender whose crime reflects unfortunate yet transient

immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.” (Slip op. at 17.)

Human Rights Advocates was one of the *amicus curiae* in a brief filed on behalf of 26 non-profit organizations and bar associations addressing the international laws and practice of other countries regarding the use of life without parole sentences for juvenile offenders (JLWOP). Among the international standards is the Convention of the Rights of the Child that prohibits the use of JLWOP. That treaty has been ratified by all countries except the United States, Somalia, and South Sudan. While ten other countries permit the sentence, there are no known cases where the sentence has been imposed outside the United States. The *amici* urged the Court to consider the international law and practice in interpreting the Eighth Amendment. Justice Kagan, who wrote the majority opinion, did not refer to the international standards, but did refer to *Roper v. Simmons*, 543 U.S. 551 (2005) (prohibiting the death penalty for juvenile offenders) and *Graham v. Florida*, 560 U.S. , 130 S. Ct. 2011 (2010) (prohibiting life without parole sentences for juvenile offenders who do not commit homicides). Justice Kagan was joined by Justice Kennedy, who had referred to the international standards in *Roper* and *Graham*, Justice Ginsberg, Justice Breyer, and Justice Sotomayor.

HRA Board Member Connie de la Vega was the Counsel of Record on the *amicus curiae* brief through the Frank. C. Newman International Human Rights Clinic at the University of San Francisco and was joined by Dana Isaac, a former HRA Frank C. Newman Intern. Also joining them on the brief were Neil Popović of Sheppard, Mullin, Richter & Hampton and Courtney Barklem of The Law Society of England and Wales.

*Fisher v. University of Texas*

Human Rights Advocates joined five other *amicus curiae* in a brief urging the United States Supreme Court to consider the United States’ treaty obligations and other international law and practice in deciding whether the University of Texas’ consideration of race as one of the factors in its holistic admissions policy violates the Fourteenth Amendment of the United States Constitution. *Amici* raised the Court’s “longstanding practice” of looking at international and foreign law to affirm constitutional interpretation.

The brief addressed the United States’ obligations under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) to enact “spe-

cial and concrete measures” to guarantee equal protection and enjoyment of human rights for all races. The CERD Committee has noted that measures that take into account individuals who are in disadvantaged situations are “not an exception to the principle of non-discrimination but are integral to its meaning and essential to the [CERD] project of eliminating racial discrimination and advancing human dignity and effective equality. The brief also discussed the obligations under the International Covenant on Civil and Political Rights (ICCPR). The Human Rights Committee that oversees the ICCPR has reminded the United States that the treaty includes the obligation to guarantee effective protection against practices with discriminatory effects.

Reference was also made to the report of the United Nations Working Group of Experts and People of African Descent (WG) that also has raised concerns about minorities’ access to higher education in the United States. The WG suggested that the United States continue the initiatives already in place to remedy inequality as well as create “positive action policies to achieve parity of educational conditions among students of African descent and those of the majority population.”

In addition to the obligations under the two treaties the United States is party to, there are cases in other jurisdictions such as the European Court of Justice, Brazil and South Africa that have upheld affirmative action programs and the constitutions of India and Canada that specifically provide that those countries can enact laws to advance disadvantaged groups of people.

Oral argument was held on this case on October 10, 2012 and a decision is expected in the next few months.

HRA Board Member Connie de la Vega was Counsel of Record on the *amicus curiae*. She was joined by Neil Popović of Sheppard, Mullin, Richter & Hampton and Risa Kaufman of the Human Rights Clinic of Columbia Law School.

## California SB 9

On September 30, 2012, Governor Brown signed SB 9 into law in California. While juvenile offenders may still be subjected to life without parole sentences if they are tried in adult court, under the new law they may petition the court after they have served 15 years of that sentence for a revised sentence that would allow them to apply for parole after 25 years. While less than perfect, this bill was the result of many years of a large group effort headed by Elizabeth Calvin at Human Rights Watch. Human Rights Advocates sent a letter urging Governor Brown to sign the bill, noting among other things that:

A juvenile life without parole sentence is prohibited by international law and practice. Article 37(a) of the Convention on the Rights of the Child, an international law treaty signed by every country in the world except for the United States, South Sudan and Somalia, forbids sentencing a child under the age of 18 to a life sentence without the possibility of release. Currently, the United States is the only country in the world to sentence juvenile offenders to life imprisonment without the possibility of parole. SB9 would bring California in line with the practices of countries around the world.

Human Rights Advocates is accepting nominations for the Board of Directors. The Board will be elected at the Spring Annual Meeting at the University of San Francisco School of Law. Board meetings are held once a month in San Francisco or Oakland. If you would like to apply, please contact Julianne Cartwright Traylor at [jtraylor@igc.org](mailto:jtraylor@igc.org) by January 21, 2013.

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# Human Rights Advocates

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