HRA Fall Educational Event Celebrates 30 Years of Advocacy at the UN

By Jeffrey Kaloustian

Human Rights Advocates held its Annual Fall Educational Event at the University of San Francisco School of Law on October 13, 2015, in celebration of 30 years of HRA advocacy at the United Nations. Focusing on The Human Rights of Indigenous Peoples, three distinguished guest speakers discussed advocacy at the 8th Session of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) held in Geneva, July 20-24, 2015, and the follow-up on EMRIP at the Human Rights Council.

Ms. Andrea Carmen, Executive Director of the International Indian Treaty Council (IITC) opened with historical remarks on the American Indian struggle and on IITC’s 35+ years of UN advocacy. Ms. Carmen discussed the UN Declaration on the Rights of Indigenous Peoples (2007), highlighting the right to participate in decision-making and the right to free prior informed consent for development among others. She also recalled the Sunrise Ceremony she and other IITC staff attended the previous day (Indigenous Peoples’ Day) to honor the 1969 occupation of Alcatraz Island by Native Americans.

Ms. Laura Neacato, a USF School of Law 3L and Frank C. Newman International Human Rights Law Clinic (FCN IHRC) participant, reported on her EMRIP advocacy focusing on extractive industries and development projects. Ms. Neacato’s work highlighted the need for a binding international instrument to govern rights violations by transnational corporations. She remarked that her advocacy work on behalf of indigenous peoples’ rights would continue at the 4th Annual United Nations Forum on Business and Human Rights in Geneva in November 2015.

The final speaker for the evening was Ms. Nicole Janiseiwicz, Staff Attorney with the Ninth Circuit Court of Appeals, who provided insights on the structure and mandate of EMRIP and shared her experiences attending drafting sessions for the EMRIP report at the Human Rights Council’s 30th session. Among the issues she addressed were the need to protect the land, resources and territories, and the repatriation of ceremonial objects and remains.
Utilizing UN Mechanisms to Address Indigenous Peoples Rights

By Laura Neacato

This past year I represented Human Rights Advocates (HRA) at the meetings of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the UN Forum on Business and Human Rights (BHR) in Geneva, Switzerland. This provided me with a fruitful experience in the deliberative process of these two UN mechanisms.

I prepared a report for EMRIP on the need for a legally binding instrument on corporations and business enterprises in the extractive industries. This report provided me with a platform to advocate for Indigenous Peoples’ right to free, prior, informed consent during extractive and development projects occurring within indigenous territory. Attending EMRIP in July, I met and learned from representatives of various indigenous groups, non-profit organizations, government delegates, and academia on different issues affecting indigenous groups within their home countries. These interactions exposed me to issues affecting these vulnerable groups that directly related to my work. We recommended at EMRIP that the BHR address the issue of extractive industries in the context of Indigenous Peoples.

At its 30th session, the Human Rights Council adopted Resolution Human Rights and Indigenous Peoples, A/HRC/RES/30/4 (October 1, 2015), which focused on mechanisms addressing Indigenous Peoples rights including EMRIP. The resolution continued the mandate of EMRIP and asked it to prepare a study on the right to health and Indigenous Peoples with a focus on children and youth. The Council also requested that EMRIP seek the views of States and Indigenous Peoples on best practices for implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

In contrast, the BHR this past November provided a different, yet meaningful exposure to these same issues. For example, the type of participants in the forums was very different. EMRIP was attended mainly by Indigenous Peoples from all around the world, whereas the BHR was mainly attended by multiple stakeholders such as law firms, businesses, and investors. It was also informative to attend the panels on the current UN legally binding treaty process on business and human rights brought forth by Ecuador. The advocacy at EMRIP and BHR supported Ecuador’s efforts in implementing a binding treaty on corporations and businesses. I understood how the UN Guiding Principles (UNGP), adopted through the last process addressing business and human rights at the Council, can be utilized as a platform for the treaty process and not necessarily to do away with the UNGPs.

I walked away from this experience with a newfound passion about corporate social responsibility issues. I was also inspired by the opportunities that are available and can be created for cross-disciplinary dialogue on business and human rights issues. This quest for holding corporations accountable for their operations has been many years in the making and it seems as though much of the international community is finally realizing the importance of setting fair and legally-binding standards that effectively address liability and, most importantly, provide redress for victims of human rights abuses by corporations. Although there continues to be push-back by States and stakeholders, I have high hopes for the future of this treaty and I look forward to following the progression of the elaboration of this instrument.

As always, I would like to thank Human Rights Advocates immensely for allowing me to participate in this opportunity. It is through the unwavering support of HRA that I have been able to pursue my passion and continue to develop my skills as a current and future advocate for human rights issues.
The Right to Housing in the Context of Mega Events: The Discussion continues at the UN

By Jess Weinger

In March 2015, I attended the Human Rights Council (HRC) session and advocated for the right to housing, specifically in the context of mega sporting events including the Olympics and the World Cup. (See article in HRA Newsletter Summer 2015 issue). One of the recommendations from the report to the HRC was for this issue to be taken up at the Forum on Business and Human Rights, and it was successfully included in this year’s agenda. I represented Human Rights Advocates at the Forum in Geneva from November 16 – 18, 2015. I attended panels on a wide variety of issues concerning business and human rights, and advocated for human rights in the context of mega events.

The Forum included a panel called “Identifying solutions to key human rights challenges associated with Mega Sporting Events” with panelists from Fédération Internationale de Football Association (FIFA), Rio 2016 Olympic Committee, Coca-Cola, UN Working Group on Business and Human Rights, International Trade Union Confederation, Institute for Human Rights and Business (IHRB), and Tokyo Olympic Committee. The panel addressed a broad range of topics related to human rights abuses and corporate responsibility associated with mega events, often with a specific focus on labor rights violations and preparations for the 2022 World Cup in Qatar.

Mr. Federico Addiechi, FIFA’s Head of Corporate Responsibility, and several other panelists acknowledged the ongoing human rights issues in this context and stated that they will continue to work toward protecting and respecting human rights, and remedying abuses. For the most part, the panelists made general statements without real concrete proposals for addressing these issues.

After the panel, I spoke with Mr. Addiechi and give him a copy of my report on mega events and the right to housing. I believe it is important for advocates to continue pinpointing specific methods for redress in this context.

I thank Human Rights Advocates for this incredible opportunity to once again advocate for the right to housing, as well as other human rights issues surrounding mega sporting events.

Pope Francis at the UN General Assembly- A Call for Equality for all and Respect for Human Rights

By Patience T. Hughes

On September 25, 2015, Pope Francis, as part of his US tour, visited the United Nations Headquarters in New York, where he addressed the opening ceremony of the General Assembly. This historic event coincided with the celebrations of the 70th anniversary of the UN, as well as the adoption of new Global Goals, the Sustainable Development Goals (SDGs), which will replace the Millennium Development Goals (MDGs). It was also historic, in that, although five Popes – Pope Paul V in 1965, Pope John Paul II in 1979 and 1995, and Pope Emeritus Benedict XVI in 2008 - had addressed the UN in said respective years, this was the first time a Pope had addressed the opening ceremony of the UN General Assembly. I was privileged to attend this event, having won one of the 35 lottery tickets availed by the UN to representatives of affiliated NGOs.

Pope Francis addressed many human rights issues that HRA advocates for, including, but not limited to, gender equality, the right to education, the need for an end to human and sex trafficking, food security and the right to employment. He highlighted the achievements of the UN in the codification of international law, the establishment of international norms regarding human rights, advances in humanitarian law and peacekeeping missions, and its work in the resolution of conflicts. The Pope paid homage to the men and women who serve in international peacekeeping missions, and those who have given their lives for peace, like the former Secretary General Dag Hammerskjold. He reiterated the importance of the UN Charter and its provision for human rights for all.

The Pope underscored the grave problems that remain today despite the achievements of the UN and its agencies and member states over the past 70 years. He addressed the glaring disparity in equity in the international agencies and UN bodies, like the Security Council and International Financial Agencies, and the need for all member states to have equal decision-making in the processes in these bodies. The Pope also stressed the need for financial institutions, to be all inclusive, and to reform their lending systems, which are at times oppressive, subjecting less-developed and developing
The Pope was of the view that “economic and social exclusion is a complete denial of human fraternity and a grave offense against human rights and the environment”.

Climate change was also one of the Pope’s main concerns. He said that “any harm to the environment, therefore, is harm done to humanity”. He reiterated his support for the adoption of the 2030 Agenda for Sustainable Development at the world summit as an important sign of hope, as well as the Paris Conference on Climate Change which takes place from November 30-December 11, 2015, as serving as fundamental and effective agreements.

In acknowledging the great work that the UN does in promoting human rights, and the great strides that have been taken in the past 70 years, Pope Francis stressed that solemn commitments by member states are not enough, in themselves, but rather what is crucial is a strong will by governments to take concrete and practical steps to combat grave problems facing the world today. That the past 70 years have shown the effectiveness of application of international norms and the ineffectiveness of their lack of enforcement.

The Pope challenged governments to ensure that their people have access to what he termed the three absolute minimum rights: lodging, labor and land, and spiritual freedom, which includes religious freedom, the right to education and other civil rights.

Read Pope Francis’ speech to the UN General Assembly, available at http://www.popefrancisvisit.com/schedule/address-to-united-nations-general-assembly/.

The UN Sustainable Development Goals

By Birte Scholz

On September 25, 2015, during the United Nations Sustainable Development Summit held in New York, world leaders adopted the 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate change by 2030.

The Agenda opens as follows:

“This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace in larger freedom. We recognize that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development. All countries and all stakeholders, acting in collaborative partnership, will implement this plan. We are resolved to free the human race from the tyranny of poverty and want and to heal and secure our planet. We are determined to take the bold and transformative steps which are urgently needed to shift the world onto a sustainable and resilient path.”

The Sustainable Development Agenda consists of 17 Goals, and 169 associated targets. These goals seek to build on the Millennium Development Goals and complete what these did not achieve.

The eight MDGs – reduce poverty and hunger; achieve universal education; promote gender equality; reduce child and maternal deaths; combat HIV, malaria and other diseases; ensure environmental sustainability; develop global partnerships – failed to consider the root causes of poverty and overlooked gender inequality as well as the holistic nature of development. The MDGs made no mention of human rights and did not specifically address economic development. Now, as the MDG deadline approaches, about 1 billion people still live on less than $1.25 a day – the World Bank measure on poverty – and more than 800 million people do not have enough food to eat. Women are still fighting hard for their rights, and millions of women still die in childbirth. There is still much progress to be made.
The new SDGs and the broader sustainability agenda go much further than the MDGs, addressing the root causes of poverty and the universal need for development that works for all people. They put human rights of all at the center and focus on the achievement of gender equality and the empowerment of all women and girls. The SDGs are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental.

In summary the 17 goals are as follows: 1) End poverty; 2) End hunger; 3) Good health and well-being; 4) Quality education; 5) Gender equality; 6) Clean water and sanitation; 7) Affordable and clean energy; 8) Decent work and economic growth; 9) Industry, innovation and infrastructure; 10) Reduced inequalities within and among countries; 11) Sustainable cities and communities; 12) Responsible consumption and production; 13) Urgent action to combat climate change; 14) Life below water; 15) Life on land; 16) Peace, justice, strong institutions; and 17) Partnerships for the goals. (See www.un.org/sustainabledevelopment/sustainable-development-goals/).

Within the goals are 169 targets. Targets under goal one, for example, include reducing by at least half the number of people living in poverty by 2030 and eradicating extreme poverty (people living on less than $1.25 a day). Goal five targets eliminating violence against women, while goal 16 targets promoting the rule of law and equal access to justice.

The adoption of the goals came during the UN Sustainable Development Summit. Participants at the Summit emphasized that national ownership of the 2030 Agenda is key for implementation, together with citizen engagement and breaking down silos between institutions as well as the various strands of policy making.

How much of this rhetoric will become reality? Only time will tell. Much needs to happen before the goals become reality. As with the MDGs, nations must take concrete steps in order to achieve the various targets associated with the goals. International institutions must take a lead, supported by multilateral regional and international organizations contributing, more towards sustainable development. Coherence between national, regional and international policies and priorities will also need to increase significantly over the next fifteen years. Much emphasis was placed on the need to forge innovative partnerships between governments, businesses and civil society.

In the final analysis, a major challenge lies in ensuring that countries build on the momentum created by the Summit and truly undertake to adapt the 2030 Agenda to their national situations by reviewing policies, plans and institutions. Regional and national development challenges were stressed by many, with emphasis on countries in special situations. The interlinkages and integrated nature of the SDGs are critical to ensuring that the purpose of the new agenda is realized. Let us hope that the SDGs are adhered to and rhetoric is realized.

Human Rights Council 29th and 30th Sessions

Claudio Marinucci, HRA member based in Switzerland, attended two sessions of the Human Rights Council (HRC) – HRC- 29 which met 15 June - 3 July 2015, and the HRC-30 which met 14 September - 2 October 2015.

One focus of HRC-29 was the topic of migration. In his opening address, the UN High Commissioner for Human Rights, Zeid Ra’ad al Hussein, was heartened that the HRC was discussing this issue at this session – especially in light of the situation of migrants going to Europe, South-Asia, and Australia. He mentioned, for example, that the conflict in Syria had killed at least 220,000 people, forcing the largest movement of people since World War II, displacing more than seven million people within the country, and four another million across international borders. (See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16074&Lang=)

Later on that day, at the request of the European Union, the first “enhanced interactive dialogue” (EID) on the issue of human rights of migrants addressed the challenges of increasing irregular migration towards the European countries (15 June). EID is a new work format for the Council, designed to allow the body to respond to important human rights concerns in a timely and substantive manner.

The High Commissioner also participated in the EID opening by sharing his “...growing alarm at the international community’s failure to protect the
rights of migrants” and “...shocked and shamed by the frequent demonization of migrants that we see in many countries whose people benefit from prosperity, peace and ease” seeing this as a “...very dangerous trend.” (See full statement at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16076&LangI)

At HRC - 29, François Crépeau, Special Rapporteur on the human rights of migrants, presented his annual report to the HRC, focusing on the deaths of migrants in the Mediterranean Sea. He called on the EU States to “Accept the impossibility of ‘sealing’ borders and the perverse incentives and paradoxes created by the current system, as well as the inevitability and benefits of mobility” and to “Invest in the overall development of a coherent and robust migration policy that fully reflects the human rights of migrants as enshrined in both international and regional law.” (See UN Document A/HRC/29/36, 8 May 2015.)

Among the resolutions that were discussed and adopted at this session, the HRC debated and adopted one on “Protection of the Human Rights of Migrants: Migrants in Transit” (UN Document A/HRC/Res/29/2, 2 July 2015). Another text adopted by the HRC was the resolution “Unaccompanied migrant children and adolescents and human rights.” (UN Document A/HRC/29/12, 2 July 2015.)

A side event on the protection of migrants at sea provided a dramatic picture of migrants escaping the Syria, Afghanistan and Iraq crises. What is happening in the Mediterranean Sea is not an emergency situation that can be solved in a few months, but a long term drama which requires a strategy and the coordinated effort of the European Union.

Other interesting topics of HRC-29 were (a) realizing the equal enjoyment of the right to education by every girl, which focused on the broad spectrum of situations and obstacles that girls face when trying to access education, including harmful tradition practices e.g. female genital mutilation and early child marriage, and (b) the effects of terrorism on the enjoyment of human rights and fundamental freedoms, in which speakers condemned terrorism and addressed to need to reinforce the respect for human rights and fight hate speech and discrimination.

At HRC-30 session, the High Commissioner delivered an opening statement – this time expressing his and his colleagues’ at the Office, exhaustion and anger, because his Office is “…barely able to cope given the resources available to it, while human misery accelerates... And angry, because it seems that little that we say will change this...” but factors such as “the selflessness of the finest UN staff members... and the stunning courage of human rights defenders... the loneliness and pain of refugees and other rights-holding migrants; the hundreds of millions who suffer from hunger, discrimination, torture – they prevent us from conceding defeat.” (See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16414&LangI)

One focus in HRC-30 was the rights of indigenous people. In the annual half-day discussion on these rights on 22 September, several speakers spoke of the systematic violation of the rights of indigenous people in some parts of the world, including violence against indigenous women. The increasing arrival of foreign investments into many countries exacerbated the loss of land and resources of indigenous people and led to significant environmental destruction within their territories. Speakers welcomed the collaborative global efforts to make the UN Declaration on the Rights of Indigenous Peoples a reality, and supported the recommendation to the UN Secretary-General to develop a system-wide action plan to ensure a coherent approach to achieving the goals of the Declaration.

Several side events on the issue of indigenous peoples presented promising projects around the world, e.g. (a) promotion of cultural rights of the Finno-Ugric people in Europe (21 September), an indigenous people spread among Hungary, Finland, Russia and the Baltic States, and (b) the wisdom of the indigenous peoples of Mexico towards a sustainable development (25 September). These events provided two promising and concrete examples that indigenous people can live in peace across State boundaries, and can organize themselves and improve their standard of living without leaving their land.

Other interesting side events that I attended during HRC-30 were (a) the violation of human rights by the CIA, with a new call from national and international human rights groups on the need to ensure accountability for the CIA Torture Program; (b) the complex human rights situation in the Ukraine, with surprising and monotonic information presented by Russian NGOs; and (c) the refugee crisis due to the Syria conflict, which generated a much more dramatic reality in Lebanon and Turkey than in Europe.
Inter-American Commission on Human Rights Hearing on the Right to Water

By Abby Rubinson

On October 23rd, the Inter-American Commission on Human Rights held a hearing on the right to water. Requested by Human Rights Advocates in coalition with over 20 civil society organizations from the United States and Latin America, the hearing provided a space for advocates and affected individuals and communities to share with the Commissioners their experiences and concerns regarding realization of the right to water in several countries in the region.

Building on its years of advocacy related the right to water at the UN Human Rights Council, Human Rights Advocates contributed a report discussing privatization of the right to water to the coalition’s submission. As background, HRA’s report discussed international law recognizing the right to water, along with the scope and duties associated with that right.

Then, HRA’s report described impacts privatization of water has had on the realization of the right to water, using examples from the Americas.

At the October 23rd hearing, representatives from the US Human Rights Network and other US-based grassroots organizations made oral interventions about the lack of access to clean and affordable water in the United States, using examples from disproportionately affected indigenous communities and communities of color.

Representatives from Latin America, including the Inter-American Association for Environmental Defense (AIDA, by its Spanish initials), highlighted the effect that extractive industries’ use of water resources has had on the right to water in the Americas, citing examples of appropriation, pollution, and irreversible damage in mining and dam projects.

In summary, the organizations explained impacts to individuals and communities, along with the failure of States to implement effective measures to protect, and not to deprive, them of access to clean and affordable water.

Litigation Report

By Connie de la Vega

Human Rights Advocates has been a party to a number of amicus curiae briefs recently.

Connecticut v. Santiago

In Connecticut v. Santiago, the Connecticut Supreme Court held that the abolition of the death penalty by the legislature applied retroactively to the 11 persons already on death row. (Connecticut v. Santiago, 49 A.3d 566 (2015), available at http://www.jud.state.ct.us/external/supapp/aro.htm#supreme) Justice Eveleigh in the Second Concurring opinion referred to the practice of other nations regarding retroactive application of ameliorative laws that was included in the amicus curiae brief that HRA and ten other international organizations and individual experts filed before the Court.

(I filed the brief pro hac vice on behalf of HRA and other Amici Curiae. I would like to thank Hope Metcalf a member of the Connecticut Bar who assisted with the filing of the brief.)

People v. Franklin

In June, HRA filed an amicus curiae brief in People v. Franklin before the California Supreme Court (Cal. Sup. Ct. Case No. S217699). This case raises the constitutionality of a 50 year to life sentence for a murder committed when defendant-appellant Tyris Lamar Franklin was sixteen years old. His sentence was mandatory regardless of the circumstances of the case or mitigating factors. HRA urges the Court to consider international and foreign law and practice in this case when considering the application of the Eighth Amendment’s prohibition of cruel and unusual punishments clause to this case. This analysis is equally
relevant in considering whether the sentence violates Article 1, section 17 of the California Constitution, which prohibits cruel or unusual punishments. HRA argues that not only are life without parole sentences prohibited under international law, but so are their functional equivalent. Perhaps more telling is that 50 years to life would not be given to any juvenile offender in any other country in the world, with the possible exception of Australia, where two juvenile offenders received sentences the UN Human Rights Committee deemed to be the functional equivalent of life without parole—and held to be a violation of Australia’s international human rights treaty obligations. Indeed, throughout Europe, a recognized and reasonable reference point for contemporary norms and standards of decency, the maximum sentence for juvenile offenders is 10 years or less.

(I represented HRA in the amicus curiae brief along with Neil Popović of Sheppard, Mullin, Richter & Hampton LLP.)

**Fisher v. University of Texas**

HRA also joined four other organizations in an amicus curiae brief filed before the United States Supreme Court (USSC) in October in the case of Fisher v. University of Texas (USSC Case No. 14-981). In support of the University of Texas, amici argue that holistic consideration of race in admissions decisions to universities is consistent with the United States’ treaty obligations as well as international practice, which makes it all the more compelling. Reference is made to the review bodies for two treaties that the United States is party to that have urged the United States to undertake special and remedial measures to eradicate de facto discrimination in schools. Other independent international law experts have counseled the United States to do the same. Reference is also made to the European Court of Justice rulings and the national courts of other countries that have also upheld affirmative action measures in relation to addressing racial disparities in higher education. The international treaties and practice support the University of Texas’s approach to admissions and amici urge the USSC to consider both when assessing the validity of the admissions program under the Fourteenth Amendment.

(I represented HRA and other amici curiae with co-counsel Neil Popović of Sheppard, Mullin, Richter & Hampton LLP.)

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**HRA’s Successful Advocacy for California’s Landmark Human Rights Accountability Law**

_HRA recently joined a coalition of organizations, led by the International Corporate Accountability Roundtable and EarthRights International, in advocating for the passage of California State Assembly Bill 15, a landmark state-level human rights accountability bill._

On October 4, 2015, Governor Jerry Brown signed the bill into law, extending the statute of limitations in California courts from 2 to 10 years for civil claims arising from serious human rights abuses, which include torture, war crimes, extrajudicial killing, and crimes against humanity, and also extending the time for filing human trafficking claims.

With this new law, California becomes the first U.S. state to provide survivors of serious human rights abuses an extended period to file their claims and the first U.S. state to codify crimes against humanity. Elsewhere in the U.S., courts impose a statute of limitations of 1-3 years for these claims, rather than the 10 years survivors have to file their claims in California.

As an attorney who represented survivors of gross human rights abuses in U.S. courts, I have seen how the two-year statute of limitation in these cases has prevented victims from seeking justice. For example, in _Bowoto v. Chevron_, we brought claims under the Alien Tort Statute, a federal law with a 10-year statute of limitations for serious human rights abuses, as well as under California state law. However, the California state law claims were barred by the statute of limitations because the victims did not know which companies were involved in the abuses before the statute of limitations had expired.

Finding that kind of information—and pulling together all of the other details necessary to file a complaint—within a few years can prove very difficult for survivors of human rights abuses. Their cases are often complex and require significant time and preparation.

The new law will also prevent defendants from borrowing shorter statutes of limitation for claims of torture, genocide, and crimes against humanity if some or all of the harm occurred in California. Additionally,
where prevailing plaintiffs assert torture, genocide, crimes against humanity, or trafficking claims, regardless of where their harm occurred, they will be awarded attorneys' fees and costs under the new law.

HRA applauds the State of California's recognition of the need to provide time to survivors of serious human rights abuses and its efforts to promote access to justice in California. In particular, HRA wishes to thank Assemblymember Chris Holden (D-Pasadena), to whom HRA wrote jointly with its coalition partners and who championed the bill.

**HRA Fellowship**

Human Rights Advocates awarded a fellowship to University of San Francisco School of Law graduate Nicki Griffin. Nicki received a $2000 stipend to work this past fall with HRA Board member Jeremiah Johnson, a partner at Johnson & McDermid, LLP, an immigration law firm in San Francisco. Nicki reports on some of her work below. We thank Nicki for her excellent work and congratulate her on passing the California bar exam!

**By Nicki Griffin**

I am honored to be the 2015 Human Rights Advocates Edith Coliver Human Rights Fellow. I began the fellowship without a background in immigration law, but well aware there are many injustices throughout. My supervising attorney, Jeremiah Johnson, a founding partner of Johnson & McDermid and HRA board member, instructed me to “find a problem with immigration practices and then propose a solution.” It seemed simple enough, but was actually a daunting task.

Even with my limited knowledge, I knew that there are a plethora of issues that need to be addressed within immigration law, so where to start was the challenge. As I familiarized myself with the immigration court structure and governing law, I focused in on asylum. Part of qualifying for asylum consists of showing refugee status. The 1951 Refugee Convention defines a refugee as someone who has a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protections of that country.” It struck me as odd that, absent from the recognized list of what a refugee must fear persecution based on, is gender.

My initial goal was to use international law to argue that based on the right to asylum and international law’s commitment to advancing gender equality, gender should be a recognized group for the purposes of seeking asylum. I continued to do research and was pleased to discover that while gender may not be on the list, it is beginning to be recognized under the “particular social group” category. Within the last couple of years the Immigration Courts have begun recognizing victims of domestic and other gender violence as a group needing protection and subsequently granting them asylum.

Though progress has been made, there is still much work to be done, as victims of domestic and gender violence must still define their own particular social group, hoping that theirs will be recognized by the court though not all of them are. It is not enough to simply be a victim of domestic violence. The courts require something more, such as “women from Guatemala who are unable to leave their relationship” (Matter of A-R-C-G-, 26 I&N Dec. 388 (BIA 2014)).

Jeremiah showed me the importance of direct client advocacy, and gave me the opportunity to assist in forming the particular social group for a client. Furthermore, I was able to assist in establishing the country conditions for the client. The country conditions are not only important for developing a particular social group, but in demonstrating to the court that the refugee cannot simply relocate within their home country.

After this invaluable experience, Jeremiah and I decided that I would continue with that thread by creating a “gendered violence-country conditions” resource guide for attorneys who are seeking asylum for victims of gender violence in Latin America.

In my research, it became apparent that in addition to hurdles these victims face in court, an initial issue for them is access to resources. The needed resources include both legal counsel and general support.

With that in mind I decided to create a resource guide for the women who are victims of domestic and gender violence as well. After reading countless stories of women who were forced to flee their countries and came here with nothing, it was very important to me that this guide be done in a hard copy format as many
of these women don’t have access to the internet or other resources.

I still believe, especially given the high incidence of femicide that occurs around the world, that gender should be a recognized category within the definition of a refugee. However, I am hopeful, now that the courts are starting to recognize these victims as refugees in need of asylum.

I have been very excited about my project and am grateful for the chance to actually create a product that can help victims of gender violence to seek the aid that they both need and are entitled to.

Your contributions are greatly appreciated by HRA!

Long-time HRA supporter Holly Newman, daughter of Frannie and Frank Newman, generously agreed to match contributions up to $2,500. Please consider renewing your membership and making a donation – both of which are tax-deductible – by completing the membership form attached to this issue of the newsletter.
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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:

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