Advocacy at the UN

By Connie de la Vega

Seven students participated in the University of San Francisco’s Frank C. Newman International Human Rights Law Clinic during the Spring 2019 semester, representing Human Rights Advocates at the meetings of two UN human rights bodies. Two Edith Coliver Interns attended the 63rd session of the UN Commission on the Status of Women (CSW) in New York and five Frank C. Newman Interns attended the 40th session of the Human Rights Council (HRC) in Geneva, Switzerland.

The Edith Coliver Interns were supervised at the CSW session by Patience Tusingwire, a former Edith Coliver Intern. HRA’s written statement was prepared by former Clinic student Darlene Balagot during the Fall semester and encouraged the creation of programs focused on getting women into decision-making positions that emphasize the importance of successful educational programs. (See, Human Rights Advocates, UN Doc. E/CN.6/2019/NGO/100 (Nov. 26, 2018), available at http://www.unwomen.org/en/csw/csw63-2019/official-documents. The Agreed Conclusions and resolutions adopted by the CSW are available at http://www.unwomen.org/en/csw/csw63-2019/session-outcomes.

I supervised the six Frank C. Newman Interns who attended the HRC and were involved in a number of activities. Four were able to make oral statements before the full HRC; many of them were involved in resolution drafting sessions as well as discussions in side events; and they all met with government delegates, special mandate holders and members of other non-governmental organizations. They also met HRA’s International Advisory Board member Cruz Melchor Eya Nchama and were able make the annual trip to CERN, thanks to our representative in Geneva, Claudio Marinucci.

The HRC adopted 29 resolutions and 14 decisions. Sixteen theme resolutions passed by consensus on issues such as: cultural diversity (Res. 40/6), right to privacy (Res. 34/7), human rights and the environment (Res. 40/11), and rights of the child (Res. 40/15). Only 2 theme resolutions did not pass by consensus: unilateral coercive measures (Res. 40/3 passed by a vote of 27-15) and non-repatriation of funds (Res. 40/4 passed by a vote of 31-2). Most of the country resolutions were adopted by vote, including those on Palestine and the Occupied Territories and a
Ensuring Access to Mental Health Services for Victims of Gender Violence Regardless of Migration Status

By Kelsey Craven

In March 2019, I was given the incredible opportunity to represent Human Rights Advocates (HRA) at the 63rd Commission on the Status of Women (CSW63) at the United Nations Headquarters in New York City. This year’s priority theme was “Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls.” Within that theme, I wanted to address the need for access to mental health services for all, especially for female migrants who are victims of gender violence.

According to the UN Refugee Agency, an unprecedented 68.5 million people have been forced from their homes worldwide. (“Figures at a Glance.” UNHCR: The UN Refugee Agency, 19 June 2018, www.unhcr.org/figures-at-a-glance.html). Forcibly displaced women and girls are more vulnerable to abuse during their migration, as they are more likely to be trafficked, forced into prostitution, and are particularly vulnerable to sexual abuse. Abuse and trauma stemming from gender violence often cause mental health difficulties, which have a wide variety of social effects. Countries are making matters worse by criminalizing and incarcerating migrants, further exacerbating their mental health issues. Furthermore, many countries discriminate between different classifications of migrants when providing services. For instance, the United States provides mental health screenings for refugees, but not for asylum seekers or undocumented migrants.

Therefore, I advocated for access to mental health services for women and girls regardless of migration status, with special attention being paid to the needs of survivors of gender violence. I also argued that states should end migrant detention and that if migrants must be detained, countries should provide mental health services in order to ensure their mental health difficulties do not worsen while in detention. For these reasons, I requested that the Agreed Conclusions included language urging states to end migrant detention and ensure access to mental health services for victims of gender violence, regardless of migration status.

During my two weeks at CSW63, I attended dozens of presentations and panels regarding mental health and migrant issues. Although the delegate meetings were closed to NGOs, I was able to speak with a few delegates and had two country delegates ensure me that they would promote and vote for language that included providing mental health services.
services “regardless of migration status” or “for all.” I was also chosen to present my oral statement at one of the General Discussion meetings, where I gave a three-minute speech on behalf of HRA in front of delegates and other NGO representatives. Once the CSW63’s Agreed Conclusions were published at the end of the conference, I was delightfully surprised to see that some of the language that I was advocating for was included in the final document. (Commission on the Status of Women, Social Protection Systems, Access to Public Services and Sustainable Infrastructure for Gender Equality and the Empowerment of Women and Girls: Agreed Conclusions, E/CN.6/2019/L.3, ¶ 25 March 2019).

I am so grateful to have had this amazing opportunity to be surrounded by human rights defenders and gender equality activists from around the world who are dedicating their careers and lives towards making the world a more just and equitable place. In our current international climate where everything seems so divisive, it was truly inspiring to be surrounded by so many different people with a variety of languages and cultures who were all striving towards the same goal of gender equality. I will never forget my experience at CSW63, and I hope this clinic and HRA continue to give other students the same extraordinary opportunities that I was given.

Working Towards Sustainability: Practice Goals for Educational Programs

By Celyn Coker

I was fortunate to be selected as an Edith Coliver Intern to attend the CSW63 session (March 2019) in New York. This year’s theme was “Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls.” My research focus was on how to make educational programs more successful and sustainable. (See, Report of the Secretary-General, E/CN.6/2019/3 Dec. 20, 2018)

I found that for educational programs to be successful, developers should aim to implement four practice goals: (1) community participation; (2) leadership development for participants; (3) development of self-confidence in participants, and (4) establishment of safe spaces. HRA’s written statement’s second recommendation to State Governments encouraging the creation of programs focused on getting women into decision-making positions also emphasizes the importance of successful educational programs. (See, Human Rights Advocates, UN Doc. E/CN.6/2019/NGO/100 (Nov. 26, 2018).

Educational programs that tend to have community support and participation are more successful when the voices of parents, teachers, and other community members are involved. When people are involved in programs, they are dedicated to their success and work to prevent their failure. Then to, programs that offer their participants a safe space are also more successful. This may be the result of an environmental disaster or the emotional atmosphere of the program, both of which can have a substantial effect on the successful nature of the program. A lot of my points are shared with International Planned Parenthood Federation’s written statement to the commission. (See, International Planned Parenthood Federation, UN Doc. E/CN.6/2019/NGO/94).

I learned a lot while I was in New York. I was able to develop my people and advocacy skills. I experienced varying forms of rejection and found better ways to deal with and learn from the negative experiences. This leads into my next topic: the importance of language in the Agreed Conclusions document. Attending the CSW63 session, one of our important goals was to engage with delegates and convince them to include our specific language into the session’s final document and inform country participants future actions regarding gender equality.

My purpose was to make sure that strong language affecting the topics I was passionate about did not become weaker in the final outcome document, but I was not successful. Those topics regarded safety, transportation, hygiene, and education. The language I was advocating for was the use of “reaffirms” as opposed to “recognizes.” To affirm something means to confirm or ratify it, to agree or commit to uphold or support. To recognize something, in contrast, means to acknowledge its existence and accept it as a situation. Recognition is a low position with low accountability, whereas affirmation is a high position with high accountability. The sections I am most passionate about are
all “recognized” in the final outcome document. They are at least on the page, but how will countries be held accountable when they fail to make decisions to improve safety, transportation, hygiene, and education [15, 29, 31] if all they needed to do was recognize that there are problems? Those who are most negatively impacted do have a document that they are able to point to, but they do not have strong language to back up any claims that their State Government is failing to take necessary actions. And the State will be able to respond that they are aware of the situations, but are instead focusing efforts into a different task. (See, Commission on the Status of Women, Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls: Agreed Conclusions (2019), http://www.unwomen.org/-/media/headquarters/attachments/sections/csw/csw63%20ac_adopted_for%20submission.pdf?la=en&vs=852). The CSW63 was an amazing experience that I would love to repeat! I just hope that future outcome documents will have more instances of strong language.

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**Human Rights Council**

**The Right to Privacy: The Use of Personal Data by Businesses**

By Amal Assioua

In preparation for the 40th session of the United Nations Human Rights Council (HRC), I researched the challenges facing businesses as they relate to effective compliance with the current data privacy and data protection global regulatory frameworks (The Right to Privacy: The Use of Personal Data by Businesses, A/HRC/40/NGO/234.) The exercise of human rights in the Digital Age, in particular the right to privacy, is an issue of increasing interest and importance as the rapid pace of technological development facilitates access to digital technologies to persons all over the world.

Today, over 100 countries have data privacy laws in place to protect this individual human right. However, this raises three major problems. First, while this is a step in the right direction, most regions in the world lack enforcement mechanisms such as those created over the past 40 years in Europe and North America. Thus, the international legal framework would benefit from vastly increased detail, clarity and comprehensiveness, as well as safeguards and remedies for the daily violations of the right to privacy occurring in cyberspace.

Second, these frameworks of privacy laws and data protection regulations have as their starting point some notion of identifiability, where legal obligations will generally only apply to data that relate to an identifiable person. Organizations that operate globally might assume that phrases like “personal data” and “personal information” are interchangeable. However, cases show that judicial interpretation of the scope of privacy and data protection laws can potentially turn on subtle differences in language.

Third, compliance requirements are inconsistent across jurisdictions. The current frameworks either allow businesses to collect basic information data, such as age and address of an individual, or completely prohibit the collection of information without first decrypting it. For companies, this means building systems and processes for each of the different standards, which has proven costly and time consuming, making compliance only possible for well-funded businesses, whereas, smaller businesses are left no other choice but to geofence jurisdictions, the electronic method of excluding specific geographic locations from access to a company’s goods or services, where laws are unclear.

Through this experience I was privileged to present my findings and recommendations, to the Special Rapporteur on the Right to Privacy, on the most robust laws currently governing use of personal data by businesses. This included European Union’s (“EU”) supervisory authority General Data Protection Regulation (“GDPR”), deemed as the “model” framework upon which other countries look to for guidance; the amended Japan Act on Protection of Personal Information (“APPI”), and the California Consumer Privacy Act of 2018 (“CaCPA”), which will take effect in 2020.
The Use of Armed Drone Technology and Violations of International Human Rights Law

By Paul Grant-Villegas

This past March I participated in the 40th session at the Human Rights Council in Geneva, Switzerland. In preparation for the session, I chose to research how the use of armed drones violates international human rights law in counter-terrorism operations. Armed drones are remotely piloted aircraft with missiles attached to them. While this technology has been lauded by some as an efficient and cost-effective tool to counter terrorism, what is ignored is how the use of this technology frequently violates international human rights law. Drone strikes violate the right to life when they deprive the life of targets and civilians arbitrarily, and States do not conduct prompt, independent, and impartial investigations where there are indications of violations of international law. In addition, the use of armed drones violates other human rights such as the right to assembly, education, work, and culture when it destroys buildings that make the realization of these rights possible. Furthermore, I found the ambiguous legal principles used by States to justify the use of armed drones increased the potential for human rights abuses.

In order to circumscribe human rights violations caused by the use of armed drones, I submitted a written statement with recommendations that the Human Rights Council clarify that international human rights law is the primary source of law governing lethal drone use outside a situation of armed conflict; that States should delineate the geographical scope of their armed conflict against terrorists, and refrain from using lethal drones outside designated situations of armed conflict; and that States should release more data on their use of lethal drones to increase transparency and accountability. (“The Use of Lethal Drones in Counter-Terrorism Operations,” A/HRC/40/NGO/236, 25 February 2019).

Unfortunately, there was no resolution on counter-terrorism this session, only a renewal of the mandate of the Special Rapporteur on counter-terrorism was ultimately passed without a vote, the controversial title “Terrorism and Human Rights” was taken out, but some problematic paragraphs were kept in. (Mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/RES/40/16, 22 March 2019). Although I believe the final resolution weakens the role of the Special Rapporteur, it is only temporary. There will be another opportunity to amend the mandate in three years. Finally, I am very grateful that I had the opportunity to participate in the Human Rights Council. It was a wonderful learning experience.

Rights of the Child: Deinstitutionalization and Desegregation of Children with Disabilities

By Carolyn Widman

In March 2019, I represented Human Rights Advocates at the 40th Session of the Human Rights Council (“HRC”) in Geneva, Switzerland. My report focused on this year’s theme for the Rights of

Today, eight to ten million disabled children are institutionalized worldwide. In many countries, parents of infants with perceived impairments are persuaded by medical personnel to believe it is in their best interest to relinquish custody. In the end, parents comply out of necessity and lack of community support. In many developing countries, disabled children are trafficked or sold to orphanages to satisfy the desires of tourists, students, and religious groups seeking volunteer experiences. In response, I urged states to prioritize deinstitutionalization and ensure resources are used to develop community-based alternatives.

Segregated, unequal education is often the only option for children with “invisible disabilities,” such as intellectual or psychosocial (mental health) disabilities, because mainstream schools are ill-equipped to or refuse to accommodate their needs. Refugee children with disabilities are incredibly overlooked and underserved, especially in countries where education accommodation is a charity, not a right. Thus, I urged governments to amend laws and policies to recognize and support all disabled children, including non-physical conditions and refugees.

In Geneva, I was unable to make my statement before the Council due to a limit on the number of NGOs allowed to speak. However, I voiced support and suggested stronger phrasing for a provision regarding deinstitutionalization in the Rights of the Child resolution, which was accepted in the final draft. (A/HRC/40/L.20/Rev.1).

The most interesting takeaway from my experience was the contrast between the formal agenda item sessions in front of the HRC and the informal resolution drafting sessions. The formal Council sessions provided a platform for governments to manipulate, ignore, or deny their own human rights violations while simultaneously presenting an image of concern for human rights. Governments often used their time to divert attention to other countries’ bad practices or would plainly deny any violations, even where independent reports proving otherwise were produced. These sessions prioritized state sovereignty over human rights by asserting ‘fake news’ or political bias in response to NGOs or Special Rapporteurs.

In contrast, the resolution drafting sessions provided a platform for representatives of governments and civil society to engage in adversarial diplomacy, bringing human rights law into the forefront. While delegations asserted state sovereignty or “take it or leave it” approaches on many issues, delegates could not get their way by making conclusory statements. It was encouraging to hear delegations respond to these remarks with objective reasoning and even more reassuring when delegations accepted these responses. Although coordinated voting blocs often invoked cultural differences to undermine commitments, the delegations remained at the table. In the grand scheme of things, it is an achievement to have so many countries with contrasting opinions and ideals willing to cooperate peacefully in the name of human rights. Overall, I am extremely grateful for this enriching experience that reaffirmed my interest in human rights and highlighted the importance and need for effective lawyering for social change.

Combating Water Scarcity and Pollution to Ensure A Sustainable Environment

By Samuel Rosario

The topic that I researched concerned human rights and environment issues. I decided to focus on the precarious issue of Water Scarcity and Pollution and efficient ways to combat the water crisis around the world. My report argues that water scarcity and pollution will be detrimental to the human race in the next years if this situation is not addressed. (Combating the Water Crisis to Ensure a Sustainable Environment, A/HRC/40/NGO/235).

As such, we made it our mission to show that it is important for the HRC to recognize and engage world leaders towards addressing water scarcity and pollution within the right to the environment.
discussion because water is an integral part of achieving a healthy sustainable environment. Water remains the core of any sustainable development initiative and is not only critical for food production, but also for human survival, socio-economic development, energy, and healthy ecosystems. In combating water scarcity and pollution, particular attention needs to be placed on the environmental applicability of water. These include establishing a balance in environmental use of resources, strengthening erosion measures, combating water and soil salinization, and reducing water wastes.

So after seeing how important water is and how it permeates to other areas of the environment it was imperative for me to persuade delegates to talk about water within the context of the right to the environment. The response was, of course, what we expected. It just turned out that the Special Rapporteur decided to focus on air pollution within the context of the right to the environment for the next year. However, in my drafting sessions it was pretty evident that countries like Syria, Azerbaijan and Armenia were all facing an acute water scarcity due to war and water contamination. In conversations with the delegate of Syria and The Netherlands (a country that has shown to have positive results with water management) I managed to get some language in page 2, paragraph 4 of the resolution. In the adopted resolution, the HRC reaffirmed the importance of safe drinking water and sanitation for human rights defenders:

Reaffirming also the importance of the Declaration on Human Rights Defenders and its full and effective implementation, and that promoting respect, support and protection for the activities of human rights defenders, including women and indigenous human rights defenders, is essential to the overall enjoyment of human rights and for the protection and conservation of the environment, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, including adequate food and housing, and to safe drinking water and sanitation, and cultural rights,

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/40/RES/11 (21 March 2019).

My overall experience at the HRC was incredibly humbling. It was amazing to get to talk to leading scholars about the right to the environment, and to have thoughtful conversations about possible solutions to the problem. In a more general perspective, it was incredible to see many countries coming together to talk about their issues. The UN was based on the notion that countries could put their guns down and have an actual conversation without escalation. As a pacifist, there is no greater inspiration to see the dream of peace in full effect. This led me with a sense of hope, and hope is such a powerful fuel within the context of human rights. This experience showed me that it does not matter where you are from, what language you speak in, your race, your color, your religion or sexual orientation – we can all come together to a round table and reach a resolution about how to deal with these human rights issues.

Policies to Reaffirm and Protect the Right to Adequate Housing

By Adrian Van

With an estimated 1.8 billion people lacking adequate housing, the right to adequate housing is often forgotten and consistently violated by States. (Leilani Farha (Special Rapporteur), Access to Justice for the Right to Housing ¶ 1, UN. Doc. A/HRC/40/61 (Jan. 15, 2019)). Via States’ acquiescence to the growth of the commodification and unaffordability of housing, the perception of this right has been degraded throughout the years. This has led people to see housing as less of a right that should be afforded to all, and more as an asset to purchase, hoard, and speculate upon. The pervasiveness of this attitude is unacceptable and unsustainable.

The focus of my research and written statement submitted to the Human Rights Council was advocating States’ adoption of successful fiscal and legislative policies that strengthen the right to adequate housing through the changes in perception and protection of the right. (Policies to Reaffirm and Protect the Right to Adequate Housing, A/HRC/40/NGO/237 (Feb. 26, 2019)).

One of the fiscal policies that the report
advocated for was vacancy taxes. Housing vacancy in cities where people experience homelessness is a sign of housing allocation inefficiency and market failure. Vacancy taxes maximize the current housing stock by levying a percentage tax if housing is left vacant, which in turn encourages the selling or the renting of the vacant unit with revenues allocated to housing initiatives. This would precipitously allow more people access to once-vacant housing while depressing costs in lieu of the tax. The two States I highlighted that have successfully implemented vacancy taxes also fulfilling human rights are France and Canada. These tax schemes are not only proportionate and effective tools in rapidly increasing available housing and funds for affordable housing, but also serve to remind the public that housing is a universal right not a privilege.

Another policy that was emphasized was Scotland’s mortgage to rent scheme which allows, households with mortgages that are in danger of being foreclosed upon can be purchased by a non-profit “Registered Social Landlord” (RSL) and then rented back to residents at an amount adjusted to their income, eliminating the risk of homelessness. Mortgage to rent schemes prevent homelessness, by increasing the affordable public housing stock, ensures security for the household with an affordable rent, and maintain housing as a human right. The collaboration between the Scottish government with the RSLs and private sectors further acts as a positive model of proper implementation of a successful housing policy. This program is indicative of a State’s commitment in protecting the individual and the right to housing.

While there was not a resolution directly on the right to adequate housing this session, I was able to attend and intervene on a resolution on the Question of the Realization in all Countries of Economic, Social and Cultural Rights (A/HRC/40/6 (Mar. 18, 2019)). And while that drafting committee did not accept my recommendations, participating from draft zero and watching the collaboration and divergences of all parties was an amazing experience. I was also able to speak with several receptive delegates on my topic and have been asked to assist the Special Rapporteur on housing with her research. Overall, this clinic has afforded me the greatest professional and academic experience of my life, as well as solidified my desire to incorporate Human Rights into my work. I would like to thank Human Rights Advocates, the University of San Francisco, and Professor de la Vega for affording me this opportunity.

HRA Annual Meeting

A Time to Reflect and to Carry On the Legacy of HRA’s Advocacy at the United Nations and Home

By Julianne Cartwright Traylor

On April 17th, Human Rights Advocates held its 2019 Annual Meeting bringing together longstanding as well as new members, to celebrate the accomplishments of the past year and to look ahead to another promising year full of activities both here in the bay area and at the United Nations in New York and Geneva. In my capacity as Board President, I welcomed HRA members to our Annual Meeting at the University of San Francisco School of Law. HRA Board Treasurer Connie de la Vega presented our business and financial reports for the previous year.

A most important part of our meeting was convening the election of HRAs Board of Directors for 2019-2020. Outgoing Board member Jay Bijlani – who has moved to southern California, was not able to attend the Annual Meeting, but we thanked him for his service on the Board and wished him well and hope that he will be able to maintain his membership and ties to HRA. The slate for the new Board included the following incumbents: Jacqueline Brown Scott, Kathy Burke, Connie de la Vega, Alen Mirza, Julianne Cartwright Traylor, and Trevor Yan. In addition, Bethelhem (Betty) Gedlu, recent USF School of Law Graduate and FCN Human Rights Clinic participant, was also on the ballot. The full slate was elected to serve on the Board for the next year.

At the conclusion of the meeting, I thanked all of the members who attended and for their financial contributions and time working on projects, and acknowledged the many challenges that we face advocating for human rights here in our own back yard, in the United States, as well as globally in our work at the United Nations.
Board Members Win Awards

By Julianne Cartwright Traylor

HRA Board member Trevor Yan received the George R. Corey – Linda M. Gemello Award given every year to a Legal Aid Society of San Mateo County attorney who “…exemplifies a commitment to work every day to obtain justice for all.” The Award was presented at a luncheon on April 28th at the Four Seasons in East Palo Alto (CA). Shirley Gibson, Trevor’s supervising attorney, wrote the following for the event program: “Trevor demonstrates a deep intellectual curiosity about all aspects of his work. Like most great Legal Aid lawyers, he is a boundary-pusher, always willing to question our assumptions, creatively interpret ambiguous statutes, and tackle any tricky legal argument.”

This quote says it all about Trevor’s work not only on behalf of his clients, but also about his human rights work on behalf of HRA. Congratulations, Trevor! We are all so proud of you and fortunate to have you continue your work on HRA’s Board of Directors as our President for this coming year.

HRA Board member Jacqueline Brown Scott and her team received the Fr. William J. Dunne Award at the Service and Merit Award Annual Ceremony at the University of San Francisco on May 2nd. The Award is given to those who have “demonstrated excellence to USF and the community at large through service, creativity, innovation and leadership, above and beyond the scope of regular duties.”

Jacqueline is an Assistant Professor at the law school and serves as the Supervising Attorney of its Immigration and Deportation Defense Clinic with Professor Bill Hing as its Faculty Director. Other team members are Nancy Arevalo, Gabriela Mendez, Roxana Quintero, Martin Stein, and Monica Valencia. Congratulations to all of you and we owe a big debt of gratitude to you for all of the tremendous work that you have done this past year and continue to do on a daily basis on behalf of all immigrants to our country.
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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:

___ Regular Membership $40.00
___ Student or low-income (sliding scale available) $20.00
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