



HRA Fall Educational Event on Capital Punishment and International Human Rights Law

By Kathy Burke

“Capital Punishment and International Human Rights Law” was the topic that Human Rights Advocates presented for examination at its educational event on October 28, 2019. The meeting took place at the Law School of the University of San Francisco (USF).

A three-person panel offered different perspectives on the death penalty and, in particular, the death row phenomenon, in both domestic U.S. and international human rights law. **Julianne Cartwright Traylor**, HRA Board Secretary, introduced and moderated the panel.

Connie de la Vega (USF Law Professor and HRA Treasurer) gave an overview of international human rights law and the death penalty. She listed various ways in which many international and regional instruments and bodies have addressed the death penalty. Professor de la Vega pointed out that although international human rights law generally does not prohibit the death penalty outright, it does restrict how the death penalty can be carried out and who it can be applied to. For example, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child (the latter ratified by all countries

except the United States) ban the juvenile death penalty. The U.S. practice of condemning juveniles to death was challenged in this country’s Supreme Court, where HRA and other organizations argued that the Court should apply the international ban. In 2005, the Supreme Court ruled that the juvenile death penalty is unlawful because it violates the U.S. Constitution; and, in reaching that conclusion, the Court cited “the overwhelming weight of international opinion”.

Turning to the “death row phenomenon”, i.e., the harmful effects on individuals from being detained on death row for a long time, Professor de la Vega described several countries’ legal positions on the death row phenomenon. In India, for example, a national court ruled that holding a person on death row becomes cruel and unusual punishment after six years; and extradition to the United States from the United Kingdom has been denied because of both the existence of the death penalty and the death row phenomenon.

Human Rights Advocates brought a case to the Inter-American Commission on Human Rights to challenge the “death row phenomenon” in California as violating international human rights law. California holds over seven hundred individuals on death row. HRA represented one of them, N.I. Sequoyah. The



HRA Fall Educational Event Panel (left to right): Elliot Miller-Taylor, Claudio Marinucci, and Connie de la Vega.

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Inter-American Commission's decision is still pending.

Panel member **Claudio Marinucci** discussed in more detail the situation of N.I. Sequoyah on death row. Mr. Marinucci, who is a retired engineer in applied physics, is part of a group in Switzerland that has advocated for this California death row inmate for many years. The group found British lawyers to try to help him, they visit him at San Quentin, and they provide him material assistance, such as a typewriter.

Panel Member **Elliot Millerd-Taylor**, a second-year student at USF Law School, spoke about his experience working on death penalty issues in Louisiana, as a participant in the Keta Taylor Colby Death Penalty Project (a project of USF Law School). Louisiana, he said, holds 75 people on death row, nearly all of them African-American. From his experience, Mr. Millerd-Taylor concluded that any effort to reform and abolish the death penalty is more political than a legal matter; the decision to charge someone with a capital crime and the decision to execute that person, are political acts.

UN Civil Society Conference on Building Inclusive and Sustainable Cities and Communities

By Trevor Yan

The 68th United Nations Civil Society Conference on Building Inclusive and Sustainable Cities and Communities happened this year in Salt Lake City from August 26th to 28th. For the first time ever, the conference occurred in the United States outside of UN Headquarters in New York. I was privileged to represent Human Rights Advocates at the conference.

The conference's theme reflected increasing global concern over inequality, on issues ranging from housing to climate justice. I noticed that many of my fellow attendees came from organizations with a regional or local focus, perhaps reflecting a trend toward local leadership where national organizations and governments have failed to protect international human rights. During the conference, I met informally with local officials from Salt Lake City to discuss our shared concerns and experiences with combating housing injustice. I learned that Salt Lake City faces homelessness and housing



Trevor Yan at the UN Civil Society Conference

affordability crises just like San Francisco, where I grew up and currently call home. Furthermore, I learned that many refugees relocate to Salt Lake City after entering the United States. When they arrive there, their challenges include facing rising housing costs.

These shared experiences of housing injustice opened up opportunities for discussions about international human rights and housing policy that left me feeling hopeful about our ability to address these issues in partnership with neighboring regions. To thrive, though, these regional partnerships will require continued, organizational support from the United Nations. Events like the Civil Society Conference allow like-minded advocates to have the space to meet and converse about human rights. However, in the final analysis, a challenge remains in maintaining long-lasting partnerships to advocate for projects on the ambitious scale of the UN Sustainable Development Goals. Such ambitious projects require equally robust organizational support like regularly-scheduled forums for discussion that inform concrete advocacy plans that partners can pursue both in their own regions and globally. I thank HRA for the opportunity to participate in discussions on such timely and important issues leading into the next decade.

Your contributions are greatly appreciated by HRA!

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The 25th Anniversary of the Beijing Declaration and Platform for Action: HRA Statement to the CSW

By Carolina Quesada

In March 2020, on the 25th Anniversary of the Beijing Declaration and Platform for Action, the Commission on the Status of Women (CSW) will be evaluating and reviewing the advancements accomplished through the Beijing Declaration and the 23rd Special Session of the UN General Assembly on 'Women 2000: Gender Equality, Development and Peace for the Twenty-First Century (Beijing +5)'. HRA applauds CSW's efforts and achievements in addressing the persistent inequalities between men and women. However, the World Economic Forum in 2018 estimated it will take an average of 202 years to close the gap between men and women.

At the 64th session of the CSW, HRA is advocating for a renewal of efforts to address the wage gap, which is one of the many areas where there are prevalent and consistent inequalities between men and women. Although some progress has been made in addressing the wage gap, the little progress achieved has stagnated and wage parity legislation enacted lacks enforcement. Further, at the moment it is not possible to know the size of the wage gap since there is no consensus on what factors should be considered when addressing the issue. Therefore, HRA recommends that the CSW: lists clear categories to accurately measure the wage gap, asks governments to regularly report on the categories to obtain an idea of the magnitude of the wage gap, and urges Member States for a renewal on legislation on gender wage parity. The official UN document number for the HRA Statement will be available closer to the time of the session in March 2020.

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. If you would like to apply, please contact Julianne Cartwright Traylor at traylor@igc.org by January 17, 2020.

Human Rights Council – 42nd Session

By Claudio Marinucci

I attended the 42nd Session of the Human Rights Council in September 2019. I attended a number of side events, including one on "Indigenous Justice and Human Rights." This side event was organized by the International Commission of Jurists and the International Development Law Organisation. The UN Special Rapporteur on the Rights of Indigenous Peoples gave a summary of the report she delivered to the Human Rights Council which focused on the traditional justice systems of Indigenous Peoples. One characteristic of those systems is that the source of law does not derive from codified laws or tribunal decisions, but rather from oral histories, spiritual or other cultural traditions, family or clan relations and obligations and their close relationship with their lands.

In general, there are a number of key concerns Indigenous Peoples face in the legal systems. These include: the lack of recognition of their justice systems by local, regional and national authorities, the lack of effective coordination between the systems, discriminatory attitudes in the non-indigenous systems, and adequate redress and reparations for violations against them. Without accessible courts, Indigenous Peoples are vulnerable to actions that threaten their lands, natural resources, cultures, sacred sites, and livelihoods. The ability of Indigenous Peoples to strengthen their own administration of justice is an integral component of their right of self-determination and self-governance under international human rights law. Those standards should be used to promote those rights and not used to deny their right to promote and maintain their system of justice.

Philip Alston on the Digital Welfare State

By Rita Maran

HRA continues to pay special tribute to one of the international community's most eminent (and most peripatetic) of human rights law scholars: Philip Alston. Since June 2014, he has served around the globe as UN Special Rapporteur on Extreme Poverty and

Human Rights. He is also professor of Law and faculty director and co-chair of the Law Center for Human Rights and Global Justice at New York University School of Law. HRA is also proud to have him serve as a member of its International Advisory Board.

In this latest appointment as a UN Special Rapporteur, Alston has developed ground-breaking concepts on merging linkages between human rights and extreme poverty within the concept of digitization. His most recent report to the UN General Assembly sets out his concerns about the emergence of the “digital welfare state” in many countries around the world. (See UN document A/74/493, 11 October 2019). Alston says that “in these countries, systems of social protection and assistance are increasingly driven by digital data and technologies that are used for diverse purposes, including to automate, predict, identify, surveil, detect, target and punish.”

A technologically-driven future stands to be disastrous if it is not guided by respect for human rights and grounded in hard law. “There is no shortage of analyses warning of the dangers for human rights of various manifestations of digital technology and especially artificial intelligence. However, these studies are overwhelmingly focused on traditional civil and political rights such as the right to privacy, non-discrimination, a fair trial and freedom of expression and information. *Few studies have adequately captured the full array of threats represented by the emergence of the digital welfare state.* (Italics added). This report sets out to analyze some of those threats and point the way for future analyses and programs to help with the alleviation of extreme poverty.

Finally, he warns that “As humankind moves, perhaps inexorably, towards the digital welfare future it needs to alter course significantly and rapidly to avoid stumbling zombie-like into a digital welfare dystopia.”

Alston’s mandate on human rights and extreme poverty ends in April of 2020, so I know that we in the international human rights community will

continue to look forward to not only see what his next international assignment might be, but also to reading his future scholarly analyses of a vast array of important international human rights issues that we are challenged by.

For the rich body of literature and reports done by Alston as part of his work as Special Rapporteur on Extreme Poverty and Human Rights, readers can visit the following website at <https://www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyIndex.aspx> to access, for example, his reports and statements to the GA and the Human Rights Council, as well as his reports from country visits including, for example, a report on climate change and poverty.

HRA NEWSMAKERS

New Practical Guide on Using International Human Rights and Criminal Law Procedures

We are proud to announce that HRA Board members Connie de la Vega and Alen Mirza have a new book that has been published entitled “A Practical Guide to Using International Human Rights and Criminal Law Procedures” (Edward Elgar 2019). Luke Fadem, Jennifer Baibe, and JoAnn Ward also contributed to the book. The Guide provides step by step guidance on how to use the U.N. Charter-based procedures, the international human rights treaty based procedures, the regional procedures from the Organization of American States human rights bodies and the European and African systems. Congratulations to Connie and Alen for providing another valuable tool for those practitioners who want to incorporate international human rights and criminal law procedures into their human rights work.

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