

2012

Center News and Faculty Updates

Human Rights Brief

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CENTER AND FACULTY UPDATES

CENTER NEWS

The Center for Human Rights & Humanitarian Law (the Center) was established in 1990 to provide scholarship and support for human rights initiatives internationally and within the United States. Located at the American University Washington College of Law (WCL), the Center works with students, academics, and practitioners to enhance the understanding and implementation of human rights and humanitarian law worldwide. The Center explores emerging intersections in the law and seeks to create new tools and strategies for the creative advancement of international norms. The Center has a variety of core projects, including the Anti-Torture Initiative, the Program on Human Rights in the United States and its Local Human Rights Lawyering Project, the Program on Human Rights of Persons with Disabilities, the Program on Human Rights Education, and the Initiative on Human Rights in Business. In addition to these projects, the Center provides current students opportunities, which include skills development seminars, lunchtime learning sessions, and a robust program of more than fifty conferences and events per year.

PROGRAM ON HUMAN RIGHTS IN THE UNITED STATES

FIRST-EVER JOINT LEGAL AID SUBMISSION MADE TO UN SPECIAL RAPPOREUR ON EXTREME POVERTY AND HUMAN RIGHTS BY LOCAL HUMAN RIGHTS LAWYERING PROJECT PARTNERS

On December 13, 2012, a coalition of twenty-eight non-profit legal and social services organizations submitted a complaint to the United Nations arguing that the practice of denying farmworkers the right to have visitors and social services providers, and likewise denying those providers meaningful access to migrant farmworker labor camps, is a violation of human rights law. Maryland Legal Aid, with technical assistance provided by the Center, spearheaded the complaint submitted to Magdalena Sepúlveda Carmona, UN Special Rapporteur on extreme poverty

and human rights. The complaint, which is the basis for the article in this issue by **Reena Shah** and **Lauren E. Bartlett**, was jointly written by legal services, health care, workers' rights, anti-trafficking organizations, and other community service programs that serve migrant farmworkers, representing all fifty states. Texas RioGrande Legal Aid also played a key role in the development of the communication. This is the first time that legal aid organizations have joined together to present a communication to a UN Special Rapporteur.

BRIEFING ON HUMAN RIGHTS IMPLICATIONS OF SCOTUS DECISIONS IN THE 2012 TERM

On Wednesday, July 18, 2012, the Center and the American Society of International Law (ASIL) held a briefing to examine the human rights implications of key decisions from the 2012 term of the United States Supreme Court. The session focused on how the decisions on immigration, health care, and juvenile life without parole impact U.S. adherence to its human rights obligations. The speakers were Professor **Martha Davis** of Northeastern University School of Law, discussing the implications of *National Federation of Independent Businesses v. Sebelius*; Professor **Connie de la Vega** of the University of San Francisco School of Law, discussing *Miller v. Alabama*; and Professor **Anita Sinha** of WCL, discussing *Arizona v. United States*. The event was joined by a large online audience with more than 100 remote locations participating in the discussion via live webinar and was moderated by **Lauren E. Bartlett**, Director of the Center's Local Human Rights Lawyering Project.

CENTER CO-SPONSORS HIGH-PROFILE DISCUSSION ON *KIOBEL V. ROYAL DUTCH PETROLEUM* REARGUMENT; MORE THAN 50 REMOTE LOCATIONS TUNE IN VIA LIVE WEBCAST

The day after the reargument of the *Kiobel v. Royal Dutch Petroleum* case at the U.S. Supreme Court, the Center joined

co-sponsors Earth Rights International, the WCL Program on International and Comparative Environmental Law, and the WCL International Legal Studies Program in hosting an assessment of the reargument and discussion of the future of the Alien Tort Statute. The program included an analysis of the U.S. Supreme Court argument at the intersection of human rights, environmental justice, and extraterritoriality with high-profile international law experts. Speakers included **Paul Hoffman**, Lead Counsel for the Plaintiffs; **Katie Redford**, Co-Founder and U.S. Office Director of Earth Rights International; **John B. Bellinger, III**, Partner at Arnold & Porter, LLP; and Former Legal Advisor to the U.S. Department of State **Andrew Grossman**, Litigator at Baker Hostetler and Legal Fellow at the Heritage Foundation. WCL Professor and Associate Dean for Scholarship **Stephen Vladeck** served as moderator. An article summarizing this event appears in this issue.

C-SPAN covered the event live, and in addition to more than 120 in-person attendees, the event was also joined by a robust online audience with more than fifty remote locations participating in the discussion via live webcast. A number of law schools held concurrent screenings of the discussion.

LOCAL HUMAN RIGHTS LAWYERING PROJECT DIRECTOR SELECTED FOR US CIVIL SOCIETY ICCPR COORDINATING TASKFORCE

Lauren E. Bartlett, Director of the Center's Local Human Rights Lawyering Project, was appointed to the U.S. Human Rights Network's new ICCPR Taskforce, a Network body charged with coordinating U.S. civil society advocacy before the UN Human Rights Committee to hold the United States accountable to its obligations to respect, fulfill, and protect human rights under the International Covenant on Civil and Political Rights (ICCPR). The ICCPR Taskforce comprises twelve members and two co-chairs representing different geographic regions, issue areas, and constituencies.

CENTER CO-SPONSORS EXPERT PANEL AND SUPPORTS EFFORTS TO PROMOTE FREE AND FAIR ELECTIONS IN THE UNITED STATES

On October 25, the Center and the WCL Program on Law and Government sponsored an expert panel to discuss international standards for free and fair elections and apply those standards to the 2012 U.S. elections. The discussion featured **Patrick Merloe**, Senior Associate and Director of Electoral Programs at the National Democratic Institute, and **Marcia Johnson-Blanco**, Co-Director of the Voting Rights Project of the Lawyers' Committee for Civil Rights Under Law. Center Executive Director **Hadar Harris** moderated the panel.

The Center also helped coordinate a nonpartisan election protection training by **Meredith McCoy**, an Election Protection Legal Fellow with the Lawyers' Committee, at WCL. The training provided law students and attorneys with information on federal and state election law so as to equip them to provide voter support at polling locations on Election Day.

INITIATIVE FOR HUMAN RIGHTS IN BUSINESS

In Fall 2012, the Center launched its Initiative for Human Rights in Business (IHRIB). This new program is devoted to the promotion of human rights and justice for people adversely affected by business and economic activity around the world. IHRIB aims to build the capacities of businesses to operate in a responsible and sustainable manner, of civil society to advocate for human rights and environmental protections, and of governments to create and execute effective public policies.

IHRIB has two core projects in development: Accountability for the Security Sector in Risk Environments (ASSURE) and the Financial Humanity Project (FHP). ASSURE seeks to foster rights-respecting behavior by private military and security companies operating around the world through strategic engagement with industry leaders and key stakeholders in government, civil society, and academia. FHP seeks to improve access to affordable food to those at greatest risk of hunger resulting from uncontrolled speculation in global commodity investments. Both programs are aimed toward ensuring that these growing markets—private security and global commodity investments—operate with

greater emphasis on respect for human rights, adjusting their practices to reduce and eliminate harm done to associated populations. More details can be found at the Initiative's website, www.IHRIB.org.

PROJECT CO-DIRECTOR JOHN RICHARDSON PARTICIPATES IN EXPERT PANEL ON HUMAN RIGHTS IMPLICATIONS OF FINANCIAL REGULATION

On September 10, Initiative for Human Rights in Business (IHRIB) Project Co-Director **John Richardson** participated in an expert panel, "Regulating Finance as if Human Rights Mattered: Is It Feasible?" Hosted by the WCL Academy on Human Rights and Humanitarian Law, the Center of Concern, and Americans for Financial Reform. The panel addressed the human rights community's contribution to the financial-regulation debate, obstacles human rights organizations face in engaging in financial regulation, and strategies for strengthening the impact of the human rights community on domestic and international financial regulatory choices. Other speakers were **Eric Tars**, Director of Human Rights and Children's Rights Programs at the National Law Center on Homelessness and Poverty; **Rob Randhava**, Counsel for the Leadership Conference on Human and Civil Rights; **Daniel Bradlow**, Professor of Law at WCL; and **Aldo Caliari**, Director of the Rethinking Bretton Woods Project at the Center of Concern.

CENTER HOSTS WORKSHOP ON STANDARDS FOR PRIVATE MILITARY AND SECURITY CONTRACTORS, MORE THAN 120 REGISTRANTS PARTICIPATE VIA LIVE WEBCAST

On October 5, the Initiative for Human Rights in Business, in conjunction with ASIS Global Standards Initiative, hosted a workshop to exchange information about quality of service, management of risks, and protection of human rights among those actively engaged with the regulation, provision, or use of private security services. The workshop provided an overview of the PSC series of standards

and discussed approaches for international acceptance and implementation of the PSC Quality Assurance Management Standards within the context of contractual and regulatory initiatives. In addition to the in-person attendees, the workshop was joined by more than 120 registrants from remote locations around the world. Speakers included **Christopher Mayer**, Director of Contingency Contractor Standards and Compliance from the U.S. Department of Defense; **Doug Brooks**, President of ISOA; **Dr. Rebecca DeWinter-Schmitt**, Co-Director of the Center's Initiative for Human Rights in Business; **Andrew Carswell**, Delegate to the U.S. and Canadian Armed Forces for the International Committee of the Red Cross; and **Dr. Marc Siegel**, Commissioner of the ASIS Global Standards Initiative.

PROGRAM ON HUMAN RIGHTS OF PERSONS WITH DISABILITIES

DISABILITY AND HUMAN RIGHTS FELLOWSHIP PROGRAM



WCL Disabilities and Human Rights fellows

The Center launched its new Disability and Human Rights (DHR) Fellowship Program in August 2012. Sponsored by the Open Society Foundations, WCL is the only school in the United States to participate in the inaugural year of this global program. The fellowship brings human rights attorneys from around the world to study disability rights and human rights, with an effort toward enhancing their knowledge and skills, thus enabling them to take on disability-related cases when they return home. The Fellows follow a specialized

course of study, including a weekly seminar led by Center Executive Director **Hadar Harris** and WCL Professor **Robert Dinerstein**, Associate Dean of Experiential Education and Director of the Disability Law Clinic. In addition to their studies, the DHR Fellows also gain practical experience in the field of disability and human rights through participation in an externship during the Spring 2013 semester. The five Disability and Human Rights Fellows hosted at WCL for the 2012-2013 academic year are **Alpana Bhandari** (Nepal), **Facundo Chavez Penillas** (Argentina), **Bijay Dahal** (Nepal), **Adalberto Mendez Lopez** (Mexico), and **Juan Ignacio Perez Bello** (Argentina).

PROGRAM ON HUMAN RIGHTS EDUCATION



WCL fellows with RFK Center President Kerry Kennedy and students

CENTER PILOTS *SPEAK TRUTH TO POWER HUMAN RIGHTS TEACHING FELLOWS PROGRAM*

The Center, in collaboration with the Robert F. Kennedy Center for Justice and Human Rights (RFK Center), launched the new Speak Truth to Power Human Rights Teaching Fellows Program in Fall 212 to train law students to become effective human rights educators and advocates. The program, which is the first of its kind, partners law students with local high school teachers and students to provide them with an opportunity to teach and learn about human rights using the RFK Center's innovative Speak Truth To Power human rights curriculum. The project seeks to enhance the skills of law students to communicate effectively about human rights to a variety of different audiences, using a diversity of pedagogical tools. Ten WCL students were selected through a competitive application process to participate

in the pilot semester. The course was co-taught by Center Assistant Director **Melissa del Aguila** and Executive Director **Hadar Harris**. The Center will be working with the RFK Center and partner schools around the U.S. to expand the program in the coming year.

CALL FOR PAPERS: THIRD ANNUAL INTERNATIONAL HUMANITARIAN LAW STUDENT WRITING COMPETITION

In collaboration with the American Society of International Law (ASIL) Lieber Society, the Center launched its third annual International Humanitarian Law Student Writing Competition. This Competition is designed to promote interest and enhance scholarship in the field of international humanitarian law (IHL) among law students from around the world.

A high-level panel of IHL experts (both academics and practitioners) will judge the submissions and determine the winners. The winning authors will present their papers at a conference at WCL on April 2, 2013, with travel and accommodation expenses covered. Winners will

also receive complementary registration at the ASIL Annual Meeting, which will start immediately following the conference in Washington, D.C., and will receive a one-year student membership with ASIL. Submissions are due Thursday, January 31, at 12:00 noon (EST). For full eligibility and submission requirements, please visit www.WCLCenterforHR.org or email teachingIHL@wcl.american.edu.

WCL STUDENT INITIATIVES

CENTER STUDENT ADVISORY BOARD ANNOUNCES WINNER OF SECOND UDHR PHOTO PROJECT COMPETITION

The *Envisioning Human Rights: UDHR Photo Project*, an initiative of the Center Student Advisory Board, is a quarterly competition that encourages members of the WCL community to submit photos that link to a specific theme taken from



FALL 2012 WINNER: UDHR PHOTO PROJECT

the articles of the Universal Declaration of Human Rights (UDHR). The Center features winning photos taken by WCL students, faculty, staff, and alumni, representing their interpretation of specific articles of the UDHR. The second theme of the competition was Article 25: *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."*

In its second quarter, the competition received nineteen submissions from the WCL community, featuring scenes from countries around the world, including China, Kenya, Lebanon, and the Democratic Republic of Congo. Award-winning photo-journalist **Betsy Karel** served as the Fall 2012 guest judge. The winning photo was taken by **Lejla Hasanovic**, an International Visiting Scholar at WCL originally from Bosnia and Herzegovina, and is entitled, *"In Front of Our Doors: Homelessness in DC."* The culmination of the *UDHR Photo Project* will be a photomontage in Spring 2013 displaying a visual interpretation of what human rights means to the WCL community.

POPULAR LUNCHTIME LECTURE SERIES INTRODUCES WCL STUDENTS TO INTERNATIONAL HUMAN RIGHTS LAW

The Center continued its lunchtime lecture series designed to give students a "taste" of human rights and humanitarian law while they are studying their required first-semester courses. The Fall 2012 *Munching on Human Rights* began in September with "Human Rights 101: A Crash Course" led by Center Executive Director **Hadar Harris**. The second in the series, on October 18, was led by Center Co-Director **Rick Wilson** and focused on "Economic, Social, and Cultural Rights." The final event of the series, "Human

Rights Intersections,” addressed the overlap between human rights and other legal fields not commonly associated with human rights, such as tax law, intellectual property law, and international business law. A panel of WCL professors, **Nancy Abramowitz**, **Sean Flynn**, and **David Snyder**, spoke on these subjects, respectively.

FACULTY UPDATES

Claudio Grossman is the Dean of the American University Washington College of Law (WCL) and a Co-Director of the Center for Human Rights and Humanitarian Law. He is also the Raymond Geraldson Scholar for International and Humanitarian Law. He received a Lifetime Leadership Award from the Hispanic National Bar Foundation in July 2012 and a Leadership Award from the Maryland Hispanic Bar Association in September. In May, Dean Grossman was re-elected as Chair of the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the third time, and in October, he appeared before the UN General Assembly in New York in his capacity as Chairperson.

In addition to his report before the UN, Dean Grossman participated in a panel on “Reprisals against Victims of Torture and Other Ill-Treatment” along with The Permanent Mission of Denmark to the UN and in partnership with the Association for the Prevention of Torture (APT). He also participated as a panelist on “The Experience of the UN Committee against Torture,” discussing the “Issue of Intimidation or Reprisal against Individuals and Groups Who Cooperate or Have Cooperated with the UN, its Representatives, and Mechanisms in the Field,” and also discussing “Treaty Bodies and International Accountability for State Human Rights Obligations.” He also served as a panelist in his capacity as Chair of the UN Committee against Torture on “Enhancing the Effectiveness of Treaty Bodies” in July 2012.

In addition to other activities in his capacity as Dean, Grossman co-organized and participated in “The Future of the Inter-American Human Rights System” as part of an event with law schools throughout the Americas as well as with international law centers. The conference was held at WCL in October. He also published four

articles in the *Max Planck Encyclopedia of Public International Law*, entitled: “American Declaration of the Right and Duties of Man;” “Disappearances;” “Inter-American Commission on Human Rights (IACCommHR);” and “Mayagna (Sumo) Awas Tingni Community v. Nicaragua Case.” *Human Rights Quarterly* published an article by Dean Grossman entitled “Challenges to Freedom of Expression within the Inter-American System: A Jurisprudential Analysis.”

Dean Grossman made several media appearances over the summer; he was interviewed about the UN Committee against Torture for France24 in July, about freedom of expression in Venezuela for Globovisión in Venezuela, about torture in Iran for the BBC, about the UN General Assembly UN for CNN *en Español*, and on reports of torture, killings, and human rights violations in Syria for UN Radio. Also, in October, Dean Grossman appeared on *Efecto Naim* to speak about the Inter-American Human Rights System.

Diane Orentlicher is a Professor of Law at WCL and Co-Director of the Center. In January 2012, Professor Orentlicher returned to teaching after two and a half years’ service in the U.S. Department of State, where she worked on the prevention of and response to mass atrocities. In November, Professor Orentlicher was one of two speakers who engaged in a dialogue on the topic “Has the World Learned the Lessons of the Shoah?” sponsored by The Generation After, Inc., in Washington, D.C. In October, Professor Orentlicher participated in a conference structured as an experts’ roundtable entitled “Assisting States to Prevent Atrocities” at The Stanley Foundation in the Airlie House in Virginia. She also gave a presentation on “Justice and Accountability Measures” at the Genocide and Mass Atrocities Training Workshop, United States Holocaust Memorial Museum, Washington, D.C., and was the keynote speaker at the 40th Anniversary Symposium on Humanitarianism and Human Rights at the Poynter Center in Bloomington, Ind., where she addressed the question, “When Is International Justice Transitional Justice? Lessons from the Balkans.” Additionally, Professor Orentlicher participated in and co-led a conference on Law and Diplomacy for the Academie Diplomatique Internationale/London International Bar Association in Paris in June.

Juan E. Méndez has been a Visiting Professor at WCL since 2010, and is also the UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. In 2009 and 2010 he was the Special Advisor on Prevention to the Prosecutor of the International Criminal Court. He is also the Co-Chair of the Human Rights Institute of the International Bar Association and a Co-Director of the Center for Human Rights and Humanitarian Law at WCL.

In September 2012, Professor Méndez gave a lecture on the implementation of the prohibition of torture for the 30th anniversary of Redress in London. He also gave a guest lecture on “Accountability for Mass Atrocities” at Carlos III University in Madrid, Spain, on September 14, 2012. After the lectures, Professor Méndez granted interviews to the BBC, The Guardian, and *El País*.

Herman Schwartz is a professor at WCL and is a recipient of the Champion of Justice Award from the Alliance of Justice. Through his work focusing on prisons and prisoners’ rights, as well as on transitional justice in emerging democracies, Professor Schwartz has worked with numerous organizations including the UN, Helsinki Watch, and the American Civil Liberties Union.

Professor Schwartz recently made two media appearances. The first was for *Politico* in September on “Imprisonment without end at Guantánamo.” The second was in October for *The Nation*, where he spoke on “Rewriting Antitrust Law.” In connection with his position as a Co-Director of the Center for Human Rights and Humanitarian Law, Professor Schwartz also published an article for *The Nation* in August entitled, “How the Supreme Court Came to Embrace Strip Searches for Trivial Offenses.”

Janie Chuang has been a professor at WCL since 2004 and focuses on international law, human trafficking, international commercial arbitration, and gender and labor migration. Previously, Professor Chuang acted as an adviser for the UN Trafficking Protocol to the UN Convention on Transnational Organized Crime, advocating for the inclusion of human rights protections for trafficked persons. Over the summer, Professor Chuang presented on “The Use of Indicators to Measure Government Responses to Human

Trafficking” at a conference on “Indicators as a Technology of Global Governance” at New York University School of Law’s Institute for International Law and Justice. This presentation was based on a publication similarly titled published in September in *Indicators as a Technology of Global Governance* by Sally Merry, Benedict Kingsbury, and Kevin Davis.

In October, Professor Chuang presented on “The U.S. Au Pair Program: Labor Exploitation and the Myth of Cultural Exchange” at Harvard University Law School and a publication on the topic is slated to be published in the Harvard Journal of Law & Gender. Additionally, Professor Chuang gave a talk on “Exploitation Creep and the Trafficking Threshold: A Case Study of Migrant Domestic Worker Recruitment” for a conference on Human Trafficking hosted by the University of Cork and the Organization for Security and Cooperation in Europe in Cork, Ireland.

Robert Dinerstein has taught at WCL since 1983, is the Associate Dean for Experiential Education, and is Director of the Disabilities Rights Clinic. He specializes in the fields of clinical education and disability law, especially mental disabilities law (including issues of consent/choice, capacity and guardianship), the Americans with Disabilities Act, the Civil Rights of Institutionalized Persons Act, the UN Convention on the Rights of Persons with Disabilities, legal representation of clients with mental disabilities, the interaction between disability and the criminal justice system, and disability and international human rights.

In July, Professor Dinerstein conducted a training session in Argentina for new disabilities rights clinicians from across Latin America and Africa. Over the summer, Professor Dinerstein gave numerous presentations and media appearances. These included: presenting a

paper on “The Obama Administration and Enforcement of the Rights of People with Disabilities” at the Annual Meeting of the Southeastern Association of Law Schools in Florida, speaking on “Supreme Court and Circuit Court Review” at the Annual Meeting of the National Disability Rights Network in Baltimore, and participating on a panel entitled “The Status of Clinical Educators—Today and Beyond” at the Association of American Law Schools on Clinical Legal Education in Los Angeles, California. Professor Dinerstein’s media appearances also included the online *Mary and Melissa Radio Show* hosted in Washington, D.C., on July 17th, and an interview on the work of the Quality Trust for Individuals with Disabilities, Inc., also in Washington, on behalf of people with developmental disabilities.



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