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### Legal Approaches and the Contributions of Case Law

Claudio Grossman

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# **JUSTICIABILITY OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS:**

## **LEGAL APPROACHES AND THE CONTRIBUTIONS OF CASE LAW**

### **PROLOGUE**

CLAUDIO GROSSMAN<sup>\*</sup>

I am pleased to write the prologue for this special issue of the American University International Law Review, which features the winning papers of the 2006 Human Rights Award, sponsored by the Academy on Human Rights and Humanitarian Law of Washington College of Law (“WCL”).

The Academy created the annual Human Rights Award to promote the production of scholarly work in international human rights law. Since its inception, we have received many outstanding submissions from lawyers with demonstrated experience in and commitment to international human rights law. We solicit papers in English and Spanish, and award the best work in each language. Each award has its own Honor Jury, comprised of scholars of the highest credentials in international human rights law. The awardees receive a full scholarship to attend the Academy, including tuition, travel and living expenses.

The theme for this year’s Human Rights Award was “Justiciability of Economic, Social, and Cultural Rights: Legal Approaches and the Contributions of Case Law.” This important topic has generated many insightful and enlightening papers from around the world, and we value the effort of the participants.

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The winner of the 2006 Award in English is Ellen Wiles, of the United Kingdom, for her article, *Aspirational Principles or Enforceable Rights? The Future for Socio-economic Rights in National Law*. Ms. Wiles has an LL.M. in Human Rights from University College London and will begin pupillage in 2007 at 1 Crown Office Row, a barristers' chamber specializing in public law and human rights.

Honorable mentions in the English category were awarded to Horacio Javier Etchichury of Argentina, who won second place for his paper, *Argentina: Social Rights, Thorny Country: Judicial Review of Economic Policies Sponsored by the IFIs*; and Karin Lehmann of South Africa, for her paper, *In Defense of the Constitutional Court: Litigating Socio-Economic Rights and the Myth of the Minimum Core*.

The winner of the 2006 Award in Spanish is Carlos Iván Fuentes Alcedo of Panama for his article, *Protegiendo el Derecho a la Salud en el Sistema Interamericano de Derechos Humanos: Estudio Comparativo sobre su Justiciabilidad desde un Punto de Vista Sustantivo y Procesal*. Mr. Fuentes Alcedo is currently completing his LL.M. in Human Rights at McGill University in Montreal, Canada and is working as a lawyer in Panama.

Honorable mentions in the Spanish award category were awarded to Lila García of Argentina, who won second place for her paper, *Reconstruyendo el Núcleo de Derechos de la Persona Humana: Aportes para la Justiciabilidad de, También, los Derechos Económicos, Sociales y Culturales*; and Lisandro Ezequiel Fastman of Argentina, who won third place for his article, *Los Derechos Sociales y su Exigibilidad Judicial en la República Argentina y en la Ciudad Autónoma de Buenos Aires: La Aplicación Interna de los Derechos Internacionales*.

I would like to congratulate these individuals for their exceptional papers, and to thank everyone who participated in the Academy's 2006 Human Rights Award, including my fellow Honor Jury Members: Gudmundur Alfredsson, Ann Blyberg, Denise Dora, Asbjørn Eide, Sarah Joseph, Scott Leckie and Diego Rodríguez-Pinzón (for English submissions); and Víctor Abramovich, Ligia Bolívar, Eduardo Cifuentes, Ernesto de la Jara, Viviana Krsticevic, and Claudia Martín (for Spanish submissions).

The sponsor of the Human Rights Award, the Academy on Human Rights and Humanitarian Law, was formed to address the need for specialized legal training in international human rights law. WCL was in a position to establish such a program given our institution's longstanding and recognized commitment to human rights and humanitarian law. The Academy gives participants the opportunity to acquire specialized knowledge on new issues confronting international law and current challenges that are shaping our world. Our "global village" guides practitioners to a deeper understanding of the scope and practical implications of the human rights rules and mechanisms that impact people worldwide. The defense of human rights requires a professional community that is capable of undertaking a wide variety of actions - defending individual victims in international fora, advocating changes in domestic human rights legislation, protecting the economic and social rights of our communities, prompting the domestic or international prosecution of those that have perpetrated international crimes, and so forth.

The Academy's courses are programmed to take place in the summer, with the goal of bringing together members of the judiciary, professors, civil servants, and other professionals with limited time to participate in year long courses. The Academy's faculty is an impressive group of distinguished scholars and activists.

Topics covered in the Academy's courses include regional human rights approaches; the United Nations; international criminal tribunals; economic, social, and cultural rights; women's rights; terrorism and human rights; international humanitarian law; human rights and development; and many more. Interwoven into some basic courses are historical and political approaches to human rights, which involve interdisciplinary concepts.

The Academy's summer program organizes numerous panel discussions and debates. In 2006, panel topics included "The New UN Human Rights Council: Unresolved Issues and Challenges Ahead" and "Discussing Torture: A Conversation about Current Issues," and Philippe Kirsch, the President of the International Criminal Court, gave a special presentation. In addition, the Academy arranged visits to NGOs and international institutions in Washington, D.C., including the Inter-American Commission on

Human Rights which, during the last session, featured a workshop on how to present individual petitions under the Inter-American system.

This year, the eighth year of the Academy, we welcomed nearly 150 participants from 25 different countries, as well as eleven students from U.S. law schools. The Academy offered 16 courses, 10 in English and 6 in Spanish, and hosted 27 non-WCL professors representing prestigious institutions, NGOs, and international human rights organizations.

The Academy is one example of the many important human rights activities taking place at WCL. Our institution also includes, for example, the Center for Human Rights and Humanitarian Law, the International Human Rights Law Clinic, the War Crimes Research Office, the Office of Public Interest, the *Human Rights Brief*, the Women and International Law Program, the Inter-American Human Rights Digest Project, the Israeli Civil Rights Program, the annual Inter-American Human Rights Moot Court Competition, and the numerous externships and initiatives to which our students, faculty and staff contribute.

All of these activities are grounded in the belief that law schools and lawyers play an important role in promoting the values of human dignity. WCL's ongoing commitment is realized through the ingenuity, as well as the moral and ethical conscience, of our community. American University's International Law Review, which embraced the important and challenging task of publishing these excellent contributions to international human rights law in both English and Spanish, is a shining example of WCL's commitment in action.