

Human Rights Brief

Volume 7 | Issue 2

Article 11

2000

Alumni Profile

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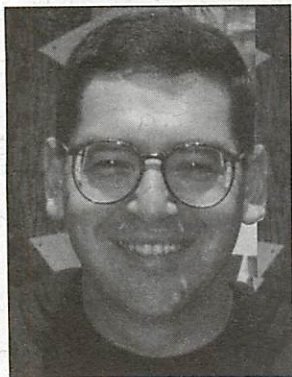
Recommended Citation

Concepcion, Natasha Parassram. "Alumni Profile." Human Rights Brief 7, no. 2 (2000): 26-27.

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ALUMNI PROFILE

by Natasha Parassram Concepcion*



Dan Yakir, an attorney for the Association for Civil Rights in Israel (ACRI) and a 1989 graduate of the Washington College of Law (WCL) LL.M. program, became involved in the Israeli civil rights and liberties movement in 1983, during his third year of study at the Faculty of Law at Tel Aviv University. At that time, Yakir began volunteering with ACRI, an Israeli nonprofit organization dedicated to strengthening civil liberties and

human rights through legal action, education, and public outreach. After receiving his law degree, Yakir spent one year working as a law clerk for a district court judge in Tel Aviv, and then one year at a small private law firm dealing with civil rights law, while remaining active as a volunteer for ACRI. He eventually became Chairperson of the Tel Aviv Chapter and member of the national board of ACRI. As Chairperson, Yakir was responsible for supervising the activities of the Chapter and as a member of the national board, Yakir participated in setting the overall policies and budgets for the local chapters of ACRI throughout Israel. Through his involvement with ACRI, Yakir has worked on some of the most progressive civil rights cases and has been an active force in the gay and lesbian civil rights movement in Israel.

In 1988, Yakir was accepted into the Israel-U.S. Civil Liberties Law Program, a fellowship program sponsored by the New Israel Fund (NIF). North American, Israeli, and European philanthropists established the NIF in 1979 as a partnership to support nonprofit organizations, dedicated to human and civil rights in Israel, such as ACRI. Each year, the fellowship program offers two young Israeli lawyers the opportunity to study civil rights law in the LL.M. program at WCL. Professor Herman Schwartz, Co-Director of the WCL Center for Human Rights and Humanitarian Law, is the Academic Coordinator of the program at WCL. Upon graduation, the lawyers return to Israel, where the fellowship covers their salaries for one year of work in an Israeli civil rights organization.

Yakir welcomed the opportunity to study and work on civil rights law in the United States, and saw the fellowship as an opportunity to join ACRI as a full time staff attorney after completing his studies. While studying at WCL, he worked in both Washington, D.C. and New York City with the American Civil Liberties Union (ACLU), an American organization dedicated to advocacy in the area of individual civil rights. In New York, Yakir worked on both the ACLU's Lesbian and Gay Rights project and their AIDS project. Citing this as one of the most important experiences during his studies, Yakir learned how the ACLU selected, developed, and presented cases to the media as well as to the U.S. courts, a skill that continues to serve him at ACRI. Furthermore, Yakir believes that his experience in New York empowered him as a gay lawyer to work on lesbian and gay rights in Israel.

After graduating from WCL in 1989, Yakir returned to Israel to work for the Tel Aviv Chapter of ACRI as a staff attorney. His practice dealt with gay rights, freedom of speech, and human rights in the occupied territories. In 1995, Yakir became the legal counsel for ACRI at the national office in Jerusalem, and is now responsible for overseeing ACRI staff attorneys involved in litigation.

Yakir also has been involved with the drafting of progressive civil rights legislation in Israel. In 1989, he helped the Gay, Lesbian,

Bisexual, and Transgender Association write an amendment for the Equal Opportunity in Employment Act to prohibit discrimination in employment on the basis of sexual orientation. It was signed into law by the *Knesset*, the Israeli legislature, in December 1990, and represents the first legislation protecting lesbians and gays against employment discrimination.

During his litigation work, Yakir has brought standard-setting cases using the Israeli Basic Law on Human Dignity and Liberty, which was passed in 1992. Since Israel has no written constitution, fundamental rights are enacted through piecemeal legislation in the form of basic laws. Prior to 1992, however, there were no basic laws covering human rights. While it covers only limited rights and liberties, the 1992 Basic Law on Human Dignity and Liberty represented an important step in the codification of civil rights and liberties in Israeli law.

In 1996, in a case that helped define the freedom of expression provisions in the Basic Law on Human Dignity and Liberty, Yakir represented a prisoner attempting to publish a personal column in a local newspaper. The Israeli Prison Authority had prevented the prisoner from publishing his column, arguing that it would inhibit the ability of the prison to discipline the prisoners. The Supreme Court overturned the Prison Authority's decision and ruled that prisoners did not lose all their human rights when they entered prison, and that the Prison Authority would need more compelling reasons to preclude the prisoner from publishing his article. Since the Basic Law on Human Dignity and Liberty does not explicitly cover freedom of speech, this case was important because the Supreme Court's interpretation of the law offers guidance about the parameters of the freedoms and liberties included under the law.

In October 1999, Yakir brought a case to the Supreme Court challenging the Military Justice Act (Act), which allowed the military police to arrest a soldier for twenty-five days without a hearing before a judge. After Yakir filed the petition, the *Knesset* amended the Act and the period was shortened to four days. However, the Supreme Court accepted Yakir's argument that even the amended Act was not in conformity with the right to liberty enshrined in Article 5 of the Basic Law on Human Dignity and Liberty, and struck down that section of the Act. This case became the first Supreme Court decision to use the Basic Law on Human Dignity and Liberty to partially overturn an act of the *Knesset*.

Yakir also participated in one of the most important cases in Israeli legal history, which was decided in September 1999. The case involved a Palestinian detainee who died during an interrogation by the Israeli General Security Service (GSS) after being violently shaken. The GSS is the main security apparatus that deals with terrorism in Israel, and since terrorism is a paramount issue in Israel, the Israeli government has allowed the GSS wider latitude in dealing with security issues than the normal police forces. Yakir became involved in the case in the summer of 1995. After the detainee's death, ACRI filed a petition with the Supreme Court asking it to prohibit the GSS from using this interrogation method because it was a form of torture prohibited under Israeli law. Other individuals and groups also submitted petitions, including WCL LL.M. alumni Avigdor Feldman, who represented the Public Committee Against Torture in Israel. The petitions argued that the physical means employed by the GSS investigators infringe upon the human dignity of the suspect undergoing interrogation, and the method used was lethal and caused irreparable damage to the detainees. ACRI also argued that the methods employed by the GSS violated the Convention Against Torture, which Israel ratified on October 3, 1991. After years of evading the issue, a special panel of nine Supreme Court justices convened to hear the case.

continued on next page

Alumni Profile, continued from previous page

According to Yakir, this case is one of the most important cases in Israeli legal history. The decision of the Supreme Court surprised many civil rights advocates because of the sweeping rhetoric it employed. In the opinion, rendered amid hostile public opinion against limiting GSS authority, the Supreme Court stripped the GSS of the wide latitude the government previously allowed the service. The Court held the GSS did not have the authority to use physical force against prisoners, stating that GSS interrogators had no more power than regular policemen.

Israeli Prime Minister Ehud Barak subsequently has appointed a committee of jurors to study the decision and make recommendations on its implementation. Yakir testified before this committee in November 1999. He stated that ACRI opposed any legislation that would authorize the GSS to use force during interrogation. He urged the committee to legislate a specific prohibition against the use of torture.

Though he believes the Supreme Court decision is an extremely important victory, Yakir still maintains that the battle against torture is not over. Recently, the opposition party *Likud* introduced a private bill in the *Knesset* to authorize the GSS to use special means of interrogation in certain emergency situations. Such a bill, if passed, would threaten the progress made in the area of torture.

Yakir feels privileged to work as a lawyer with ACRI because he can devote his time to worthwhile cases. Although his work can be frustrating at times, Yakir obtains great satisfaction from it. He looks forward to continuing his crusade for greater protection of civil rights and liberties in Israel. Currently, Yakir is working on another case involving the GSS use of torture against detainees, this time, in the *Al Khaim* prison in South Lebanon. Although Israeli troops are visibly present in South Lebanon, Israel denies any responsibility for the human rights violations occurring in the prison. On behalf of ACRI, Yakir has filed a petition asking the Israeli Supreme Court to order the Minister of Defense to release the detainees or allow them their due process rights. It is Yakir's hope that a victory in this case would force Israel to take responsibility, under international law standards, for the enforcement of human rights in South Lebanon. ☉

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European Social Charter, continued from page 25

submitted to the CIE, which assesses whether the state party failed to comply with its obligations under the Charter or Revised Charter and drafts a report for the Committee of Ministers. The Committee of Ministers may then issue a recommendation to the party if it agrees with the assessment of the CIE. To date, only 8 of the 41 member states of the Council of Europe have ratified the 1995 Additional Protocol. Although the Revised Charter also relies primarily on government reports for monitoring and enforcement, it provides that where a Contracting Party has ratified the 1995 Additional Protocol on collective complaints, it will continue to be bound by that protocol. The Revised Charter also provides that Contracting Parties that have not ratified the collective complaints protocol, may accept the supervision of this protocol upon notification to the Secretary General.

Future of the Revised Charter

The Revised Charter has suffered from a remarkable lack of publicity, which threatens public and political commitment to the aims it delineates. There are a significant number of treaties and declarations addressing the subject of social and economic rights, such as the UN Universal Declaration of Human Rights, the UN International Covenant on Economic, Social and Cultural Rights, and various ILO Conventions. The Charter and the Revised Charter have as yet failed to fully distinguish themselves from these documents. Whether the Revised Charter will ever realize its proper significance is uncertain, depending largely on the extent to which Council of Europe member states ratify it. Economic prosperity in Europe, which is fueled by the New Economy resulting from recent advances in technology, may also highlight the importance of the provisions of the Revised Charter in securing social and economic benefits to all Europeans. As Peter Leuprecht eloquently stated at the May 1997 colloquy, "The reality of the world we live in shows us that it is only if all fundamental rights in it are guaranteed, civil and political rights as well as economic, social and cultural rights, that man can have a dignified existence." ☉

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Laogai, continued from page 23**Ending the Laogai System**

Aside from the PRC's obligations to eliminate the *Laogai* system, nations other than the PRC should stop importing products manufactured with forced labor in the *Laogai*. The United States is one country that is currently making an effort to stop importing such products. In 1992, for example, the governments of the United States and PRC signed a Memorandum of Understanding (MOU) prohibiting trade in prison labor products. Two years later, the two countries signed a Statement of Cooperation which detailed specific working procedures for the implementation of the MOU. Unfortunately, enforcement of the MOU thus far has proved largely unsuccessful. In 1998, for example, U.S. customs officials attempted to pursue eight standing requests to visit sights they suspected of manufacturing prison labor products. The Chinese Ministry of Justice, however, refused access on the grounds that *Laogai* inmates are not technically prisoners, and thus the MOU did not apply.

There are currently a number of organizations that are actively campaigning against the continued use of the *Laogai* system and many critics also have requested that the United Nations establish a special

tribunal to investigate *Laogai* activities. Harry Wu and the Laogai Research Foundation are leading this fight. Wu has returned to China numerous times in order to document the current conditions and continued abuses occurring in the *Laogai* system.

Conclusion

The *Laogai* system continues to be a major concern to many human rights organizations and countries around the world. The manner in which the PRC places individuals in the *Laogai* system and the conditions of the camps violate Chinese law and international standards. One way in which *Laogai* can be countered is by further educating the international community about abuses that take place in the system. On September 17-19, 1999, for example, the Laogai Research Foundation presented a conference, "Voices from *Laogai*," at American University in Washington, D.C. The conference included numerous survivor testimonies. Only through continued perseverance by the international community and organizations such as the Laogai Research Foundation will the *Laogai* system ever come into compliance with international human rights norms. ☉

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