



INDIANA INTERNATIONAL HUMAN RIGHTS LAW BULLETIN

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South Africa Hosts World Conference Against Racism

Why a World Conference Against Racism?

In 1997, the United Nations General Assembly voted to convene the World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in Durban, South Africa. The Assembly recognized that racism and race discrimination were still prevalent around the globe, despite curative efforts throughout the years. Racism thrives in many contemporary forms, and additional, effective measures had to be taken to rid the world of this plague. Eradication of racism and ethnic violence would help promote world peace and security in our increasingly globalized world.

Background

Important advances have been made to combat racism, race discrimination, xenophobia and related intolerance since the

United Nations was founded. Early UN actions helped lay the groundwork for the eradication of racism and ethnic violence. The concepts of fundamental human rights, including equality and non-discrimination, were enshrined in early UN instruments. These instruments included the 1945 UN Charter and the 1948 UN Declaration of Human Rights.

United Nations initiatives to combat racism have also included, for example, the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General

Assembly in 1965, and which was since been ratified by over 150 states. In 1969, the General Assembly designated 1971 as the "International Year for Action to Combat Racism and Racial Discrimination" and urged states to take actions to eradi-

(See "World Conference" Page 16)



Legal Experience Overseas

Refugees and Immigration Law in The Czech Republic

Katherine Hendrix ('00)

The *Program in International Human Rights Law* offered me the opportunity to spend the 2000 summer in Prague, Czech Republic, working for the Czech Helsinki Committee Legal Counseling Center for Refugees. The experience provided me with a wonderful educational opportunity, both formal and informal, and offered me tremendous insight into human rights work and a fascinating country.

Background and Overview of CHC Legal Counseling Center

The Czech Helsinki Committee (CHC) was established in 1988 to

(See "Czech Immigration Law" Page 10)

Hong Kong Human Rights: Steps to Curb Discrimination

Ayoade Adewopo ('00)

Article 1 of the 1948 Universal Declaration of Human Rights

declares that all human beings are born free and equal in dignity and rights. Though the UDHR and other international instruments apply in Hong Kong, discrimination based on an individual's sex, disability, familial status, sexual orientation, age and race remains rampant in many aspects of Hong Kong's political and social life.

Hong Kong has taken limited steps to curb discrimination. It has enacted three anti-discrimination ordinances, which are implemented by an Equal Opportunities Commission. This article

(See "Hong Kong" Page 6)

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Director's Message

The 2001 Spring marks the 5th anniversary of the *Program in International Human Rights Law* of Indiana University School of Law at Indianapolis. This milestone provides an opportunity to reflect and acknowledge.

Since 1997, our program has had more than 45 student placements as human rights interns, in over 30 countries, on every inhabited continent. (See chart on page 15) We have had guest human rights speakers at the school from dozens of countries. We have participated in many pro bono projects, serving individuals and groups around the world. We offer on-campus courses covering various human rights law topics.

We thank our overseas intern Host Organizations who train our students; our overseas guest speakers; our committed students; our supportive faculty and administration; and others we acknowledge on page 2 of this Human Rights Law Bulletin.

We single out for thanks two individuals — law school Dean Norman Lefstein and university Chancellor Gerald L. Bepko — without whose support this program would not exist. From the beginning, these two individuals have shown a marked interest in the program and have worked to ensure the necessary administrative and financial support to guarantee its success. Their commitment to the program demonstrates the breadth of their educational vision. They recognize the importance of internationalizing education and of ensuring that education addresses wider service goals, especially to those who have been marginalized by society.

In the globalization of our law school, our human rights program stands beside our Summer Study Abroad Programs in China (Beijing) and France (Lille), our Program in Law and Health, and our LLM (Masters in Law) Program for foreign lawyers. The school's commitment to human rights is evidenced by domestic programs touching on human rights, e.g., our clinic programs in criminal defense, civil practice, and disability law, our domestic externships, and our pro bono program.

Success comes from commitment and vision. Chancellor Bepko and Dean Lefstein have demonstrated these values in their support of our Program in International Human Rights Law.



(L-R) Dean Norman Lefstein, Prof. George E. Edwards (Director, Program in International Human Rights Law), & Chancellor Gerald L. Bepko

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The International Human Right To Health: What Does This Mean For Our Nation And World?*

Lecture by Professor Eleanor D. Kinney, JD, MPD

On February 22, 2001, Professor Eleanor D. Kinney — who is the Samuel R. Rosen Professor of Law and Co-Director, The Center for Law and Health at Indiana University School of Law at Indianapolis — gave her inaugural professorship lecture on “The International Human Right to Health: What Does this Mean for Our Nation and World?”

Introduction

Professor Kinney contended that the international human right to health established in various sources of international law creates a global right to health services. This body of law requires nation states to take affirmative steps to assure that their residents have access to population-based health protection measures and affordable health care in the context of the particular nation's economic resources and cultural mores. Professor Kinney identified the sources of international law that establish a human right to health for all people. She then suggested ideas on how to implement a right to health throughout the world. Finally, she discussed the potential impact of full recognition of the international human right to health on the people of all nations, including the United States.



Professor Eleanor D. Kinney

The United States & the Right to Health

Professor Kinney stressed that the United States has neither signed nor ratified many international treaties recognizing the right to health. She argued that a binding right to health can be found in customary international law, which is based on state practice and “*opinio juris*” (or sense of legal obligation on the part of states).

Customary international law holds great promise in establishing the international human right to health. Under customary international law, widespread ratification of UN and regional treaties and other international instruments can support the establishment of an international human right. Such international instruments are evidence of a general practice in which states engage out of a sense of legal obligation. Customary international law imposes obligations on all states, including the US, even if they have not ratified treaties. For example, the International Covenant on Economic, Social and Cultural Rights (and other treaties) are customary international law due their widespread international acceptance, and bind the U.S. and other countries regardless of ratification.

The Constitutions of many nation states protect the right to

health. Furthermore, state sponsored health insurance programs exist in many states. This is further evidence of state practice to bolster the customary international law status of the right to health.

Content of the Right to Health

Professor Kinney addressed problems of defining the content of the human right to health, and how best to implement the right. She stressed, “We should be imaginative.” As lawyers, we tend to think of administrative regulation and enforcement along with judicial recourse as the primary mechanisms for assuring the right's implementation. But, these models may not be appropriate or effective for implementing a right to health under customary international law.

Further, such legalistic visions for implementation may not be appropriate because of uncertainty about the content of the right to health. Indeed, defining the content of the right to health is necessary to effective implementation. To have meaning, the right to health must be essentially the same for all nations and people. Yet implementation depends on the resources of individual countries. How do we articulate the right to health in countries with vastly different

economic resources?

Professor Kinney suggested three approaches to implementation. First, define universal outcome measures of compliance with core state obligations regarding the right to health. Second, establish systematic reporting to responsible international bodies to monitor progress on implementation and compliance with international human rights obligations. Third, highlight civil rights violations, such as discrimination against protected groups, that inhibit access to health care service.

Conclusion

Professor Kinney noted that the U.S. record in public health promotion and health insurance coverage is deficient compared to other industrialized nations. The international human right to health — as established under customary international law — arguably imposes greater obligations on the U.S. than it currently recognizes. She posed the following: Do U.S. obligations under international human rights law mean that the U.S. should spend a portion of its surplus on assuring health coverage for all Americans? If we take the average annual per capita expenditure for Medicaid in 1995 — a mere \$3,700 — 10.4 million uninsured poor could be covered for about \$38.5 billion per year. Would that make such a dent in the surplus? ♪

* This Lecture will be published in an upcoming issue of the *Indiana Law Review*.

IU Interns Around the World in 2000

The Program in International Human Rights Law of Indiana University School of Law at Indianapolis has successfully had over 45 student intern placements in more than 30 countries since the program was created in 1997. These students receive Law School and other scholarships for their internships, and receive academic credit for their overseas work.

In 2000, ten Indiana University law students worked for human rights governmental, non-governmental, and inter-governmental organizations in 12 different countries. The students worked for 10-12 weeks, in office environments, on a wide variety of human rights issues, including rights of street children, immigrant and refugee rights, freedom from racial discrimination, and self-determination and other rights.

Buenos Aires, Argentina

Mr. Jose Rivero worked in Buenos Aires, Argentina, for the Movimiento Ecu  nico por los Derechos Humanos. He worked on issues related to refugee and asylum law, in particular as regards persons entering Argentina from neighboring South American countries. He also drafted a report, for distribution to constituents of his host organization, on international human rights law as applied in the domestic arena.

① San Jose, Costa Rica & Managua, Nicaragua

Ms. Jenny Mirelez worked for two organizations in Central America. In Costa Rica, she worked for Casa Alianza, a non-governmental organization devoted to the rehabilitation and defense of street children in Guatemala, Honduras, Mexico, and Nicaragua. Ms. Mirelez researched the topic of sexual exploitation of children, and helped prepare a brief on that issue that was submitted to the Inter-American Commission on Human Rights. She also compiled statistics on the extra-judicial execution of Honduran children. Ms. Mirelez worked with PIHRL Intern Mr. Greg Loyd, in Costa Rica, to create a presentation for the United Nations Conference "State Violence Against Children." The presentation focused on violations of children's human rights protected under the U.N. Convention on the Rights of the Child. She also spent several weeks in Nicaragua at a field office of Casa Alianza.

④ San Jose, Costa Rica & Tegucigalpa, Honduras

Mr. Greg Loyd worked for two offices of the non-governmental organization Casa Alianza. In Costa Rica, he prepared chronologies of litigation pending against Casa

Alianza's Regional Director, Mr. Bruce Harris, involving claims of, inter alia, defamation. These documents were published on the organization's web site. He also worked with PIHRL Jenny Mirelez on a presentation for the United Nations Conference "State Violence Against Children." At the Tegucigalpa, Honduras branch office of Casa Alianza, Mr. Loyd helped provide legal assistance to street children. (*see story, pg. 9*)



International Human Rights Law Interns for the 2000 Summer (Front row, l - r) Greg Loyd, Jim Bouchard III, Jenny Mirelez, Katherine Hendrix, & Jose Rivero. (2nd row, l - r) Joshua Robertson, Dean Norman Lefstein, Ayode Adewopo, Edward Queen II, Hyo Joon Park, Rob Springston, and Professor George E. Edwards.

→ Prague, Czech Republic

Ms. Katherine Hendrix worked for the Czech Helsinki Legal Counseling Center for Refugees in Prague, where she conducted comparative law research on immigration and asylum law. She explored legislative solutions to problems with the new Czech immigration and asylum laws, and prepared lobbying documents. She also researched country conditions to provide evidence of persecution in asylum cases. To assist in the asylum seeking process, Ms. Hendrix interviewed asylum seekers at Czech refugee camps. (*see story, pg. 1*)

† Hong Kong, China

Mr. Ayode Adewopo worked at the Hong Kong Equal Opportunities Commission. He contributed to briefs submitted to the Hong Kong Court of Final Appeal in two sex discrimination cases that involved alleged violations of the International Covenant on Civil and Political Rights and the Hong Kong Sex Discrimination Ordinance. In



*Professor George E. Edwards
Director, Program in International Human Rights Law*

addition, Mr. Adewopo researched and wrote legal memoranda on alternative court systems used in the adjudication of human rights violations in several countries, sexual discrimination case law of the United States, and United States statutory and other laws that ban various forms of discrimination. (*see story, pg. 1*)

Dublin, Ireland

Mr. Hyo Joon Park worked for two organizations in Dublin: the Irish Council for the Welfare of Immigrants and Amnesty International. He researched asylum case law and gathered factual evidence to prepare cases for individuals seeking asylum from African countries. Mr. Park also explored civil and political rights of asylum-seekers, and racial discrimination issues.

Belfast, Northern Ireland

Mr. Robert Springston worked for the Northern Ireland Council for Ethnic Minorities (NICEM), which is a Belfast-based umbrella organization representing minority ethnic groups throughout Northern Ireland. Mr. Springston drafted a report on disparities between Great Britain and Northern Ireland's domestic legislation and inequality in the judicial process of the two countries. He traveled to Geneva, Switzerland, for the presentation of the report to the United Nations Committee on the Elimination of All Forms of Racial Discrimination. Mr. Springston also traveled to London several times to meet with national non-governmental organizations involved in the United Nations and other projects concerning issues affecting ethnic minorities in Northern Ireland. (*see story, pg. 7*)

Skopje, Macedonia & East Jerusalem

Dr. Edward Queen held two internships. He worked for a non-governmental organization in Skopje, Republic of Macedonia, and for another human rights group in East Jerusalem. In Macedonia, he analyzed policies, ethnic and religious relations and the process of democratization as that country tries to catch up with other European states.

In East Jerusalem, Dr. Queen worked with the Palestinian Human Rights Monitoring Group (PHRMG) to help devise communications division policies. He helped ensure that their draft reports, media relations and issues raised were handled adequately and appropriately. Additionally, Mr. Queen edited several reports published by the PHRMG in their monthly journal: *The Palestinian Human Rights Monitor*.

Manila, Philippines

Mr. Jim Bouchard worked at SALIGAN, a Manila, Philippines non-governmental organization whose name in the local dialect means "that which is fundamental and basic." SALIGAN is dedicated to shifting power from the elite to the people. Mr. Bouchard worked closely with the Peasant Unit on the case of migrant workers, known as the "Malapads". These farmers were exploited by the landowners by manipulating the laws protecting migrant farmers' rights.

To help find a solution to the Malapad's problems, Mr. Bouchard researched the Philippines Constitution, other Philippines law,



Mr. Ayode Adewopo (front row, 2nd from left) & associates at an Equal Opportunities Commission conference in Hong Kong

United Nations treaties, and various other international instruments that protect economic, cultural, and political rights. Mr. Bouchard worked to develop a guide to using the United Nations system to advocate for the Mapalad, and to create meaningful change in Philippine law. (*see story, pg. 11*)

Geneva, Switzerland

Mr. Joshua Robertson worked for the United Nations Office of the High Commissioner for Human Rights in Geneva, Switzerland. Mr. Robertson worked on the mandate of the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance. He also worked on various projects of the Secretariat of the Durban, South Africa World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance.

Mr. Robertson researched issues of compensation, restitution and rehabilitation of victims of racial discrimination in relation to the World Conference Against Racism. He also researched racial discrimination in relation to migrant workers and trafficking in persons, with a particular focus on women, in the Asian region. Furthermore, he assisted in drafting the Message for the High Commissioner for Human Rights (Mary Robertson) to deliver as her opening statement for the World Conference African Region Expert Seminar held in Addis Ababa, Ethiopia. (*see story, pg. 13*).

Conclusion

The ten interns had rich and rewarding experiences. They broadened their educational, legal, travel and cultural horizons. They also contributed to the promotion and protection of human rights around the globe. Not only were our students touched by their overseas experiences, but also touched were the lives of the countless people served by the host organizations for which the students worked. ✧

... Hong Kong

(Continued from Page 1)

describes various forms of discrimination practices; Hong Kong's anti-discrimination ordinances; the Equal Opportunities Commission; and redress available to discrimination victims. This article recommends that Hong Kong enact additional anti-discrimination ordinances, and that it take steps to enforce fully the ordinances now in place.

Forms of Discrimination

Discrimination occurs when a person is treated unfairly or less favorably than another person in the same or similar circumstances. Job advertisements or public notices that say, for example, "no women need apply" or "foreigners not allowed", are clear and discriminatory. But, discrimination can be more subtle, rendering proving it difficult. A plaintiff must show that a person's race, sex, age or disability was a factor in the denial of the service or the job, and not that the denial was done for some other, valid reason. Often, the only way to tell whether there is discrimination is by looking at the effects on groups of people. If people who use wheelchairs can not get near the service counter, then they are not being well served.

Anti-Discrimination Ordinances in Hong Kong

Hong Kong has enacted three equal opportunities ordinances that prohibit various forms of discrimination. These three laws are: (i) the *Sex Discrimination Ordinance*, cap. 480 ("SDO"); (ii) the *Disability Discrimination Ordinance*, cap. 487 ("DDO"); and (iii) the *Family Status Discrimination*, cap. 527 ("FSDO"). Hong Kong has no race, age or sexual orientation anti-discrimination ordinance.

Sex Discrimination Ordinance: The SDO makes it unlawful to discriminate against or harass a person on the basis of sex, marital status or pregnancy. It applies to the following activities: employment, education, provision of goods, services and facilities, disposal or management of premises, eligibility to vote for and to be elected or appointed to advisory bodies, participation in clubs, and activities of Government.

Disability Discrimination Ordinance: The DDO makes it unlawful to vilify a person with a disability, or discriminate against or harass a person on the grounds of disability, in the same categories as under the SDO.

Family Status Discrimination Ordinance: The FSDO makes it unlawful to discriminate against a person who has "family status". "Family status" means the status of having responsibility

Since equal opportunities are all about using human resources effectively and creating a level-playing field for all, Hong Kong needs to expand the scope of its anti-discrimination acts to cover race, age and sexual orientation. Such an expansion will help Hong Kong tap into a larger pool of available talent and enhance its access to the resources available to further its development. And, it will promote human dignity for all.



Hong Kong
Human Rights
Monitor
Director Mr.
Law Yuk Kai
(far right),
Ayode
Adewopo &
Hong Kong associates

for the care of an immediate family member. The areas of activities for which a person may lodge a complaint under the FSDO are the same as those under the SDO.

Hong Kong's Equal Opportunities Commission

The Hong Kong Equal Opportunities Commission (HKEOC) is the statutory body set up in 1996 to implement these ordinances in Hong Kong. The HKEOC promotes equality of opportunities between men and women, between persons with and without a disability, and irrespective of family status. The HKEOC issues Codes of Practice on Employment to ensure employers and employees understand their responsibilities under the ordinances and provides practical guidelines to management on procedures and practices that can help prevent discrimination in the work place.

The HKEOC Redress Process

Under the Hong Kong anti-discrimination laws, the HKEOC must first investigate complaints and then decide if the cases should be discounted or

proceed to conciliation. The HKEOC encourages persons concerned in any alleged discrimination to settle the matter by conciliation. Conciliation, by its nature, is a voluntary process, and is not mandatory under either the SDO, the DDO or the FSDO. Nevertheless, conciliation under the three ordinances requires the HKEOC to use its best endeavors to encourage the disputants to settle while at the same time further the legislative objectives. Conciliation is more desirable than litigation, particularly in view of sections 73B(3), 73C(3) and 73D(3) of the District Court Ordinance, which state that each party to civil proceedings under the ordinances will bear its own costs, barring special reasons, and the Court rules otherwise.

When conciliation fails, the complainant in a discrimination case may apply for legal assistance from the HKEOC, or sue on her or his own behalf. The case usually goes to the Hong Kong District Court (as the Court of first hearing), then to the

(See "Equal Opportunities - Hong Kong" on page 12)

Human Rights in Belfast: A Northern Ireland Peace?

Robert Springston ('00)



Rob Springston

Northern Ireland Council for Ethnic Minorities

The Northern Ireland Council for Ethnic Minorities (NICEM) is a Belfast based umbrella organization that represents minority ethnic groups and their support organizations throughout Northern Ireland. Membership includes people from the Chinese, Asian, African-Caribbean, Irish Travellers, Filipino, and Muslim

communities. The largest ethnic minority organization in Northern Ireland, NICEM has played a major role in forcing both local and London governmental officials, and the wider European community, to acknowledge and address Northern Ireland's minority ethnic groups' lack of fundamental rights and freedoms. Whether from racially motivated hate crimes, school segregation, or racial discrimination within the Royal Ulster Constabulary (RUC), ethnic minorities regularly suffer from violations of internationally recognized human rights.

A Brief Background History of the Area

For decades, Northern Ireland has been a strife-ridden part of the British Isles. Violence between the Catholics and the Protestants, and the British government's focus on resolving that situation, have overshadowed interests in improving the lot of ethnic minority groups. Politicians in Belfast and London have placed their available resources into resolving the "trouble" between Catholics and Protestants. Consequently, the discrimination and violence experienced by the country's ethnic minorities have not been adequately addressed. By its failure to act, the government of Great Britain and Northern Ireland, as a party to the International Convention on the Elimination of All Forms of Racial Discrimination, is in violation of its international human rights obligations.

United Kingdom of Great Britain & Northern Ireland Obligations Under the Convention on the Elimination of All Forms of Racial Discrimination (CERD)

On March 7, 1966, the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD" or the "Convention") was opened for signature to the various United Nations members. The United Kingdom of Great Britain and Northern Ireland has adhered to the historical document. Now, over thirty years after its adoption by the UN General Assembly, ICERD has been ratified by over 150 nations, and is considered to be one of the most important of the general instruments that has developed the fundamental norms of the United Nations Charter. The ICERD has been described as "the

international community's only tool for combating racial discrimination which is at one and the same time universal in reach, comprehensive in scope, legally binding in character, and equipped with built-in measures of implementation." 33 *UN GAOR Supp. (No. 18) at 108, 109, UN Doc. A/33/18 (1978)*; see also T. Meron, 79 *Am. J. Int'l L.* 283 (1985)

State and NGO Reports to the ICERD

The Committee on the Elimination of all Forms of Racial Discrimination (the "Committee"), is the UN body responsible for the enforcement and oversight of ICERD. Under the Convention, States parties, such as the United Kingdom of Great Britain and Northern Ireland, are required to submit periodic reports on the measures taken by them to implement the Convention objectives. Along with the mandatory State reports, non-governmental organizations (NGOs) may submit their own reports to the Committee on the situation in the reporting country. Allowing NGOs to present supplemental reports helps Committee members develop a more comprehensive picture of the situation in the reporting country.

Prior to the UK Government's 15th report presentation to the Committee on 14 August 2000, I helped NICEM draft a supplemental NGO report focusing specifically on the situation in Northern Ireland. Two NGOs based in London — Liberty and 1990 Trust — drafted reports on the situation in Great Britain. Like NICEM, Liberty and 1990 Trust work with ethnic minority populations, in their cases in the U.K., and address their specific needs and concerns.

The supplemental reports prepared by NICEM, Liberty, and 1990 Trust, in conversation with each other, were designed to provide the Committee with a more accurate picture of the situation in the United Kingdom of Great Britain and Northern Ireland. The reports also attempted to detail steps the Government could take in order better to meet the objectives of the Convention.

Observations Included in NICEM'S NGO Supplemental Report on Race Relations (NI) Order 1997

The Convention requires parties to "condemn racial discrimination and undertake to pursue by all appropriate means . . . a policy of eliminating racial discrimination in all its forms and promoting understanding among all races."

In September 1993, NICEM released its Concluding Observations report on the UK Government's 12th submission to the Committee. In that report, NICEM expressed "concern at the fact that the Race Relations Act was not implemented in Northern Ireland." Despite the adoption of a Race Relations (NI) Order in 1997, NICEM communicated to CERD its concern

(See "Northern Ireland" on page 8)

... Northern Ireland

(Continued from previous page)

that the order had several weaknesses. These weaknesses included: inadequate definitions of both direct and indirect discrimination, the failure to define harassment statutorily, which led to ambiguities and uncertainties in the case law, and an unsatisfactory legal definition of "victimization," which limited the ability of victims to bring proceedings.

Northern Ireland Peace Accord: What is there for the ethnic minorities?

After years of civil unrest in Northern Ireland between Protestants and Catholics, a settlement was reached on 10 April 1998 (the Good Friday Agreement). In a referendum of the people of Northern Ireland, an astonishing 70% of the population supported the agreement. The Good Friday Agreement called for the establishment of a new Equality Commission, whose duty was to oversee all equality matters, including enforcement of the Race Relations Order 1997. The current Commission for Racial Equality would be absorbed into the new Equality Commission along with the Fair Employment Commission, the Equal Opportunities Commission of Northern Ireland, and the Northern Ireland Disability Council.

Although the Government maintains that the purpose of the Equality Commission falls in line with the objectives of the Convention, NICEM has expressed several doubts regarding the effectiveness of this new department. NICEM opposed the merger of the Commission for Racial Equality into the broader Equality Commission in fear that important issues affecting racial discrimination in Northern Ireland would be subsumed within a broader equality agenda. NICEM also argued that the Equality Commission lacks sufficient funding. The Government's failure to allocate the proper level of resources to the Equality Commission will, NICEM believes, severely hinder the fight against racial discrimination. As a result of these concerns, NICEM has questioned the UK Government's commitment to tackling racial discrimination, as required under the Convention.

Equality Before the Law

The Convention requires States parties to guarantee the right of equal treatment before tribunals and other organs for administering justice. With this in mind, the UK Government adopted the Criminal Justice Act in 1991. The 1991 Act requires the Secretary of State to publish information that he/she considers expedient in order to enable those involved in the criminal justice system to avoid improper discrimination in regards to race, gender or other grounds. Section 95 of the 1991

Act, which addresses these requirements, does not extend to Northern Ireland. NICEM brought this to the attention of the Committee, and has continuously petitioned the Government to extend the Act to Northern Ireland.

Security of the Person

A person's right to security and to protection by the State against violence or bodily harm is also addressed in the Convention. In their 15th periodic report to the Committee, the United Kingdom Government expressed their determination to crack down on "mindless bigotry and thuggery that destroys the lives of so many." On this basis,

the Government adopted the Crime and Disorder Act in September of 1998. Although NICEM concedes the importance of this piece of legislation, the 1998 Act also does not extend to Northern Ireland and, as a consequence, its ethnic minorities do not have the benefit of that protection.

NICEM has brought this gap to the attention of the Committee, and has asked the Committee to press the Government to extend the act to Northern Ireland.

Conclusion

In order to bring equality and justice to the ethnic minorities in Northern Ireland, the authorities in Belfast must listen to the grievances of the minorities voiced through NICEM and other NGOs. NICEM and other NGOs have effectively raised concerns before United Nations human rights treaty bodies. The United Kingdom must comply with its obligations under the various UN treaties to which it has adhered, and must ensure that all rights of its ethnic minorities are fully protected. ☺

Indiana University Program in International Human Rights Law Mission Statement

- 1) to further the teaching and study of international human rights law;
- 2) to promote international human rights law scholarship;
- 3) to assist human rights governmental, intergovernmental and non-governmental organizations on international human rights law projects; and
- 4) to facilitate student placements as law interns at international human rights organizations domestically and overseas.

My Central American Experience with Casa Alianza in Costa Rica and Honduras

Greg Loyd ('00)

My host organization, Casa Alianza, is a non-governmental organization that aims at the rehabilitation of street children and, where possible, their reintegration with their families. Casa Alianza also acts as an advocate for street children in national court systems, international courts such as the Inter-American Court of Human Rights, at international conferences, and as a newsmaker. My twelve weeks with Casa Alianza — in their San Jose, Costa Rica headquarters and in their field office in Tegucigalpa, Honduras — exposed me to all of these efforts and allowed me to contribute to the organization's aims.

The Bosques Case: My First Assignment

My first assignment was to read the case file of Los Bosques, which concerned street children in Guatemala who were kidnapped, tortured, and murdered by government agents. Reading this decision impressed upon me the importance of non-governmental organizations in achieving human rights goals. By prosecuting this case and arguing that the court could and should rely upon the Convention on the Rights of the Child via the American Convention's article 19, Casa Alianza helped change the rules for state action throughout the Inter-American system. The reach of the court's jurisdiction was recognized to be quite expansive, as were the responsibilities of states. Although this case lasted nearly ten years, it will help deter future violations. The case will also help ensure that justice is received in future cases.

Second Assignment

For my second assignment, I created a chronology of the "disobedience" case brought in Guatemala against Bruce Harris, the Casa Alianza Regional Director. Susana Maria Luear Saracho de Umaña, wife of the then President (and current Magistrate) of the Guatemalan Supreme Court of Justice, Ricardo Umaña, accused Bruce Harris of defamation, perjury, and slander. This action resulted from allegations concerning Ms. Luear de Umaña and an alleged illegal adoption ring. (The chronology is viewable on Casa Alianza's website (www.casa-alianza.org).)

While my first assignment showed me the power that non-governmental organizations can wield in the international human rights field, the second assignment exhibited the politicization of human rights issues in the Guatemalan judicial process. This reinforces the importance of Casa Alianza's success in the

Bosques case. Human rights organizations must be able to turn to an international court when the domestic judicial system fails or refuses to respond adequately.

U.N. Conference on Violence Against Children

One of the most valuable aspects of my internship was the opportunity to help prepare a presentation for the September 2000 United Nations Conference on State Violence Against Children. This conference focused on violence committed by state actors against children while the children were under the control of the state. This conference highlighted Casa Alianza's role as an international advocate for street children given that the conference was due in large part to Casa Alianza's efforts to focus international attention on this widespread problem.

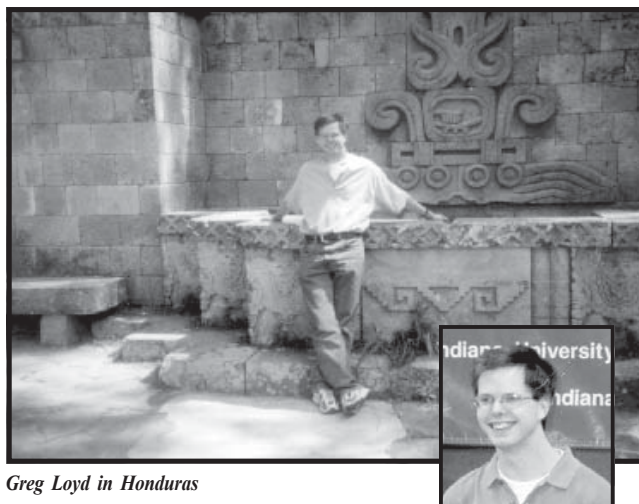
In preparing the document for the United Nations Conference,

I was responsible for researching violations of street children's rights throughout Central America, in terms of the UN Convention on the Rights of the Child, and for preparing and presenting a legal analysis of these alleged violations. My research ultimately focused on illegal adoptions in Guatemala, child sexual exploitation in Costa Rica, extra-judicial executions in Honduras, drug addiction in Costa Rica, Guatemala, Nicaragua, and Honduras, and torture in Guatemala. My research offered me a distinct and broad view of

the multi-varied problems that street children face in the region, and of the many factors that permit and perpetuate those problems. Many of the problems faced by street children are violations of their most fundamental rights, such as the right to life and the right to be free from torture.

A Final Thought

In total, my research at Casa Alianza indicated that the violation of children's human rights in Central America has not been the result of isolated incidents, and has not been limited to particular nation states. Rather, these violations constitute an on-going region wide epidemic of serious human rights violations. However, non-governmental organizations such as Casa Alianza can, and do, make a difference in helping to stop these abuses. NGOs such as Casa Alianza play a major, positive role in ensuring that states fulfill their obligations to protect children's human rights. ♪



Greg Loyd in Honduras

... Czech Immigration Law

(Continued from page 1)

monitor the human rights situation in the then Czechoslovakia and that government's compliance with the human rights elements of the 1975 Helsinki Accords. The CHC's principal mission has been to monitor the human rights situation in the Czech Republic, to promote human rights through educational programs and campaigns, and to provide legal counseling. In response to the increasing number of refugees and migrants entering the Czech Republic over the last decade, the CHC established the Refugee Counseling Center in 1993.

The Refugee Counseling Center

The Refugee Counseling Center (the "Center") provides legal counseling and social and psychological assistance to persons forced to leave their country of origin and who have applied for asylum in the Czech Republic. The Center also counsels immigrants who need assistance in obtaining short or long-term residence permits in the Czech Republic.

The Center's staff consists of a Director, Assistant Director, three lawyers, three social workers, and one administrative assistant. The lawyers and social workers regularly visit the refugee camps, where asylum-seekers reside during the administrative process, in order to provide them with information on the process, to inform them of their rights and obligations, and to write appeals for rejected asylum applications. Additionally, they try to solve individual problems relating to personal matters and/or health care concerns. When necessary, the Center arranges psychological intervention to treat trauma and to assist with conflict resolution.

New Immigration and Asylum Laws

In an effort to harmonize its laws with the more experienced European Union States, the Czech Republic enacted new immigration and asylum legislation in January 2000. The Czech Republic currently seeks membership in the EU, and drafted its new immigration and asylum legislation by adopting bits and pieces from EU countries' immigration and asylum laws. Unfortunately, this piecemeal approach to generating legislation has caused "gaps" in the protection of refugees' rights and has created a cumbersome, frustrating, and time-consuming process, which often takes more than two years to complete.

My experience at CHC

My primary assignment was to conduct comparative law research exploring possible legislative solutions to problems with the asylum and immigration laws. This project required me to understand the problems with the new laws, to research

the immigration and asylum laws of other European countries, to compile the information according to problem areas, and to provide summaries of legislative solutions, if any, that other

European countries have provided for each of these problem areas. Through my work on this project, I gained a thorough understanding of immigration and asylum law in the Czech Republic, Germany, Austria, Sweden, and Denmark. I gained extensive awareness of the contemporary immigration and asylum challenges facing

European countries. Furthermore, I improved my research skills, especially in locating and working with international law instruments. Overall, my work helped me better understand the requirements for proving persecution, and exposed me to many of the human rights abuses and situations in countries all over the world.

While interning at the Czech Helsinki Center for Refugees, I visited the refugee camps and spoke with asylum seekers personally. This was necessary to assist with and to gain a better understanding of the asylum seeking process. It gave me insight into the psychological and emotional impact of the process on asylum seekers and into their experiences of enduring human rights abuses in their countries of origin. Furthermore, observing and working with the Center's lawyers at the refugee camps also gave me a greater awareness of the professional and psychological aspects of providing legal counsel to asylum seekers.

Leisure Time

While in Europe, I visited Berlin for a weekend and traveled to Luxembourg, Germany, France, and Spain to visit friends that I had made during prior trips to Europe. I also did quite a bit of weekend traveling through the Czech Republic. I was fortunate enough to become close friends with many of my coworkers, and they were gracious enough to invite me into

I visited the refugee camps and spoke with asylum seekers personally. This . . . gave me insight into the psychological and emotional impact of the process on asylum seekers and into their experiences of enduring human rights abuses in their countries of origin.

their homes and to escort me on trips around the Czech Republic. A favorite Czech pastime to which my co-workers introduced me is that of "mushroom hunting." The prime mushroom hunting season is in July and August, depending on the weather, and

(See "Czech Republic" on page 12)

Three Months in Manila, Philippines

James Bouchard III ('00)



Jim Bouchard

During the 2000 summer, I worked in Manila, Philippines for an NGO named Sentro Ng Alternatibong Lingap Panlegal (SALIGAN). In Tagalog, the local dialect of the Philippines, SALIGAN's full name means roughly "That which is fundamental and basic." The organization is affiliated with Ateneo de Manila University, one of the major

Philippine universities, and works in the area of public interest law. SALIGAN's aim is to take the law out of the hands of the elite and put it into the hands of the masses.

SALIGAN has two branch offices, both on the Philippine northern island of Luzon. I was assigned to the main branch in Metro Manila, Quezon City. SALIGAN has 28 employees, all of whom attended law school in the Philippines. SALIGAN is comprised of five work units focusing on labor, local government, peasants, the urban poor, and women.

The Labor Unit

The Labor Unit, under the direction of Mr. Arnie DeVera, operates as a "paralegal training program." With the assistance of professors from Ateneo Law School, it teaches the laborers in local businesses how to organize and negotiate with their employers. After they graduate from the program, the paralegals often take jobs at other businesses, assisting workers with organization and negotiation.

The Local Government Unit

The Local Government Unit works with local government officials. The main goal of this Unit is to educate the local governments (called Barangays) about the rights and needs of

This internship was clearly the most rewarding educational experience that I have ever had. Nothing I have done in any other law school class has impacted my perception...the way that my internship at SALIGAN was able to.

the people and to exert influence on those governments to encourage them to protect those rights. Through its efforts, it hopes to increase regulation of Barangay governors and to

develop meaningful accountability for the acts of the governors.

The Peasant Unit

The Peasant Unit, coordinated by Ms. Mabel, protects a large population of Filipino migrant workers and the rural unemployed. I worked most closely with this unit.

The Coordinator of the Peasant Unit informed me of the plight of migrant farmers (MAPALAD farmers) who suffer unfair working conditions. Landowners allow the MAPALAD farmers to work the land for short periods of time. There are legal protections to farm workers that work a specified period of time with a single landowner. Therefore, landowners move the farmers from the land before legal protection attaches. The families of the workers are without homes, health care or

education, and they receive wages that are insufficient to support a single person much less the entire family. Ms. Mabel explained that all of the NGO's working on these cases felt that all domestic means for relief were exhausted.

To offer the MAPALAD farmers a useful answer, I researched the major United Nations instruments and Philippine constitutional law. I mainly focused on the International Covenant on Economic, Social and Cultural Rights. However, I also studied the Universal Declaration of Human Rights, the United Nations Charter, the International Covenant on Civil and Political Rights (ICCPR), and the Optional Protocol to the ICCPR. After researching these international instruments, and how they had been interpreted and applied, I concluded that international advocacy could prove fruitful.

Most of my SALIGAN work focused on developing an accurate and useful guide to using the United Nations system to advocate for the MAPALAD farmers, and to create meaningful change in Philippine law. I spoke with U.N. officials located in the Philippines and in Geneva. I also studied a report that the Philippine government had supplied to the committee that reviews compliance with the International Covenant on Economic, Social and Cultural Rights. In the end I produced a 635-page document including exhaustive appendices.

The Urban Poor Unit

Hans Cacdac coordinates the Urban Poor Unit. He works to protect the interests of the unemployed and homeless residents in Manila. Hans asked me to write a common language explanation of the right to adequate housing. This was to be stated in laymen's terms, so that it could be distributed to the uneducated and undereducated, for whom Hans works.

(See "Philippines" next page)

... *Philippines*

(Continued from previous page)

The Women's Unit

The Women's Unit works with women and female children. The unit represents women in divorce proceedings, domestic battery proceedings, actions to require better support from a husband, molestation and rape cases, sexual harassment cases, and sex-discrimination cases.

Conclusion

The most important thing that I did while I was with SALIGAN was explore how international human rights law can be used to effect long-term changes in domestic law. I hope that SALIGAN, with the assistance of future international human rights legal interns, will continue to examine these issues, and engage in international human rights law advocacy. The plight of the people SALIGAN helps might be improved through focused advocacy, perhaps through reports to specified international human rights law bodies.

This internship was clearly the most rewarding educational experience that I have ever had. Nothing I have done in any other law school class has impacted my perception of myself, my country, the international community, and individuals throughout the world, the way that my internship at SALIGAN was able to. I am grateful to have had this opportunity. ♡



... *Equal Opportunities - Hong Kong*

(Continued from pg. 6)

Court of Appeal, and finally to the Court of Final Appeal.

Recommendations for the Hong Kong Government

Since equal opportunities are all about using human resources effectively and creating a level-playing field for all, Hong Kong needs to expand the scope of its anti-discrimination acts to cover race, age and sexual orientation. Such an expansion will help Hong Kong tap into a larger pool of available talent and enhance

Anti-discrimination laws provide a legal framework whereby one sphere of influence, however strong, cannot override the fundamental rights of another, however weak.

its access to the resources available to further its development. And, it will promote human dignity for all.

Conclusion

To be treated and judged solely on the basis of one's abilities and character is a fundamental human right. However, daily, people are pre-judged and misjudged based on preconceptions

about their race, color, sex, sexuality, disability, and a myriad of other irrelevant factors. Discrimination of this sort not only diminishes the person affected but also impoverishes the wider community. Anti-discrimination laws provide a legal framework whereby one sphere of influence, however strong, cannot override the fundamental rights of another, however weak. ♡



... *Czech Republic*

(Continued from page 10)

everyone goes out to the forests in search of the best mushrooms. Though I distinguished myself by finding more poisonous than

I returned to the United States [from Prague] with a broader perspective of international human rights law issues. I am now more deeply committed to pursuing as many avenues as possible to ensure that the rights of individuals, whether refugees or otherwise, are guaranteed.

edible mushrooms, it was pleasant to escape to the forests in the afternoon, and at dinner enjoy the rewards.

Conclusion

I am grateful to the *Program in International Human Rights Law* for providing me with the opportunity to witness firsthand the situation of refugees in the Czech Republic. Through this practical work experience, I learned that much remains to be done about the situation. I gained solid skills to advocate on behalf of refugees. I returned to the U.S. with a broader perspective of international human rights law issues. I am now more deeply committed to pursuing as many avenues as possible to ensure that the rights of individuals, whether refugees or otherwise, are guaranteed. This experience affected and improved every aspect of my life. I would recommend the Program to every law student. ♡



Katherine Hendrix in Prague

Internship at the United Nations

Joshua Robertson ('00)



Joshua Robertson

During the 2000 summer, I worked for the United Nations Office of the High Commissioner for Human Rights (OHCHR) in Geneva, Switzerland. It was a grand experience, on both personal and professional levels.

I was assigned to the Secretariat of the World Conference Against Racism, under the supervision of Mr. Daniel Atch bro, human rights officer on racism, and assistant to the U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance. I worked on general issues related to the work of the Special Rapporteur, and on matters related to the World Conference Against Racism.

The World Conference Against Racism and Its Goals

The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance will be held in South Africa from 31 August to 7 September 2001. The principal goal of the Conference is to develop action-oriented measures to prevent racial discrimination. It also will formulate recommendations for action to combat bias and intolerance. Furthermore, the Conference will focus on double discrimination, recognizing that many victims of racial discrimination also suffer bias based on gender, disability or age.

Recognizing that the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is the centerpiece of international efforts to combat racial discrimination, a major objective of the Conference will be to encourage its universal ratification and to promote recognition of the United Nations Committee on the Elimination of Racial Discrimination (CERD) as the preeminent body to receive and act on communications from individuals claiming to be victims of a violation of the rights contained in the ICERD. Finally, the Conference will promote global efforts to protect the rights of migrants. All States will be encouraged to ratify the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Their Families.

Selected Assignments I Completed During My United Nations Internship

I researched the issue of compensation, restitution and rehabilitation for victims of racial discrimination and their families in relation to the World Conference Against Racism. In order to carry out this assignment, I reviewed all U.N. documents published since 1995 that dealt with these issues. After compiling these documents, I prepared a brief on each document, summarizing how the issues were treated.

I researched racial discrimination in relation to migrant workers and trafficking of persons, with a particular focus on women and children, in the Asian region. I assisted in drafting the Message of the High Commissioner for Human Rights, Mary Robinson, to be used as her opening statement for the African Region Expert Seminar, held in Addis Ababa, Ethiopia, in preparation for the World Conference Against Racism.

Furthermore, I reviewed complaints of racial discrimination made against various states. These complaints had been submitted to the U.N. Special Rapporteur on Racism. After reviewing the complaints, I prepared summaries for my supervisor and made

The quality and substantive nature of my assignments challenged me to learn a great deal. I was given a great deal of responsibility, which made me feel that I provided valuable assistance to the work of the United Nations division to which I was assigned.

recommendations as to whether they contained issues of racial discrimination that fell under the Special Rapporteur's mandate.

Finally, I researched the issue of racial discrimination against Aboriginal Australians in preparation for the Special Rapporteur on Racism's proposed visit to Australia.

Conclusion

The quality and substantive nature of my assignments challenged me to learn a great deal. I was given a great deal of responsibility, which made me feel that I provided valuable assistance to the work of the United Nations division to which I was assigned. I gained extensive, first-hand knowledge of the operations and mechanisms of the United Nations, and the nature of work in an international organization. I hope that I have offered positive contributions to the betterment of the world, in the longstanding quest to rid the world of racism, racial discrimination, xenophobia, and related intolerance. ♡

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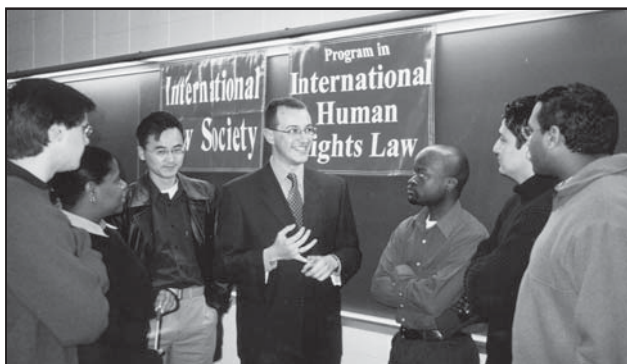
Photo Gallery – Program in International Human Rights Law



Professor Diane Orentlicher, of American University Washington College of Law, speaks with Indiana University law students Jenny Mirelez & Edward Queen II following her presentation at the law school on the topic of International Criminal Law and Human Rights



Professor Jeff Ballinger (left) of Harvard University (Kennedy School of Government), and IU students Jenny Mirelez, Katherine Hendrix, & Robert Springston (following Professor Ballinger's presentation at the law school on Human Rights & Sweatshops in Asia)



Mr. Fabiano Andreatta, Esq. (center), is a Brazilian lawyer who works for Eli Lilly and Company, based in Sao Paolo, Brazil. Mr. Andreatta speaks with Indiana University law students following his presentation at the law school on the topic of "International Law: Challenges for Multi-National Corporations"



Law School Panel Discussion on Human Rights in Latin America. From Left: Daniel G. Foote, Esq. ('97) (of the Locke Reynolds law firm), Prof. George E. Edwards, Greg Loyd ('02), Marisol Lopez-Menendez (Chiapas, Mexico), Jose Rivero ('01)



Chancellor Gerald Bepko & Dean Norman Lefstein (1st and 2nd from left), Professor George E. Edwards (2nd from right) and many current and past Program in International Human Rights Law Overseas Interns at the PIHRL's 5th Anniversary Reception (May 2001)



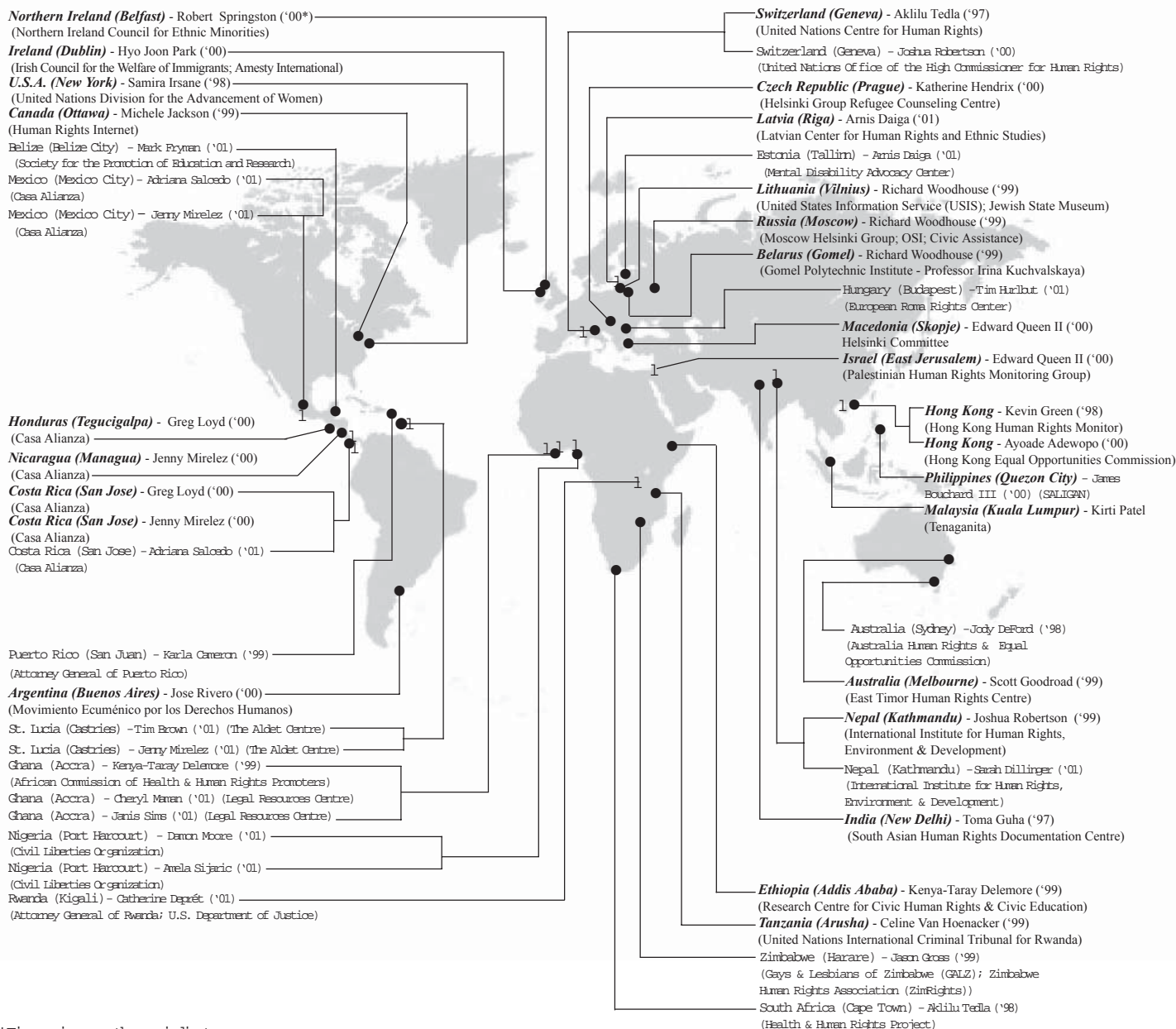
Professor Cherif Bassiouni ('64), an expert on international criminal law and human rights, receives the Indiana University School of Law Distinguished Alumni Award. (L-R) Dean Norman Lefstein, Professor George E. Edwards, Professor Cherif Bassiouni, & Judge Gerald Zore ('68)

International Human Rights Law

Student Overseas Intern Placements

Indiana University School of Law – Indianapolis

1997 – 2001



*Figure in parentheses indicates year of internship

...World Conference

(Continued from page 1)

cate racial discrimination in all forms. The subsequent years saw vigorous efforts against racism through three "Decade(s) of Action to Combat Racism and Racial Discrimination" - (1973-1982), (1983-1992), and (1994-2003).

Conference Themes

Themes of the World Conference Against Racism encompass wide-ranging areas of focus, including: sources, causes, forms and contemporary manifestations of racism; victims of racism; measures of prevention, education and protection aimed at eradicating racism; effective remedies, at all levels; strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia, and related intolerance. These themes were also the focus of governmental and non-governmental Pre-Durban Regional Preparatory Meetings held in various places, including Dakar, Senegal and Santiago, Chile.



Conference Visions

It is unclear what impact the Conference will have on raising the consciousness of peoples and governments to the important issues of racism, race discrimination, xenophobia, and racial intolerance. It is also unclear whether and to what extent the Conference will pave the way for individuals, governments, intergovernmental organizations, and non-governmental organization to carry out initiatives that provide lasting solutions to eradicate racism. We remain hopeful. ⁵



Professor George E. Edwards (3rd from left) & members of the Brazilian Government Delegation to the Americas Preparatory Meeting of the World Conference Against Racism, held in Santiago, Chile (Dec. 2000)

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