

LAW BULLETIN

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The Newsletter for the Program in International Human Rights Law - Indiana University School of Law - Indianapolis

New law program for international human rights now a reality

The Program in International Human Rights Law (PIHRL) was established in the Spring of 1997.

Its mission includes:

- (a) to further the teaching and study of international human rights law;
- (b) to promote scholarship in international human rights law;
- (c) to assist human rights governmental, inter-governmental, and non-governmental organizations on international human rights law projects; and,
- (d) to facilitate the placement of students as law interns at international human rights organizations domestically and overseas.

The first major project of the PIHRL was the Summer Overseas Internships Program 1997, which placed two law students at

human rights organizations. One student worked at the United Nations Centre for Human Rights in Geneva, Switzerland. Another student worked for the South Asian Human Rights Documentation Centre, in New Delhi, India.

Second, the PIHRL began hosting a series of overseas lecturers to address the student body and faculty on international human rights issues.

One speaker was a South African Law Professor who lectured on human rights in his country.

Another speaker, who joined us from Australia, spoke about his experiences as an Asia Delegate to the International Committee of the Red Cross.

The PIHRL has many more activities planned. So, stay tuned

Around the world internships

Geneva student intern experience

by Mr. Aklilu Tedla, 3L

I spent the 1997 summer working for the United Nations Centre for Human Rights in Geneva, Switzerland. The Centre is the nerve center for UN human rights activities, worldwide. It supports all UN organs and bodies that have human rights jurisdiction.

I worked on the mandate of a UN Special Rapporteur. Special Rapporteurs are individual experts, who may come from any country of the world, who investigate human rights violations in a

particular geographical region of the world, or in a particular thematic area.

My team was that of the Special Rapporteur on the Independence of Judges and Lawyers, Mr Param Cumuraswamy. Mr Cumuraswamy investigates human rights violations in several areas, including when (a) a country's Executive Branch controls the judiciary; (b) lawyers are harassed because of the discharge of their professional duties; and (c) litigants cannot receive a fair trial because of inappropriate conduct (partiality or corruption) of judges or lawyers.

My Assignments

My assignments were varied. I reviewed complaints filed by non-governmental organizations (NGO's) and individuals from around the world, who alleged violations of international human rights law. Often, the victims sought help from the UN as a last resort, after their pleas for help fell on the deaf ears of corrupt or otherwise tainted judges.

I also helped draft "appeals" for assistance to be sent to governments. There are two types of appeals (a) urgent appeals; and (b) general allegations.

Urgent Appeals are issued to a country when there are threats to or violations of the physical or psychological integrity of a judge or a lawyer, or when a defendant was convicted pursuant to a trial which fell below accepted international human rights standards.

General Allegations respond to broader-based complaints about country conditions. For example, in certain countries, lawyers refuse to take cases involving a certain class of defendants, or cases tried pursuant to a law in which the government's interests are high. Those lawyers fear reprisal from government officials

Intern experiences in New Delhi

by Ms. Toma Guha, 3L

My internship led me to a hot and humid summer in New Delhi, India working for a non-governmental organization (NGO), the South Asian Human Rights Documentation Centre (SAHRDC).

The SAHRDC investigates, documents, and reports on human rights violations committed throughout South Asia. The Center focuses on civil and political rights violations, such as arbitrary arrest and detention; forced disappearances; extrajudicial

killings; torture; capital punishment and other cruel, inhuman and degrading treatment; breaches of freedom of the media; and custodial rape.

The SAHRDC is based in New Delhi, with satellite offices in Bangladesh and Nepal. Mr. Ravi Nair, who has long been a human rights advocate in India, heads the center, which was established in 1990. It employs 7 people, but receives its primary help from interns who come from different universities throughout the world.

Seven other interns six from Yale Law School and one from Stockholm University, in Sweden joined me at the SAHRDC for the summer. We all worked together in one small room, with shared computers. But, we managed to work independently (and at times jointly) on our projects.

I worked primarily on two projects: a Manual on arrest and detention laws in India for political activists; and women in Indian prisons.

The Rights Manual

I wrote part of a Manual on the arrest and detention laws in India, for use by political activists and lawyers. The object of the manual was to inform political activists and lawyers who reside in small towns or villages of the current status of the arrest and detention laws and what steps to take if they or their clients have been illegally arrested or detained. The Manual was necessary because many people in India, particularly those who live in rural areas, do not know their legal rights.

Women, Prisons, and Human Rights

I researched the status of women in Indian prisons. In 1986, Indian Supreme Court Justice Krishna Iyer published a report on conditions of women in Indian prisons. Justice Iyer recommended in the report that significant changes be made to improve the deplorable conditions women were subject to. I researched which of Justice Iyer's recommendations had been implemented, and analyzed international human rights conventions as they related to those recommendations.

Other work experiences

for their work. In other instances, lawyers or judges active in human rights are threatened with torture, extra-judicial executions and/or economic sanctions.

Summer work highlights

Among the highlights of my summer were meetings with, and accepting complaints from, non-governmental organizations from India, Mexico, and Tibet.

I met with family of the leader of the Peruvian rebel group, Tupac Amaru. The rebels had taken numerous hostages at the Japanese Embassy in Lima, Peru

around Christmas of 1996. The Peruvian police stormed the Embassy, killed all the rebels, and freed most of the hostages. Concerns were raised about the deaths of the rebels.

In Geneva, I observed several other UN human rights bodies, such as the Working Group on Minorities, the Human Rights Sub-Commission, the Human Rights Committee, and the Committee on the Elimination of All Forms of Racial Discrimination.

Life in Geneva

I was one of few American summer UN interns most of the other interns were European. They came from schools in the United Kingdom, the Netherlands, France, Sweden, the former Yugoslavia, among others. Working and socializing with students from so many other countries was exciting and rewarding!

Geneva is a culturally diverse city, with people from around the world working at many international organizations, including multinational companies and intergovernmental organizations.

Geneva sits on the border with France. I could catch a bus at the UN and be across the border in France in about 20 minutes!

Italy is also close. One weekend, I and a group of other interns from Holland, Sweden, and the former Yugoslavia rented a car and drove to Milan and around the Swiss and Italian Alps.

Summing up my experience

I started the internship expecting to advance my career objectives while contributing to the global promotion and protection of human rights. The internship, under the excellent direction of my immediate supervisor, Mr. Alan Parra, satisfied both expectations. I developed a deeper understanding of international legal documents and how the UN works. Further, I learned of the important role which non-governmental human rights organizations have in assisting the UN human rights efforts. It was also rewarding that my work may have made a difference for victims, for whom the UN was their final resort

My research exposed me to other controversial human rights issues, and allowed me to have a variety of other experiences, such as:

- examining Indian issues related to custodial rape and torture, illegal detention, and the incarceration of mentally ill women;
- interviewing several local lawyers on Indian legal issues. It was insightful to be exposed to the Indian legal profession, which is quite different from that in the U.S.
- meeting with refugees from Afghanistan seeking political asylum in India. I heard first-hand accounts of persecution they experienced in their homeland.
- meeting with foreign diplomats, United Nations employees, and Indian government officials.
- visiting and researching in many New Delhi law institutions, such as the Patiala House (which is the lower court of New Delhi), the National Human Rights Commission, the National Commission for Women, the Indian Law Institute, and the National Institute of Social Development. I experienced a cross-section of Indian institutions that do human rights work.

Summing up my internship

My internship experience enlightened me to many of the problems of the world. It is one matter to read or hear about incidents in the news, and yet another matter when you are in the environment where these events occur and can talk to the people who may be involved. The experience is eye opening.

Working with the SAHRDC, I experienced the role a non-governmental organization (NGO) plays in the international human rights law arena, the relationship between an NGO and the United Nations, and the relationship between the NGO and its state government.

I was able to apply what I had learned in my last semester's course in human rights law, which added a touch of reality and practicality to my academic experience.

And, I enjoyed myself! I highly recommend the summer human rights internship program to other students.

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against human rights violations by their governments.

The PIHRL internship is an experience I recommend to any law student or recent JD graduate. The internship provides practical experience in applying international human rights treaties, which I learned about in the human rights law course I took in the Spring before I went on the Internship. It was satisfying to have a good work experience, combined with the opportunity to have fun with interesting people from around the world.

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An introduction to the Director . . .

by Daniel G. Foote, '97

Professor George E. Edwards joined the Indiana University School of Law Indianapolis Faculty in January 1997. He is the founding Director of the law school's Program in International Human Rights Law.

A 1986 graduate of Harvard Law School, Edwards clerked for Judge Cedarbaum of the U.S. District Court for the Southern District of New York. From 1987-1991, he worked in private practice as a commercial litigation associate with the Wall Street law firm of Cravath, Swaine & Moore. He then left for Hong Kong, where he served as Associate Director of the Centre for Comparative and Public Law at the University of Hong Kong. He also lectured in law at the City University of Hong Kong and the Law Society of Hong Kong.

Professor Edwards is widely-published in the field of international human rights law. He has a particular interest in human rights in Asia, where he lived and worked for 6 years before relocating to Indianapolis. His interests include international criminal law and public international law.

Professor Edwards brings to the law school a wealth of recent, practical human rights experience. He has testified on human rights legislation at Hong Kong Legislative Council hearings; represented human rights groups at United Nations meetings in Geneva; served as international human rights trial observer in Kuala Lumpur, Malaysia; and participated in human rights matters in Africa and in other parts of the globe.

Among Professor Edwards' recent publications are:

- *Will Hong Kong Human Rights Non-Governmental Organizations Survive after the People's Republic of China Reclaims Sovereignty over Hong Kong on 1 July 1997* (American University Journal of International Law and Policy) (Volume 12, No. 3, pp 408-444 (1997))
- *Applicability of the One Country, Two Systems Hong Kong Model to Taiwan: Will Hong Kong's Post-Reversion Autonomy, Accountability, and Human Rights Record Discourage a Taiwan Reunification* (forthcoming New England Journal of Law, February 1998)
- *Tightening the Leash: Threats to Freedom of Association and Independent Human Right Advocacy in the New Hong Kong* (Published by Law-yers Committee for Human Rights & Hong Kong Human Rights Monitor) (June 1997) (co-author G. Black)

Since arriving in Indianapolis, Professor Edwards has participated in or presented academic papers at human rights conferences in Hong Kong, South Bend, Italy, Boston, Cincinnati, New York, and Washington.

Professor Edwards' presence promises to bolster the standing of the law school in Indiana, and around the world. The PIHRL offers new opportunities for students to prepare for the growing legal services global market.

Welcome Professor Edwards!

The Dean's Message

I am pleased to congratulate the Program in International Human Rights Law on the publication of its first Newsletter the *Indiana International Human Rights Law Bulletin*. The *Bulletin* caps off this year's PIHRL activities, which have included speakers, overseas summer law student internships, and a course on international human rights law.

I encourage all students to read the *Bulletin* and to participate in the various activities that the PIHRL has planned. International Human Rights Law is an exciting and developing area of law, and is relevant even in the world of commercial transactions!

We are fortunate to have the PIHRL, as well as Professor George Edwards, who serves as the founding Director of the PIHRL. Congratulations to Professor Edwards, the students, and others who are contributing to the Program.

Opinion

Are universal human rights "oppressive"?

around the globe, irrespective of culture, ideology, or state of development of a society?

Asia is made up of several major cultures and religions, among them Confucian, Islamic, Buddhist, Hindu and Catholic. Economic growth is not peculiar to any form of Asian "soft" authoritarianism or liberal democracy.

Thus, there are no "Asian Values" that can be attributed to Asia as a whole.

By Scott L. Goodroad, 2L

In July 1997, Malaysian Prime Minister Dr. Mahathir Mohamad called the 1948 United Nations Universal Declaration of Human Rights "oppressive", and called for the instrument to be rewritten. The Universal Declaration is an international human rights instrument, that provides for a breadbasket of rights that belong to all people in the world. Among its rights are civil, political, economic, social and cultural rights.

Mahathir's position Asian Values

Mahathir's rationale for abandoning the Universal Declaration is

Social stability versus individual freedoms

A Singaporean, Kishore Mahbubani, cited as paradoxical that the U. S. has reduced physical freedom and social stability by highly valuing individual freedoms.

Is placing a high premium on individual rights contrary to social stability?

The UN reports that the U.S. has an intentional homicide rate 300% over Singapore's.

that it was designed by "superpowers which did not understand the needs of poor countries." Western countries imposed their own values on developing countries, ignoring cultural and developmental differences and needs of Asian countries.

Mahathir, like his neighbor Prime Minister Lee Kuan Yew of Singapore, believes in "Asian Values". This reflects the notion that different cultures inherently have different views on human rights. He believes Western cultures cannot dictate the substance of human rights to Asia because "Asian Values" are different. Asian countries focus on community or group rights such as development, economic, social and cultural rights. Western countries focus more on individual rights, such as civil and political rights (e.g., right to vote, right to a fair trial).

"Asian Values" proponents believe limiting individual freedoms (through media suppression, detention without proof of guilt, and corporal punishment) and enhancing familial and societal responsibility, will enhance an individual's physical freedom. They believe that social stability in a country, which is at times acquired at the expense of individual freedoms, is necessary for economic development, which is in turn necessary before individual freedoms can abound.

Who supports Mahathir?

Many Asian countries, like the Philippines, Hong Kong, Indonesia, and Singapore support Mahathir's view. President Jiang Zemin of China espoused the theory during his recent U.S. visit.

Most western nations reject his view because it legitimizes authoritarian regimes like that of Burmaís.

Madeleine Albright, backed by the European Union, vowed to oppose dilution of the Declaration. U.S. Undersecretary of State Stuart Eizenstat said "respect for the individual is not contrary to social stability; it is not contrary to economic prosperity...it is essential."

What is an "Asian Value"?

Are there distinct "Asian Values"? Or, are human rights universal and apply equally

When the U.S. teenager Michael Fay was caned in Singapore for vandalism, a Los Angeles Times poll indicated that most Americans approved of the sentence.

Does this mean social order trumps individual rights?

"Asian Values" proponents say "yes", while suppressing disfavored political speech and imposing harsh punishments.

The West says "no", with its alarming physical violence and social ills, but unsurpassed individual freedom.

Towards a unified rights position

Rights are bound within societies' history and culture. This does not mean the rationale is inapplicable to global citizenship. Universal rights must not be based on cultural dominance from either side of the globe.

"Western" human rights activists and "Asian Values" proponents must formulate a coexistence and interpretation of universal human rights which would fill the intellectual rift between "East" and "West," and foster a global industrial order that serves the individual and society.

Childrens Rights Conference

The Program in International Human Rights Law is co-sponsoring a National Conference

"The Role of Non-Governmental Organizations in Supporting Children's Rights"

20-22 November 1997

University Place Conference Center & Hotel

Indiana University-Purdue University Indianapolis

All are welcome to attend.

www.iupui.edu/~snhart/childrts.htm

TEL: 317-278-3006; FAX: 317-274-6864

South African guest lecturer

In March 1997, South African Professor Pierre de Vos visited the law school. He teaches constitutional law and human rights law at the University of the Western Cape, in Cape Town. His lectured on *The New South African Constitution and International Human Rights Norms*.

Professor de Vos addressed controversial topics such as the first democratic South African elections, Nelson Mandela's Presidency, and the end of apartheid.

South Africa's Constitution, which went into effect in early 1997, is unique. It is the only Constitution of the world that expressly incorporates a wide range of international human rights norms. For example, it is the first to contain a comprehensive anti-discrimination clause, that protects people from discrimination based upon characteristics such as sexual orientation.

Professor de Vos discussed how South Africa has ventured out from the Stone Age, and taken a lead in human rights protection, on an equal basis, for all.

Swiss/American lecturer

Mr. Alfred Boll, a Delegate of the Swiss-based International Committee of the Red Cross, visited the Law School in September. Mr. Boll is a U.S. trained lawyer with degrees from the Universities of Chicago and Wisconsin. He lectured on *the Law of War and International Human Rights Law*.

Mr. Boll distinguished humanitarian law (which applies during war) from international human rights law (which applies in non-war and war situations). He spoke of the dangers of ICRC work, which recently resulted in about a dozen ICRC Delegates killed in war-torn areas such as Rwanda, Chechnya, and Burundi.

The ICRC provides tracing services for family members or friends who are lost at war. This service is important when there are prisoners of war or where atrocities of the greatest proportion have occurred, such as genocide in Cambodia.

Highlights of Mr. Boll's career include work on a team involved in an armed hostage conflict in Iryan Jaya, Indonesia. Local Iryanese held about 1 dozen European and Indonesian hostages in a remote jungle area. The ICRC helicoptered into the jungle each day at sunrise, visited the hostages, and "talked" with the captors, which Mr. Boll was able to do because he speaks Indonesian (and French, German, Portuguese, Chinese, and Spanish). Ultimately, most of the hostages were released.

Program in International Human Rights Law Overseas Internship Scholarships

Summer 1998

The *Program in International Human Rights Law* plans to place students in overseas International Human Rights Law Internships for the 1998 summer.

Intern positions available in:

- South Africa (Cape Town & Johannesburg)
- Malaysia (Kuala Lumpur)
- India (New Delhi)
- Australia (Sydney)
- Hong Kong
- Switzerland (Geneva)
- Cambodia (Phnom Penh)

Students work with inter-governmental organizations (e.g., the United Nations), with non-governmental organizations (NGOs), or with government commissions.

QUALIFICATIONS: Course in International Human Rights Law **NOT** required.
Internships available for current students and recent JD graduates.

Internships are unpaid. Academic credit available in conjunction with Senior Writing Requirement. Other academic credit possible.

SCHOLARSHIPS AVAILABLE FOR AIR FARE AND LIVING EXPENSES.

If you wish to become an intern, you must:

Attend an information session on 5 November 1997, 12:00 noon, (Room 104)

Professor Edwards

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Thank You

The Program in International Human Rights Law would like to thank those who helped make the Bulletin a success, and who have supported the PIHRL. Special thanks go to Daniel Foote, Scott Goodroad, Nandita Toma Guha, Sandra Herrin, Therese Kamm, Norm Lefstein, Pat McKeand, Chris Nimz, Aklilu Tedla, and the anonymous others who helped.