



# INDIANA INTERNATIONAL HUMAN RIGHTS LAW BULLETIN

Volume 2, Issue 1 • Autumn 1999/Spring 2000

Publication of the *Program in International Human Rights Law* • Indiana University School of Law — Indianapolis

## Malaysian Human Rights Trial Nears Year 4 – Longest Trial in Malaysian History

*Kirti Patel ('00)*

In June 1996, the criminal prosecution of human rights worker Irene Fernandez began in Kuala Lumpur, Malaysia. Irene is charged with “maliciously publishing false news” relating to her documentation of alleged deplorable conditions in government-run migrant worker detention centers.

Irene’s is the longest trial in Malaysian history. Four years later, with more than 260 trial days, Irene remains in the dock.



*Irene Fernandez*

### **Background**

Irene Fernandez is the Founding Director of Tenaganita (Womens’ Force), which is a Malaysian non-governmental organization that promotes the interests of female migrants who work in factories, on plantations, and as sex workers. Tenaganita also conducts health camps, workshops, seminars, and discussion groups on projects related to women. Tenaganita maintains programs on women & AIDS, a drop-in counselling center, a halfway house, and a leadership program devoted to empowering women.

*(See “Malaysia Rights Trial” Page 16)*

## 1999 Interns Around the World

### **Ottawa, Canada Internship**

*Michele Jackson ('00)*

I worked for Human Rights Internet (“HRI”), which is a human rights non-governmental organization (NGO) based in Ottawa, Ontario, Canada.

Through HRI, I learned the intricacies of various international human rights law instruments, gained acute awareness of the NGO role in global human rights protection, and acquired valuable general human rights law exposure. My work firmed my international human rights law foundational base, upon which I continue to build.

### **HRI’s Mission**

HRI is dedicated to the empowerment of human rights activists and or-

*(See “Summer in Ottawa” Page 12)*

### **Summer in Harare, Zimbabwe**

*Jason Gross ('00)*

During the 1999 Summer, I worked in South-Eastern Africa as a human rights law intern in Harare, Zimbabwe. My non-governmental organization (NGO) hosts gave me an uncensored, raw look at various “frontier” issues of international human rights law.

My internship increased my awareness of the true nature of human rights law work. This experience enriched my understanding of the world, and empowered me as a student of international human rights law and as an aspiring human rights worker.

### **ZimRights**

Two NGOs served as my bases dur-

*(See “Summer in Harare” Page 14)*

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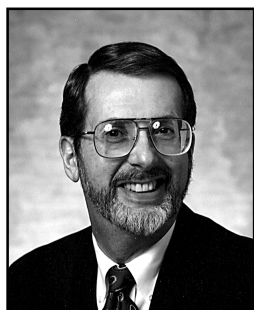
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programs/humanrights/contents.htm](http://www.iulaw.indy.indiana.edu/programs/humanrights/contents.htm)

# Dean's Message

I congratulate the Program in International Human Rights Law on the publication of the third issue of its Newsletter—the Indiana International Human Rights Law Bulletin.

It is exciting for us to have successfully embarked on an international program that involves students, faculty, the local community, and overseas visitors, who engage in a wide range of collaborative activities in international human rights law.

Our many recent activities include hosting young African leaders sponsored by the United States Information Agency, in conjunction with the International Center of Indianapolis. Below is a photo of several of the African leaders during their visit to the law school.



Dean Norman Lefstein

We are pleased that our students have the opportunity not only to interact with international figures here at the school, but also, we are pleased that our students are afforded opportunities to gain overseas experience.

Students gain important educational, work, and service experience overseas through our international human rights internship program, which is rapidly expanding.

The law school also offers several other international programs, including our long-running China Summer Study Abroad Program (Beijing), and our France Summer Study Abroad Program (Lille). We look forward in the future to incorporating international elements into our Center on Law and Health.

Congratulations to Professor George E. Edwards, the students, other faculty members, and others who are helping make the Program in International Human Rights Law a success.



(l-r) Kenya-Taray Delemore ('01), Chief Tawana Mormi II (Chief, Batawana Tribe, Botswana), Jean Elemba (Democratic Republic of Congo), Professor George E. Edwards, Dean Norman Lefstein, Professor Zewdu Alem (Addis Ababa, Ethiopia), Joseph Lezou Gnekre (Lakote, Cote D'Ivoire), Todd Pederson ('02).

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**Director & Editor**  
George E. Edwards

**Associate Editor**  
Alex D. Forman



The PIHRL thanks those who have supported the PIHRL and the Law Bulletin. Special thanks to Professor Patrick McKeand, Chancellor Gerald Bepko, Dean Norman Lefstein, Dean DeCoux & the Scholarships and Award Committee, Ms. Therese Kamm, Ms. Sandra Herrin, Dr. Mahnaz Moshfegh, Ms. Jean Armin, IUPUI International Programs, The International Center of Indianapolis, Ms. Sandra Abel, Mr. Todd Pederson, Dr. Javad Raiesdana, Mr. David G. Edwards, Ms. Mary A. Roy, Mr. Daniel G. Foote, Mr. Michael Bergin, Mr. Wayne Kreuscher, Mr. Jon Graf, student contributors, international visitors, intern host organizations, student interns & others.

# Racial Discrimination Against Dalits – Nepal's “Untouchable” People

Joshua Robertson ('01)\*

In Nepal, racial discrimination exists based on an individual's caste. “Higher” castes and the government discriminate against “lower” castes.

Though Nepal is party to the United Nations Convention on the Elimination of All Forms of Racial Discrimination (“UN Race Convention”) and other international instruments that forbid racial discrimination, caste discrimination remains rampant in numerous aspects of social and political life.

This article describes the Nepalese caste system; describes discrimination against Nepal's lowest caste — the “Untouchables” or “Dalits”; and recommends steps the Nepalese Government can take to eradicate caste discrimination and to comply with its international human rights law obligations.

## Castes in Nepal

The four main castes (or social groups) in Nepal were traditionally distinguished by the type of labor performed by the members of each caste:

(1) **Brahmins** are at the top of the caste hierarchy, and were traditionally priests and teachers.

(2) **Kshetris**, who are below Brahmins, were traditionally the ruling class, and engaged in politics and army service.

(3) **Vaishyas** are next, and traditionally worked in agricultural activities and trade.

(4) **Shudras** are at the bottom, and traditionally performed hard labor, made artisan crafts, and serviced the higher castes. Shudras are further divided into “touchables” and “untouchables.” Untouchables (known as “Dalits”) are the lowest in the caste system.

Today, the labor distinctions are not so rigid. However, the plight of *Shudras* remains basically unchanged, especially for *Dalits* (untouchables).

## Casteism and the Law

In 1963, a new Muluki Ain (Civil Code) announced the elimination of the caste system. In 1990, the People's Movement restored a multiparty democracy to Nepal, and a new Constitution was promulgated which prohibits caste discrimination.

However, Nepal lacks laws to enforce the Civil Code and Constitution. The lack of legislation to punish discriminators perpetuates discrimination against Dalits, who suffer the most under the caste system.

## The Untouchables (Dalits)

Dalits constitute 15-20% of Nepal's population. Discrimination against Dalits is most visible in remote areas of the western hilly districts and in the southern Terai region. In large urban areas such as Katmandu, Dalits have achieved a level of anonymity, enabling them to dodge caste rules.

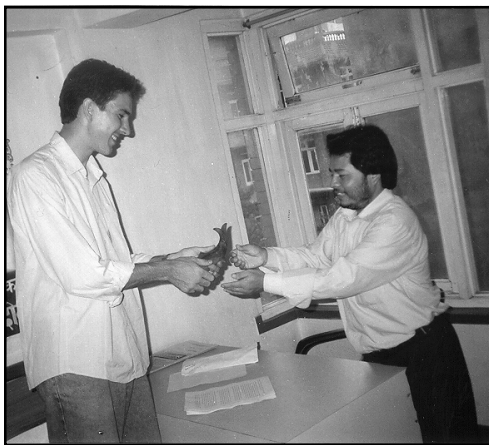
*Dalits (untouchables) are denied many rights, including:*

- ◆ *The right to stand for election*
- ◆ *Rights to marriage and choice of spouse, & religious rights.*
- ◆ *Rights to education, choice of employment, & equal participation in cultural activities*

## Discrimination against Dalits

Because casteism is still widely practiced, Dalits suffer severe discrimination in all categories of rights, including civil, political, economic, social and cultural rights.

Under the caste system, Dalits have always been treated as inferior human beings. Traditional caste rules forbid Dalits from marrying, touching, or entering the homes of higher caste persons. If a Dalit touches an upper-caste person, the upper-caste person must either bathe or sprinkle himself with gold-treated water. Furthermore, Dalits are prohibited from entering Hindu temples, performing Hindu rituals, or receiving an education. Dalits cannot stand for election, are denied employment rights, and are deprived of cultural rights. Dalits must live on the fringes of upper caste settlements. These inhumane rules alienate Dalits from mainstream society, and prevent Dalits from achieving social or economic advancement.



*Joshua Robertson receives thank you gift from Dalit Welfare Organization President Moti Lal Nepali for his work on behalf of the Dalit Community of Nepal.*

## Impact of Discrimination and Poverty

Discrimination and poverty have grossly harmed Dalits in many important aspects. For example:

- The literacy rate of the Dalit community is 18%, while the national average is 48%, and the figure for Brahmins is 58%. The literacy rate for Dalit women is 3.2%, versus 30% for non-Dalit women.

(See “Untouchables” page 6)



# IU Interns Work on Six Continents in 1999

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

Since the Law School's Program in International Human Rights Law (PIHRL) was founded in 1997, two dozen Indiana University – Indianapolis law students have received scholarships and academic credit to work as summer human rights law interns in over twenty different countries on six continents.

In 1999, nine students worked at human rights organizations in twelve different countries. Following are a few words about each of those interns and their internships. (All intern placements for 1997-2000 are listed on page 15.)

## **(1) Melbourne, Australia**

Mr. Scott L. Goodroad ('99) worked for the East Timor Human Rights Centre (ETHRC) in Melbourne, Australia. He documented human rights abuses in East Timor, determined what actions constitute human rights violations, drafted interrogatories, and submitted documentation to appropriate NGOs, foreign governments, and the United Nations. He also prepared a Bi-Annual Report on human rights abuses in East Timor, for submission to foreign governments, NGOs, and the United Nations. Highlights included his meeting with East Timor Nobel Laureate Jose Ramos Horta.

## **(2) Ottawa, Canada**

Ms. Michele Jackson ('00) worked for the Human Rights Internet, Children's Rights Division in Ottawa, Canada. She worked on the "Protection Project: Creating an International Framework for Legislation to Protect Women and Children from Commercial Sexual Exploitation". The project will generate model legislation to enable countries to draft laws to prevent, reduce and ultimately eliminate the commercial sexual exploitation of women and children. Ms. Jackson published a human rights article in the global HRI publication Tribunal. (*see story, p. 1*)

## **(3) Accra, Ghana & Addis Ababa, Ethiopia**

Mr. Kenya-Taray Delemore ('00) held two internships in Africa. In West Africa, he worked in Accra, Ghana for the African Commission of Health & Human Rights Promoters on issues related to health and human rights, HIV-AIDS, and torture vic-

tim assistance. In East Africa, he worked in Addis Ababa, Ethiopia for the Research Centre for Civic Human Rights & Civic Education on human rights education issues.

## **(4) Kuala Lumpur, Malaysia**

Ms. Kirti Patel ('00) worked in Kuala Lumpur, Malaysia with Tenaganita, which is a human rights group led by advocate Irene Fernandez. Irene is currently on trial, having been charged under



1999 PIHRL Interns (l-r) Richard Woodhouse, Kenya-Taray Delemore, Scott Goodroad, Dean Norman Leftstein, Prof. George E. Edwards, Joshua Robertson, Kirti Patel, Michele Jackson, Jason Gross, Karla Cameron, & Celine VanHoenacker.

the 1984 Printing Presses and Publications Act with maliciously publishing false news regarding conditions in government run detention centres. Ms. Patel researched and wrote memos on hearsay and malice in various countries, the admission at trial of audio tape recordings, and the preparation of trial witnesses. She also worked on migrant worker human rights issues. (*see story, p. 1*)

## **(5) Katmandu, Nepal**

Mr. Joshua Robertson ('01) worked for the International Institute for Human Rights, the Environment & Development (INHURED) in Katmandu, Nepal. He researched race discrimination in Nepal, and drafted a report analyzing Nepal's compliance with the United Nations Convention on the Elimination of All Forms of Racial Discrimination. Mr. Robertson traveled to Geneva, Switzerland to present his report to the United Nations Committee on the Elimination of All Forms of Racial Discrimination. His report will also be used by INHURED for a legal advocacy campaign in Nepal. (*see story, p. 3*)

(Continued on next page)



"The collapse of the Soviet Union and subsequent civil unrest has led to forced migration and refugees in the Russian Federation."

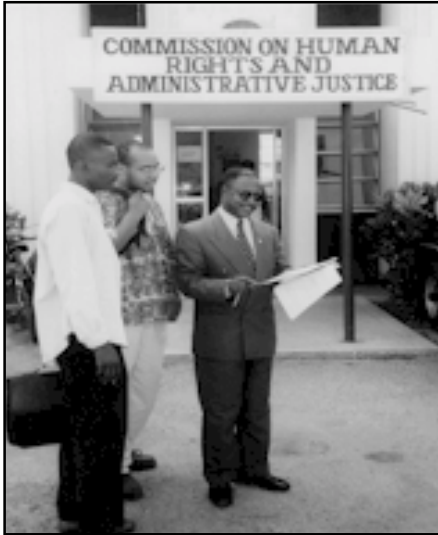
Richard Woodhouse, '99

Rich Woodhouse and Dr. Tamara Shiganova, Russian Academy of Sciences, in front of the Bolshoi Theatre in Moscow.



## **6) Moscow, Russia; Gomel, Belarus; & Vilnius, Lithuania**

Mr. Richard Woodhouse ('99) interned in three different countries. First, he worked in Moscow, Russia with three organizations: the Open Society Institute; Civic Assistance; and the Moscow Helsinki Group. In Russia, he focused on civil & political rights. Highlights included his Moscow meeting with



(l-r) Mr. Harold Doe (African Commission of Health & Human Rights.), Mr. Kenya-Taray Delemore ('00), and Dr. Ken Attafuo (Ghana Commission on Human Rights & Administrative Justice) in Accra, Ghana.

Mary Robinson, the UN High Commissioner for Human Rights.

In Gomel, Belarus, Mr. Woodhouse worked through the Central & East European Law Initiative ("CEELI") with Belarusian Professor Irina Kuchvalskaya of the Gomel Polytechnic Institute on a domestic violence project. In Vilnius, Lithuania, he worked through the United States Information Agency with the Jewish State Museum on

a project related to Nazi war crimes. (see story, p. 13)

## **7) Arusha, Tanzania**

Ms. Celine VanHoenacker ('98-'99 Lille Exchange Student) worked at the United Nations International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania. She researched and drafted memoranda on defending persons awaiting trial for genocide and crimes against humanity. She researched other aspects of international criminal law, compiled minutes (in English and French) of Judges' meetings, and compiled an ICTR bibliography. (see story, p. 7)



Guests at May 1999 Intern Pre-Departure Reception: (l-r) Mr. Dan Foote ('97), Dean Elizabeth DeCoux, Mr. Wayne Kreuscher (Barnes & Thornburg), Ms. Jane Schlegel (International Center of Indianapolis), & Professor George E. Edwards.

## **8) San Juan, Puerto Rico**

Ms. Karla Cameron ('00) worked for the Attorney General of the Puerto Rico Department of Justice. She assisted in attempts to persuade the U.S. Navy to cease live weapons training on the Puerto Rican Island of Vieques. Further, her work involved the Constitutional rights of American citizens to vote for the U.S. President and Vice President.



Karla Cameron ('00) (left) and lawyers from the Puerto Rico Attorney General's Chambers (l-r) Mr. Luis Cotto, Mr. Guillermo Marengo, Ms. Jimara Gabriel, Ms. Rosa Russe.

## **9) Harare, Zimbabwe**

Mr. Jason Gross ('00) worked with two organizations in Harare, Zimbabwe: (a) Zimbabwe Human Rights Association (ZimRights); and (b) Gay & Lesbian Association of Zimbabwe (GALZ). He drafted a report focused on sexuality discrimination against Zimbabwe's gays and lesbians. The report is to be used to lobby Zimbabwean and United Nations bodies. (see story, p. 1)

## **Conclusion**

The interns had a wealth of educational, legal, travel and cultural experiences. They also helped protect and promote human rights. You can read more about the student internship experiences on the *PIHRL Web Page*, at: [www.iulaw.indy.indiana.edu/programs/humanrights/contents.htm](http://www.iulaw.indy.indiana.edu/programs/humanrights/contents.htm). ♦

### **IU Program in International Human Rights Law Mission Statement**

- 1) to further teaching and study of international human rights law;
- 2) to promote international human rights law scholarship;
- 3) to assist human rights governmental, inter-governmental 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.

## ... *Untouchables*

(Continued from page 3)

- 42% of Nepal lives below the poverty line, and 35% of people making up that figure are Dalits.
- The average life expectancy for Dalits is 42 years; the national average is 57.3; and the average for Brahmin is 61.

These figures reflect a great discrepancy in quality of life between the Dalit and non-Dalit population.

### **Lack of Dalit Education & Landlessness**

A major problem facing Dalits is lack of education. Contributing to lack of education are extreme poverty, Dalits' 'hand-to-mouth' existence, ignorance, and discrimination from upper-class teachers and students. Dalit children must either stay at home to help with household labor, or earn income outside the home. Thus, Dalits are robbed of the tools of social and economic advancement through the poverty of their caste.

*Because casteism is pervasive, and Nepalese law fails to prevent or punish discrimination against Dalits, Dalits suffer severe discrimination in all categories of rights, including civil, political, economic, social and cultural rights.*

### **Dalit Landlessness**

Most Dalits are landless or do not own sufficient land to provide food or income for more than a few months a year. This forces Dalits to take menial, low paying and seasonal jobs which do not offer the opportunity for professional advancement, and do not allow Dalits to rise above the poverty level. When unable to find work, Dalits must take loans from landowners who charge usurious interest rates.

### **Recommendations for the Nepalese Government**

To bring Nepal into full compliance with the UN Race Convention by eliminating discrimination against Dalits, Nepal must take the following steps:

- Direct more money and human effort to Dalit health care, housing and community-run income generation programs;

- Impose fines and imprisonment to enforce the anti-discriminatory provisions of the Constitution and the Civil Code;
- Establish special measures to ensure full Dalit participation in politics, the economy and education. Priority should be given to the appointment of Dalits in the political, judicial, and administrative branches.
- Initiate a legal literacy program to ensure that all Dalits know

of their rights under the Constitution, the Civil Code of 1963 and the UN Race Convention; and

- Withdraw its reservation to Article 4 of the UN Race Convention to allow its full implementation and to provide full protection to victims of racial discrimination.

*\*In 1999, the author served as law intern at the International Institute for Human Rights, the Environment, & Development (INHURED) in Katmandu, Nepal. He drafted an Alternate*

*Government Report to the UN Committee on the Elimination of All Forms of Racial Discrimination ("CERD Committee") on the occasion of the scheduled Spring 2000 CERD Committee hearings in Geneva, Switzerland on Nepal's CERD report. In the Spring, the author traveled to Geneva and presented his report to CERD Committee Members, though the Nepalese government requested a hearing adjournment until August 2000. In August, the author, again in Geneva, made oral presentations to CERD Committee Members, ngos, and others based on his UN Report, which focused on discrimination against Dalits. This article is based on the author's UN Report. During the 2000 Summer, the author served as intern at the UN Office of the High Commissioner for Human Rights in Geneva, where he worked on race discrimination issues. ♦*



*Joshua Robertson ('00) (front right) & Prof. George Edwards (center front) participate in Roundtable Human Rights Briefing at INHURED in Katmandu, Nepal, with Nepalese human rights advocates.*

# Defending Genocide Suspects: International Criminal Tribunal for Rwanda

*Celine VanHoenacker, Lille Exchange Student ('98-'99)\**

Any person charged with a crime should have the following rights: (1) the right to have legal assistance for her defense; and (2) the right to choose that counsel to provide that legal assistance.

International human rights law, like domestic law in most countries, generally reaffirms these basic tenets of criminal law. However, the definition of "right to counsel" has recently been debated in different domestic and international tribunals, including the International Criminal Tribunal for Rwanda ("ICTR").

Though the ICTR reaffirmed the right to counsel, the tribunal failed to define adequately the parameters of that right, and left several questions unanswered.

## **ICTR Background**

In 1994, Rwanda was the theater of genocide, where the Hutu tribal majority attempted to obliterate the Tutsi tribal group. Approximately 800,000 Tutsis and moderate Hutus were killed.

Following these events, the United Nations Security Council created the ICTR. The ICTR seeks to bring justice to genocide perpetrators, contribute to national reconciliation, and contribute to peace restoration in Rwanda. To accomplish these goals, the ICTR began prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda in 1994.

## **Right to counsel in the ICTR**

Under ICTR law, to help ensure a fair trial, the accused is guaranteed the right to legal assistance.

If the accused has financial means, he may select and hire a private defense counsel. If the accused is indigent, the ICTR will appoint counsel at no charge.

## **May the accused select appointed Counsel?**

A recent debate in the ICTR concerned whether and to what extent an indigent accused may select appointed counsel. To resolve this issue, the ICTR looked to international human rights law.

## **International law**

The ICTR looked to international human rights instruments and jurisprudence for guidance in resolving questions concerning the appointment of counsel.

Two international human rights jurisprudential sources relevant to the appointment of counsel are: (1) the International Covenant on Civil and Political Rights ("ICCPR") and (2) the European Convention on Human Rights ("European Convention"). The bodies responsible for interpreting each of these instruments has interpreted the right to counsel under international human rights law. The UN Human Rights Committee, which monitors and interprets the ICCPR, has found that the ICCPR does not entitle the accused to choose counsel provided to him free of charge. The Committee's jurisprudence is clear and stable.

The European Court of Human Rights, which interprets and applies the European Convention, has ruled that when appointing defense counsel, courts must have regard to the accused's wishes. However, the accused's wishes may be overridden when relevant grounds are sufficient to hold that it is necessary in the interest of justice.

A court assesses the interests of justice requirement by analyzing: (1) the seriousness of the charges and the penalty threatened; (2) the complexity of the legal and factual issues involved; and (3) the personal circumstances of the accused. The accused's choice can only be limited if the override would tend to ensure a fair trial to the accused. (ECHR, *Croissant v. Germany*, 25 September 1992).

## **Under ICTR law**

The ICTR Registry maintains a list of approximately 100 counsel who meet the criteria to be assigned as ICTR defense counsel. The accused is given the opportunity to choose a counsel from the list. Then, the Registrar assigns a counsel to the accused. The Registrar must take into account the wishes of the accused, unless he has reasonable and valid grounds not to grant the request of the accused.

ICTR jurisprudence provides that: "in reaching his decision, the Registrar shall also take into consideration, inter alia, the resources of the Tribunal, competence and recognized experience of counsel, geographical distribution, a balance of the principal legal systems of the world, irrespective of the age, gender, race or nationality of the candidates."

Following this principle, the Registrar called a moratorium for counsel assignment from France and Canada, because coun-



*(l-r) Mr. Gilbert Nantsa (Intern from Cameroon), UN Officer Alexandro Caldarone, & Celine VanHoenacker (IU Intern at the ICTR in Arusha, Tanzania).*

*(continued on page 8)*



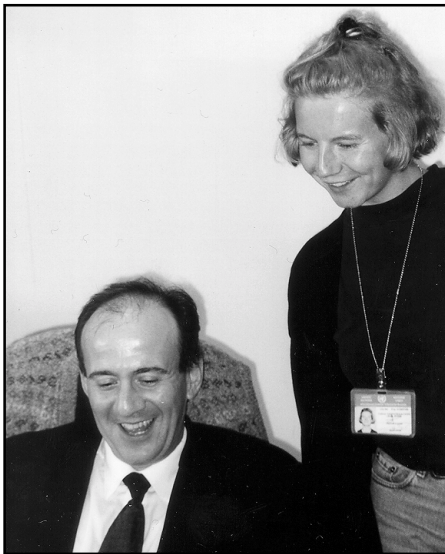
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sel from those countries were overly represented among counsels who had been assigned. The Registry justified the moratorium as necessary to achieve a better geographic balance and better representation of the principal legal systems of the world among counsel assigned.

### **The Akayesu case**

Mr. Akayesu was a Rwandan who was convicted following an ICTR trial. To represent him on appeal, Mr. Akayesu sought the appointment of a Canadian counsel. The request was denied because of the Registry moratorium.

The Chamber of Appeal heard the matter, and rendered a decision on 27 July 1999. In directing that the Registry assign the Canadian counsel to Mr. Akayesu, the Appeal Chamber noted:



1999 ICTR intern Celine Vanhoenacker and her UN supervisor, Alexandro Caldarone (from Italy)

(1) that the practice of the tribunal had been to provide a list of approved counsel from which an accused may choose; (2) the Canadian (Mr. John Philpot) was included on this list upon the insistence of Mr. Akayesu that he desired that Mr. Philpot be assigned to him; and (3) that the Registrar thereby gave Mr. Akayesu a legitimate expectation that Mr. Philpot

would be assigned to represent him before the Tribunal.

The Chamber of Appeal decision does not address the reasons that the Registry imposed the moratorium suspending appointment of Canadian or French counsel. Though the judgment threatens the moratorium, the judgment does not establish clearly whether the accused has a well-defined right to choose counsel freely from the list.

### **Proposed choice of appointed counsel rule**

Indigents charged by the ICTR should be afforded the right freely to choose appointed counsel for several reasons.

First, the ICTR is a subsidiary organ of the United Nations. As such, the ICTR should protect human rights broadly.

Second, as the Tribunal was created to bring justice and to contribute to national reconciliation in Rwanda, it follows that broad protection of the accused's rights will help legitimize the Tribunal's ultimate decisions of conviction and acquittal.

Third, the Tribunal participates in the creation of international criminal law, and its decisions set legal standards for the future. It is prudent for the ICTR to interpret international human rights law in an expansive fashion.

### **A new ICTR appointment of counsel rule**

The ICTR, when providing free legal assistance to the indigent, should afford indigents the right freely to choose the counsel to be assigned to her. The accused's choice should be overruled only if the interests of justice require it. Geographical or economic considerations (like those that supported the Moratorium) should not satisfy the interests of justice requirement. If the "counsel list" mechanism remains in place, then the accused should be entitled to choose any counsel on the list. Furthermore, no counsel should be excluded from the list due to geographical or economic factors.

To improve the quality of the law and justice rendered at the Tribunal, it is desirable that the jurisprudence affirms clearly the right of the accused to choose her counsel freely from the Registry list.

*\*In 1999, the author served as a human rights intern at the ICTR in Arusha, Tanzania.*

**Update:** After preparation of this article, on 27 October 1999, the Registrar lifted the Moratorium. Now, accused persons may choose their counsel freely from the Registry list. However the assignment of Counsel remains the Registry's responsibility. ♦

### **Call for Papers & Symposium**

#### **Africa in Transition: Rule of Law, Human Rights, & the Stabilization of African Economies**

In December 2000, the *Indiana International & Comparative Law Review* will publish a Symposium Issue entitled "Africa in Transition: The Rule of Law, Human Rights, and the Stabilization of African Economies".

We will host a live Symposium in March 2001.

Manuscripts & Symposium speakers invited.

Please submit manuscripts to:

Melissa Lynn Clark, Executive Symposium Editor  
Indiana International & Comparative Law Review  
735 West New York Street  
Indianapolis, Indiana 46202-5194  
U.S.A.

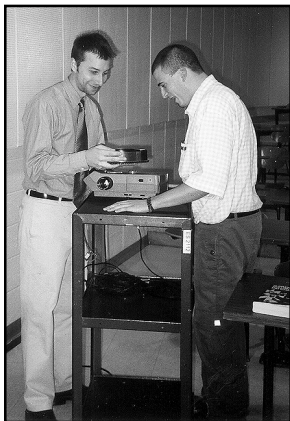
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# DePaul Students Give IU Talk — Human Rights in Haiti

PIHRL Staff Report



*DePaul students Matt Carlson (l) & Joe Voss (r) prepare for Haiti presentation at IU.*

In October 1999, two DePaul College of Law students spoke at Indiana University School of Law at Indianapolis. Joseph Voss and Matthew Carlson, who are Sullivan Fellows at DePaul's International Human Rights Law Institute, spoke on "Human Rights & Economic Development in Haiti: Poverty, Violence and Dependency."

The talk was based on research they conducted as human rights law interns in Haiti in the 1999 summer. For 3 months, Voss worked for the Fondasyon Kole

Zepol (Fonkoze), an economic development bank owned and operated by the Haitian poor. Carlson worked for the Bureau des Avocats Internationaux, an office established by the Haitian government to prosecute perpetrators of human rights violations during the 1991–1994 de facto military regime.

## Human Rights in Haiti

Haiti's history is plagued with human rights violations. The dictatorships of Francois Duvalier and his son, Jean Claude Duvalier (1956-1986) marked an era of political repression and governmental corruption. After Jean Claude faced a popular uprising and fled Haiti, priest-turned-politician Jean Bertrand Aristide was elected president and undertook broad-based reform. He ceased repressive domestic policies and attempted to root out corruption.

After seven months in office, in 1991 Aristide was ousted by a military coup. Between 1991 and 1994, when Aristide was returned to power with the help of the US military, the military regime brutally repressed all opposition. The small island nation of seven million still suffers from the disregard of human life during those years.

## Human Rights Issues

Voss and Carlson addressed freedom from extreme poverty as a human right, accountability for human rights abuses, and the need for creative solutions in an extremely undercapitalized country.

Remedies for human rights violations are impeded by a weak judicial infrastructure that lacks physical facilities and has low salaries.

## Poverty, Violence & Dependency

Voss and Carlson identified the legacies of poverty, violence and dependency on foreign powers as key points in the breakdown of Haiti's social and governmental framework. Haiti has

long been the poorest western hemisphere country, with violence an alternative to democratic decision-making. Dependency on foreign aid has left Haiti unable to formulate independent solutions to its economic problems. A poverty cycle has left the nation with no influence on the international market structure. Haiti needs the international community more than it needs her.

## Break in dependency

Haiti's best chance for a bright future lies within Haiti. International assistance is needed to sustain economic development and justice system reform, but strings attached to that assistance must be loosened for Haiti to exercise self-determination.

## IU/DePaul student & faculty exchanges

The Carlson/Voss IU visit marked one of many collaborative projects and exchanges between DePaul and IU students and staff. In 1999, Dr. Mahnaz Moshfegh and Dr. Javad Raisdena of IU visited DePaul and spoke on Human Rights in Iran. IU Professor George E. Edwards, who served as DePaul Visiting Professor of Law in Autumn 1999, also participated in a DePaul Latin American Attorney Training Program in San Jose, Costa Rica, in the 1999 Spring. Professor Edwards also accompanied several DePaul students to Geneva to assist Hong Kong human rights groups in hearings before the UN Human Rights Committee.

The Indiana University and DePaul communities will continue to benefit from these exchanges. ♦

*Visitors to DePaul, Dr. Mahnaz Moshfegh & Dr. Javad Raiesdena (fourth & fifth from left), both from IU, pose with Prof. Edwards' Autumn 1999*



*DePaul International Human Rights Law class after their presentation on human rights in Iran.*

*DePaul Students & Professor Edwards assist Hong Kong groups at United Nations Human Rights Committee hearings in Geneva. (l-r) Hon. James To*



*(Hong Kong Legislative Council member); Cheryl Moralez (DePaul '00); Prof. Edwards; Judge P.N. Bhagwati (UN Human Rights Committee Member & Former Chief Justice of India); & Nancy Stafford (DePaul '99).*

# OSCE Legal Adviser Visits Law School

*Mr. John Packer is Legal Adviser to the Organization for Security & Co-Operation in Europe (OSCE) High Commissioner on National Minorities. He is former Human Rights Officer of the United Nations Human Rights Centre in Geneva, Switzerland. At the Law School, Mr. Packer addressed the High Commissioner mandate, and contemporary problem-solving involving European ethnic minorities.*

## High Commissioner mandate

Though the OSCE was created in 1975, the post of OSCE High Commissioner on National Minorities was not established until 1992. The specific impetus for the post's creation was ethnic conflict in the former Yugoslavia.



*Mr. John Packer*

The High Commissioner is charged with conflict prevention, including providing "early warning" of tensions involving minorities in OSCE participating states, and preventing escalation into conflicts affecting peace, stability or relations between States. Thus, the High Commissioner attempts to contain and de-escalate ethnic tensions, and to notify

the OSCE when such tensions threaten to escalate or flair up beyond a level at which he can no longer contain them.

The High Commissioner mandate was created in accord with the OSCE notion of "comprehensive security". Security, to the OSCE, encompasses an interplay of three "baskets" of concerns: (a) security (ie, the absence of armed conflict between states); (b) economic development; and (c) respect for human rights.

## Contemporary minority problem-solving

With the post-world war re-drawing of the map of Europe, groups of people ended up "living in the wrong countries". This situation causes ethnic tensions to remain widespread in Europe.

The High Commissioner takes a "problem-solving" approach to ethnic tension in Europe. The High Commissioner operates independent of the states involved, and conducts on-site missions to explore tensions. The High Commissioner gathers first-hand information from governmental and non-governmental persons, and engages in preventive diplomacy at the earliest stages of tensions. He seeks to promote dialogue, confidence and co-operation among parties to any tension.

The High Commissioner on National Minorities has focused activities primarily in Central and Eastern Europe. Countries in which the High Commissioner has been involved include Albania, Croatia, Estonia, former Yugoslav Republic of Macedonia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Romania, Slovakia, and Ukraine. ♦

## ... Russian Immigrants

*(Continued from page 13)*

### Regional Instruments - Russia is bound by the Euro-



*Professor George E. Edwards and Richard Woodhouse at Red Square in Moscow, Russia.*

pean Convention for the Protection of Human Rights and Fundamental Freedoms and Nine Protocols. Notable are articles 2 - 4 of the 4<sup>th</sup> Protocol which address freedom of movement, the rights of nationals to be present in their own country, and the prohibition against the collective expulsion of aliens, and article 1 of the 7<sup>th</sup> Protocol which addresses aliens' rights. Russia's actions also run afoul of the *European Social Charter*, the *Helsinki Final Act*, and

the *Charter of Paris for a New Europe*.

National and Local Laws - Several Russian laws relevant to immigration in Russia include: *Constitution of the Russian Federation*; *Law of the Russian Federation on Russian Federation Citizenship*; *Law of the Russian Federation on the Right of Citizens of the Russian Federation to Freedom of Movement, Choice of Place of Stay and Residence Within the Territory of the Russian Federation*; *Law of the Russian Federation on Forced Migrants*; and the *Law of the Russian Federation on Refugees*.

Both Federal and local authorities discourage refugees. The Federal Migration Service makes it difficult for non-ethnic Russians to attain refugee status. Even if refugee status is granted, local laws in Moscow, St. Petersburg, and elsewhere prohibit refugee settlement.

## Conclusion

Russian law should assist internal and external migrants. However, the police and local authorities are frequently unaware of these laws or they ignore them. Racism and bigotry contribute to the attitudes of officials. Though many non-governmental organizations successfully assist migrants, immigration related problems will persist until Russia complies with its obligations under international and national law and enforces these laws at the local level.

*\*In 1999, the author served as a human rights intern in Moscow, Russia; Minsk, Belarus; and Vilnius, Lithuania. ♦*



# South African Medical Profession Human Rights Violations

Aklilu M. Tedla ('98)\*

The South African Medical and Dental Council ("Medical Council") administers standards for the health professions. It exercises wide powers regarding medical practices, including the diagnosis, treatment, or prevention of physical or mental defects or illnesses.

During South Africa's apartheid era (ending in 1991), health sector policies and practices grossly disregarded human rights. The Medical Council, as a repressive government arm, perpetrated violations. Though apartheid has ended, and the new South African Constitution (which richly protects human rights) is in force, the Medical Council remains susceptible to allegations of human rights violations.



Mr. Aklilu Tedla ('98)

This article examines apartheid-era Medical Council human rights violations; Medical Council structural aspects that facilitate human rights violations; and recommendations that would facilitate protection of human rights by the Medical Council.

## TRC Hearings

The South African Truth and Reconciliation Commission ("TRC"), which operated from 1992 – 1998, held health sector hearings. The June 1997 hearings revealed systemic violations, including torture and facilitating torture by health professionals, contrary to tenets of healing and promoting health.

Victims' and family members' testimony revealed that the Medical Council abandoned its statutory role by failing to discipline perpetrators. Complaints to the Medical Council were selectively dismissed. The Medical Council did little to address ethical or legal violations. The Medical Council acted directly adverse to the purpose for which it was established.

## Case of Steve Biko

Steve Biko was a black South African political leader who was arrested in 1977 for subversion. While undergoing police custodial interrogation, he suffered a head injury. Doctors did not record external injuries, did not insist on humane conditions for his custody, ignored signs that he suffered neurologically, and reported his condition as normal. Mr. Biko died in custody. A magistrate referred his case to the Medical Council as a *prima facie* case that doctors engaged in professional misconduct or negligence in performing their duties. Charges included falsifying medical records and failing to respond to Biko's medical needs.

After 2 1/2 years, the Medical Council ratified the preliminary inquiry decision, which found the doctors were not answerable.

The Medical Council demonstrated its inability to be objective, and yielded to political prerogatives that directly contradicted the objects of the Medical Council.

## Case of Aubrey Mokhoape

In 1974, Dr. Aubrey Mokhoape was subjected to solitary confinement and torture during interrogation, and convicted of terrorism. The Medical Council immediately used his conviction as grounds to support disciplinary charges against him. Though the charges were dropped, the saga demonstrated how the Medical Council could act swiftly against those deemed state political enemies.

## Recent Changes to the Medical Council

South Africa's transformation into a constitutional democracy inspired change in the structure of health profession "statutory councils," such as the Medical Council, which has significantly changed in composition.

The old Medical Council had 35 mostly designated or appointed members, while the new Council has fewer than half as many members, with fewer designated or appointed. It is now less likely that the Council will facilitate or perpetrate human rights violations.

## Recommendations for the Medical Council

Human rights respect, promotion and protection are integral to a constitutional democracy. It is hoped that further changes will accelerate health sector reform. The composition shifts of the Medical Council alone are inadequate.

Given the vicious legacy of apartheid, the Medical Council should actively promote human rights education. Residual and structural impediments to full human rights guarantees for all in South Africa must be removed.

## Conclusion

The real test for the human rights ideals embodied in the South African Constitution lies in its judicial interpretation, expansion and application, particularly as applied to 'juristic persons' like the Medical Council. The Constitution reflects the nation's stern commitment to pursue, attain and protect the human rights of all South Africans. It contains innovative and far-reaching provisions, and bestows a duty on the Government to operate a democratic state founded on human dignity and human rights. The Constitution will force the Medical Council to protect the human rights of all. ♦

*In 1998, the author served as a human rights intern with the Health and Human Rights Project in Capetown, South Africa.*

(Continued from page 1)

ganizations, and the education of governmental and inter-governmental agencies and officials on human rights issues and the role of civil society.

HRI accomplishes its goals by: transferring knowledge and expertise on new technology uses to further human rights; providing access to human rights databases and documents; disseminating human rights information via the Internet; gathering and processing human rights research materials; facilitating networking and access to the international legal system, particularly the United Nations; and assisting governmental and intergovernmental organizations in promoting and protecting human rights through technical assistance, training and educational programs.

I worked on three projects: (a) the "Protection Project"; (b) *For the Record*; and (c) the *Tribune*.

### **"Protection Project"**

My primary project was "Creating an International Framework of Legislation to Protect Women and Children from Commercial Sexual Exploitation" ("Protection Project"). The Protection Project was created as a follow-up to the 1996 World Congress Against Commercial Sexual Exploitation of Children, held in Sweden.

*Phase I* of the Protection Project has lasted 4 years, and is being conducted by Harvard University's Kennedy School of Government researchers.

*Phase II* is being conducted by HRI's Children's Rights Division (which included myself, an Ottawa University law student, & HRI Deputy Director, Mark Hecht). For Phase II, I analyzed worldwide case law on commercial sexual exploitation of women and children.

*Phase III* involves drafting model international legislation and developing international standards for use by countries to strengthen their laws. This data will be compiled into electronic research databases.

### **For the Record**

*For the Record* is an HRI publication that summarizes and excerpts reports of various United Nations individuals and groups involved in human rights, including Special Rapporteurs, Special Representatives and Working Groups; Treaty Bodies; the Economic and Social Council; the General Assembly; and the Security Council.

I focused on UN Treaty Bodies, which monitor UN human rights treaties. The Treaty Bodies I worked with included: the Committee Against Torture; the Committee on the Elimination of all Forms of Racial Discrimination; the Committee on the Elimination of all Forms of Discrimination against Women; the Committee on the Rights of the Child; and the Committee on Economic, Social and Cultural Rights.

### **Tribune**

I wrote an article that was published in the *Tribune*, which is an HRI periodical with a global distribution of thousands, and published on the Internet.

My article, "New International Labor Organization Convention on Child Labor Adopted", discusses a recent ILO Convention aimed at eliminating child labor that violates international human rights norms. The article describes certain child labor as a human rights violation, and calls for immediate, effective measures to eliminate the worst forms of child labor.

### **Other projects and programs**

HRI disseminates information via the Internet, and maintains human rights databases on its own website, and maintains websites for other rights groups.

Its document center is a registered library, and maintains a vast human rights document collection, which is accessible via the Internet and in hard copy.

HRI conducts domestic and international educational seminars and training programs, and sponsors global human rights meetings, such as the *VIENNA + 5 GLOBAL NGO FORUM ON THE 5-YEAR REVIEW OF THE 1993 VIENNA DECLARATION AND PLATFORM OF ACTION*, held in June 1998.

### **Furthering my career objectives**

I thank the Program in International Human Rights Law, and HRI, for my first-hand work experience in international human rights law. I gained broad insight into the HRI, and glimpsed organizations around the globe with human rights missions.

I particularly thank HRI staff – Mark Hecht, Laurie Weisberg, and others – whose dedication and determination inspired me as I finish law school and set out on an international career. ♦

### **Other International Programs of Indiana University School of Law**

**([www.iulaw.indy.indiana.edu/programs/contents.htm](http://www.iulaw.indy.indiana.edu/programs/contents.htm))**

**IU sponsors summer study abroad law programs at universities in Lille, France & Beijing, China. Law students wishing to study in France or China, please contact:**

**Professor Nehf (France Program)**

**TEL: 317-274-8077**

**FAX: 317-278-3326**

**E-Mail: [jnehf@iupui.edu](mailto:jnehf@iupui.edu)**

**Professor Grove (China Program)**

**TEL: 317-274-4900**

**FAX: 317-274-3955**

**E-Mail: [jgrove@iupui.edu](mailto:jgrove@iupui.edu)**

# Immigration in the Russian Federation

by Richard Woodhouse ('99)\*

Since the demise of the Soviet Union in 1991, the Russian Federation ("Russia") has experienced a dramatic increase in immigration related problems. Immigrants in Russia fall into three categories: (1) "forced migrants"; (2) "refugees"; and (3) "immigrants" (including asylum seekers). This article surveys immigration problems currently facing Russia.

## "Forced Migrants" within Russia

Forced migrants from within Russia flow to large cities such as Moscow and St. Petersburg for either economic reasons, or to escape ethnic violence. The recent conflict in Chechnya, for example, has caused many Russians to flee their homes and to seek safer conditions elsewhere.

Russians are guaranteed freedom of movement and are permitted freely to choose their place of residence pursuant to article 27(1) of the *Constitution of the Russian Federation*. However, local governments restrict movement by requiring non-residents to register their passports under rules resembling Soviet-era "propiska" (pass) laws. Even Russians visiting Moscow for more than 24 hours (72 hours in other cities) must register their internal passports with local authorities. Migrants, within 7 days of moving to a new city, must also register through a more difficult process in which registration is often arbitrarily denied.

The inability to obtain proper registration imposes a severe hardship on migrants. The Russian police ("Militsia") routinely stop people for document checks. Failure to provide a properly registered passport subjects migrants to arrest, extortion, deportation, and detention in overcrowded, disease-ridden jails. Also, unregistered individuals are denied employment, education, and medical and social services.

Ethnic minorities in Moscow (especially those with dark skin) are targeted for abuse. In 1998 before the World Youth Games opened in Moscow, the city reportedly began mass deportations of "undesirables" and the Mayor called for the complete expulsion of certain ethnic groups. In 1996 the Mayor ordered deportation of all unregistered persons, who were then escorted 100-150 kilometers outside of the city. More than 20,000 Russian citizens are deported from Moscow annually.

## "Refugees" from other Former Soviet Republics

The collapse of the Soviet Union caused many traditional "refugees" to move to Russia from other Soviet Republics, such

as the Baltic States of Lithuania, Latvia, and Estonia. Ethnic Russians in those Republics are subject to government persecution, and animosity from majority populations that no longer want a Russian presence in their country.

This problem has been severe in the Baltics, which were never willingly part of the Soviet Union and are now reviving their national identities by erasing Russian symbols and the Russian language, and by even ousting Russian people. They have enacted laws favoring the majority. Some require fluency in the native language as a citizenship prerequisite. Ethnic Russians are thus unable to obtain citizenship, hold state jobs, vote, choose where they will live, or join political parties. As a result they often flee to Russia to start a new life.

## "Immigrants" from outside the Former Soviet Union

Russia has recently seen an increase in third world immigrants, many of whom are asylum seekers from former Soviet allies such as Afghanistan, Ethiopia, Angola, and Iraq. Eastern Russia has received many immigrants, mostly from China, Mongolia, and North Korea.

Russia actively thwarts asylum seekers in violation of international and domestic laws. Article 33 of the *UN Convention Relating to the Status of Refugees* prohibits refoulement, or the return or expulsion of refugees to an area that poses a threat to their safety. Although asylum seekers qualify for refugee protection under the *Law of the Russian Federation on Refugees*, Russia typically ignores its obligations and routinely departs or refuses them entry.



Rich Woodhouse & Ms. Alla Pokras (Soros Foundation, Moscow.)

## Laws Relating to Russian Immigration

International declarations and conventions, regional agreements, national and local laws govern Russian immigration. Below is a brief overview of these laws.

International Instruments - As a United Nations member, Russia is bound by the UN Charter and the Universal Declaration of Human Rights ("UDHR"). Russia runs afoul of both. Russia's treatment of the different groups of immigrants violates the purposes of the Charter, and violates UDHR article 2 (non-discrimination), article 13(1) (freedom of movement), article 14(1) (asylum), and article 15(1) (right to a nationality). Russia also violates the *UN Convention Relating to the Status of Refugees* and its *Protocol*, which define "refugee" and impose obligations on states.

(see "Russian Immigrants" on page 10)



## ... Summer in Harare

(Continued from page 1)

ing my internship. Initially, I was assigned to the Zimbabwe Human Rights Association (ZimRights), which is the largest human rights NGO in Zimbabwe, with offices in three cities. The headquarters is in the capital city of Harare, where I lived. ZimRights focuses on human rights education and awareness raising.

My work began by observing union demonstrations and political gatherings in order to monitor police conduct. I researched Zimbabwean history, the government, reports of nefarious and corrupt practices of leaders, and the Zimbabwe refugee situation.

Zimbabwe has traditionally sheltered refugees from African civil wars. It remains a safe haven for whomever flees disturbances in neighboring countries. Nevertheless, a singular group of people regularly seek asylum from Zimbabwe. This group is Zimbabwean gays and lesbians.

My refugee research led to the NGO of Gays and Lesbians of Zimbabwe (GALZ), through whose director I began to under-

*"I derived tremendous benefits from my internships. My research and writing on international human rights law as it relates to Gays and Lesbians in Zimbabwe is exciting and has opened my eyes to one of the most active issues in the field."*

**Jason Gross ('00)**



Professor Edwards (far left), Jason Gross (3rd from right), Keith Godard, (far right) GALZ Director, & GALZ volunteers outside GALZ complex in Harare, Zimbabwe.

stand the severe and persistent persecution of gays and lesbians in Zimbabwe. I began to understand the relevance of international human rights law to this problem, and to seek ways to help improve the miserable situation. I worked primarily with GALZ for the remainder of my internship.

### Gays & Lesbians of Zimbabwe

At GALZ, I set out to examine how the treatment of Gays violates basic principles embodied in international human rights instruments to which Zimbabwe is a party. I focused on non-

compliance with the UN International Covenant on Civil and Political Rights, which Zimbabwe ratified.

I drafted a report that GALZ and others can use before human rights monitoring bodies, for example, when Zimbabwe next reports to the UN Human Rights Committee. Though my internship has ended, I still fantasize about using my report to impeach a shifty Zimbabwean representative at a United Nations hearing on treaty compliance, and to arm gays and lesbians with legal arguments that would allow them to assert their rights to free association, equal protection, and free expression.

I received guidance from a local law firm litigator who handles GALZ cases, and from a University of Zimbabwe lawyer who teaches and writes about Gays and Lesbians and human rights.

### Free Time, Fun & Recreation

I enjoyed Zimbabwe's beauty. I traveled to Victoria Falls, crossed the Zambezi River and spent a day in Zambia. I participated in game drives where I saw wild animals from the front seats and roofs of cars and trucks. I traveled to the Great Zimbabwe Monument in the south, which is rumored to be the location of King Solomon's mines. I

also ventured to the Doshombo Hills to view some of the earliest surviving human cave paintings. Most of all I experienced a new culture different from my own.

Outdoor Harare markets overflow with art, crafts and curiosities. I tested and honed my bargaining skills in purchasing an Impala skin drum, a ceremonial headrest from the Tonga tribe, a spear from the Shona Tribe, and a ceremonial water buffalo totem mask. At the end of my internship I toured Germany, Egypt, Israel, Greece, Italy, Thailand, Vietnam and Japan.

### In Summary

I derived tremendous benefits from my internships. My research and writing on international human rights law related to Gays and Lesbians in Zimbabwe is exciting and has opened my eyes to one of the most active issues in the field. I am glad to have witnessed how fundamentally different a large part of the world functions compared to the U.S. My internship has better prepared me for my career as a lawyer and has made me a better person, student and worker. I hope I left something positive behind.

I worry about the happiness and safety of the people I met in Zimbabwe and am saddened to think of all the time that is passing them by. They are precluded from living truly fulfilling and happy lives by constraints placed on them by a few cruel, scared and weak tyrants. ♦



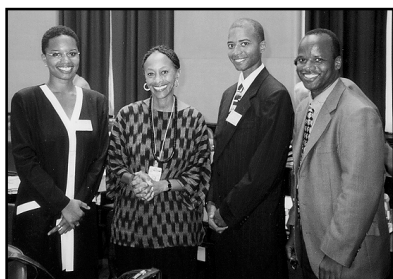
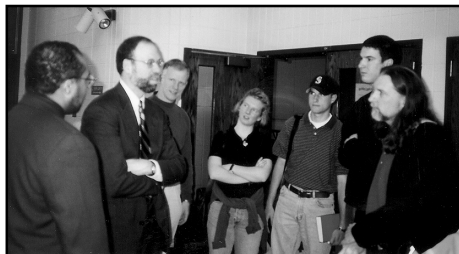
Jason Gross ('00) at Victoria Falls

## PIHRL Photos Gallery



*Justice Sandra Day O'Connor (US Supreme Court) & Professor George E. Edwards at Supreme Court Dinner honoring Judge Gabrielle Kirk McDonald, President of the International Criminal Tribunal for the former Yugoslavia.*

*IU Law students speak with UN Human Rights Officer Dr. Alan Parra following his classroom presentation. (l-r) Kenya-Taray Delemore, Alan Parra, Kevin Green, Celine Vanhoenacker, Alex Forman, Joshua Robertson, Edward Queen.*



*Ms. Malaika Edwards, Ms. Gay J. McDougall (1999 MacArthur Fellow & USA member of the UN Committee on the Elimination of Racial Discrimination); Mr. Jonathan Hayes; & Professor George E. Edwards at break during Race Committee hearings in Geneva.*

*Kenya-Taray Delemore ('00) with African Commission of Health & Human Rights employees including (far left) Mr. Harold Doe, and (far right) Dr. Edmund Delle, Founding Director, in Accra, Ghana.*



*Returned 1999 Interns with Internship Certificates: (l-r) Kenya-Taray Delemore, Kirti Patel, Celine Vanhoenacker, Rich Woodhouse & Karla Cameron.*

## International Human Rights Law Student Overseas Intern Placements 1997 - 2000

*(Alphabetical by Placement Country/Territory)*

1. **Argentina (Buenos Aires)** — Jose Rivero ('00)  
(Movimiento Ecueménico por los Derechos Humanos)
2. **Australia (Melbourne)** — Scott Goodroad ('99)  
(East Timor Human Rights Centre)
3. **Australia (Sydney)** — Jody DeFord ('98)  
(Australia Human Rights & Equal Opportunities Commission)
4. **Belarus (Gomel)** — Rich Woodhouse ('99)  
(Gomel Polytechnic Institute — Professor Irina Kuchvalskaya)
5. **Canada (Ottawa)** — Michele Jackson ('99) (Human Rights Internet)
6. **Costa Rica (San Jose)** — Greg Loyd ('00) (Casa Alianza)
7. **Costa Rica (San Jose)** — Jenny Mirelez ('00) (Casa Alianza)
8. **Czech Republic (Prague)** — Katherine Hendrix ('00)  
(Helsinki Group Refugee Counselling Centre)
9. **Ethiopia (Addis Ababa)** — Kenya-Taray Delemore ('99)  
(Research Centre for Civic Human Rights & Civic Education)
10. **Ghana (Accra)** — Kenya-Taray Delemore ('99)  
(African Commission of Health & Human Rights Promoters)
11. **Honduras (Tegucigalpa)** — Greg Loyd ('00) (Casa Alianza)
12. **Hong Kong** — Kevin Green ('98)  
(Hong Kong Human Rights Monitor)
13. **Hong Kong** — Ayoade Adewopo ('00)  
(Hong Kong Equal Opportunities Commission)
14. **India (New Delhi)** — Toma Guha ('97)  
(South Asian Human Rights Documentation Centre)
15. **Ireland (Dublin)** — Hyo Joon Park ('00)  
(Irish Council for the Welfare of Immigrants; Amesty International)
16. **Israel (East Jerusalem)** — Edward Queen II ('00)  
(Palestinian Human Rights Monitoring Group)
17. **Lithuania (Vilnius)** — Richard Woodhouse ('99)  
(United States Information Service (USIS); Jewish State Museum)
18. **Macedonia (Skopje)** — Edward Queen ('00) Helsinki Committee
19. **Malaysia (Kuala Lumpur)** — Kirti Patel ('99) (Tenaganita)
20. **Nepal (Katmandu)** — Joshua Robertson ('99)  
International Institute for Human Rights, Environment & Development ("INHURED")
21. **Nicaragua (Managua)** — Jenny Mirelez ('00) (Casa Alianza)
22. **Northern Ireland (Belfast)** — Robert Springston ('00)  
(Northern Ireland Commission on Ethnic Minorities)
23. **Puerto Rico (San Juan)** — Karla Cameron ('99)  
(Attorney General of Puerto Rico)
24. **Philippines (Quezon City)** — James Bouchard III ('00) (SALIGAN)
25. **Russia (Moscow)** — Richard Woodhouse ('99)  
(Moscow Helsinki Group; OSI; Civic Assistance)
26. **South Africa (Cape Town)** — Aklilu Tedla ('98)  
(Health & Human Rights Project)
27. **Switzerland (Geneva)** — Aklilu Tedla ('97)  
(United Nations Centre for Human Rights)
28. **Switzerland (Geneva)** — Joshua Robertson ('00)  
(United Nations Office of the High Commissioner for Human Rights)
29. **Tanzania (Arusha)** — Celine VanHoenacker ('99)  
(United Nations International Criminal Tribunal for Rwanda)
30. **U.S.A. (New York)** — Samira Irsane ('98)  
(United Nations Division for the Advancement of Women)
31. **Zimbabwe (Harare)** — Jason Gross ('99)  
(Gays & Lesbians of Zimbabwe (GALZ); Zimbabwe Human Rights Association (ZimRights))

## ... *Malaysia Rights Trial*

*(Continued from page 1)*

In 1994-1995, Tenaganita launched a project on health and the incidence of HIV/AIDS among migrant workers in detention camps. Tenaganita's research team interviewed over 300 Bangladeshi, Indonesian, Filipino and other migrant workers following their release from Malaysian detention centers. Patterns of alleged ill-treatment, abuse and official corruption emerged.

In 1995, Tenaganita made public its report entitled "Abuse, Torture, Dehumanized Treatment and Deaths of Migrant Workers at Detention Centres". The report contained allegations of ill-treatment, sexual and physical abuse, and malnutrition of migrant workers held in the centers. It mentioned deaths allegedly caused by malnutrition, beri-beri, and skin and other treatable illnesses. Calls were made for the government to open the migrant camps for inspection and to create an independent investigative Commission of Inquiry.

### The Prosecution

In March 1996, Irene Fernandez was arrested and charged under Section 8 of the Printing Press and Publications Act of

1984 (as revised 1987) on charges of "maliciously publishing false news". Section 8, which is criminal in nature, has no counterpart in the United States or in many other countries.

Irene's criminal trial began in the Kuala Lumpur Magistrates Court in June 1996. As of mid-2000, the trial continues. If found guilty Irene faces up to three years in prison, fines of \$20,000 Malaysian ringgits, or both.



*Kirti Patel ('00) (front, 2nd from left) with the Tenaganita staff & interns in Kuala Lumpur,*

### Effect of the Prosecution

Irene's prosecution threatens freedom of expression and freedom of association in Malaysia. Also, it has threatened the work of local non-governmental organizations. Irene's prosecution has intimidated NGOs who seek to monitor and critique issues of genuine concern and legitimate public interest in Malaysia.

### Conclusion

It is unclear how, or when, the Magistrate, who sits without a jury, will rule in Irene's criminal trial. Irene's prosecution has already adversely affected the enjoyment of human rights in Malaysia. Her conviction would reinforce the message that Malaysia is intent on not affording its citizens the basic, internationally recognized human rights of freedom of expression and freedom of association. Irene's acquittal will be a grand step forward in human rights for all in Malaysia. ♦



## INDIANA UNIVERSITY SCHOOL OF LAW - INDIANAPOLIS

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