

advocate

C E N T E R F O R C I V I L A N D H U M A N R I G H T S



CCHR Receives Grant for Rwandan Genocide Project

The Center for Civil and Human Rights (CCHR) has been awarded a grant to fund a clerkship program at the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania.

The two-year grant of \$80,000 from the Open Society Institute will be used to provide promising graduates of human rights programs such as Notre Dame's with an opportunity to gain practical experience, while providing valuable assistance to the Rwandan Tribunal.

Established by the UN Security Council in the aftermath of the genocide in Rwanda in 1994, the ICTR has cooperated with the governments of Rwanda and other countries to bring to justice those most responsible for the commission of genocide, crimes against humanity and war crimes in the great lakes region. Since then, in spite of facing major obstacles, the ICTR has achieved both the first ever international convictions for the crime of genocide and the first guilty plea by a former Prime Minister.

However, the ICTR has not received the international attention enjoyed by its counterpart for the former Yugoslavia. Its relative obscurity, combined with its location in Arusha, Tanzania, has made it more difficult for the ICTR to attract equally qualified, committed and experienced staff.

Instead of viewing this as an impediment, CCHR believes that this presents an important opportunity to train and empower promising lawyers from Africa in the international legal system and its application. Toward this end, the CCHR has designed a project in cooperation with the staff of the ICTR to support a clerkship program at the Tribunal.

From 1995 to 1999, CCHR successfully implemented a similar project at the International Criminal Tribunal for the Former Yugoslavia (ICTY). Structured as a training and internship program, this project provided invaluable assistance to the ICTY while affording a number of promising young lawyers with a unique educational opportunity. The CCHR is committed to furthering the development of the international framework of accountability, especially in Africa, and is training a pool of dedicated lawyers and advocates in the effective use of international criminal tribunals and other institutions. The two-year program of activities funded by this grant will significantly expand CCHR's present efforts in this area.

CCHR is a center for advanced research and scholarship in the fields of civil and human rights. Through its various teaching, research and service programs, CCHR serves as a resource for students and senior scholars to explore the legal, social, political and economic context in which human rights are infringed.

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INTERNATIONAL HUMAN RIGHTS LAW AND THE UNITED STATES

by Juan E. Méndez

FROM THE DIRECTOR

On June 14, 2000, Senators Helms and Warner and two Republican representatives introduced a bill in Congress called "The American Servicemen Protection Act." If enacted, this law requires the United States to terminate military assistance to any nation, other than NATO members, that signs and ratifies the 1998 Statute of Rome to Create an International Criminal Court (ICC). This strong-armed – what some might consider bullying – approach, is designed to discourage small nations from including their names among the 60 ratifications required before the ICC is effectively in place. Thus, not only does the U.S. not want to participate in the creation of a long-awaited institution to enforce international human rights law, but also puts its considerable weight behind an effort to prevent its birth. This episode is one example, albeit an extreme one, of what appears to be the United States' perverse attitude toward international law: we foster international law and live by it, but only on our terms.

The Clinton Administration, for its part, has been hostile to the idea of an ICC from the moment it became clear that most democratic nations, including all of Western Europe, wanted a court that would be truly independent and impartial, fair and effective. The U.S. delegation in Rome was one of only seven nations that voted against the final text, in the face of 120 votes for the text along with 20 or 30 abstentions. This contrasts sharply with American support for the two international criminal courts for war crimes in the former Yugoslavia and in Rwanda – the immediate precedents that have shown that international prosecution of the most egregious crimes against humanity can occur within internationally accepted principles of due process. Whether or not the Clinton Administration welcomes the "help" of Helms *et al.*, it has, in fact, continued to press all other nations for a watered-down version of an ICC. Since July 1998, there have been several meetings of a Preparatory Committee that will finalize certain aspects of the treaty text, and it looks like the U.S. may be on the verge of obtaining major concessions in exchange for its support of the treaty.

Of course, the U.S. should insist on a good ICC rather than a simply acceptable one. But the concerns about prosecution of U.S. servicemen engaged in peace-keeping activities or other foreign missions is misplaced. The ICC complements domestic prosecutions in all circumstances. Therefore, if the U.S. does its duty and investigates thoroughly and fairly

any and all instances of possible abuses by American troops, it should fear no challenges to its own primary jurisdiction over those cases. The fear of "rogue prosecutions" by a prosecutor and court that are too independent would, in fact, lead other powerful nations (China, Russia) to demand the same: an ICC that is "in the pocket" of each superpower and can be turned on and off according to what serves individual national interests at any given moment. This is far from an ideal of an independent, impartial, fair and effective court.

The attitude of the U.S. towards the ICC is only part of the difficult affair between the U.S. and international law. On the one hand, the Supreme Court said long ago that international law "is the law of the land." On the other hand, of all the developed nations, the U.S. has the worst record of signing and ratifying human-rights treaties. When the U.S. adheres to a human-rights treaty, it incorporates so many reservations, declarations and understandings as to make the treaty useless at home. When the U.S. ratified the International Covenant on Civil and Political Rights, for example, the Bush Administration declared that all of the covenant's provisions were not self-executing and simultaneously announced that it would not submit any implementing legislation to Congress. The result is that this important human-rights treaty is part of U.S. law but cannot be invoked by Americans before American courts. Access by Americans to supra-national monitoring bodies is similarly curtailed.

In particular, calls by such bodies for delays in execution of the death penalty, to allow for a serious review of issues, are routinely ignored. In the *Breard* case, for example, Paraguay sued the U.S. before the International Court of Justice, because the death sentence imposed on a Paraguayan national violated the consular access provisions of the Vienna Convention on Consular Relations. The Governor of Virginia refused to honor a request for a stay from the ICJ, despite pleas from Secretary of State Albright that ignoring the ICJ's request would hurt the U.S. in other cases, because of the principle of reciprocity.

Last June, the Inter-American Commission on Human Rights, a body of the Organization of American States, made a similar request to stay the execution of an African-American in Texas on the basis that he was a minor when he committed the crime. Although the request would have had the effect of a temporary restraining order to give the Commission time to look into the matter further, neither Texas nor the State Department even acknowledged it. In another case involving lack of consular access, *Saldano*, the Commission also issued a request for a stay. Fortunately, the U.S. Supreme Court reversed the sentence on the basis of gross racial discrimination, finding that, in applying the death penalty, the sentencing court had deemed Hispanics as more inclined to dangerous behavior than other ethnic groups.

There is a glimmer of hope now in the U.S. that eventual abolition of the death penalty may receive a more rational and serious debate. No doubt, new evidence available through modern DNA testing, which has proved that some innocent persons have been sentenced to death, has shaken the misplaced confidence of some of our leaders in the infallibility of our due-process guarantees. A strong campaign by the Catholic Church in this country has also inspired some to reconsider the application of the death penalty. It would be good to introduce international law standards into this important debate as well. The international law of human rights does not prohibit the death penalty, but it does demand very high standards of due process and favors abolition over retention.

International standards should also be considered in analyzing prison conditions in our state and federal corrections departments. At the Center for Civil and Human Rights, we are particularly concerned about the cruel and dehumanizing nature of Indiana's "super-maxis," also called "secured housing units" or SHUs. We have joined organizations of civil society in Indiana, as well as the state's Catholic bishops, in calling for a complete discussion and review of these methods of punishment. In the spring of 2001, we shall organize a seminar to bring into the picture thorough discussions of international law standards applicable to incarceration and relevant best practices in comparative law.

Civil rights and freedoms as developed by U.S. constitutional practice continue to be an example to the rest of the world. We should celebrate the Supreme Court's re-confirmation this past summer of its *Miranda* decision. If applied worldwide, this landmark decision regarding police interrogation tactics would go a long way toward abolishing torture in many countries. But we should also be aware that other societies contribute to the progressive development of human rights, and should be ready to adopt standards developed elsewhere if applicable to our own reality. More importantly, other civilized nations make a point of contributing to the international development of human rights standards by accepting the jurisdiction of international adjudicatory bodies and by joining other nations in building institutions.

The U.S. government rightly makes human rights a centerpiece of its foreign policy, and spares no words when it comes to condemning abusive practices in other countries. We have personal and direct knowledge of how often the U.S. position has saved lives, improved prison conditions abroad and, ultimately, brought about democratization and improvement in the rule of law. Yet those postures would carry a lot more moral weight – and thus would be more effective – if they were coupled with a sincere and demonstrable commitment to making international human rights a domestic reality as well. A good place to start is in reviewing the American position on the Rome Statute for an International Criminal Court.



The First Quarter-Century of the Center for Civil and Human Rights

by Ada Verloren '90 LL.M.,
Assistant to the Director

The center's inception more than 25 years ago traces back to the conviction of Reverend Theodore M. Hesburgh, C.S.C., that "things begin to happen when you start with an idea and the vision to carry it out." He explains that the idea for the center, and for the nation's civil-rights program, germinated from the seeds of thought contained in the U.S. Declaration of Independence — that is, that "all men [and women] are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

An exceptional university president with an unrivaled public-service career, Father Hesburgh served for 15 years as chair of the United States Commission on Civil Rights. Following his retirement from the commission, Father Hesburgh's relentless pursuit of equal rights for oppressed minorities and basic human decency caused him to

establish the Center for Civil Rights, as it was called in 1975. With funding from the Ford Foundation, the University had created a center for advanced research, public policy analysis and civil rights advocacy. His decision to house the center within the Notre Dame Law School evidenced his vision for the Law School as a place for studying and championing the cause of basic human rights for all. He explains further: "The good law schools in the country are all thought as perhaps prepared to specialize in one thing, like torts or international law. It is my hope that our contribution will be civil rights or at least how it emerged through the work of the commission."*

Professor Howard A. Glickstein, now dean of Touro College, Jacob D. Fuchsberg Law Center, served as the center's first director. He recalls that the principal goal of the center was to

provide the research facilities and staff support to permit Father Hesburgh to continue as a prominent spokesman for civil rights.

At least from the time of Father Hesburgh's appointment to the U.S. Commission on Civil Rights in 1958, until he was asked to step down as chairperson in the fall of 1972, he was

▲ Reverend Theodore M. Hesburgh, C.S.C. (second from left) participates in a civil rights march in Washington, D.C.

overview

a leading moral voice for achieving the promises of the Declaration of Independence and the Constitution. Because most advocates of civil-rights reform recognized the importance of Father Hesburgh's continued involvement in this cause, the Ford Foundation provided the necessary funds to Notre Dame.

Professor Glickstein explains that the center's early activities supported

Father Hesburgh's work in a number of ways. First, the center kept abreast of the latest developments in various areas of civil rights law and policy, engaged in research and advised Father Hesburgh with regard to current and emerging issues. Second, the center created a civil rights library that included Father Hesburgh's papers from his years as a member and chair of the U.S. Commission on Civil Rights. Third, the center maintained a public position on current issues of importance in the civil rights area and was a party to briefs in a number of important civil rights cases before the United States Supreme Court. Fourth, the center offered programs to the Notre Dame community on issues in the civil rights area, brought many significant speakers to the Notre Dame campus, and held a number of conferences, including one commemorating the 20th Anniversary of the Supreme Court's decision in *Brown v. Board of Education*.

human rights. Areas of study included democratization and the rule of law, immigration and refugee policy, religious discrimination in the Communist states of Eastern Europe, and human rights and American foreign policy. The center also initiated a major study of the injustices arising from the draft and military justice systems during the Viet Nam War. With the support of grants from several major foundations, the Center became a clearinghouse for data on international human rights, and produced numerous publications including several human rights bibliographies. Prominent speakers invited to deliver the center's annual Civil Rights Lecture included Honorable Leon A. Higgenbotham of the Third Circuit Court of Appeals; William Robertson, director of Human Rights of the Council of Europe; and Patricia Derian, assistant secretary of state for human rights.

The center began its rise to its

and the doctor of juridical science (J.S.D.) in International Human Rights Law. The LL.M. program offers students the opportunity to enhance their prior legal education and to reflect on their commitment to human rights practice, while the J.S.D. program is designed to accommodate a few outstanding candidates who wish to pursue a teaching career in the field of human rights and who have shown potential for writing a thesis of publishable quality that will make a significant contribution to the field of human rights.

The first students in the LL.M. program came from South Africa to study international human rights as a result of a 1986 agreement between Fr. Hesburgh and Judge Richard Goldstone, then a judge of the South African Supreme Court. In 1991, with the assistance of the Ford Foundation, Fr. Lewers enlarged this program to include about twelve students every year from many different parts of the world including Asia, the Americas, Africa, Australia, Europe and New Zealand. Many students actively practice law, but others serve as teachers or judges in their home countries.

After completing the LL.M. degree, most graduates engage in an internship or law clerkship with an appropriate human rights organization for at least one year. With the support of two successive grants from the John D. and Catherine T. MacArthur Foundation, the Notre Dame Law Clerk Program at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague has, since 1995, provided very valuable internship opportunities for more than 15 graduates. Other graduates have pursued internships with regional human-rights organizations such as the Inter-American Commission on Human Rights and

*"The good law schools in the country are all thought as perhaps prepared to specialize in one thing, like torts or international law. It is my hope that our contribution will be civil rights or at least how it emerged through the work of the commission."**

When Professor Donald P. Kommers, now Joseph and Elizabeth Robbie Professor of Government and International Studies and concurrent professor of law, took over as the second director of the center, he expanded its research activities to include not only civil rights but also international

position as a pre-eminent institution for international human rights education when Reverend William M. Lewers, C.S.C., became director of the center in 1988. Father Lewers developed the educational component of the program into two separate degree programs, the master of laws (LL.M.)



▶ Professor Howard A. Glickstein, first director of the center, meets with students.

the African Commission on Human and Peoples' Rights, prominent advocacy groups such as Human Rights Watch and Minnesota Advocates for



▲ The center's second director, Professor Donald P. Kommers.

Human Rights, and a variety of other organizations dedicated to the protection of human rights. Through the revitalization of the educational component of the center, Father Lewers left a lasting legacy and a strong foundation upon which to build. At the time of his death in April 1997, many of the approximately 50 graduates of the center had incorporated their

commitment to human rights into their professional lives and now continue Father Lewers' powerful example of dedication to justice, human dignity, peace and democracy.

In addition to the educational component of the center's program, research into the nature and prevention of human rights abuses remains a fundamental part of the center's agenda. Under Father Lewers' supervision, the center created a computerized database from a microfilm copy of the legal archives of the Vicaria de Solidaridad of Santiago Chile, documenting human rights violations by the military regime for the period from 1973 to 1978. Given the importance of establishing principles of accountability in

international human rights, in 1994 the center sponsored the translation and publication of the influential two-volume publication by the University of Notre Dame Press of the official report of the Chilean National Commission on Truth and Reconciliation. To strengthen and further its research initiatives, the center has also hosted major conferences and seminars on timely topics such as: Human Rights and Ethnic Minorities; Federalism and the Soviet Union; Human Rights and Chile; Political Justice and the Transition to Democracy; and International Human Rights Litigation in U.S. Courts: State of the Law and Future Prospects.

Looking to the future, the center undoubtedly will encounter more daunting tasks and face enormous challenges. Forever a visionary, Father Hesburgh at age 83 explains that if he could do one more thing, he would establish a university of the world, aimed particularly at women. He envisions a university run through satellite communication, teaching courses such as literacy, hygiene and family medicine. He describes the changes that could occur as a result of such education: "Think what would happen through Africa, throughout Latin America, Asia, where women have been abused for centuries, where they have been treated like dogs and farm animals, where they do all the dirty work. They have to feed the children, take care of the home, take care of their husbands on top of that. If more women were to receive an education, they would be able to educate their children, transform their villages, and pretty soon the whole world changes. Things would start to get a little different."

Father Hesburgh's goal of putting technology to work enhancing educational opportunities was echoed in the millennium report of Kofi Annan, Secretary General of the United Nations. Mr. Annan explained at a press conference that, despite some pretty alarming facts, the report was not all "gloom and doom." Reporting on amazing progress during the last half century, Mr. Annan mentioned information technology, which can be used with even very limited amounts of hardware or financial capital: "What you need, above all, is brains, which are the one common commodity that is equally distributed among the world's peoples. So for a relatively small investment, in education, for example, we can bring all kinds of knowledge within the reach of poor people and enable poor countries to leapfrog some of the long and painful stages of development that others have had to go through."

The Center for Civil and Human Rights is responding to the challenge to develop ideas and programs to carry out Father Hesburgh's vision. The center continues to work for human dignity in a world where serious human rights abuses still occur every day. Despite the prevalence of atrocities in different parts of the world, the center is strengthened by broader acceptance of human rights ideals. Every year, the contributions of the center, along with a growing number of human rights organizations and committed individuals, show that those who work for human rights worldwide are making the dream a reality.

* John C. Lungren Jr., HESBURGH OF NOTRE DAME 76, 1987.



▲ Reverend William M. Lewers, C.S.C., director of the Center for Civil and Human Rights from 1988 to 1997.

J.S.D. Fellowship Established

Mary Margaret Penrose '99 LL.M. and current J.S.D. candidate at the center, with her family, has established the Judith Penrose Memorial Fellowship Fund in memory of her mother, who died on January 29, 2000. The Penrose family intends that the fellowship fund assist a J.S.D. student at the center who has financial need. Contributions can be sent to the fund in care of the Center for Civil and Human Rights.

No Reconciliation Without Reparations

by Vinodh Jaichand '88 LL.M., '96 J.S.D.,
National Director, Lawyers for Human Rights, South Africa

An essential component in the creation of a climate for reconciliation in the wake of the South African Truth and Reconciliation Commission (TRC) hearings is the work of the Reparations and Rehabilitation Committee, which has submitted a policy framework for urgent interim reparation measures together with some long-term solutions. The recent debate in South Africa has centered around the state's reluctance, whether perceived or real, to grant reparations to victims. Various NGOs have been working together with a view to putting pressure on the state to develop an approach for final reparations and to deliver on them. The Reparation and Rehabilitation Committee has made numerous proposals on the measures, principles and policy framework with regard to adequate and fair reparation and rehabilitation for those victims as described in the Act. It is intended that reparations and rehabilitation would further the reconciliation and national unity that would heal the awful divisions of South Africa's past.

The policy framework for urgent interim reparation measures lists five categories that deal with very seriously affected victims' rights to urgent interventions with regard to:

- emotional suffering and pain;
- medical care and assistance;
- material or financial need and limitations;
- access to and continuation of education; and
- the duty and obligation to remember, what has been referred to as "symbolic measures and interventions."

The principles underpinning the program of reparations, both urgent interim and long-term, include:

- redress, which is the right to fair and adequate compensation;
- restitution, which is the right to the re-establishment as far as possible of the situation that existed for the beneficiary prior to the violation;
- rehabilitation, which is the right to the provision of medical and psychological care and fulfillment of significant personal and community needs;
- restoration of dignity, which could include symbolic forms of reparation; and
- reassurance of non-repetition, which is the creation of legislative and administrative measures that contribute to the maintenance of a stable society and the prevention of human rights violations.



A recent debate in South Africa's Parliament led to a statement by President Thabo Mbeki indicating that the government was committed to the reparations process, although the details that have emerged seem rather vague. This caused various groups to march to the Union Buildings on April 27, 2000, to question the government's sincerity with regard to final reparations. Archbishop Desmond Tutu, according to the *SUNDAY INDEPENDENT*, welcomed the government's undertakings with regard to the victims of apartheid, but stressed that the state still needs to make good on its promises.

The urgent interim reparations expenditure by the state so far amounts to some 30 million rand out of a 300-million rand allocation made to the President's Fund, which leads some to suspect foot-dragging on the part of the state. At the same time, according to *THE STAR*, the ANC government blames the TRC for the lack of funding because the commission failed to set up structures to channel the funds to qualifying victims. The implementation of a final reparations policy will now take place only after the TRC's amnesty process concludes in August 2000. *THE STAR* further reported that all of these allegations have been denied by members of the TRC.

None of this, however, appeases the victims of apartheid atrocities whose dignity has been stripped bare for public viewing while various perpetrators have been granted amnesty. This leads to the general perception that perpetrators, upon confession, are free and absolved from their moral liability as a result of the TRC process. If the Amnesty

Committee so decides, the perpetrators are also free of legal liability, according to the Constitutional Court's decision in *Azanian People's Organisation v. President of the Republic of South Africa*. It would not be much of a surprise to find, therefore, that many of the applicants who sought amnesty did not do so in the belief that confession is good for the soul, but rather, because of the opportunities such amnesty presented for absolution from any legal responsibility.

The more recent evidence in the case against Dr. Wouter Basson revealed that the apartheid state was involved in biological warfare together with the creation of James Bond-styled weaponry to combat those they believed to be enemies of apartheid.* Dr. Basson at the moment still practices medicine despite the charges against him presented to the court of law. Added to this public perception, numerous applicants before the Amnesty Committee have given some version of the events without the truth actually emerging. Victims find themselves cheated by the process, resulting in a general outcry about the impossibility of reconciliation in light of inaction or delay on the part of the state with regard to reparations.

In answering whether the whole TRC process was worth the effort or not, Piet Meiring comments: "Whether the TRC with its reparations measures will succeed in making it clear to everyone that the gracious amnesty offer to perpetrators is balanced by an equally gracious compensation to victims, remains to be seen. The nation will have to be convinced that the process is as 'victim friendly,' as it is 'perpetrator friendly.'"^{***}

Right now, if the reparation and rehabilitation issue is not addressed directly and quickly by the state there is no doubt that much harm could result to the traumatic TRC proceedings. The proceedings have revealed a great deal of information that is in danger of being discredited if the state does not grant reparations as soon as possible. Indeed, José Zalaquett warned that if the TRC process does not succeed, "it will be a failure of colossal proportions that would put to risk South Africa's transition to democracy . . ."^{****}

* See Piet Meiring, *CHRONICLE OF THE TRUTH COMMISSION* 350-357 (Carpe Diem Books 1999) for details of Project Coast on covert research laboratories.

** *Id.* at 373.

*** *Id.* at 368.

events at the center

HUMAN RIGHTS ROUNDTABLE SERIES

On September 20, 1999, the CCHR's 1999-2000 roundtable series opened with a discussion of **Professor William T. Cavanaugh's** recent book, *TORTURE AND EUCHARIST: THEOLOGY, POLITICS AND THE BODY OF CHRIST*. This interdisciplinary event was co-sponsored by the University's Department of Theology. Professor Cavanaugh studied the church in Chile under the military dictatorship of General Augusto Pinochet from 1973 until 1990. In his work, he demonstrates how the systematic use of torture by the Pinochet regime was a form of discipline to control society. The Church at first did nothing to resist the regime, but started to change gradually "when people began to knock at the Cardinal's [Silva] door." In 1976, The Vicariate of Solidarity was formed to give visibility to the church as a social body with its "own disciplinary resources — Eucharist, penance, virtue, works of mercy, martyrdom . . . which produce actions, practices, habits that are visible in the world." Professor Cavanaugh claims that "the Eucharist is the Church's 'counter-politics' to the politics of torture," because "the Eucharist effects the body of Christ, a body marked by resistance to worldly power."

Professor Cavanaugh, Assistant Professor of Religion at the University of St. Thomas in St. Paul, Minnesota, is a Notre Dame graduate and former Holy Cross Associate who earned his doctorate at Duke University. He worked with the late Reverend William E. Lewers, C.S.C., on the center's archives of the Chilean Vicariate of Solidarity.

The CCHR, in conjunction with the Department of Anthropology, welcomed **Professor Ellen Messer**, Associate Professor (Research) at the Watson Institute for International Studies at Brown University and Visiting Professor at Tufts University School of Nutrition Science and Policy, at the Roundtable on March 23, 2000. Professor Messer, former director of the Watson Institute and the author of extensive publications in the areas of anthropol-



ogy and human rights, the anthropology of food and nutrition, and anthropological approaches to religion, discussed a current project called "Hunger and Human Rights: Religious Promise and Practice." Focusing on hunger as a "quiet" rather than an active violence and violation of human rights, Professor Messer explored the positive contributions of religious energies and diversity. She concluded that inter-religious understandings can strengthen the foundations of the human right to food, and ultimately will help affirm the significance of human rights as a reference point for building a more secure and less hungry world.

DISTINGUISHED SPEAKERS

Greg Wiercioch '86 gave a lecture in the Law School Courtroom on February 7, 2000, entitled "Back in Business: The United States Prepares for the First Federal Execution in Nearly Forty Years." Mr. Wiercioch, who was an undergraduate at Notre Dame and received his law degree from Washington & Lee Law School, works in a public interest law firm that handles death penalty cases at trial, on appeal and on *habeas corpus* review. Mr. Wiercioch outlined the serious practical and moral problems with the implementation of the death penalty by focusing on the case of Juan Garza, the first federal prisoner scheduled to



be executed in nearly 40 years after his conviction for three murders as part of a

narcotics-trafficking operation. The lecture raised grave concerns about the government's lack of consistency in pursuing capital punishment in potential death penalty cases, the apparent bias against defendants who are members of racial minorities, and the large number of wrongful executions.

As counsel for Mr. Garza, Mr. Wiercioch has filed a complaint with the Inter-American Commission on Human Rights. While the complaint is under review, the commission has issued precautionary measures, asking the United States not to execute Mr. Garza. Because it is unlikely that the United States will abide by the commission's request to stay his execution, Mr. Garza's best hope for avoiding the execution lies in executive clemency.

On March 24, 2000, students had the opportunity to learn more about the crimes committed against the people of East Timor from guest speaker **Arnold S. Kohen** whose involvement in human-rights efforts in East Timor, as well as other international issues, has focused attention toward concrete international assistance. Mr. Kohen is the author of the official biography of Nobel Peace Prize Laureate Bishop Carlos Filipe Ximenes Belo, head of the Catholic Church in East Timor. In *FROM THE PLACE OF THE DEAD: THE EPIC STRUGGLES OF BISHOP BELO OF EAST TIMOR* (St. Martin's, 1999), he describes Bishop Belo's efforts to relieve the suffering of the people. In reviewing this timely biography, the *NEW YORK TIMES* describes how "[i]n the spirit of his hero, Gandhi, Belo has consistently advocated peace amid the violence, even though his own life has been threatened."

According to *THE ECONOMIST*, "this biography appears at an opportune moment. Not only does it provide a solid history of what may become the world's next sovereign nation, it also explains why the celebration of independence, if it comes — which is by no means a foregone conclusion — will be tinged with grief and fear even in the country itself: too many people have been shot, beaten, brutalised and tortured to death since Indonesia invaded in 1975."



On April 7, 2000, the CCHR presented a talk by **LWH Ackermann**, Justice of the South African Constitutional Court, on "Constitutionalism and Human Rights in South Africa." His talk outlined the structure and developing functions of



the new constitutional court. Before his appointment to the Constitutional Court in 1994, Judge Ackermann served as a judge in different Provincial Divisions of the Supreme Court in South Africa, as well as on the Lesotho Court of Appeal. In addition, he served as an acting judge of appeal on the Supreme Court of Namibia. His career as a judge was interrupted in 1987 when he inaugurated the Harry Oppenheimer Chair in Human Rights Law at the University of Stellenbosch, the first of its kind in South Africa.

The CCHR and the Helen Kellogg Institute for International Studies co-sponsored a lecture by **Patricia Feeney**, senior human rights adviser for OXFAM (United Kingdom) and a research associate of Queen Elizabeth House, Oxford University, on April 17, 2000. Ms. Feeney discussed "The Rights-Based Approach to Development: Is It Making a Difference?" Her talk examined the impact of the Vienna Declaration, which was adopted at the 1993 UN World Conference on Human Rights, on development. Ms. Feeney considered issues such as the extent to which human-rights standards inform and guide official development assistance,



the obligations accruing to international agencies such as the World Bank, the IMF and the WTO, the change in practices and approaches of NGOs, and the likelihood of encompassing the goals of poverty eradication and respect for

human rights in the new corporate social responsibility agenda.

Ms. Feeney worked for a number of years in the research department of Amnesty International, where she was responsible for work on the southern cone countries in South America. Her analysis of "disappearances" in Argentina contributed to the establishment of the UN's Working Group on Enforced and Involuntary Disappearances. Her special focus has been promoting social and economic rights, as well as scrutinizing the policies and programs of official aid agencies such as the World Bank. She has studied the problems associated with involuntary displacement in Latin America, Africa and Asia. At OXFAM, one of largest development and relief agencies in the United Kingdom, she has set up an Aid Quality Program that, through a series of case studies, examines the extent to which development assistance respects its own guidelines and international human-rights standards. She has closely followed the work of the World Bank's Inspection Panel and has co-authored a paper about its operations. She is particularly interested in the issues of accountability, participation and redress.

The culmination of the year's lectures was the talk "Holding Pinochet Accountable" by **Dr. Juan E. Garcés**, lead counsel for victims, on April 26 in the Hesburgh Auditorium. A near victim of Pinochet's military coup and leader of the multi-national legal team that represented nearly 3,000 cases of assassination, forced disappearance and torture committed under Gen. Pinochet's dictatorship, Dr. Garcés' efforts have broken new ground in areas of Human Rights and International Law. As a result of his perseverance, the British House of Lords delivered the landmark decision that a former head of state may be tried by a national court in a foreign country for torture committed at home.

Reflecting on the lasting imprint of Gen. Pinochet's case on international law, Dr. Garcés explained that, through the trial of a single person, the validity of principles of an international nature, which are understood and shared universally, have been established. In particular, the Pinochet case embodied the principle of accountability for crimes against humanity, while also incorporating the right for victims of human-rights abuses to see justice

done and truth exposed. The results of this case illustrate very well the dialectical relationship between the political objectives of government and the internal logic of international law. According to Dr. Garcés, a perfect balance would have been achieved had the extradition granted by the British courts been given actual effect by sending Pinochet to Spain to be tried for



his crimes. However, because Pinochet was allowed to return to Chile, the case was only 85 percent successful. Dr. Garcés

believes that the 15 percent margin of dissatisfaction should serve to remind us of the reality that requires states and governments to commit themselves to make it possible to apply international law. If they resist, the result is impunity in a concrete case and the continual existence of risks for peace and international stability.

INTERNATIONAL CONFERENCE ON REMEDIES

On March 17-18, 2000, in cooperation with the British Institute of International and Comparative Law, Redress (an organization to assist torture survivors worldwide to obtain reparation and to promote effective remedies), and the Notre Dame London Law Centre, the CCHR sponsored a conference on "Human Rights Remedies: Implications of International and Comparative Law for U.K. Practice."



H.E. Judge Rosalyn Higgins, DBE, QC
(International Court of Justice)



From left to right: John Louth (Oxford University Press), Professor Dinah Shelton (Notre Dame Law School), Keith Carmichael (Honorary Director, Redress), Judge Andrés Baka (European Court of Human Rights), Dr. Andrew Drzemczewski (Council of Europe)

The first session of the conference, held at the London Law Centre, addressed remedies available before international courts and tribunals. The chair, **Professor Sir Nigel Rodley**, pointed out that the remedy is itself an important part of the healing process of victims of human rights violations. He stressed that international human rights law had passed the stage of simply setting standards and now had to ensure the availability of effective remedies. The first speaker, **Judge Andrés Baka** of the European Court of Human Rights, briefly examined the prerequisites of Article 41 of the European Convention of Human Rights, explaining that “just satisfaction” was a discretionary matter for the court. The kinds of remedies available to victims in the European system include pecuniary remedies and non-pecuniary damages, as well as costs

and expenses. However, Judge Baka explained that the European Court had no power to give consequential orders such as an order to change the law, in contrast to the power of a domestic constitutional court that finds a law unconstitutional. The European Court can only try to motivate legislators to act.

Professor Juan Méndez in his capacity as a commissioner, gave a brief account of the function of the Inter-American Commission of Human Rights. Stating that the major function of the commission is to handle complaints in a quasi-judicial manner, he exposed the precariousness of the argument that the commission’s decisions are not binding, citing the commission’s recent practice of following up on

recommendations as evidence that the commission itself treats its decisions as binding. In addition, the commission views publication of decisions as the quintessential remedy, since a decision is published only after a state has had the opportunity to implement the commission’s recommendations as set out in a confidential report. Recommendations extend beyond asking for compensation, as evidenced by the commission’s requests to states in cases of the most severe abuses to investigate the facts, to disclose the truth and to punish the wrongdoer rather than grant blanket amnesty.

Commenting on the African Commission of Human Rights, **Julia Harrington**, executive secretary of the Institute for Human Rights and Development, explained that the African system did not have any statement of principles regarding reme-

The right to a remedy is a human rights principle, recognized by human rights treaties.

dies. The commission normally leaves it to a government to draw a conclusion with regard to the appropriate remedy, with the result that remedies often may be inconsistent. But because the commission has avoided engaging in detailed fact-finding exercises, a government has no basis for calculating amounts of damages. Moreover, the fact that the commission rarely follows up on its recommendations does little to ensure consistency across the continent in terms of remedies.

Professor Sir Elihu Lauterpacht chaired the second session, which concerned monetary remedies for infringement of human rights standards. The first speaker, **Dr. Andrew Drzemczewski** of the Council of Europe, discussed the European Court’s discretion in awarding “just satisfaction.” Types of just satisfaction include an award of costs and expenses, an award of interest, compensation for pecuniary damage, which may be substantial or nominal, and compensation for non-pecuniary, moral damage. On occasion, the court has found that the “finding of a violation constitutes in itself sufficient satisfaction.” Commenting further on the European system, the second speaker, **Professor**



Bernard Hamilton (Birbeck College, London) and Professor Juan Méndez (Notre Dame Law School)

Alan Boyle, noted the lack of guidance from international law for interpreting “just satisfaction.” In his opinion, international law fails to provide appropriate assistance for at least three reasons: (1) it does not specify the principles for reparations; (2) international tribunals have not developed a coherent theory between the rules of international and domestic law; and (3) there is no single fixed meaning of “just compensation.” Notwithstanding the shortcomings of international law to develop adequate principles for granting human rights remedies, **Professor Dinah Shelton**, the third speaker, asserted unequivocally that the right to a remedy is a human rights principle, recognized by human rights treaties. Professor Shelton also referred to a new category of damages that has been introduced in the Inter-American system to compensate for “projects of life,” including the reasonable expectations of an individual for the future. This remedy gives recognition to the aspirations of an individual beyond simply economic worth.

During the third session, NDLS **Professor Jay Tidmarsh '79**, **Victor Madrigal** and **Professor Françoise Hampson** addressed the difficulties in determining the quantum of compensation, such as defining costs in the case of future medical treatment, calculating the value of destroyed property such as farmland, crops and trees, and dealing with a large number of victims due to a single unlawful measure by



Professor Françoise Hampson (University of Essex) and Chanaka Wickremasinghe (British Institute of International and Comparative Law)

a member state so as to avoid any “economies of scale” that might reduce state liability in case of numerous victims.

The fourth session concerned non-monetary remedies. The speakers,

Professor Kevin Boyle and **Viviana Krsticevic**, emphasized the importance of both a published excuse by the violating state and a guarantee of non-repetition. The discussion included the problematic concept of safe re-settlement of displaced persons.

The **Honorable Mr. Justice Carnwath**, chair of the Law Commission, delivered the keynote lecture, which was chaired by **Judge Dame Rosalyn Higgins** of the International Court of Justice. The lecture, like the final session of the conference the next day, dealt with the implementation and application of international human rights law in the UK. During the final session, speakers criticized the isolationist attitude of the UK, which caused it only recently to ratify the European Convention of Human Rights. Ratification, according to **Richard Gordon, Q.C.**, likely would bring about revolutionary changes in British law. He explained that the entering into force of the British Human Rights Act 1998, in October 2000, would oblige national courts to give effect to the European Convention. As a consequence, courts will be pushed to fashion remedies where none previously existed.



Julia Harrington (Institute for Human Rights and Development) and Professor Jay Tidmarsh (Notre Dame Law School)

Internships

Each year, the center supports graduates of the LL.M. program in an internship or law clerkship with an appropriate human rights organization or one of the two international criminal tribunals. Under the terms stipulated by our benefactors, some of these internships must also be awarded to lawyers who are not University of Notre Dame graduates. These internships provide valuable exposure to the human rights procedures of inter-governmental and non-governmental organizations while also furthering actual human-rights protections. During 1998 and 1999, graduates and others supported by the center's internship program worked at the World Bank's Inspection Panel, the Organization of American States, the Center for Justice in International Law (CEJIL), the MacArthur Justice Center in Chicago, the International Human Rights Law Group, the Institute for Human Rights and Development in The Gambia, the African Commission on Human and Peoples' Rights, the South African Human Rights Commission and the International Committee of the Red Cross in Geneva. The following excerpts from recent internship reports testify to the value of the experience:

“WITH an unconscionably early flight back to The Hague the following morning, another law clerk and myself remain awake during our last evening in Sarajevo, hopeful that a surprise snowfall will postpone our departure. It is the final night of a too-short vacation, which we have spent getting acquainted with the land under the territorial jurisdiction of . . . the International Criminal Tribunal for the Former Yugoslavia [where we have just completed our law clerkships]. The recommended airport check-in time surprises us, sipping local *pivos* to the tune of American pop records with four Sarajevo peers in a typically war-torn but nonetheless semi-functional and inhabited apartment building. Despite the surprisingly many cultural references in common — for example, the Talking Heads — unlike us, all four Sarajevo citizens came of age during the siege on their city, when they suffered the murders of family and friends. They now must cope with the post-war rubble. I don't share their loss, nor do I comprehend the root of the Yugoslav conflict. But this bond with victims has underscored for me the tragedy and depravity of the atrocities committed, and has reinforced the importance of prosecuting those responsible, even if at a distant international forum. And it is this bond that makes me proud to have participated in the ICTY's initial, if small and teetering, steps.

“It seemed that every assignment at the ICTY's Office of the Prosecutor . . . required the charting of new legal territory . . .

“International customary and treaty law on war crimes, crimes against humanity and, especially, genocide still

need to be more fully developed, as to date there have been very few trials on point. Currently, the ICTY is the most prominent forum for debate on these laws. But along the way, the ICTY is also making significant decisions on the procedures appropriate for an international criminal court. Although subsidiary to its judgments on substantive law, these determinations are . . . important [because] they can bolster or detract from the legitimacy of its substantive judgements. Additionally, although international human-rights courts have ruled on the minimum standards of procedure necessary to protect an accused's rights, criminal procedure has not been put to the test of trials in a highly publicized international forum in recent decades. Furthermore, the ICTY's procedure will surely pave the path for the permanent International Criminal Court. Like substantive law, procedure at the ICTY also must be fleshed out through practice. In accordance with Article 15 of the statute adopted by the Security Council, judges vote in plenary session on the Rules of Procedure and Evidence. But these rules are an experimental mixture of common-law and civil-code traditions and are intended to cater to the novel circumstance of an international criminal forum. And there is still no controlling precedent.

“For example, I was given the challenge to draft a motion to request the trial court . . . to take judicial notice, pursuant to Rule 94(B), of testimony rendered by an ex-high-level Croatian statesman [in another case].”

— Juan Francisco Méndez '98 J.D.,
Columbia University School of Law
Intern, International Criminal Tribunal for the
former Yugoslavia, 1998

“THE African Commission on Human and Peoples' Rights, an inter-governmental organization created within the Organization of African Unity, was established in 1987 to ensure the promotion and protection of human and peoples' rights within the continent. My tasks at the African Commission included the following:

- I helped . . . to make recommendations [regarding] amendments to the African Charter on Human and Peoples' Rights in order to accommodate the establishment of the African Court, which was not envisaged when the Charter was drafted.
- At the 24th Ordinary Session of the Commission, held October 22-31, 1998, I was involved in the team that drafted the final Communiqué and some of the resolutions that were adopted.
- The Secretary request[ed] [that I] handle the files for women and children. This involved researching the various problems affecting human rights of women and children in Africa.”

— Agnes Mabotja '98 LL.M.
Intern, African Commission on Human and
Peoples' Rights
The Gambia, September 1998-February 1999

“DURING my internship [with the South African Human Rights Commission] I got involved in the following projects:

- A commentary on the recommendations of the Truth and Reconciliation Commission. . . . By virtue of its constitutional mandate, the South African Human Rights Commission has the duty to make an in-depth analysis of the recommendations put forward by the Truth Commission. It was the objective of this project to study the recommendations in order to establish their feasibility and, most important, their impact on the promotion, respect and protection of human rights.
- Crime and Human Rights Project. Th[e] high crime rate has become a national crisis, posing a mammoth challenge to our legal system to deal with this social problem. . . . It is hard but necessary to acknowledge the effort that the State is making to better the crime situation. Since the inception of the second democratic government, there has been some clear indication of the government's willingness to deal constructively

with crime. This is reflected by the appointment of Mr. Steve Tshwete to head the Safety and Security Ministry. Since his term of office he has, *inter alia*, championed the rights of the police, which can motivate police officials to perform their duties.

- The rights of indigenous people. The purpose of this study was, first, to determine how the rights of South African indigenous communities, especially those of the smaller groups or communities such as the Khoi and San, could best be promoted and protected, and second, to provide a basis for the formulation of a policy-framework that would assist in addressing some of these issues. This study should hopefully contribute towards [a number of] attempts in South Africa to promote and protect the rights of all communities that make up the South African nation.”

– Malose Mahloko '99 LL.M.
Intern, South African Human Rights Commission
July-December 1999

“**THE** Gambia was an enriching experience, but a very different cultural encounter. I divided my time between the Institute for Human Rights and Development and the African Commission on Human and Peoples’ Rights.

“The Institute for Human Rights and Development is a non-governmental pan-African organization based in the Gambia. Its major aim is to advance human rights in Africa through the effective use of African human rights treaties. I had the opportunity [to work] in the Institute’s three active programs, which involve capacity building, litigation and publications.

- **Capacity Building.** The Institute annually conducts training workshops for human rights NGOs around the continent on the use of procedures of the African Commission to defend human rights. In addition, it hosts and sometimes co-hosts seminars for various target groups, in particular human rights defenders. In July 1999, the program staff at the Institute proposed a seminar focusing on the domestic application of human rights law targeting members of the bar and the judiciary in the Gambia. To establish the proposed event’s viability, we had to do a needs assessment in which I actively

participated. Along with two other program officers, we held consultative meetings with senior members of the judiciary, the bar and the State Department of Justice. Our survey revealed a dearth of information resources on human rights, and a general lack of familiarity with international human rights law amongst legal practitioners. The receptive attitude of the judiciary as an institution inspired the institute to rise up to the challenge of organizing a suitable event. To this end, I was involved in the initial drafting of a funding proposal to the Australian High Commission. Thereafter, I was made responsible for compiling all the material (case precedents and authoritative articles on the domestic application of international human rights law) needed for the seminar. It was an overwhelmingly gratifying experience, and I am happy to report that the Australian High Commission agreed to fund the seminar, which was held June 29-30, 2000 in the Gambia.

- **Litigation.** The institute assists national NGOs to prepare complaints for submission to the African Commission. It assists mainly by way of advice and research and, where complainants wish, with representation. I was assigned the task of researching and further advising two human rights NGOs based in Nigeria on, first, the prospects of successfully litigating a case based on the right to education before the African Commission and, second, the implication of the former military regime’s decrees on the application of the provisions of the African Charter in Nigeria.
- **Research and Publications.** The effective use of the African Commission as an instrument for the improvement of human rights is limited due to the lack of information [about] the regional human rights system. The Institute attempts to address this problem by widely disseminating information on the activities of the African Commission through publications. Using the provisions of the African Charter, the Institute also researches unsettled areas of law as a step towards strategic litigation which would eventually develop African human rights jurisprudence.

The Institute had identified economic and social rights as an area that is hardly litigated, even at the

regional (Commission) level, and suggested that I do a brief study focusing on the status of the rights to education and health. As a first step, I made a study of constitutions of selected African countries with a view to establishing the extent of justiciability of economic and social rights in Africa. Eventually, I prepared a synopsis on the basis of all the relevant information that I had been collating, which was to provide the basic framework for further study. Due to the time-intensive nature of the task, I was not able to pursue the assignment to its logical conclusion, but found it very engaging and intellectually stimulating.

“Besides mainstream program work, I was also involved in other activities. At the Institute’s request I drafted a critique on the Dakar Protocol on Women’s Rights for presentation at the NGO meeting in Kigali before the Commission’s Session in November, 1999. The atmosphere at the Institute for Human Rights and Development was one of [camaraderie] and I enjoyed a fair amount of autonomy in performing the tasks that had been assigned to me. I was invited to most program meetings where we would exchange ideas and evaluate ongoing activities. The Institute is well equipped with computers, which means that I had unlimited access to a computer and therefore had no problem completing tasks on time. I encountered a strong team spirit, and a willingness to share and assist. All in all, the experience was enriching and helped me grow professionally and as a person by allowing me the opportunity to apply my skills and knowledge in a multi-cultural setting.

“On October 1, 1999, I started my internship with the African Commission on Human and Peoples’ Rights, an intergovernmental organization established under Article 30 of the African Charter on Human and Peoples’ Rights to promote and ensure the protection of human rights in Africa. It has two major program areas that fall under its broad promotional and protective functions. As part of the preparatory process for the 26th Session of the Commission in November, 1999, I was assigned the responsibility of preparing a draft report on the human-rights situation in Africa. In addition, I was requested to assist one of the jurists for protective activities to prepare the Commission’s

legal opinion on the controversial Lome Peace Accord, signed in July 1999. I was pleasantly surprised when the Commission sponsored my participation at its 26th Ordinary Session in Kigali, Rwanda, November 1-15, 1999. I served as rapporteur during the entire session and was a member of the Committee that drafted the final Communiqué and various Resolutions that were adopted by the Commission. This was a great opportunity to experience the regional human rights system at work, [and] to enhance my understanding of the African Charter and the African Commission's procedures. In two weeks, I learned more about the Commission's procedures than I would have learned during a year in class.

"It is through my experience in the Gambia that I began appreciating the diversity of our continent. The Gambia, though a secular nation, is predominantly Muslim and religion appears to have a strong influence on peoples' culture and traditions. The Gambia is still a very rural society, and even places that are meant to be urban still bear a rural character. It is important that anyone intending to come and live in the Gambia is ready for a cultural shock. Ironically, even though I am from Africa, there were times when I felt socially alienated and lonely. However, with time, I made several female friends from the Gambia who would occasionally invite me to their homes or cultural celebrations. On the whole, the internship experience in the Gambia was no doubt a unique learning experience."

- Jennifer Miano '99 LL.M.
Intern, Institute for Human Rights and Development and the African Commission on Human and Peoples' Rights
July-December 1999

"**FROM** October 1999 to March 2000, I served as a legal intern with the International Criminal Tribunal for Rwanda (ICTR), based in Arusha, Tanzania. During this period, I was attached to Trial Chamber I, which was composed of Judge Pillay, Judge Kama and Judge Aspegren, and was assigned to the Judgement Drafting Team. I carried out legal research for the judges on various aspects of international humanitarian law and international criminal law and also assisted in drafting various documents for the Chamber in the case of *The Prosecutor v. Alfred Musema*, (ICTR-96-13-T). I also did research for Hon. Judge

Gunawardana and the Office of the Registrar on several issues, including the working of the ICTR and its contributions to international criminal law, international humanitarian law and international human rights law.

"The legal internship was a very enriching experience. During the internship I was able to follow and participate in the actual working of the ICTR. Until a permanent international criminal court is established, this UN institution, like the International Tribunal for the Former Yugoslavia (ICTY), must be credited for playing an important role in bringing to justice offenders who committed crimes in Rwanda in 1994, and for fighting the culture of impunity for violations of human rights. In addition, both the ICTR and the ICTY are playing a major role of further elaborating the norms of international humanitarian law and international criminal law, both procedural and substantive, as embedded both in conventional and customary international law, and addressing several issues not dealt with by the Nuremberg and Tokyo Trials. The statutes creating the ICTR and ICTY briefly specify the crimes within the tribunals' competence, thereby leaving the tribunals the scope to develop the elements of the crimes."

- George William Mugwanya '00 J.S.D.
Intern, International Criminal Tribunal for Rwanda
October 1999-March 2000

"**TODAY**, June 2, 2000, is my second day in the Peruvian Ombudsman's office, because before that time they told me that I had better not come to the center of the town, as there were a lot of demonstrations and it was unsafe. Work so far has consisted of reading the provisional report that they have drafted on the general situation of the disappeared in Peru in the years 1983-1996. They are now busy with a database of all . . . 6000 cases and they will never be able to investigate them all, as the Ombudsman's office is not a Truth Commission, but the idea is to get as much information as possible [to prepare] for a possible Truth commission one day and to get that general report out. The first draft has to be ready by September, so there is a lot of work for the four lawyers and the four interns.

I will also go to Ayacucho, a province in the inlands of Peru, where the organization with a lot of the original complaints (ANFASEP) is based,

and there we will talk to the mothers, a lot of them Ketchua speaking, but there are some bilingual people. That is probably going to be the most interesting part of my work."

- Selina Kossen LL.M. Class of 2001
Intern, Office of the Ombudsman
Peru, June-August, 2000

During the summer of 2000, J.S.D. candidate **Mary Margaret Penrose** '99 LL.M. is an intern with the Death Penalty Resource Center in Texas. She is working with the lead attorney on drafting a petition for certiorari to the United States Supreme Court.

Sean O'Brien, a J.D. candidate in the Class of 2001, is engaged in an internship with a law firm in Belfast, Northern Ireland.

Following is a list of internships in which the May 2000 LL.M. graduates are participating:

- Babafemi Akinrinade at the Constitutional Rights Project, Lagos, Nigeria;
- Tae-Ung Baik at Human Rights Watch, New York;
- Gaston Chillier at the Open Society, New York;
- Margarita Jenkins at the Inter-American Institute of Human Rights, Costa Rica;
- Sergey Mukhaev at the International Criminal Court for the Former Yugoslavia;
- Helena Olea at Heartland Alliance, Chicago;
- Arturo Requesens at the Inter-American Commission on Human Rights, Washington, D.C.;
- Nazreen Shaik at the International Criminal Court for the former Yugoslavia.



Web Site

For more information on the Center for Civil and Human Rights, please visit the CCHR's web site at www.nd.edu/~cchr/. This site can also be accessed through the law school's home page at www.law.nd.edu.

Faculty and Staff News

JUAN MÉNDEZ, director of the center and professor of law, attended a "contributor's conference" at the United Nations in New York in November 1999. The meeting, convened by the Office of the Human Development Report, provided those in attendance with an opportunity to discuss earlier drafts of several thematic and regional papers that the United Nations will publish in a volume called **BACKGROUND PAPERS**, which will accompany the office's



HUMAN DEVELOPMENT REPORT 2000. Professor Méndez contributed a paper, co-authored with Javier Mariezcurrena, on the state of human rights and democracy in Latin America. The CCHR is circulating the paper as part of its "Occasional Papers" Series, No. 12.

Also in November, Professor Méndez attended a series of events in San Jose, Costa Rica, to commemorate the 30th anniversary of the American Convention on Human Rights and the 20th anniversary of the Inter-American Court of Human Rights. The highlight of this week of human rights observances was a meeting of Foreign Ministers of the Americas to discuss the future of the system of protection. As a member of the board of the Inter-American Institute on Human Rights, he attended a conference held jointly by the IHR and Madame Mary Robinson, United Nations high commissioner for human rights and former president of Ireland, to launch a campaign for ratification of the Inter-American Convention to Eliminate Discrimination against Persons with Disabilities. The First Lady of Costa Rica presided over the conference. At a two-day seminar, organized by the Inter-American Court, Professor Méndez presented a paper on the abilities of the Inter-American Commission on Human rights to conduct on-site visits and to publish country reports on the situation of human rights. A volume containing the proceedings of this seminar will be published later this year. Professor Méndez also lec-

tured on the Inter-American Commission and its jurisprudence at a training seminar for protection officers of the Office of the United Nations High Commissioner for Refugees, co-teaching the class with the Chief Justice of the Inter-American Court, Antonio Cançado Trindade, who presented the case law of that court.

In December 1999, he co-authored with Gaston Chillier '00 LL.M., an article on the Democracy Clause in international law, published in the law review of the School of Law of the Diego Portales University in Santiago, Chile. He also submitted an entry on "Civil and Political Rights and Duties," co-authored with Helena Olea '00 LL.M., for a **DICTIONARY ON ELECTIONS AND POLITICAL RIGHTS** (2d ed., Inter-American Institute on Human Rights).

In January 2000, he spoke on international cooperation to promote democracy and human rights at a Donors Conference in Brussels, Belgium, organized by The Open Society Institute (Soros Foundation), the World Organization Against Torture and the International Cooperation Ministry of Austria. Deliberations on the subject took place in the European Parliament where Professor Méndez delivered a paper on trends and tactics of international development agencies and foundations with an emphasis on Latin America.

Later in January, he participated in a seminar on "Forgiveness and the Law" at the Fordham University School of Law. He delivered a paper, co-authored with the center's associate director, Garth Meintjes '91 LL.M., on the policies of truth and reconciliation that include some measures of clemency and their binding force beyond national borders.

In February and March, Professor Méndez attended his first Period of Sessions as a Commissioner of the Inter-American Commission on Human rights of the Organization of American States. He had been elected by the 1999 General Assembly of the OAS to a four-year term that began in January 2000.

On February 23, Professor Méndez spoke at a Georgetown University forum on human rights. The event was co-sponsored by the Georgetown University Latin American Studies

Program and the Brazilian Embassy in Washington, D.C.

He was nominated to an international advisory board of the International Center for Human Rights and Democratic Development, a Canadian governmental body. Following consultations with Parliament, the Foreign Ministry confirmed his appointment and he began his term with a meeting in Montreal in early March 2000.

On March 15 and 16, in Barcelona, Spain, Professor Méndez lectured on the Inter-American System of Human Rights Protection. His talks took place during separate conferences at the Institut de Droits Humains de Catalunya and the Law School of the Pompeu Fabra University.

On April 6, at the Ford Foundation in New York City, Professor Méndez participated in a forum on Transitional Justice, organized as an experts' meeting to advise the Foundation on setting up a program on accountability for gross violations of human rights.

The University of Dayton selected Professor Juan Méndez as the recipient of the Archbishop Oscar Arnulfo Romero Award for Leadership in Service to Human Rights. When Professor Méndez accepted the award on April 11, he delivered a major address.

DINAH SHELTON, professor of law, published **REMEDIES IN INTERNATIONAL HUMAN RIGHTS LAW** (Oxford University Press 1999). In recognition of this "work of great distinction" the American Society of International Law

awarded it a certificate of merit at its annual meeting on April 6, 2000.

Professor Shelton published *Reparations to Victims*



at the *International Criminal Court* in **INTERNATIONAL CRIMINAL COURT: REPARATIONS TO VICTIMS OF CRIMES (Article 75 of the Rome Statute) AND THE TRUST FUND (Article 79)** (Center on International Cooperation, New York University, 1999).

Professor Shelton was elected a member of the International Council for Environmental Law based in Bonn, Germany.

She was quoted in the April 24, 1999, edition of *THE ECONOMIST*, in an article titled *To Sue a Dictator*. Professor Shelton noted that civil actions to seek redress for human-rights violations are very important for the victims, even if they cannot collect any money. She explained that these cases “establish a court record of their suffering, and of the crimes of their abusers.”

She taught in a training seminar for the United Nations Institute for Training and Research (UNITAR), attended by 35 environmental officials from Pacific Rim nations in Kushiro, Japan, in August 1999.

In September 1999, she presented a paper titled “Human Rights Approaches to Forest Conservation” as part of the third IGES Workshop on Forest Management. She also wrote the final report of that meeting.



PAOLO CAROZZA, associate professor of law, continues his research and writing on European legal systems, focusing on human rights in European supranational and constitutional law.

He also serves as an advisor to *ENCYCLOPEDIA BRITANNICA*, reviewing and revising their articles on law, legal systems and jurists.

He was interviewed on the BBC radio program “The World” in connection with the implications of the Pinochet case.

GARTH MEINTJES '91 LL.M., associate director of the center, received a research grant from the Small Grant Fund of the Helen Kellogg Institute for International Studies to support his project on “Transitional Justice in South Africa: An Evaluation of the Amnesty Criteria and Decisions in



Terms of the Requirements of International Law.” Mr. Meintjes visited South Africa from March 19 to April 2 to interview staff of the Truth and Reconciliation Commission and to attend several amnesty hearings. During that visit, he also met with the Southern African Representative of the Ford Foundation to present proposals aimed at promoting human rights and accountability in Africa. The first, “Strengthening the Framework of Accountability in Africa,” aims to support the develop-

ment of national and regional human-rights institutions and to prepare the next generation of African human-rights professionals. The second, “Professional Development and Support for the International Criminal Tribunal for Rwanda,” seeks to sponsor interns for practical training at the Rwanda Tribunal.

In June, Mr. Meintjes taught a seminar at the International Legislative Drafting Institute, hosted by the Public Law Center at Tulane University. This training program annually attracts more than 60 participants from the legislative drafting departments of various countries. His seminar introduced the participants to the roles and functions of domestic human-rights institutions, and encouraged them to propose the establishment or strengthening of such institutions in their own countries.

Mr. Meintjes published *An International Human Rights Perspective on Corporate Codes*, in *GLOBAL CODES OF CONDUCT: AN IDEA WHOSE TIME HAS COME*, edited by Reverend Oliver Williams (University of Notre Dame Press, 2000).

He co-authored with Juan Méndez *Reconciling Amnesties with Universal Jurisdiction*, in *2 INTERNATIONAL LAW FORUM DU DROIT INTERNATIONAL 76-97* (2000).

He also published *Domestic Amnesty Versus International Accountability*, in *THE PERMANENT INTERNATIONAL CRIMINAL COURT: WILL IT MAKE A DIFFERENCE FOR PEACE AND HUMAN RIGHTS?* edited by Dinah Shelton (forthcoming by Transnational Press, 2000).



ADA VERLOREN '90 LL.M., assistant to the director, continues her research on international labor standards and the responsibility of business for human rights abuses. She has volunteered at the Immigration Clinic and has represented applicants for asylum.

MARILYN IMUS, senior administrative assistant, following the successful graduation of the Class of 2000, has started to make arrangements for another class of J.S.D. and LL.M. students.



UPCOMING EVENTS

On September 8, 2000, Jean-Robert Cadet, author of *RESTAVEC: FROM HAITIAN SLAVE CHILD TO MIDDLE CLASS AMERICAN*, will discuss the human rights situation of Haitian slave children.

At the Human Rights Roundtable on October 5, Professor Karen Engle (University of Utah College of Law) will discuss her forthcoming article *From Skepticism to Embrace: Human Rights and the American Anthropological Association from 1947-1999*.

On October 27, Ambassador J.D. Bindenagel, Special Envoy for Holocaust Issues, U.S. Department of State, and chief behind-the-scenes negotiator of the U.S.-German Executive Agreement on slave and forced labor will present *Negotiating the Recent Agreement on Slave and Forced Labor in Germany*.

A meeting of the American Society for International Law Compliance Project, organized by Professor Dinah Shelton, will take place on November 3-4.

On November 7, Professor Guillermo O'Donnell, the Helen Kellogg chair, Department of Sociology, and professor of government, will lead the Human Rights Roundtable.

Two conferences are being planned for Spring 2001:

- European Union Charter of Rights Conference (with the University of Essex, United Kingdom)
- Prison Reform Conference

For more information, please contact Ada Verloren, by telephone at (219) 631-7982 or by e-mail at Ada.Verloren.1@nd.edu

Alumni News

J.S.D. Graduates and Candidates

Pedro Cavallero, J.S.D. candidate, began work in June 2000 for the National Council of La Raza in Washington, D.C.

George William Mugwanya '00 J.S.D. recently published *Realizing Universal Human Rights Norms Through Regional Human Rights Mechanisms: Reinventing the African System* in *INDIANA INTERNATIONAL AND COMPARATIVE LAW REVIEW*. He presented an original version of the article to a conference on "Standing Together for Human Rights: Commemorating the Universal Declaration of Human Rights (1948)," at Northwestern University in Chicago, Illinois, USA, December 4-5, 1998.

His article, *Expunging the Ghost of Impunity for Severe and Gross Violations of Human Rights and the Commission of Delicti Jus Gentium: A Case for the Domestication of International Criminal Law and the Establishment of a Strong Permanent International Criminal Court* will soon be published in *JOURNAL OF INTERNATIONAL LAW AND PRACTICE* of the Detroit College of Law at Michigan State University. Other forthcoming publications include *Reinvigorating the Struggle for Gender Equality in Uganda: A Case for the Domestication of International Human Rights Standards* in *NETHERLANDS QUARTERLY OF HUMAN RIGHTS*, and *Free Trade Vis-a-Vis Environmental Regulation and Sustainable Development: Reinventing Efforts Towards a More Integrated Approach* in *JOURNAL OF ENVIRONMENTAL LAW AND LITIGATION*, published by the University of Oregon Law School.

Vinodh Jaichand '96 J.S.D. is the National Director of Lawyers for Human Rights (LHR), an NGO now in its 21st year of existence in South Africa. It is an organization that was born in the days of apartheid, that litigated against the apartheid state, and that today makes a major contribution through its eight offices throughout the country. The vision of LHR is to be:

- a leading and effective human rights and constitutional watchdog and advocate;
- an international force in development and delivery of human rights, with the primary focus in Africa; and
- a primary contributor to clear strategic policy on delivery of socioeconomic rights to the disadvantaged.

LHR promotes awareness, protection and enforcement of legal and human rights through the creation of a human rights culture. Since its inception in 1979, LHR has rapidly compiled a proud record of fighting oppression and abuse of human rights under apartheid. It has helped South Africa in its transition to democracy. Today, it is recognized as being the vanguard of society in South Africa's emerging democracy. LHR recognizes that in the post-apartheid era it may be necessary to enter into joint ventures with state institutions to promote its objectives, but the organization has vowed to remain vigilant and maintain its commitment to monitoring and advocating for just causes.

As the national director of the organization since August 1997, Vinodh gives direction to the organization and performs other leadership functions such as fund-raising and interacting at both ministerial and international levels within institutions such as the United Nations. Vinodh reveals that it has been a tremendous challenge for him to make the switch from his academic career, having once been dean of the Law Faculty at the University of Durban

Westville, to working as an activist and strategist for human rights in the new democratic South Africa.

Vinodh delivered a paper on poverty at a judge's training session organized by the judicial service commission. He also attended a precom session at the United Nations on the International Criminal Court.

Toomas Sillaste '95 J.S.D. is a lawyer at the European Court of Human Rights in Strasbourg, France.

His daughter Krista-Marie was born in June 1999.

LL.M. Class of 1989

Johan de Waal is a faculty member at the University of Stellenbosch in South Africa, where he teaches constitutional and human rights law. He co-authored (with Currie and Erasmus) *THE BILL OF RIGHTS HANDBOOK* (2000), and (with Currie) *THE NEW CONSTITUTIONAL AND ADMINISTRATIVE LAW* (2000).

He joined the bar in Cape Town in 2000.

LL.M. Class of 1991

Liesl Fichardt works as an advocate of the Supreme Court of South Africa, specializing in commercial law, and has co-authored a book, *SUPERIOR COURT PRACTICE*.

During the past year she married attorney Robert Bricout.

LL.M. Class of 1992

Pedro Aylwin has his own law firm in Santiago, Chile, which engages in a primarily private-law practice.

Martin Loesch '87, '91 J.D., '94 M.A. lives and works on the land of the Snohomish Tribal Community, a small group of indigenous peoples in the northwestern United States. His work covers many different areas, but right now he is focusing on trying to create the legal infrastructure necessary for them to enjoy better housing opportunities, as well as his usual work on religious and cultural-rights issues. He is involved in United States/Canadian native rights border negotiations and in the development of an indigenous rights legal center.

He recalls that, in 1988, when Father Lewers hired him to help him "restart" the center, the center was really just a two-drawer filing cabinet that contained some of Father Hesburgh's papers and a few random journals, along with a couple of not-too-well-cared-for South African students who came to campus each year as Bradlow Fellows. Martin's job was to sort out that file material, to let people know that the center was in business, and to help Father Lewers plan the center's future activities.

Martin still remembers the day that Father Lewers leaned back in his chair and told him that he was thinking about starting an LL.M. program in human rights law. Eventually, Martin joined the program himself. After graduation, he moved to the private sector to gain some skills and pay off his student loans. He worked for a private law firm in Seattle doing complex civil litigation, and later helped to found a boutique firm engaged solely in that practice. Once he had paid his loans, he left private practice and followed up on the work that he had begun as an LL.M. student, focusing on the religious and cultural rights of indigenous peoples.

He is married to Cyndi Lewis. They are building a house at the moment and invite all of Martin's Notre Dame colleagues to come join in the effort.

Tomas Vial has been studying for a Ph.D. at the Faculty of Laws of University College London since 1997. His thesis concerns the right to information as a human and constitutional right.

LL.M. Class of 1993

Lise Bosman works as a senior associate at the law firm Freshfields in Amsterdam, The Netherlands. She specializes in international arbitrations in the areas of media law, construction, joint ventures and development projects.

Lebugang (Chirume) Mabota is business change manager at BP South Africa.

Her first child turns 5 in September and she is expecting her second child.

Maria Muñoz is a lawyer at the United Nations High Commissioner for Human Rights (UNHCHR) in Geneva, Switzerland. She assists the special rapporteur on the independence of judges and lawyers.

Sim Tshabalala works at Real Africa Durolink Investment Bank, Ltd., in Sandton, South Africa.

LL.M. Class of 1994

Rodney Thomas Dixon works as a barrister at the Chambers of Clive Nicholls, QC, in London. His practice focuses on International Criminal Law and Human Rights. His article, *The Challenges of Prosecuting and Proving International Crimes – Lessons from the International Criminal Tribunals for the Former Yugoslavia and Rwanda*, will soon be published in the *INTERNATIONAL AND COMPARATIVE LAW QUARTERLY*. Another recent article, *Prosecuting the Leaders: The Doctrine of Command Responsibility*, appeared in *MILITARY LAW REVIEW OF THE NETHERLANDS* (1999).

Rosette Muzigo-Morrison is a legal officer at the ICTR in Arusha, Tanzania, and is involved in the trials of perpetrators of genocide and other serious violations of international humanitarian law. She currently helps to manage the court. In the past, she has worked as a legal officer for the prosecutor and as legal counsel for witnesses and victims.

During the past year she has had a daughter, Isabel Heather Kisakyie.

Ronath Ochaeta, formerly director of the Office of Human Rights of the Archbishop (ODHA), has been appointed by Guatemalan President Alfonso Portillo as Guatemala's new ambassador to the Organization of American States. He most recently co-authored a report for the archdiocese titled *RECOVERY OF HISTORICAL MEMORY*, which documented atrocities committed during Guatemala's bitter civil war.

In 1998, Ronnie received the inaugural Reverend William M. Lewers, C.S.C., Alumni Award for Distinguished Service in Civil and Human Rights, recognizing his work to protect Guatemala's most vulnerable people.

His efforts have occasionally attracted death threats but have also earned him an international reputation for courage and integrity. In 1998, *TIME* magazine listed him among its "Global 100" young leaders of the future. In 1999 and early 2000, Ronnie worked for the Inter-American Institute on Human Rights in San Jose, Costa Rica, conducting educational programs in Cuba and Colombia.

Anton Steenkamp is director at Cheadle, Thompson and Haysom, Inc., one of the foremost human rights firms in South Africa, which represents political prisoners and trade unions. In the pre-democracy years, the firm acted primarily for political prisoners, trade unions, the ANC and the broader democratic movement, but its practice has broadened into providing advice for the government on policy issues and legislative drafting. It also retained a strong trade-union focus and still represents Cosatu, the trade union federation, and its affiliates.

Anton engages in litigation primarily for unions. Recent interesting cases include an "equal pay for work of equal value" claim on behalf of a black union member who suffered pay discrimination. The firm has also been involved in a recent case of discrimination on the grounds of pregnancy, and pre-employment discrimination on the basis of HIV status.

Directors in the firm have drafted the new Labour Relations Act, Basic Conditions of Employment Act and Employment Equity Act.

Anton published a chapter (with Azhar Cachalia) on "Detained and Arrested Persons" in Davis, Cheadle & Haysom's *FUNDAMENTAL RIGHTS IN THE CONSTITUTION* (Juta 1997).

On the personal front, Anton and his wife Catherine have two children: Stewart (aged 5 - conceived in the U.S. during Anton's internship at Minnesota Advocates for Human Rights!) and Marion (aged 2).

LL.M. Class of 1995

Jacqueline Cassette works at the Public Protector's Office in Pretoria, South Africa.

Dante Negro has been working for almost five years for the Department of International Law of the Organization of American States (OAS). He is in charge of the Treaty Section of the OAS. Since the OAS is a depository of all the Inter-American Conventions including the human rights conventions, he records the current status of signatures and ratifications to the conventions. His department also gives legal support to different groups within the organization including the General Assembly, the Permanent Council, the Commission of Legal and Political Affairs, and the Inter-American Juridical Committee. In that capacity he is responsible for different subjects including the enhancement of the administration of justice in the Americas, terrorism and indigenous populations.

Judith Robb has been working at Lawyers for Human Rights in South Africa since October 1998. She is project coordinator of the Security of Farm Workers Project and office manager of the Stellenbosch office. The Security of Farm Workers Project assists rural persons whose tenure of security is directly threatened. Since its inception, the Project has assisted over 750 persons in the Western Cape. Most of its clients are farm workers who seek help when they are either told to or forced to leave the farm. The Project enforces indigent rural peoples' rights by relying on specific legislation drafted in terms of the South African Constitution. The legislation used is known as the Extension of Security of Tenure Act 62/97 (ESTA).

No person who has approached the Project for help has been evicted. Judith and her colleagues have successfully managed to stave off eviction, have returned the people to their lands or have negotiated appropriate settlements. They have also received three landmark decisions, two in the Land Claims Court and one in the Labour Court. The most important of these, and potentially of most interest to Notre Dame alumni, is the *Hanekom* case.

In this case, the court confirmed a person's right to family life as enshrined in the legislation. The court also confirmed that women have rights in terms of the ESTA legislation. (Judith notes that it seems ludicrous that this needs to be argued, but unfortunately this is still the case in South Africa.) In consequence, no eviction order was granted in the case as the plaintiff had made out grounds to evict only the husband. As the woman in the case was entitled to remain on the land and no grounds for her eviction had been made out, an eviction order was not granted against her. Based on her right to family life, then, the court refused to grant an eviction order against the husband as it would be rendered meaningless because he could return to the land based on his wife's right to family life. This judgement is really interesting, as the right to family life is not enshrined in the state's constitution, but rather, in legislation drafted in terms thereof. The Land Claims Court had to give content and meaning to a right contained in legislation, thereby extending the floor of rights in South Africa beyond the Constitution. The Center for Civil & Human Rights assisted in this case by doing library searches on the right to family life.

Judith has also been involved during the past year in the establishment of a new law clinic which services the west coast region in the Western Cape, an area where there is extreme poverty and many continuing human-rights abuses among the rural poor. The clinic opened in January 2000 and Judith reports that her work is never dull, always challenging and provides the opportunity to "make a difference."

Judith has published *Customary Law of Primogeniture Upheld in Zimbabwe* in DE REBUS (1999).

On a personal note, she married Jonathan Cohen in April 2000.

Dan Saxon is a legal officer in the Office of the Prosecutor at the UN's International Criminal Tribunal for the Former Yugoslavia, where he helps prepare and present trials of war criminals to the various trial chambers of the Tribunal. He also works on appeals from time to time.

In his spare time, he watches his son play football and helps his wife, who is Guatemalan, with her English lessons.

LL.M. Class of 1996

Andrew John Burrow is a legal adviser responsible for international arbitration at the Iran-U.S. Claims Tribunal in The Hague. He handles claims regarding expropriation, as well as treaty compliance and interpretation. Previously, at the ICTY, he worked for two years for the prosecution on the *Blaskic* case, which resulted in a 45-year sentence for the defendant.

Aurora Ciuca was appointed dean of the law school of "Mihai Kogalniceanu" University, Romania, in June 1999. In 1998, she published her first book, *INTERNATIONAL PROTECTION OF HUMAN RIGHTS* and co-authored another book, *BIOETHICS, SCIENCES OF LIFE AND HUMAN RIGHTS*. In 1999, she defended her J.S.D. thesis and earned the title of "doctor in law." This year, after publishing her book, *INTERNATIONAL PUBLIC LAW*, she started to teach a course in community law, an area of interest to her since Romania has begun negotiations to become a member of the European Union.

Aurora has a particular interest in the revival of the legal profession in Romania. She writes:

The Bar is not merely a profession; it actually represents a social mission with mythological dimensions. The ancient roots of the lawyers of today can

be found in the messengers who were selected among the noblest, most handsome, distinguished and promising young representatives of the archaic collectives and were sent to Olympus to defend humanity by the ritual of sacrifice.

Romania has experienced a revival of the equally noble legal profession. The Romanian Constitution recognizes fundamental rights of each citizen such as the right to defense, as well as free access to justice. These rights include procedural rights as well as the right of each citizen to be assisted or represented by a lawyer. Practicing lawyers have to be committed to the defense of human rights, by combining a high level of professional competence with a civic sense of duty.

To meet all these imperatives, new legislation has since December 1989 provided for an essentially new type of organization for the Bar. According to the old regulations, the legal profession could be practiced only within common offices, while the lawyer had no right to his or her own office. The lawyer's exclusive responsibility concerned not the relationship with the client, but his or her role as delegate of a chamber. The new law for the organization and practice of the legal profession (No. 51/1995) states that lawyers may exercise their profession as sole practitioners, in partnership or in professional firms. The existence of these three structures means, primarily, a return to the tradition of the Bar as a free and independent profession. The law profession is organized in county bars (the City of Bucharest has its own Bar) and all lawyers in the country are members of the Lawyers' Union. Article 2 of the law grants the independence of lawyers who should comply only with the law, professional status and ethics.

The exciting idea of justice has animated without exception all historical periods; the expression in the XVI Century was *Fiat justitia perezat mundi*. When the art and science of speech are granted to truth lovers, the world can be improved and people can become happier. This is our ultimate goal in Romania and it has also been the goal of remarkable representatives of our profession such as Maiorescu, Delavrancea, Titulescu in Romania, or John Adams, Thomas Jefferson and Abraham Lincoln in America.

Maha El-Taji is currently a doctoral student in Near and Middle Eastern Studies at the University of Washington. She also works as a part-time investigator at the Washington State Human Rights Commission, where she investigates employment discrimination cases based on race, color, nationality, sex, disability, age and marital status. In 1999, she received a Foreign Language Assistance Scholarship to study Hebrew at Haifa University in Israel over the summer. She has just been awarded a Social Science Research Council International Pre-Dissertation Fellowship to study in Israel for one year, during which time she will focus on the rights of Arab minorities in Israel.

Martin Ölz is working as Human Rights Adviser in the Office of the Legal Adviser of the Federal Ministry for Foreign Affairs in Vienna, where he deals mainly with human-rights matters in the United Nations as a member of the Austrian delegation to the Commission on Human Rights and the Third Committee of the General Assembly. He also helps to prepare submissions by the government to the European Court of Human Rights in Strasbourg.

Last fall, he finished his doctoral thesis at the University of Innsbruck, and in January 2000, received his doctor of laws degree, *summa cum laude*. His thesis on NGOs in international human rights law builds on a paper that he wrote during his year at Notre Dame on NGOs in regional human-rights systems, which appeared in the COLUMBIA HUMAN RIGHTS LAW REVIEW. The thesis will be published as a book during the summer of 2000.

On May 1, 1999, he married Marylin Risson of France.

LL.M. Class of 1997

Mohamed Abdel Aziz Gadelhak Ibrahim, a judge in Cairo, Egypt, came to the United States for a two-month training program with an Eisenhower exchange fellowship during March 2000, and visited the center.

Lugely Vanessa Cunillera works as a lawyer at the Center for Justice and International Law (CEJIL) in its offices in San Jose, Costa Rica. She recently published *A Non-Governmental Perspective Regarding the International Protection of Children through the Inter-American System of Human Rights Protection*.

Gabriela Salgado Gomez is a legal officer at the ICTY, where she has worked on cases against Bosnian Croats Martinovi and Naletili, as well as Serb Stanislav Gali.

David Sargsian works as a senior lawyer at the PriceWaterhouseCoopers/USAID Capital Markets Development Project in Armenia. He is responsible for the legal analysis, legal information and drafting of the legislation in the field of the securities, privatization and joint stock companies. He participated in the legislative development of the security market in Armenia. He conducted training of the staff of Securities Market Inspectorate on the securities and joint-stock company legislation. He provided assistance to foreign experts on issues of the Armenian legislation, participated in several meetings with the relevant Armenian officials from the National Assembly and Government on the issues of the development and drafting of the securities legislation, and worked on the SRS project aimed at the privatization of the state residual shares through the professional participants of the securities market. He also co-operated with other projects in Armenia, working in the field of privatization, energy, and accounting reform.

He recently published a *Paper on Organized Crime* in a collection of essays titled CORRUPTION IN CENTRAL EASTERN EUROPE AT THE TURN OF THE MILLENNIUM.

David also lectures to the students of the branch of the Moscow Institute of Statistics and Economy on international law, criminal law, criminal procedure law and basics of law.

Finally, he is a candidate for the degree of Doctor of Juridical Sciences at the Law Department of Yerevan State University in the field of international criminal law.

Katharine Savage practices employment law and constitutional law in Johannesburg, South Africa. She recently published a chapter in a book on NEGOTIATING SOUTH AFRICA'S FINAL CONSTITUTION. She also co-authored an article in the SOUTH AFRICAN JOURNAL OF HUMAN RIGHTS titled *A Duty to Answer Questions? The Police, the Independent Complaints Directorate and the Right to Remain Silent*.

LL.M. Class of 1998

John Blakeley '97 J.D. has opened a law office specializing in U.S. immigration and naturalization law in South Bend, Indiana. John handles applications for asylum, permanent residence and visas, deportation cases, and cases under the Convention against Torture.

Willem H. Gravett is an attorney with White & Case, L.L.P., in New York, New York, working on international project finance and bank finance.

Shanti Kaphle works as a consultant on human-rights awareness, advocacy and promotion in East Africa and South Asia for the United Nations and other local organizations. Representative projects include the campaign against female genital mutilation in Somalia, and providing training to a local community group on human rights in Somalia. She has researched Islam and human rights in support of a project to provide training for UNICEF staff members in Somalia, focusing on UNICEF's responsibilities to deal with human-rights violations, to protect women and children, and to develop future human-rights programs.

Agnes Mabotja works as a judge's clerk at the South African Constitutional Court.

Bernal Monge Guevara is a program officer at the National Ombudsman's Office (Defensoria de los Habitantes de la Republica) in San Jose, Costa Rica. He is involved in the program on justice administration and the program on ethnic groups and racial discrimination.

Michael Nader '97 J.D. clerks for Honorable Daniel Manion of the United States Court of Appeals for the Seventh Circuit in South Bend, Indiana.

Chan Un Park is director of international human-rights affairs of Minbyun, the largest human rights lawyers' NGO in Korea. In 1999, an important task of the organization was to inform the ICCPR Committee in Geneva of the Korean human-rights situation and to submit a counter-report to the Korean government's human-rights report. Delegates from the organization, including Chan, went to Geneva to lobby at the Committee. They informed the Human Rights Committee members that the National Security Law was the biggest obstacle for human-rights protection since the 1950 Korean War. Their mission was so successful that most concluding observations by the Committee reflected their draft recommendations. The Committee, having found that the law was not in conformity with international human rights norms, recommended that a specific article be revised immediately and the that law ultimately be abolished.

In support of an agreement between UNHCR and Minbyun, the organization also provides asylum-seekers with legal assistance. Chan filed the first asylum claim in the Seoul district court in February last year.

In 1999, he published a textbook on international human rights law, the first work in this field in Korea. The book articulates universal protection of human rights, regional mechanisms of human rights protection and recent issues such as the permanent international criminal court.

Since the spring semester of 2000, Chan has been an adjunct professor of law at the University of Seokyoung in Seoul, teaching international human rights law. He also presented a four-hour special lecture at the Judicial Training and Research Institute of the Supreme Court to train people who passed the bar exam.

Mariela Tenenbaum is an attorney at the Federal Court of Appeals in La Plata, Argentina. She practices criminal law, constitutional law and international human rights law. She was invited to teach a seminar on international human rights law to judges, prosecutors and public defenders of the Province of Buenos Aires, Argentina.

Mariela gave two talks about "The Inter-American System of Human Rights" to law students and to social science students respectively at the La Plata National University.

She was invited to participate in the editorial review board of the new journal called REVISTA ARGENTINA DE DERECHOS HUMANOS (Argentine Journal of Human Rights), which will be published by the Human Rights NGO CELS (Centro de Estudios Legales y Sociales) and the National University of Lanus.

LL.M. Class of 1999

Malose Mahloko works as a human-rights researcher at the South African Human Rights Commission, monitoring socioeconomic rights.

Jennifer Wanjiku Miano is an advocate/lawyer with the Legal Advice Center (Kityo Cha Sheria) in Nairobi, Kenya. She specializes in public legal education, public interest litigation and environmental issues. She presented two papers at awareness workshops in Nairobi on "The Silent Crime - Child Sexual Abuse" and "Rape and the Law in Kenya."

Paul Nana Simo is an associate in Africa Programs, International Human Rights Law Group, in Washington, D.C. He works on program activities in Burundi, as well as in Congo and Nigeria. These programs focus on capacity building for national human rights groups, training in legislative advocacy and designing models for the delivery of legal aid services.

Peter Tomas Morgan '98 J.D. works as a staff attorney in the Domestic Violence Project at the Legal Services Program of Northern Indiana in South Bend. In this grant-funded project that started in October 1999, he performs all types of civil litigation for victims of domestic violence. He works primarily on protective orders, dissolution of marriage and issues of custody and support of children, and hopes to use the Violence Against Women Act and other civil remedies to protect his clients.

LL.M. Class of 2000

Sharelle Aitchison LL.M. '00 is part of the United Nations Interim Administration Mission (UNMIK) in Kosovo.

Other Center Personnel News

Kelly D. Askin, a visiting scholar at the center 1996 - 1999, is working at the ICTY Chambers in The Hague.

Mark Yoshida '94 J.D., research assistant at the center, is program director of the Immigration and Citizenship Unit of Asian Pacific American Legal Center of Southern California, the largest civil rights organization serving the Asian Pacific Islander communities. The unit provides legal services and representation, contributes to advocacy efforts, conducts community education programs, collaborates with community-based organizations, community leaders, elected officials, and government agencies, and participates in litigation.

S T U D E N T P R O F I L E

George William Mugwanya Earns J.S.D. Degree

George William Mugwanya received his J.S.D. degree in May 2000 for his dissertation titled "Human Rights in Africa: Enhancing Human Rights Through the African Regional Human Rights System."

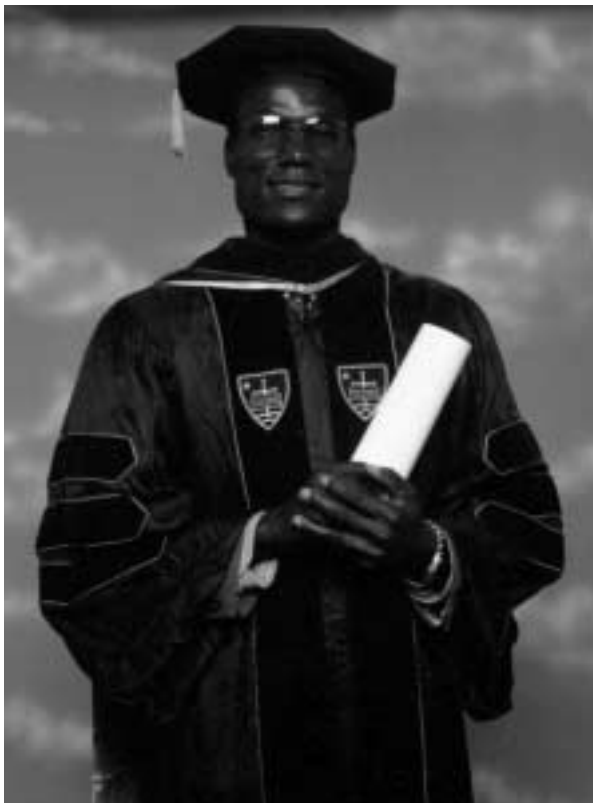
Mr. Mugwanya's dissertation evaluates the promise of the African regional human-rights system in the on-going search to realize universal human-rights norms in Africa. It argues that the African regional human-rights system, established by the African Charter on Human and Peoples' Rights, is essential for aiding human rights in Africa. Regional systems in Europe and the Americas have been widely accepted, but the adequacy of the African regional system is sometimes doubted. His dissertation demonstrates that the African system possesses an adequate normative foundation, and that it establishes institutions, mechanisms and procedures to enhance human rights in Africa. In practice, the African Commission on Human and Peoples' Rights has sometimes responded actively and creatively to violations of human rights. The establishment of an African Court of Human and Peoples' Rights further enriches the promise of

the African system. Building on the present foundations, Mr. Mugwanya's study concludes by recommending measures to strengthen the African system.

States have the obligation to give effect to human rights protections, but inter-governmental instruments, institutions and structures at the global and regional levels are indispensable as a last resort or safety net for individuals when governments fail to respect international human rights norms. Mr. Mugwanya's study argues that the global system, as established by the United Nations, plays an essential role in the realization of human-rights protections in Africa. The dissertation also points out several factors that may take regional systems, including the African system, well beyond merely complementing the global system to being actually more effective than those systems. Institutional, financial and political impediments undercut the ability of the global system to protect human rights. Many of these limitations are absent or less pronounced in regional systems, including the African system. In several instances, the African Commission has been active and creative, surpassing the work of global institutions, making the African system not only complementary but also more effective than the global system. Compared to its response to violations in other regions, the UN has not adequately responded to violations of human rights in Africa, thus underscoring the need for regional initiatives to

supplement the global system. Mr. Mugwanya's study demonstrates the need to deepen cooperation between the UN and the African regional human rights system.

The study adopts descriptive, prescriptive and comparative methodologies, draws upon primary and secondary sources, and meshes theory with practice. Comparative analysis helps determine the extent to which the African system has drawn upon and may be further inspired by the global human-rights system and by other regional human-rights systems that monitor the implementation of international human rights norms. The comparative analysis also facilitates a determination of the extent to which domestic institutions draw from the jurisprudence and the experiences of inter-governmental human rights institutions, especially those established by the African regional human-rights system. Mr. Mugwanya uses South Africa and Uganda as case studies to illustrate the human rights problem on the African continent, including those created by so-called democracies and liberal regimes. The two case studies help to appraise the functionality of both the global and regional human-rights systems. The study also briefly evaluates events and experiences from other countries in this context. The study recommends that, to be effective, the African system needs to be evenhanded, responding to human-rights situations on the continent without excluding enforcement against or otherwise exonerating so-called democracies or liberal regimes.



Mr. Mugwanya's dissertation evaluates the promise of the African regional human-rights system in the on-going search to realize universal human-rights norms in Africa. It argues that the African regional human-rights system, established by the African Charter on Human and Peoples' Rights, is essential for aiding human rights in Africa.

Alumni Information Update Center for Civil and Human Rights

Date _____

Name _____ L.L.M./J.S.D. graduation year(s) _____

Home address _____

City _____ Country _____

Home telephone _____ Home fax _____

Professional title _____

Area of practice _____

Organization name _____

Business address _____

City _____ Country _____

Business telephone _____ Business fax _____

Email _____

Representative projects or cases _____

Recent publications _____

Personal news within past year _____

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