

# RIGHTS REVIEW

A forum for students involved in the International Human Rights Program at the University of Toronto Faculty of Law

Volume 1, Fall 2008

## US Supreme Court Overrules White House

Javier González

Anglo-American law has historically recognized a prisoner's right to demand through a writ of *habeas corpus* that her jailor justify her imprisonment. In the recent *Boumediene v. Bush* decision, the United States Supreme Court held that such a right extends to Guantanamo Bay detainees. This is the first time US law has recognized that foreigners imprisoned abroad have access to the *habeas* protections.

The Supreme Court has waged a legal battle against Congress and the White House over the rights of Guantanamo detainees since 2004. A number of decisions expanding detainee rights have been undermined by subsequent legislation. For instance, in *Rasul v. Bush*, the Court held that Guantanamo prisoners could bring *habeas* petitions to American courts. In response, Congress passed the Detainee Treatment Act (DTA), which specifically denied such a right. When the Court held that the DTA did not apply to petitions filed before its enactment, the legislature responded with a provision declaring that the DTA

indeed applied retroactively.

Writing for the majority, Justice Kennedy held in *Boumediene* that Guantanamo detainees were entitled to the writ. The American Constitution provides in the "suspension clause" that Congress may suspend *habeas* protections during an invasion or a rebellion. The 9/11 attacks constituted neither, so the key question shifted to whether the right extended to alien prisoners held by US forces outside the country. Justice Scalia, in a forceful dissent, argued that since the Constitution was unclear on this point, the ambiguity should be resolved by Congress, the people's representative. He criticized the majority for its judicial activism and predicted that the decision "will almost certainly cause more Americans to be killed."

Kennedy held, however, that "the test for determining the scope of this provision must not be subject to manipulation by those whose power it is designed to restrain." He adopted a more pragmatic test, declaring that the writ should be available unless it

would be "impractical and anomalous" to grant it. This standard would be met in most military missions abroad, but not in Guantanamo, where granting the writ would be of little military consequence. [CONTINUED ON PAGE 11]

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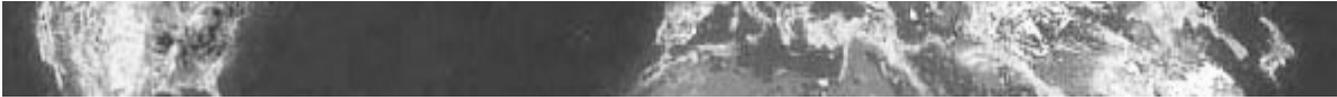
SPEAKER SERIES REVIEW

UPCOMING HUMAN RIGHTS EVENTS

ALUMNI INTERVIEW: JENNIFER STONE



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## NOTE FROM THE EDITORS

This, the inaugural issue of *Rights Review*, the IHRP's human rights newsletter, has come at an interesting time. Even the most passive observer of the world around her could not help but notice the immense flux that has occurred since the school year began in September. Economic angst and despair unlike any that has been seen in decades has been matched only by the hope and expectations arising from the election south of the border. While the financial meltdown and election of Barack Obama are certainly watershed events, the attention lavished upon them emphasizes the importance of this very publication.

Even at the best of times, humanitarian causes have little staying power in our collective consciousness. In the past months Darfur, Zimbabwe, Burma, China, Serbia, and Georgia have all experienced fifteen minutes on the front pages. The Congo currently occupies the media's spotlight, but it is only a matter of time before our attention span lapses once again and we move on, perhaps to focus on the coming famine in Ethiopia. Perhaps not. A fleeting interest in human rights issues will surely be exaggerated by the changes occurring closer to home.

If human rights are indeed fundamental to a dignified human existence, it is vital that they not be overshadowed by seemingly more pressing matters. The current economic strife is sure to affect all of us, but sustained pressure for the enforcement of human rights must not take a backseat during the trials that lay ahead. One need look no further than the case of Omar Khadr to see how human rights are subsumed in crises of security, and there is no reason to think things will be different in a climate of fear created by an economic crisis. We law students represent a human rights vanguard, and never has it been more important for our voices to be heard. If we do not maintain focus while the world's attention is elsewhere, who will?

These pages contain a miscellany of information about events and issues pertaining to human rights in and around the faculty of law and beyond. The *Rights Review* provides an exciting new student forum for students interested in the IHRP. Contributions from students and alumni will hopefully shed light on the activities of the IHRP, which includes the human rights clinic, working groups, speaker series and internships. It is also with great sincerity and sadness that we direct you to our commemoration of Gurnam "Sunny" Sodhi, a valued member of our community who passed away tragically this fall. We would like to thank Sunny's family for their assistance in preparing the tribute.

As with any inaugural issue, growing pains are a part of the process, and any and all feedback is welcome at our email address [ihrprightsreview@gmail.com](mailto:ihrprightsreview@gmail.com)

Sincerely,

Ben Kates & Nicole Simes



# INTERNATIONAL HUMAN RIGHTS CLINIC WORK

*Candice Telfer*

Our International Human Rights Clinic offers students a unique opportunity to engage with human rights litigation in a variety of fora, from the Supreme Court of Canada to the European Court on Human Rights, the Inter-American system, and various UN bodies. Our members counsel clients, write facta, advise other lawyers and advocacy

**“...I believe that client advocacy and policy change initiatives must work hand-in-hand to bring about real, robust, human rights protections.”**

groups, and have even gone to Guantanamo Bay to observe illegitimate military commissions. Pretty heady stuff for students actively working towards careers in rights protection.

For those of us more interested in advocacy—pressure on governments to create legislative and policy change—than in litigation, the IHRC also provides hands-on projects to develop alternative advocacy skills. I, for example, have a particular interest in socio-economic rights as human rights, and in giving content to obligations under international social, economic and cultural

rights treaties. I was thrilled, therefore, to learn that the IHRC is working with Professor Trudo Lemmons to develop a policy paper for the Pan-American Health Organization (PAHO) on the rights to health and to benefit from scientific advancement in the Inter-American Human Rights system. Through my involvement with the IHRC, I am able to be a part of this hugely important project.

Imagine you are a subsistence farmer living in Ecuador, and you are diagnosed with cancer. You manage to see a doctor for treatment, who offers you a new drug therapy, at no cost or for very little cost, that has the promise of sending your cancer into remission and allowing you to continue working and feeding your children. All you have to do is check in regularly so you can be monitored. What you don't know is that this doctor is on commission with a large American drug company, and the drug offered to you is an experimental one that has shown significant adverse effects in clinical trials. You take the drug, which – although it battles the cancer inside of you – also degrades the lining of your intestinal track. You suffer from severe cramping and diarrhoea, and eventual haemorrhaging. After a few months of continued use, you suf-

fer irreparable harm to your large intestine; you may even die.

Given that this drug may have been your only chance of a favourable outcome, would you have taken it anyway, knowing the risks?

Drug companies cling to patent protection and confidentiality to protect adverse trial results, and hide behind TRIPS to pressure governments in developing countries to put the needs of big-pharma before those of citizens. Our aim in this project for PAHO is to explore ways to create opposing pressure on governments, and to remind them that their human rights obligations stand in priority over the bottom-line of pharmaceutical corporations.

Advocacy takes many forms. Standing for a client in a courtroom or before a tribunal, or writing the most persuasive and informed  
[CONTINUED ON PAGE 11]



*Big pharma exploits developing countries for their trials*

## 60<sup>TH</sup> ANNIVERSARY OF UNIVERSAL DECLARATION OF HUMAN RIGHTS

ON DECEMBER 10, 1948 MEMBERS OF THE UNITED NATIONS MET IN PARIS TO SIGN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. THE PURPOSE OF THE DECLARATION WAS THE ‘RECOGNITION OF THE INHERENT DIGNITY AND OF THE EQUAL AND INALIENABLE RIGHTS OF ALL MEMBERS OF THE HUMAN FAMILY’. THIS DECEMBER WE CELEBRATE THE 60<sup>TH</sup> ANNIVERSARY OF THAT MOMENTOUS DAY.

# SOLIDARITY WITH BURMESE LAW STUDENTS: THE CASE OF HONEY OO

Ben Kates



Burmese Law Student Honey Oo

Honey Oo, a 21-year-old law student, was arrested in October 2007 for forming a student union, partaking in the Saffron Revolution protests and for speaking to foreign radio about those protests. She was held for over two months without being charged and was convicted at trial of sedition and violating the illegal associations law. The scant evidence against her failed to address her otherwise solid alibi. Her case is representative of the Burmese government's contempt for its obligations to both domestic criminal law and international human rights law. A law student like any of us, Honey Oo has been deprived of her personal freedom for exercising her most basic human rights.

## Burmese Law and Procedure

Honey Oo was arrested without a warrant for allegedly committing a non-cognizable offence despite the fact that s.54(1) of the *Burmese Code of Criminal Procedure* (CCP) requires a warrant for arrests of non-cognizable offences. She was held without charge at Rangoon's notorious Insein Prison from

October 9 - December 10, 2007 contradicting s. 167(2) of the CPP which provides for a maximum detention of 30 days without charge.

The sole evidence referred to by the presiding Law Officer regarding Honey Oo was an unsigned police statement that she allegedly made while in custody. This illustrates that Burmese courts are hearing evidence in violation of the *Evidence Act* ss. 25 and 26, which forbids the court from finding against a victim based on a confession rendered while in custody. Furthermore, numerous witnesses, none of whom were allowed to testify at Honey Oo's trial, insisted that she was writing a law school exam at the time that the prosecutor's witnesses claim she was leading a protest. These irregularities are in violation of the *Evidence Act's* stipulations at s. 60.

The authorities should have released Honey Oo prior to her trial based on s.169 of the CCP, which stipulates that if there is inadequate evidence to make a case against an accused, he or she should be released from custody. Additionally, the *Attorney General's Rules And*

*Regulations* Regulation 51 Chapter 6, requires cases referred to the Law Officer be accompanied by a) First Information Report or Direct Complaint; b) Prosecutor and De-

**“A law student like any of us, Honey Oo has been deprived of her personal freedom for exercising her most basic human rights.”**

fence Side Witness Statements; c) Confessions; and d) Relevant Facts, Documentation, Photos and other such Evidence.

The fact that Honey Oo was tried only on hearsay evidence and a falsified police statement indicates a failure of the prosecutor to satisfy the requirements, stated in the *Instructions to the Prosecutor (2001)* 1/2001 at Chapter 7, that the officer in charge of a case analyse and guarantee facts as correct and relevant to the law.

Finally, Honey Oo was convicted of both sedition and illegal association, although both charges were framed on the same facts. This is contrary to the *Burmese Penal Code*, at s. 71 which explicitly forbids the overlapping of offences in a manner that exceeds the maximum sentence for a given offence.

[CONTINUED ON PAGE 11]



Burmese Saffron Revolution September 2007

# IHRP: SPOTLIGHT ON WORKING GROUPS

## SEXUAL ORIENTATION AND GENDER IDENTITY WORKING GROUP (SOGI)

SOGI was formed to address the persecution faced by sexual minorities around the world. This fall, we launched the "Refugee Law Project." Students partner with Toronto lawyers, providing them with research and support for urgent refugee files. It has only been one month since this project has been operational, but the response of the refugee bar has been overwhelmingly positive. In this short time span, SOGI volunteers have completed research on five refugee cases that will be heard before the Immigration and Refugee Board (IRB) this semester.

These files include:

- Research on state and police corruption and homophobia in Mexico for a lesbian fleeing a violent ex-lover;
- Research on country conditions relevant to a gay refugee-claimant from Uruguay;
- Research for a gay man fleeing religious, societal and family persecution in Pakistan;
- Research for a lesbian escaping from her violent ex-husband in Jamaica;
- Research on country conditions for lesbians in Brazil for a refugee claimant from there.

Volunteers are also working on two different legal questions for judicial review of negative IRB decisions to Federal Court.

SOGI was hopeful when we launched the Refugee Law Project that we would be able to benefit Toronto's sexual minority refugee community. The fact that we have received seven requests in only four weeks highlights a real need for supportive research. It is our hope that this research encourages lawyers to take on more cases of this kind and ultimately helps more individuals suffering persecution find safe refuge in Canada.

## OMAR KHADR PROJECT

The Omar Khadr Project started this August but already we've been busy. As most of you know (but hey, just in case) Omar Khadr is a Canadian who has been held by the U.S. at Guantanamo Bay for over 6 years. After years of detention without trial, enduring abuse widely considered to include torture and degrading treatment, Omar is now being prosecuted for what the U.S. calls "war crimes" allegedly committed when he was 15. The Military Commissions system, in which Omar's "trial" is set to begin in January, breaches due process rights and the rule of law in ways too numerous to try to count here.



*Omar Khadr*

Since legal challenges to Omar's detention have not achieved his repatriation, our working group is focusing on social activism. First we made a website [www.omarkhadrproject.com](http://www.omarkhadrproject.com), to promote understanding about Omar's case and create a hub for action. Then we started to build a network of students, with 13 Canadian law schools involved so far. We started a law student petition – well over 1/3 of U of T students have signed, and we hope to have majority support by the end of the semester.

Collaborating with other groups has also been productive. We've taken part in actions together with a new national coalition in support of Omar's repatriation, such as a rally on October 5<sup>th</sup> outside the U.S. Consulate. Recently two of our members attended Omar's last pre-trial hearing at Guantanamo through the International Human Rights Clinic. Our latest initiative aims to unite Canadian voices to lobby President elect Barack Obama, who has pledged to close Guantanamo. Security and criminal justice need to be pursued within the law, not by sending people to a legal black hole.

**Other UofT IHRP Working Groups:  
Global Anti-Trafficking Working Group  
Law and Armed Conflict Working Group**

# GURNAM “SUNNY”



On Saturday, September 21, 2008, Gurnam had a severe allergic (anaphylactic) reaction while having dinner with friends in Toronto. The reaction was very sudden and very severe, and sadly he passed away.

Gurnam was in his final year of law school at the University of Toronto and had a passion for international humanitarian relief. He recently returned from two summer internships abroad. First, he worked with Médecins Sans Frontières in Amsterdam, where he investigated crimes against humanity in Sudan and other regions of the world, and second, he interned at a large law firm in India, AZB Partners. These summer internships added to an already impressive background in international humanitarian work, including 9 months in Banda Ache, Indonesia with MSF to assist with post-tsunami relief efforts, and a summer in Zomba, Malawi in 2007 with Dignitas International to work on implementing community-based healthcare programs.

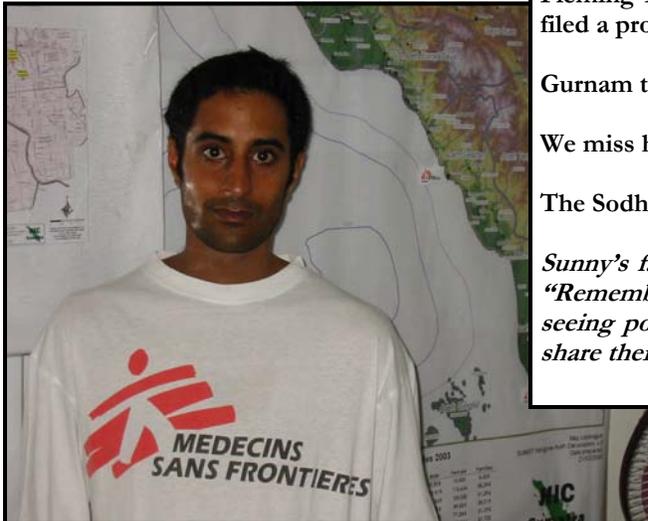
He also had an undergraduate degree in Systems Design Engineering from the University of Waterloo (Class of 2003), where he won the Sanford Fleming Excellence in Design award for an engineering project he later filed a provisional patent for.

Gurnam touched many lives and his memory continues to flourish.

We miss him so much.

The Sodhi Family

*Sunny's family has asked that we direct attention to the Facebook group "Remembering Gurnam (Sunny) Sodhi (1979-2008)". They very much enjoy seeing posts from his friends and colleagues and encourage everyone to share their memories and photos of Sunny.*



“Sunny and I stumbled upon each other's paths one day on a dusty road in Zimbabwe. Our wild day rafting the rapids spilled over into a long evening of beers, belly laughs and grab-your-arm-and-look-you-square-in-the-eye conversation.

In the single day we spent together, he made his mark. I think the same can be said of his time on Earth: it was short and leaves you longing for more, but his impact won't be forgotten.”

“...I can't believe Sunny is gone! I also remember him from our days in Morrish and Highland Creek, he was always the smartest, brightest, friendliest, and humorous of the bunch ... I always remember him pushing his S.O.D.H.I system at such a young age, I was thinking he was gonna win the Nobel someday...”

*The S.O.D.H.I. system was a “Solar Operated Device of Higher Intelligence” which is a perpetual battery system that never needs recharging.*



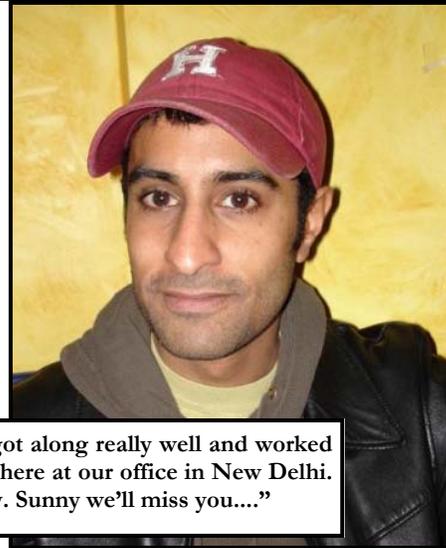
# SODHI 1979-2008



"I met Sunny during his training at our law firm in New Delhi, and we got along really well and worked together on a number of projects..... He surely left a mark with everyone here at our office in New Delhi. It's shocking to hear this... My sincere thoughts and prayers for the family. Sunny we'll miss you...."

"We're all very saddened here by the sudden death of Sunny. He was such an enthusiastic and lively person, and committed to MSF's ideas and work. It was a great pleasure to have him in the office in Amsterdam this year, and he made an impression on all who worked with him. His strong intelligence, warmth and motivation were obvious. It is tremendously difficult to come to terms with an event like this..."

On behalf of the management team of MSF OCA, we send out deepest condolences to you all, and especially Sunny's family, at this very difficult and painful time. Our thoughts and profound sympathies are with you."



*The following excerpt was written by Sunny in a job application to the United Nations Development Programme (UNDP)*

I want my next career to be a marriage of my passions, what the world needs, and the areas where I excel. I believe a career at UNDP will address all three... I am fervent about making a difference in the world, and I believe that my "value added" skills include negotiations, operations management and applying both my formal engineering and law school training to development efforts.

In 2005, I worked on the Tsunami Relief Effort with Médecins Sans Frontières Holland (MSF) as a field logistician in Banda Ache, the hardest hit region of the world. On a particular mission, I was asked to initiate operation in a remote area where rebels were known to have a strong foothold. I was only granted a three day visit to the area, and was therefore under considerable time pressure to mediate discussions between key decision-makers, identify and address their primary reasons for resisting our efforts, and arbitrate arguments regarding where our site should be set up. Using my negotiation skills, I was able to generate a consensus among all the parties which allowed our project to move forward.

More recently in 2007, I worked with Dignitas International, a Canadian HIV/AIDS NGO implementing community-based care program, in Zomba, Malawi. As the Logistics Coordinator, I was given a great deal of responsibilities, which included building facilities, procuring drugs, importing supplies, and managing a local staff of 40 people. Working within the severe resource constraints of the local health care facilities, I had the opportunity to further develop my skills in effectively managing development operations....

Each of my experiences have complemented one another, allowing me to bring a unique perspective to a team.... I am focused on achieving outcomes and will apply the necessary due diligence to produce the best possible results. I would certainly look forward to applying my skills, knowledge and energy towards building a productive and fulfilling career with UNDP.



# IHRP: THE INTERN EXPERIENCE

## Intern Rebekah Church M.C. Mehta Environmental Foundation

Last summer I worked with the M.C. Mehta Environmental Foundation in New Delhi. During my time there I was involved with a case challenging the legality of hydroelectric dams under construction in the Himalayas, near the glacial sources of the Ganges River. The dams threaten to displace local populations, damage the fragile Himalayan ecosystem, and prevent millions of Hindus from engaging in traditional cultural practices. They are also predicted to amplify the negative impacts of climate change by disrupting the region surrounding the Himalayan glaciers and increasing damage from flooding. As such, one of the primary issues in this case is how the Indian government will mitigate the impacts of climate change through energy and development policies.

My role in the case included preparing research and drafting documents for submission to the court. To gain political support for the campaign I produced campaign material, press releases and corresponded with Indian policy makers. Though the construction of the dam projects has been temporarily suspended, the case is ongoing.

I also compiled research on Indian and international policy related to climate change, and assembled scientific research on the impacts of global warming in South Asia. This body of research will provide a knowledge base for MCMEF to defend the rights of the victims of climate change.

I greatly appreciate that I had the opportunity to spend the summer collaborating with passionate people who have dedicated their lives to working for social and environmental justice.



Map of Himalayan Hydroelectric Dam Project

## Intern Laura Tausky Urban Landmark

During a visit to an informal settlement in Soweto, Johannesburg I passed a shack that announced itself as “Justice Tuck Shop.” The bright red (Coca-Cola sponsored) sign stood out against a backdrop of dirt roads, barbed wire fences and corrugated tin homes. The use of the word ‘justice’ seemed ironic and acrimonious in such a setting. The apartheid legacy has etched itself onto the landscape of South Africa and the extreme disparities in wealth, as well as the lack of spatial integration, remain prominent features of South African cities, and continue to undermine the ideals of the new South Africa.

The South African constitution is unique in that it provides a positive right to adequate housing. Years of government intervention under the apartheid regime created an urban land distribution pattern that forced non-white South Africans to live in designated ‘township’ areas at the margins of the city. The legal and regulatory framework reflected this racial stratification and left a legacy of poorly serviced townships in peripheral locations (in Cape Town, golf courses were used as a buffer between the city and the townships). Ironically, the legislation relating to township establishment remains part of the land management protocol, despite the fact that it was designed to sustain a system of segregation, in stark contrast to the current government imperative to promote integration. Within this context, Urban Landmark pursues the imperative to make [CONTINUED ON PAGE 11]



South Western Township, Johannesburg

# FROM OLIVE GROVES TO COURTROOMS TO LAW SCHOOLS

*Brendan Morrison & Sabrina Bandali*



*Justiciable in Canada?*

On the evening of Tuesday October 28<sup>th</sup>, roughly 100 members of the law school and the wider UofT community gathered in the BLH to discuss a novel way of affecting human rights in foreign territories through domestic action in Canadian courts.

In July 2008 the village of Bil'in launched a civil tort claim against two Canadian corporations in the Superior Court of Quebec. Green Park International and Green Mount International are registered Quebec companies that have been involved in the construction, marketing and selling of apartment and condominium buildings for Israeli settlements on land confiscated from the village, acts alleged to be illegal under international law. The joint presentation sponsored by the Faculty of Law's International Human Rights Program (IHRP) and the Arab Canadian Lawyers Association (ACLA) brought members of Al-Haq, the oldest human rights organization in the Arab world, to the law school to discuss the litigation and the larger context of settlements in the Occupied Territories.

Three members of Al-Haq began the discussion by outlining the case against the Israeli settlements as violations of international law. One member of the panel and a UofT Law graduate, Dylan Smith, condemned the Israeli High Court of Justice's decision to declare settlement issues non-justiciable. Smith, who first worked for Al-Haq on an IHRP internship and has since accepted full employment, argued that the High Court has consistently acted as a rubber stamp for what he considers to be illegal Israeli policies in the Occupied Territories.

In the Bil'in litigation, equal doses of creativity and legal manoeuvring have been required: Mark Arnold, the Canadian lawyer representing the village and named plaintiffs in the Quebec litigation, originally considered filing the suit on criminal grounds. He worried that a criminal allegation would require the Attorney General to authorize the RCMP to conduct an investigation in Israel, which may not be practicable. So Arnold returned to an old torts textbook for inspiration: in it he was reminded of the fact that the category of tort is not closed and that there remains on the books a seldom-used tort of statutory breach. Given the presence of domestic legislation like the Geneva Convention Act and the Crimes Against Humanity Act, Arnold intends to base the Bil'in claim on the grounds of negligence and wilfully violating international and Canadian law.

## HUMAN RIGHTS SPEAKERS AND EVENTS IN TORONTO

### **IHRP SPEAKER:**

**PROF CHRISTINE CHINKIN**

LONDON SCHOOL OF ECONOMICS AND  
POLITICAL SCIENCE, MATRIX CHAMBERS

JANUARY 7, 2009

12:30PM-2:00 PM, (FLA UOFT)

"THE UN HUMAN RIGHTS COUNCIL  
HIGH LEVEL FACT FINDING MISSION TO  
BEIT HANOUN"

### **IHRP SPEAKER: OBIORA OKAFUR**

ASSOCIATE PROF., OSGOODE HALL,

JANUARY 15, 2009

12:30-2:00 PM, (SOLARIUM UOFT)

"ATTAINMENTS, ECLIPSES, AND DISCIPLINARY  
RENEWAL IN INTERNATIONAL HUMAN RIGHTS LAW:  
A CRITICAL OVERVIEW"

### **2009 CANADIAN INTERNATIONAL LAW STUDENTS' CONFERENCE**

FEBRUARY 7, 2009 (UOFT)

### **IHRP SPEAKER: PROF. JAMES RON**

CARLETON UNIVERSITY

FEBRUARY 12, 2009

12:30-2:00 PM, (SOLARIUM UOFT)

"ASSESSING HUMAN RIGHTS IMPACT:  
MODELS AND METHODS"

### **TORONTO HUMAN RIGHTS WATCH FILM FESTIVAL**

FEBRUARY 24 TO MARCH 5, 2009

### **IHRP**

**HUMAN RIGHTS IN FOCUS EVENT  
(HART HOUSE UOFT)**

MARCH 13, 2009

## ALUMNI INTERVIEW: JENNIFER STONE

*Jennifer Stone, an Alumnus from the Faculty of Law is the Co-Director of the Hong Kong Refugee Advice Centre. She talks about the rewards and challenges of working in the field of international human rights law and offers her advice for students.*

### **How did you get involved in your current position?**

I was a private immigration and refugee practitioner in Toronto. After moving to Hong Kong I was introduced to a woman named Raquel Amador, who had just started a small project within a local charity to provide legal assistance to asylum-seekers. Obviously it was completely up my alley. Raquel and I decided to approach the charity that had piloted the refugee advice project to ask them to support us transitioning to a free-standing clinic, so we could fundraise broadly and expand the services we offered. The charity supported our proposal, so Raquel and I together became the co-Directors of this new organization in 2007.

### **What does your position entail day to day?**

I co-train incoming volunteer lawyers and review all our written representations prior to submission to UNHCR. I have also been primarily responsible for building the foundation of our organization, while my partner has focused on the casework. I've managed to get the support of five international law firms, and two large Hong Kong foundations.

### **Do you feel like you are impacting people's lives and/or the furtherance of human rights? How?**

Absolutely. The vast majority of those who go through UNHCR's procedure in Hong Kong are self-represented. They don't know what the Refugee Convention is, let alone the refugee definition against which their claim is assessed. Therefore, we see the impact of our assistance in helping clients articulate their stories in a clear, legally relevant way, supported by persuasive evidence.

### **What are the major challenges or frustrations in your position?**

A major challenge is working in an environment that doesn't see basic rights as we do in Canada. What struck me early on was that Hong Kong issued a reservation to its obligations under the ICCPR for people captured by its immigration law. Therefore, non-HK residents, even those who spend years here awaiting processing of their

asylum claims, do not enjoy (for instance) the right not to be arbitrarily detained. This lack of legislative protection for our clients also translates into a lack of interest in the issue more broadly. Drumming up support for legal representation for asylum-seekers has been a very difficult, uphill battle. That said, it is also incredibly rewarding to now have broad support and interest from influential parts of the community.

### **What activities or jobs in Toronto provided you with the necessary experience to run the Hong Kong Refugee Advice Center?**

The Centre for Spanish Speaking Peoples legal clinic was a great introduction to refugee advocacy. My summers spent with the Canadian Civil Liberties Association and the Canadian Centre for International Justice were also great places to understand the impact of international human rights in local settings and the role of creative advocacy. I also articulated at Borden Ladner Gervais. It was a great experience, because it exposed me to types of law and a work environment I would not otherwise have seen. I'm quite certain that I wouldn't have had the tools to engage other big firms in supporting our Centre if I hadn't had the articling experience.

### **What other advice do you have for law students who wish to work in international human rights?**

Don't be afraid to take risks and to create something if it doesn't already exist. Our legal education is a great privilege!

Check out Jennifer Stone's Hong Kong Refugee Advice Center at <http://hkrefugeeadvicecentre.googlepages.com>



*Jennifer Stone*

**IHRP Cards & Calendars on sale now!!**  
**Featuring student photos taken during IHRP internships**  
**Set of 5 greeting cards \$10.00. 2009 Calendar \$15.00.**  
**Pre-order by contacting**  
**[ihrp.student.committee@gmail.com](mailto:ihrp.student.committee@gmail.com)**

## **URBAN LANDMARK** [FROM PAGE 8]

urban land markets work for the poor by carving out new channels of supply and alternate forms of security of tenure in order to provide meaningful content to the right to adequate housing. In theoretical terms, this means fragmenting traditional property rights into a more diverse range of occupation rights. On the ground, the focus to informal settlement upgrading and the legal tools that can be deployed to protect residents from both legal and market-driven eviction. Throughout my internship, my role at Urban Landmark was to work within this niche to research forms of 'intermediary tenure' that could be used to incrementally build up property rights in informal circumstances and, ultimately, to provide leverage for people to access economic opportunities.

In South Africa, 'change' is the operative word that catches everyone's tongue. Given its past, and the turbulent politics of the present, it remains to be seen what form that change will take. But the fact remains, as my boss at Urban Landmark put it, that South Africa "has quite an incredible story," and working there provided a range of new perspectives on the challenges that exist at the interface of human rights and development.

## **SUPREME COURT** [FROM PAGE 1]

Chief Justice Roberts also dissented. His opinion focused on whether the government has already provided, through the DTA, an adequate substitute for *habeas* protections. The statute gives detainees the right to challenge their designation as enemy combatants in federal courts. Roberts considered this review process adequate, but Kennedy strongly disagreed, describing the procedure as deeply flawed and incapable of providing "the fundamental procedural protections" of the writ.

## **IHRP CLINIC** [FROM PAGE 3]

factum, is the best way to maintain the individual-focus of human rights. To give life to the fact that each violation affects a person, and each person has a face. But I believe that client advocacy and policy change initiatives must work hand-in-hand to bring about real, robust, human rights protections. It is a two-pronged attack, and we need dedicated people at both levels. My interest is in policy, but my ultimate goals are the same as those of my talented clinic colleagues focused on litigation.

## **HONEY OO** [FROM PAGE 4]

### International Legal Principles

Many of the judicial irregularities occurring in Burma and the Honey Oo case are governed by the principles of international law. UDHR articles 10 and 11, binding on Burma by virtue of its UN membership, enshrine the right to a fair trial and presumption of evidence. Corrupted criminal procedures and a conviction contradicting otherwise solid alibi evidence violated these articles. Arrest without warrant and a lengthy incarceration without charge further contravene Article 9 of the UDHR. The charge against Honey Oo under the *Unlawful Assembly Act (1908)* for her involvement in a student union transgressed the Freedom of Assembly codified in the *ILO Convention Concerning Freedom of Association*, which is binding on Burma as a state party.

Honey Oo was accused of corresponding for foreign journalists and partaking in protests. She had her freedom revoked for non-violent expression that, if anything, challenged the tenuous authority of the ruling State Peace and Development Council. This is an egregious violation of freedom of expression as described in article 19 of the UDHR.

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