

**Schell Center for International Human Rights
Yale Law School**

Law School Based Human Rights Centers and Clinics:

Sharing Our History and Planning Our Future

A Record of the Proceedings

April 24, 1999

Yale Law School

New Haven, Connecticut

NOTE:

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Introduction

Law School Human Rights Programs: The Emerging Landscape

Moderator: Rosa Ehrenreich, Yale Law School

Yale Law School is proud to sponsor this event. We had planned for this symposium to be rather small, perhaps a group of 10 people coming to Yale to discuss the future of human rights clinics. The idea grew from its own momentum, with word of mouth spreading the word throughout the human rights community. Now, 50 people are here at this symposium. There are almost more people than this small room can take. I thank each of you for coming today.

The minimal goal of this symposium is to get to know each other and perhaps exchange email addresses. The larger goal of this event is to start collective projects and to share ideas about the future.

Peter Rosenblum, Harvard Law School

I know that you are all shocked to find out that there are human rights at Harvard. I got into human rights because I hated to iron shirts. Since all the law firms required ironed shirts, I became a human rights lawyer.

The Harvard human rights program is a crossing point for students and fellows working in human rights. There is a staff of 4 full-time people: Henry Steiner is the director, and I am associate director. I am one of the professionals brought in for 3 to 5 years. There is a project director, an administrator and a secretary.

There are three main elements in the program: academic, student project and outreach. Harvard offers 4 to 6 classes on human rights in any given year. We offer a general human rights class each year, and a research seminar. Harvard invites at least two visitors each year to come and teach in the program. We make a point of inviting foreign human rights activists, especially Latinos and Africans.

Clinical work is my primary focus. Together with Debbie Anker, we try to combine academic clinical work with student activism. We seek projects with a strong research component, links to NGOs or the outside world, and some timely quality. We have generally stayed away from court work.

Student projects include a robust speaker series. We also have student reading groups on such topics as business and human rights. Summer internships often grow out of student initiatives. We have focused our programs on topics ranging from the overlap between international trade and investment regimes, and human rights work.

As for our outward work, Henry organized a meeting in Crete some years back on international NGOs and their relationship to domestic NGOs. A publication that came out of that has generated much

discussion. We often gather a few people together for structured discussions whose transcript becomes a publication. These publications are a hallmark of the Harvard human rights program. For instance, we have published items on Truth Commissions, Economic and Social Rights, Arab Human Rights Movement, and Business and Human Rights. We have begun a web-based human rights research guide, which I would welcome comments on.

The focus and concentration of the Harvard human rights program varies considerably. However, Harvard has repeatedly approached the issue of business and human rights.

There are several things that the Harvard Human Rights Program does not do. We do not train activists. Although we invite 8 to 10 foreign activists to Harvard in any given year, they are pretty much on their own. We do not do litigation. We have pretty much stayed away from that type of human rights work. My own bias has been not to take it seriously, but we are reconsidering whether to take on some litigation cases. This year we did an amicus on Massachusetts law with respect to Burma. We do not fund our JD or LLM students, and we have no pre-standing commitment to bring in human rights JD's or LLM's.

Tracy Higgins, Fordham Law School

I am flattered to be here. Our program is only 2 years old, and our budget is very limited. The staff of the human rights program at Fordham Law School includes myself and Martin Flaherty. Our fellow is Rob Quinn.

We had three objectives in starting our program: 1) to train students in human rights advocacy, 2) to encourage study of human rights theory, and 3) to raise human rights awareness among students and faculty.

1. **Student training.**

For student placement, we identify NGOs interested in having student interns, either during the school year or in the summer. It helps that our school is in New York City because of our access to the NGO community here. Our Immigration Advocacy Project trains students to assist in asylum petitions. We also have a police misconduct monitoring program. We plan and execute a student fact-finding mission each year. Our first mission was to Turkey last June. The critical element is having an NGO partnership, in this case Lawyers Committee. Students are chosen as Crowley Scholars. Participants must take an international human rights course, and then a seminar. The seminar culminates in a two-week trip. This summer our mission is to Hong Kong.

2. **Encourage study.**

Through the Crowley program we encourage the development of more specialized courses in human rights. There are currently 6 or 7 human rights courses, plus independent studies courses.

3. **Raise Awareness**

We also sponsor a brown-bag speaker series. Each talk has been attended by 10 to 20 students. This year, we held about a dozen lectures or panels, plus two conferences.

I have identified several keys to our success at Fordham:

1. **Our Crowley fellow.** This is a one year position, with more than full-time hours. It is a great way to work the administrative aspect of the program

2. **Supportive dean who fundraises.**
3. **NGO participation.** Our location in New York City helps.
4. **Use student energy and enthusiasm.** Lots of student initiative has given us a broader base.

Robert Guitteau and Elliott Milstein, Washington College of Law

We have slides, because Washington has such a huge human rights program. Washington College of Law is very much involved in human rights. Two of our past deans, Buergethal and Grossman, have been victims of human rights violations. 25 percent of our faculty are involved in one way or another in human rights. We have a staff of 6 lawyers who work in the field.

I have sometimes wondered if what we did at the school mattered. I recently went to Chile where I saw the incredible dedication of lawyers for human rights in that country. I wondered if we were training our student to be that brave. Our vision is to change the world. I am not here to brag about our program, but there is so much is going on at American University.

There are five categories in our human rights program:

1. **JD program**
2. **International Legal Studies.** 200 foreign lawyers come each year. There are five areas of concentrations and LL.M.s, including human rights, women's rights, and the environment.
3. **Women in the Law.** We have an international women's program.
4. **Center for Human Rights and Humanitarian Law**
5. **Special programs** and summer sessions.

We offer more than 30 courses a year in human rights, gender and environmental law. We have 8 in-house clinics including our international human rights clinic. There are 8 tenure-track faculty teaching in the clinic. Last year in the international human rights clinic Rick and myself taught 16 students. Currently there are 3 teachers and 24 students. Next year, there will be 4 teachers and 28 students. We do primarily refugee protection cases and human rights cases. We also do a lot of great collaboration with other programs. For instance, we could not do the gender work we do without Debbie Anker at Harvard.

The Women in International law program sponsors conferences and symposia. We offer an LL.M. in Gender in the Law. We are about to publish a textbook in Spanish for Latin America. Foreign lawyers come and are often supported for a year when they go home. Our idea is that the program needs to have legs.

The Center for Human Rights and Humanitarian Law was started in 1990 by Claudio Grossman, Rick Wilson, and Diane Orentlicher (one of the first Schell fellows). Our strength is due to a fluid approach and the commitment of the faculty to the subject matter, to strengthening respect for international norms and the application of international protection.

We also leave an immense amount of space for students to start new projects. I remember going to Claudio Grossman about giving Dean's fellows positions to students. These positions were carte blanche to allow these students to do interesting work. The peculiarity of human rights work is that you don't have a law firm to receive you, with all of its infrastructure.

However, human rights work is sophisticated. People's lives are on the line, and a program should not throw a JD student in too quickly. The program needs to provide a bit of a buffer. Law school human rights programs are a stepping stone.

The Inter-American Digest Program is run with funds from the Dutch government. This program studies jurisprudence of the Inter-American Commission and Court.

The research office for the War Crimes Tribunal work for the Office of the Tribunal Prosecutor (OTP) at the International Criminal Tribunal for the Former Yugoslavia. We have written 25 reports for the OTP.

We also hold Inter-American Moot Court Competitions. We bring students from Latin American and American law schools to this competition. This is a strategic tool used by the law school professors to develop a curriculum in HR. It is not just our law school that is looking out, but it is also coming back the other way.

We also host 3-week summer programs for lawyers in human rights and humanitarian law. We also have programs for judges from around the world. These programs offer a combination of scholarship, litigation, activism and teaching.

Group Discussion

Rosa Ehrenreich:

Our panelists represent the emerging landscape of human rights programs, from fledgling program to well-established one. I would like each of the participants to introduce themselves and describe the program or institution they represent.

***** See list of participants *****

Human Rights Programs and the Promotion of Legal Scholarship

Moderator: Paul Kahn, Yale Law School

This panel is on human rights theory and its place both in law schools and in the agenda of human rights clinics. In preparation for this I asked each of the panelists several questions:

First, to think about the major areas and needs and trends in human rights scholarship

Second, what is the audience for human rights scholarship, since human rights scholars are writing for a very diverse audience. I wanted to know how this audience fits in to other areas outside the law schools.

This is a very diverse panel. Amy and Peter have worked at the perimeter of human rights law, while Ruti and Hurst have worked at the center.

Hurst Hannum, Fletcher School of Law & Diplomacy

I would like to suggest a couple of different ways we can think about what law schools can be doing.

I'll read from some documents that have crossed my desk. A letter from Amnesty International wrote about the conflict in Kosovo. They should ensure that international efforts adhere to international humanitarian law by sending researchers to the border to interview people. In this way, "They are bringing the Balkan butchers to the bars of justice."

Human Rights Watch made the following statement to the UN Human Rights Commission about the refugee situation in Kosovo. They stated that the lack of access to refugee protection was a root cause of the Kosovar's plight. "It is the international community's repeated failure to condemn and arrest the architects of ethnic cleansing that has brought us to this current crisis."

It is interesting to me that all of this is taking place where no bombs are falling and where there is no civil war. This brings me to my first point. We have gone beyond the stage when we can pretend that human rights is about fact-finding and reporting and publicity. At least in some respects some of the human rights programs at law schools have retained this legal ivory tower approach. But merely yelling about human rights from this ivory tower is not sufficient anymore.

An activist in Afghanistan has said that she is upset at how human rights groups have handled the situation in Afghanistan. Human rights groups only demonize the Taliban and report abuses.

The UN Security Council last month had a debate on the Security Council's role in humanitarian violations. Almost every one of them railed against the culture of impunity. Almost all of them also said

that it was good therefore that we will have an International Criminal Court (ICC), as if the ICC was sure to act and be effective. If the Security Council thinks that the ICC is going to stop violations of international humanitarian law, it is sadly mistaken.

If we think strongly that it will be the international human rights committee, or one more treaty, or one more international commission that will stop violations of international humanitarian law, then we are all going to be left behind. We need to seriously question how far the internationalization of human rights can go in protecting real people. We also need to seriously question how much our traditional activities are protecting people whom we need to protect.

Ruti Teitel, New York Law School

There seems to be a paradox raised by the Kosovo crisis. On one hand, knowledge of human rights is exploding. This expansion of human rights discourse is occurring far outside the human rights community. On the other hand, at the same time that the knowledge of human rights norms is expanding, human rights atrocities are ongoing. I would like to spend time on what this paradox calls for in human rights scholarship, when human rights discourse is being used by all sorts of actors outside the human rights community.

Earlier we talked about the lack of political will. We were sure of the absence of political power and political will to address human rights concerns. But there have been successes, such as the Pinochet case for example.

The language that has emerged is a concern for impunity and the need for an adjudicatory regime. The discourse is one of enforcement of rights through the judicial regime. This dates back to Nuremberg, and we always use this as our touchstone. This represents the post war judicial response. The triumph today is thought to be the entrenching of this judicial response in a permanent ICC.

I am concerned that this call for a legal response, and in particular punishment, is very much stuck in that post-war period and language. It is ignoring and lagging behind the tremendous changes of the last 10 years. We need to periodize human rights and move forward and recognize that there are all sorts of changes in culture and politics. I believe that what is important is to examine comparative, historical, and interdisciplinary scholarship.

The extent to which the responses for successor regimes to the prior human rights abusers was contingent in a particular way to the particular human rights violations and the justifications of the human rights violations in particular states. In human rights scholarship, we are looking at different ways at representing suffering and how suffering is justified in different states. Many human rights groups miss how the responses of certain regimes are contingent on how the previous human rights abusers justified the violations.

I participate in debates where the call from scholars and practitioners was in essentializing universal answers. I hesitate at this approach because it depends on the particular regime. A more comparative approach is necessary. How different societies value human life and certain forms of suffering varies. In my work, I have tried to be as varied, comparative and historical as possible.

The resistance to doing critical human rights scholarship is in part a response to the post-modern critique. We can't admit to comparative difference because to do this is to put at risk the whole project. There is some room between the extremes of nihilism and the denial of values. But what the post-modern critique does is bring an awareness that universal values do not always tell the whole story.

Amy Chua, Duke Law School

I have been focusing on the interrelationship of three forces that are shaping modern society: markets, democracy, and ethnicity. These are pervasive features of modern society that have been neglected.

Most societies have one or two dominant ethnic minorities—who may be economically dominant. These include Indians in East Africa, the Tutsi in Rwanda, Russians in Central Asia, Whites in South Africa, etc. In Latin America, minorities of taller, lighter skinned, Spanish aristocrats have dominated over indigenous majorities. The list goes on, and is rather striking.

The reasons for economic dominance vary enormously. By economic dominance I mean a striking, specific economic disparity. Some of the economic minorities that I have listed include former colonizers. By contrast, the economic dominance of non-colonizers cannot be explained the same way. In my analysis, the crucial question is whether a particularly economically dominant minority is market dominant? Will the group tend to be economically dominant under market conditions?

Most crucially, the presence of a market dominant minority creates a tension between markets and democracy. Because markets and democracy will tend to benefit different ethnicities. This means that in many developing countries, markets and democracy will not be mutually reinforcing.

First, marketization will exacerbate the disproportionate wealth of the dominant minority.

Second, this domination will tend to be transformed to a potent ethnicization. Ethnic hatred—and the ethnic minority—is scapegoated. The majority will perceive markets as benefiting only the ethnic minority. This dynamic pits a democratically mobilized, impoverished majority, against and economically dominant, outsider minority.

Three outcomes become possible:

1. An anti-market backlash targeting the dominant minority.
2. Actions aimed at eliminating the ethnically market dominant minority—through expulsion or genocide.
3. A retreat from democracy.

All three of these outcomes are vividly demonstrated in Indonesia, where the Chinese are economically dominant. Many argue that the more democratic Indonesia becomes, the more exacerbated the Chinese problem will become. This will give rise to an anti-market agenda.

Human rights lawyers tend to focus on groups that are both economically and politically oppressed. For this reason, they tend to overlook the problem I described above. It is crucial to see that many human rights violations are driven by ethnic hatred. In my view, the solution is not to stop marketization but to create conditions in which both markets and democracy, can both flourish. Rule of law projects are not necessarily sufficient. This is one major challenge that we need to focus on.

Peter Spiro, Hofstra Law School

I would like to speak on the role of scholars in the human rights community. In doing so, I would like to make a qualified defense of an independent community of human rights scholars. Non-advocate scholars who share the basic premise of advancing human rights can advance that agenda. This is

especially true if these scholars avoid advocacy. My premise is for the independence of human rights scholars. They add, first perspective, and second, credibility.

There is a lot of interesting, scholarly work coming out of the clinics. These are very important initiatives. Generally speaking, it is tough to gain a perspective across institutions and disciplines when you are in the trenches. There is a natural tendency to think tactically rather than strategically.

First, scholars can add perspective. There is a great potential for innovation within the scholarly community. These scholars can act as either court jesters or in-house critics to the human rights movement. There is a natural tendency when advocates are amongst themselves not to act critically. It is useful to have individuals who are not attached to particular causes to act as a critical voice. They can point out, for example, the over-emphasis on international judicial mechanisms, which are not the complete answer to advancing human rights goals.

Second, human rights scholars can bring credibility to the community. When you are an advocate, your client always has the best case, even when this is not objectively true. When scholarship is also advocacy, this warped perception can also occur. The duty to one's client can undermine the pretense of objectivity. If you are an advocate, your views as a scholar are vulnerable on this score. Even if you are right about something—that your client does have the best case—you still become vulnerable to charges that you are biased.

As one example, there is a debate currently about whether customary international law is a part of federal common law. Bradley and Goldsmith attack this. The responses to these attacks have been only by scholar-advocates, who have been vulnerable to charges of bias.

There is an obligation on human rights scholars to make their work relevant and useful to the advocacy community.

Group Discussion

Paul Kahn:

The first question I will ask the audience is: What is the relationship between theory and practice? What is the balance to be achieved?

One student in Lowenstein Clinic said, "This is advocacy. We don't want too much of the theory here in the clinic." It seems to me that the panel has suggested that there is more than just tension between theory and advocacy, but there is a conflict, a very deep conflict. Also, the object of our study is not so much the subject of human rights, but the human rights community itself. So the antagonism is also a result of scholars who are studying the advocates themselves.

Is this vision of the relationship, or the lack thereof, a good development or pathological? Is it useful or not useful?

Robert Bernstein:

My view is when you live in the real world, you do not have time to think, and then do. The human rights community is very small, and the amount of money being poured into it is tiny. There is no time or luxury to learn first and do later. You've got to get in there and do advocacy.

But the universities have to get this scholarship out. I was most excited by Amy Chua's comments today in this regard. I think you have to be advocate-scholars in the universities.

Tracy Higgins:

The tension described on this panel is just part of the generalized tension between legal academics and practicing lawyers. I think this tension is a healthy one, as long as the gap does not become too large.

On the role of human rights scholarship: human rights scholars provide a different perspective than human rights advocates. Whether it is more complex and comprehensive or better, however, I do not necessarily agree.

Also, it is a myth that scholarship can be neutral or unbiased. I think the primary role of human rights scholarship is innovation.

Ruti Teitel:

I do not see scholar-advocate as a we-they situation. We are all part of the same community. I think we just need to be more conscious of the different roles.

Person in audience:

I see the need to keep scholars like Bradley and Goldsmith at bay.

Secondly, I'd like to address the issue of human rights scholarship. For those of us who do advocacy within the academy, we need to have that credibility. To the extent that we do scholarship this helps with credibility.

Anne Shalleck:

Today I heard a blaming the universalization of human rights norms on advocates, when really this is out of the scholarly tradition.

I also heard a lumping together of clinics with advocates. There is the potential for clinics to be situated within the academy and have some of the values of critical reflection. There is also the possibility that these clinics can be situated in place with the kind of knowledge that the real world gives you.

As one example, a student with a background in Serbia and another student with a background in Albania told me of the impact of clinic work on their own lives. This insight provided an incredibly powerful learning opportunity to the whole clinic class.

Human rights clinics present a unique opportunity to think about both human rights scholarship and advocacy in new ways.

Deborah Anker:

I am concerned also about the tension between clinical / advocacy work and scholarship in law schools. What strikes me is that there is a connection between advocacy and clinical programs and scholarship developing at major academic institutions. This connection is moving along a very different track and development than when clinical education first developed 20 years ago. I would hate to see us go backwards.

Paul Chevigny:

Human rights scholars have had the power to shape the law. Professors have been at the center of international human rights law-making. So the temptation to take a position that you thought would help a group of suffering people was much stronger in the case of human rights than in other disciplines. The split between practitioners and scholars is much harder to draw in this field, compared to other fields.

Take for example the view accepting universal jurisdiction for crimes against humanity. This view has been furthered by scholars, with tremendous impact for advocates.

Donna Sullivan:

There is a fluid relationship between theory and practice in human rights, particularly in other parts of the world.

Scholars are advocates precisely because they play a critical role in law development. Scholars have an important responsibility because they share a critical role in law-making and advocacy. This is a much more established relationship outside of the U.S. than inside the U.S. The way in which an Asian advocacy organization or a scholar is going to talk about role of human rights is going to look very different than an American or European scholar.

The purely independent scholarship is not only false, but antithetical to a human rights project. This is a particularly American view of human rights and how theory and practice interact.

Hurst Hannum:

I agree with the audience's consensus about the relationship between advocacy and scholarship. But I want to point out that advocacy can sometimes be irresponsible. Advocates need to think about the consequences of what they say. They cannot simply leave it to politicians and academics to work out the consequences of what the advocates say. To some degree, this is testament to the success of the advocates. They no longer have the luxury to simply report and bring attention to human rights problems.

Tigran Eldred:

I'd like to respond to Amy's and Hurst's points. To what extent is it appropriate to focus this discussion on law schools. To what extent can historians and economists play a role?

To put too much emphasis on the tension between scholarship and practice in the human rights context is dangerous because most American lawyers do not have a human rights framework. They do not have a grounding in human rights.

Douglas Cassell:

An interdisciplinary and multidisciplinary focus on human rights is important. I want to operationalize this concept. It is very difficult in law school clinics to find a practical way to make sure that students are informed of history, economics, and other fields to give a context for their work and improve their response.

There are practical details at issue. Law schools are often on a different schedule than rest of the university. It is often difficult for history professor to get tenure-track credit for teaching a class in law

school, etc. These are very practical problems. We need to find ways to ensure that the interdisciplinary human rights perspective is taught to students.

Ruti Teitel:

There is a movement toward a social theory of human rights. What is developing is a team of interdisciplinary people dealing with human rights issues. I whole-heartedly support this approach.

Catherine Powell:

The real problem for me is how to operationalize the theory. How do I translate the international into the local and domestic? I also find a challenge in when we translate the local overseas.

What other models can we use to support local advocacy and to translate the theory into practice? Can we use the Internet or other technologies to support us in these efforts?

Robert Guitteau:

The role of making law is shifting from the professor to the judge. In the Inter-American System, the system is very new. Courts are just beginning to realize their power to use international norms to inform their domestic decisions. We need to begin as lawyers and theorists to look at what is coming out of these decisions. The norms developed in 1945 are still just beginning to have an impact on the local level.

Person in audience:

I would like to add something about the role of scholarship in this field. Article 38 of the ICJ statute says one of the bases for law is the writings of professors. I don't know of any other area of law in which the writings of professors is formally acknowledged as a source of law. In human rights, it is extremely important for scholars to continue to be a source of law.

Also, all of the clinical work that is going on is eventually going to produce judges. There is an enormous gap in knowledge, never mind sophistication, between scholars and judges. We need to be careful to ensure that we continue to train lawyers to be lawyers and judges.

Human Rights Programs and Advocacy

Moderator: Mark Templeton, Yale Law School

The purpose of this panel is to discuss human rights programs as advocates. We have several different perspectives represented by our panelists.

C. Patty Blum, Boalt Hall

My topic is to focus on issues of teaching in a human rights clinic. I would like to throw out some basic ideas:

Our work has value; it means something. We have normative rules, principles and values that we want to share with students to carry through throughout their lives. We are training students to be compassionate. They are generally a self-selected group. But the clinic offers ways to reinforce sense of compassion and their ability to interact with people. The clinic broadens the ways think about others' lives.

In one recent refugee case, I had a Bulgarian working with an individual and she really connected to the person she represented. These relationships and insights have value.

There are inevitably difficulties in client relationships. Individuals may not show up, and NGOs may not follow-through. Part of the process of the clinic is to understand those difficulties and learn how to work with it rather than against it. I put this lesson under rubric of compassion generally.

Human rights is about finding very concrete solutions to complex problems. Students (and faculty) learn that there is not necessarily one right way to approach a problem. We don't want to tell students that there is only one way.

Another lesson is that of "letting go" (in the lingo of parenting). It is very important not to take over projects students are working on so that it goes the way you want. You must figure out ways not to do that. This requires that the program structures work as clinician. You must slow down your own thought process and involve student in each step. Allow students to take ownership and be invested in the outcome of their projects. Faculty should see itself in a much more collaborative relationship with students. Each student contributes something special to the final project. This may mean that the work won't get out as quickly, or looks a little different than expected. But this is what the work of a clinical professor is about.

We should also see victims as multi-faceted survivors, from whom we have much to learn.

Deborah Anker, Harvard Law School

I work with Peter on clinical projects and asylum work. There are two separate clinics, but increasingly we think of them as one project.

Clinical work makes human rights work come alive for students. This is very important. At the end of a semester, we always have a final go-around with all students in the refugee project. This is an extraordinary testament to what students have learned and how they've grown. The challenge we've had in doing human rights projects is to make them alive and clinical, not just research projects. This is particularly difficult in projects where there are no live clients.

Clinical education has always been about not just doing the work. It is getting students engaged in learning about institutions and processes of the law, and the mediating effects that they have. This involves not only the process of doing, but also of reflecting on the doing. For example, a student must examine the institutional constraints of their activity.

The Harvard human rights program has been reluctant to engage in litigation. The reason for this hesitation is that a lot of human rights work is not litigation. This type of work may be the "easiest" to get involved in, but we feel it is more challenging to get students involved in monitoring and advocacy work.

What does it mean to be doing this without clients? There are several questions that this type of work raises. Who is your client in Trade and Human Rights issues? If you hook up with NGO, are you the organization's agent? What if you come to different conclusions? Are you doing the work of a human rights NGO? To what extent are you imposing a Western set of priorities on indigenous NGOs? How to get students to feel that they are actively involved in case, not just research?

It is very expensive to send students abroad (i.e. to Geneva, New York, or country where abuses are occurring). One option is teleconferencing with organizations, for example with NGOs and individuals in Africa. Use of technology helps make the work "come alive."

Rick Wilson, Washington College of Law

Some time ago in Spain, some lawyers asked me to help with their research case against former Chilean leader, Pinochet and some other individuals in his administration. Students took the project on: they compiled legal memoranda, researched facts, etc. We assigned 4 students into teams of 2.

Students were sent to London to help prepare lawyers to argue case. This was a great opportunity, though we are not sure we did the right thing. We have tried to put students in touch with law through facts. We have large group of students involved, but all have the constraints imposed by the academic calendar. We have 40 plus cases that we work through.

We have several organizational premises in our institution:

- (1) **Client-centered.** We have generally resisted taking on amicus roles, in which we have no client.
- (2) **Student-centered.** Students make decisions about cases. Once they are assigned to a case, they have complete authority. The teacher's role is to stand beside the student and bring up issues of law and ethics, to steer students and to allow them to reflect.

(3) **We don't teach "law," we teach "lawyering."** We don't focus heavily on substantive law. What is preparation of an effective advocate of human rights about? We fell it is trying to train effective human rights lawyers.

(4) **Litigation-based.** This is our paradigm for training human rights lawyers.

(5) **Focus on poor, and human rights victims.** This is the "NGO model." We send students abroad wherever possible.

The Pinochet example is in between pure fact cases (individual asylum client; 2 on 1) verses "pure law" questions, which is much of the terrain of human rights. We are still defining human rights as we work. We have erred on the side of fewer facts, but occasionally have "big case" dilemmas: how do we adhere to these five principles?

When two students came back from London, they were not held up to adulation by the other clinic members. Rather, there was some resentment. Some wondered why the Law School invested in these types of trips. The students who had worked on the case stayed silent. This response was not empowering, but rather had opposite effect. They felt that others thought they were gloating.

Students should be the most effective practitioners possible.

Paul Dubinsky, New York Law School

There was time when the right thing to do was to "think first and do later." Human rights programs used multiple tools. The reason for starting academic-based human rights programs was to train a professional class of human rights activists before they go out into world. The problems facing us today are increasingly subtle. There are still "good" and "evil," but greater gradations today. The principle scholarly concerns now are at the margins: redefining the role of individual in the international system; redefining state responsibility; designing compensation schemes. I think we're in danger of creating new generation of human rights lawyers that are not trained in basic human rights tools.

Other offshoots of international law are coping with the same problems. The program at Yale focused on "class-based" reform and impact litigation, not client-based litigation.

It is important to teach our students compassion. However, it is never permissible to let them think that compassion is a substitute for rigor. In our own personal experience, we have seen situations where students are told that if your heart is in the right place, that is enough. It isn't enough. There are very difficult practical and legal issues that must be addressed. Our students need very thorough training in human rights law, regional regimes, institutions, etc. There may not seem to be enough hours in the day, but if we do not do this we are selling students short.

Group Discussion

Mark Templeton:

We would also like to hear about some of the "less successful" experiences you have had, and how you have dealt with them. On a self-critical analysis, Yale's Lowenstein clinic has moved over the last year from big Alien Tort Claims Act litigation that consume entire clinic to a very different model. Only four semesters later, we now focus on more discrete projects. There are more faculty involved, and

greater role for student leaders. We are currently doing research for the Pinochet case, filing amicus briefs, and investigating how to bring ESR cases before the Inter-American court.

Rosa Ehrenreich:

We have also really agonized about whether we should take client-less projects.

Deborah Anker:

The Haitian litigation by the Lowenstein Clinic was seen as very successful. What worked well there?

Rick Wilson:

We focus on student-based projects. Our assumption is that students' responsibility runs from the first encounter with a client, to bringing it before the court or commission. One of the most difficult things we have experienced is trying to define our relationship with NGO partners, particularly to help us develop the facts.

It is very difficult also to define our co-counsel relationship when our program is based on students saying, "I'm in charge of the project." It is difficult to establish relationships with organization when the power-dynamic with NGO may discount students' involvement.

Patty Blum:

The NGO-clinic relationship is very complex. We don't have the NGOs perspective here on the panel.

We must define the way in which the clinic prepares both the project and students. The depth and detail of faculty preparation is often underestimated. We must sometimes protect ourselves from burn-out and taking on too much.

Bob Golten:

All presentations here concern teaching North American students in client-based litigation. We should also add the element of foreign students, the training of foreign nationals. 19 countries in Latin America are changing judicial systems. We need to help train judges and prosecutors, and train indigenous people in their regional systems. Legal imperialism is definitely dangerous in the wrong hands, causing unspeakable injustices in our criminal justice system. But we can do important work by training others.

Peter Rosenblum:

All presentations here have focused on litigation. I came into the human rights system with a deep bias against litigation. But if one looks to what happening in international law, we might distort student's understanding. The danger is in associating international human rights law and refugee law. I try never to use asylum law to interpret international human rights. In searching for a relationship with a client and determining what the product is, it is not automatically clear what the client or project or forum should be. The whole process of litigation tells you what these will be before you start. This is very different from what happens in the real world. The advantages, moreover, of this type of program are great: it teaches students how international law developed and where it is going.

Anne Shalleck:

We can all play an enormous role in expanding the resources of lawyers in the developing world. There is a possibility of turning more of our work for this use through long-distance technology. We can expand the resources available to these lawyers. I would also like to reiterate the point raised by Hurst that we need to develop local resources.

Paul Chevigny:

We can function as helpers and advisors to workers in the field. We are the researchers in the library that they can't afford. We have the possibility of taking on a big ATCA case. These cases may be sexy, but may not be a good pedagogical tool. NGO's are your clients in those cases. The ethical problems are no different than with individual clients. NGOs may take positions not supported by the program's goals or by law. You must do the same thing as with other legal clients in these situations. You can write a memo showing why that course of action is not strategically sound, or that it is impossible for you to take this stance.

Donna Sullivan:

Some of projects (i.e. special rapporteur) raise concerns about who the clients are. You may sit in a coalition of NGOs, which raises some professional responsibility issues. Do we start to teach advocacy skills in clinics? For instance, drafting and negotiation in multilateral settings. Those are some of the hardest questions.

Rigor in our legal scholarship also applies to all aspects of international law, not just clinics.

Ahadi Bugg:

More and more groups are trying to work with international human rights law. They may find themselves trying to creatively use UDHR, but do not know how. Women's groups often find themselves marginalized from campaigns. Many disability organizations in Zimbabwe were turned away by International Campaign to Ban Landmines, because the Committee said the group was not relevant to their goals.

Douglas Cassell:

I am concerned about Rick's comment that their clinic doesn't teach any substantive law. How do students learn the law? Are there prerequisites to being in clinic?

Rick Wilson:

How do any of us learn the doctrinal law involved in a case? When I started my legal career, I was a domestic public defender. I did not know all the elements of every legal issue, but I learned as I needed the information for the case at hand. In the same way, I had to figure out how to learn human rights law. I try to teach students how to learn the way I did. We give students some preparation in summer before the start of the program. For instance, we give a primer on refugee law; and Hurst teaches some international law and practice issues.

We take 2nd and 3rd year students, and after first month, we can't tell which is which. The cases are driven by the FACTS. There is an opportunity to try to sort out with client, showing students what it means to struggle with a chaotic, incredibly complex world. Our clients may remain a refugee once the

case finished. The only difference is that now they may be protected by the law. However, they may still be homeless, in poverty, etc.

One of my student said that our job is to figure it out, using either legal or non-legal means to accomplish our client's goals.

Woman in Audience:

There is a parallel with community economic development law. Are we a clinic that represents an entity (e.g. human rights institute) or NGOs? The former means doing things for entity that one wouldn't do as free-floating lawyer committed to economic development in the community.

Deborah Anker:

Clinics are important, not just because research is boring, but because it provides an important opportunity for students to SEE and experience process. They can then REFLECT on that experience. That is what human rights clinical work is about.

Catherine Powell:

We are also struggling with whether to choose impact litigation involving everyone in the clinic or doing many smaller projects. We have opted for many individual cases, but the Haitian case was an incredible experience for all of us at Yale. It developed a strong sense of community and a common purpose. The case involved litigation, but also advocacy to the State Department, mobilizing demonstrations, etc. The case was also very client-centered. There were opportunities to meet individual Haitian refugees. It provided our clients with a chance to say, "You are not focused on the right topic. We don't care about the legal representation issue, we want to get off of this island. You are our lawyer. Do what WE want."

Getting Programs Started, Staying Funded and Other Logistical Challenges

Moderator: Heather Friedman, Yale Law School

This panel provides an opportunity to share experiences about the “nitty-gritty” of starting a human rights program and keeping it going. Where does a human rights program locate itself? At Law School or other locale? How is a program funded? How is it staffed? Our panelists will address these as well as other practical concerns. They represent a broad spectrum of approaches to creating and running a human rights program. We hope that we all can learn something from each other’s experiences.

Catherine Powell, Columbia Law School

The program at Columbia Law School allows students to put a name to “changing the world:” human rights.

There are many components to the Human Rights Program at Columbia Law School:

- (1) **Human Rights Advocates Program**—brings dozens of human rights activists from around the World; some are lawyers, not all.
- (2) **Human Rights Concentration Program**
- (3) **Publication Series** (Documents; Religion & HR; etc.)
- (4) **Distance Learning Program** (Brazil and South Africa)—teaches human rights through video-conferencing, etc.
- (5) **Human Rights In Curriculum** 10 programs have human rights in the courses itself (literature; business; medicine; etc.)

Here is how we have approached our Law school human rights Program. The Human Rights Institute came out of Lou Henkin’s belief that human rights program can support human rights law. The staffing includes Lou Henkin and me. The human rights curriculum is made up of a dozen faculty members, including domestic human rights courses such as comparative constitutionalism, civil rights and human rights, etc. We draw inspiration from Henkin’s work trying to link domestic and constitutional law with human rights issues. We have just hired many new faculty, such as Jose Alvarez, Reed Brody, and Paul Van Zyl (“Transitional Justice”, South Africa).

Our focus includes war crimes and corporations, drafting and filing NAFTA agreements, UNOCAL work, ICC, and collaboration with other clinics. We pair new members of the clinic with activists at

PrepCon. We have also examined the legality of the bombings in Kosovo. We work on lobbying Congress on international human rights in domestic law.

We are launching a program on teaching human rights around the world. Lou Henkin is concerned that there are so few human rights professors around world. To rectify this problem, we have the "Louis Henkin chair in International Human Rights."

We are interested in video-conferencing, and hope to learn from folks at Georgetown about their work with international NGOs as well as possible collaborations with clinics in other countries such as in Eastern Europe. We have a South Africa Network.

We have an executive committee of faculty and dean, drawing on various power bases at Law School. We also have a Student Advisory Committee, which hold the directors accountable to student concerns. We look to alums and foundations for support, such as a full time person to run the Institute.

The physical space is fairly small. It consists of Cathy's office. From that space, though, much work can be done.

Greg Carr, Kennedy School of Government at Harvard

I am not a lawyer, and we are not a law school. We are just starting a human rights program here at the Kennedy School. The human rights program has been warmly received by the school's administration.

It is interesting that the Kennedy School did not have a human rights program. The Kennedy School likes to think of itself as the top public policy institute in country on such issues as national security, health, women's policy program, and international development. The school was born and raised during the Cold War, and national security issues always trumped human rights. There was very little discussion of human rights as matter of public policy. This has changed gradually. One new factor is rise of NGOs and their influence on public policy matters.

The strength of the Kennedy School is its practicality; we don't allow theory to interfere with the practice of policy making. The school is about engaging in the world.

Referring to Cathy's charts, this is what we plan to do. We want human rights case studies that we can filter into other courses. We are an interdisciplinary program. We think about human rights through lens of health, development, the media, etc. Child labor is key issue for us.

One example of a case study in human rights is Rug-Mart. Rug Mart is a label that specifies that a rug is "made without child labor". Factories that bear the label must agree to unexpected searches to verify their claims. This simple solution helps rug buyers know the conditions of the factories that produce their goods. This solution may give rise to other concerns, however. Although kids no longer work, they may not have a school to attend. Perhaps Rug-Mart must start building schools. Families may also depend on their kids' wages for needed income. ILO or UNESCO may help in attacking this problem. These questions are not merely legal, it is about policy. Are these policies effective? Are they being implemented? These questions are what Kennedy School students are trained to answer.

We ask ourselves, What can the Kennedy school do? It is not just a question of international law. It is a policy problem where you must bring a multi-disciplinary approach.

Now for the logistical nitty-gritty. The first thing I did was call Bob Bernstein. Bob introduced me to Mike Posner, Ken Roth, and Lou Henkin who each gave me great advice. I took Columbia's brochure, and stole 50% of its language.

To raise money, donors want to see that you are engaged in the world. They will give you money as long as you go out and do something. This is the approach one must take and pitch to potential donors.

Robert Guitteau, Washington College of Law

A map of the law school or institution is a good starting point. Everyone has something to offer. You must ask yourself: Who are groups that are already doing something, or want to do something? I believe in conspiracies. You should begin with the people you have. This will save yourself lots of headache and hassle in the future.

Who are the people asking the questions? Is it students or faculty? We didn't have initial funds. Who are your partners? One way to get larger amounts of money is real world participation. In the real world, you may be surprised about how many real partners you actually have. The ability to bring more partners to the table is essential. What are your products? Bring people around areas of mutual interest. You don't need legal counsel to start. Where you begin depends on the resources you have.

Start with an Advisory Board of influential members in the institution and/or community. Don't compromise your strengths, complement them. Who is audience? "You don't have time, there are too many needs out there" (Bernstein). Know your audience, know that they have a need, and start to articulate it.

Group Discussion

Samantha Power:

I have a question for Greg. You didn't tell everyone that you not only started the human rights project at the Kennedy School, but also provided the initial funding. How can other programs get money from donors? What are the donors looking for when examining a potential project?

Greg Carr:

Funders must be "touched" by a project. They may be attracted to it by ideology or the way of looking at the world. The connection may be an idea that the funder believes in. You should sell a program by stating, "human rights is an ideology of the age," as Lou Henkin has put it. Human rights is an ideology we can all support. The funder should feel like they are buying into a long-term solution. Donors don't like throwing money into the wind.

You need to get people one on one. You need to look them in eye; and talk to them. Once they realize that 4 billion people are going hungry, or that there are 30 million in Zimbabwe with AIDS, it won't take long for them to get out check book.

I chose to put the institute at the Kennedy School rather than law school, because it is a great place to be interdisciplinary. Play up your institution's strengths and why it is "different" than other programs.

Robert Guitteau:

We have tried to start clinics in many parts of world. Most countries had very nicely written Constitutions, very much like the U.S. Constitution and probably written by U.S. lawyers. However, people did not understand those Constitutional ideals. What they needed was advocacy and judicial independence. The margin for making substantial change in those countries is huge. Somehow, we must transfer what we have learned here to clinics there (e.g. sub-Saharan Africa).

Jane Schukoske:

Cathy is the only person who has mentioned students collaborating with students in other clinics.

Catherine Powell:

The tension is not to duplicate efforts. But the collaboration really made sense, we learned a lot from each other. For instance, the Fair Housing Clinic examined the race-conscious policy via teleconference.

Heather Friedman:

I'd love to hear more about how your collaboration worked in practice. Our human rights clinic recently collaborated with a death penalty clinic at the Law School. Similarly, we have discussed the possibility of collaboration between our housing clinic and the human rights clinic. I'm interested in expanding this sort of collaboration, and would like ideas about how to make it work. How did the collaboration you mentioned work in practice?

Catherine Powell:

In the context of Women's Caucus at ICC Prep Con, we paired experienced and inexperienced people together.

Elliott Milstein:

\$5,000 in seed funds from the dean can go very far. You should start with your own university.

Bert Lockwood:

A survey indicates that only 7% of Americans have ever heard of Universal Declaration of Human Rights. 4 years ago, we started to offer our first Int'l human rights Street Law where we teach human rights at inner-city public schools. We learn more when we have to teach others. Cable-access televisions in the community is another great opportunity. We have done monthly programs on different human rights perspectives, with students in charge of putting together programs. Three programs have been done so far. One involved interviewing the man responsible for policing in Northern Ireland. This program is useful for educating public, as well as promoting our own goals.

Catherine Powell:

There is an issue about packaging and marketing our programs. We want to learn from those who have been very successful in marketing their programs: selection of theme or constituency—women, Latin America; etc.

Karol Brown:

To steal an advertising slogan, I believe in “Just Do It” for starting a human rights program. You can start a program by talking about it with people who may support your ideas, put up posters, get room, and have people come. At the University of Washington, we are now starting to sell our human rights clinic and project to the administration, and to potential donors.

Dennis Conroy:

As an observation from working as communicator and fundraiser, it is very easy for sub-specialists to get caught up in the nitty-gritty operational side. You should pound away at your mission, which is service to the community. Lay foundation to make proposal to own administration.

Be inter-disciplinary, but also intra-institutional. Make the institution responsible for giving priority to your program.

Maryam Elahi:

We have a human rights program at an undergraduate college. We have used primarily internal institutional financial support. We built on own internal strengths at Trinity, which are local community service and community health. The Dean of the College is committed to giving us a substantial budget. We have used our health connection to get money from health foundation to send students abroad to work in Health and Human Rights.

We also have tremendous support from various disciplines such as art; literature; etc. They have given a high priority to human rights program.

Human Rights Programs:

Collaboration with NGOs

Moderator: Greg Fox, Yale Law School

We will now continue the trajectory of our discussion towards the practical, how-to aspects of human rights programs. Human rights activists are our role models; they are the people our students want to grow up to be. This panel is an opportunity to hear from the clients what they want to achieve from their collaboration with law-school human rights clinics. What sorts of projects are appropriate? What types of student work has been the most helpful? Do they see themselves involved in the pedagogical mission? The members of our panel will give us the perspective of the NGOs on these and other questions.

Robert L. Bernstein, Human Rights Watch

I am here because they named the program after me, so they asked me to be on a panel. I have always followed one piece of advice: "God gave you one mouth and two ears; use them in that proportion." Therefore, I will keep my comments short and listen to the discussion of others.

Bishop Tutu said, when getting an award from Hillary Clinton, that any woman who aspires to reach the level of a man has no ambition. I would like to introduce an amazing woman who is here this afternoon, Tanya Yenkelovich. She is the daughter of Andrei and Elena Sakharov. Without her family, I would not be here today.

Human rights has so few people in it and so little resources that anything that brings them together has got to help. Resources are so strained that getting people together to share ideas is very important.

Law school human rights programs are still fighting their way onto a lot of agendas. The problem is identifying the ways to help each other. There should be some place like a bulletin board, a way for NGOs to call for help. They could post a notice saying "We are working on the Pinochet case, and we're undermanned. Please help." This type of communication system could also work to unite the NGOs. Often, one organization does not know what the others are doing.

The next step that I see happening in human rights is more and more internationalization. Law school clinics should be in touch with NGOs not only in the West. We should go to international law schools and find out what their programs are.

Human rights programs have more and more chance of getting funding. People and donors have a better understanding of what human rights means, and they are beginning to recognize their increasing importance.

The human rights community should also try to get public exposure of these sorts of meetings. There is very little information that is confidential, and media attention can help raise awareness of human rights in the public eye. Since I am so interested in China, I realize what a help we can be to groups in exile by publicizing their plight.

As Paul Dubinsky noted, issues are subtler now. Law schools students and faculty can do work that is subtler and that requires analysis. Often, people like Reed Brody who are on the front lines don't have time to do this type of work.

I would also like to address a worrisome trend in human rights in the United States. The U.S. has a tendency to sign agreements and not ratify them. This policy has always confused me. Now that the Chinese have picked up the technique, it really worries me.

Some projects require collaboration between NGOs and law schools, between activism and theory. For instance, issues surrounding the International Criminal Court are a perfect opportunity for human rights organizations and law school clinics to analyze, suggest, and propose solutions.

I would also like to raise several small but important ideas:

- Law Schools should sponsor an "NGO Day." Schools can invite NGOs to come and talk to students about the work they do. This event might encourage students to come up with more and better projects for the Bernstein fellowships.
- Law Schools can get donations by asking alumni to fund fellowships named after them.
- We could pool our resources to fund a human rights journal, although perhaps there are enough.
- Business and human rights are coming together, but they are still miles apart. We should look at the international businesses in our communities and find out what they are doing. This could be a real help in educating and training our business leaders.
- The law school clinics should fund a small office to coordinate and communicate between the various programs.
- I would suggest that some law school clinic should work on the UNOCAL/Burma case. (Someone from the audience replied, "We're working on it.")
- Somebody should be after the White House to include human rights people at dinners with foreign leaders.

Jim Silk, Robert F. Kennedy Memorial Center for Human Rights

When I was last in this room as a student, there were talks by practitioners of international law that were often human rights-related. I always attended these talks. I also participated in meetings of the Initiative, in which students engaged in the pleasant activity of giving out money. Most of the Initiative students had been in the clinic and Lowenstein Human Rights Project, and had a concern for public interest work. Professor Harold Koh was our advisor, and I would like to believe that we had an effect on him.

I am supposed to give the NGO perspective, but now perhaps I am somewhat tainted. In thinking about what law school clinics could do for NGOs, my immediate idea was "Free labor." However, NGOs receive more that that from their collaboration with law school clinics.

I represent the perspective of small NGO on this panel. At the Robert F. Kennedy Center, we develop cooperative relationships with people who have won the RFK award. This relationship is often complicated. Just as you grapple with your relationships with clients, we grapple with problems in our relationships with award winners. Sometimes we have had to distance ourselves from these individuals and their projects.

Time is a major concern for NGOs of all sizes. We never seem to have enough time to do strategic planning. We are always so busy keeping up with the latest crises. There are lots of areas that are new and complex. We do not have the luxury of thinking about cross-cutting issues and new topics to address. That is how we have used law students: to look at new issues. Those projects end up being more like the research projects that students are already doing. With the investment project, we were able to bring students to meet with participants. This type of direct contact is not always possible, however.

Are these programs training students to be human rights professionals? This is not my primary concern. I keep a file of job descriptions in human rights. It is definitely not my thickest file. People in law school are going to go on to do many different kinds of work. I believe the value of these programs is training people for responsible lives and responsible careers. We need to popularize some notion of the human rights framework.

We have faced some difficulties with our collaborations with law school human rights programs. We have worked more frequently with students as interns. That type of relationship has been easier than working with clinics. There is a lot of work involved in working with outside clinics because we have to supervise the program externally. Some of our staff members have said that they would rather not have to deal with it. This has limited our level of collaboration with clinics.

Although we may suppress it, we secretly recognize that some activists take a more distanced, biased view about what we do. We in the human rights community have tended to march in a lockstep. In a recent case, some people who raised questions about some human rights orthodoxy were heavily criticized for it.

When you are doing the work every day, there is a tendency to just be shocked by the irrelevance of some scholarship. There can be irresponsible scholarship, just as there can be irresponsible advocacy. The real root of that danger is the distance. We are frequently cut off from the victims we are trying to help. It is really important to remain engaged and recognize the real reason why human rights matter. It matters because of the suffering of victims, and because we can help ease and possibly prevent their suffering.

Michael Posner, Lawyer's Committee for Human Rights

I can speak from various perspectives. I came and helped to set up the Lowenstein project at Yale Law School. I have also taught with Lou Henkin. We are at a moment when the debate about human rights and activism is very much in flux. World is changing.

I view the clinical work in five, broad categories:

1. **Casework (esp. asylum).** This work is enormously helpful when it is done well. This requires having students who know immigration law thoroughly. When it is not done well, it is a disaster to us. This is a legal subject like any other. However, in-country research is not enough.
2. **Broader impact litigation.** This type of work is often hit and miss. When it hits, like Harold Koh's Haitian/Cuban litigation, it is energizing and life-changing for the students. But these types of

cases also raise questions about resources, who's in charge, relationship with NGOs, and other issues that may be difficult to answer.

3. **Research.** It is the easiest thing to fall back on, but may also be the hardest to do well. Human rights research is nothing like domestic legal research. Researchers have to understand the sources.
4. **Country-specific work.** The Turkey trip was the "Rolls Royce" model of this type of work. This trip took hundreds of hours, with three professors and 2 staffers from the Lawyer's Committee in order to send a few students for two weeks. There could be field work that is less labor-intensive than this.
5. **International mechanisms.** Historically, many people believed that filing a complaint with the UN or the OAS was a good thing to do. I don't think that notion holds true anymore unless there's a more targeted strategy.

I also would like to recommend areas for new models:

1. **Client Contact.** Nothing is more important in human rights work than dealing with real human beings, such as with immigrants seeking asylum. There is a lot of work needed to be done in the areas of police practices and its relationship to international torture standards. Individual client work should be linked to policy goals and the advocacy agenda.
2. **Incorporate international human rights into the US.** There is an executive order signed by the President which states that the federal government will take international treaty-making seriously. The recent Louima case in New York City raised the issue of torture in the U.S. Currently, there is no provision against torture anywhere in U.S. law. Getting the U.S. to treat torture as a human rights violations should be an advocacy objective.
3. **Criminal law.** If a torturer is found in the U.S., he or she can be criminally prosecuted here. There has not been a single case brought. Why not?
4. **Corporate accountability.** Human rights organizations and law school clinics should address issues of fair labor practices, rights of association, and child labor issues. The Rugmark label is one example of this type of policy. Clinics and universities can reach out to a broad community to raise awareness of these concerns.
5. **Refugees.**

In particular, we need to internationalize the human rights debate in the U.S. We should recognize that human rights is an issue not just for the developing world but for the West as well. Law schools should involve people from Canada and Australia in their human rights discussions, and not just Uganda and Guatemala.

We have to take the law and practice seriously. We need to be more sophisticated about how we advance the policy debate. For instance, we are currently working with people from Harvard's Kennedy School of Government on a project.

The human rights community has to work on building a bigger constituency. We should involve people not just in New York City and Washington D.C. but also in Florida, Kansas, and Washington state.

Reed Brody, Human Rights Watch

If you ask anybody at Human Rights Watch about working with law clinics, their first reaction is, ‘Great! Lexis numbers, contact with great students, and someone to do work.’ But for our collaboration to be successful, there should be supervision, integration into our work, and flexibility on your part.

Our cooperation has followed two models. One was developed with Paul Chevigny and Donna Sullivan. We prepare a list of subjects on which we need research, and we give this list to clinics. Students meet periodically with our researchers to discuss their findings. For instance, this model was followed to develop our policies on the right of return for Palestinians. Supervision of students is very important, otherwise research tends to go off on tangents.

The second model is the “Rolls Royce” and requires greater time and resources. Rosa Ehrenreich recently took students to Jamaica on a Human Rights Watch mission. We had to adjust our schedules to meet the needs of the law students. We only agreed to do this project because we knew Rosa, and she knew HRW. We depended on her to give her students the necessary supervision and guidance.

We were also concerned about the problem with advocacy. It is difficult for students to do that, because they graduate. Rosa refuted that concern, by involving second year students in the project.

The Pinochet case was sprung on us. We found out on Dec. 15 that a brief was due Jan. 7. There is nothing better for us than having people actually in the office, when you need something done suddenly. It is easier to mobilize resources and communicate effectively when we are all in the same room.

There is not a lot of cross-fertilization between the human rights community and the academic community. With the exception of women’s rights, our work is surprisingly divorced. I would ask the law school clinics to include us more in your seminars and your panels, as well as in your thinking. This is particularly true for issues such as economic rights. In academia, one has much more leisure to develop a methodology.

Amnesty has launched a major campaign to internationalize human rights in the U.S. Last month, I was in Geneva serving on a panel with Pierre Sane on “Human Rights in the U.S.” This was followed by a panel organized by Gay MacDougal. This was the first time that human rights in the U.S. really had its day. There was a backlash, though, against this type of discussion. We met with Harold Koh and Nancy Rubin and they said, “If you guys keep attacking us, we won’t be able to do anything about China.” They also comment, “Oh you’re part of this U.S.-bashing crowd. Don’t you see that nobody will want to take the lead, for fear that they’ll be bashed.” We must raise consciousness that the human rights situation in the United States is sufficiently serious that it merits scrutiny.

Group Discussion

Catherine Powell:

Does Human Rights Watch finance this Rolls Royce model?

Reed Brody:

We paid for our people, they paid for theirs.

Michael Posner:

We paid for part of the expenses, and they paid for part.

Catherine Powell:

We have been trying to develop more practice-oriented version of our web site. We have a brief bank, and a place for model pleading. What is the role that the academy can play to develop resources for NGOs and people in other countries? Is technology a resource that can be used to support human rights advocates on the front line?

Michael Posner:

Yes, particularly in asylum cases. Michael Hertz, a partner at a law firm, is at Soros developing Pro Bono Net at www.probono.net.

Tigran Eldred:

Women's justice practice area and asylum practice area could use these technologies. There should be an interactive space for lawyers who take on these cases. The initial reactions from our volunteers are extremely positive. There could be a law school clinic part of that.

Jane Rocamora:

One area that hasn't been explored is the ineffectiveness of international institutions, such as the UN High Commission for Refugees.

Michael Posner:

This important subject does not get much attention. Mary Robinson is beginning to look at several themes, including the trafficking of women. There may be very useful things that academia can do to build into that. We should not just ask where to file the complaint, but what are the institutions.

The ICC is going to play out in ways that we don't anticipate. There is lots of room to do something.

Sandy Fox:

What guarantees do we have that this will be a genuine learning experience for the students? I supervised the Boston College-London program. It soon became apparent that unless we imposed strict mentoring requirements, students didn't learn much. We started to require that a specific person be a mentor, meet regularly with students, send a monthly report, and to talk to me about the student's progress. Unfortunately, that drove away many placements.

Jim Silk:

I was with you until the monthly written report. Schools may have varied different semesters. We try to provide students with work that is useful. When placing a student, make sure that the organization has the commitment to provide serious feedback. When I did internships, I didn't get that sometimes and it was frustrating.

Michael Posner:

Students should get a real assignment. We have had great successes with our one-year postgraduate fellowships. Jeff Prescott, from Yale, and someone from NYU. If there is a yearlong commitment, it often gives the organization great incentives.

Why don't people go work for indigenous overseas human rights organizations?

Someone in audience:

They do.

Reed Brody:

We need help with our Justice Project. Students would work with national NGOs and lawyers' groups.

Michael Posner:

We are often looking for special skills, and people are not coming out of the clinics with those skills. For instance, we need Chinese language, or knowledge of Chinese legal reform. There is frequently a mismatch between special skills and supply.

Jim Silk:

Someone suggested working with indigenous human rights groups. The last two summers, we have arranged for someone from Harvard to go work with such a group in Indonesia. The payoff was enormous. The person was able to do so much for the organization in Indonesia. The student had a great experience that we could not have matched. NGOs can play an important role in connecting students to those organizations.

Next Steps

A Common Agenda for the Future

Moderator: Rosa Ehrenreich, Yale Law School

Our goal in this panel is to discuss what we want to come out of today's discussions. At a minimum, we need to keep this conversation going. A more ambitious goal is to forge a collective agenda to move forward on human rights issues.

Please return your questionnaires! Yale will put together email and mailing list for everyone so that we can continue to keep in touch.

There are several potential areas of collaboration:

- **Clinic Manual.** We could develop a practice manual with models and best practices tips for running a human rights clinic or program. This manual would be especially useful for those just starting such a program.
- **International and Domestic Human Rights.** We should link international and domestic human rights issues, especially with social justice and civil rights issues.
- **Demarginalize human rights education.** Human rights should be integrated within the law school curriculum. Human rights should be discussed in criminal procedure, constitutional law, and other mainstream law courses.
- **Genocide prevention project.** At the Kennedy School, we are looking into this topic. This substantive research area could allow for several schools to collaborate and divide up research.
- **NGO Matching.** Currently, there is no systematic way of matching up law school human rights programs with the needs of human rights NGOs. There should be a human rights law clearinghouse to pass information about the research, staffing, or other needs of NGOs.
- **Advocacy vs. Scholarship.** Several people have mentioned the tension between advocacy and scholarship. Advocates need fellowship opportunities to spend time at universities to reflect and pursue scholarship. Perhaps scholars could also have fellowships to spend time with NGOs.
- **International NGO's.** We need to develop better means for working with NGOs abroad. This requires formalizing skills and training in technology and organization. The question is how can we do this? What mechanisms work best? The minimal way to do this is through the email list. Other more effective means can be developed and improved over time.

- **Develop information technology.** The human rights community needs a full-service internet portal with a web site, archives, interactive listservs, chat rooms, and a bulletin board or clearinghouse. This can not and should not be based at a single school or program

Leonard Cavise:

There has been a lack of discussion about money. Human rights programs are always in need of more funds. There is a need to exchange information about how to raise money, which foundations and government avenues to pursue, individual donors, etc. We should encourage communication about funding opportunities.

Bob Bernstein:

A question for our audience, how many go to major foundations? (about twenty hands were raised)

How many get funding from these organizations? (far fewer hands raised)

Perhaps we should consider other strategies for fundraising.

The new chair of MacArthur is coming from Human Rights Watch.

Susan Ross:

The USIA office in Ghana hosts weekly conference calls so that it doesn't cost either side long-distance charges. This could happen in other countries to foster work with international NGOs.

Robert Guitteau:

We are doing the same thing in other countries with Moot Court competitions. USAID is funding it. I thank God for a Democratic administration!

Catherine Powell:

Large foundations are often reluctant to fund universities they perceive as rich. Alumni may be more responsive to donation requests. We need to make any emerging network as participatory as possible. We should have a broad inclusion of groups such as historically black colleges. Perhaps we should create a committee to think through structuring the network for maximum access.

Susan Benesch:

There is a strange distinction between civil and human rights in the U.S. Law schools may be the best place to link these two issues. We should also make more of an effort to connect with social justice movements and legal aid clinics.

Doug Cassell:

There is a Midwest Alliance for Human Rights, involving Notre Dame, the University of Chicago, De Paul, Northwestern, University of Minnesota, Cincinnati, and the University of Iowa. We meet to network periodically. A modest budget and a little effort could improve the inter-connectedness of the human rights community. It is definitely too atomized now. A simple listserv for every law school human rights program could bring people together. We could ask everyone to add their own contacts.

We should develop linkages between law school web sites. We can improve web sophistication so that local media might be able to connect to the rest of the world through their own local schools, such as a web ring.

One utopian suggestion is for nationwide coordination of human rights organizations and activists. After 25 years of a human rights movement in the US, we are still small, decentralized, and uncoordinated. If radical right-wing groups can coordinate nationwide, so can we. We just need the political will to do so.

Deborah Anker:

We need to do a better job of promoting human rights within the law school. We need to get human rights into the regular curriculum and “domesticate” international human rights norms. Maybe it would be productive to have a larger meeting between clinicians, NGOs, and scholars in human rights to talk about these issues. We could also discuss irrelevant or destructive scholarship. We have the potential to change the academy, because we are less marginalized than many other clinical programs.

Tigran Eldred:

The witness project at the Lawyer’s Committee for Human Rights, run by Gillian Caldwell, is a video archive of human rights documentation. We could collaborate with law school programs on this project. There are many NGO projects like this.

Laurel Fletcher:

The work of human rights clinics is slightly different than just about academics and NGOs. We need to ask ourselves, “What are we about? What are new ways to go about it?” In thinking about innovation and advocacy, NGO-clinic relationship must be considered.

The “Rolls-Royce” version of collaboration, fact-finding mission, is not necessarily the best model. We need to think about other ways for collaboration to occur without the vast expenditure of scarce resources. Clinics slow down lawyering and the learning process to pull in academic questions. We need more linkages with NGOs in this process, to become integrated in strategic conversations from the beginning. The resources of other professional schools and institutions can also be brought to NGOs by the law school.

Donna Sullivan:

The integration of human rights into U.S. scholarship involves internationalizing U.S. social justice and civil rights issues. We need to incorporate international arguments in social justice clinics. We should see visiting scholars, activists, and fellows as resources for scholars and advocates, and facilitate interaction as much as possible. We have a lot to learn, especially in the areas of economic, social, and cultural rights.

Steve Perkins:

We are now in the planning stage at Rutgers. We are trying to assess the human rights aspects of women’s rights, constitutional law, and environmental clinics and coordinate with university-wide program in changes in governance.

Neil Afran:

We have now set up an unincorporated association to raise money. We want to free the clinic from the argument that law school already has lots of money. When students want to go on fact-finding missions, they raise the money. Often they find donors by going into the ethnic community, in churches and local organizations. This has the added benefit of increasing community involvement.

Bert Lockwood:

I am always interested in manuscripts for the UPenn series on human rights. We have 16 published, and 30 on the way.

Rosa Ehrenreich:

What should we do next with what we're discussing today?

Patty Blum:

Money is a big concern. At the origin of clinical education, schools went to big funders like Ford. Most people now are pretty new at this, even NGOs. Maybe we should have a subcommittee look at the possibility of a joint funding proposal from a consortium of law school and other programs, so that people aren't competing for the same limited funds.

Talbot D'Alemberte:

A joint funding proposal is a great idea. Maybe we should pair existing programs with startup programs. We should have another meeting at AALS or ABA council of deans to interact with people that don't already have programs. Most human rights clinics are established in the Northeast, and we need to develop them elsewhere.

Paul Chevigny:

The attitudes of U.S. politicians won't change to recognize international human rights domestically anytime soon. Unfortunately, the tide is running to the contrary. One major educational problem is that we need to make more lawyers familiar with international law and human rights arguments and jurisprudence. We might appeal to foundations as a joint funding proposal. We also need to change the minds of the legal establishment.

Robert Guitteau:

I have been approached informally by judges generally complaining about their lack of knowledge. They would like to know more about human rights. Non-clinic programs should also be included in funding proposal.

Noah Novogrodsky:

There is a gap between marketing and funding. No one is opposed to human rights. Maybe we should pair donors with students on summer projects to give them a sense of what kind of work is actually done. This will also give them experiences that will make them empathize with human rights activists.

Tatiana Yankelevich:

I would like to tell you about the Andrei Sakharov archives. Most people have difficulty seeing where it fits in. It is predominantly a Russian-language archive, but there are many English-language documents as well. The archive is entirely about human rights. We are trying to develop a center for study of human rights. We need the support of scholars and advocates in this endeavor.

We are making a modest effort at the moment to put documents on the Internet. We eventually hope to have a viable center where scholars, funded fellows, and graduate students may research the philosophy of human rights.

For curriculum development, universality and language of human rights is important. Some issues are not addressed enough in teaching of human rights. Students and faculty need to see why it is important to have human rights as a part of the curriculum.

The definitions are still unclear; and not everyone agrees on what are human rights.

Ahadi Bugg:

Summer fellowships and funding for students are very valuable. NGOs need to know what schools have such programs so they can take advantage of these opportunities, and expand the choices for students interested in human rights work.

Susan Ross:

I have a suggestion for future meetings. We should look at specialty practices with human rights, such as women's rights, or asylum. We should have some time to discuss within areas of expertise.

Rosa Ehrenreich:

I am somewhat bitter that I couldn't benefit from this discussion before teaching the Yale clinic in the past year. It would have helped me tremendously in trying to determine what Yale should do.

Yale will put together an email and mailing list. We will also circulate a transcript to people as well.

I would like to appeal to other schools to sponsor the next meeting of this group, so that we may move this dialogue forward. I believe we need to meet face-to-face periodically as well as in virtual spaces.

Closing Remarks: Tony Kronman, Yale Law School Dean

Welcome. What has struck me most is that this diverse group of human rights people is all here together. The human rights movement has a foothold in American legal academy that it has not had before. It is not going to give this foothold up.

The staying power is obvious: a simple, compelling, moral idea of human rights has amazing intellectual fascination.

The future of the Schell Center at Yale Law School is secure. I am intensely proud of the human rights program at this institution. It exhibits the best features of traditional of intellectual adventurism and the spirit of activism. The law is an instrument for the betterment of humankind. These traditions make the

Schell Center, and Yale Law School, the place that it is. The Schell Center is a perfect emblem of the Yale community and spirit.

However, all the programs and endowments of the world can't help without people willing to take the lead. People like Drew Days, Harold Koh, Rosa Ehrenreich, Ron Slye, Paul Dubinsky, Heather Friedman, the Bernstein fellows, Renee DeMatteo, Ruti Tietel, and students have all kept the program going.

I would like to share some good news about the future of the Schell Center. Paul Kahn will become new Schell Center director, Jim Silk will be executive director. This combination, together with Heather Friedman, will be dynamite!