

# HUMAN RIGHTS

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## Newsletter of the Association of American Law Schools Section on Human Rights

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Fall 2006

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### A Message From the Section Chair

We have much to be proud of. Across the country, the academy is devoting increased resources to the study, promotion, and further development of international human rights law. Not only are American law schools providing ever richer curricular offerings in the areas of international human rights and humanitarian law, but we are also providing legal support to a vast array of projects furthering the international protection of human rights. And gone are the days when international human rights law was something relevant only to “bad” governments on the far side of the globe. Increased attention is now being paid to the relevance of human rights law within the U.S. and to the conduct of the U.S. government both at home and abroad.

Not everyone welcomes these developments – least of all those who view human rights law as “a 20th-century invention of internationalist law professors and human-rights advocates.” As I write this, the U.S. administration’s proposed legislation on

reestablishment of military commissions is winding its way through the Houses of Congress. The bill contains some striking provisions. Interestingly, it arrogates to itself the role of determining its own compliance with international obligations of the United States. It also makes clear that the U.S. will narrowly circumscribe the interpretation of its obligations as applied within the U.S. legal system.

Attempts by the U.S. government to control the interpretation of its international human rights obligations are certainly nothing new. We’ve seen it a number of times in the form of reservations, declarations, and understandings lodged upon signature or ratification of human rights treaties. Indeed, the proposed legislation goes so far as to say that “[n]o foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting” certain prohibitions aimed at the repression of violations of Common Article 3 of the Geneva Conventions.

While it stops short of saying that the Conventions do not form part of U.S. law, the bill does prohibit invocation of the Conventions in commission proceedings and in civil actions against U.S. agents in U.S. courts. It also grants to the President “the authority for the United States to interpret the meaning and application of” the Conventions. That provision’s caveat that “[n]othing in this section shall be construed to affect the constitutional functions and responsibilities of . . . the judicial branch of the United States” does little to diminish the appearance that the judicial function is being encroached upon.

The relationship between the United States and international human rights law is a dynamic one. The U.S. has consistently attempted to be a leader in the development of human rights law, while at the same time trying to maintain a safe distance from its reach. We often think of Eleanor Roosevelt as a champion of an expansive notion of human rights law, but as the submissions of the US government to the Human Rights Committee seem to indicate, she

made clear to the other drafters of what would become the International Covenants on Human Rights that the US would not accept application of those treaties to its conduct in Occupied Germany.

This dynamism will be the focus of our Section panel at the Annual Meeting. In addition, the program for this year’s Annual Meeting contains a number of other human rights related events that might interest members of our Section. I hope you will take the time to look through the events detailed in this newsletter.

I would also like to take this opportunity to invite interested faculty to join the leadership of the Section. We very much appreciate your ideas and enthusiasm, and would welcome your participation on the Executive Committee. I look forward to seeing you in January.

*John Peter Cerone  
New England School of Law*

## **AALS Annual Meeting Programs**

The Section will hold two programs of its own during the Annual Meeting. Several panels convened by other sections will also be of interest.

### **The United States and the International Human Rights System**

Wednesday, January 3, 2007

9:00 a.m. to 12:00 noon

Maryland Suite A, Lobby Level, Marriott Wardman Park Hotel

This panel organized by the AALS Section on International Human Rights will examine the relationship between the United States and the international human rights

system. Speakers will discuss the history of the U.S. role in that system and examine the evolving disposition of the U.S. government towards the various international human rights bodies over time. Specific issues to be discussed will include: the U.S. role in supporting, then opposing the creation of the International Criminal Court; U.S. compliance and non-compliance with established international human rights norms; the U.S. role in United Nations reform, particularly in the creation of the U.N. Human Rights Council; the evolving discourse between the U.S. and the Inter-American systems; the role and nature of the U.S. State Department human rights reports; and the contrasts in the U.S. position towards international law generally and its practice with respect to its own citizens and international legal institutions.

*The Business Meeting for the AALS Section on International Human Rights will be held at the conclusion of the program.*

## **International Human Rights Training for Clinical Law Faculty**

Thursday, January 4, 2007

8:30 - 10:15 a.m.

Section on Clinical Legal Education Program

Delaware Suite B, Lobby Level, Marriott Wardman Park Hotel

A program organized by the Section on Clinical Legal Education will introduce international human rights concepts to clinical teachers who teach in clinics that deal exclusively with domestic issues. The program is called "Introducing International Law: Treaty Law and Other International Law Concepts in Domestic Cases." The program aims to help clinicians who teach in international human rights clinics to continue to exchange ideas about furthering the reaches of international law in the United States. The program will encourage inter-disciplinary (domestic/international) collaboration between clinicians, and seek to grow an already burgeoning network of clinicians, practitioners, scholars, and advocates who seek to use human rights law to protect the rights of individuals who are not protected adequately by U.S. law.

There is growing support for using international law domestically. In the past five years, the U.S. Supreme Court has turned to international law for guidance in deciding the most important constitutional issues of our time (including affirmative action, the death penalty, and the rights of gays and lesbians). Additionally, there is a growing grass-roots movement, both inside and outside the academy, to seek protection for the disadvantaged using international human rights law. This advocacy includes raising international claims in pleadings and filing amicus briefs that advise courts of relevant international law issues. The advocacy also includes encouraging rapporteurs from the United Nations and the Inter-American Commission for Human Rights to investigate and report on human rights abuses in the United States. Such reports have been used to remedy abusive prison conditions, and to commute death sentences.

The speakers for the program include **Catherine Albisa** (Executive Director, National Economic and Social Rights Initiative, New York, New York); **Sandra Babcock** (Northwestern University School of Law); **Jim Silk** (Yale); and **Cynthia Soohoo** (Columbia University School of Law). The moderator will be **Penny Venetis** (Rutgers, The State University of New Jersey Center for Law & Justice). The speakers and the moderator have successfully used international law in U.S. forums. They will provide guidance, sample pleadings, and briefs to other clinicians. They will also provide information about various human rights networks that clinicians can join.

## **Human Rights and Legal Education**

Thursday, January 4, 2007

2:15 to 4:00 p.m.

AALS Concurrent Plenary Session

Maryland A & B, Lobby Level, Marriott Wardman Park Hotel

The AALS devotes one of its high-visibility plenary session panels to the subject of “Human Rights and Legal Education.” This plenary panel will seek to identify the international human rights and humanitarian law challenges facing the 21st century and the role of law schools in shaping future developments and solutions.

The moderator for this plenary program will be **Dean Claudio Grossman** (American University Washington College of Law), a member of the International Human Rights Law Section’s Executive Committee. The invited speakers include: **Victor E. Abramovich** (Commissioner and Special Rapporteur on the Rights of Women, Inter-American Commission on Human Rights, Washington, D.C.); **Louise Arbour** (The High Commissioner, Office of the United Nations High Commissioner for Human Rights, Geneva, Switzerland); **Dean Harold Hongju Koh** (Yale Law School), **Gay McDougall** (Independent Expert on Minority Issues, Office of the High Commissioner for Human Rights, Geneva, Switzerland); and **Peter Joel Rosenblum** (Columbia University School of Law).

## **Human Rights in an Age of Terror**

Friday, January 5, 2007

1:30 to 3:15 p.m.

Delaware Suite B, Lobby Level, Marriott Wardman Park Hotel

Although the section is not a formal co-sponsor of this panel, it will undoubtedly be of interest to many section members. The program is organized by the AALS Section on International Law, co-sponsored by the Sections, on Comparative Law, Constitutional Law, and Law and Communitarian Studies.

The panel on “Human Rights in an Age of Terror” will be moderated by **Joseph W. Dellapenna** (Villanova University School of Law), and speakers include **Harold Hongju Koh**

(Yale Law School); **Mary Ellen O’Connell** (Notre Dame Law School); and **Robbie Sabel** (Professor, Department of International Relations, The Hebrew University of Jerusalem, Jerusalem, Israel).

The panelists will note that the history of humankind can be seen as a struggle for the recognition and implementation of certain fundamental rights for individuals and groups. Among the foremost expressions of this struggle were three documents crafted at the end of the eighteenth century: The Declaration of Independence, the Bill of Rights, and the Declaration of the Rights of Man. The struggle was transformed in the aftermath of World War II with the establishment of the United Nations and its sponsorship of the Universal Declaration of Human Rights in 1948, followed by a growing list of international human rights instruments ratified regionally or globally. At the same time, a body of international humanitarian law evolved from the Hague Conventions at the beginning of the century to the Geneva Conventions of 1949 and the three additional protocols from the last third of the century.

The Office of Legal Counsel of the U.S. Department of Justice has put forth several memoranda making or suggesting such arguments, and the Attorney General of the United States endorsed these arguments while he was White House Legal Counsel. This panel will discuss these developments and consider the extent to which, if any, the rules laid down in the relevant international legal instruments or in the U.S. Constitution need to be revised or reinterpreted. The Section on International Law will hold its business meeting at the conclusion of the program.

## **International Human Rights Pro Bono Projects**

Friday, January 5, 2007

3:30 to 5:15 p.m.

Marriott Salon III, Lobby Level, Marriott Wardman Park Hotel

The AALS Section on Pro-Bono and Public Service Opportunities offers a program on how law schools can promote international pro bono and public service. The program is called “Thinking Globally: Promoting Public Service and Pro Bono in International Arenas.”

**Dean Harold Hongju Koh (Yale Law School)** will describe the litigation that he and a group of students brought challenging the U.S. policy of repatriating Haitian refugees in the early 1992, providing insights into the process through which the litigation developed and how he devised ways to include student contributions. He will also briefly describe current international human rights issues that may be amenable to similar faculty-student joint projects.

**Dean Claudio Grossman (American University Washington College of Law)**, a member of the Executive Committee of the AALS International Human Rights Section, will share information on the international opportunities available to law students, specifically in a project concerning the United Nations Committee against Torture in Geneva, Switzerland. In that project, law students selected by Dean Grossman

accompany him to Geneva and provide assistance related to his work as Vice Chair of the Committee against Torture.

**Holly Eaton (Georgetown University Law Center)** works exclusively with the law school's pro bono program and oversees projects that students engage in both domestically and internationally. She will share information on the administrative aspects of international pro bono as examples of some of the projects her students have engaged in over the last year. She will also share experiences her students obtained during a spring break to help international refugees as well as many other international pro bono projects. The program moderators will be **Diane Chin** (Stanford Law School) and **Suzanne B. Hill** (University of Maryland College of Law).

## **New Voices in International Human Rights Scholarship**

Saturday, January 6, 2007

9:00 to 10:45 a.m.

Virginia Suite A, Lobby Level, Marriott Wardman Park Hotel

This panel will present new scholarship in international human rights law, including new works by established human rights scholars, and "new voices" from those who have only recently entered academia or the field of international human rights law. **If you or are a colleague are interested in being part of this panel, please contact the panel moderator (and Section Chair-Elect) Mark E. Wojcik of The John Marshall Law School in Chicago, at [7wojcik@jmls.edu](mailto:7wojcik@jmls.edu) or 312-987-2391.** We hope to include as many "new scholars" as possible within the time allowed.

## ASIL Interest Group in Teaching International Law

### **Teaching Roundtable**

Saturday, January 6, 2007

10:45 a.m. to 12:15 p.m.

**ASIL Interest Group in Teaching International Law**

**Roundtable on Teaching International Law**

**AALS Annual Meeting - Washington, DC**

Marriott Wardman Park Hotel

Harding Room, Mezzanine Level

Many members of the AALS Section on Human Rights are also members of the American Society of International Law (ASIL) Interest Group on Human Rights. Another ASIL Interest Group is for those who teach international law subjects, including international human rights law. This program takes place at the end of the AALS

meeting, immediately following the AALS Section's program on New Scholarship in International Human Rights Law.

The three-part roundtable discussion on January 6, 2007 will: (1) share innovative ways and materials to help professors include international law materials in courses that do not traditionally focus on international law; (2) discuss the experience of law schools that have "international law certificate programs" within their JD programs; and (3) consider how international law professors have incorporated the Society's Centennial Resolution relating to the laws of war and the treatment of persons in custody. Individuals members who are interested in speaking on one of the three topics on the program should contact **Prof. Mark E. Wojcik, Co-Chair of the ASIL Interest Group on Teaching International Law, at The John Marshall Law School, 315 S. Plymouth Court, Chicago, IL 60604, 7wojcik@jmls.edu, or 312-987-2391.**

## **Upcoming Human Rights Program in Miami: The Top Ten Developments in International Human Rights in 2006**

Three members of the section leadership will take part in a survey of "The Top Ten Developments in International Human Rights Law in 2006." The program will be held November 10, 2006 in Miami as part of the Fall Meeting of the American Bar Association Section of International Law. Speakers on that panel will include Professors **Ved Nanda (University of Denver College of Law)** and **James D. Wilets (Nova Southeastern University Shepard Broad Law Center)**. The panel moderator will be **Mark E. Wojcik (The John Marshall Law School, Chicago)**.

## **Looking Ahead to AALS '08: Help the International Human Rights Section Plan Its Field Trip to the United Nations**

The AALS Annual Meeting in January 2008 will be held in New York, and the Section on International Human Rights is planing a section field trip to the United Nations. If you are interested in helping with that program, please contact Mark E. Wojcik, Chair-Elect of the AALS Section on International Human Rights, at The John Marshall Law School – Chicago, 7wojcik@jmls.edu, or 312-987-2391.

## **Inter-American Human Rights Moot Court**

American University Washington College of Law has announced that its 12<sup>th</sup> Annual Inter-American Human Rights Moot Court Competition will take place on May

20-25, 2007 in Washington, D.C. The competition is the only trilingual (English, Spanish, and Portuguese) competition in the world dedicated to the Inter-American human rights system. Further information is at [wcl.american.edu/hracademy/mcourt](http://wcl.american.edu/hracademy/mcourt) or [iamoot@wcl.american.edu](mailto:iamoot@wcl.american.edu). Registration opens November 1, 2006.

## **Caen International Human Rights Competition**

The 18<sup>th</sup> annual International Human Rights Competition for Lawyers will be held on February 4, 2007 in Caen, France. In this competition, lawyers from more than 50 countries present a case that involves a real and individual violation of human rights. Competition finalists deliver speeches to an audience of 2,000 persons. The competition is open to practicing lawyers from all over the world, whatever their language. Further information about the competition and its deadlines for participation is available at [www.memorial-caen.fr](http://www.memorial-caen.fr) or from Véronique Durel at [vdurel@memorial-caen.fr](mailto:vdurel@memorial-caen.fr).

## **New Human Rights Law Review**

**Siegfried Wiessner** of the **St. Thomas University School of Law** in Miami has proudly shared the inaugural issue of the *Intercultural Human Rights Law Review*. He hopes that the review will be a forum for dialogue between cultures in the field of human rights and related issues. The inaugural issue focuses on the scourge of human trafficking. Contact Professor Weissner at [swiessner@stu.edu](mailto:swiessner@stu.edu) or visit [www.stu.edu/humanrights](http://www.stu.edu/humanrights) for more information about the journal and how to submit articles for possible publication.

## **Faculty Positions in Human Rights**

**GEORGETOWN UNIVERSITY LAW CENTER** is seeking applicants for a permanent tenure-track faculty position, starting July 2007, to direct the operations of a clinical program focusing on international human rights. The person selected will supervise graduate fellows and law students, teach all or part of a supporting clinical seminar, and take responsibility for a wide range of advocacy opportunities, such as fact-finding, report drafting, and litigation in domestic and international tribunals. A distinguished professional record and superior scholarly and teaching promise are necessary; experience in clinical legal education and human rights-based legal claims preferred. Women and men who will contribute to Georgetown's traditions of excellence and diversity, including members of minority groups, are encouraged to apply. Applications must be received by October 15, 2006, to be fully considered; we anticipate making a decision no later than March 2007. To apply, send a resume and letter outlining advocacy, teaching, and scholarship interests to: Professor Peter Byrne, Chair, Faculty Appointments Committee, Georgetown University Law Center, 600 New Jersey Ave., N.W., Washington, D.C. 20001.

# AALS Section on International Human Rights

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