

INTERNATIONAL HUMAN RIGHTS CLINIC
NYU SCHOOL OF LAW

PROFESSORS SMITA NARULA AND JAYNE HUCKERBY

Clinic Fellow Amna Akbar

FALL 2009 SYLLABUS

WEDNESDAYS, 10 AM – 12:50 PM
FURMAN HALL 328

Assignments, readings, and guest speakers are subject to change. Unless otherwise noted, all readings should be downloaded from the web using a commercial browser or databases available to NYU Law students (Westlaw, Lexis, Muse, etc.).

Required Texts:

HUMAN RIGHTS ADVOCACY STORIES (Hurwitz, Satterthwaite & Ford, eds., 2009).

25+ HUMAN RIGHTS DOCUMENTS (Columbia Center for the Study of Human Rights).

These books are available for purchase at the NYU Professional Bookstore, and are on reserve in the Law Library.

Background Reading:

Chapters 3, 4, and 9, in STEINER, ALSTON, & GOODMAN, INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS (2008)

The International Human Rights Clinic seminar is structured around four overlapping areas, each of which encourage critical reflection on human rights lawyering, the human rights movement(s), and its various actors:

- a) **Skills sessions** that focus on examining and developing the practical tools for human rights practice;
- b) **Thematic sessions** that tackle difficult questions about what it means to practice human rights in domestic and transnational contexts;
- c) **Human rights advocacy case studies** that illustrate some of the most crucial debates in human rights and examine the factors that influence human rights strategies; and
- d) **Project rounds** that enable direct reflection on the relationship between theory and your fieldwork, providing an opportunity for class feedback and discussion on the challenges and progress of your human rights work.

The seminar, along with the fieldwork, is designed to encourage zealous advocacy and rigorous inquiry; the seminar will be a space for questioning, debate, and examination of assumptions about the human rights endeavor, as well as a workshop for advocates.

1. August 26 Introductory Class and Framing Human Rights Lawyering

Readings

- (1) David Kennedy, *The International Human Rights Movement: Part of the Problem?*, 15 HARV. HUM. RTS. J. 101 (2002).
- (2) Dina F. Haynes, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L.R. 379 (2006).
- (3) David F. Chavkin, *Theory of the Client and Client-Centered Representation*, in CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS (2002).
- (4) DAVID KENNEDY, *THE RIGHTS OF SPRING: A MEMOIR OF INNOCENCE ABROAD* (2009) pp1-48.

Assignments

- Turn in conflicts form to Michelle Williams by 2:00 p.m., Thursday, August 27.
- Short mission statement and class schedules due Friday, August 28 at 10 a.m. (mission statement and class schedules to be emailed to Michelle Williams)

2. **September 2 Framing Human Rights Lawyering cont'd, Discussion of Clinic Projects and Selection Process**

Readings

- (1) Peter Rosenblum, *Teaching Human Rights: Ambivalent Activism, Multiple Discourses, and Lingering Dilemmas*, 15 HARV. HUM. RTS. J. 301 (2002).
- (2) CAIN, POSTLEWAIT & THOMSON, EMERGENCY SEX (AND OTHER DESPERATE MEASURES): TRUE STORIES FROM A WAR ZONE (2004) 27-88 (to be distributed before class).
- (3) Meg Satterthwaite, *Bato*, in GLOBAL CITY REV., Issue No. 14, 2002 (to be distributed before class).

Assignment

- Turn in project selection form via email to Professors Narula and Huckerby, Amna Akbar, and Michelle Williams by 2:00 p.m., Thursday, September 3.

No class September 9, legislative Monday

3. **September 16 Review of International Human Rights Law**

Readings

- (1) International Covenant on Civil and Political Rights
- (2) International Covenant on Economic, Social and Cultural Rights and G.A. Res. A/RES/63/117 (Dec. 10, 2008), Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- (3) International Convention on the Elimination of All Forms of Racial Discrimination
- (4) *The Nature of States Parties Obligations*, General Comment 3, U.N. CESCR, 5th Sess. (1990).
- (5) *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, General Comment 31, U.N. CCPR, Human Rights Committee, 80th Sess. (2004).
- (6) *Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2)*, General Comment No. 20, U.N. CESCR, 42nd Sess. (2009).
- (7) *The Practice of Human Rights Treaty Bodies with Respect to Reservations to International Human Rights Treaties* (2005), read pp. 1 – 20, available at: http://www.bayefsky.com/general/hri_mc_2005_5.pdf
- (8) Skim: OHCHR, *Human Rights Bodies*, <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

4. **September 23 Skills Session 1: Ethics and the Professional Responsibility of the Human Rights Lawyer**

In-class simulations

Readings

- (1) ABA Model Rules of Professional Conduct (2002, as amended 2003): Preamble; Rule 1.1: Competence; Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer; Rule 1.3: Diligence; Rule 1.4: Communication; Rule 1.6: Confidentiality of Information, Rule 3.3 Candor Before The Tribunal, available at: http://www.abanet.org/cpr/mrpc/mrpc_toc.html. **Note: be sure to read both the rules listed above and the comments related to them; all are available online.

- (2) New York Rules of Professional Conduct (2009): Rule 1.1: Competence; Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer; Rule 1.3: Diligence; Rule 1.4: Communication; Rule 1.6: Confidentiality of Information, Rule 3.3 Conduct Before a Tribunal, *available at* http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/Professional_Standar.htm. In addition to reading the above-listed rules, read the commentary for Rule 3.3.
- (3) Society of Professional Journalists, *Code of Ethics*, *available at*: <http://www.spj.org/pdf/ethicscode.pdf>
- (4) *Code of Conduct for NGOs in Disaster Relief*, *available at*: <http://www.gdrc.org/ngo/codesofconduct/ifrc-codeconduct.html>
- (5) Marleen Derenberg, *What is Beautiful, Afghanistan*, in ANOTHER DAY IN PARADISE: INTERNATIONAL HUMANITARIAN WORKERS TELL THEIR STORIES (Bergman ed., 2003) (to be distributed before class).
- (6) Guidelines on International Human Rights Fact-Finding Visits and Reports: The Lund-London Guidelines (June 1, 2009), *available at*: <http://www.factfindingguidelines.org/>
- (7) Daniel A. Bell & Joseph H. Carens, *The Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on A Dialogue Between Practitioners and Theorists*, 26 HUM. RTS. Q. 300 (2004).

5. **September 30 Human Rights Actors Part I: Roles and Responsibilities of NGOs**

Readings

- (1) Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT'L L.J. 201 (2001).
- (2) Kenneth Roth, *Defending Economic, Social and Cultural Rights: Practical issues Faced by an International Human Rights Organization*, 26 HUM. RTS. Q. 63 (2004).
- (3) Steve Charnowitz, *Accountability of Non-Governmental Organizations in Global Governance*, in NGO ACCOUNTABILITY: POLITICS, PRINCIPLES AND INNOVATIONS (2006) (to be distributed before class).
- (4) David Cingranelli and David Richards, *Measuring the Impact of Human Rights Organizations*, in NGOS AND HUMAN RIGHTS: PROMISE AND PERFORMANCE (Welch ed., 2001)

6. **October 7 Project Rounds**

7. **October 14 Human Rights Actors Part II: Beyond the State**

Readings

- (1) Smita Narula, *The Right to Food: Holding Global Actors Accountable under International Law*, 44 COLUM. J. TRANSNAT'L L. 691 (2006), read Introduction (pp. 693-704), Part I, and Part II, *available at*: http://www.columbia.edu/cu/jtl/vol_44_3_files/Narula.pdf.
- (2) CHRGI, HUMAN RIGHTS WATCH, ON THE MARGINS OF PROFIT: RIGHTS AT RISK IN THE GLOBAL ECONOMY (2008), read pp. 1-8, 48-51, skim pp. 9-47, *available at*: <http://www.chrgj.org/publications/docs/bhr.pdf>
- (3) "Business and human rights: Towards operationalizing the 'protect, respect and remedy' framework," *Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, April 2009, *available at*: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.13.pdf>
- (4) Documentary: *Life and Debt*, Directed by Stephanie Black
- (5) "The Impact of the Global Economic and Financial Crisis on Foreign Debt and the Enjoyment of Human Rights," *Statement of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*, Cephas Lumina (2009), *available at*: <http://www2.ohchr.org/english/issues/development/debt/docs/GAConferenceFinancialCrisis24Jun09.doc>. See also the overview of the mandate of the Independent Expert here: <http://www2.ohchr.org/english/issues/development/debt/index.htm>

8. **October 21** **Human Rights Advocacy Case Studies 1: Dalit Rights are Human Rights**

Readings

Caste Discrimination in India

- (1) HUMAN RIGHTS WATCH, *BROKEN PEOPLE: CASTE VIOLENCE AGAINST INDIA'S "UNTOUCHABLES,"* April 1999, read Acknowledgments, Summary, and Recommendations, *available at*: <http://www.hrw.org/legacy/reports/1999/india/>
- (2) Clifford Bob, "Dalit Rights are Human Rights": *Caste Discrimination, International Activism, and the Construction of a New Human Rights Issue*, 29.1 HUM. RTS. Q. 167 (2007).
- (3) Smita Narula, *Equal by Law, Unequal by Caste: The "Untouchable" Condition in Critical Race Perspective*, 26 WIS. INT'L L.J. 255 (2008).
- (4) Documentary: *India Untouched: Stories of a People Apart*, Directed by Stalin K.

Caste Discrimination in Nepal

Readings TBA.

9. **October 28** **Human Rights Advocacy Case Studies 2: Gender and Human Rights Divides**

Readings

The Amina Lawal Case

- (1) *Note: Saving Amina Lawal: Human Rights Symbolism and the Dangers of Colonialism*, 117 HARV. L. REV. 2365 (2004).
- (2) Women Living Under Muslim Laws/Baobab for Women's Human Rights, *Nigeria: Amina Lawal Appeal*, Aug. 27, 2003, *available at*: [http://www.wluml.org/english/newsfulltxt.shtml?cmd\[157\]=x-157-18546](http://www.wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-18546)
- (3) BBC News, *Amina Lawal Case 'Unhelpful,'* May 13, 2003, *available at*: <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/africa/3024563.stm>
- (4) Amnesty International Press Release: *Nigeria: False Information about Amnesty International's Campaign on Amina Lawal*, May 6, 2003, *available at*: <http://www.amnesty.org/en/library/asset/AFR44/013/2003/en/dom-AFR440132003en.html>

Anti-Trafficking Initiatives and Human Rights

- (1) Esther Kaplan, *Pledges and Punishment*, <http://www.alternet.org/world/33284/> (Mar. 2006).
- (2) GAATW, *COLLATERAL DAMAGE, THE IMPACT OF ANTI-TRAFFICKING MEASURES ON HUMAN RIGHTS AROUND THE WORLD*, Introduction (2007), read pp 1 – 2 (up to *The methods used to compile this report*); *Definition of the term 'trafficking in persons'*; *Assessing 'human rights impact'*; *The key findings of this report*; (skim) *Conclusions*, *available at*: http://www.gaatew.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf
- (3) Kay Warren, *The 2000 U.N. Human Trafficking Protocol: rights, enforcement, vulnerabilities*, in *THE PRACTICE OF HUMAN RIGHTS: TRACKING LAW BETWEEN THE GLOBAL AND THE LOCAL* (Goodale and Engle Merry, eds., 2007) (skim) (to be distributed before class).

10. **November 4** **Project Rounds**

11. November 11 Skills Session 2: Fact-Finding, Research, and Investigation

Guest Speaker: TBA

Readings

- (1) FORUM-ASIA & UNION FOR CIVIL LIBERTY, HANDBOOK ON FACT-FINDING AND DOCUMENTATION OF HUMAN RIGHTS VIOLATIONS; read all except pages 29-42.
- (2) U.N. OHCHR, *The Monitoring Function*, in TRAINING MANUAL ON HUMAN RIGHTS MONITORING, pages 85-97 (2001).
- (3) IHRIP & FORUM-ASIA, *Monitoring and Assessing the Enjoyment of ESC Rights*, CIRCLE OF RIGHTS: ECONOMIC, SOCIAL AND CULTURAL RIGHTS ACTIVISM: A TRAINING RESOURCE, available at: <http://www1.umn.edu/humanrts/edumat/IHRIP/circle/modules/module19.htm>
- (4) Maria Green, *What We Talk About When We Talk About Indicators: Current Approaches to Human Rights Measurement*, 23 HUM. RTS. Q. 1062 (2001).
- (5) CHRGI, PIH, RFK CENTER & ZANMI LASANTE, *Community Focus: Right to Water Study in Port-de-Paix*, in WÒCH NAN SOLEY: THE DENIAL OF THE RIGHT TO WATER IN HAITI (2008), pp. 27-38, available at: <http://www.chrgj.org/publications/reports.html>

Assignment

- Prepare for in-class simulation exercise.

12. November 18 Skills Session 3: Interviewing Witnesses and Survivors

Guest Speaker: TBA

In-class simulations.

Readings

- (1) Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLAL. R. 999 (2007).
- (2) Keith Rohman, *Speak Easy: The Effective Use of Interpreters*, L.A. DAILY JOURNAL, May 5, 2008.
- (3) Meg Satterthwaite, *Known Unknowns*, in THE GUANTÁNAMO LAWYERS: INSIDE A PRISON OUTSIDE THE LAW (Denbeaux & Hafetz, eds., 2009) (to be distributed before class).
- (4) FORUM-ASIA & UNION FOR CIVIL LIBERTY, HANDBOOK ON FACT-FINDING AND DOCUMENTATION OF HUMAN RIGHTS VIOLATIONS; pages 29-42.
- (5) Nora Strejilevich, *Testimony: Beyond the Language of Truth*, 28 HUM. RTS. Q. 701 (2006).

Assignment

- Prepare for in-class simulation exercise.

13. November 25 Skills Session 4: Interviewing Government Officials and Other Potential Opponents

Guest Speaker: Professor Philip Alston, NYU School of Law/U.N. Special Rapporteur on Extrajudicial Executions

In-class simulations.

Readings

- (1) U.N. OHCHR, *Monitoring During Periods of Armed Conflict*, in TRAINING MANUAL ON HUMAN RIGHTS MONITORING (2001).
- (2) Manfred Nowak, *Fact-Finding on Torture and Ill-Treatment and Conditions of Detention*, 1 J. HUM. RTS. PRACTICE 101 (2009).

14. December 2 Project Rounds – Semester Wrap Up

Assignment

- Mid-year self evaluation and portfolio due Friday, December 11 at 10 a.m. (evaluation to be submitted via email and portfolio hard copy to Michelle Williams).

Topics to be covered in Spring 2010 semester:

- Notions of Justice and Human Rights
- Business and Human Rights Litigation
- Standard Setting and “New” Issues in Human Rights
- Human Rights Report Writing
- Messaging and Media Work
- Bringing Human Rights Home: Human Rights in the United States
- Human Rights and Resources
- Preventing and Combating Secondary Stress & Burnout