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The morning panel discusses Cruel, Inhuman and Degrading Treatment. From left to right: Alex Busansky; Diane Amann; Given Kachepa; Martha Minow; Caroline Bettinger-Lopez; and Jessica Lenahan. Media Credit: Dina Awerbuch.

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## HRJ Conference Brings Human Rights Home

**By: Dina Awerbuch**

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Domestic human rights abuses were the focus of the Harvard Human Rights Journal's annual conference. "The United States and Human Rights: Bringing Rights Home." The conference, held at Harvard Law School on March 8, brought together scholars and activists and was moderated by Professor Martha Minow and Mindy Roseman, Academic Director of the Human Rights Program.

Larry Cox, Executive Director of Amnesty USA, gave the keynote address. He began by noting that this year marks the sixtieth anniversary of the Universal Declaration of Human Rights, which recognized inalienable rights that states are legally and morally bound to respect, protect, and fulfill.

After approving the Universal Declaration, Cox said, the United States spent the next sixty years making sure the rights could not be used domestically. While this is standard practice for most states, Cox said that the degree to which the United States has been successful in these efforts is remarkable. Cox said the United States is becoming steadily less successful, however, and outlined several reasons why he is optimistic about domestic human rights implementation in the immediate future.

Despite the title of the conference, Cox said, it is important to remember that human rights have never left home, noting that over 80% of Americans agree that they have rights that are being denied in the United States, and a majority of Americans believe that economic, social, and cultural rights such as housing are in fact human rights. Cox also said that the number of organizations that are using a human rights framework is growing exponentially, and includes the ACLU and the NAACP.

There have also been several sea changes in the growing acceptability for international human rights organizations to look at issues like the death penalty, and the degree to which the United States is being held accountable in international fora. Cox said he thought it was "accurate and fair to say no administration has applied [U.S. exceptionalism] as aggressively as this one in the war on terror," and that the administration has thus caused a growing number of Americans to realize that exceptionalism cannot be tolerated. Cox closed by saying that there is a new yearning among Americans for change, and the opportunity to develop movements that can be transformative. Their success depends on how much human rights can be embodied in those movements.

The conference was particularly timely; the UN Committee on the Elimination of Racial Discrimination issued a report on Friday concluding that the United States is failing to meet its obligations under the Convention for the Elimination of Racial Discrimination. Professor Ryan Goodman said the report listed

as evidence of violations the high incidence rate of rape and sexual violence against minorities, discriminatory implementation of the death penalty, housing and employment conditions for Latino and African American populations, and the disparate impact of Hurricane Katrina on low-income African American residents.

Many of the issues raised by the recent CERD report were addressed in the first panel, "Recognizing Cruel, Inhuman, and Degrading Treatment." John Holdridge, director of the ACLU's Capital Punishment Project in Durham, North Carolina, argued that the manner in which the death penalty is implemented in the United States constitutes cruel, inhuman, and degrading treatment due to the average twelve year delay between sentencing and execution (and conditions of incarceration during that time), the disparate imposition of the death penalty on minorities, particularly where the victim is White, geographic biases, and disparate implementation based on the economic statuses of the victim and the offender. Jessica Lenahan, the petitioner in the widely-publicized Supreme Court case of *Castle Rock v. Gonzales*, and her attorney Caroline Bettinger-Lopez spoke next on the failure of the United States to protect victims of domestic violence. The Inter-American Commission on Human Rights recently granted admissibility to her claim against the United States based on the failure of the Castle Rock police department to enforce a restraining order against her estranged husband.

Bettinger-Lopez, who is currently a Human Rights Fellow and Lecturer-in-Law at Columbia Law School, added that Lenahan's case is part of a pattern of state behavior, and noted the importance of Lenahan's IACHR petition for Lenahan personally, for coalition and movement building, for normative development and standard setting, as a tool for political pressure, and to influence public opinion about domestic violence.

Given Kachepa spoke of his experience as a survivor of human trafficking, when he was brought to the United States from Zambia and forced into a modern-day slavery. In a later breakout session, Sarah Hill from the Human Rights Initiative in Texas elaborated on the human rights issues present in U.S. immigration and asylum law.

Alex Busansky, Director of the Washington, D.C. office of the Vera Institute of Justice and a former prosecutor, commented on the failure of the modern human rights dialogue to enter the world of criminal prosecution and corrections, and noted the lack of oversight, transparency, and accountability in the prison system. Diane Amann, Professor at the University of California, Davis School of Law, further elaborated on this point by comparing the dialogue on our prison system to that on torture in Guantanamo and emphasized the deep structural problems in our corrections system.

The afternoon panel, "Acknowledging the Right to Livelihood," focused on violations of economic, social, and cultural rights in the United States. Tiffany Gardner, Director for the Legal Program and Special Project for Hurricane Katrina at the National Economic and Social Rights Initiative, presented the historical context of human rights in the U.S. civil rights movement. Cynthia Soohoo, from the Center for Reproductive Rights, discussed the right to health and said that in determining whether to use human rights tools, we must first ask whether international standards are better than domestic standards, and then how the standards can be made relevant in the domestic context.

Victor Goode from the City University of New York Law School and Stephanie Farris from the Dickinson School of Law spoke on the right to education, and whether the United States continues to practice racial subordination through discrimination in education. Goode argued that the human rights lens can look more deeply at the experience of people of color, and creates a wider frame for recognizing discrimination. Stacy Sobel from the University of Pennsylvania Law School and Equality Advocates discussed the enforcement of LGBT rights. Sobel recognized that while the LGBT experience does not exactly parallel the civil rights movement, both involve instances of discrimination, and the LGBT movement may be more widely accepted when put in a human rights rather than a civil rights framework.

Chaired by Lauren Birchfield, '09, Joe Kennedy, '09, and Lauren Leahy, '09, the conference was co-sponsored by HLS Advocates for Human Rights, Harvard College Human Rights Advocates, Harvard School of Public Health Student Group for Reproductive Health, and the University Committee for Human Rights Studies, and was funded by the Milbank, Tweed, Hadley & McCloy Student Conference Fund.

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