



## Close to Home

CASE STUDIES OF HUMAN RIGHTS WORK  
IN THE UNITED STATES



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The Ford Foundation  
320 East 43rd Street  
New York, NY 10017  
[www.fordfound.org](http://www.fordfound.org)

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Reprinted June 2004

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A PUBLICATION OF THE FORD FOUNDATION

Where, after all, do universal human rights begin?  
In small places, close to home.

**Eleanor Roosevelt**

I think it is necessary to realize that we have moved  
from the era of civil rights to the era of human rights.

**The Reverend Martin Luther King, Jr.**

## ACKNOWLEDGMENTS

This study would not have been possible without the inspiration and input of the activists and organizations that participated in it. These include: Cathy Albisa, Wyndi Anderson, Gillian Andrews, Willie Baptist, Ajamu Baraka, Ellen Barry, members of the Border Network for Human Rights, Larry Bressler, Widney Brown, Dr. Robert Bullard, Linda Burnham, Youmna Chlala, Leslie Calman, Arturo Carrillo, Chris Caruso, Viola Casares, Patti Chang, Jung Hee Choi, Radhika Coomaraswamy, Robert T. Coulter, Roz Cuomo, Carrie Cuthbert, Suha Dabbauseh, Mary & Carrie Dann, Shelia Dauer, Krishanti Dharmaraj, LaToya Davis, Monica Ghosh Driggers, Roland Emerson, Dawn Faucher, Julie Fishel, Fernando Garcia, members of the Georgia Citizens' Coalition on Hunger, Rick Halperin, Monique Harden, Steve Hawkins, Pam Hester, Jaribu Hill, Cheri Honkala, Lisa Howley, Andy Huff, Maria Jimenez, Bill Kuhel, Deborah LaBelle, Ann Lehman, Ethel Long-Scott, Miriam Ching Louie, Alma Maquitico, Gay McDougall, Cynthia Mesh, Miguel Miranda, Martina Morales, 2002 New Freedom Bus Tour Riders and local hosts, Tina Nieves, Organization for Black Struggle, Ramona Ortega, Teresa Park, Carolyn Pittman, Catherine Powell, Project South, Janice Raines, Speedy Rice, Margie Richards, Sandra Robertson, Rebecca Rolfe, Maria De La Rosa, Loretta Ross, Dale Rundell, Malika Saada Saar, Deborah Schaaf, Chris Sewall, Kim Slote, Andrea Smith, Brenda Smith, Damu Smith, Cindy Soohoo, Elizabeth Sullivan, Peg Tiberio, Akiba Timoya, Steve Tullberg, Galen and Terriny Tyler, Dionne Vann, Penny Venetis, Natalie Walker, Heather West, Sarah White, Sherry Wilson, Dr. Beverly Wright, and Tameka Wynn.

The introduction was written by Larry Cox, Senior Program Officer in the Human Rights Unit, and

Dorothy Q. Thomas, a senior consultant to the unit who also authored the case studies on the Border Network for Human Rights and on custodial sexual abuse of women in U.S. prisons. Heidi Dorow, a human rights consultant, wrote the studies of the Bringing Human Rights Home Lawyers' Network, the U.S. Project of the Center for Economic and Social Rights, the Indian Law Resource Center, the Mississippi Workers' Center for Human Rights, the National Coalition to Abolish the Death Penalty, and the Women's Rights Network. Phoebe Eng, a foundation consultant and director of The Social Change Communications Project, authored the case studies on environmental justice, the Kensington Welfare Rights Union, and the National Center for Human Rights Education. Robin Levi, the human rights director at Justice Now, authored the studies on WILD for Human Rights and the Women of Color Resource Center and assisted in the research for the study on women in prison.

*Close to Home* was edited by Larry Cox and Dorothy Q. Thomas, with invaluable and indefatigable assistance from James Bornemeier. Additional editorial oversight was provided by Elizabeth Coleman, Taryn Higashi, Thea Lurie and Alex Wilde of the Ford Foundation. It was copy edited by Anita Bushell. Photo and design support was provided by Dayna Bealy and Laura Walworth of the Ford Foundation. As always, nothing would ever be possible without the patience and attention to detail of Mary DeCaro and Mary Lopez of the Ford Foundation. Special thanks are due to Natalia Kanem, Deputy to the Vice President, Peace and Social Justice Program, whose vision and support made this project possible.

The study was designed by Susan Huyser.

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## INTRODUCTION

Human rights are international ethical standards, approved by the member states of the United Nations, codified into law and imposing specific obligations on all governments including the United States. Written by an international team led by Eleanor Roosevelt shortly after World War II, these rights address the most immediate and basic needs of all human beings and demand the transformation of every society. No less than with other countries, examining the United States through the lens of human rights illuminates persistent inequities in U.S. society and offers an alternative view of how it can and should be changed. The movement for human rights in the United States promotes this alternative vision. It seeks a revolution of values in the United States that places the affirmation of human dignity and equality at the center of domestic and foreign policy and counters unilateral tendencies with multilateral commitments, shared with other countries, to promote social and economic justice on a global scale.

It is primarily out of recognition of the power of human rights to challenge and change domestic policies and practices that the United States government, while championing human rights abroad, for many years and through all administrations, has resisted the application of human rights at home. It is out of the same recognition of this transformative power of human rights that a growing number of U.S. organizations and activists are using human rights to inform and even to infuse their work for social justice. The present volume is a snapshot of this emerging U.S. human rights movement.

It is a movement that has been growing for some

time but whose impact is only just now beginning to be felt. The American Civil Liberties Union, one of the oldest and largest U.S. rights organizations, held a major conference in October 2003 on the use of international law in U.S. courts. In June 2003, the Supreme Court of the United States cited the human rights treaty on racial discrimination in upholding affirmative action and, citing a 1981 decision of the European Court of Human Rights, a few days later overturned a Texas sodomy statute. That same month the first ever-national network on human rights in the United States, conceived at a July 2002 conference at Howard University Law School, was launched by more than 50 organizations that use a wide range of methods and cover many issues.

What is happening here? Why are an increasing number of U.S. activists, like those discussed in this volume, seeing their work through a prism of human rights? Why is the country's highest court increasingly open to consideration of human rights law? What has led the Ford Foundation, the JEHT Foundation, the Atlantic Philanthropies, the Otto Bremer Foundation, the Shaler Adams Foundation, The California Women's Foundation and a number of other national, family and community foundations to develop a human rights dimension to their U.S. grant making?

### **Why human rights in the United States?**

*A changing domestic environment:* Obviously no single factor can explain these changes. But activists and others consulted for this study identify one underlying constant: progressive developments in social-justice thinking and advocacy in this country. Across the



American Indian, civil, women's, worker, gay, immigrant and prisoner rights communities in the United States, a powerful new politics of social justice is emerging—one that favors multi- over single-issue work; that understands discrimination in terms of compound rather than singular identities; that conceives of rights holistically rather than in terms of outmoded hierarchies; and, finally, that situates those most affected at the center of advocacy.

This approach is visible, for example, in the growing number of multi-issue, cross-constituency networks in the United States, including the National Campaign to Restore Civil Rights, the sentencing reform movement and living wage campaigns. These efforts have in common a focus on educating and organizing the most affected communities across identities, connecting them with allies in the policy, legal and donor communities and balancing the need for short-term gains with a commitment to long-term movement building. Such multi-dimensional work has made for increasingly layered advocacy strategies that simultaneously involve education, organizing, policy, legal and scholarly work at both the local and national level. Sophisticated communications efforts, close attention to electoral politics and collaborative donor support consistently play a part.

The movement for human rights in the United States is not the cause of these transformations in U.S. social justice work. It is emerging out of them. "There is simply no better way to broaden the influence and effectiveness of *all* our struggles for social justice than through human rights," said Loretta Ross, a pioneering civil rights, women's rights and now U.S. human rights activist who directs the National Center for Human Rights Education, profiled in part two of this volume. Her compatriots in this study, and a growing number of activists not discussed here, agree. The human rights vision, its legal framework, methods and strategies not only readily accommodate these new forms of U.S. social justice activism, but also offer powerful means for their consolidation and expression.

*Engagement with the larger world:* The emergence of a U.S. human rights movement also reflects dramatic developments outside the United States. Indeed,

the horrific attacks of September 11, 2001 shattered probably forever the neat separation of foreign from domestic concerns. For the first time since the cold war, the United States is engaged in a vast public conversation about its role in the world and the implications of that role both abroad and at home. As indicated by a 2002 Chicago Council on Foreign Relations report, Americans are concerned now more than ever about the attitudes of the world towards the United States. This hard-earned global consciousness has spawned a growing domestic interest in multilateralism, and in the international legal and political system, no more so than in the constituencies that concern themselves with the defense of fundamental rights. "Our struggle never has been a purely local struggle," said worker and human rights activist Jaribu Hill, who co-founded The Mississippi Worker's Center for Human Rights discussed in part three. "It's just that we can no longer afford to disregard the global link. What ever happens 'over there' has implications here."

As U.S. activists try to make that global link through the use of human rights in their domestic work, however, they confront the continuing effect of what has been termed U.S. "exceptionalism" and how this attitude became intertwined with the politics of the cold war. At the close of World War II, the United States, at the urging of key civic, religious and civil rights groups, played a leadership role in the creation of the Universal Declaration of Human Rights in 1948. Yet from the beginning, powerful conservatives in both parties were aware that these new human rights standards could be used by other countries to highlight the shame of racial apartheid at home. The U.S. worked diligently to deny U.N. enforcement powers to human rights bodies and pointedly refused to ratify human rights treaties.

As professor Carol Anderson details in her new book, *Eyes Off the Prize: African-Americans and the Struggle for Human Rights 1948-1954*, organizations at home, like the NAACP and the National Negro Congress, and domestic leaders like W.E.B. Dubois and William Patterson, who sought to use the new international mechanisms to halt lynching and segrega-

tion, were fiercely attacked by U.S. officials and influential media voices as un-American if not communist. Similar attacks were later made on Malcolm X and The Reverend Dr. Martin Luther King, Jr. when they too made connections between racial oppression in the United States and international human rights. The poisonous effect of these attempts to equate internationalism with subversion or treason lingers to this day.

This brand of cold war politics sought not only to discourage U.S. activists from invoking human rights in their domestic work, but also to distort the very meaning of human rights for Americans by eliminating its economic and social dimensions. Influenced by, among others, the emphasis of Franklin and Eleanor Roosevelt on economic rights, as discussed by Cass Sunstein in his forthcoming book *The Second Bill of Rights: The Last Great Speech of Franklin Delano Roosevelt and America's Unfinished Pursuit of Freedom*, the Universal Declaration of Human Rights treats civil and political rights as equal to the rights to food, housing, education, and social security. Aware that in addition to its racial practices, the United States was also vulnerable to criticism of its economic and social inequality, a series of administrations have claimed that overcoming these problems involves aspirations not rights. To the detriment of myriad fights for social justice in the United States this strategy has proved surprisingly effective. “We have swallowed the U.S. position that economic, social and cultural rights don’t exist,” Gay McDougall, the executive director of the International Human Rights Law Group whose work is discussed in part four, told us. “And U.S. advocates have, in their inaction in this area, implicitly acquiesced to the government position.”

The development of a U.S. human rights movement is driven in part by the desire to reclaim the full legacy and meaning of international human rights. It is also driven, perhaps more than anything else, by the potential of human rights to restore to U.S. social justice work a sense of the underlying commonality of simply being human that is often lost to all of its divisions by identity, geography, issue area and belief. As Cheri Honkala, an economic human rights activist

who heads the Kensington Welfare Rights Union discussed in part two, put it, “we base our vision in the essence of being human.”

These three factors—the dynamic changes occurring in U.S. social justice activism, the increased awareness of the importance of U.S. multilateralism and the relevance of the international legal and political system to domestic as well as foreign rights policy and an instinctive desire to reassert the common, human dimension of all social justice work—have contributed to the beginning of a potentially transformative human rights movement in the United States. What remains at issue is how this movement can strengthen U.S. social justice work that is itself increasingly global in character, indivisible in approach, diverse in constituency and righteous in process as well as effect.

### Why these case studies?

Readers of this volume may wonder exactly where this U.S. human rights movement can be found. Much to our surprise it seems to be cropping up in different areas all across the United States simultaneously, a fact that made the selection of the 13 cases studies in this volume extremely challenging. To arrive at a manageable sample, we decided to focus only on completed advocacy projects, carried out explicitly in human rights terms, which would lend themselves to an assessment of the pros and cons of this approach. Even these fairly restrictive criteria, however, left us with too many candidates. We further decided to focus only on those groups who are or have been funded by the Ford Foundation and to do so with attention to diversity of issues, method of work and geographic location.

The studies that were ultimately chosen focus on the death penalty, race and gender discrimination, and economic, environmental, immigrant, indigenous, prisoner and worker rights in California, Georgia, Louisiana, Massachusetts, Michigan, Mississippi, Montana, Pennsylvania, Ohio, Texas, Washington, D.C. and West Virginia. They are grouped by method of work: part one discusses domestic and international litigation; part two focuses on education, organizing and fact-finding; part three looks at multi-issue, cross-con-

**Reframing one's work in human rights terms  
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 Once you reassert that basic principle,  
 peoples' perceptions of the problem change  
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stituency and transnational advocacy; and part four examines two thematic cases (environmental justice and sexual abuse of women in prison) that involve all of the above.

The purpose of this project is not to capture the U.S. human rights movement as a whole but to provide a picture of some leading organizations at an initial stage of its—and sometimes their—development. It was prompted by our realization that this work is largely invisible in the United States and virtually unknown to the rest of the world. The approach is exploratory: We aim to portray a wide range of U.S. human rights work and to discuss its effect along a continuum from the legal accountability of the government of the United States to the empowerment of local communities. Ultimately, our hope is to provoke informed debate about human rights work in the United States and to generate much-needed moral, political, institutional and financial support for this work at a crucial turning point in U.S. history with respect to the protection and promotion of fundamental rights.

#### **What is the value of using human rights?**

The shift to employing human rights in social justice work in the United States means different things to different groups. For some, its use is largely instrumental, helpful in limited contexts for a specific purpose. For others, its value is more fundamental, engendering a profound rethinking of their work from which, as one activist put it, "there is no turning back." Most practitioners fall somewhere in between these two positions. As a whole, their work suggests several

common benefits to the use of human rights in U.S. social justice work in terms of a) vision, b) legal framework, c) method and d) strategy.

**A. Broad vision:** By all accounts, the single greatest value of employing human rights in U.S. social justice work is its vision of rights as intrinsic to the status of being human. Indeed, human rights are the expression of what is required to be fully human. These rights are not dependent on recognition by an external authority. They are not a reward for certain behaviors or for enjoying a certain status such as citizen or property owner or white person. They belong to all human beings equally. This is similar to the assertion of a more limited set of "certain inalienable rights" that informed the U.S. Declaration of Independence and Bill of Rights. This principle has been a battleground throughout U.S. history. At times, particularly when there is a perception of an internal or external threat to national security, the scope and meaning of inalienable rights come under assault. Increasingly, and dangerously, rights are seen as a gift granted by the state (and able to be revoked by the state) and even, in some instances, as something the state itself can assert. This prepares the way for their erosion or loss.

Human rights assert the inalienability of rights in a much broader sense than has ever been expressed constitutionally. The preamble to the Universal Declaration of Human Rights says that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." The simple use of the term human rights instead of

women's or worker's or prisoner's or immigrant's rights, for example, elicits an understanding of rights as inherently the same for all people rather than as defined by this or that particular status.

To some, this may all seem like little more than semantics. But, as Human Rights Watch's Widney Brown put it for virtually all the activists in this study, reframing one's work in human rights terms "takes you back to the primacy of equality and dignity no matter what the circumstance. Once you reassert that basic principle, peoples' perceptions of the problem change and new avenues for advocacy open up."

**B. Expansive legal framework:** One of these "new avenues" is clearly the legal arena. For many U.S. activists, who work in a constitutional framework and depend on domestic statute, the idea of an alternative, inalienable, universal source of legal rights is something of a revelation. It is one that, given the longstanding determination of the United States government to shield itself from any meaningful international human rights obligations, is usually met with an understandable skepticism. "I was looking for immediate relief for my clients," said Brenda Smith, a prisoner rights activist and law professor at American University whose work is featured in part four. "I wasn't sure what kind of impact human rights would have."

Yet, as the case studies of domestic and international litigation in part one suggest, U.S. legal experts are increasingly converting their initial skepticism about human rights into a growing appreciation of its use, as environmental justice attorney Monique Harden put it, "to break out of the chokehold of domestic law." The context for this conversion is remarkably similar across issue areas: the growing conservatism of the federal and state bench, diminishing meaningful remedies for grievous abuse and, especially after September 11th, the attack on established civil rights and liberties, including due process, access to counsel, equal protection and freedom of information, all of which limit or block the use of purely domestic remedies to rights violations. "I was as skeptical as the next person about the relevance of human rights to domestic legal advocacy," Anthony Romero, the executive director of the American Civil Liberties Union, told a

group of human rights funders in July 2003. "But in the last five years or so I've undergone a conversion, particularly post 9/11. Human rights give us another place to go."

**Interpretive authority:** That "other place" involves interpretive and binding uses of human rights law, which often offers stronger protections than U.S. law, in both U.S. and international courts. The National Coalition to Abolish the Death Penalty, for example, uses a combination of grassroots organizing and legal advocacy to frame the death penalty in the United States as a violation of human rights. By doing so it aims to introduce a global analysis of evolving standards of decency with respect to the death penalty into the consciousness of the U.S. judiciary. As a result of its efforts, and those of countless other anti-death penalty activists, attorneys and scholars, the Supreme Court ruled in 2002 that the execution of people who are mentally retarded violates the Eighth Amendment. Justice Steven's majority opinion noted that "within the world community the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." Steve Hawkins, the national coalition's former executive director, told us that the coalition now aims to "drive home the point" that the United States is "out of step with the world" even further, with a particular focus on the execution of juvenile offenders, which the United States alone now admittedly practices.

**Binding law:** In other cases, human rights law with its greater protections is used in a more binding and less interpretive manner. In the case involving custodial sexual misconduct discussed in part four, for example, Michigan attorney Deborah LaBelle and others used U.N. standards governing the treatment of prisoners to obtain a settlement that prohibited cross-gender guarding in intimate custodial settings. This settlement later ran afoul of domestic equal employment law, but nonetheless resulted in much greater attention to the obvious risk of allowing male officers to work in contact positions in U.S. women's prisons. "This is how progressive law is made," LaBelle said. "You introduce new ideas as often as is appropriate until they become commonplace."

At times, when all avenues of domestic relief have been exhausted, such binding human rights decisions are pursued in regional or international bodies. The Center for Economic and Social Rights, for example, is involved in an ongoing collaborative effort to argue before the Inter-American Commission on Human Rights that U.S. welfare legislation violates economic human rights. Even if any decision by the commission goes unenforced, the center believes that a successful outcome in this case will dramatically highlight the inadequacy of U.S. legal protections of the rights of poor people, adding to the mounting domestic pressure to improve those protections. This work is of particular importance because most Americans are not only unaware of the deficiencies of the United States in ensuring economic rights but even that such rights exist. “We are trying to get people to think of economic inequality differently, in terms of rights,” said Cathy Albisa, the director of the center’s U.S. program. “I want people to see that you cannot reduce rights. You either have to hold the line or increase them.”

It is perhaps not surprising that the legal effects of human rights are expressed very gradually in domestic jurisprudence and sometimes, despite a resounding legal victory as in the case of indigenous rights discussed in part one, not without a lot of surrounding advocacy by the affected community. In that case, the Indian Law Resource Center lodged a successful complaint before the Inter-American Commission on Human Rights, charging the United States with the misappropriation of the Western Shoshone Dann family’s ancestral lands. The commission found in January 2003 that the United States had “failed to ensure the Dann’s right to property under conditions of equality.” The United States responded that it “rejects the commission’s report in its entirety and does not intend to comply with the commission’s recommendations.” The resource center is now spearheading a campaign to protest the U.S. government’s disregard for the rule of law. As center attorney Deborah Schaaf sees it, “We evolve. Laws evolve. Domestic law is not impenetrable. Things will change.”

Given the difficulties of litigating human rights in the United States, the legal practitioners featured in

this volume see the need to develop a multifaceted strategy for this work involving both short-term litigation in specific issue areas and long-term change in legal culture. One of the main vehicles for this work is the Bringing Human Rights Home Lawyers’ Network at Columbia University Law School. The program’s director, Cindy Soohoo, seeks to build the human rights capacity of U.S. attorneys and to expose up-and-coming legal practitioners to this approach. In aiming to launch a new era of human rights lawyering in the United States, the program mirrors the views of Supreme Court Justice Stephen Breyer, who said in an interview with the *New York Times* on July 6, 2003, “whether our Constitution...fits into the governing documents of other nations, I think will be a challenge for the next generations.”

**C. Participatory methods of education, organizing and fact-finding:** While the legal community takes a fairly gradual stance toward incorporating human rights values, community-based educators, organizers and fact-finders take a more immediate approach. Virtually all of the organizations featured in part two, which addresses education, organizing and fact-finding, found in human rights an affirmation of human dignity and equality that resonated powerfully with the often impoverished, abused and virtually decimated communities in which many of them work. “As welfare reform kicked in, we were concerned that poor people would turn against each other over the crumbs that trickle down,” Ethel Long Scott of the Women’s Economic Agenda Project says. “...The Universal Declaration [of Human Rights] allowed for a common vision of opportunity and well-being for all people.”

For many of the most affected U.S. communities, this common vision of opportunity and well-being for all can be revolutionary, but only if they know it exists. “To have a human rights movement,” Loretta Ross, founder of the National Center for Human Rights Education, told us, “people first have to know what their human rights are.” With this in mind, the center aims to reach out to different communities across the United States and work with them to know and defend their human rights. Since 1996, it has trained an impressive list of U.S. social justice advocates and com-

munity leaders in the principles and practices of human rights, using a variety of different methods. For Ross, whatever the specific achievements of this work, the overarching aim of human rights education is to build the political will of those most affected to determine their future for themselves.

The sense of empowerment that comes with the use of human rights is a crucial tool for community-based organizers, as is evident in the work of the Kensington Welfare Rights Union and the Poor People's Economic Human Rights Campaign. Started in the early 1990s in the Philadelphia neighborhood of Kensington, which has the highest concentration of poverty in Pennsylvania, the union uses a combination of human rights education and organizing to mobilize poor people on their own behalf. What began as a local effort is now rapidly spreading among poor communities across the nation and even internationally. In the past five years, the participation of local anti-poverty activists in the poor people's campaign has grown from a handful of initial organizations to a membership of over 60 groups. More than one observer attributes the campaign's success in recruiting to "the vision and hope that the new approach of human rights has given them."

This is not to suggest that one can take the participatory principles and practice of human rights on faith. Just because a group calls its work "human rights work" does not mean it will inevitably or even desirably adopt a participatory approach. In fact, many human rights organizations have carried out crucial human rights work in the United States without utilizing such participatory methods. In the area of human rights fact-finding, for example, human rights organizations like Amnesty International and Human Rights Watch, whose work is discussed in part four, have published invaluable reports on domestic abuse with very little active or sustained participation of the communities most affected. Nonetheless, as community-based human rights work in the United States has increased, fact-finding methods themselves have begun to change. This is reflected in Amnesty International's willingness, as discussed by Sheila Dauer, the group's U.S. gender expert, to allow its membership to

work on the countries in which they live (including the United States). It is also reflected in the leadership of affected individuals and communities themselves in documenting the abuses they suffer.

The work of The Women's Rights Network discussed in part two exemplifies this latter trend. The network involved survivors of domestic violence in documenting and analyzing their own experiences in human rights terms, an approach that led to their active participation in the subsequent advocacy effort and their formation of local support groups to highlight the role of domestic violence in child custody disputes. "We saw participation as a human right in and of itself," said Carrie Cuthbert, the network's co-founder.

As the previous paragraph suggests, human rights have the potential to alter the usual dynamics of social change work in this country, in which the "affected" and their advocates can become somewhat estranged. As poor people, workers, immigrants, women, gays, prisoners and others become aware of their human rights and organize to defend them, they gradually become the agents rather than the objects of social change. This begins to alter the power balance between those who experience human rights abuse and those who act on their behalf, moving them from a client/professional relationship toward a more equal partnership. To some observers this may seem like a subtle shift. But its value in terms of sustaining long-term, community-based advocacy for social change may be far-reaching.

This is perhaps best exemplified by the work of The Border Network for Human Rights, which organizes local human rights committees in immigrant communities across the U.S. Mexico border, a heavily militarized area. The network has had an effect in the short term on the enforcement practices of the Border Patrol, regional legalization efforts and the national dialogue about immigration policy. But its most significant achievement may be its use of participatory human rights education, organizing and fact-finding methods to build the capacity of immigrant communities to know and defend their rights, even in the face of considerable government hostility. "Everything de-

**“Everything depends on our commitment to internal democracy, to leadership by the community. It’s the only way to ensure lasting social change.”**

depends on our commitment to internal democracy, to leadership by the community,” said Fernando Garcia, network executive director. “It’s the only way to ensure lasting social change.”

**D. Multidimensional advocacy strategies:** As human rights help to transform U.S. social justice methods, they also support the emergence of new, multidimensional advocacy strategies. Part three discusses the use of such strategies by three groups whose advocacy transcends the familiar boundaries of identity, issue and country. This creative work touches on some of the most entrenched divisions in U.S. social justice advocacy and in American society itself. Its short-term effects, although difficult to measure at this early date, are encouraging. How exactly to build on those effects, especially given the intense organizational pressures sparked by the global economic downturn is, as one activist put it, “an on-going conversation,” and an exhilarating one.

In pursuit of cross-identity advocacy work, for example, the Women’s Institute for Leadership Development for Human Rights used human rights to take a more integrated approach to the elimination of gender and race discrimination in the city of San Francisco. The institute found, that absent a human rights framework, the city’s anti-discrimination policy was too compartmentalized and reactive to effectively protect women and girls, particularly those of color, from bias and abuse. The institute’s co-founder, Krishanti Dharmaraj, worked with both government officials and grassroots activists to adopt a local ordinance that reframed the city’s anti-discrimination work in more

integrated and proactive terms using as a legal basis the human rights conventions on the elimination of sex and race discrimination. For Dharmaraj, the campaign’s process was as important as its outcome. She felt that the use of human rights enabled anti-discrimination activists, who were otherwise segregated by identity and issue area, to come together under a common framework, focus their efforts and secure policy more responsive to the double burden of gender and race discrimination in the lives of women and girls.

The search for a similar link, in this case between civil and economic rights, led Jaribu Hill to found the Mississippi Workers Center for Human Rights. Hill, a veteran of both the civil and workers’ rights movements, saw in human rights a way to link the disparate and at times even antagonistic strands of civil rights and economic justice. Through the center’s own litigation and training programs, and its co-sponsorship of the Southern Human Rights Organizers’ Conferences and Network, Hill works with a wide range of regional social justice activists to strengthen and coordinate their civil and economic rights work. In her view, to think of civil and economic rights as separate is simply no longer responsive to the experience of poor people of color in the South, in the country or in the world as a whole. By putting them together, Hill says, “human rights lead to more systematic change.”

For that change to be truly systematic, it will have to be global, an insight fundamental to the work of The Women of Color Resource Center, along with that of virtually all the activists featured in this volume. The Oakland, Calif.-based center was co-founded by

Linda Burnham and Miriam Ching Louie, who first met at the 1985 U.N. World Conference on Women in Nairobi, Kenya. The two activists set out to use subsequent world conferences on women and race to introduce local women of color to their international counterparts and to use human rights to bring that global consciousness home. “Human rights provides that baseline context where you and everyone else in the world has the same starting place,” said Burnham. “There isn’t anything else in the world with which you can say that.”

One could argue that the participatory methods and multidimensional strategies of social change discussed above is by no means unique to human rights. This is true. For most of the activists discussed in this study, the value of human rights is not to create progressive trends in U.S. rights advocacy but to provide those trends with an underlying philosophy of rights, a resonant legal framework and even a methodological discipline that is not otherwise available domestically. “There was simply no body of U.S. laws that either described or provided adequate remedy for the multiple, synergistic and cumulative impacts of environmental degradation in a person’s whole life experience,” said Monique Harden, whose work is discussed in part four. “Human rights allowed us to get where we wanted to go faster.”

Faster, however, does not always mean easier. For the educators, organizers, fact-finders, policy advocates and even litigators discussed above, the adoption of a participatory, multi-dimensional human rights approach to their work proved extremely challenging. For this reason, they and many others like them came together at Howard University Law School in July 2002 and agreed to found the first-ever national network on human rights in the United States. The network’s primary purpose is reflected in its first publication, *Something Inside So Strong: A Resource Guide on Human Rights in the United States*, which provides concrete models and case studies of successful U.S. human rights work. It has given itself a comprehensive mission: to increase the visibility of U.S. human rights work and build the capacity of domestic social justice advocates to know their human rights, organize on

their behalf, document violations, engage policy makers, litigate cases and produce scholarship, all the while using a participatory and multi-dimensional approach with a clear global connection.

### **Do human rights provide a model for social change work in the United States?**

Readers of this volume will no doubt decide for themselves if human rights offer an effective model for social change in the United States. But when all the dimensions of a human rights approach—vision, framework, method and strategy—come together in one focused effort, they produce an immensely powerful effect. In the environmental justice and women-in-prison cases discussed in part four, for example, practitioners, although initially quite skeptical, began by exploring the conceptual relevance of human rights to their work, educating not only themselves but also affected constituents about their human rights. They also collaborated more closely with their domestic colleagues working at different levels, conferred with counterparts overseas, connected to international human rights organizations and the United Nations, and used both domestic and international legal mechanisms. Their cumulative efforts had the respective effects of a) securing compensation and relocation for an environmentally devastated community, and b) transforming both the federal and state level response to sexual misconduct in prisons in this country. Krishanti Dharmaraj put it most succinctly, “I don’t know how to do social change in this complex world but to do human rights.”

One of the unexpected benefits of employing human rights as a model for social change is increased attention paid by the domestic and international print and broadcast media. The human rights work on environmental justice and custodial sexual violence, for example, attracted unprecedented media attention to those issues at the local, state, national and even international level. What one activist called the “drumbeat” of media attention not only shed light on an otherwise underreported issue, but also put pressure on responsible policy makers to resolve it. This volume is replete with such examples.



### What are the challenges to U.S. human rights work?

Not a single activist, organization, network, observer or donor involved with this project sees the further development of a movement for human rights in the United States as a magic bullet. The challenge facing human rights work in the United States differs for different organizations, but existing and emergent U.S. human rights groups face several key obstacles in common: a) tenacious U.S. government resistance to applying human rights law domestically, b) real difficulties for lawyers and social justice activists in domestic application, and, finally, c) the allure of what Langston Hughes once called “the false patriotic wreath.”

**A. U.S. exceptionalism and the persistence of structural racism:** One could argue that the trenchant resistance of the United States government to any form of meaningful human rights obligation reflects, in large part, the persistence of structural racism in this country. There is abundant evidence of this connection. In a revealing exchange with Justice Ruth Bader Ginsberg in the Supreme Court on April 1, 2003, for example, the Solicitor General of the United States objected explicitly to the relevance of the affirmative action practices of other countries to those in our own. In a similar vein, the U.S. delegation’s departure from the 2001 U.N. World Conference Against Racism, while portrayed as solely a protest of anti-Semitism, also appeared to clearly reflect the U.S. government’s persistent uneasiness with international scrutiny of U.S. policy—foreign or domestic—with respect to race discrimination.

Any meaningful application of human rights to the United States will certainly confront the persistent problem of racial discrimination, still one of the clearest examples of what Yale law professor Harold Koh calls the U.S. government’s “negative exceptionalism”—the double standard whereby the United States promotes a principle abroad that it fails to apply successfully at home. If the past experiences of W.E.B. DuBois or The Reverend Dr. Martin Luther King, Jr. are any indication, however, the use of human rights to confront racism in the United States might bring new

perspectives and principles to bear on this country’s central and most enduring struggle. Such a perspective can be seen in Justices Ginsburg and Breyers’ concurring opinion to the U.S. Supreme Court’s June 23, 2003 decision upholding Michigan Law School’s use of affirmative action, which favorably cited the International Convention on the Elimination of all Forms of Racial Discrimination. Unlike domestic law, the international human rights standards oblige governments in determining possible racist practices to look at not only intent but also effect.

As U.S. activists attempt to reclaim human rights to combat race discrimination, they find themselves encountering U.S. exceptionalism more generally. Over the last half of the previous century, this policy has also formed the basis for a far more extensive defense of national sovereignty affecting issues including arms control, the environment, international justice, rights for women, children, immigrants, prisoners as well as economic, social and cultural human rights. To be sure, there are some notable exceptions, including for example the ratification of the Torture Convention and the passage of legislation to implement it domestically, but these stand out against a long record of opposition to domestic application of international law and agreements.

The social justice activists featured in this volume do not underestimate this exceptionalism, but they are also determined to confront it. Developments post-September 11, 2001 have reminded them dramatically that no one in the United States or any other country can take for granted their government’s adherence to fundamental principles of human rights. Every nation and all people need ultimate recourse to an alternative ethical and legal authority in those instances, however rare they may be, when their own government falls short of the rule of law. Sovereignty should not be a guarantee of impunity, particularly, one could argue, for the most powerful country in the world.

**B. Legal, institutional and popular resistance:** Even as U.S. social activists begin to challenge U.S. exceptionalism with a mounting degree of urgency, they confront the immense legal, institutional and cultural difficulties of applying human rights in the

United States. The legal challenges are formidable and run the gamut from conflicts between international and domestic law, to interpretive disputes, to the absence of implementing legislation for ratified treaties, to judicial unfamiliarity, to the legitimate concerns of litigators about taking on any of these difficulties, particularly when they themselves are unlikely to have any meaningful human rights expertise. These challenges are not readily overcome in the absence of a multifaceted legal education, training and strategizing effort.

The challenges facing the legal community have their counterparts in U.S. social justice groups more generally. These obstacles cross issue areas, methods and strategies and essentially boil down to an understandable caution about the universal, indivisible, participatory and multi-dimensional character of a human rights approach. Most of the groups featured in this volume find in themselves or in their potential allies a deep resistance to framing their work in human rather than single-identity/issue terms. They also resist taking on economic, social and cultural rights, as well as placing those most affected at the center of their work or engaging multidimensional advocacy strategies. These are legitimate concerns. They also reflect what is perhaps the most damaging legacy of U.S. exceptionalism: the inward-oriented nature of much U.S. social justice work. As Ellen Barry, an attorney and prisoner-rights activist whose work is discussed in part four told us, “our biggest obstacle... is our own insularity.”

To undo this tendency is not easy. It requires an intensive effort, involving a combination of human rights education, training, organizing and, most important, the concrete experience of trying new approaches. Any educator, organizer, fact-finder, policy advocate or litigator who uses human rights must also be prepared to handle the likely backlash from those who believe that the United States is far ahead of other countries. By its nature, human rights work challenges the notion of U.S. superiority that has arguably become part of the national identity. Some advocates have been surprised by the vehement reactions they receive, even from loyal allies, when they have sug-

gested that the United States fails to measure up to a given human rights standard. For this reason alone it would be unwise to advocate the use of human rights in every instance.

**C. False patriotism:** The threat of backlash reflects another major obstacle to the effort to “bring human rights home” to the United States: the general public’s knowledge about human rights. While no current data exists, it is probably safe to assume that the 1998 Human Rights U.S.A. poll, which found that 92 percent of Americans had never heard of the Universal Declaration of Human Rights, still has profound significance. It means, in essence, that U.S. human rights activists are trying to reshape U.S. society according to a philosophy and framework of rights that most people either have not heard of or have been taught to think of as foreign. As but one indication of the depth of this problem, virtually all of U.S. human rights activists in this set of case studies said that as they adopted a human rights approach to their work, they found themselves increasingly questioned about their patriotism.

This suggests that among the deepest challenges facing the emergent U.S. human rights movement—be it the exceptionalism of the U. S. government, the concerns of social justice advocates, or the attitudes of the general public—is how to communicate its message. This task is complicated and will have to be tackled with considerable patience and expertise.

Ultimately, the need to disrupt the increasingly worrisome connection between unilateralism and patriotism in the United States is one of the major reasons why activists argue that U.S. human rights work is so crucial. They see efforts to make concrete links between local and global rights activists, and between domestic and international systems of justice, as one way to help change the increasingly popular perception in this country that cooperative engagement with the world is somehow un-American. In this sense, human rights activists in the United States are trying, along with their counterparts in many other disciplines, to reclaim the traditions in this country that contributed so much to the creation of the United Nations and the Universal Declaration of Human

**Any educator, organizer, fact-finder, policy advocate or litigator who uses human rights must also be prepared to handle the likely backlash from those who believe that the United States is far ahead of other countries.**

Rights and, as Langston Hughes once so memorably said, “let America be America again.”

**What are the U.S. human rights movement’s immediate needs?**

Finally, what is needed to build a powerful human rights movement in the United States? As described above, the challenges of overcoming the political and legal obstacles to using human rights in the United States are formidable. There is no one-size-fits-all approach or easy path to follow. Even more than with most advocacy work, taking full advantage of the opportunities presented by the use of human rights in this country requires time to learn, to experiment and to plan. Unfortunately, most U.S. social justice advocates have few such opportunities: Academic training in U.S. human rights work remains limited, domestic and international rights organizations based in the United States have yet to fully take on this project, and neither of these sectors has sufficient opportunity to strategize, be it to coordinate their own efforts or to communicate their message to others. A substantial investment in the creation of a legal, institutional and popular culture of human rights in the United States is clearly necessary.

But for such an investment in human rights in the United States to bear fruit, it will need to be accompanied by a specific effort to support the work of pioneering U.S. human rights groups, like those featured in this volume, which are leading the charge to bring human rights home to this country. With creativity and determination these groups have already accom-

plished a great deal. But in most cases they are fragile and severely under-funded. One of them, the Women’s Rights Network, passed out of existence largely due to lack of funds in the course of these case studies. To take the work of existing U.S. human rights groups any further requires a meaningful and immediate infusion of political, moral, institutional and financial support. Without such a targeted effort to build the capacity and visibility of these U.S. human rights groups, the opportunity to transform U.S. society more generally may be squandered.

**What is the role of the funding community?**

Given the enormous challenges facing the emerging U.S. human rights movement, and the many things needed to bring about its full realization, such an undertaking requires active leadership. Building a U.S. movement for human rights is less about conforming to existing domestic reality than it is about reshaping that reality in light of a progressive alternative. For such a fundamentally transformative effort to succeed, it will require an equally ingenious funding strategy.

Some elements of that strategy are already in place. In 2003, the Atlantic Philanthropies and the JEHT foundation launched U.S. human rights initiatives, joining a pioneering group of regional, family and community donors that includes the Shaler Adams Foundation, the Otto Bremer Foundation and the California Women’s Foundation, which recently awarded \$250,000 in grants to address race, gender and human rights in the United States. The work reflected in this volume represents a commitment of nearly \$7 million by the Ford

Foundation. The Foundation fully expects to continue that support in the years to come.

As these and other foundations begin to respond to requests for support to add a human rights dimension to a range of social-justice initiatives in the United States, they are likely to confront many of the same challenges faced by their existing or potential grantees. These include a) their own institutionalized exceptionalism, b) the need for training on human rights ideas, law, methods and strategies and c) the lack of dedicated resources for this effort.

**A. Institutionalized exceptionalism:** Until very recently, foundations either supported human rights work exclusively out of their international programs or had U.S. programs that did not fund human rights. This includes the Ford Foundation, which until seven years ago maintained separate programs for human and civil rights. In 1996, Susan Berresford, the foundation's president, merged these units, which greatly facilitated the development of a more integrated approach to rights work. Today all of the issue-specific program areas within the foundation's Human Rights Unit have both international and domestic components, with the human rights framework operating wherever appropriate as bridge between the two.

Among donors more generally similar linkages are beginning to be made between international and domestic or human and civil rights funding, but such an integrated approach is still largely the exception to the rule. A survey of donors published by the Ford Foundation in 2002 (*A Revolution of the Mind: Funding Human Rights in the United States*) found that many funders thought of human rights as "international" and thereby exclusive of the United States or as involving "egregious" abuse that "does not happen here."

**B. Absence of in-house expertise:** The conceptual problem of dividing civil from human and local from global rights support has not only structural but also practical effects. Most foundations that fund exclusively in the United States lack expertise in human rights. Those that fund internationally, including those based in Europe, often have little exposure to the internal workings of the United States. Overcoming this split will require a collaborative effort from

both groups. The need for such an effort was reaffirmed by the International Human Rights Funders' Group at its July 2003 semi-annual meeting in New York City, at which it created a subcommittee on human rights in the United States.

**C. Lack of dedicated resources:** Given the substantial conceptual, structural and practical obstacles to funding U.S. human rights work, it is perhaps not surprising that this field is severely underfunded. Until 2003, the Ford Foundation was to our knowledge one of the few national foundations to earmark resources for U.S. human rights work, particularly as conducted by domestic rights groups. It is our hope that with Ford's ongoing commitment, the involvement of Atlantic Philanthropies, the JEHT Foundation and others and the growing interest of donors more generally, the resource gap that afflicts the U.S. human rights movement can be closed and its transformative work can expand.

### Conclusion

The struggle to build a movement for human rights in the United States is not for the faint of heart. It seeks a transformation in U.S. society akin to the changes wrought by the civil, women's, gay and labor rights movements of the previous century. It faces substantial obstacles, not least of which is the increasing unilateralism of the U. S. government and its long history of exceptionalism with respect to the domestic application of human rights. Reversing these trends will require a concerted effort. U.S. social justice activists, the donor community and the American public must work together to restore this nation's commitment to the fundamental principle that the equal and inalienable rights of all human beings are the basis for freedom, justice and peace in the world. Let it be said by future generations that in the 21st century, the United States finally gave its full attention to the words that The Reverend Dr. Martin Luther King, Jr. uttered nearly 40 years ago: "I think it is necessary to realize that we have moved from the era of civil rights to the era of human rights."

**Larry Cox, Senior Program Officer  
Dorothy Q. Thomas, Senior Consultant**



## **Part I:** Domestic and International Litigation

Human rights law offers stronger protections than U.S. statutes, and lawyers are increasingly turning to these legal precepts to frame social justice issues more broadly and, in some cases, win binding rulings.

## CHAPTER ONE: DEATH PENALTY

# The National Coalition to Abolish the Death Penalty

**By portraying the United States as out of touch with international human rights norms, anti death-penalty activists make slow but steady gains.**

## The starting place

In 1996 Azi Kambule, a South African teenager living in Mississippi with his mother, was charged with capital murder for his involvement in a car jacking and the killing of a 31-year-old woman. Azi, who was 16 at the time of the crime, was not present when his accomplice murdered the victim or even aware of the slaying. The prosecutor in the case sought the death penalty. Five years earlier the United Nations had adopted the Convention on the Rights of the Child, which explicitly prohibits capital punishment for defendants who are under 18 years old when they commit a crime. The United States is the only nation that has not ratified the treaty. Azi's dire predicament, emblematic of the growing divide between the use of the death penalty in the United States and the fervent international opinion that condemns it, provided death-penalty foes with a dramatic, if desperate, opportunity.

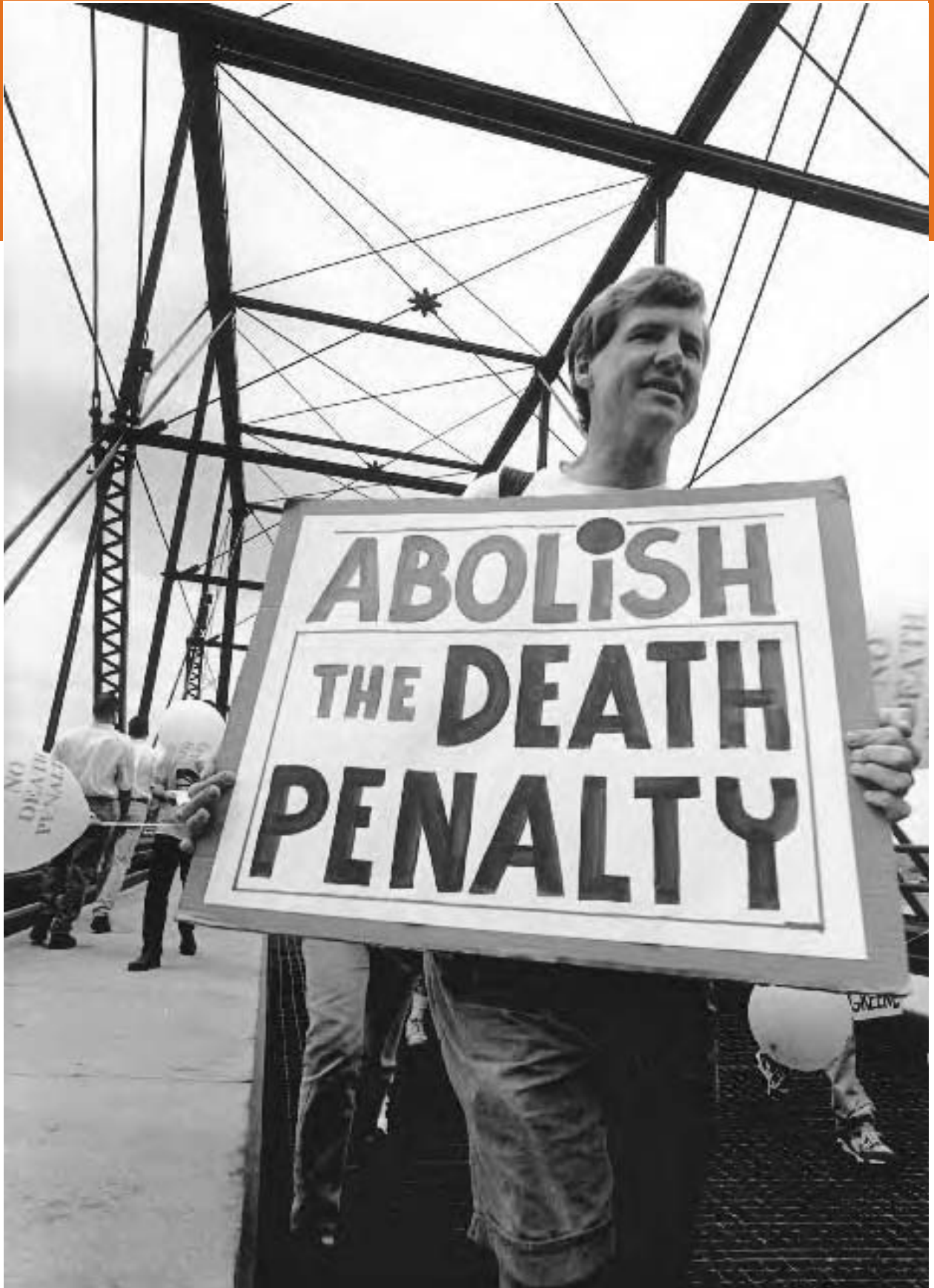
The teenager's case became a lightning rod. Two campaigns, mounted by anti death-penalty activists, fueled an international uproar and brought pressure on the Mississippi district attorney to reverse his decision. The Stop Killing Kids Campaign focused domestic attention on juvenile execution as a violation of international human rights norms. The International Commission of Concern, led by Archbishop Desmond Tutu of South Africa, worked in the domestic and international arenas to publicize Azi's life-and-death plight.

Both initiatives were effective demonstrations of the power, and some of the challenges, of invoking international human rights standards to alter domestic policies.

The modern era of the U.S. death penalty—and the renewed movement to abolish it—began in 1976 when the Supreme Court reinstated capital punishment after having struck it down in 1972. Since the ruling, the United States has revealed a grim and growing appetite for state-sanctioned executions. Currently, 38 states and the federal government, including the military, can impose a death sentence. Almost 4,000 people are on death row, and only China executes more people annually. International and domestic anti death-penalty organizations argue that the U.S. death penalty system is fallible, tainted with race and class bias and reserved primarily for the poor. A 1990 report by the U.S. General Accounting Office highlights a “pattern of evidence indicating racial disparities in the charging, sentencing and imposition of the death penalty.” Over half of inmates on death row are people of color, who make up a much lower percentage of the overall population. Those awaiting execution are also overwhelmingly poor. At the time of their trials, 95 percent could not afford an attorney. Since resumption of the death penalty, more than 100 individuals have been freed from death row because they were subsequently found innocent.

The death penalty is also a potent political issue.

**Members of the Bruderhof religious community protest outside death row at Greene Prison in Pennsylvania.**



**“We are not the coalition for information about the death penalty, and we’re not the coalition for ethical standards for the death penalty. We are the coalition to abolish the death penalty.”**

State and federal lawmakers, Democrats and Republicans alike, have been expanding the kinds of crimes punishable by death. In the mid-1990s, the former abolitionist states of Kansas and New York reinstated capital punishment. Other states widened the scope of existing statutes: Alabama, Colorado, Delaware, Georgia, Indiana, New Hampshire, North Carolina and Tennessee enacted laws that increased the number of aggravating circumstances that qualify a murder as a capital crime.

### **The turning point**

While the United States has increased its use of the death penalty over the past 25 years, international sentiment has moved in the opposite direction, which is what prompted the National Coalition to Abolish the Death Penalty to frame its U.S. work in human rights terms. In 1976, the same year the United States reinstated the death sentence, the International Covenant on Civil and Political Rights, which the United States has since signed and ratified, took effect. Although the covenant does not ban the use of the death penalty, it upholds a person’s “inherent right to life,” limits the use of the death penalty to “the most serious crimes” and prohibits it from being imposed on pregnant women or juveniles offenders. (A later protocol to the covenant, which the United States has not signed, calls on states to abolish the death penalty in all cases.) Since 1990 only six countries have executed people for crimes committed when they were under 18 years old—Nigeria, Pakistan, Saudi Arabia, Yemen, Iran and the United States—and the United States has executed more juveniles than the other five combined.

Internationally, however, the trend toward abolition of the death penalty has accelerated in the past decade. In 1993, the International War Crimes Tribunals for the former Yugoslavia rejected the death

penalty, even for the most heinous crimes such as genocide. The Rwanda tribunal took the same position. In February 2002, the Council of Europe’s Committee of Ministers adopted Protocol 13 to the European Convention on Human Rights, the first legally binding international treaty to abolish the death penalty under all circumstances.

In response to the 1976 Supreme Court ruling, anti death-penalty activists from organizations such as the American Civil Liberties Union and the National Association for the Advancement of Colored People mobilized to form the National Coalition Against the Death Penalty. Shortly after its founding, the organization was renamed the National Coalition to Abolish the Death Penalty, leaving no doubt about its mission. “We are not the coalition for information about the death penalty, and we’re not the coalition for ethical standards for the death penalty. We are the coalition to abolish the death penalty,” said former executive director Steve Hawkins. The coalition uses grassroots organizing, public education, advocacy and media outreach to attain its single-minded goal. Its 5,000 members belong to affiliated groups ranging from state organizations like the Texas Coalition to Abolish the Death Penalty to international NGO’s such as Amnesty International.

### **The journey**

Given the stance of the U.S. Supreme Court, some anti death-penalty advocates choose to focus their efforts on crucial reform, working for legislation that would set standards for legal defense in capital cases, require the preservation of crime scene evidence for a specified number of years and mandate that states pay for DNA testing. While these proposed legislative changes would improve investigations of serious crimes and help prevent false capital convictions, anti death-penalty activists also believe their most power-



ful argument is using international human rights standards to set a higher ethical and legal benchmark.

Against this backdrop of human rights principles, the United States seems out of touch on the death penalty issue. The National Coalition to Abolish the Death Penalty and other activist organizations draw attention to this isolation and encourage international scrutiny of U.S. death penalty practices. The coalition and its affiliated organizations meet with international human rights officials, arrange visits by U.N. human rights monitors, issue reports to international human rights committees and monitor death penalty cases filed with the Inter-American Commission on Human Rights (IACHR), the human rights arm of the Organization of American States. The IACHR is the primary human rights arm of the Organization of American States, the world's oldest regional international organization, comprising 35 countries in the Western Hemisphere. The IACHR examines petitions filed by individuals claiming violations of their rights by their governments. The United States was actively involved in the creation of the commission and continues to be one of its primary political supporters. The IACHR and U.N., in turn, bolster the position of the coalition by issuing reports and statements critical of the death penalty in the United States.

This steady drumbeat of condemnation from the international human rights community can be an effective argument to persuade state and federal officials to rethink their views on executions. Speedy Rice, a law professor at Gonzaga University in Spokane, Wash., has written several amicus briefs on behalf of death row clients that invoke the human rights violation argument. "Each time the U.S. death penalty is discussed and condemned in the international forum you raise the opportunities to change the minds or views of decision makers," Rice said.

### **The accomplishments**

Opposition to the death penalty is clearly articulated in a number of international treaties and by various international human rights bodies, but awareness of these conventions is low among U.S. government officials, the legal community and the general public. As a result, anti death-penalty advocates in the U.S.

allocate considerable resources to public education and advocacy campaigns. The National Coalition to Abolish the Death Penalty, among others, has focused its energies on the issue of death penalties for juveniles. During the campaign to save Azi Kambule, the coalition launched petition drives and letter-writing campaigns, raised funds for his legal defense and generated media coverage. In fact sheets and fliers, the campaigns underscored the racial bias in sentencing—66 percent of those sentenced to death for crimes committed as juveniles are minorities. It also emphasized the overwhelming international rejection of the death penalty and accused the U.S. of violating international treaties.

Building on experience gained during the campaigns to save Azi, the coalition in January of 2003, kicked off the Campaign to End Juvenile Executions, aimed at the state level. The coalition also initiated an online organizing tool, the Legislative Action Center, which provides state-by-state updates and summaries of all current and pending death penalty legislation, as well as contact information for state legislators. The site enables visitors to send instant messages to lawmakers to register their views on pending bills, moratoriums and related death penalty issues.

In 2002 anti death-penalty advocates in Indiana led a successful effort to pass legislation banning the execution of juvenile offenders. The legislation's primary sponsor argued that the United States was one of a handful of countries that still executed juveniles and that the U.S. government banned the practice for federal offenses. "Organizers used this information to drive home the point that Indiana was out of step with the rest of the world and with U.S. Congress," Hawkins said.

During the push to save Azi Kambule, the human rights angle was prominent in press reports. The Stop Killing Kids Campaign and other efforts emphasized how U.S. death penalty laws collided with international human rights standards. Outlets as varied as Time, The Wall Street Journal, the Jackson, Miss. Clarion-Ledger and specialty magazines like Seventeen and Vibe discussed Azi's and other cases in terms of human rights violations. The coalition has now included a media guide on the Legislative Action Center, allowing activists to identify local media contacts by using zip codes or city searches to send instant messages or letters to the editor.

It's difficult to gauge how big a role the coalition's human-rights-based campaign played in saving the life of Azi Kambule. The judge was influenced by more prosaic legal issues, ruling that because the district attorney had cut a deal with the co-defendant for a life sentence in exchange for testimony, Azi could not face the death sentence. Eventually, the murder charge against Azi was dropped, and he was convicted of car jacking and sentenced to 30 years in jail. His attorneys are working to appeal the sentence.

Perhaps more important, the coalition's and other groups' ongoing use of human rights to generate sustained international condemnation of government-sanctioned executions have helped encourage a gradual reexamination of death penalty practices in the United States. Several important shifts occurred in 2002. In *Atkins vs. Virginia* the Supreme Court ruled that executing a mentally retarded person violates the Eighth Amendment ban on cruel and unusual punishment. Justice John Paul Stevens's majority opinion noted, "Within the world community the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." In *Ring vs. Arizona* the Court required juries, not judges, to consider the facts that might lead to a death sentence.

On the state level, after controversies erupted over egregious sentencing errors, the governors of Maryland and Illinois instituted moratoriums on executions while expert committees investigated death penalty procedures. As he left office, former Illinois Governor George Ryan made news across the world when he commuted the death sentences of 167 inmates. Speedy Rice believes that the application of international standards is having a positive long-term effect on the death-penalty issue. "It is almost impossible to have a broad-based discussion on the death penalty and not see human rights as part of the debate."

### The obstacles

Despite more general successes, using the human-rights framework in U.S. courts in particular still faces substantial hurdles. Many lawyers who defend clients in capital cases are reluctant to use human-rights-based arguments because they are unfamiliar and unpersuasive to judges and juries. While outside criti-

cism and international intervention can bring heightened attention to death penalty issues, grassroots abolitionist campaigns can trigger a backlash from local citizens. Many Americans view visits by U.N. human rights officials to death row inmates or letters from the Pope seeking clemency as interference in domestic affairs. "There is a cost to using the human rights approach," said Rice. "There is some risk of alienation in a local debate, particularly when confronted with the prevailing arrogant view that all things American are good and just."

This skepticism also resides in the U.S. Supreme Court. Chief Justice William H. Rehnquist reflected the isolationist stance of many Americans in his dissent in *Atkins vs. Virginia*: "I fail to see how the views of other countries regarding the punishment of their citizens provide any support for the court's ultimate determination." But at a time when global alliances are becoming increasingly important to the United States, the country's continued use of the death penalty could become an ever more problematic irritant in its relations with the world community. Europeans in particular lean toward the elimination of capital punishment, and the National Coalition to Abolish the Death Penalty is trying to pressure European Union members to reexamine financial and trade agreements with U.S. states that sanction the death penalty. "The application of the death penalty in the United States is hindering U.S. diplomatic efforts abroad," Hawkins said. "Paradoxically, our country's peculiar fixation with the death penalty is making us less safe as we struggle to protect our country against the threat of terrorism."

### The road ahead

Will human rights arguments succeed in changing American attitudes about the death penalty? No one is predicting absolute victory anytime soon, but international pressure and domestic human rights advocacy on this fundamental moral issue will only increase. As Rick Halperin, a veteran activist with the Texas Coalition to Abolish the Death Penalty and Amnesty International, said: "The death penalty defines who we are as a people and defines our national character. I want to end the idea that extermination of people is acceptable." ■

## CHAPTER TWO: ECONOMIC RIGHTS

# The Center for Economic and Social Rights

**For the first time U.S. anti-poverty groups, faced with restrictions on cash benefits to the poor, petition international bodies to charge the United States with economic human rights violations.**

### The starting place

In 1996, the federal government passed sweeping legislation that ended the 60-year-old entitlement to cash benefits for the poor. It was, as President Clinton famously intoned, “the end of welfare as we know it.” The legislation, officially titled the Personal Responsibility and Work Reconciliation Act, placed lifetime limits on receipt of benefits, imposed a work requirement on recipients—primarily women and their children—and eliminated benefits to legal immigrants and people convicted of felony drug offenses. To most government officials and much of the general public, the enactment of welfare reform was seen as welcome and wildly successful. After the new law went into effect, there was a dramatic drop in the welfare rolls.

### The turning point

While the number of people on the rolls has gone steadily down from 5.8 million in 2000 to 5 million in 2002, for example, poverty has increased. During this same two-year period the number of people living in poverty rose from 31.6 million to 34.6 million. Before and after the passage of the reform legislation, anti-poverty activists from across the country had cam-

paigned vigorously to highlight and eliminate the negative aspects of the law. Employing a variety of tactics, including marches, civil disobedience, educational workshops, reports, and litigation, these activists were fighting an uphill battle against one of the more notable and popular pieces of reform legislation in recent years. Against this backdrop, anti-poverty groups began considering new tactics to document the harm the reforms were visiting on those most in need. In a bold departure from more traditional means of advocacy and public education, a strategy built on economic human rights began to take shape.

### The journey

The Poor People’s Economic Human Rights Campaign, a network of grassroots anti-poverty organizations, was formed in 1997 as a response to welfare reform (see study on page 50). Its membership is made up primarily of those who are living in poverty or on welfare. Spearheaded by the Kensington Welfare Rights Union, a Philadelphia-based advocacy organization, the campaign chose the Universal Declaration of Human Rights to show that U.S. welfare policies often violate human rights. As part of this effort, organiza-

**A coalition of poor and homeless people, students and anti-poverty activists spearheaded by the Kensington Welfare Rights Union takes over a Housing and Urban Development house in Philadelphia left empty for over a year.**



**The Poor People's Economic Human Rights Campaign is a network of grassroots, anti-poverty organizations whose membership is made up primarily of those who are living in poverty.**



tions under the umbrella of the rights campaign began gathering testimony from their constituents who felt the effects of welfare reform legislation on their lives. These testimonies were collected in hopes of using an international human rights mechanism or body to hold the U.S. government accountable for these violations of economic rights.

Enter Cathy Albisa, the director of the U.S. Program at The Center for Economic and Social Rights, who had previously worked at The Center for Reproductive Law and Policy, the International Women's Human Rights Law Clinic at the City University of New York, and the human rights institute at Columbia University Law School. Albisa and her organization would play a key role in devising a legal strategy to counter the new welfare policies using human rights.

The Brooklyn-based Center for Economic and Social Rights was established in 1993 to promote social justice through human rights advocacy. The center's U.S. Program focuses on strengthening the capacity of U.S.-based anti-poverty activists to use human rights. "The methodology we've adopted at the center is not supposed to create a detached legal project," said Albisa. By supporting grassroots initiatives throughout the country, the center helps link local organizers' efforts directly to international human rights stan-

dards and mechanisms and provides resources and training along the way. "We support people who do campaigns. We do trainings with activists and lawyers, do documentation, write reports, and share information with various human rights bodies. We come in and figure out together how best to support their existing work."

In the U.S. courts, public welfare benefits have been determined to be "a privilege" and not a "right." Because U.S. law imposes no governmental duty to ensure social and economic rights, many lawyers allied with the poor people's campaign, including prominent civil rights lawyer Peter Weiss, were intrigued by the idea of using an international mechanism to hold the U.S. government accountable for protecting these rights. After several years and numerous setbacks, their goal was finally realized.

### **The accomplishments**

In July 2003, Albisa, along with Monica Leggett, a young mother of three in West Virginia who had reached her lifetime limit on benefits, the Poor People's Economic Human Rights Campaign and others, filed a petition with the Inter-American Commission on Human Rights, specifically challenging the reform law's five-year lifetime limit on receiving benefits. It

**It was the first petition of its kind to charge the U.S. government with economic human rights violations and the first to challenge U.S. welfare policy before an international human rights body.**

was the first petition of its kind to charge the U.S. government with economic human rights violations and the first to challenge U.S. welfare policy before an international human rights body. For the petitioners, however, preparing for the filing had been a bumpy road.

In deciding to file the petition with the IACHR, The Poor People's Economic Human Rights Campaign activists and attorneys were looking for a legal process to emphasize the U.S. government's obligation under international human rights law to end poverty. Several practical factors also made IACHR the right choice: its legal format is flexible regarding admissible evidence, the commission holds hearings where both parties are required to attend and the U.S. government had historically responded to commission requests. Also, unlike other human rights bodies based overseas, the commission headquarters are located in Washington, D.C.; organizers with The Poor People's Economic Human Rights Campaign wanted to file the petition just ahead of a month-long protest march in August 2003 commemorating the 35th anniversary of The Reverend Martin Luther King, Jr.'s Poor People's Campaign.

An earlier version of the petition was first filed in October 1999, but then withdrawn for procedural reasons. Over the next several years, Albisa shepherded it through many drafts as it traveled with her while she worked at several different human rights institutions. The original petition was a broad challenge to the welfare reform legislation. Based on an assertion of the right to social welfare and security, the petition called

the reform law a retreat from government responsibility to ensure economic rights. The petition specifically attacked the legislation's work requirements, arbitrary time limits, and denial of benefits to immigrants and convicted felons as economic human rights violations.

In early 1999, Albisa and the other attorneys on the legal team were having difficulty identifying welfare recipients who would be willing to be named as petitioners. Given their general state of economic instability, welfare recipients were hard to find, and even harder to keep track of in an on-going manner. Attorneys also encountered problems in establishing a causal relationship between the harm the person was experiencing and the actual economic rights violation. It was easier to establish harm by invoking broader poverty statistics than proving an individual's circumstances were a direct result of the welfare law. These hurdles meant that the original petition was filed mostly by non-governmental organizations that represented welfare recipients, rather than by the recipients themselves.

In April 2000, the IACHR sent Albisa a letter saying that in order for the petition to be accepted petitioners needed to be individually named victims who were being affected by the violations and whose domestic legal remedies for obtaining or retaining benefits had been exhausted. After reconsidering their strategy, the legal team and the activists decided in late 2001 to narrow its focus to a specific population of the poor that had lost its benefits due to the 1996 welfare

**Monica Leggett, exhausted her lifetime welfare limit, and along with the PPEHRC, filed a petition challenging the reform law's five-year lifetime limit on receiving benefits.**

**“I want people to think about economic inequality differently, in terms of rights. I want people to see that you can’t reduce rights. You either have to hold the line or increase them.”**

law reform. And one of its provisions—the five-year lifetime limit on benefits—was beginning to impact significant numbers of welfare recipients.

The five-year ban was playing out in dramatic fashion in West Virginia. One of the poorest states in the country, almost 18 percent of its population lives below the poverty line compared with 11 percent nationwide. Poverty in the state is particularly stark among households headed by females, with 36 percent living below the poverty line compared to 26 percent nationwide. On Dec. 9, 2002, the West Virginia Supreme Court decided that “regression” of welfare benefits was constitutionally permissible and let stand the state’s implementation of the lifetime limit on benefits.

### **The obstacles**

Despite the historic nature of filing an economic human rights petition against the United States, Albisa had to confront the skepticism she and others felt about using the international human rights framework to tackle domestic social justice issues. “In the long run, no use of any legal standard alone is enough to make change. Whatever kind of law it is won’t work unless there is a depth of support in the culture for the change,” she said. Albisa and other U.S. human rights activists and advocates had to be realistic about applying the higher standards of governmental responsibility articulated in international human rights instruments to a domestic legal system that is unacquainted with and unwelcoming to such challenges.

The IACHR petition strategy has several limita-

tions. The petition process itself is very slow. The commission can sometimes take years to issue a final report. A recent report issued by the commission in July 2002 on indigenous peoples’ land rights was based on a petition filed in 1993. (See study on indigenous rights, page 32.) More important, the commission has no enforcement power and the U.S. government often disputes or ignores its findings. As the welfare-reform petition shows, the IAC’s emphasis on individual victims often requires a narrowly focused complaint that fails to capture the largest number of victims or those most affected by the violations. Finally, international human right mechanisms often seem “foreign” to U.S. activists, who are not always convinced of their effectiveness. Albisa encountered this element of “foreignness” in her search for petitioners. She said that anti-poverty organizations were “happy to do what they could to help out,” but when she asked them how the human rights approach would be helpful to them “they drew a blank,” she said.

In spite of these obstacles, the on-going petition effort has several important benefits. First, attorneys and advocates from the international human rights community have a direct link to the individuals actually experiencing violations of economic rights. The IACHR petition strategy allows these two U.S. communities—international human rights attorneys and advocates and grassroots anti-poverty activists—to work in tandem, doing what each does best. The result is a “common strategy to end poverty, rather than to tinker with the system to alleviate it,” Albisa said.



Second, the petition process is educating grassroots activists about the value of human rights standards and international human rights mechanisms. Grassroots organizers with The Poor People’s Economic Human Rights Campaign as well as attorneys point to the petition and the filing process as a way to “concretize public education efforts,” Albisa said. “We use the petition as an example of how it all works, as an example of what economic rights are, as an example of what regression is and as an example of how human rights mechanisms can help,” said Albisa.

Finally, during the search for petitioners, current and former welfare recipients have been introduced to international human rights standards and in some cases become involved directly with anti-poverty grassroots organizing in their areas. Albisa described such an instance when she spoke with a woman directly affected by the drug-felony ban. “When I first talked to her about being a petitioner she said ‘no’ because she wasn’t emotionally ready. When she was ready, she

**Protestors in a march for economic human rights.**

also started working directly with the Kensington Welfare Rights Union and now works in their office part-time, goes to demonstrations with them and is very involved. She was homeless until a few months ago. The Kensington Welfare Rights Union helped her get housing.”

### **The road ahead**

Since joining the center’s U.S. Program, Albisa has taken on two other major complementary initiatives. In association with New York University’s Institute for Education and Social Policy and several local education and advocacy groups, the center is working on a project to promote a human rights approach to education in New York. Working with Kensington Welfare Rights Union in Pennsylvania and Food First/Institute for Food and Development Policy in California, the center is also building the capacity of social justice and community organizations across the country that use human rights in their work and highlight violations of economic human rights in particular. These projects, along with the IACHR petition, highlight the center’s commitment to use the law to support grassroots organizing efforts and provide activists with the human rights information and resources they need to advance social and economic justice activism in the United States.

“I want people to think about economic inequality differently, in terms of rights,” Albisa said. “I want people to see that you can’t reduce rights. You either have to hold the line or increase them.” ■



## CHAPTER THREE: INDIGENOUS RIGHTS

# The Indian Law Resource Center

**Faced with a restrictive U.S. legal precedent, indigenous people mobilize around rulings from international organizations that call for a higher standard of accountability.**

### The starting place

In March and again in November of 1992, helicopters and armed officers of the U.S. Bureau of Land Management (BLM) raided the northern Nevada ranch of Mary and Carrie Dann, two rawhide-tough Western Shoshone sisters in their mid-80s, confiscating 430 horses. During the roundups, the Dann family and supporters of the Western Shoshone nonviolently resisted the BLM's efforts. One Dann family member, Clifford, threatened to set himself on fire after dousing himself with gasoline. Clifford was later charged with threatening a federal officer and spent nine months in federal prison.

For the Dann family, the raids were a dramatic and infuriating chapter in a 30-year struggle with the United States government over land rights. In 1974, the Dann sisters were sued for trespass by the BLM, the federal land management agency, for grazing their cattle on public lands. From 1974 to 1991 the case worked its way through U.S. District Court, the Court of Appeals and the Supreme Court. The Danns contend that the lands they use to graze their livestock are not publicly owned but ancestral territory of the Western Shoshone nation. Much of the government's case hinges on a 1979 decision by the Indian Claims Commission (ICC), which ruled that Western Shoshone

land claims had been nullified by "white encroachment." Despite the fact that money set aside by the U.S. government to resolve the land dispute has never been claimed by or distributed to the Western Shoshone Indians, the U.S. courts continue to rule that these land claims have been "extinguished."

Such a ruling draws its strength from a 1950s Supreme Court precedent. In its 1954-55 term, the court handed down two landmark decisions that would shape the future of two of the nation's racial minorities. The first was *Brown vs. Board of Education*, which ended the doctrine of "separate but equal" established in *Plessey vs. Ferguson*. This watershed decision marked a turning point for the civil rights movement. But, ironically, this same court handed down another decision, *Tee-Hit-Ton Indians vs. the United States*, which adversely impacts American Indian communities to this day. The *Tee-Hit-Ton* decision sided with the U.S. government by supporting its right to confiscate Indian lands without due process of law and without fair market compensation. It is this decision—and the failure to overturn it during the ensuing decades—that led American Indians to appeal to international human rights laws and mechanisms to resolve land and natural resource claims. The application of human rights to these issues has produced significant interna-



tional support and pressure that, while not yet successful in winning corrective judicial rulings, has significantly shifted the battle lines in this enduring saga of broken promises and rights denied.

Over the past 50 years, decisions by domestic courts, particularly the U.S. Supreme Court, have reinforced two basic concepts regarding American Indians: the doctrine of discovery, which gives ultimate power to those who discovered Indian lands and gives Indians only the right of occupancy and use of those lands; and plenary power, which gives Congress near absolute power over the native Indians in the United States. These concepts, as well as the court decisions that flowed from them, are the foundation of the U.S. government's role as a "trustee" for the nation's Indian communities and their assets.

"The relationship between the U.S. government and Indians," said Tim Coulter, executive director of the Indian Law Resource Center, "is an involuntary permanent trusteeship with no accountability. The

only other parallels are childhood or mental incapacity. But the difference is [that] those relationships end with age or compliance. Indians can't end their relationship."

In contrast to these U.S. legal limitations, international human rights bodies have created several important entities and agreements that seek to address the concerns and advance the rights of indigenous peoples. At their core, these entities (such as the United Nations Permanent Forum on Indigenous Issues) and agreements (such as the International Labor Organization Convention 169 and the Draft Declaration on the Rights of Indigenous Peoples) call for sovereignty and self-determination for indigenous peoples. These principles directly oppose the trustee relationship with American Indians established in U.S. law.

In the view of Deborah Schaaf, staff attorney with the resource center, the conflict between international and domestic law is particularly clear in the area of property rights. Under international law, said Schaaf,

**Carrie Dann, right, and her sister Mary on their land in Crescent Valley, Nevada.**

**“International human rights laws and bodies are essential to receiving justice. We need international mechanisms to serve as an independent review of the inadequacies of the U.S. judicial system and federal Indian law.”**

“indigenous peoples have actual rights, which include property rights to their traditional land as those lands are defined by indigenous peoples themselves. This is in opposition to current domestic law which says that the U.S. government can define the property rights of native people.”

The evolution of the notion of indigenous rights within the international community is an outgrowth of the new world standards that emerged since World War II and the dissolution of colonial empires. The U.S. government’s continued embrace of the notion of trusteeship flaunts those democratic trends. “Indian people from around the world agreed with the critique of the trusteeship; Europeans understood the critique of trusteeship,” said Steve Tullburg, another resource center staff attorney. “They agreed because trusteeship was based on the same ideas as colonization. Therefore, how can they [the international bodies] continue to allow the U.S. government to justify the same types of domination of Indian peoples in the U.S.?”

### **The turning point**

For the last 50 years, the U.S. government has resisted acknowledging these evolving international norms. But the founders of the Indian Law Resource Center recognized that international human rights standards—far more expansive in terms of property and collective rights for indigenous people than U.S. law—might be successfully used as they pressed forward on domestic legal remedies in land disputes.

Since its founding in 1978, the Indian Law Resource Center, with offices in Washington, D.C. and Helena, Mont., has operated in domestic and international are-

nas to protect the rights of American Indians. In both forums, the center works to replace outdated, discriminatory doctrines with new concepts that reflect evolving international human rights standards and practices. Through domestic and international litigation, the center works to safeguard Indian rights to their culture, language and forms of worship and to maintain control over their territories and governance of their own affairs—in essence, to remain sovereign. By using the international human rights system, the center has argued, indigenous peoples can address their rights violations in the U.S. on a nation-to-nation basis, rather than within the context of trusteeship.

“International human rights laws and bodies are essential to receiving justice,” said Julie Fishel, a staff attorney for the Western Shoshone Defense Project, an advocacy organization based in Crescent Valley, Nev. “We need international mechanisms to serve as an independent review of the inadequacies of the U.S. judicial system and federal Indian law.”

The resource center essentially agrees, having confronted the limits of what it can do in the U.S. courts to protect the rights of indigenous communities. “We were looking for leverage against our national government,” said Tullburg. Hence, the center’s decision to seek justice by invoking international human rights law.

### **The journey**

Since its founding, the Indian Law Resource Center has worked with numerous indigenous tribes and groups to protect their rights. One of those groups is the Dann family.



With the formation of the Western Shoshone Defense Project, the Western Shoshone began to organize their defense of the Danns but the U.S. government chose confrontation over negotiation in addressing the land-claims issue. Those tactics culminated in the helicopter-borne raids mentioned previously.

By 1993, the Danns had exhausted all of their appeals in the U.S. courts and had failed to obtain a ruling recognizing their land claims. The Supreme Court held, in *United States vs. Dann*, that payment for the Western Shoshone lands had been effected by the ICC decision, even though members of the Western Shoshone nation had accepted no money. The court determined that the federal government, as trustee of the Western Shoshone, had accepted the money on their behalf.

The dispute between the U.S. government and the Dann family was further complicated by a recent effort by Nevada's Democratic Senator Harry Reid to resolve the issue through legislation. His bill would mandate

the distribution of the ICC funds and end all claims to the disputed land. The bill was passed by the Senate in 2002 but died in the House. Reid reintroduced the bill in the 2003 congressional session and a similar, although not identical, bill was introduced by Representative Jim Gibbons from Nevada. Final action has not occurred on either measure. The Dann family and the defense project oppose any financial settlement. "As a traditional Shoshone person, I can never accept money for the land," said Carrie Dann. "That is wrong—that would cut our umbilical cord. It does not have a money value, it is sacred. It is our mother."

Having run out of domestic legal venues, Mary and Carrie Dann turned to the Indian Law Resource Center to take their case to the international community, and in 1993, an official complaint was filed with the Inter-American Commission on Human Rights.

Based on more than a decade of experience challenging the federal government on behalf of indigenous communities, the center believed that a favorable deci-

**Left: The U.S. Bureau of Land Management (BLM) delivers roundup papers in order to take possession of the Dann's livestock. Right: Dann children protest the BLM's actions.**

sion from the IACHR in the Dann case would increase global pressure on the United States to change its federal laws pertaining to American Indians. The center's decision was based on the special circumstances of the Dann family—and other indigenous communities within the United States—namely, the near-absolute power Congress wields has over the land and resources of American Indians; the unfavorable disposition of domestic courts regarding the sovereignty of Indian nations and the requirement of most international human rights bodies that all petitioners first exhaust all domestic remedies. In making its case, the Indian Law Resource Center accused the U.S. government of interfering with the Danns' use and occupation of ancestral lands, appropriating the land and removing their livestock through unfair legal procedures.

The center's human rights strategy also included utilizing the United Nations' committee for the Convention on the Elimination of All Forms of Racial Discrimination (CERD), a multilateral human rights treaty. Having ratified CERD, the United States is legally bound to meet the terms of the treaty and to report periodically on its compliance. The CERD committee periodically reviews member reports and makes recommendations accordingly. (The U.S. submitted its first compliance report to the committee in September 2000, five years late.)

In 1999, the center and several Western Shoshone tribes worked together to file several urgent action requests with the CERD committee. The committee did not respond to these requests, but in 2000 a delegation of Western Shoshone leaders attended the annual meeting of the committee and provided it with information about the Dann case and the rights violations that American Indians experience under current federal law.

### **The accomplishments**

The results of reaching out to these international human rights bodies were overwhelmingly successful. In its preliminary report Oct. 5, 2001 and a final report Jan. 9, 2003, the IACHR found the U.S. government in

violation of the rights of American Indians and validated the Dann's land claims. The report stated: "...[H]aving examined the evidence and arguments presented on behalf of the parties to the proceedings, the Commission concluded that the State has failed to ensure the Danns' right to property under conditions of equality contrary to Articles II, XVIII and XXIII of the American Declaration on the Rights and Duties of Man, which sets forth the human rights standards of the OAS, in connection with their claims to property rights in the Western Shoshone ancestral lands." This unprecedented decision by the IACHR, the culmination of a decade-long effort, held the U.S. government to a higher standard of accountability to the rights of indigenous people than currently exists in domestic law.

In another victory for The Indian Law Resource Center and the Western Shoshone, the CERD faulted the U.S. government's report in 2001 on its compliance with the U.N. human rights treaty, noting "with concern, the federal government's ability to unilaterally abrogate treaties with Indian tribes." The CERD went on to express concern about the "expansion of mining and nuclear waste storage on Western Shoshone ancestral land, for placing their land on auction for private sale and other actions affecting the rights of indigenous peoples." The CERD concluded by recommending that the federal government "ensure effective participation by indigenous communities in decisions affecting them..." The U.S. has yet to respond to the CERD findings. It has three years to do so.

The IACHR decision generated renewed, if modest, media coverage of the Dann's ongoing dispute with the federal government. Since the release of the IACHR's preliminary report in 2001, the Dann case has been featured in four articles in *The New York Times*. While these stories have not always pointed out the significance of the IAC's decision in depth, they have served to educate the general public about the battle between the Danns and the BLM. The United States government, however, bluntly dismissed the IACHR

findings. Responding to the IACHR report, the U.S. said the “government rejects the Commission’s report in its entirety and does not intend to comply with the Commission’s recommendations.” Its rationale, once again, was that the Dann case did not involve human rights violations but land-title and land-use questions already decided by ICC. In its final report on the Dann case, the commission tersely responded to the U.S. rejection of its recommendations in the preliminary report: “The State’s observations fail to consider, however, the well-established jurisprudence and practice of the inter-American system according to which the American Declaration is recognized as constituting a source of legal obligation for OAS member states... These obligations are considered to flow from the human rights obligations of member states under the OAS charter, which member states have agreed are contained in and defined by the American Declaration.”

### The obstacles

In spite of the affirmative outcomes for the Danns in the international arena, domestic enforcement of the IACHR’s or CERD committee’s findings will be difficult, given the federal government’s flat rejection of the human rights argument in favor of its land-based view. It is precisely this absolute power to seize Indian lands, embodied by the ICC process, which the Indian Law Resource Center and the Western Shoshone Defense Project hope eventually to overturn with the help of the IACHR and other human rights advocacy.

“The Inter-American Commission decision confirmed that indigenous peoples have a property right to their indigenous lands as they see them. This decision erodes notions of U.S. governmental trusteeship,” said Schaaf.

Carrie Dann believes that the IACHR report could be a “useful tool” but is unsure how the U.S. government’s response will affect the current standoff. “We are not asking anything from the U.S. All we want is to sit across the table and talk, to talk about a land base

for the Western Shoshone. We never asked the government for anything,” she said.

Meantime, the defense project staff and the Dann family continue to face daily struggles that make it difficult to make good use of the IACHR’s report. Since it was first issued, the BLM has conducted several armed raids, seizing over 200 of the Dann’s cattle in September 2002 and impounding 400 horses in February 2003. The Dann sisters live without a furnace or hot water on the rugged ranch land that has been in their family for decades. The animal seizures by the BLM have left them with little livestock to eke out an already hardscrabble existence. The defense project’s small staff works for meager pay and without health insurance. The Defense Project’s geographic isolation—the nearest grocery store is a 150-mile roundtrip—makes it next to impossible to recruit interns or volunteers.

### The road ahead

In the coming year, the resource center plans to convene a series of seminars for human rights activists to review the IACHR’s decision. The group will also target policy makers, including members of Congress, state lawmakers and State and Justice Department officials, to disseminate the commission’s findings, and educate American Indian tribal leaders about the access to and efficacy of human rights mechanisms. Other land-claim cases may be brought before the IACHR or other international bodies.

Although the unprecedented IACHR decisions in the Dann case received limited media attention, the commission addressed head-on one of the country’s most significant social justice issues. As the Indian Law Resource Center and other groups continue to mobilize in the wake of these victories, the government, the courts and the general public may begin to recognize the value of international human rights standards as an important exemplar for the U.S. legal system. As Schaaf put it, “We evolve. Laws evolve. Domestic law is not impenetrable. Things will change.” ■

## CHAPTER FOUR: BUILDING LEGAL CAPACITY

## Bringing Human Rights Home Lawyers' Network

### Erosions of civil-rights protections and new global realities lead the U.S. legal community to build its capacity for human rights law-based advocacy.

#### The starting place

Groundbreaking civil rights legislation in the 1960s and 1970s paved the way for increased equality of racial minorities and women in the United States. But in the 1980s and 1990s, many of these gains were rolled back by the decisions of conservative state and federal judges, making the pursuit of social justice in the courtroom—never easy—even more difficult for the U.S. legal community.

#### The turning point

In response, U.S. activists in the late 1990s began showing greater interest in using international human rights principles and law as a way to advance their domestic advocacy efforts. Several factors led to this new approach: the participation of large numbers of U.S. women's rights advocates in the 1995 U.N. World Conference for Women in Beijing; the use of human rights principles by anti-poverty activists to challenge the 1996 overhaul of federal welfare law; and, more generally, the incremental dismantling of civil rights protections by Congress and the courts.

Catherine Powell, founding director of the Human Rights Institute at Columbia Law School, described the situation this way: "The current political and legal limitations inherent in the U.S. domestic law framework call for new models of advocacy." Even those attorneys who were interested in using human rights law, however, encountered fundamental limitations. U.S. law does,

arguably, not recognize international treaties as self-executing, meaning governmental obligations to uphold human rights are not automatically enforceable in U.S. courts. Some legal scholars contend that international human rights are indeed part of federal common law, but even this interpretation fails to ensure an individual's right to sue. These obstacles, among others, have previously dissuaded many in the legal community from using human rights law in the U.S. courts.

The U.S. legal education system is at least partially to blame for this lack of domestic enforcement, producing only a handful of lawyers who are experts in the human rights field. "U.S. lawyers are not trained to think internationally," said Arturo Carrillo, acting director of the Human Rights Clinic at Columbia University. "No law students are required to take international law courses, certainly not human rights law. It is a serious shortcoming of the legal education system in this country. Judicial authorities are resistant to allowing human rights arguments. Therefore it is not in the interest of the lawyers to use these arguments."

Ironically, the need to develop domestic legal capacity in international human rights has never been so urgent. Expanded governmental policing powers enacted in the wake of the attacks of September 11, 2001, inequities in the criminal justice system and the

**Processing suspected Al Qaeda and Taliban detainees at Camp X-Ray at Guantánamo Bay, Cuba, January 2002.**



**One groundbreaking legal action, brought by a network member organization, the New York City-based Center for Constitutional Rights, is on behalf of the prisoners being held at the U.S. naval facility at Guantánamo Bay.**

inadequacy of existing laws with respect to economic rights such as the right to health and fair wages have all sounded the alarm for U.S. attorneys. “When you’re talking to traditional civil rights lawyers, they are saying our traditional standards aren’t working, we need something else,” said Cindy Soohoo, a human rights attorney who is the network’s coordinator.

The United States Supreme Court, at least to a certain extent, agrees. Two of the court’s landmark decisions, upholding The University of Michigan Law School’s affirmative action program and overturning a Texas anti-sodomy statute, both cited human rights. And in a post-term interview with The New York

Times, Justice Steven Breyer said, “whether our Constitution...fits into the governing documents of other nations will be a challenge for the next generations.”

**The journey**

In an effort to build human rights capacity within the legal community at home and abroad, Columbia University Law School established the Human Rights Institute in 1998, prompted in no small part by the leadership of Professor Louis Henkin. Within a year, the institute created the Bringing Human Rights Home Lawyers’ Network. Both bodies work hand-in-hand to encourage a dialogue between lawyers and activists in



**Two of the United States Supreme Court’s landmark decisions, overturning a Texas anti-sodomy statute and upholding The University of Michigan Law School’s affirmative action program both cited human rights.**



hopes of devising new models of legal advocacy based on human rights legal strategies.

The network, which started with less than two dozen people, now has 60 members, including human rights and civil rights organizations, law school clinics and individual attorneys. Some organizations, such as Human Rights Watch and the Lawyers Committee for Human Rights, are committed to human rights as part of their mandate. Others, such as the National Association for the Advancement of Colored People and the American Civil Liberties Union, are more traditional civil rights organizations that are exploring how to incorporate human rights laws and standards into their current legal and advocacy efforts. The network also includes legal clinics from institutions such as the City University of New York and Yale University, as well as attorneys in private practice.

The network promotes the use in the United States of international human rights law by developing new legal advocacy strategies, increasing the amount of human rights training in the U.S. legal community and encouraging collaboration between public interest litigators, non-governmental organizations and law students.

“The network is about getting people in the human rights and civil rights organizations and law school human rights clinics to talk to each other,” said Soohoo. “[It] does not bring its own cases but supports work that is already being done by network members. It also serves as a think tank of sorts for brainstorming about how human rights can be used domestically.”

Because the use of human rights law in the United States has been so limited, few precedents exist to guide attorneys on when to bring such rights-based claims, particularly in domestic courts. Those cases and decisions that do emerge need to be discussed and debated within the legal community. To share this important information, network members meet twice a year to report on the progress of their own work and coordinate on joint legal and advocacy projects.

The network has two working groups—litigation and legislative. The litigation group develops legal theories to support the use of human rights law in U.S. cases and assists in bringing complaints about domestic policies before international human rights bodies. The legislative group explores ways to import human rights standards through educating activists involved in the legislative process.

To further build capacity in the field, the network also offers training and on-line resources. In January 2003, for example, the network sponsored a panel discussion, "Litigating U. S. Human Rights Cases before the Inter-American Commission on Human Rights." The commission is an arm of the Organization of American States and has been used successfully as an international judicial venue to challenge U.S. policies. (See study on indigenous rights on page 32.)

The network's Web site ([www.probono.net/humanrights](http://www.probono.net/humanrights)) offers numerous resources, including a database that features legal briefs, articles and links to pertinent United Nations documents that are difficult to find or unknown to most attorneys.

Lawyers who choose to focus on human rights standards and their application in the U.S. system can sometimes find themselves cut off from the mainstream legal community. The network seeks to alleviate this isolation by serving as a kind of "brain trust" to offer support to the small but growing number of U.S. lawyers using human rights legal arguments at home.

"I see the network as a place where I can talk to people and give feedback," said Penny Venetis, associate director at the Constitutional Litigation Clinic at Rutgers University Law School. "I see myself as giving guidance to those who want to get started on the domestic use of human rights."

Venetis is the lead attorney in *Jama v. United States* (1997), an immigrant-rights case that challenges detention procedures for asylum seekers as cruel and unusual punishment. She has also worked on the U.N. Bosnia War Crimes investigation and an inquiry into due process violations in Peru's criminal justice system for people accused of terrorism and treason. Venetis' human rights litigation expertise in domestic

courts is of great use to less experienced attorneys, but the network benefits her own work as well.

"This area of law is so new, it is helpful to bounce ideas off of other people," she said. "[The network allows us to] closely monitor each other's work so that we can make our arguments very carefully. The important thing is to get a critical mass of case law out there and to train more judges and lawyers."

### The accomplishments

Since the network's formation, world events have brought increasing attention to international human rights law and standards. War crime tribunals for atrocities in Rwanda and the former Yugoslavia, the terrorist attacks of September 11, 2001 and the U.S. invasions of Afghanistan and Iraq have highlighted complicated international human rights issues. Against this backdrop of global change, an increasing number of public interest lawyers are bringing cases to domestic courts and international bodies to challenge U.S. government policies on human rights. The network plays a critical role in this emerging work.

One groundbreaking legal action, brought by a network member organization, the New York City-based Center for Constitutional Rights, is on behalf of the prisoners being held at the U.S. naval facility at Guantánamo Bay, Cuba. The center, with assistance from students from Columbia Law School's Human Rights clinic, which works closely with the network, filed a request for "precautionary measures" from the Inter-American Commission on Human Rights to determine the legal status of the detainees.

On March 12, 2002, the commission asked the U.S. government "to take urgent measures necessary to have legal status of detainees at Guantánamo Bay determined by a competent tribunal." The U.S. government requested the commission to withdraw its request, but it refused. Even though the United States did not comply with the request, the issuance of the precautionary measures opens the door to filing an official complaint with the commission. The commis-

**Opposite page, left: John Lawrence and Tyron Garner, June 26, 2003, in Texas, after the Supreme Court's landmark ruling struck down discriminatory state sodomy laws on the basis that they violate Americans' Constitutional right to privacy. Right: Students at the University of Michigan celebrate the Supreme Court's decision on affirmative action, June 23, 2003.**

sion was the first legal body to consider the legal rights of the Guantánamo Bay detainees.

In the spring 2003 semester, clinic students continued their work on U.S. government detention policies. Their advocacy work generated additional international scrutiny on the United States by providing information to United Nations bodies such as the Working Group on Arbitrary Detention, Special Rapporteurs and the Human Rights Commission in Geneva. Later in the year, the Human Rights Commission received several reports from its special rapporteurs, highlighting the U.S. government's failure to guarantee the Guantánamo Bay detainees' due process rights, the right to be free from torture and other rights under the third Geneva Convention on the Treatment of Prisoners of War.

While the network benefits from the youth, energy and enthusiasm of the Human Rights Clinic, the students learn valuable lessons from working with experienced human rights attorneys. "I definitely know I will work in international human rights law," said Teresa Park, a second-year law student. "The people in the network are amazing. You learn from them in a very experiential way."

### The obstacles

In its five-year existence, the network has made great strides in developing human rights-based legal strategies with regard to the United States that have an impact on domestic courts and international bodies. But it has a long way to go to persuade the legal community at large that human rights legal arguments can have a positive impact on social justice work in the United States.

"The jury is still out on how the U.S. judicial system will integrate international human rights law," said Soohoo. "It is crucial to get more cases on the books."

The number of attorneys and organizations that actively use international human rights standards to address U.S. social justice issues remains very small, and lawyers interested in exploring human rights tactics are often constrained by budget limitations, lack of expertise or organizational mandates that limit the scope of their work.

"Lots of people who participate in the network don't yet use human rights in their cases," noted

Vennetis. "This is hard stuff and these groups have other things that they are supposed to do. From my perspective, human rights might not be appropriate for every case. We have to be very careful that we don't shoot ourselves in the foot before we learn how to walk."

### The road ahead

In spite of these and other obstacles, the Bringing Human Rights Home Lawyers' Network has raised the profile of human rights within the U.S. legal community. Network membership is growing and its Web site and online data base are essential resources for attorneys interested in the domestic application of the human rights legal framework to U.S. rights issues. Network attorneys and law students team up to keep international attention focused on U.S. detention policies. But perhaps its greatest contribution to the U.S. legal community is to signal that new ways are being perfected to effect social change through the rule of law and to ready the U.S. legal community to take full advantage of this opportunity.

In the next year, Soohoo will work to expand the network's membership. Through this expansion, she plans to add members with expertise in areas not currently represented in the network such as labor rights and environmental law. Additionally, she would like to bring more law school clinics and human rights academic programs into the network. Finally, Soohoo believes that it is important for the Human Rights Institute to build its reputation for human rights legal scholarship. "The idea would be to start providing theoretical and scholarly support for legal human rights arguments to counter the work of conservative legal scholars," she said.

"The current rollback of rights in the United States underscores that many of the gains secured in the courtroom occurred in a vacuum without broad public support," said Powell. "Due to its broad framework emphasizing the interdependence of rights, the human rights paradigm could help social justice groups in the U.S. develop more effective ways of addressing rights violations." Summing up the network's impact, Powell said, "[It] has moved from doing occasional opportunistic interventions to being a real capacity-building vehicle." ■



## **Part II:** Education, Organizing and Fact-finding

Human rights mobilizes communities most at risk of abuse and builds the leadership and skills of those affected to know and defend their rights.

## CHAPTER FIVE: HUMAN RIGHTS EDUCATION

## The National Center for Human Rights Education

**More than imparting knowledge, human rights education is a process of political discovery.**

### The starting place

After spending 30 years as an activist in the civil rights, women's rights, anti-apartheid, and Central American solidarity movements, Loretta Ross knew all there was to know about the triumphs and tribulations of mounting advocacy campaigns around specific social and political issues. Frustrated with the limitations of identity-based and issue-specific organizing, she had yet to find a framework that would enable multi-issue, multiracial social justice work in this country.

### The turning point

In a conversation in the early 1990s with The Reverend C.T. Vivian, a former aide to The Reverend Dr. Martin Luther King, Jr., Ross had an epiphany. She began to see how a human rights approach can bring together all social justice movements. "C.T. said to me, 'You know, Loretta, Dr. King didn't mean to lead a civil rights movement. He meant to lead a human rights movement.' C.T. showed me that Dr. King's vision was global and premised on a 'revolution of values' centered on human dignity."

As a result of that transformative moment, Ross went on to become the founder of The National Center for Human Rights Education, an Atlanta-based organization focused on building a U.S. human rights move-

ment through human rights education. "There is simply no better way to broaden the influence and effectiveness of all our struggles for justice than through human rights and the framework it offers," Ross said. She had come to learn what Dr. King had earlier understood: using human rights was a powerful way to interconnect virtually all social causes, including civil rights, poverty, violence against women, environmental justice, militarization and a host of other issue-based movements. As she wrote in a report on the center's first five years, "human rights education trains us in new ways of relating to each other, not through opposition, but through uniting us for the sake of our mutual destiny."

Another key moment for Ross took place in 1994 when she heard a stirring presentation by human rights educator Shulamith Koenig. Their subsequent conversations led them to organize a delegation of women from 20 countries to the 1995 U.N. World Conference on Women in Beijing. There, Ross was exposed to a global human rights community of women activists. "The workshops and meetings in Beijing showed me that women's rights are human rights," she said. "I heard women around the world talk about their lives in human-rights terms, and I realized how powerful it was to give people a language to identify the violations against them. I also realized that human rights around

**The Reverend Dr. Martin Luther King, Jr. on the steps of the Lincoln Memorial, August 28, 1963.**



**“Dr. King didn’t mean to lead a civil rights movement. He meant to lead a human rights movement. Dr. King’s vision was global and premised on a ‘revolution of values’ centered on human dignity.”**



**“Most people we meet still think of human rights as letter-writing campaigns to help free political prisoners. Few people realize that civil rights, union and women’s movements, the anti-war and anti-poverty movements, disability rights and even the environmental justice movement have supporting language in the Universal Declaration of Human Rights.”**

the globe will never improve unless the U.S. gets it.”

Explaining human rights concepts to the American public is a daunting task. According to a 1997 poll commissioned by the center as part of the Ford Foundation’s Human Rights USA program, 92 percent of Americans had never heard of the Universal Declaration of Human Rights (1948), the seminal human rights manifesto ratified by the United Nations in the aftermath of World War II. “Most people we meet still think of human rights as letter-writing campaigns to help free political prisoners,” Ross said. “Few people realize that civil rights, union and women’s movements, the anti-war and anti-poverty movements, disability rights and even the environmental justice movement have supporting language in the Universal Declaration on Human Rights.”

The need to overcome this awareness gap led Ross to create The National Center for Human Rights Education in 1996. It was the first human rights education center in the country focused specifically on social justice activists, educators and community leaders. “Education is crucial to using human rights in its fullest expression.” Ross said, “After all, to have a human rights movement, people first need to know what human rights are.”

### The journey

Recognizing the diverse nature of the human rights movement in the United States, one of the center’s primary functions was to provide curricula and training modules that fit differing levels of human-rights expertise within various activist communities. The center offers introductory courses that outline the human rights framework and show how it can be applied. Intensive training retreats focus on integrating a human rights approach into specific advocacy areas. More advanced organizers and community leaders can attend workshops on designing and implementing strategic plans for social change. Subject to capacity, the center can offer educational material and training to any organization that requests it.

The center’s teaching method is based on the belief that human rights education is not about

imparting knowledge but more of a process of personal and political discovery. “In our introductory program, we start by asking participants to answer a few questions,” explained Pam Hester, a former senior program director at the center. “When have you violated someone else’s human rights? When have your own human rights been violated? When have your human rights been protected?” This exercise is designed to disabuse participants of naïve notions of “good” and “bad” and help them see how simplistic assumptions can mask the complex causes of human rights abuse. When participants come to a personal understanding of their own human rights, they are better able to perceive and protect the rights of others. In another exercise, the group is asked to discuss selected headlines of a local newspaper and reframe them in human rights terms. How can a story about a local hospital shutting down or a union losing a lawsuit to organize workers be told as a human rights story? “After that exercise, our participants often tell us that they will never see a headline in the same way again,” Hester said. “It’s like they’re seeing the world through a different set of eyes.”

This “different set of eyes” often prompts participants in the center’s programs to more actively integrate human rights into their day-to-day work. To support such follow-up work, the center initiated a regranting program. Over the past six years, the center has awarded nearly \$300,000 to local organizations that want to use the human rights approach in their communities. Grant recipients have included the Georgia Hunger Action Coalition, the Kensington Welfare Rights Union and the Missouri-based Organization for Black Struggle.

### The accomplishments

Since its founding, The National Center for Human Rights Education has distributed more than 500,000 copies of the Universal Declaration of Human Rights in English and Spanish through over 600 community-based organizers throughout the United States. In 2002, the center’s outreach and training programs reached more than 16,000 organizers, community leaders and advocates across a wide array of U.S. social justice

**Activists in Georgia call for a living wage at the state capitol and participate in an annual economic human rights protest.**



movements, more than twice as many as the previous year. Its Web site receives an average of 20,000 hits per month. In the six months after the attacks of September 11, 2001, the number of visits to its site jumped to 40,000 hits per month as people searched for alternatives to the war on terrorism. The center, along with other human rights education groups, was successful in getting strong language supporting human rights education into the final Plan of Action at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa.

But in Ross' view these achievements, as impressive as they are, miss the point. The center's real success lies in helping people understand they can more actively determine their future and well-being themselves. It isn't necessary that organizations adopt the formal language of human rights documents or that they make human rights the definitive focus of their organizing. For Ross, the personal and community empowerment that arises out of a human rights framework far surpasses the adoption of a new activist vocabulary. "Yes, social change can happen even without human rights education," Ross said, "but what we give groups is a way for once-separated communities to unite and analyze their issues in ways that make them more effective together. Whether or not a group proceeds using the language and terminology of human rights in their mission statement, while desirable, becomes secondary."

One of the center's longest-running collaborations has been with one of its regrant recipients, Georgia Citizens' Coalition on Hunger, led by Sandra Robertson. The coalition consists of more than 60 statewide member organizations and 700 activists committed to eradicating hunger, homelessness and poverty in the state. Since 1996, the center has provided 50 hours of training to coalition staff and group leaders. Trainees then taught fellow coalition members and other organizations about how the human rights framework could help them in their anti-poverty work.

In one of its most successful initiatives, the coalition used human rights in a campaign to increase the

statewide minimum wage. Invoking human rights as both a rallying cry and organizing methodology, coalition members and an alliance of other organizations convinced the Georgia State Senate to pass a bill increasing the minimum wage by almost 60 percent, from \$3.25 to \$5.15 per hour in July of 2001. It was the first minimum wage increase in the state in over 30 years. But coalition members saw this victory as only a first step. At \$5.15 per hour, many low-wage workers remain in poverty and unable to meet their basic economic needs. The coalition decided to pursue a far more expansive idea: a wage level based on human rights principles that would allow full-time workers to afford adequate food, clothing, housing and medical care—and to support a family above the poverty line.

Using the tools from their human rights training sessions, coalition leaders partnered with three other organizations, including a research and public education group, Project South, to advocate for a "living wage" of \$10.50 plus benefits, to be supplied by all employers that receive public funds whether in the form of service contracts, tax abatements, loans or grants. According to the U.S. Bureau of Labor Statistics, 63 percent of all hourly jobs in Atlanta pay less than this amount. Coalition members also began speaking out at town hall meetings, such as one hosted by U.S. Representative John Lewis in March 2002, describing poverty, discrimination and other forms of oppression as human rights violations.

Coalition members kept up the pressure by holding workshops on human rights concepts at the Georgia Poor People's Day at the State Capitol in February 2003. Many of those in attendance learned how to tell their personal stories more effectively; a selection of the stories were then presented to members of the state legislature. Over the course of the living wage campaign, 8,000 copies of the United Nations' "little blue booklets" containing the full text of the Universal Declaration of Human Rights were distributed. Campaign members often held up those booklets at public hearings to remind elected officials that the international community has produced an agreement that establishes the universality of human rights.

It all paid off in early 2003 when a majority of the Atlanta City Council, with the support of Mayor Shirley Franklin and several key business leaders, endorsed an ordinance that proposes a living wage for the city. The period for public comment on the measure was set to expire in October 2003.

The living wage campaign is a clear demonstration of how human rights education can help bring about significant popular organizing and policy change. “People already know the status quo is unfair,” Ross once wrote, “What they need to understand is that their suffering is not foreordained. Human rights education moves people from the passive endurance of their fate into assertive participation in their society—not only to protest injustices, but to take responsibility for preventing them.”

### The obstacles

Ross also knows that by focusing the human rights training primarily on those already “involved in the struggle,” the center’s programs do not reach many other Americans. What is needed, in her view, is broader human rights education that will convey the human rights message to non-activist audiences. Such a campaign will have to rely on the print and broadcast media, which itself has had little exposure to or appetite for the domestic application of human rights. A sophisticated communications strategy is clearly in order, but at present that is beyond the emerging movement’s capacity.

The U.S. human rights movement faces another challenge: to ensure that it makes a difference in the every day lives of people. To do this, it must ensure that those most affected by the denial of rights are at the center of analysis and action. The U.S. human rights movement requires greater internal democracy and transparency—not only between but also within the organizations of which it is comprised. In the highly competitive institutional culture of the United States, this is difficult. It requires, at a minimum, Ross believes, a re-distribution of resources to ensure that the communities destined to lead the U.S. human rights movement have the capacity to do so.

### The road ahead

As for the future, Ross hopes to see an expansion of the center’s regranting program as a powerful way to strengthen its national network, particularly in light of lessons learned. “We’ve found that [grants] for human rights education are most effective if there are no strings attached, if the reporting requirements are kept simple and if they require minimal staff time to administer.” Made in this way, the grants allow severely under-financed groups to take up human rights without taking on too much of an administrative burden, and to dedicate the lion’s share of the funds to working more intensively with the center and throughout their respective communities.

Ross also has plans for a human rights education program aimed at a mass audience. She has already retained Sherry Wilson, a former NCHRE board member, to act as a communication and program manager and is looking for resources to launch a national public education effort, perhaps focused on the Universal Declaration of Human Rights.

The tragedy of September 11, 2001 added a new urgency to the center’s mission. In response to the surge of inquiries it received after the attacks, the center began addressing foreign policy, peace and security issues in their human rights education programs in 2002. That led in 2003 to the development of a new Peace and Security Program which will train activists, particularly activists of color, in ways to keep the U.S. government accountable to international human rights agreements.

“I see the National Center for Human Rights Education as a great experiment,” Ross said. “It’s not necessary that all of our projects get a short-term win. Some could fail miserably and still we’d be working for long-term social change. People in the community readily understand human rights. When we come in and speak that language, young people come in and participate and they won’t leave. There is so much affirmation in that. All this outweighs the day-to-day frustrations. Slowly we’re getting the funding, partners and successes that, in turn, open up more doors. This, I believe, is what inevitably happens when one is on the right track.” ■

## CHAPTER 6: HUMAN RIGHTS ORGANIZING

# The Kensington Welfare Rights Union and the Poor People's Economic Human Rights Campaign

**By adopting a human rights framework, advocates for the poor established local, national and international networks to defend economic rights.**

## The starting place

Once a thriving industrial area in Philadelphia, the Kensington neighborhood is now sometimes referred to by locals as “the Badlands.” The sprawling ruins of a Schmidt’s brewery testify to the neighborhood’s glory days when thousands of workers were employed here during the peak of the city’s post-war industrial boom. The factories have long since closed, and the jobs—20,000 since the 1970s—have drifted away to the suburbs, the relatively union-free South or overseas, seemingly gone forever. But Kensington retains one superlative: it has the highest concentration of poverty in Pennsylvania.

It is in Kensington that Cheri Honkala—having left an abusive marriage and venturing out as a single mother with her son—found herself in the early 1990s. The neighborhood offered the only housing she could afford. It also was a tough place to raise kids. When she realized that the children of Kensington had nowhere to play safely, she and five other women took over an abandoned welfare office and set up a community center. They were arrested, and held for six days in jail. “We were found not guilty on every count,” Honkala recalled, “but we made a strong case for our takeover action—so strong that members of the jury asked us after the trial how they could join our organization and support our cause.”

Those mothers and their children were the beginnings of the Kensington Welfare Rights Union—

formed in the belief that poor people do not have to accept the misery and downward spiral of poverty. “We say that scarcity is not the issue—greed is,” Honkala said.

## The turning point

The Kensington Welfare Rights Union was five years old when its leaders realized the potential power of human rights to motivate poor people. The turning point was in October 1996, after hundreds of its members marched more than 140 miles from Philadelphia to the state capital in Harrisburg to protest the loss of benefits as a result of federal welfare reform legislation. They were shocked when Governor Tom Ridge refused to acknowledge them. “It was a very humiliating and powerless moment,” Honkala recalled. “We were very cold and our things had been carted off and thrown away. If it weren’t for ordinary citizens bringing us blankets and garbage bags to keep us warm, we probably wouldn’t have survived.” To thaw out, the marchers decided to take a public tour of the governor’s mansion—and spotted the governor’s dog living in comparative luxury. “What kind of world do we live in that dogs are treated better than humans?” Honkala recalled marchers asking one another.

**Top: KWRU-led protest for economic human rights. Participants marched down Broad Street from Philadelphia City Hall to the Republican National Convention. In front: Galen Tyler. Bottom: March participants.**



**The Kensington Welfare Rights Union was formed in the belief that poor people do not have to accept the misery and downward spiral of poverty. “We say that scarcity is not the issue—greed is.”**





Clockwise from top: Children are a part of a Kensington-led protest for affordable housing. ADAPT members (for disability rights) join KWRU to advocate for housing rights. KWRU entering a vacant HUD home, unoccupied for over one year, so that homeless couples can move in.

**“Our human rights concept helped workers see that none of them are getting what they deserve, and our particular focus on Articles 23, 25, and 26 of the Universal Declaration allowed for a common vision of opportunity and economic well being for all people.”**

Over time, union members began to understand that in order to be effective advocates for their cause, poor people needed to build a broad-based movement on a set of very basic concepts. “We had to base our vision on the essence of being human,” Honkala said.

### **The journey**

During the following year, Kensington Welfare Rights Union leaders began to explore using a human rights framework to further their goals. They discovered a set of international rights principles, laws, methods and strategies that provided the unifying conceptual and practical bedrock they sought.

“Most people have no idea how isolated and unsupported poor people are, or how powerless, unimportant, and small they are made to feel,” said Chris Caruso, founder of Human Rights Tech, a Philadelphia nonprofit organization that counsels grassroots anti-poverty groups on using the Internet. According to Caruso, human rights language empowers poor people by offering a vision for a better life and a better future. “It gives them a reason to speak for themselves and fight back,” Caruso said.

The rights union began to talk about poverty as a violation of human rights, basing their claim on the Universal Declaration of Human Rights. The declaration’s Article 23 (the right to work for just pay and the right to organize) Article 25 (the right to health, housing and security) and Article 26 (the right to education) became the rallying cry of their struggle.

In 1998, the Kensington Welfare Rights Union convened a Poor People’s Summit at Temple University in North Philadelphia to spread the word to other activist groups about the potential of a human rights approach to unify many single-issue causes. Many of the groups attending the summit—migrant workers, the disabled poor, environmental justice advocates,

students and others—quickly realized that human rights principles gave them a road map for a more inclusive movement that could break through barriers that once separated them. From that first Poor People’s Summit, the Poor People’s Economic Human Rights Campaign (PPEHRC) was born.

### **The accomplishments**

Ethel Long-Scott of the Women’s Economic Agenda Project in Oakland, Calif, one of the campaign’s largest, oldest and most active members, described what the Poor People’s Summit did for her organization. “As welfare reform kicked in, we were concerned that the poor would turn against one another over crumbs that trickled down. Our human rights concept helped workers see that none of them are getting what they deserve, and our particular focus on Articles 23, 25, and 26 of the Universal Declaration allowed for a common vision of opportunity and economic well being for all people.”

Long-Scott, who believes that “the only strategy is an offensive strategy,” saw how human rights could empower poor people: “Having fought a great number of battles in and around welfare rights, we found that we were in large part fighting a defensive fight,” Long-Scott remembered. “This was a fight in which we could only win an occasional battle. The economic human rights movement has been instrumental in helping us and other leaders think outside the box and begin to plan strategically for victory.”

With moral and logistical support from the Kensington Welfare Rights Union, the Women’s Economic Agenda Project became the campaign’s West Coast hub, extending its reach in California to a network of 24 poor people’s organizations across the state. Through bus tours and marches, the Women’s Economic Agenda Project also coordinates the documen-

**The PPEHRC now represents a wide-range of groups, including public housing residents facing the demolition of their homes in Chicago, farm workers subsisting on poverty wages in Florida, and those who have been downsized and cannot find work in upstate New York.**

tation of economic human rights violations in California. In three years the project has submitted more than 1,500 human rights violations reports to the campaign.

While the term *human rights* does not appear in the Women's Economic Agenda Project's mission statement, it does serve as a teaching tool to give the project's constituents a better idea of why they have economic rights—and why it is wrong to think they don't. "Human rights act as a counter to society's unceasing attempt to make poor people think it's their fault that they can't make it." Long-Scott said, "We use it whenever it seems appropriate in helping people understand the big picture."

While proselytizing at the Poor People's Summit about human rights deeply affected established organizations such as the Women's Economic Agenda Project, it also brought forth new ones, such as the Deaf and Deaf-Blind Committee for Human Rights, based in Lorain, OH. Conceived by long-time deaf leader Roland Emerson and a deaf-rights activist, Heather West, on their return from the summit, the Deaf and Deaf-Blind Committee for Human Rights has become another regional hub organization for the campaign as well as one of the few such groups led by the deaf and deaf-blind.

"Deaf people, especially, know that we can't win this fight alone," West said, "and the human rights approach allowed our very isolated community to join ranks with others." When the Deaf and Deaf-Blind Committee for Human Rights began documenting human rights violations of its poor members, it found that many of them were job-related. Many violations stemmed from the lack of adequate interpreter services. So in addition to the three Universal Declaration of Human Rights articles invoked by the PPEHRC, the

Deaf and Deaf-Blind Committee for Human Rights also cites Article 19, the right to communication, and Article 27 of the International Covenant on Civil and Political Rights (a treaty based on the declaration), which protects the rights and cultures of "language minorities."

Committee member Bill Kuhel said through an interpreter, "Human rights documentation processes give our members confidence they never had before. You know, deaf people are often very afraid to express their opinions or to ask for things because we fear we will be even further isolated. With the power of groups like Kensington Welfare Rights Union behind us, we know, finally, that deaf people will not be left out in the cold."

Larry Bressler, executive director of Organize Ohio, attributes the deaf and deaf-blind committee's main success to its committed membership base: "Why are they so successful? Because they get their folks out. Every one of their local events has 70 or more people attending, and most of them are deaf or hearing impaired. This is their community coming out, because something has convinced them that participating is worth it. A big part of that has to be the vision and hope that the new approach to human rights has given them." The campaign, which began in 1997 with little more than a handful of groups, now has over 60 member organizations.

The campaign remains a movement led by poor people, but its ranks have expanded to encompass students, social workers, human rights lawyers and others who recognize that when governments and private enterprise fail to act responsibly, everyone's rights are at risk. The Kensington Welfare Rights Union, for example, has recently partnered with the Pennsylva-



nia chapter of the National Association of Social Workers to submit draft language for a Pennsylvania General Assembly resolution proposing a study on how universal human rights standards could be integrated into the laws and policies of Pennsylvania. The resolution's sponsor, State Representative Lawrence Curry, chair of the sub-committee on Higher Education, called for a series of preliminary town meetings to mobilize support for the legislation, and the resolution passed unanimously in June 2002. The House committee has since heard human rights testimony, particularly regarding economic rights and issued a report recommending another year of hearings.

To call public attention to the economic human rights violations faced by poor Americans, members of the campaign also coordinate large-scale national and

regional marches and "Freedom Bus Tours." Hosted by the campaign's regional hub organizations and their local networks, marchers and Freedom Riders use these highly publicized, multi-city events to build up local constituencies of poor people. In each city, time is always set aside for collecting local testimonies of economic human rights abuses. Those documents are then delivered by the marchers and Freedom Riders to the United Nations, and that work has not gone unnoticed. In 1998, the Kensington Welfare Rights Union was commended by U.N. High Commissioner for Human Rights, Mary Robinson, for its exemplary human rights work in the United States.

The campaign is also linking up with sister homeless, landless, migrants and poor people's organizations around the world. The 2002 New Freedom Bus Tour included a stop across the U.S.-Mexican border to San Augustine and Ciudad Juarez to document economic human rights violations as the result of the North American Free Trade Agreement. Along with international social justice organizations, the campaign challenges the lending policies of the International Monetary Fund, drawing analogies between welfare

**KWRU organized a march in August 2003 in tribute to the 35th anniversary of The Reverend Dr. Martin Luther King, Jr.'s Poor People's March. The marchers went from Marks, Mississippi to Washington, D.C. Clockwise from top: A daughter of a KWRU member and a resident of New Jerusalem, a residence program for people dealing with addiction. Betty Crawford and her quilt of the history of the march. Residents and marchers in Marks, Mississippi.**



reform in the U.S. and the IMF's stricter loan policies overseas. KWRU and PPEHRC regularly attend world events, expanding their network of international human rights organizations and collecting documentation of rights violations wherever they go. Honkala testified at the Hague Appeal for Peace in 1999. And in 2003, PPEHRC and other U.S. human rights groups filed a landmark petition before the Inter-American Commission on Human Rights against the U.S. government for human rights violations caused by welfare reform. (See economic rights study, page 26.)

Large-scale movement-building requires strong communications and media capacity. The Poor People's Economic Human Rights Campaign keeps its national—and international—network connected and in the public eye through the well-developed media, communications, and political education arms of the Kensington Welfare Rights Union. To raise its visibility, artists like Bruce Springsteen, Wyclef Jean, Jackson Browne and Bonnie Raitt have performed fundraising concerts for the campaign.

To promote the PPEHRC, KWRU produces a local cable show featuring the work of campaign members, builds strong relationships with the press and maintains a Web site ([www.kwru.org](http://www.kwru.org)). It has also set up a virtual "University of the Poor" ([www.universityofthepoor.org](http://www.universityofthepoor.org)), the education arm of the organization, which provides specialized training on economic human rights for young people, labor organizers, religious leaders and others. The campaign's testimonies delivered to the United Nations are often simulcast on its Web site ([www.economichumanrights.org](http://www.economichumanrights.org)).

### The obstacles

Honkala and other campaign leaders see a sputtering economy, corporate down-sizing and increasing numbers of homeless people on the streets and recognize that "we are in for a very bad time where more and more people will be in worse shape." But she is convinced that KWRU's decision to adopt a human rights framework for its anti-poverty agenda was the right choice. "People have been going hungry all along, [but] without a way to describe what was happening to them. We now have a movement where poor people

have taken ownership of the language and their lives."

While cash flow is a constant concern, the Kensington Welfare Rights Union is financially stable. But it faces all the challenges of a small and poor organization with a very ambitious mission. The organization was created and grew quickly over the last few years with a rapidly expanding set of constituencies. Much of its momentum derived from the populist outrage over welfare reform. KWRU is increasingly devoting more staff and resources to keep the Poor People's Economic Human Rights Campaign, now with a presence in almost every state, growing. Can it hold on to the gains of the past decade and expand its activities at this crucial phase of its development?

### The road ahead

"There is much work to be done," says Ethel Long-Scott. The PPEHRC now represents a wide-range of groups, including public housing residents facing the demolition of their homes in Chicago, farm workers subsisting on poverty wages in Florida, and those who have been downsized and cannot find work in upstate New York. It must focus considerable energy on developing ways to formalize the mutual understandings of its members while still maintaining their autonomy. The campaign began this process in 2002, when it convened members to discuss the development of a strategic plan, exchange tactics and coordinate activities. It plans to continue this process in 2004.

In August 2003, KWRU and the campaign launched a large scale march through the South, from Mississippi to Washington, D.C. to commemorate the 35th anniversary of The Reverend Dr. Martin Luther King, Jr.'s Poor People's Campaign. In that march, King criss-crossed the country to assemble a multiracial army of the poor that would descend on Washington to engage in nonviolent civil disobedience at the Capitol until Congress enacted a poor people's bill of rights. At the time, Reader's Digest warned of an "insurrection."<sup>1</sup> "We're picking up where King left off," Honkala explains, "And this time we won't be stopped." ■

**KWRU-led protest during the march to the Republican National Convention. In front: Cheri Honkala, director.**

<sup>1</sup>Jeff Cohen and Norman Solomon, "The Martin Luther King You Don't See on TV", Media Beat, January 4, 1995, <http://www.fair.org/media-beat/index.html>



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## CHAPTER SEVEN: HUMAN RIGHTS DOCUMENTATION

## The Women's Rights Network

**Using human rights law and novel documentation techniques, activists and survivors bring new leaders and tools to the battered-women's movement.**

### The starting place

Despite increasing awareness of domestic violence and a growing number of legal safeguards to protect women, the horror of physical and sexual abuse and homicide among intimate partners in the United States continues virtually unabated. Inspired by their experiences at the U.N. Fourth World Conference on Women in Beijing in 1995 and concerned over a loss of “activist spirit” in the United States’ anti-violence movement, Kim Slote and Carrie Cuthbert, two long-time feminists, vowed to create an international network on violence against women. Their goal was two-fold: to strengthen the international movement against domestic violence and to link U.S. rights activists more directly to it. Only months after they returned from China, Slote and Cuthbert established The Women's Rights Network, now based at the Center for Research on Women at Wellesley College in Wellesley, Mass. They wanted to “bring Beijing home,” as many conference participants put it.

During the network's first years, Slote and Cuthbert worked on compiling a global directory of anti-domestic violence advocates and providing networking opportunities for them by holding strategy

meetings in the United States. But it soon became clear that sustaining such a network would be very difficult. “We found that it wasn't really necessary and didn't really work,” Cutbert said. One thing that did catch on, however, was the U.S. activists' interest in using a more international approach to combat domestic violence. The question became how best to give that interest concrete effect.

### The turning point

After reviewing the network's activities to date, Slote and Cuthbert realized that framing stories of domestic abuse as human rights violations had real potential as a strategy to link international and domestic anti-violence work. “As soon as you label something a human rights violation, you draw a picture in your mind that includes women violated in the U.S. and other women around the world—women being stoned in Afghanistan,” said Cynthia J. Mesh, a research analyst for the network. Human rights creates that picture, creates the symbolism, imagery and the power of connection.” To build on this, the two activists launched the U.S. Human Rights Education & Advocacy Initiative in January 1998.

**Women in Baltimore, Maryland demonstrate against domestic violence, October 1994.**



**“As soon as you label something a human rights violation, you draw a picture in your mind that includes women violated in the U.S. and other women around the world.”**



**One of the key goals of the Battered Mothers' Testimony Project was to inject international standards of government accountability into the discussion of U.S. domestic violence.**

### The journey

Slote and Cuthbert began by devising human rights training sessions to familiarize U.S. advocates with basic international human rights laws, principles and methods that could be applied to domestic violence. In one 18-month period, The Women's Rights Network trained 75 advocates from 33 different organizations.

While the training sessions were successful in exposing groups and individuals to basic human rights concepts for the first time, Slote and Cuthbert began to see a tradeoff between training and action. "After [the trainings]," Cuthbert said, "people were really excited, but they didn't really know what to do with their excitement. We also didn't have much to point to in the way of examples of U.S. human rights work." Ultimately, Slote said, "doing the human rights training was not enough."

In response, the pair worked with their training participants to identify more concrete ways in which their new-found knowledge of human rights could have an impact. One of the topics that came up frequently in these discussions was child custody disputes in the context of domestic violence. Accordingly, The Women's Rights Network teamed up with other women's advocates in Massachusetts to organize the Battered Mothers' Testimony Project, to focus on custody issues in abusive relationships.

One of the key goals of the Battered Mothers' Testimony Project was to inject international standards of governmental accountability into the discussion of U.S. domestic violence. Such an approach links the efforts of U.S. advocates for women with the global women's human rights campaign and increases the impact of both movements. It also gives domestic activists new arguments to hold the U.S. government accountable to its obligations under international law and to the commitments (not the same as international law) made by the United States at the U.N. conference in Beijing.

**The Women's Rights Network hosts the first ever U.S. tribunal on domestic violence as a human rights issue. Photos clockwise from bottom left: the Battered Mothers' Testimony Project steering committee; the posterboard announcing the event; supporters after the event; hearing the women tell their stories; "in their own words," transcripts of the testimony.**

To make the case that the human rights of abused mothers and their children were being systematically violated, the Battered Mothers' Testimony Project decided to take a documentary approach to record not only the official actions in the family court system but the personal experiences of the women affected by those actions. Slote and Cuthbert spent over a year creating the questionnaire that would be used to interview battered women, their advocates and state officials. In all, 40 mothers underwent the four-hour interview process. The data was then channeled through an advanced social science database with assistance from experts at the Wellesley Center for Women.

To ensure that their work would not only expose the shortcomings of the state family court system, but also empower those most affected by these problems, the network adopted a novel method of participatory documentation. The network staff felt that victims of abuse might feel more comfortable talking to other women with similar experiences and that they needed to be part of the process for developing new strategies to end family abuse. "We were concerned with giving authentic voice to battered mothers and those working most closely with them," Cuthbert said. "Their participation has been invaluable and has taken place at all levels of the project, from the steering committee, to the volunteer documenters, to participants in the tribunal and press conference."

Slote and Cuthbert were hoping that a human rights documentation project would draw attention to domestic violence and child custody in a new and dramatic way. "We thought [it] would shock people into looking anew at the issue," said Cuthbert.

### The accomplishments

One of the project's first outgrowths was a Human Rights Tribunal on Domestic Violence and Child Custody, held May 2002 at the Massachusetts State House. The tribunal was centered on the public testi-

**“Just to have someone believe my story, literally saved my life. Because it was framed as a human rights issue, I felt less isolated. I was part of a larger group. If I couldn’t get custody of my kids, at least I can be part of a process that can help other women.”**

monies of five battered mothers and the responses of four invited speakers, Sheila Dauer, of Amnesty International USA, Hope Lewis, of Northeastern University Law School, Nora Sjoblom Sanchez of Massachusetts Citizens for Children and Charles Turner of the Boston City Council. The testimonies brought to life the severity of the human rights violations experienced by the women and the failure of Massachusetts family court officials to protect battered women and their children, particularly in the context of child custody.

“The tribunal was strategically timed with Mother’s Day to both create a safe public space for the battered mothers to speak out and to alert policy makers, the advocacy community at large and the public about the project. We also wanted to start generating media attention to the issues,” said Cuthbert. (The Boston Globe published an editorial decrying the problems faced by battered mothers in the custody system on the same day of the tribunal.)

The project also released a report, *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts*, in November 2002. The report spotlighted six types of rights violations committed by the Massachusetts family courts in selected domestic violence and child custody cases:

- Failure to protect battered women and children from abuse.

- Allowing the batterer to continue the abuse.
- Denial of due process to battered women.
- Discrimination and bias against battered women.
- Degrading treatment of battered women.
- Failure to respect the economic rights of battered women and children.

The report also called on the Massachusetts family court system to be accountable to international human rights standards.

“Human rights laws and standards require governments to take proactive steps to promote and protect human rights,” said Cuthbert. “In contrast, U.S. domestic law tends to require only that the government refrain from committing abuses but not that it take positive, preventive steps to protect and promote rights. This higher standard is a much needed tool for U.S.-based activists and one of a number of reasons we turned to a human rights approach.”

The participatory nature of the Battered Mothers’ Testimony Project had another important effect: those survivors who joined in have begun to form support groups for themselves. “Just to have someone believe my story, literally saved my life,” said Dawn Faucher, a support group member. “Because it was framed as a human rights issue, I felt less isolated. I was part of a larger group. If I couldn’t get custody of my kids, at least I can be part of a process that can help other women.”

From a personal perspective, Cuthbert herself said

that “talking to survivors virtually every day of the documentation process through to the publication of the report has helped me to feel immediately connected to the issues and to remain inspired. Hopefully, the project has been a sustaining and energizing force for the survivors and advocates as well.”

### **The obstacles**

The network discovered that some advocates for battered women disagreed with the decision to use human rights in dealing with the issue of child custody and doubted if the project’s report would be helpful in making the family court system more responsive to women’s needs. “Directly charging the government, like judges and other court employees, with human rights abuses makes a lot of people angry,” said Cuthbert. “People think of human rights violations as atrocities, things that don’t happen here. And people don’t like to be accused of that.” A great deal of public education is needed to transform this view.

Some advocates also worried that battered women and their children would suffer from backlash by court officials who felt attacked by accusations of human rights violations. There is no evidence that this has taken place, but—as discussed elsewhere in this volume—its is crucial when taking a participatory documentation approach that those most affected have sufficient training and resources to withstand whatever opposing reactions they may face.

Finally, the network also consistently confronted—and ultimately lost—the perennial battle to amass adequate resources. Currently it has funding through the end of 2003, after which time it will cease to exist in its present form. Ongoing work in Massachusetts and plans for national replication are being implemented as discussed below.

### **The road ahead**

The Women’s Rights Network is collaborating with groups throughout Massachusetts to implement

the recommendations of the report which include the pursuit of greater accountability for family court judges and other officials in their handling of child custody cases involving domestic violence; the enforcement of current laws and policies that protect victims of partner and/or child abuse; and the creation of support systems, including legal services, for battered mothers involved in family court proceedings. It has made plans with a number of local antiviolence groups to take over in its entirety this follow-up work.

The network is also eager to see the Battered Mothers’ Testimony Project travel to other parts of the country. Currently, the project is being used as a model by a battered-women’s support group in Arizona. “We would love to see the project replicated nationally. And we’ve received at least five additional inquiries from groups in different states interested in following suit,” said Cuthbert. Cuthbert and Slote also intend to create a “how-to” kit on organizing a participatory documentation initiative, including a documentation manual, best practices and information on data collection. They hope to collaborate with other social justice groups, including those featured in this chapter, to create such a volume.

The success of groups such as the Women’s Rights Network demonstrates the effective role human rights can play in the domestic social justice arena. International human rights standards place an affirmative obligation on the United States not just to punish abusers, for which domestic laws already exist, but also to protect women from on-going harassment and intimidation. The Women’s Rights Network and the Battered Mothers’ Testimony Project brought this argument home by using human rights standards and documentation methods to make the failure of state government officials to ensure the rights of women and children evident and unacceptable. Perhaps most important, they used human rights to put the power of this argument into the hands of the survivors themselves. ■



## CHAPTER EIGHT: BUILDING COMMUNITY CAPACITY

## The Border Network for Human Rights



### A network of local immigrants uses human rights to build community and resist abuse.

#### The starting place

Gathered around a pair of weathered blue benches in the dusty courtyard of a Berino, N.M. trailer park, the members of a local human rights committee tell their story: *The Border Patrol used to come here every day. They used to come into the yard, into our homes. No warning, no warrant. The people would run, terrorized. The children were very afraid. Then we heard from a social worker about The Border Network for Human Rights and decided to set up our committee. The day we hung up our sign, The Border Network for Human Rights: Reporta Abusos de la Migra, Policia, Aduanas y Otras, the Border Patrol stopped coming. They still drive by, but they don't come in.*

As early as 1988, the Immigration Law Enforcement Monitoring Project, then an initiative of the American Friends Service Committee, was documenting abuse by immigration authorities along the U.S.-

Mexico border. “We tried all the traditional human rights methods, documenting abuse, releasing reports, filing petitions, and they didn’t work” said Maria Jiménez, the founder of the monitoring project which assisted in the development of The Border Network for Human Rights. “We sent in experts to collect information and publish reports. We even filed a petition

**Above, left to right: Miguel Miranda, one of the Border Network for Human Rights first regional human rights coordinators at a dialogue with displaced and agricultural workers. Argelia Zúñiga, member of the network’s Youth Project for Human Rights. Lourdes Cruz and Claudia Diaz, community-based human rights promoters from Anthony, N.M. Jesús Escobedo Jr., member of the Youth Project for Human Rights. Sister Dora Cruz, community-based human rights promoter from Chaparral, N.M. Guadalupe Cervantes, community-based human rights promoter from Berino, N.M. Second row: Rosa Chavez, community-based human rights promoter from Segundo Barrio, El Paso, Tex. Maria Garay, the network’s oldest human rights promoter from Segundo Barrio, El Paso, Tex. Claudia Chavez, BNHR’s youngest promoter from Segundo Barrio, El Paso, Tex. Fernando García, Founding Director of the Border Network for Human Rights.**

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**“Everything begins with the community. Their needs and experiences are the most important source of rights.”** From this basic principle, BNHR has developed their participatory education, documentation and organizing strategy.





## “The challenge is to create a culture of human rights for the community as a whole, when what we have is a culture of abuse.”

before the Inter-American Commission on Human Rights,” said Jiménez. “That work made an important difference, but it wasn’t enough. That’s where Fernando García and The Border Network for Human Rights comes in.”

### The turning point

Fernando García, was working as a photojournalist in southern California in 1998 when Jiménez told him the executive director’s job was open at the monitoring project’s affiliate in El Paso, the Border Rights Coalition. “I had no idea what I was getting myself into,” he recalled. “Maria was a little vague on the details.” Shortly after he arrived, García made a remarkable decision: he dissolved the Border Rights Coalition and the board of directors that hired him. “I remember Fernando’s first plan of action. I think we drew it up on a napkin,” Jiménez says. “It was a revolution.”

The revolution arose out of García’s sense, along with many other coalition supporters, that traditional documentation work—while a critically important method to expose abuse by border guards—was an inadequate response to the actual victims of overzealous law enforcement. “In the days of the Border Rights Coalition,” García said, “experts would bring together reports and present them nationally. A professional would process the information and the analysis would

be done by the director.” The entire process occurred, he said, “almost without any involvement of or discussion with the local community.” No one disputed that the documentation work was an effective tool, Jiménez said, but “it fundamentally didn’t alter the day-to-day interactions within the community or between communities and the Border Patrol.”

“To me, human rights are about equality and dignity,” García said. “I felt the people themselves should make the decisions and do the work.” And so, over the next three years, the Border Rights Coalition was transformed into The Border Network for Human Rights. In the place of a loose association of advocacy groups, García wanted to establish local human rights committees, formed and led by community members. They in turn would elect representatives to form an executive committee, which would shape the network’s political agenda and oversee the staff. In November 2001, The Border Network for Human Rights started with three local Committees for the Defense of Human Rights and 40 members. A year later, 10 committees were spread throughout West Texas and Southern New Mexico and 240 community-based activists had become proud network members.

### The journey

As García’s community-based approach took hold, the network’s mission began to change. “We don’t just want to document abuse,” said Alma Maquitico, the network’s deputy director, “we want to prevent it. You can prevent a lot when you raise the consciousness of people about their rights and how to defend themselves.” The organization, which once focused largely

**Clockwise, from top: Members of The Border Network for Human Rights in a March 2003 mass in honor of Juan Patricio Peraza, an immigrant killed by a Border Patrol agent. Border network members holding the banner of the Montana Vista human rights committee at the network’s March 2003 20 Mile Walk for Justice and Immigrant Rights. Luis Cruz carrying a coffin as a symbol of the killing of Juan Patricio Peraza accompanied by network members and supporters during the 20 mile march for justice.**

**Members prioritized work on legalization of undocumented immigrants and abuse of authority. “We have to select specific issues on which to focus our action,” García said, “but we always place them in the larger context of human rights.”**

on engaging civil society groups to document and litigate abuse, now seeks to build the capacity of marginalized border communities to defend their human rights and participate more directly in decisions about border control policies. Where outside professionals were once needed, now community members in the network perform the documentation work.

The organizational changes produced some growing pains. “It sounds simple,” García said, “but it wasn’t easy.” The first neighborhood committee they tried to establish was a total failure. “We had four people at the first meeting, two at the next and then there was only one. We blew it,” García said. But he detected a flaw in the border network’s early recruiting approach. Organizers were telling people what rights they had and what they should do to defend them. “I put myself in their place,” García said. “Would I really want to be lectured to about my rights?”

### **The accomplishments**

Over the next three years, The Border Network for Human Rights, in cooperation with Casa Proyecto Libertad in Arizona, refined its highly participatory approach to human rights education, documentation and organizing. “Everything begins with the community—their needs and experiences are the most important source of rights,” García said. From this basic principle, the network has developed documentation practices, organizing techniques, educational materials, training programs and advocacy strategies that:

- Encourage the creation and coordination of local human rights committees
- Emphasize the members’ experience and needs

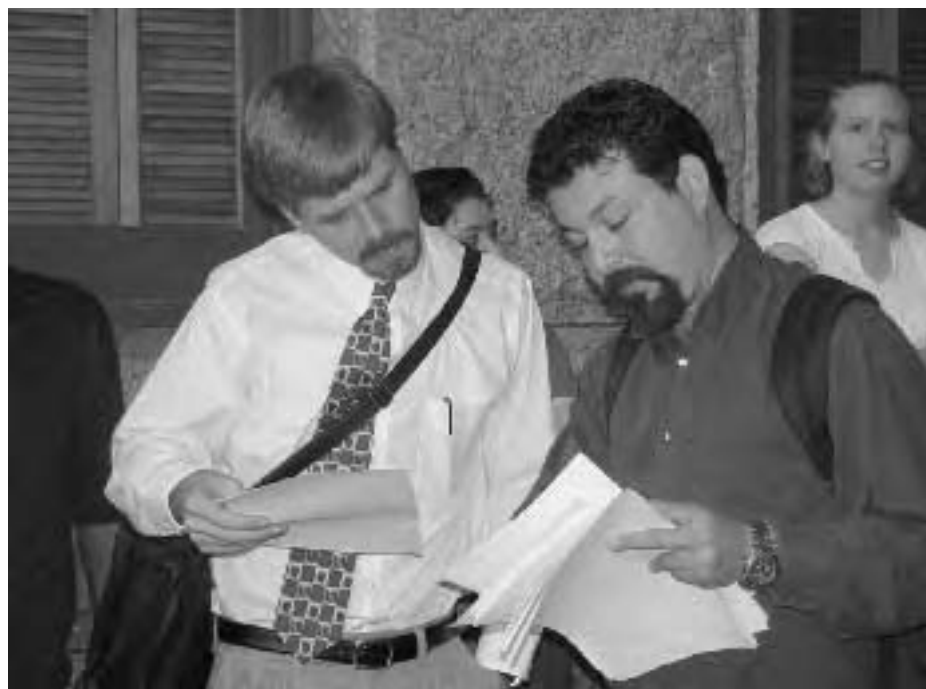
- Educate participants about their human and civil rights
- Train a self-selected set of committee leaders (*promotores*) to document abuse

“The training to become a *promotore* was very hard,” recalls Martina Morales, a regional network coordinator, “and it was very different from other trainings I’d been to. It involved all the people and not just a professor up there lecturing.”

As the network expanded, the organization confronted a constant problem: fear. “I called my first meeting,” said Miguel Miranda of Montana Vista, Tex., a leader of the Border Network’s oldest and largest committee, “and nobody came. I called my second meeting and nobody came. At the third meeting, only one person showed.” Virtually every community member now active in the network described his or her initial wariness. “People wondered if this could be linked to the INS or to the Border Patrol in any way,” said Maria De La Rosa, who convenes one of the network’s newest committees in Vado, N.M. “They are afraid of reprisals, of drawing any attention to themselves.”

“Organizing effected communities is a very slow process,” acknowledged García. “It’s even slower in a militarized zone.” But over time, new members are recruited. In downtown El Paso, a local committee grew from four members to 16 in 2002. The Vado group started with 20 members in August 2002 and had more than 45 by November. “When people come together they are less afraid,” explained de la Rosa.

As the network grew, it began to hold annual meetings to determine its overall direction. “We have to select specific issues on which to focus our action,”



García said, “but we always place them in the larger context of human rights.” Ultimately, Jiménez said, “It’s not just about immediate relief in this or that area. We’re in a long-term human rights struggle for social change across the board.”

Work on legalization of undocumented immigrants is an integral part of the network’s mission. At first the network focused exclusively on abuse of authority, García said. “Legal status only emerged as a priority through our involvement with the local communities.” For many in those communities, the lack of legal status was the most important issue because it directly affected employment and access to services. As a result, the network has been at the forefront of the movement for legalization at the local, state and federal level. It co-founded the Texas Coalition for Amnesty and lobbied in the state and in

Washington, D.C. for various legalization measures.

The attacks of September 11, 2001 nearly brought the legalization efforts to a standstill. It was not until early 2002 that the movement began to regroup. The network sent representatives to a May 1, 2002 lobbying day in Washington, D.C. calling for a more humane immigration policy and generated more than 10,000 of the total 850,000 postcards calling for legalization reforms delivered to the White House in October.

“Legalization is necessary, but it’s not enough,” said García, “We have to address the rights of the border community more generally.” Abuse of authority remains a fundamental problem. “People might think only undocumented people are affected, but that’s inaccurate,” said network deputy Maquitico. “These practices touch the entire border community, whether undocumented, resident or citizen.” Of the 146 individual reports of abuse of authority in the network’s December 2002 documentation campaign, for example, almost half were against legal migrants. Complaints included wrongful entry into workplaces and

**Clockwise from top: Texas Capitol in Austin. Martina Morales, Lupe Luna, Natalia Francis, Luis Cruz, Miguel Miranda and Alejandra Luna (girl), network members at the Legislative Action Day. Nathan Selzer, Director of the Valley Movement for Human Rights and Fernando García, Director of the Border Network for Human Rights, at the Texas Capitol on Legislative Action Day for driver licenses and health, April 22, 2003.**

homes, the misuse of temporary checkpoints in southern New Mexico communities and racial profiling. “The challenge is to create a culture of human rights for the community as a whole,” said Maquitico, “when what we have is a culture of abuse.”

Given the increasingly hostile border environment, what kind of impact can such a small organization, rooted in the very community under assault, really have? “Are we curbing abuses?” wondered Lynn Coyle, a network board member. “Quantitatively that’s hard to say. But the impact on the community has been tremendous.” To Miguel Miranda the impact is very real: “We’ve not only learned our rights, we’ve developed a commitment to fight for them.”

As the power of the community has developed, so has their relationship to the Border Patrol and other law enforcement authorities. “They used to see us as a bunch of crazy lunatics,” said García. “But when they saw the transformation of the community, their attitude began to change.” At the close of the 2002 documentation campaign, for example, the El Paso Border Patrol and INS officials initiated an unprecedented meeting with network members to discuss their findings. In early 2003, in response to the activities of the network and other groups, El Paso’s mayor was considering reviving a nearly defunct civilian oversight committee to monitor the conduct of law enforcement authorities. “Our effect is difficult to measure,” García acknowledged, “but I think if we weren’t doing this, things in the community would be worse.”

### **The obstacles**

Despite its early success, the network faces enormous challenges—politically, financially and institutionally. “The climate in the United States post-9/11 is more anti-immigrant, more anti-rights for the population as a whole,” García said. “For any real change to occur, it’s going to require a strong social movement, and that’s going to take time.” It is also going to take money. Most of the border network’s existing resources come from within the community, a source of considerable pride. But the members recognize that to meet the growing demand for the network’s work and to

sustain it over time, a broader resource base will have to be developed. “It’s been hard to convince funders of the value of this approach in comparison to more traditional human rights work,” said Jiménez, “but I see it as a model for all of us.”

Even given such formidable political and financial constraints, the network’s most pressing challenge may be institutional. As word of its success has spread, demand for its materials and training services has skyrocketed, including at the national level. The challenge will be to stay focused on the local border work while playing a role in the creation of a national human rights movement. The key to success, in García’s view and much of the network membership, is to keep community-education, organizing and fact-finding as first priorities. “Everything depends on our commitment to internal democracy, to leadership by the community,” García said. “If the goal is to protect the immigrant community from abuse,” added Coyle, “litigation alone is not going to do it. We need a broad political and social response, and that’s what the border network is all about.”

### **The road ahead**

In the near term, The Border Network for Human Right’s main focus will be to consolidate existing and emerging local human rights committees, strengthen the youth and labor rights components of its work and explore how its approach might be replicated nationally. Ultimately, the network seeks to create the political, social and economic conditions in the border region, and in the United States more generally, where every human being is equal in rights and dignity. “We live in a culture of ‘immediatism,’” García said. But he believes that social movements that respond immediately often disperse quickly because they lack “an underlying commonality of values.” Step by step, in community after community, the Border Network is trying to forge a unified purpose among immigrant communities and use it to reshape American society in the name of human rights. “We may not see the change in our lifetime,” García said, “but we can help create the conditions to make it possible.” ■



### **Part III: Making the Connections**

Taking a human rights stance provides activists with an array of tools including multi-issue, cross-constituency and transnational advocacy. The key is tackling a problem from several directions to change minds and implement policy.



## CHAPTER NINE: GENDER AND RACE DISCRIMINATION

## The Women's Institute for Leadership Development for Human Rights

### Activists in San Francisco succeed in using international anti-discrimination law to improve city policy towards all women and girls.

#### The starting place

With its enlightened views on many social issues—from gay rights to the homeless—San Francisco enjoys the reputation of being one of the most progressive cities in the country. But for Krishanti Dharmaraj and Wennie Kusuma, founders of the Women's Institute for Leadership Development for Human Rights, the city's laws to protect women and girls from violence and discrimination did not go far enough. The two activists were determined to introduce a more proactive approach into the city's anti-discrimination policy and to broaden its focus to include the particular experiences of women and girls of color.

Looking around at existing anti-discrimination work in San Francisco, Dharmaraj felt that it was both too uncoordinated and too narrow. "We were segregated from each other in terms of both identity and issue area," she said. "There was no common strategy." It was not until they attended the U.N. Fourth World Conference on Women in Beijing in 1995 that Dharmaraj and Kusuma found the holistic approach to the elimination of race and sex discrimination for which they had been searching.

#### The turning point

In Beijing, the two activists saw many women's rights groups from other parts of the world using human rights to improve their lives. "The fact that the U.S. groups largely did not frame women's issues in human rights terms cost us," Dharmaraj recalled. "We had no unified domestic platform and we were clearly out of step with the rest of the world." By the conference's end, Dharmaraj and Kusuma had resolved to "bring Beijing home," and the Women's Institute for Leadership Development for Human Rights was born.

The institute's main aim was to find a practical way to introduce human rights into domestic anti-discrimination work that could have a concrete effect on women's day-to-day lives. Ultimately, they decided to push for the passage of a city ordinance that would, in essence, adopt the International Convention on the Elimination of all Forms of Sex Discrimination, otherwise known as the "women's convention," as local law. Dharmaraj and Kusuma chose the women's convention for two reasons: "first the treaty had a more proactive approach to the elimination of discrimination than was available under local law. Second, the United States, although it signed the convention in 1980, was and still

**United Nations Fourth World Conference on Women. Secretary General Gertrude Mongella (left) and conference President Chen Muhua (right) shake hands during the closing ceremony, September 15, 1995, Beijing, China.**



**By the end of the World Conference on Women, Dharmaraj and Kusuma had resolved to “Bring Beijing Home,” and the Women’s Institute for Leadership Development for Human Rights was born.**

**On Nov. 10, 1997, the board of supervisors passed a resolution calling on the United States to ratify the women’s convention and stating that San Francisco would uphold its principles by passing and implementing its own city ordinance.**

is the only industrialized nation in the world that had not ratified it. The two activists saw a ripe opportunity for their fledgling institute to make human rights relevant to women and girls at a local level that might also have implications for national policy.

To Dharmaraj and Kusuma, the process of passing the discrimination ordinance was nearly as important as the ordinance itself. It took the institute 18 months to build support for the new law among its sister advocacy groups, politicians and the general public. “The process was very simple but also one of the most strategic that I have ever engaged in,” said Dharmaraj. The ordinance was passed in April 1998 and serves as a model for turning an international human rights treaty into public policy at the local level. Here’s how they did it.

### **The journey**

As a first step toward adoption, the institute formed a coalition with Amnesty International USA’s Western Region office and The Women’s Foundation, which funds women and girls’ programs throughout California. Amnesty International provided a membership base and a strong human rights network, and The Women’s Foundation offered strong relationships with many women’s rights groups. The San Francisco Commission on the Status of Women also joined the effort, giving the coalition a valuable government partner with key contacts in City Hall. The institute and its partners sponsored monthly workshops that described the women’s treaty to their various constituents and explained the new kinds of protections it would provide.

To get city officials on board, the institute set up one-on-one meetings with policy makers to argue their case for the ordinance. Members of the coalition also attended meetings of city commissions whose oversight would be affected by the new law. Several commissions, including the Health Commission and the School Board, passed resolutions urging that the ordinance be ratified. These actions played an important role in demonstrating to city officials and the public that the ordinance had support from constituencies outside of the Commission on the Status of Women.

The final element of the coalition’s strategic plan was a public hearing where the ordinance’s relevance could be demonstrated through the testimony of local advocates and government officials. In the audience were city department heads and members of the city’s board of supervisors, as well as social justice advocates and ordinary San Francisco citizens. The speakers were individuals or were from community organizations who had experienced discrimination. In opening and closing statements, given by, respectively, Dharmaraj and Julianne Cartwright Traylor, an Amnesty International USA board member, each speaker’s case was connected to the relevant treaty article. At the end of the testimony, Barbara Kaufman, president of the board of supervisors who chaired the hearing, called on all city officials to make verbal commitments to implementing the treaty’s principles in their department, and many, including the school board president and three supervisors, took the vow. No one spoke in opposition to the treaty.

### The accomplishments

Less than two weeks later, on Nov. 10, 1997, the board of supervisors passed a resolution calling on the United States to ratify the women’s convention and stating that San Francisco would uphold its principles by passing and implementing its own city ordinance. After the board’s action, the City Attorney’s Office began working with the Commission on the Status of Women to draft the ordinance with advice from the institute on how to apply human rights standards to local policy. The ordinance was passed unanimously by the board of supervisors and it was signed into law by Mayor Willie Brown on April 13, 1998. At the same time, Mayor Brown also signed legislation turning the Commission on the Status of Women into a permanent city department, meaning it no longer existed at the whim of politicians.

The ordinance marks an important turning point in how city policy makers conceive of their obligations to guarantee equality for women and girls. It not only mandates the city to refrain from discriminating itself but also obliges it to “take all appropriate measures” to prevent discrimination in the city more generally. This required San Francisco to adopt a more comprehensive approach to its anti-discrimination work, both within the government itself, but also between the government and those communities most affected. This broader approach also reflected the women’s convention definition of discrimination to include gender-based violence.

The legislation was passed with a budget of \$100,000 for the first year to pay for additional staff at

the Department on the Status of Women and for the creation of guidelines to conduct a “gender analysis” of selected city departments. These audits of how departments were respecting and fulfilling the human rights of women and girls to be free from discrimination and violence focused on employment practices, budget allocations and delivery of direct and indirect services. The law established a task force of government and community members to monitor implementation of the ordinance and required each city department to undergo human rights education. The ordinance would expire after five years.

In the first year, the task force and the Department on the Status of Woman conducted the gender analysis of two departments, Juvenile Probation and Public Works. Although officials in the Juvenile Probation Department already knew that the number of girls on probation was increasing, the gender analysis prompted the department to add two probation officers to work exclusively with girls, a girls’ services coordinator, and to offer special training on the needs of girls. The analysis of the Department of Public Works led to new, nontraditional employment opportunities for women and more street lights in certain neighborhoods it revealed as being unsafe.

Four other departments have since been analyzed—the Arts Commission, the Adult Probation Department, the Department of the Environment and the Rent Board—and have also revised their policies in response to the audits. The Arts Commission, for example, learned that its popular Street Artists program had a problem: the daily lottery for street sites

worked against women with children because it was held very early in the morning.

### **The obstacles**

Despite the successes of the ordinance, it continues to face significant challenges. It does not have strong enforcement mechanisms, and department budgets are unaffected by noncompliance. The city bureaucracy was slow to accept the new approach because translating its human rights principles into practical policies proved difficult. Departments, especially the smaller ones, viewed the gender analyses as extra work. Accustomed to providing quantitative information, most departments had trouble gathering the qualitative information called for by the ordinance. “The departments ended up giving us a lot of data that was easy to pull together [that] they were used to doing for [Equal Employment Opportunity Commission] reports,” said Ann Lehman, a policy analyst for the Commission on the Status of Women. Such statistical information did not provide the more nuanced picture needed by city departments if they were to tackle the multiple effects of discrimination at which the ordinance was aimed.

Another stumbling block was the low participation of community groups. Some observers said the groups simply did not have enough information about how the ordinance could benefit their communities. “[The institute] was not able to train local groups to use this legislation, so it is not a tool they think about,” said Dharmaraj. “It is important to recognize that implementation of human rights standards is the gov-

ernment’s responsibility, but we as [nongovernmental organizations] must monitor them diligently.” To both educate constituents and monitor the intricacies of local government proved to be a daunting task.

Finally, the institute encountered significant challenges in getting virtually all parties to understand discrimination against women and girls in terms not only of gender, but also of race. Although the ordinance was revised in 2002 to encompass “the intersection of gender and race” and to reference the International Convention on the Elimination of all Forms of Race Discrimination (the race convention), such an “intersectional” analysis did not translate easily into public policy, or even into the way in which community groups carried out their work. Rebecca Rolfe, a long-time grassroots activist who worked with the city to implement the ordinance, saw human rights as a critical next step in U.S. social justice work but noted that many community-based organizations are still working off “old frameworks and their analysis is failing them.”

### **The road ahead**

Most of the parties involved agree that the ordinance has brought real improvements in the quality of life for women and girls in San Francisco and has led to a slow but steady increase in the local understanding of human rights. Although the ordinance itself expired in June 2003, the Commission on the Status of Women has used its human rights principles as the framework for its five-year Action Plan, a blueprint for its anti-discrimination efforts that the commission approved in

## Significantly, the Action Plan calls for tying the anti-discrimination principles of the women's convention to the San Francisco city budget process and performance evaluation.

February 2003. The Department on the Status of Women has already started that process by conducting a half-day training session for commission members on how to integrate human rights principles into private and government workplaces.

Significantly, the Action Plan calls for tying the anti-discrimination principles of the women's convention to the city budget process and performance evaluation. The Department on the Status of Women sees this as a critically important step, in light of San Francisco's move to a "mission-driven budget" in which departments would base their budgets on the objectives, needs and goals of the community they serve. "I would like to see the city using this aspect of the budget process, especially for new programs, and that this kind of approach becomes the norm for eliminating discrimination and evaluating services," said Lehman. "We can use human rights criteria to see if we are meeting the needs of the diverse population that we serve and not just counting numbers, which we have a tendency to do."

The Action Plan also calls for establishing a new anti-discrimination committee reporting directly to the mayor, board of supervisors and the commission. It would advocate for resources to implement the ordinance going forward and act as a liaison with other state, national and international anti-discrimination efforts.

The ratification in San Francisco was a critical first step for the Women's Institute for Leadership Development in promoting human rights as an effective tool for social justice advocacy in the United

States—and other cities are trying to replicate the institute's success. Dharmaraj has traveled several times to Los Angeles and New York, the two cities farthest along in ratifying the treaty as local law, to conduct training sessions and provide technical assistance. In New York, advocates are taking steps to pass an ordinance that would require city agencies to determine whether their policies and practices have a discriminatory impact on women and/or people of color, in violation of both the women's and race conventions. The Los Angeles Commission on the Status of Women presented an anti-discrimination bill to the City Council in October 2002 which has not yet passed.

There also has been international interest in replicating the San Francisco success. In response, the institute held a workshop at "Beijing Plus Five," a United Nation's evaluation of the 1995 World Conference on Women in Beijing, on local implementation of the women's rights treaty.

These efforts, combined with the development of concrete public policy applications of the human rights framework, demonstrate the power of a human rights approach to create positive and lasting change in cities and neighborhoods in the United States. And they do it through a cross-constituency, multi-dimensional advocacy strategy that includes everyone from local groups to the international community.

"I do not know how else to do social change in this complex world but to do human rights," said Dharmaraj. ■

## CHAPTER TEN: CIVIL AND ECONOMIC RIGHTS

## The Mississippi Workers' Center for Human Rights

**Deep in the heart of the South, organizers are spreading the word about how human rights can empower workers and unify social justice movements.**

### The starting place

Throughout the 1950s and 1960s, the South was the conflicted epicenter of the civil rights movement. As an epic struggle to expose and exorcise the deeply embedded American pathology of racial inequality, it stands as the preeminent social movement of our time. But despite its successes in desegregating education, housing and transportation and ensuring equal access to the ballot box, the civil rights movement failed to change the economic and social systems that relegated blacks to low-wage jobs and enforced a system of intimidation that perpetuates inequality and injustice to this day.

This American preoccupation with civil and political rights contrasts dramatically with the broader set of international human rights standards that emerged after the Second World War. Enshrined in the United Nation's Universal Declaration of Human Rights and two subsequent covenants, these principles embrace not only civil and political rights but also economic, social and cultural rights. This second set of rights—primarily focused on economic benefits such as housing, food, health care and fair wages—addresses concerns that reach far beyond the landmark U.S. legislative remedies in the 1960s and 1970s to eliminate racial

inequalities. So is it any wonder that a civil-rights turned workers-rights activist in the Deep South has become a convert to using a human rights approach in the fight for social justice overall?

In the “belly of the beast” is how Jaribu Hill, the executive director of the Mississippi Workers' Center for Human Rights, describes her life and work in Mississippi. Her assessment was echoed by a February 2001 report by the U.S. Commission on Civil Rights: “The region's unique history of slavery, with its debilitating legacies—the sharecropping system, Jim Crow laws, the concentration of wealth in the hands of a minority white population, the political disenfranchisement of blacks and the nearly total social segregation of the races—has been well documented and is generally viewed as the most significant factor in the region's present position as among the poorest, if not the poorest, section of the nation based on virtually every socioeconomic measurement.”

Hill was drawn to Mississippi by a personal connection to the region, but she settled there out of a deeply held political belief. “Mississippi has not come into the 21st century,” Hill said. “Workers in Mississippi are just a few steps removed from bondage slavery. There is shock outside of the state when I talk about

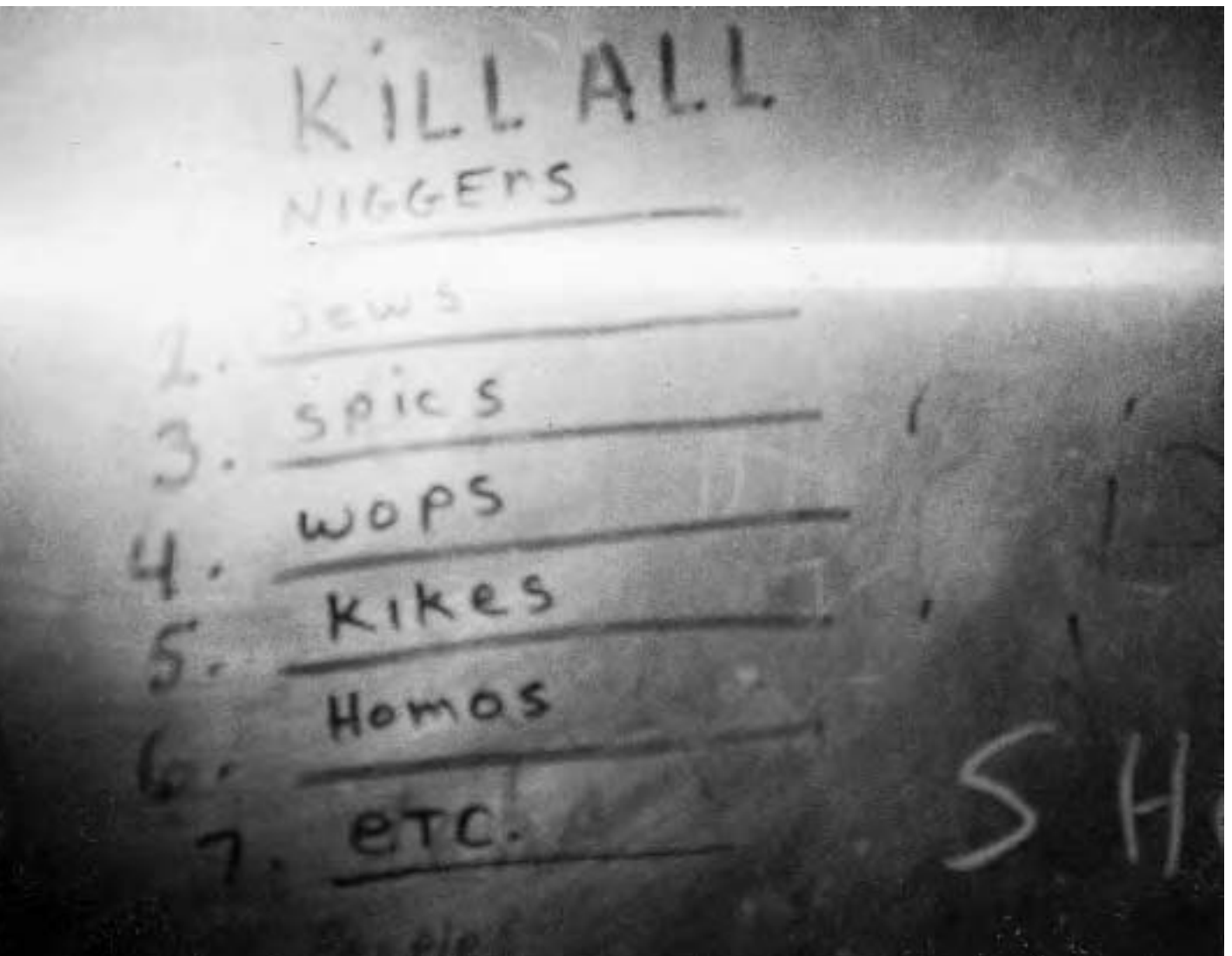
**Mississippi Workers' Center staff and board  
at the Fourth Southern Human Rights Organizers'  
Conference, Miami, Florida.**



**In the “belly of the beast” is how Jaribu Hill, the executive director of the Mississippi Workers’ Center for Human Rights, describes her life and work in Mississippi.**



**“It has to be [seen as] an international human rights struggle. It is not by default that you are poor. It is not because you messed up. It is by design. You are treated this way because of the historical system of slavery and human bondage. If we keep the struggle local, we suffer and don’t know why we suffer.”**





slavery and lynching as still happening. Old habits die hard.” She started her Mississippi work in 1995—first with Mississippi Legal Services and then with the American Civil Liberties Union—as part of a post-law-school fellowship program. From there she went to work in the Greenville office of the Center for Constitutional Rights.

This work, while crucial, did not sufficiently address Hill’s concern about economic rights, particularly for workers of color. She first became interested in workers’ rights when she worked in New York City for the New York Committee on Occupational Safety Hazards, which provided health and safety training to workers in various industries. Hill saw first hand the unsafe conditions faced by blacks and other minority workers who were often shunted into the most hazardous jobs. In response, Hill and other committee staff members formed the People of Color Low Wage Workers’ Network. It was through this experience that Hill heard the troubling stories of the segregated and abusive workplaces she would later witness in the South.

### The turning point

Eventually, Hill had to unite the two sides of her experience. She saw in human rights a way to make that link, to provide solutions for change beyond existing civil rights models and to bring together disparate groups together under a universal framework.

While at the center for constitutional rights, Hill founded the Mississippi Workers’ Center for Human Rights. In 2000, she took over as full-time executive

director. The center, with two full-time employees, operates in eight Mississippi counties to “put information into workers hands to change their workplace for themselves,” said Hill. “It is important that workers see that they are not alone. It is important that they see that in the world scheme they are part of a larger movement.”

Hill and other activists in the region continue to employ traditional organizing and litigation strategies to fight discrimination in housing, employment and voting. But they use a human rights framework to give people of color living in poverty a new and comprehensive way to understand and combat their circumstances.

“It has to be [seen as] an international human rights struggle. It is not by default that you are poor. It is not because you messed up. It is by design. You are treated this way because of the historical system of slavery and human bondage. If we keep the struggle local, we suffer and don’t know why we suffer,” Hill said.

Using an international human rights framework also provides a way for U.S. activists to find linkages to similar struggles in other parts of the world: “Traveling to other parts of the world is a sobering experience. The hamlets and slums where the poor are forced to live, in the shadows of existence, are the same all over the world. The stench of poverty is the same,” Hill said.

### The journey

The center serves as a resource for Mississippi workers who encounter problems at their workplaces, including unfair wages, unsafe working conditions and

**Opposite page: Images of hate found at the Ingalls Shipbuilding Company, 2002. Above: A Jonestown Environmental Justice/Fair Housing Project protests substandard housing supplied to workers.**

**The center serves as a resource for Mississippi workers who encounter problems at their workplaces, including unfair wages, unsafe working conditions and racial intimidation.**

racial intimidation. The three focal points of the Worker's Center are Terror on the Plant Floor, Dying to Make a Living and its coordination of the Southern Human Rights Organizers' Conference and Southern Human Rights Organizers' Network.

Terror on the Plant Floor provides human rights-based training and legal representation for employees who work in racially hostile environments. One of its major efforts was to file a lawsuit in U.S. District Court against the Ingalls commercial and naval shipyard in Pascagoula, the largest private employer in the state with 11,000 workers, half of whom are black. The lawsuit, brought on behalf of Ingalls' Afro-American employees in April 2001, alleges a range of abusive practices, including unfair promotion and seniority practices, disproportionately high rates of demotion for blacks, retaliation against complainants, recruitment for the Ku Klux Klan and the presence of nooses.

The lawsuit seeks injunctive relief and compensatory and punitive damages for the Ingalls' black workers and casts the workplace racial discrimination as a violation of both domestic and international law.

In addition to the Ingalls litigation, the center offers various kinds of training for workers throughout the Mississippi Delta. Most of the training programs fall under the center's Dying to Make a Living campaign and provide information about workplace safety, the Americans with Disabilities Act, the Family Leave Act, civil rights law, Occupational Safety and Health Administration regulations and filing complaints with the Equal Employment Opportunity Commission. In December of each year, the center

sponsors a day-long workshop, Workers' Rights are Human Rights: Organizing to Stay Alive, that compares international human rights law with domestic laws on workers' rights and challenges participants to identify the successes and failures of current domestic worker protections.

Based on her experience with the workers' center in Mississippi, Hill suspected that social justice activists organizing throughout the South faced similar challenges in linking civil and economic rights work throughout the region. Seeing a need to bring organizers together to share information and explore the use of a human rights approach to their work, Hill co-founded the Southern Human Rights Organizers' Conference in 1996 and, later, the Southern Human Rights Organizers' Network. The conference is a biannual gathering that brings together human rights organizers to discuss common issues and develop more effective strategies for building a human rights movement in the South. Its principal partners are the Atlanta-based National Center for Human Rights Education and Amnesty International's Southern Regional Office, also in Atlanta. The network, a recent outgrowth of the conference, comprises those who want to make more extensive use of human rights in their daily work. The center is the sponsor and primary organizer for the conference and network, but both endeavors are very much collaborative efforts.

**The accomplishments**

Ingalls' workers have responded positively to framing their claims as human rights violations. In



ongoing meetings with plant workers and members of the community, Ingalls' employees describe their working conditions as "violations of human rights," said Hill. The Dying to Make a Living trainings have spawned three local organizing committees, in the Leland, Sunflower and Izzola communities of the Mississippi Delta. These committees have responded to abuse of local public workers, employees of chain outlets and catfish industry workers, and have collaborated with local religious leaders to hold town meetings, hear testimony of abusive working conditions and coordinate public protests.

Participation in the four human rights organizing conferences held so far has also expanded, along with the awareness and use of human rights principles by local activists. The 2000 conference held in Atlanta attracted more than 300 people and served as a preparatory meeting for Southern activists who—many for the first time—participated in the 2001 U.N. World Conference Against Racism, Racial Discrimina-

tion, Xenophobia, and Related Intolerance in Durban, South Africa.

The human rights resources and information provided at the conferences have had a lasting impact on the Southern activists who attended. Wyndi Anderson, who attended the 2002 conference in Miami, is a social justice activist new to the concepts of international human rights. An organizer with both the National Network of Abortion Funds and National Advocates for Pregnant Women, Anderson carried away a new appreciation of how human rights could affect her work.

"My normal thinking would have been, I would look around at who was [attending] the conference and see there were no reproductive rights or drug policy people and I wouldn't come," Anderson said. "But after this I am going to beg, borrow and steal to get my brothers and sisters from the reproductive rights and drug policy movements to come to the next conference. I want that voice here."

Akiba Timoya, who also participated in the Miami

**Clockwise from top: Center director Jaribu Hill (far right) and catfish workers at a human rights training, Sunflower, Mississippi. Participants in the center's annual Fannie Lou Hamer Roundtable and Sister Tour of the Delta, 2002. The Workers' Center co-hosts a hearing on hate violence in the South.**



conference, works with SONG, an organization “founded by black and white Southern lesbians.” “I have all these intersections inside me,” she said. “I am part African, part Scottish, part American Indian. Human rights is a way for me to be accountable to all of who I am.”

### The obstacles

While the conferences have been successful at bringing together grassroots organizations from throughout the South over the last six years, much work still needs to be done to convince social justice activists that human rights can be useful to their regional and local activism. “There is some tension [among participants] about how useful the human rights framework is,” said Loretta Ross, executive director of The National Center for Human Rights Education. This uncertainty partly springs from the contradictions between human rights standards, which apply directly to ending race discrimination in the South, and the most publicized U.S. human rights work, which has historically been associated with large, well funded, primarily white organizations that focus on other parts of the world.

“At first I was skeptical about coming to the conference,” said Kathryn Rodriguez, of the Coalicion de Derechos Humanos Alianza Indigena Sin Fronteras. “I had this bad experience. I went to a human rights training for trainers. And it was all white faces. There was one Latina and that was me. I had a horrible time. I had a horrible experience of racism. You can’t separate human rights education from human rights work. So when I came [to the conference] I was really skeptical,

but I’ve learned so much from the other communities who are here.”

The conference leadership has attempted to address the gap between grassroots activism and national and international human rights organizations by including human rights groups, such as The National Center for Human Rights Education and Amnesty International, along with regional civil rights organizations in planning each biannual event.

### The road ahead

The center is in the midst of producing a training manual on workers rights as human rights for publication in 2004. It also plans to host the Black Workers International Roundtable in Mississippi. Hill also intends to make more formal use of human rights bodies and mechanisms in her local litigation and organizing work. Hill and others are also in the process of formalizing the network to function as a more structured entity between conferences. Hill said plans were being made to hire a full-time staff member to work on regional human rights organizing efforts all year long.

Just as civil rights activists of the 1950s and 60s sought to move beyond doctrines of “separate but equal,” the Mississippi Workers’ Center for Human Rights, the conference and the network are trying to break down antiquated divisions between civil and economic rights activism and move beyond the issue-based work which can confine participants to a narrow point of view. Human rights has helped to frame and advance that process, pointing the way to a more systematic approach to the epic battle for social justice in the South. ■

**Top: Regional leaders gather at the Fannie Lou Hamer Roundtable in 2003. Right: Demonstration organized by Mississippi Workers’ Center and local unions, 2003.**

**Participation in the four human rights organizing conferences coordinated so far by the Mississippi Workers' Center has expanded, along with the awareness and use of human rights principles by local activists.**



## CHAPTER ELEVEN: LOCAL AND GLOBAL ADVOCACY

## The Women of Color Resource Center

### U.S. women of color use global conferences to link to international women of color and reshape their local advocacy.

#### The starting place

Linda Burnham and Miriam Ching Louie met at the U.N. World Conference on Women in Nairobi, Kenya in 1985. That experience convinced them to find a way for U.S. women of color to connect more effectively with their counterparts throughout the world. Five years later they founded The Women of Color Resource Center in Oakland, Calif. The center sees women of color as a political designation, not a socio-demographic one. Its main purpose is to foster “the solidarity and common cause of marginalized racial and ethnic groups who are committed to addressing the full complexity of the dynamics of oppression.” At no time did they conceive of this “common cause” as exclusive to the United States.

What was needed was a concrete way to link the resource center’s local work with similar work on a global level. Not surprisingly, given their seminal experience in Nairobi, they decided to make systematic use of two upcoming United Nations world conferences—one in 1995, on women in Beijing, and one in 2001, on race discrimination in Durban, South Africa. It was in preparing for and participating in these two conferences that the center began, albeit gradually, to

see the potential value of the human rights framework in linking local and global work by women of color.

#### The turning point

Typically, U.N. conferences are organized around one topic. Representatives of national governments gather to examine a social problem, such as discrimination against women or racism, develop a document analyzing the problem and recommend remedies. Non-governmental organizations such as the center attend these conferences to influence the content of the final document by lobbying government officials and to develop relationships with like-minded activists from other countries. Human rights was the lingua franca of these international conferences. “We kind of backed into human rights through our interest in the international arena and our interest in interacting in the United Nations conference process,” said Burnham.

#### The journey

The resource center sent a delegation to the Beijing conference; because the center is dedicated to developing leadership skills among oppressed women minori-

**Young women of color participate in a march for affordable housing in Philadelphia.**



**The U.N. World Conference on Women had an important impact on the resource center leaders by encouraging them to increase the use of human rights standards and methodology in their domestic advocacy work.**



**The center continued to integrate human rights laws and standards into its work by putting together a report for the U.N. World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in Durban, *Time to Rise—U.S. Women of Color—Issues and Strategies.***

ties, its Beijing delegation comprised more than a 100 grassroots activists from across the country, some of whom the center had had little or no prior contact with. Drawing on their experiences at the Nairobi conference, the center held monthly preparatory meetings and put out a newsletter to make sure that delegation members were fully versed on global issues expected to come up at the conference.

In Beijing, the center played an important role in highlighting to an international audience the issues faced by women of color in the United States. But the conference also had an important impact on the resource center leaders by encouraging them to increase the use of human rights standards and methodology in their domestic advocacy work. “Coming out of Beijing, we started to try and look at the human rights framework in a more systematic and intentional way,” said Burnham. The center staff underwent training from human rights educators such as Nancy Flowers of Amnesty International and Loretta Ross of the National Center for Human Rights Education in order to weave human rights concepts into the center’s own educational program.

One of the main outcomes of the center’s experiences in Beijing was a workbook on women’s rights and the global economy, *Women’s Education in the Global*

*Economy*. “I don’t think we could have done the [workbook] without going to [the Beijing] conference,” Burnham said. The workbook, completed in 2000, sought to bring the information and lessons learned in Beijing back to local U.S. communities.

The workbook has eight modules that examine, among other issues, women and structural adjustment programs; welfare, low-wage work and homelessness; women and the global assembly line; and women and the environment. Only one module—focusing on abuse of migrant workers, sex trafficking and prostitution—mentions human rights, although all of the modules employ the human rights approach of identifying violations and devising a concrete remedy. The workbook was widely distributed, and the resource center conducted several training sessions on how to use the book, one for San Francisco Bay Area activists and another for women participating in a welfare-to-work program at Laney College in Oakland.

In June 2000, the center followed up its Beijing work by participating in the United Nations’ five-year assessment of the implementation of the Beijing Platform of Action, the document that spelled out the world conference’s conclusions and recommendations. During the assessment meeting, the resource center called on the United States government to be

accountable for the pledges it made in the Platform for Action. It also held a training session on utilizing the workbook and drafted a critique, later published by the Applied Research Center, of U.S. welfare reform policy and how it was out of step with human rights standards on economic rights. “We had two goals,” said Burnham. “First, to show the world what U.S. welfare policy looks like and expose how it doesn’t live up to the Beijing Platform of Action, and second, to show how it conflicts with the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.” The center used this event to consolidate links with global activists made in Beijing and to provide local women of color with human rights arguments that they might use to challenge the devastating effect of welfare reform in their communities.

The lessons learned from the Beijing conference helped the resource center plan for the 2001 U.N. World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in Durban. Because of increasing emphasis on human rights-based advocacy methods at the U.N. conferences, the center assembled a delegation of 25 racially and ethnically diverse grassroots activists or scholar activists who were experienced in specific issue areas, such as migrants’ rights, economic justice, Palestinian rights and Native American rights. This smaller delegation allowed the resource center to prepare more strategically for the Durban conference than it had for Beijing by offering workshops on basic human rights principles, key United Nations treaties and the world conference process.

The center continued to integrate human rights laws and standards into its work by putting together a report for the Durban conference, *Time to Rise—U.S. Women of Color—Issues and Strategies*. The publication was a collection of articles, many by delegation mem-

bers, on issues of importance to women of color in the United States, such as low wages, reproductive rights, health, welfare reform, violence against women and abuse of women prisoners. Placed in a human rights framework, the book was extremely popular at the conference, and the center quickly ran out of copies.

Burnham and Ching Louie participated in several of the planning meetings for the conference, and once in Durban, the center held workshops on human rights issues for women of color in the United States and overseas.

Resource center delegation members participated in the traditional conference caucuses, emphasizing the importance of grassroots organizing and using human rights language to network with other participants. Other delegates spent their time in less conventional ways. Viola Casares, from Fuerza Unida, a San Antonio, Tex. organization that focuses on women workers’ rights, sought out the South African cleaning women at the conference to discuss their working conditions and wages. Malika Saada Saar, director and founder of the Washington, D.C.-based Rebecca Project for Human Rights, which works with low-income women recovering from drug addiction, spent time with a delegation of South African women who traveled to the conference but could not afford the entrance fee.

### **The accomplishments**

The Durban Conference transformed the thinking of many delegation members. Andrea Smith, a Cherokee activist, has a long history of grassroots organizing, including co-founding Critical Resistance, a prisoners’ rights organization, and Incite!, a national organization of radical feminists. The conference opened her eyes to the importance of the human rights framework. “It was not until the Durban process that I began to see the point. To see that there are certain rights that



## Part IV: Putting it all Together

A town choking on industrial pollutants. Widespread sexual abuse of women prisoners. Here are two examples of how U.S. advocates won significant victories by applying the full force of human rights principles and practice.

## CHAPTER TWELVE: ENVIRONMENTAL JUSTICE

## A Thematic Case Study

**Domestic laws were ineffective, but when human rights pressure was applied, a corporate polluter came to the table and settled.**

### The starting place

It is called, ignominiously, “Cancer Alley,” an 85-mile stretch of the Mississippi River running from Baton Rouge to New Orleans. Home to more than 100 petrochemical facilities and oil refineries, the region has for two decades been a litigation battleground, pitting the legal departments of corporations against environmental advocates who charge that the millions of tons of pollutants spewing from the vast complexes put the largely poor, mostly black communities that inhabit these company towns at a disproportionate risk of exposure to industrially produced toxins.

Over the years, the advocates have had some success in applying U.S. laws by showing patterns of environmental racism. Coordinated campaigns, combining community organizing with conventional legal challenges, helped lead to the denial of licenses by the U.S. Environmental Protection Agency and other regulatory bodies for proposed facilities that would have polluted poor minority communities. But by the late 1990s, environmental justice advocates watched as the U.S. Supreme Court issued rulings that whittled away at civil rights statutes intended to protect against discrimination. As a result of this and other legal and regulatory developments, environmental-protection laws were left with gaping holes, regulating only a fraction of the harmful pollutants that were affecting these

communities and allowing industrial complexes to be clustered near residential areas. Also, the courts were unfriendly to citizens’ claims for relief from polluting of their politically and economically marginalized communities.

To environmental advocates, the use of existing legal tools was becoming largely ineffective. “We were operating with a legal system that ignored what our communities are suffering from and didn’t even have a process for considering remedies for communities with toxic burdens,” said Dr. Beverly Wright, executive director of Xavier University’s Deep South Center for Environmental Justice.

The environmental problems faced by the citizens living near the Norco plant (short for New Orleans Refinery Company), 25 miles upriver from New Orleans, made it a painful case in point for the environmental justice movement. Its African-American neighborhood, called the “Diamond” district, is sandwiched between the Shell Chemical Plant and Shell/Motiva Norco Refinery, exposing its residents to toxic emissions which advocates claim are responsible for health disorders ranging from headaches, asthma and neurological and muscular disorders to high rates of death related to cancer.

Norco residents had been protesting the pollution for years. Under the banner “Concerned Citizens of

**The Exxon Mobile plant in Cancer Alley, an 85-mile stretch of extremely polluted areas in Louisiana.**



## **The African-American neighborhood is sandwiched between a Shell Chemical Plant and Shell/Motiva Norco Refinery, exposing its residents to toxic emissions which advocates claimed were responsible for health disorders ranging from headaches, asthma and neurological and muscular disorders to high rates of cancer deaths.**

Norco,” they had filed a lawsuit against Shell demanding that the company purchase their houses and land and move them to safer territory. That strategy failed in 1997 when Shell’s air-quality experts, citing lack of evidence, convinced a jury that the giant chemical operation posed no threat and argued that the suit was motivated solely by Diamond residents’ efforts to exploit the company’s deep financial pockets.

### **The turning point**

“We needed something to break us out of the chokehold of domestic law,” said Monique Harden, an environmental justice attorney, who now heads the New Orleans-based Advocates for Environmental Human Rights. “There was simply no body of U.S. laws that either described or provided an adequate remedy for the multiple, synergistic and cumulative impacts of environmental degradation on a person’s whole life experience.” Then working with EarthJustice, an Oakland, Calif.-based nonprofit public interest law firm, Harden joined Cancer Alley residents and fellow activists, such as Damu Smith, former coordinator of Greenpeace’s Toxics Campaign and now executive director of the National Black Environmental Justice Network in Washington, D.C., and Dr. Robert Bullard, director of Clark Atlanta University’s Environmental Justice Resource Center in Atlanta, to develop new legal and organizing approaches. In 1998 their search led them to Gay McDougall of the International Human Rights Law Group based in Washington, D.C. In a perfect marriage of service and need, McDougall and her staff had been reaching out to a number of U.S. social justice organizations through their Advocacy

Bridge program to help them apply human rights laws in their struggles.

“Before we learned about human rights, we looked for laws in the U.S. that could provide protection for people who live, work, play and worship in places that are also sites for polluting industrial facilities and waste dumps,” said Harden. “But we recognized that these laws really do not support the fundamental human rights to life, health and non-discrimination. U.S. laws offer very little in restoring health and quality of life to communities that are presently overwhelmed by industrial pollution,” she said.

McDougall had a suggestion: “We showed them that litigation was not the only answer. There is a whole arsenal of tools that human rights offers that can give them much more power.”

### **The journey**

Through the Advocacy Bridge program, environmental activists learned about the Universal Declaration of Human Rights, Article 25, which articulates the quality of life issues that Norco citizens were fighting for. They learned about the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), one of the human rights treaties ratified by the United States that defines racial discrimination as a human rights violation. CERD, in effect, holds governments accountable for eliminating racial discrimination in regulatory rule-making, licensing, pollution-

**Monica Gibbs, a resident of Convent Louisiana in Cancer Alley, has been plagued with respiratory problems since birth. Here, her respirator is held in place by her father.**



monitoring and clean-ups of contaminated sites. CERD's broadly conceived protections of economic, social and cultural rights also gave the environmental advocates a framework in which they could describe more generally the long-term risks that affected communities suffered.

Reinvigorated by their training with the International Human Rights Law Group, Harden and her colleagues reconvened their coalition, which by now also included Concerned Citizens of Norco, The Sierra Club, The Deep South Center for Environmental Justice, Communities for a Better Environment—NORAN Project and other groups. For the next several years, the coalition educated their respective members about the tools and language of human rights advocacy. "We taught our communities that the U.S. govern-

ment had signed on to documents which create obligations and responsibilities," said Harden. "Our job is to keep combing deeper, use those human rights laws and make sure to get as much out of them as possible." Working with McDougall and the International Human Rights Law Group, their efforts paid off in several intermediary breakthroughs—and ultimate victory.

### **The accomplishments**

Shortly after their Advocacy Bridge training, Harden and others engaged in the Norco fight testified before the U.N. Commission on Human Rights in Geneva in 1999—the first time that U.S. environmental justice advocates had come before the international body to highlight human rights violations against minorities. They asked that the health problems of

Norco residents be addressed by the international community, that their basic human rights to a clean and safe environment for themselves and their families be protected and that environmental racism be included as an agenda item for the upcoming U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa.

In 1995, the commission had appointed a special rapporteur to investigate the effects of illicit disposal of toxic and dangerous materials around the world and whether such dumping constituted breaches of economic, social, and cultural rights. Building on that precedent, advocates successfully requested that a special rapporteur investigate environmental racism in the United States. After visiting Norco's Diamond neighborhood, the rapporteur recommended that industrial nations be routinely scrutinized for environmental human rights violations as a regular part of the special rapporteur oversight process.

The rapporteur's visit to the Diamond district caught the attention of the national media and, eventually, Congress. Greenpeace, the international environmental activist organization, organized a "Cancer Alley Celebrity Tour." Environmental advocates joined forces with socially responsible investment funds, such as one run by the Dreyfus mutual fund company, to spotlight Shell's actions in its Cancer Alley facilities. U.S. Representative Maxine Waters, a California Democrat, and other members of the Congressional Black Caucus visited Norco and endorsed the citizens' campaign against the oil giant.

By 2000, Shell was feeling the heat. It offered a partial buyout to Norco residents whose homes were on the two streets next to the plants. But the community rejected the offer, fearing that the limited buyout would cause divisions among Diamond residents, many of whose extended families had lived in the neighborhood for generations. As they regrouped, the coalition of activists began to take a more global approach to their campaign.

After testifying before the U.N. Commission on Human Rights, several members of Louisiana's environmental justice community took "toxic tours" of similarly impacted communities in Nigeria and

Ecuador. Of particular interest were the Ogoni, who live in oil-rich southeast Nigeria. The Ogoni had been waging their own battles with the British- and Dutch-owned- Shell Petroleum Development Co. over environmental rights. They charged Shell with colluding with the Nigerian government to violate their human rights, ravage their land, contaminate their rivers and brutally crack down on dissent. Cancer Alley advocates realized that Shell parent companies in the U.K. and Netherlands, faced with mounting international public outcry, might be more willing to respond to them than their Shell subsidiary in the United States.

Harden began to investigate Shell's policies on residential proximity and relocation in other countries and discovered that the Netherlands parent company had been more responsive to environmental complaints in Dutch communities than its U.S. counterpart. Harden learned that Shell Netherlands had, for example, complied with a set of innovative European land-use planning protocols for hazardous industries called the Seveso Directive, after the Northern Italian location of an environmental accident, which prescribed safe distances between industrial facilities and other land uses, such as residential ones. The advocate's proposals for solutions in the United States began to be informed by elements of the Seveso Directive.

Advocates working on the Norco project realized that Shell's antagonistic legal stance in Cancer Alley could become a major public relations problem internationally. If it did not agree to renegotiate the Norco relocation issue, the advocates told Shell, they were prepared to take their case to the U.N. World Summit on Sustainable Development in Johannesburg, South Africa, in 2002. "In Norco we had a stark, bleak example of 'this is what happens when human rights are ignored,'" Harden recalled. "We were ready to go to Johannesburg and create international embarrassment for Shell while all eyes were watching this big international event—corporations, governments, NGO's, everybody." Shortly before the summit convened, Shell announced it would meet the community's demands and purchase homes throughout Norco's Diamond neighborhood.

Under the "Diamond Options Program," Shell



gave residents the choice of relocating and selling their homes to Shell at a guaranteed minimum price or remaining in the community and receiving favorable home improvement loans. Moving allowances, professional services, consulting and other miscellaneous expenses were also part of the package. For Delwyn Smith, then president of Concerned Citizens of Norco, the outcome showed that “small communities dealing with environmental problems should never give up. Victories and successes can be achieved, but they don’t happen overnight.”

For Norco advocates and their corporate counterparts alike, the use of human rights mechanisms seemed to have a destabilizing effect on the bargaining process—to the advocates’ advantage, as it turned out. “None of us knew what would happen,” said Harden. “A new approach creates a lot of uncertainty, and what corporations and shareholders don’t like is uncertainty. It depresses stock prices. It’s hardly the cost of a settlement that worries the market, because once relief is paid, certainty is restored and stock prices recover. Our advantage was about keeping things uncertain. That unknown quantity was perhaps the factor that most concerned them.”

According to McDougall, the environmental justice advocates seemed particularly adept at grasping how human rights could be applied to their field. “Of the many groups we’ve worked with over the years, I could see that the environmental justice folks really understood human rights. They really got it,” she said. “They were interested, excited, and were developing their own momentum as a movement. They could see the added value of human rights to what they were already doing,” McDougall said.

For Harden and others in the coalition, using the tools of human rights has had a liberating effect. “For those who fight, it’s all in here,” she said, pointing to her head. “The feeling that no one has your back, that nobody cares, that ‘I’m the only one fighting.’ There are so many forces against you that make you feel this way. [After] meeting others around the world who are fighting their own struggles, those negative messages go flying out of your head and you get what you need to keep fighting.”

### The obstacles

In the Norco case, using a human rights framework provided a much-needed boost to environmental justice advocates at a critical moment. But Smith, of the National Black Environmental Justice Network, recognizes that human rights activities can only complement the more established approaches of research, domestic litigation and community outreach and organizing in building an environmental justice movement.

“There are no illusions here, and no expectations that governments will take immediate actions as a result,” he said. “The U.S. government is still finding ways to respond to us. We know they don’t like being put under a microscope or highlighted for their bad behavior.”

Harden, too, recognizes that considerable work must still be done to refine how human rights methods interact with conventional tactics. “Sometimes,” Harden said, “I’m at my wit’s end in figuring out what successful lawyering is for this community—how to be a good human rights advocate. We need to go beyond giving U.N. testimonies and begin to target states, companies and to craft innovative lawsuits.”

According to McDougall, the environmental justice movement would also benefit if the concepts of economic, social and cultural rights were more accepted in American society. “We have swallowed the U.S. position that [these] rights don’t exist,” she said. “And U.S. advocates have, in their inaction in this area, implicitly acquiesced to the government position. This has had a fundamental impact on justice movements in the United States.”

### The road ahead

Despite these challenges, for Harden, the Norco victory remains an inspirational example of what can be done when communities fully appreciate the power of using human rights to improve citizens’ lives. She recalled a recent encounter with a relocated Norco resident in his new home: “He told me, ‘Monique, thank you for all you’ve done. I now have a beautiful house fit for a king.’ And I told him, ‘Well, you deserve it. Because you are a king.’ ■

## CHAPTER THIRTEEN: SEXUAL ABUSE OF WOMEN IN PRISON

### A Thematic Case Study

**Advocates began thinking in terms of ‘human rights’ instead of ‘prisoner rights,’ and the movement was transformed.**

#### The starting place

When Brenda Smith, Ellen Barry and Deborah LaBelle filed their respective lawsuits in the 1990s challenging the treatment of women in several U.S. state prisons and the District of Columbia, none of them made reference to human rights. “I was looking for immediate relief for my clients,” Smith said. “I wasn’t sure what kind of impact human rights would really have.” Barry was “generally aware of human rights,” but there was “no sense that it was viable.” To LaBelle, “It just wasn’t part of my lexicon.” By the end of the decade, and through a collaborative effort involving a wide range of other activists, several international human rights organizations and the United Nations, the attitude of these three advocates toward the value of human rights to their work had profoundly changed. This is a chronicle of that transformation.

Barry founded and ran Legal Services for Prisoners with Children in California and focused primarily on health care issues for incarcerated women. LaBelle was an attorney in private practice in Michigan and litigated issues of systematic sex discrimination and custodial sexual misconduct. Smith directed the Women in Prison Project at the National Women’s Law Center in Washington, D.C. and provided direct services to women in the D.C. prison system. But for all their differences in approach, these three advocates, like their counterparts in other states and at the national level,

had one overriding concern in common: the skyrocketing population of women in prison in the United States and the deplorable conditions and treatment that they endured all too often.

Smith’s ultimately successful 1993 case, *Women Prisoners of District of Columbia Department of Corrections v. District of Columbia*, for example, charged the D.C. Department of Corrections with rape, sexual assault, and use of degrading language among other violations. LaBelle’s 1996 federal case, *Nunn v. Michigan Department of Corrections et al.*, which settled in 1999, exposed rape, sexual assault, sexual harassment, privacy violations, physical threats and abuse. Barry’s suit, *Shumate v. Wilson*, which settled in 1998, focused on inadequate medical care in the California women’s prisons. As these advocates pursued their work on women in prison and strategized with others through the National Roundtable on Women in Prison and other organizations, several troubling trends began to emerge: First, activists were addressing concerns that went far beyond their respective jurisdictions. Second, existing domestic legal and administrative remedies were insufficient to address the mounting problems. And third, both the state and federal governments were essentially indifferent to the plight of women under their supervision. A

**Male and female guards pat-search fifty-four new arrivals. Central California Women’s Facility, Chowchilla, California, 1995.**



**Human Rights Watch began an investigation into the sexual abuse of women by guards in U.S. state prisons. The resulting report relied in large measure on the work of Barry, Labelle, Smith and others to expose the abuse and mistreatment of women in prison.**

**“To me [the shift to human rights] was always about much more than language and method. More than anything it was about fundamental principles.”**

new approach had to be explored. Through what Smith called “a confluence of factors,” including new initiatives by domestic human rights groups and the United Nations, the use of human rights as a potentially transformative framework to improve the conditions for women in U.S. prisons gradually took shape.

### **The turning point**

In March, 1994, Human Rights Watch (HRW), a U.S.-based international human rights organization, began an investigation into the sexual abuse of women by guards in U.S. state prisons. The resulting report issued two years later, *All Too Familiar: The Sexual Abuse of Women in U.S. State Prisons*, relied in large measure on the work of Barry, LaBelle, Smith and others to expose the abuse and mistreatment of women in prison and denounce the failure of state and federal authorities to remedy the problems. All three advocates participated actively in the Human Rights Watch study, but not without considerable initial skepticism. “They weren’t much interested in something they thought might only bring about cosmetic change,” remembered Widney Brown, then a consultant to HRW’s Women’s Rights Division. As LaBelle recalled, “I wasn’t sure how their work would be of any real benefit, and I didn’t trust that they were familiar enough with the issue to get it right.” Smith’s concerns revolved more around the group’s method. “I have always been worried to some degree about the commodification of people’s stories,” she said. “I was worried that my clients’ experience would be packaged, bundled and sold.” But over time, the relationship between HRW and the activists evolved and a degree of mutual understanding emerged. “It was very important to recognize what each of us could do and be respectful,” Smith noted. “A lot of learning was done on both sides.”

### **The journey**

That collaborative process enabled all the parties to take full benefit of the release of HRW’s report in December of 1996 to advance their advocacy locally, nationally and, ultimately, even internationally. “It was like a drum beat,” LaBelle remembered. “The press coverage locally and at the national level was just fantastic. It gave the issue an exposure it never had before and we took immediate advantage of it.” In LaBelle’s case, for example, the heightened visibility of the issue had two immediate effects: First, the U.S. Department of Justice, which would file its own sexual misconduct suit against the Michigan Department of Corrections in 1997, consolidated its effort with LaBelle’s. She amended the joint complaint to include human rights arguments and attached the HRW report. Second, the state resisted—and lost. “The Michigan Department of Corrections moved to strike the report,” LaBelle said. “The court clearly read the report and was impacted by it. Their motion was denied.”

Things also began to shift in the nation’s capital. “The HRW report and the work that followed generated important attention nationally and internationally,” Smith said. “That didn’t have an effect on our claims or what the court decided,” she said, “but it helped send the Department of Corrections a message that they had been exposed.” That exposure in turn led to heightened scrutiny by Congress, due to the efforts of D.C. Representative Eleanor Holmes Norton, and the General Accounting Office. In Smith’s view, the use of a human rights approach did not so much alter the nature of the work on behalf of women in prison as “buttress and elevate” it.

The human rights component expanded even further with the involvement of Barry, LaBelle, Smith and many others in the 1998 investigation of sexual mis-

conduct in U.S. prisons by the United Nations Special Rapporteur on Violence Against Women, Radhika Coomaraswamy from Sri Lanka. Although the Clinton Administration had been slow to address the abuse of women in U.S. prisons, it was a vocal proponent of women's human rights globally and a supporter of the U.N. resolution that created Coomaraswamy's position. It could hardly refuse, once approached by local prisoner rights activists and the Rapporteur herself, to extend her an invitation to visit. "None of the local activists had ever heard of the Special Rapporteur," Brown, now HRW's deputy program director, recalled, "and at first they basically thought, who cares?" Coomaraswamy shared their skepticism. "I wasn't sure what I would find," she said.

During Coomaraswamy's visit, from May 31 to June 18, 1998, she investigated state and federal facilities in California, Connecticut, Georgia, Michigan, Minnesota and New York, examining both problem areas and seeking best practices. "Everyone received me very well," she said, "except the governor of Michigan who suggested that I was an unwitting agent of the federal government" and denied access to the state's prisons. To Brown, who spent the months before Coomaraswamy's visit making sure that the federal government would provide her the necessary prison access, this decision was both "deeply ironic" and a political blunder. "It was an extreme embarrassment to the state," LaBelle said, "and it got the attention of the media and the court."

Coomaraswamy's report was released at the March 1999 meeting of the U.N. Commission on Human Rights in Geneva. It relied on extensive information from official and activist sources across the United States and detailed abuse that went well beyond the findings of HRW's report, highlighting in particular the pernicious role of race discrimination in the incarceration of women. LaBelle and Smith went to Switzerland for the report's release and their first visit to the U.N. Commission on Human Rights. "It was fantastic," Smith recalled, "the issue got exposure it had never had before."

In 1998, the women-in-prison movement also received a dramatic boost when Amnesty International, the London-based global rights group, decided to

include sexual misconduct and other custodial issues in prisons in its 1998 annual campaign—which focused on the United States for the first time. "For some time Amnesty had been discussing a U.S. campaign," said Sheila Dauer, the director of Amnesty International's U.S. women's human rights program. "The work of local activists, HRW and the Special Rapporteur all contributed to our decision to go forward," she said. Ultimately, Amnesty International issued three reports: *Rights for All* (1998); *Not Part of My Sentence* (1999); and, perhaps most crucial for the state level advocates, *Abuse of Women in Custody: Sexual Misconduct and Shackling of Pregnant Women* (2001), a state-by-state survey of policies and practices in the United States.

### The accomplishments

The use of a human rights approach to advocate on behalf of women in prison in the United States affected prisoners, activists and even state and federal authorities charged with overseeing women's prisons. "If you'd told me in 1992 that we'd be where we were with human rights and women in U.S. prisons in 2003, I would have called you a liar," LaBelle said. "It's still a shock to me how little I knew about human rights and yet how powerfully it's changed my approach to these issues."

For activists, this shift was much more than a linguistic gesture. "To me it was always about much more than language and method," said LaBelle. "More than anything it was about fundamental principles." And for Brown, this has the most lasting effect. The human rights approach, she said, "takes you back to the primacy of human dignity and equality no matter what the circumstance. Once you reassert that basic principle," she continued, "people's perceptions of the problem change and new avenues for advocacy open up."

The new mindset produced new legal tactics. Regressive legislation—such as the federal Prison Litigation Reform Act of 1996 and Michigan's 1999 law declaring prisoners "non-persons" under the state's civil rights and disabilities acts—were setbacks. "We were trying to represent clients in a socially marginalized class," LaBelle recalled, "and we didn't want to keep using socially marginalized law. We were getting

**Most activists agree that the greatest lasting value of human rights is its vision. “As advocates we often get hoisted on particularity. Human rights let us step back and put our work in a larger frame.”**

stuck on prisoner’s rights, and the introduction of human rights allowed us to talk to the court in a different manner.” This entailed, among other things, making explicit references to international human rights law, including the U.N.’s Standard Minimum Rules for the Treatment of Prisoners and the internationally recognized right to an effective remedy.

As these legal innovations were being tested through litigation, human rights advocacy started to take root on the local level. “The grassroots activists got it and ran with it,” Brown said. Working with Amnesty International and using the Web-based tools derived from its state-by-state prison survey, local activists across the country succeeded in achieving significant reforms of state policies and practices regarding sexual contact between staff and prisoners in custody. When Amnesty International’s survey was released in 2001, 13 states had no laws governing custodial sexual misconduct. Now 11 of those 13 states do. “Amnesty International’s work with local groups is a good part of the reason those states have sexual misconduct laws,” said Brown. “That work was critical.”

Change was afoot on the federal level too. In 1996, a collaboration between the National Institute of Corrections (NIC) an agency of the U.S. Department of Justice, and Smith’s National Women’s Law Center had compiled surveys of custodial sexual misconduct laws throughout the country. By 1999, with additional funds from Congress, NIC was conducting training in every state prison system in the country to heighten awareness of sexual misconduct in prison. Smith was brought in as the chief trainer. “We use the HRW, Amnesty International and Special Rapporteur reports and the [U.N.’s] Standard Minimum Rules. It’s a different approach,” she said.

An important benefit of using a human rights approach to address custodial sexual misconduct—be it on the local, state or federal level—is the remarkable media attention it generates. Just a few headlines give a sense of the media drumbeat that accompanied the reports’ revelations: “U.N. Rights Panel Is Told of Violations in U.S. Women’s Prisons,” March 31, 1999, (The New York Times); “Can We Ignore All the Voices Crying Out Over Prisoner Rape?” Nov. 15, 1999, (Detroit Free Press); “Lawmaker Introduces Bill to Make Sexual Abuse of Inmates a Crime,” Feb. 23, 2003, (The Associated Press). Broadcast media picked up the stories as well, including National Public Radio, Dateline NBC, Lifetime TV, Nightline and Geraldo Rivera.

The human rights approach to women in prison wrought major changes in the way the issue was perceived and how abuses were remedied. But most activists agree that the greatest lasting value of human rights is its vision. “As advocates we often get hoisted on particularity,” said Smith. “Human rights let us step back and put our work in a larger frame.” This more expansive intellectual framework allowed activists to come together in a steady, if not always easy, collaboration that they maintain to this day. “We were surprisingly isolated from one another,” LaBelle reflected. “Human rights gave us a way to connect, including to our counterparts overseas.”

### **The obstacles**

Integrating human rights values into the cause has unquestionably helped to strengthen the rights of women in U.S. prisons, but the effort was by no means trouble-free. “Let’s not go overboard,” LaBelle said. “There are still lots of problems.” The most serious challenges are similar to those that rise up wherever

advocates seek to impress human rights laws and standards onto domestic social problems. The most worrisome difficulties for advocates are conflicts between international and domestic law, limitations on how human rights is applied in the United States outside the courts and the persistence of U.S. “exceptionalism.”

As for conflicts between international and national law, perhaps the best example is cross-gender guarding. Domestic equal protection law allows male guards in women’s prisons. The U.N. Standard Minimum Rules do not. Some state jurisdictions have accepted restrictions on cross-gender guarding in the interests of protecting the bodily integrity and privacy rights of women—and men too. Others have rejected this approach. Activists on both sides agree that the introduction of international law has stirred up debate about existing domestic protections and spotlighted the need to craft new remedies. “Sometimes introducing human rights law is like putting a big sign that says ‘Kick Me’ on your back,” said Labelle. “You have to pick your spots. But this is also how progressive law is made. You introduce new ideas as often as appropriate until they become commonplace.”

Activists have concerns about how domestic human rights are applied outside the courtroom as well. On the issue of substance, for example, Barry worried that human rights as applied might emphasize issues of physical violence (a traditional human rights concern) to the exclusion of other pressing rights issues for women prisoners. Citing one instance, she found it “interesting” that the issue of family integrity for prisoners, including their visitation rights, was not covered in the HRW report to the same extent it was by the Special Rapporteur. Like Barry, LaBelle cautioned that the human rights approach is no panacea. “It’s not just semantics. It’s a new construct and you have to work with it as it applies to the issues of concern to you.”

In methodological terms, serious concerns have been raised about “backlash.” In a 1998 study, *Nowhere to Hide: Retaliation Against Women in Michigan State Prisons*, HRW found evidence of retaliation against prisoners who spoke out about custodial abuse. “Ultimately, the decision to proceed or not to proceed rests

with the women [prisoners],” said Brown, the report’s author. Under the best of circumstances, these are difficult decisions to make. “You must defer to the client,” LaBelle said. “More often than not I find they want to speak out.” It would be difficult to overestimate, these advocates said, the resistance of the U.S. prison system to external scrutiny and its intolerance for those inside the system who provoke such outside attention. “If you are going to work in this area you have to take retaliation into account,” said Brown, “but you also have to be willing to fight with everything in your power for the woman who wants to stand up for herself and her dignity.”

Ultimately, the greatest challenge to human rights work on behalf of women in prison in the United States is the widely held belief, even among some activists, that human rights do not, or even should not, apply in this country. “One of the biggest obstacles we had to overcome was our own insularity,” said Barry. In 1998, at Amnesty International’s celebration of the 50th anniversary of the Universal Declaration of Human Rights in Paris, Barry noted “palpable excitement” among activists from many different countries that the U.S. participants were finally acknowledging that their country should be held to international human rights standards. “I know it’s not the government saying that,” she said, “but the activists saying it is a beginning. It’s not going to happen if the activists don’t raise it.”

### The road ahead

From three different starting points, these three U.S. activists—Smith, Barry and LaBelle—found themselves seeking to raise the consciousness of the United States government about the human rights of women in prison, and in the process altered their field and themselves. “I am not saying that human rights transformed everything,” said Barry, “but to a certain extent it was a sea change in the way activists viewed women in prison in this country.” The challenge now is to apply the human rights approach more generally. “I plead human rights wherever it’s relevant,” said LaBelle. “I just can’t see the United States remaining this isolated. We’d be a pretty strange country if we did.” ■

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## GLOSSARY

### **AMERICAN DECLARATION ON THE RIGHTS AND DUTIES OF MAN**

The American Declaration on the Rights and Duties of Man sets forth the human rights provisions of the Organization of American States (OAS). The Declaration is made up of 38 articles addressing civil and political rights, as well as economic, social and cultural rights. While originally adopted as a declaration and not a treaty, both the Inter-American Court and the Inter-American Commission on Human Rights have held that OAS member states have an international obligation to uphold its principles.

### **AMNESTY INTERNATIONAL**

Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights. Amnesty's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression and freedom from discrimination, within the context of its work to promote all human rights. Amnesty is independent of any government, political ideology, economic interest or religion. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect.

### **EUROPEAN CONVENTION ON HUMAN RIGHTS**

The European Convention on Human Rights sets forth a number of fundamental rights and freedoms that participating governments undertake to secure to everyone within their jurisdiction. To supervise its application it establishes international enforcement machinery (the European Commission and the Court of Human Rights) designed to ensure that Parties respect their engagements under the Convention.

### **HAGUE APPEAL FOR PEACE**

The Hague Appeal for Peace is an international network of peace and justice organizations dedicated to the abolition of war through the implementation of the Hague Agenda for Peace and Justice for the 21st Century, a set of 50 recommendations developed at the Hague Appeal for Peace Conference in 1999, the largest international peace conference in history.

### **HUMAN RIGHTS WATCH**

Human Rights Watch is an independent, nongovernmental U.S.-based international

human rights organization that investigates and exposes human rights violations around the world and attempts to hold abusers accountable. Human Rights Watch believes that international standards of human rights apply to all people equally, and that sharp vigilance and timely protest can prevent the tragedies of the twentieth century from recurring.

### **INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR)**

The Inter-American Commission on Human Rights (IACHR) is a quasi-judicial body of the Organization of American States (OAS). The OAS is a regional organization made up of 35 countries in the Western Hemisphere.

### **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)**

A U.N. treaty adopted in 1966, and entered into force in 1976. The ICCPR details basic civil and political rights of individuals including: the right to life; the right to liberty and freedom of movement; the right to equality before the law; the right to privacy; freedom of thought, conscience, and religion; freedom of opinion and expression; freedom of assembly and association. The treaty forbids torture and inhuman or degrading treatment, slavery or involuntary servitude, arbitrary arrest and detention, and the use of the death penalty for people under 18 years of age at the time of their crime.

### **INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)**

A U.N. treaty adopted 1966, and entered into force 1976. The ICESCR declares that all people have a broad range of economic, social, and cultural rights. This treaty describes the basic economic, social, and cultural rights of individuals including the right to; self-determination, wages sufficient to support a minimum standard of living, equal pay for equal work, form trade unions, and free primary education, and accessible education at all levels. The convention forbids exploitation of children and requires all nations to cooperate to end world hunger.

### **INTERNATIONAL MONETARY FUND (IMF)**

The IMF is an international organization of 184 member countries. It was established to promote international monetary cooperation, exchange stability, and orderly exchange

arrangements; to foster economic growth and high levels of employment; and to provide temporary financial assistance to countries to help ease balance of payments adjustments.

#### **NON-GOVERNMENTAL ORGANIZATION (NGO)**

Organizations formed by people outside of government, an NGO is any non-profit, voluntary citizens' group that is organized on a local, national or international level. NGO's monitor and attempt to influence the proceedings of human rights bodies.

#### **NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)**

NAFTA. A 1994 agreement reached by the United States, Canada, and Mexico that instituted a schedule for the phasing out of tariffs and eliminated a variety of fees and other hindrances to encourage free trade between the three North American countries.

#### **ORGANIZATION OF AMERICAN STATES (OAS)**

The OAS is the oldest regional international organization in the world and is made up of 35 countries in the Western Hemisphere.

#### **SEVESO DIRECTIVE**

The Seveso Directive is a legislative initiative by European nations to prevent and control hazardous industrial accidents.

#### **U.S. COMMISSION ON CIVIL RIGHTS**

The Commission is a federal, politically appointed body charged with investigating and reporting on discrimination and denial of equal protection. Additionally, the Commission reviews all federal laws and policies regarding discrimination and reports to the President and Congress.

#### **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

The EEOC was established by Title VII of the Civil Rights Act of 1964 and began operating on July 2, 1965. The EEOC coordinates all federal equal employment opportunity regulations and interprets employment discrimination law. The EEOC enforces federal statutes related to employment discrimination based on race, sex, religion, national origin, age and disability.

#### **BEIJING PLATFORM OF ACTION**

The Platform for Action is drawn from the Fourth U.N. Conference for Women in

Beijing, China. The Platform for Action is an agenda for affirming the human rights of women and the girlchild. It also recognizes the necessity of broad-based and sustained economic growth in the context of sustainable development for social development and justice and calls for new and additional resources from governments to attain these rights.

#### **CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD)**

CERD was adopted by the General Assembly in 1965 and entered into force in 1969. Article 1 of the Convention defines the terms "racial discrimination" as: "any distinction, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin with the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights in any field of public life, including political, economic, social or cultural life." The definition covers not only intentional discrimination, but also laws, norms and practices which appear neutral, but result in discrimination in their impact. Parties to the Convention agree to eliminate discrimination in the enjoyment of civil, political, economic, social and cultural rights and to provide effective remedies against any acts of racial discrimination through national tribunals and State institutions.

#### **CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)**

CEDAW was adopted by the general assembly in 1979 and entered into force in 1981. It is the first legally binding international document prohibiting discrimination against women and obligating governments to take affirmative steps to advance the equality of women. CEDAW establishes rights for women in areas not previously subject to international standards. It defines discrimination against women for the first time and calls for action in the fields of politics, law, employment, education, health care, commercial transactions and domestic relations.

#### **CONVENTION ON THE RIGHTS OF THE CHILD (CRC)**

A U.N. treaty adopted in 1989 and entered into force in 1990. The CRC establishes a full spectrum of civil, cultural, economic, social, and political rights for children. The

CRC recognizes that children are individuals with rights to fully develop physically, mentally and socially and to freely express their opinions. The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights—civil and political rights as well as economic, social and cultural rights. The CRC is the most universally accepted human rights instrument in history—it has been ratified by every country in the world except two.

#### **DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

In 1993 the Working Group on Indigenous Populations completed its work on a "Draft Declaration on the Rights of Indigenous Peoples" to be adopted by the U.N. General Assembly. The Draft Declaration was the result of the work of representatives of indigenous peoples and governments from all parts of the world. The Draft Declaration deals with the rights of indigenous peoples in areas such as self-determination, culture and language, education, health, housing, employment, land and resources, environment and development, intellectual and cultural property, indigenous law and treaties and agreements with governments. The Declaration, when it is finally approved by the Commission, then the Economic and Social Council, and is ultimately adopted by the General Assembly, will create new international law for the protection of indigenous peoples.

#### **HIGH COMMISSIONER FOR HUMAN RIGHTS**

The High Commissioner is the principal U.N. official with responsibility for human rights and is accountable to the Secretary-General. The post of High Commissioner was created in 1993. The High Commissioner seeks to offer the highest quality research, expertise, advice and administrative services to the main U.N. human rights bodies.

#### **HUMAN RIGHTS COMMISSION**

The Commission is comprised of 53 State governments that are elected to the Commission by U.N. members and serve a four-year term. The Commission meets annually for six weeks. NGOs with "consultative status" (a status given by the U.N. following an application process) are allowed to attend the commission's annual meeting and to deliver official statements on various human rights issues.

### **PERMANENT FORUM ON INDIGENOUS ISSUES**

The Permanent Forum was established in July 2000 by the United Nations Economic and Social Council (ECOSOC). The Permanent Forum is the first and only international body in the U.N. having indigenous persons as members. The Permanent Forum is made up of eight members nominated by governments and elected by the Economic and Social Council. The Forum provides advice and recommendations on indigenous issues to the Economic and Social Council. NGO credentials are not required for indigenous tribes and organizations, and it is not necessary to receive accreditation in advance.

### **SPECIAL RAPPORTEURS**

Independent experts, appointed by the Human Rights Commission, who study thematic human rights violations or human rights conditions in a specific country. Rapporteurs submit annual reports to the Commission. The activities of the rapporteurs include seeking and receiving information; asking governments to comment on information concerning legislation or official practices; seeking clarification from governments regarding violations; and responding to invitations to visit countries. Thematic rapporteurs include religious intolerance, arbitrary detention, violence against women, human rights defenders, independence of the judiciary and housing. Country specific rapporteurs have included Sudan, the Israeli occupied territories, and the former Yugoslavia.

### **SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN**

The first Special Rapporteur was appointed in 1994 to collect and analyze comprehensive data and to recommend measures aimed at eliminating violence at the international, national and regional levels. The Special Rapporteur's mandate is based on the substantive breakdown of the phenomenon of violence against women contained in the United Nations Declaration on the Elimination of Violence against Women. The Declaration defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

### **STANDARD MINIMUM RULES**

Rules are set by various human rights bodies and are intended to describe generally accepted "good principles and practices for governments to ensure human rights as they relate to issues such as treatment of prisoners."

### **UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)**

Adopted by the general assembly on December 10, 1948. The UDHR is the primary U.N. document establishing human rights standards and norms. All member states have agreed to uphold the UDHR. Although the declaration was intended to be nonbinding, through time various provisions have become so respected by countries that they can now be said to be customary international law."

### **WORKING GROUP ON ARBITRARY DETENTION**

One of the thematic mechanisms developed by the U.N. to address individual cases of human rights violations or threatened violations, particularly in countries in which specific types of violations appear to be widespread. The Working Group, established in 1991 by the Commission on Human Rights, investigates instances of alleged arbitrary deprivation of liberty, provided that no final decision has been taken in such cases by local courts. Its mandate also covers the issue of administrative custody of asylum-seekers and immigrants.

### **WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, DURBAN, SOUTH AFRICA (WCAR)**

U.N. conferences allow governments to urgently address some of the most pressing global problems. Through the conference process the entire international community comes together to agree on shared values, on shared goals and on strategies to achieve them. Each conference marks the culmination of many months of consultations among member countries, U.N. experts and non-governmental representatives, who review vast amounts of information and share a broad spectrum of experiences. At each conference, member countries forge agreements on specific issues. The WCAR was held in Durban, South Africa from 31

August to 7 September 2001. WCAR was the third in a series of conferences convened by the U.N. to address racial discrimination and related intolerance and to create effective remedies toward their elimination.

### **WORLD CONFERENCE ON WOMEN, BEIJING**

The Fourth World Conference on Women was convened by the United Nations in September 4-15, 1995 in Beijing, China. Government delegates worked on a Platform for Action aimed at achieving greater equality and opportunity for women. The three previous World Conferences on women were in Mexico City (International Women's Year, 1975), Copenhagen (1980) and Nairobi (1985). The principal themes of the Conference were the advancement and empowerment of women in relation to women's human rights, women and poverty, women and decision-making, the girl-child, violence against women and other areas of concern. The resulting documents of the Conference are The Beijing Declaration and Platform for Action.

### **WORLD CONFERENCE ON WOMEN, NAIROBI, KENYA**

The third World Conference on women was held in Nairobi, Kenya, 15-26 July 1985. The participants of the Nairobi conference were charged with a review and appraisal of the achievements of the U.N.'s Decade for women with a specific emphasis on women's economic development.

### **WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT IN JOHANNESBURG, SOUTH AFRICA (WSSD)**

The World Summit on Sustainable Development was held in Johannesburg, South Africa in September 2002, and brought together tens of thousands of participants, including heads of State and Government, national delegates and leaders from non-governmental organizations (NGOs), businesses and other major groups to focus the world's attention and direct action toward meeting difficult challenges, including improving people's lives and conserving natural resources in a world that is growing in population, with ever-increasing demands for food, water, shelter, sanitation, energy, health services and economic security. The WSSD focused on the reconciliation of the impact of human socio-economic activities on the world's environment.

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## Close to Home

For many Americans, human rights work is something that happens beyond the borders of the United States. A growing number of U.S. organizations, however, are finding great power in using this set of universal standards—and traditional human rights tools such as fact-finding, litigation, organizing and advocacy—to advance their efforts to abolish the death penalty, end discrimination, promote workers' rights and eliminate poverty. *Close to Home* presents 13 case studies of human rights work that is making life better for people in the United States. Activists, funders and policy makers will find in this volume new points of view and valuable tools for seeking positive social change in their communities and in the world.

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