

HUMAN RIGHTS NOW!

*Newsletter of the
Meiklejohn Civil Liberties Institute*



Summer 2011

Human Rights Treaty Law Posters Take Off Across the Country

From New York to Alabama and all across California, the International Treaty Law posters created by MCLI are being purchased to put up in offices, schools, libraries, and government agencies. The posters spell out the laws that are relevant at the local level as defined by the 3 U.S. ratified treaties (ICCPR, CERD, & CAT).

MCLI interns and members of the Board of Directors are taking the posters with them to every meeting and event they attend, spreading the word about how International Human Rights Law applies in Berkeley, Birmingham, and Brooklyn.



Get your copy today!
Fill out the form on page 7
OR visit our website at
www.mcli.org/store

Reflections on My MCLI Internship



by Lupin Zhang

After receiving my LLB (Bachelor of Law) degree at Durham Law School in England, I came to the U.S. to take the New York Bar Exam in February. In March, I started my internship at MCLI.

My experience at Meiklejohn was different from all my previous working experiences in law firms, where I was asked to translate documents, draft contracts, double check agreements, etc., getting frustrated by having to initiate hostile takeovers and represent employers in collective bargaining on wages against poor workers. At Meiklejohn, I was able to focus on United Nations human rights treaties, i.e., International Convention on Elimination of Racial Discrimination (ICERD), Convention Against Torture (CAT), International Covenant on Civil and Political Rights (ICCPR), which to me, are exactly the things that a law graduate should work for.

During my internship, I attended meetings, went to many events and discussed

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An Outline of Civil Rights Violations and Human Rights Treaty Violations in the Oscar Grant Case

by Rev. Daniel Buford

Oscar Grant's rights to human dignity and life were violated by BART Police Officer Johannes Mehserle in the early morning hours of New Year's Day, January 1st, 2009. Mr. Grant was shot in the base of his skull at point blank range in front of numerous eye witnesses who video taped the scene while he was being held down by several BART Police officers. Prior to being shot from behind, Grant had been punched, threatened with a Taser, had his face slammed into the pavement, and was subjected to being called racial epithets as the police subdued Grant and his friends on the train station's Fruitvale platform in Oakland, California.



The facts outlined in the previous paragraph are well known due to extensive local, national, and international media coverage

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Freedom of Movement for U.S. Citizens

by Edward Hasbrouck

Attacks on the right to travel have been in the forefront of post-9/11 attacks on human rights. The Identity Project (www.PapersPlease.org), part of the Oakland-based First Amendment Project, has been working to challenge these and other ID requirements and ID-based restrictions.

The right to travel is not only implicit in the U.S. Constitution, but is explicit in international treaty law. Enforceability of international law is thus crucial to defense of the right to travel.

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Leonard
Irving
Weinglass

Presenté



...Reflections

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current human rights issues with members of the Board of Directors at Meiklejohn, which helped me get a better grasp of how human rights law is operating in the real world and how western people think about human rights issues. For example, when Osama bin Laden was assassinated, as law graduates from Durham University, we were so concerned about the procedural justice and substantive justice, which we had spent lots of time studying in our second year at law school. In contrast, it turned out almost everybody in the U.S., upon hearing the news, celebrated Osama bin Laden's assassination without a second thought that he could have been killed unlawfully. We later discussed the issue in our office and I was happy to see Ann and other MCLI members also saw the illegality of Osama bin Laden's murder.

It was very pleasant to work at Meiklejohn Civil Liberties Institute and learn from Ann as well as other members of the MCLI board, establish social contacts with human rights lawyers and human rights activists, and my internship gave me insight about how to efficiently contribute to human rights protection in my future career.

Our Duties in the Case of Osama bin Laden

by Ann Fagan Ginger

Osama Bin Laden was a human being.

Under the U.S. Constitution, when U.S. Government agents receive complaints or are informed that a person has violated U.S. law, the U.S. government is required to:

1. find the person
2. arrest the person
3. imprison the person
4. inform the person of the charges against them
5. make it possible for the person to retain legal counsel
6. bring the person to trial on the charges before a member of the U.S. judiciary and a jury without unreasonable delay
7. permit the defendant to testify and to present witnesses
8. carry out the sentence pronounced by the judge and/or jury without unreasonable delay
9. in the case of a death sentence, deliver the body of the prisoner to his relatives.

In addition to this basic U.S. law, the U.S. Government has ratified four treaties that are the supreme law of the U.S. under the U.S. Constitution (Art. VI, cl. 2).

Each of these treaties states that every human being has the right to human dignity. There are no exceptions for murderers or terrorists.

* U.N. Charter – preamble, Art. 55(c)

* International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment -- preamble

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The Deficit Scare

by Jim Syfers

Are we in danger of falling into a deficit abyss? Some predictions are that the deficit may rise to 90% of Gross Domestic Product or more by the next decade. We have been told by some Republicans in Congress that we will need to shortchange Medicare for those under 55 in order to maintain it for those of us over 55.

However, a look at the CIA's World Factbook would suggest otherwise. Italy, for example, has a deficit of 119% of GDP, Germany, 87%, and Japan, 225%. These countries are still standing. They haven't savaged their social programs. Nor did we, back in 1946 when our deficit was 111% of GDP. The scaremongers generally ignore such figures, as well as the effect of the rate of inflation and the rate of economic growth (both currently around 3%) in making their predictions. In any case, the most important question we need to ask is why the deficit was incurred. Was it for investments that will make the society wealthier and/or improve the quality of life in the future, or for something that has no payoff in the future? And there is a very important difference between funding Medicare and funding the war in Afghanistan.

Will the effects of spending on Medicare -- an investment in health -- be anything like the effects of spending on wars, as in Afghanistan, Iraq? Some deficit spending produces future wealth and some does not. In either case there seems little evidence that a deficit alone will cause a financial collapse.

HUMAN RIGHTS NOW! Jim Syfers, *Book Review Editor*
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MCLI human rights case histories at UC-Bancroft: bancroft.berkeley.edu/collections/meiklejohn/project.html

Jennifer Smith, *Office Manager*
J. Richard Challacombe, *Photo Editor*
Allan Treseder, *Volunteer Archivist*

...bin Laden

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- * International Convention on Elimination of all forms of Racial Discrimination -- preamble
- * International Covenant on Civil and Political Rights -- preamble

When an agency of the U.S. government determined that Osama bin Laden committed a crime against U.S. citizens/residents and against the U.S., it had the duty under the U.S. Constitution and the ratified treaties **not** to:

1. Plan to kill him without a trial and conviction before a U.S. court or before the International Criminal Court (U.S. is not yet a member).
2. Kill him.
3. Dispose of his body.

The U.S. Government officials who state that his killing by the U.S. will end the terror killings by others against U.S. citizens are wrong.

This killing has already caused supporters of Osama bin Laden to increase their hatred of the U.S. And it has caused many people not previously angry at the U.S. to become angry because the U.S. treated this man differently than it treats other suspected killers.

Everyone who hates terrorists and who mourns what happened on 9/11:

1. has an opportunity to think about the continuing sadness of all of the family and friends of the victims of 9/11; and
2. has a duty to think more often that men and women from other cultures and religions are our equals, and have the equal right to exercise their religions and cultures and to speak their languages; and
3. has a duty to notify your Congress member and Senators that they should investigate these actions by the Executive branch in killing Osaama bin Laden without charges or trial, and take whatever steps are necessary to insure that this never happens again; and
4. has a duty to notify Pres. Obama that you expect him in the future to obey the U.S. Constitution and ratified U.N. treaties, and to instruct all members of the Executive branch of the government to do so; and

Ann Fagan Ginger
MCLI Founder and
Executive Director emeritus,



was presented with an *Award of Excellence*
at the 2011 S.F. Bay Area Woman's Day

5. has a duty to notify the U.S. Department of State that they have a duty to report this violation of the law to the U.N. Committee Against Torture in the report the U.S. is required to file with that Committee in Nov. 2011, and to make a commitment that the U.S. Government will not commit such acts in the future.

Then all of us have an opportunity – and a duty – to get back to work on our four major, life-shattering problems:

1. U.S. wars in Afghanistan and Iraq ... and Pakistan and ...
2. The economic depression and its negative affects on everyone except those few at the very, very top of the economic system.
3. The ecological crisis that can only be dealt with if everyone puts in time thinking and acting in new ways.
4. The educational crisis that is limiting the transmission of facts in U.S. and world history to the next generations.

Book Review

False Justice: Eight Myths that Convict the Innocent

by Jim and Nancy Petro, Kaplan Publishing, 2010

The authors of this book note that the first book on the subject of false convictions in the United States was published in 1932. It was “Convicting the Innocent” by Edmund M. Borchard and it dealt with 65 cases. Most or all of the erroneous assumptions and types of errors considered there are still with us today.

The myths discussed by the Petros in their book are: 1) Everyone in prison claims innocence; 2) Our system almost never convicts an innocent person; 3) Only guilty people confess; 4) Wrongful convictions are the result of innocent human error; 5) An eyewitness is the best evidence; 6) Conviction errors get corrected on appeal; 7) It dishonors the victim to question a conviction; and 8) If the justice system has problems, the pros will fix them.

Jim Petros, a former Attorney General of Ohio, brings his personal experience of a number of cases to bear on contesting these false assumptions. Would that juries could be armed with a pocket summary of this information!

by Jim Syfers
MCLI Book Review Editor



...Oscar Grant

Continued from p. 1, col. 2

and court transcripts from the second degree murder trial of Johannes Mehserle. Although Mehserle was given a lenient two year sentence, the issue of the shooting as a racial hate crime did not factor into the jury's instructions or deliberations. No African Americans served on the jury that was moved out of Oakland to Los Angeles, CA.

The facts of the case justify renewed calls for further investigation of the Civil Rights and Human Rights statues that apply to the BART Police force's racially-motivated police misconduct.

The immediate execution of Oscar Grant by the BART Police Officers was a direct violation of Grant's constitutional rights of due process derived from the 5th and 14th Amendments. He was deprived of life and liberty without due process of law (5th Amendment) and was denied equal protection of the laws (14th Amendment, Section 1). Given the court testimony regarding racial profiling leading to the detention of Oscar Grant and company, they were also subjected to unreasonable search and seizure. Their rights to be secure in their persons were violated under the protections against police misconduct found in the 4th Amendment.

Violations of Oscar Grant's rights as a citizen of the United States were accompanied by significant violations of his human rights as defined by the treaty obligations that bind the United States to adhere to the International Convention Against Torture (CAT); International Convention to Eliminate Racial Discrimination (CERD); and International Covenant on Civil and Political Rights (ICCPR). The racial nature of the violence inflicted on Grant and his associates must be addressed under the multiple protections afforded by each of these human rights treaties.

The Meiklejohn Civil Liberties Institute filed a report on the Oscar Grant Case at the April 2009 Durban II Conference on Racism sponsored by the United Nations. We will continue to file reports on this case this year and as the above mentioned reports under these treaties are filed in the next three years. The Oscar Grant Case also contains violations of the ACR 129 Human Rights Reporting Resolution which requires that human rights violations within California's jurisdiction be reported in compliance with the treaty obligations that the United States has within the U.N.

Rev. Daniel Buford is Director of the Prophetic Justice Ministry at Allen Temple Baptist Church in Oakland, CA, and is President of the MCLI Board of Directors.



News Briefs

Victory! for Prisoners' Rights in the U.S. Supreme Court

May 23, 2011 - The High Court affirmed a federal court order that requires California to reduce the number of inmates in its overcrowded prisons in response to violations of inmates' rights.

U.S. Ratified Treaties Cited in Plea to Protect Sacred lands

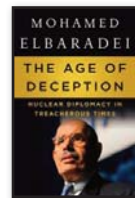
April 26, 2011 - In an effort to stop building in a Sacred Shellmound area in Glen Cove, CA, the International Indian Treaty Council (ITTC) wrote a letter to United Nations officials asking them to exercise their mandates and stop the City of Vallejo from paving over the area to build a parking lot and public restrooms.

The ITTC cited violations of the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of Racial Discrimination (ICERD).



Former Chief U.N. Nuclear Inspector Calls for War Crimes Investigation of Bush team

April, 2011 - Mohamed ElBaradei asks "should not the International Criminal Court investigate whether [the Bush Administration's actions in Iraq] constitutes a 'war crime' and determine who is accountable?" in his newly published memoir "The Age of Deception."



Tennessee Judge Cites UN Treaties in Decision

April, 2011 - After a routine traffic stop in Nashville, TN, Juana Villegas, 9-months pregnant, was taken to jail because she was here illegally. While in custody, her water broke, and she was shackled during labor, despite doctor's protests. She sued the Nashville police, the head of Homeland Security, Janet Napalotano, & the four officers involved. Although the charges against Napalotano were dropped, the federal court in the Middle District of Tennessee ruled in favor of Ms. Villegas, and cited 2 of the U.S. ratified treaties in his decision: ICCPR & CAT.

S.F. Human Rights Commission Adopts Report on Islamaphobia

Feb, 2011 - The S.F. Human Rights Commission recently adopted a report documenting issues of Islamaphobia in San Francisco. The report issues recommendations designed to protect the rights of S.F.'s Arab, Middle Eastern, and South Asian communities. View the report online: <http://www.sf-hrc.org/Modules/ShowDocument.aspx?documentid=983>

Human Rights in the U.S. - An Intern's Perspective



by Daven Raj

My internship at MCLI has provided a fantastic introduction to the field of international human rights law, but more importantly, it has been an opportunity to witness human rights law in practice. It exposed me to the reality of so many unreported human rights violations in the U.S.. Most notably, the cases involving police brutalities and racial profiling such as the police shooting at African Americans and poor Whites on Danziger Bridge, New Orleans or the Oscar Grant case here in Oakland. Fellow intern Lupin Zhang and I even attended the court proceeding on gang injunctions here in Oakland.

It is not surprising that I can almost recite the words in CA Resolution ACR 129, or the provisions of the 3 U.S. ratified international human rights treaties in the poster that MCLI produced. I became familiar with the treaties and resolution by participating in various meetings to raise community awareness about the treaty reporting mechanism, by engaging in intense discussion and debate with MCLI Founder Ann Fagan Ginger, and by seeing the words over and over again during our first project -- indexing the poster by subject for ease of use.

I can't decide if my fondest memory so far is witnessing Ann speak at the Gray Panthers meeting or explaining to Ann the intricacies of how a GPS works. The former was inspiring as I sat in a room with empowered, passionate, progressive seniors, hearing them talk about international law, the PATRIOT Act and about making changes. One can only wonder about the amount of drive and fire in each of them when they were just starting out, like me, or the stories that they could tell.

Two of the most important things I have gotten out of this experience thus far are a newfound respect for NGOs and a realization that the US is not the perfect ivory tower as many other Malaysians believe.

I look forward to continuing my internship for the Summer 2011.

MCLI in the Community

MCLI speaks on the PATRIOT Act

Sat. , May 14: San Francisco

S.F. Gray Panthers met to discuss the USA PATRIOT Act and GOP proposal not to follow the sunset provision to end its enforcement this long after 9/11/01. The Panthers made excellent presentations about the provisions of the PATRIOT Act and what Amendments to the Constitution they each violate.

Ann Fagan Ginger, speaking for MCLI, discussed all of the provisions of the UN Charter and the three UN human rights treaties ratified by the U.S. that the Act also violates. She then described ACR 129, and the duties of the California government to publicize the text of the three treaties and to make the required periodic reports. She suggested that the Panthers might take on the project of convincing the San Francisco Board of Supervisors to follow the Berkeley City Council and become the second U.S. city to publicize the text of the three treaties, and to make the required periodic reports to the UN committees.

Spreading the Word on CAT

MCLI sent letters to 52 NonGovernmental Organizations on May 20 regarding the upcoming U.S. Report to the Committee Against Torture - due this November. The letter encouraged folks to report to the Committee on their human rights issues.

MCLI explained that making such reports to UN Committees can make a difference through the mobilization of shame, as MCLI learned from its report to the UN Human Rights Committee on the

Danziger Bridge shootings during Katrina.

We also spelled out examples of cruel and degrading treatment meted out by government agencies that should be included in the report the U.S. makes to the CAT Committee this fall.

ACR 129 calls on the state Attorney General to report information on enforcement and violations of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

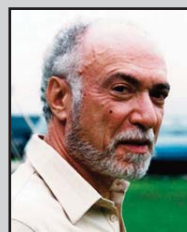
Visit www.mcli.org for more information.

Expanding the Struggle

At the Steering Committee Meeting of the National Writer's Union S.F., Ann Fagan Ginger suggested that the members contact NGOs about helping write their reports to UN Committees on local compliance with ratified UN treaties.

Breaking New Ground: Using Treaties in Labor Grievances

Vicki Sawicki, MCLI Board Secretary, encouraged unions to use the 3 ratified treaties in their defense of workers for day-to-day struggles at the San Francisco Labor Council meeting. The response was positive and several attendees bought posters for their unions.



Al
Fishman

Presenté

...Freedom of Movement

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Article 12 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to leave any country, to return to one's own country, and to move freely within any country where one is a lawful resident. Standards applicable to rules which restrict these rights -- including measures adopted in the name of national security or defense against terrorism -- have been specified by the UN Human Rights Committee in General Comment No. 27 on Freedom of Movement in Article 12 (Feb. 11, 1999).

Violations of ICCPR include the "Advanced Passenger Information System (APIS) program for international flights in 2008, and the Secure Flight system for domestic flights in 2010, which require all airline passengers to provide evidence of their identity. Also, Department of Homeland Security (DHS) directives have forbidden airlines from issuing a boarding pass to any passenger for whom the airline has not received affirmative, individualized, permission from DHS prior to each flight.

Passports -- previously a convenience rather than a requirement, at least in theory -- have been made obligatory even for travel by land to and from Mexico and Canada. Withholding of a passport now constitutes categorical denial of permission for a US citizen to leave or return to their own country, violating ICCPR.

Executive Order 13107 requires each Federal agency to (1) perform its functions (presumably including agency rulemaking) so as to respect international human rights treaty obligations, (2) designate a single point of contact for human rights treaty compliance, and (3) respond to complaints of human rights treaty violations.

The Identity Project filed comments in numerous DHS and State Department rulemakings, objecting to proposed regulations as violations of Article 12 of the ICCPR. When those comments were ignored, we requested that our complaints be forwarded to the designated departmental contacts (per Executive Order 13107). In August 2010, after months of correspondence with the DHS, we were eventually told the person designated for this purpose by the DHS is the Officer for Civil Rights and Civil Liberties (OCRCL).

So far as we can tell, this is the first time any Federal department has publicly identified its designated single point of contact for human rights treaty compliance. It's unclear whether other departments have made the required designations, but it's clear that no other designations have been made public.

Once we were informed of this designation, we forwarded our unanswered complaints -- some of which have now been pending for almost 5 years -- to the DHS OCRCL. At first, they appeared confused as to how to handle them, and admitted that they were not accustomed to receiving such complaints. Eventually, however, we were informed that our complaints had been docketed as complaints of human rights treaty violations by the Department, and would be responded to.

We have yet to receive the promised responses from DHS, and we are still trying to identify the State Department's point of contact. But we are optimistic that our persistence has helped prompt what may be the first ever development of procedures by a Federal agency for fulfilling its obligations to consider human rights treaty compliance in agency rulemaking, designate a public point of contact, and respond to complaints.



Edward Hasbrouck works with the The Identity Project (PapersPlease.org) on travel-related civil liberties and human rights issues.

Health Care Is a Human Right

by Ann Fagan Ginger

Having spent a lot of time at Kaiser Hospital recently after my partner's knee replacement operation, I am even more convinced than I was in the past about the absolute right of everyone to overall medical coverage at a price they can afford, and free to those without funds.

When you are worried about the life or death of a relative, you don't have the energy to worry about how to pay for medical care!

We all know by now that the high cost of medical care for most people results in long illness and death for some who cannot afford care, and anger and destructive activity and despair for others. People are losing their homes to meet medical bills.

Kaiser Medicine isn't perfect, but it is so large there are experts in every field and they communicate with each other easily and constantly, which is absolutely necessary.

And in this fourth year of the Great Depression of 2007, Universal Health Care would provide many jobs for people who have been laid off, including teachers to teach medical care, nurses aides, construction workers to build new nursing facilities, and drivers to take patients and their families from one facility to another.

Now is certainly the time to push Senators and Representatives to pass Universal Health Care if they want our votes in 2012.

Thank you!

to our recent contributors - your help makes our work possible.

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**MCLI
Welcomes Our
Summer Interns**

Daven Raj, an international student from Malaysia, with a Bachelor's in Political Science from the University of Wisconsin-Eau Claire. (extended Spring internship)

Laura Powers, a student of Political Studies & International Relations at UC San Diego.

Jackie Ngo, a student of English at UC Berkeley.

Nicole Fries, a Peace, War, & Defense and Public Policy double major from the University of North Carolina - Chapel Hill.

Juliana Finley, a student of English, minoring in Spanish and Global Poverty at UC Berkeley.

**CAT Consultation Meeting
with the Dept of State**

The U.S. Bureau of Democracy, Human Rights and Labor within the Department of State is hosting a consultation meeting regarding the upcoming U.S. report on compliance with the Convention Against Torture.

The purpose of the meeting is to discuss U.S. responses to a list of issues that the U.N. Committee Against Torture produced.

Monday, June 13th from 2:30-4:30 PM.

Participate by phone

OR @ The Open Society Foundations
7th floor at 1730 Pennsylvania Avenue, NW.
Washington, D.C.

RSVP to Jason Pielemeier -- PielemeierJS@state.gov

Let's Celebrate!

3 Birthdays Party

Ann Fagan Ginger ~ Jimo Ginger
& Richard Challacombe

~A Benefit for MCLI~

Saturday, July 23rd, 1pm-4pm

1715 Francisco St., Berkeley
please RSVP @ 510-848-0599 or afg@mcli.org