

PAST EVENTS

"REVISITING THE ROLE OF INTERNATIONAL LAW IN NATIONAL SECURITY" WORKSHOP



On July 12, 2019, CLIHHR and the International Committee of the Red Cross (ICRC) hosted their 4th Annual Papers Workshop: “Revisiting the Role of International Law in National Security.” Five draft papers were selected for review, on the following topics:

- the jurisdictional questions presented by air strikes,
- the legal challenges posed by development and use of autonomous weapons,
- the legality of detainee procedures at the Guantanamo detention center,
- the usefulness of reframing international humanitarian law to apply to development actors in armed conflict zones, and
- the pros and cons of “legalistic policies.”

The discussions were insightful and productive, pushing the authors to more precisely define terms and tighten their arguments.

A common theme was the question of audience. The participants came from academic, military and government backgrounds, and thus were able to identify biases within the papers, as well as provide a perspective on how they believed their colleagues might perceive the papers. They offered useful advice to the authors on ways to add nuance and reframe arguments, in order to make the papers more impactful and well-perceived across legal communities.

Lenape Center Land Acknowledgement Workshop



Co-founder of the Lenape Center Joe Baker discussing the upcoming Lenape Learning Center in Inwood

On July 10, 2019, the Cardozo Law Institute in Holocaust and Human Rights (CLIHHR) and the Lenape Center co-hosted a workshop on Lenapehoking land acknowledgement. Hadrien Coumans and Joe Baker, founders of the Lenape Center, led the workshop which covered the Lenape’s history, the importance of land to indigenous communities, and mechanisms for land acknowledgment. Indigenous communities recognize land as having deep cultural, religious and spiritual significance, and land acknowledgement empowers organizations to push back against erasure. Coumans and Baker envision “living land acknowledgments”—institutions not only hanging plaques, but also making financial contributions, granting land opportunities, and providing a “seat at the table” for Lenape to return and reconnect to their homeland.

Jen Ben, a member of the Navajo community, closed the workshop by giving an overview of Navajo farming. She spoke on the importance of land and corn production to both the Navajo’s physical and cultural survival. The Lenape envision a living land acknowledgment to include provisions of land to begin planting Lenape black corn and to bring the Lenape diaspora back to Lenapehoking. Ben is collaborating with Lenape Center to ensure indigenous farming techniques and practice.

To find out more about the Lenape Center and its work, please follow the Lenape on Twitter at @LenapeCenter.

PUBLIC HEALTH, MENTAL HEALTH AND MASS ATROCITY PREVENTION WORKSHOP



Workshop Participants

On June 9-10, the Cardozo Law Institute in Holocaust and Human Rights (CLIHHR) and the Auschwitz Institute for Peace and Reconciliation (AIPR) co-hosted a workshop on public health, mental health and mass atrocity prevention at the Law Offices of White and Case. Twenty practitioners and academics came together to discuss the role of public and mental health in mass atrocity prevention, specifically in large scale and deliberate attacks on civilians, including war crimes, crimes against humanity and genocide. The workshop's goal was to introduce participants' ideas and work to one another in order to begin to build a body of knowledge in the culmination of a published volume that addresses how multidisciplinary health interventions can aid in lowering recidivism of past abuses and the prevention of mass atrocity crimes.

Throughout the two-day workshop, the role of public health and mental health theory, research and practice in mass atrocity prevention was addressed. During the first plenary session, CLIHHR Director Jocelyn Getgen Kestenbaum introduced the atrocity prevention framework by moderating a discussion on the definitions of mass atrocities, mass atrocity prevention, public health, mental health, and public and mental health prevention. Following the plenary session, participants broke into four different groups based on their abstract topics: linking concepts of public health, mental health and mass atrocity prevention; victim impact focus and or/studies; group identity and interpersonal community relationships in conflict contexts; and mental health workers and supporting mental and public health work in conflict or post-atrocity settings. The group discussions focused on the participants'

conceptualization and application of atrocity prevention, implementation challenges, future policy recommendations, and connections among the participants' research and practice work. The interaction among participants encouraged authors to think about their abstracts in nuanced ways. As CLIHHR works with the authors to draft their chapters, it also plans to form a permanent working group on public health, mental health and mass atrocity prevention.

"THE RISING THREAT TO INDIGENOUS PEOPLES IN BRAZIL"

On April 24, 2019, CLIHHR hosted a side panel entitled "The Rising Threat to Indigenous Peoples in Brazil" for the UN Permanent Forum on Indigenous Issues (UNPFII). UNPFII, which is currently holding its 18th Session, is a high-level advisory body to the Economic and Social Council who manages indigenous issues related to economic and social development, culture, the environment, education, health and human rights.



From L to R: Gilderlan Rodrigues da Silva, Erleide Domingues, Jair Seixas Reis & Father Justino Rezende.

Jair Seixas Reis, General Cacique of the Maraguá People in the Northern Amazon, spoke about the challenges indigenous communities face under Jair Bolsonaro's government. He explained that threats to his community as well as other indigenous groups have increased under the new government as Bolsonaro has opened opportunities for mining, agriculture, trafficking on the community's land. As a result of expanded contact with outsiders, diseases and infections have spread throughout the Maraguá community. Reis has personally been threatened several times for his denouncement of the government's actions.

Erleide Domingues, member of the Guaraní Kaiowá in Mato Grosso do Sul, stressed the international genocide occurring in Brazil under the three different branches of government. She explained that companies, loggers and farmers are exploiting not only the Guaraní Kaiowá's land but indigenous land



throughout the country. Domingues stated that the Guaraní Kaiowá are attacked by armed hitmen that are hired by politicians. Although these attacks have occurred regularly and the UN is aware of the situation, assassinations are increasing to the point where she worries that the Guaraní Kaiowá will soon go extinct. Bolsonaro's open hostility towards indigenous groups is driving the elevated attacks against the Guaraní Kaiowá and Domingues asserted that the president is encouraging hitmen to remove indigenous people. She also added that the federal health ministry is changing its policies and are not helping her community as well as others.

Father Justino Rezende, Representative of Tuyuka people, Rede Eclesial Pan- Amazônica, described the connection between land and culture. He explained that land represents culture, religion and spirituality of indigenous people. Without land, groups can't develop their own culture. Rezende also explained that "ecocide" goes hand in hand with genocide and ethnocide as polluted water and air are killing indigenous people. He urged allies and friends to show solidarity with indigenous communities and to help defend the earth for everyone.

Gilderlan Rodrigues da Silva, Coordinator of the Missionary Indigenous Council (CIMI), spoke on self-isolated indigenous people, who he described as victims of violence but proof of resistance. Many self-isolated indigenous groups reside in the northern part of the Amazon between Brazil and Peru and are threatened by big corporations. Amazon territory has been increasingly disputed between agribusiness, mining and logging, which is heightening the threat to indigenous peoples. Lack of resources and funding by the Brazilian government is exacerbating the expanding corporate interests in the region and overall threat. In the past, the federal government has had a no-contact policy with self-isolated groups but there is now enforced contact under Bolsonaro. Da Silva explained that not only is contact violating the group's self-determination rights, but it is also making groups dependent on the government's policies. He asked that people stand together with self-isolated groups by ensuring that the Brazilian government respects self-determination.

Finally, Fernando Bragato, Professor at Universidade do Vale do Rio dos Sinos (UNISINOS), explained the threat that Bolsonaro himself presents to indigenous communities. She stated that the demarcation of lands began to decline under former Brazilian president Dilma Rousseff. However, Bolsonaro's rhetoric and actions towards indigenous peoples have made things significantly worse. One of his first acts was to stop the demarcation process and strip the indigenous agency FUNAI of its power, transferring indigenous issues to the agricultural sector. Bragato described Bolsonaro's dangerous beliefs that indigenous people need to be integrated into Brazilian society and therefore do not need their land. She further stated that indigenous land is essential to indigenous people and cautioned that Bolsonaro's rhetoric and actions are linked to centuries-old colonialism.

If you weren't able to make it to the panel, view it [here](#).

**"LET'S TALK ABOUT THE BOTEROS: LAW, MEMORY, AND THE TORTURE MEMOS AT BEREKELY LAW"
WITH PROFESSOR LAUREL E. FLETCHER**



On April 3, 2019 Professor Laurel E. Fletcher gave a lunchtime lecture on UC Berkeley Law School's reconciliation with its connection to the Bush Administration's Torture Memos. Professor Fletcher, who is the director of UC Berkeley's International Human Rights Clinic, has continuously studied and addressed human rights violations in the United States' War on Terror. The abuse of detainees at the Abu Ghraib is one of the most infamous violations committed during the War on Terror. John Yoo, a legal scholar and professor of law at UC Berkeley, was an author of the "Humane Treatment of Taliban and al Qaeda Detainees" memorandum, which later became known as the Torture Memos as it authorized and directed the treatment of suspected terrorist detainees.

Professor Fletcher explained that since the publication of the Memos, UC Berkeley has grappled with a proper response as Yoo continues to hold his position as a faculty member. The famous Colombian artist Fernando Botero's paintings that depict the torturing of detainees at Abu Ghraib are on display throughout the law school. There have been mixed reactions to the paintings as many students' opinions vary on torture and some feel that the artwork represents a different time as the War on Terror winds down. However, as Professor Fletcher noted, the paintings represent a form of institutional memory that forces students, faculty members, and visitors to confront the rule of law's breakdown through the Memos.

She further offered insight into the interpretive frames of the Botero paintings: moral narrative, moral balancing and communicative practices. The display of the paintings shows the law's failure to protect the detainees' fundamental rights and reminds law students to think about the consequences of their future legal advice. The university has been criticized for failing to censor Yoo and some felt that it didn't

do enough to distance itself. Fletcher pointed out that faculty conduct policies limit what the university could do in terms of censorship, especially because the Memos were outside of Yoo's work with the university. She additionally added that the Dean is holding a consultative process to hear views on paintings and whether they should continue to be displayed.

Professor Fletcher concluded by explaining that public memory is a dynamic process where there continues to be new interpretations. The Botero paintings will generate different emotions from various viewers at diverse points in time. They shift the deliberation from how Yoo should be judged to an acknowledgment of his role. At a time where many academic institutions are debating "if" they should acknowledge their past, the Botero paintings represent how a university does so.

If you missed Professor Fletcher's talk, view it [here](#).

HUMAN RIGHTS CLINIC AND DISPUTE RESOLUTION PROGRAM JOIN FORCES TO HELP INDIGENOUS PEOPLE IN BRAZIL



Professor Jocelyn Getgen Kestenbaum, director of the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic and Professor Lela Love, director of the Kukin Program for Conflict Resolution, traveled to Amazonas, Brazil in February to train federal prosecutors. They conducted an intensive two-day training on strategic advocacy and mediation in social-environmental conflicts, with one day focused on litigation and one on dispute resolution.

The federal prosecutors protect the indigenous people and lands in the Amazon.

Cardozo LLM students Medea Matiashvili and Ahdieh (Ati) Alipour Herisi also joined in the program. After two days of training, Professors Getgen Kestenbaum and Love accompanied the federal prosecutors to a genocide reparations court hearing in the Amazon, followed the next day by a legal strategy session on controlling illegal mining and lumber operations.

Kestenbaum noted that the Bolsonaro government has stepped up pressure against this community. The Human Rights and Atrocity Prevention Clinic will write an amicus to assist in the international law on genocide and reparations for genocide.

CLIHHR HOSTS "CLAIMING TRUTH: HERESY AND BLASPHEMY IN RELIGION, LAW & LITERATURE" COLLOQUIUM



First picture L to R: Prof. Ditlev Tamm, Prof. Eric Freedman, Prof. Sylvia Preuss-Laussinotte & Prof. Richard Weisberg.

Second picture L to R: Prof. Deborah Lipstadt & Prof. Richard Weisberg

On March 3, 2019, CLIHHR hosted a colloquium entitled: *Claiming Truth: Heresy and Blasphemy in Religion, Law and Literature* at Cardozo Law School. The Colloquium featured a panel on the history of blasphemy laws in Europe, specifically examining laws in Denmark and France. Following the panel, Professor Deborah Lipstadt gave a keynote address on contemporary anti-Semitism: *Contemporary Antisemitism: Old Wine in New Bottles*.

The panel, *Blasphemy Past and Present: From the Universal Problematic to Two National Approaches*, addressing the general, linguistic, and historical backgrounds of blasphemy in Europe began with Professor Ditlev Tamm's (*University of Copenhagen*) intervention on blasphemy laws in Denmark. He explained that because Denmark has had an official state church since the 16th Century, blasphemy came to be not about offending God but the king and Church together. Professor Tamm then discussed various blasphemy laws, such as the relaxation of penalties for certain types of criminalized speech in



1795, the introduction of religious freedom in 1849, a 1930 statute that changed speaking badly of God from a crime against religion to a crime against public order, and an abolition of blasphemy laws from the Danish criminal code in 2017. He additionally spoke on various cases regarding blasphemy including a 1938 case against Nazis and a 2005 Danish newspaper cartoon depicting the prophet Mohammed. Contrasting Professor Tamm's remarks on Denmark, Professor Sylvia Preuss-Laussinotte (*Paris Ouest Nanterre La Défense Université*) presented a paper on the history of blasphemy laws in France. She stated that blasphemy in France has a fundamental link to the Catholic religion as it initially focused on heresy and 16th Century French Protestants and Catholics often accused each other of blasphemy. Professor Preuss-Laussinotte explained that blasphemy became a threat to social peace with the acceptance of a divine monarchy in France, founded on the belief that the king received his power directly from God. In 1791, France abolished blasphemy from its laws and has since held a strong stance of separation of church and state. Professor Preuss-Laussinotte ended by adding that most prosecutions that involve religion also have a relation to press laws, such as the 2007 *Charlie Hebdo* case.

Next, Professor Eric Freedman (*Benjamin N. Cardozo School of Law*) spoke on the displacement of blasphemy in early Greece as well as Christianity and Islam. He explained that blasphemy had no specific religious or divine context in ancient Greece, literally meaning "ill sounds." Blasphemy acquired its religious connotation with early Christian fathers, where it was a prohibition of depiction rather than prohibition of diction. Professor Freedman further mentioned that the biblical origin of blasphemy—taking the Lord's name in vain—is found in Christianity. With regard to Islam, no word for blasphemy exists in the Q'uran and that the Islamic variants are not found in mainstream Islam. Professor Freedman cautioned that any community can decide what is considered "sacred," what is considered offensive to the sacred, and, therefore, what is blasphemous.

After the panel, Professor Deborah Lipstadt gave a compelling talk on her new book *Antisemitism: Here and Now*, which discussed contemporary anti-Semitism. Professor Lipstadt is best known as a Holocaust historian from Emory University who won a libel case against British Holocaust denier David Irving. Professor Lipstadt said there was a belief that the Holocaust would eliminate anti-Semitism and that many are perplexed as to why anti-Semitism is on the rise. She explained that her new book was difficult to write and to finish, as new anti-Semitic attacks were occurring daily, and that this book is not focused on predictions or on comparisons of history to current times. She then went into different typologies of anti-Semitism: the open anti-Semite, who may openly praise Nazis or hate Jews; the "dinner party" anti-Semite, who would never consider doing any harm to a Jew but who sits at the dinner table and makes comments that have an underlying anti-Semitic connotation; the "clueless" anti-Semite, who engages in anti-Semitism and does not realize it; and the anti-Semitic "enabler," who may or may not be an anti-Semite but affirms to anti-Semites that they share their views. Professor Lipstadt stressed the importance of education in breaking down stereotypes and conspiracy theories surrounding Jews and explaining contemporary anti-Semitism. Replacement theory is one of those conspiracy theories demonstrated by the Charlottesville rallies in which protestors chanted "Jews will not replace us!". Professor Lipstadt added that economic dislocation, elected leaders on the right and left who play to nationalist and populist rhetoric, social media, and Islamic extremism all contribute to the current rise of anti-Semitism.

CLIHHR postponed the second day of the colloquium due to inclement weather. We are currently working to reschedule the additional panels *Surveying Blasphemy Laws Around the World* and *United*

Nations Initiatives Against Blasphemy Laws. Once a new date is chosen, an announcement will be made through our listserv. To view a recording of the conference (Dr. Lipstadt's keynote address begins at 2:27:00), please see [here](#).

DR. AHMED SHAHEED, UN SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF, SHARES REMARKS AT "CLAIMING TRUTH: HERSEY AND BLASPHEMY IN RELIGION, LAW AND LITERATURE" COLLOQUIUM

On March 3, 2019, CLIHHR hosted our "Claiming Truth: Heresy and Blasphemy in Religion, Law and Literature" Colloquium. Dr. Ahmed Shaheed is the Special Rapporteur on freedom of religion or belief. He recorded remarks explaining different types of blasphemy laws as well as his new report, which explores freedom of religion or belief and freedom of expression as two closely inter-related and mutually reinforcing rights. Check out his report [here](#) and his remarks [here](#).

"VISUAL IMAGERY AND HUMAN RIGHTS" BOOK TALK



From L to R: Dean Monroe Price, Professor Sandra Ristovska, Christoph Koettl and Professor Jocelyn Getgen Kestenbaum

On February 12, 2019, the Cardozo Law Institute in Holocaust and Human Rights (CLIHHR) and the Cardozo Law Indie Film Clinic co-hosted a panel to discuss a newly released book entitled *Visual Imagery and Human Rights*. Esteemed panelists included former Cardozo Dean Monroe Price and Professor Sandra Ristovska (CU Boulder), co-editors of the book, as well as Christoph Koettl, Senior Video Journalist for the *New York Times*. The discussion focused on the opportunities for human rights practice—for example, the ways in which visual imagery can uncover human rights violations or give artists platforms for human rights advocacy. Panelists also discussed the legal and ethical challenges arising with new technology and platforms in human rights practice.

Visual Imagery and Human Rights is a result of a January 2016 conference held at the University of Pennsylvania that brought together human rights practitioners and lawyers who work at the intersection of media and human rights. The book is broken into three parts: technology, platforms and agents. Christoph Kottel's chapter focuses on geospatial images and open source analysis in human rights documentation. He showed a video of what appeared to be a mass grave in Burundi that was sent by a researcher on the ground. This researcher spoke to various witnesses about the mass graves, which followed a period of political instability and violence in 2015. After doing some additional desk research on the location of mass graves in Burundi, Kottel identified the area of land in the video and compared its brown, disturbed land to previous pictures of green grass using Google Earth satellite imagery. This comparison demonstrated that the earth had been disturbed recently and confirmed the presence of a mass grave. Kottel explained that, although technology like Google Earth is helpful in identifying human rights abuses, access must be granted to journalists and civil society organizations to interview witnesses as well as conduct proper forensic investigations.

Dean Monroe Price demonstrated the importance of imagery and human rights by showing various pictures of East German art created after the Second World War. The different pictures included East German "Women of the World" burying weapons of war, Holocaust survivors representing those who had perished, and Americans using force against classic Russian dolls, deterring support for West Germany. Dean Price explained the importance of artists in being both advocates for human rights and agents of propaganda efforts.

Professor Sandra Ristovska took a different approach; in her chapter, she explained that the imagination is central for our thinking of human rights. If human rights are to become enforceable entitlements, people need to develop notions about what "human rights" means. The issue, Ristovska notes that, even though we have new technology to capture human rights violations, a new subconscious learning is needed to interpret images. She further stated that video needs to be seen not just as audio and visual but as bulk data collection technology. Ristovska also explained that having the ability to take pictures and display daily life through images is empowering for many and allows people to claim the right to communicate.

If you missed the book talk, please see a recording of it [here](#).

"THE ROLE OF FINANCIAL ACTORS IN HUMAN RIGHTS VIOLATIONS" WITH DIANA KEARNEY





Diana Kearney presenting on how public and private banks contribute to atrocities

On November 28, 2018, former Telford Taylor Teaching Fellow Diana Kearney gave a lunchtime lecture on how financial actors contribute to human rights violations. Kearney, who has an extensive background working on corporate accountability issues, began the talk by explaining how banks contribute to atrocity crimes by funding genocide, war crimes, and crimes against humanity. Their financial services can contribute to human rights violations in a number of ways, including by propping up dictatorial regimes or by furnishing loans to businesses that forcibly evict indigenous populations from their lands. This applies to private and public banks alike: even publicly-funded banks with a pro-poor development mandate, like the World Bank, can fuel conflict by financing companies and governments that engage in egregious human rights violations.

Kearney discussed how banks may provide capital in a variety of ways, including through project finance, general corporate loans, or other financial instruments. She explained the ways in which domestic legal frameworks may constrain a bank's ability to fund abuses – such as anti-money laundering laws, anti-corruption laws, or government sanctions – while other laws, including strict domestic privacy laws that protect a client's information from public disclosure, can in fact enable atrocity crimes. Emerging international legal norms may provide more detailed guidance for financial actors wishing to respect human rights: in 2011 the United Nations adopted the UN Guiding Principles on Business Human Rights, which states that businesses must develop a human rights policy, conduct due diligence to assess actual and potential impacts, and address impacts to provide remedies. The Principles decree that banks are obliged to address harmful impacts of their financing if they cause or contribute to these abuses. There are also various voluntary guidelines that encourage banks to develop policies and practices that ensure greater respect for the human rights of communities affected by their financing.

Kearney mentioned that public campaigns have been used as leverage to pressure banks to reconsider funding harmful projects. She cited the example of the Dakota Access Pipeline, in which the 17 banks that had invested in the project to lose a total of \$4.4 billion in closed accounts after protests of a pipeline being built through ceremonial land and burial grounds led to widespread outrage. She encouraged everyone to participate in advocacy efforts, to track our own banks' human rights track record and project funding through websites like the Fair Finance Guide or BankTrack Dodgy Deals Map, and to consider banking with ethical banks or local credit unions. If you missed the talk, you can view it [here](#).

CLIHHR REQUESTS CHANGES TO UNITED NATIONS CRIMES AGAINST HUMANITY TREATY DRAFT
To view the request, please access it [here](#).

FROM MURDER TO MUSEUMS: ABRAHAM LINCOLN, ADOLF HITLER AND THE HUNT FOR NAZI LOOTED ART IN AMERICA



L to R: Samuel Blaustein and Raymond Dowd explaining the Lieber Code and its connection to Nazi looted art

On November 12, 2018, CLIHHR, the Cardozo Fashion, Art, Media and Entertainment (FAME) Center, and the Cardozo Art Law Society co-hosted a special event on Nazi looted art and its connection to Abraham Lincoln. Samuel Blaustein and Raymond Dowd, partners at Dunnington, Bartholow & Miller, discussed their involvement in trying to recover artwork stolen from Jewish families during World War II. Blaustein and Dowd explained that, prior to the Civil War, Abraham Lincoln signed the Lieber Code into law. The Code laid out how soldiers should conduct themselves during war and prohibited confiscating property, especially cultural property, from an enemy. Lincoln's goal was to end the motivation for starting wars for profit, and the Lieber Code was eventually included in the Hague Convention. Germany was a signatory to the Hague Convention and therefore violated the Lieber Code inclusion by stealing Jewish property, goods, and artwork during the Second World War. Many stolen pieces of art from Europe are now in the United States due to the Payne Aldrich Tariff Act of 1909, which designated imports of original art as duty free.

Blaustein worked on *Bakalar v. Vavra* defending the heirs of Franz Friedrich Graunbaum, a Jew who died in Dachau. The case involved the title to Egon Schiele's *Seated Woman with Bent Leg*. Blaustein lost this case as the court ruled that the statute of limitations passed in making claims to the stolen painting, even though Graunbaum's heirs were not aware that the artwork existed within the statute of limitations time. Dowd and Blaustein continue to work on recovery cases and are hopeful as Congress passed the Holocaust Expropriated Art Recovery (HEAR) Act in 2016, which extends the statute of limitations terms to six years after claimants find out about a family member's stolen art. It also expands discovery to both the identity and location of the art. They explained that there are many current cases to recover stolen art from prominent museums such as the Metropolitan Museum of Art, the Modern Museum of Art, and the Detroit Institute of Arts Museum.

"RELIGIOUS ACCOMMODATION & EQUALITY: A COMPARATIVE VIEW" WITH FARAZ SANEI



Visiting Instructor of Clinical Law Faraz Sanei explaining the conflict between religious exceptions and equality/non-discrimination

On Wednesday, November 7, 2018, Visiting Instructor of Law and CLIHR Telford Taylor Teaching Fellow, Faraz Sanei, gave a lecture on the law of religious accommodations. He noted that the polarization surrounding the accommodations debate, both in the United States and abroad, primarily revolves around how best to reconcile religious liberty with other fundamental rights, including equality/non-discrimination. In the United States, as in foreign jurisdictions, religious accommodations cases have primarily risen in the context of LGBTQ+ and reproductive rights that implicate what some have termed the “culture wars.” Sanei noted that in the United States, every branch of the federal government has been involved with religious accommodation concerns—from the Religious Freedom and Restoration Act enacted by Congress in 1993, to the *Masterpiece Cakeshop v. Colorado Civil Rights Commission* Supreme Court case decided in June 2018, and the establishment of a religious liberty task force and guidelines by the Department of Justice under the Trump Administration. He then discussed the evolution of religious accommodations claims from conscientious exemptions from generally applicable laws to “complicity-based conscience claims” that often impose concrete and dignitary harms on third parties. As part of his talk, Sanei acknowledged the important contributions of Cardozo scholars—including Michel Rosenfeld, Marci Hamilton, and Stanley Fish—on the topic.

The focus of the talk, however, was an invitation to reconceptualize religious accommodations and address it primarily from an international human rights perspective. Sanei drew on his experiences as a former legal advisor to the UN Special Rapporteur on freedom of religion or belief, Dr. Ahmed Shaheed, to discuss the relevance and applicability of the international human rights framework to religious accommodations laws. He noted that although religious accommodations jurisprudence is more developed at the national level, there is an increasing interest on the part of civil society groups to rely

on United Nations human rights mechanisms, such as treaty bodies and Special Procedures, to help guide or develop domestic jurisprudence on how best to reconcile religious freedom with equality rights. His analysis focused on permissive limitations on the qualified right to freedom of religion or belief, which allows states to limit manifestations of religious freedom to protect the fundamental rights and freedoms of others.

SPECIAL PRE-RELEASE SCREENING OF “THE SILENCE OF OTHERS”



L to R: Faraz Sanei & Fernando Travesí discussing the Silence of Others and transitional justice

On November 5, 2018, the Cardozo Law Institute in Holocaust and Human Rights and the Cardozo Law Indie Film Clinic hosted a special pre-release screening of the acclaimed documentary *The Silence of Others*. The film, directed by Emmy winning filmmakers Almudena Carracedo and Robert Bahar, is shot over 6 years and follows the fight for both recognition and justice for serious crimes committed during General Francisco Franco’s almost four decades of rule in Spain. The Spanish Amnesty Law of 1977, passed after Franco’s death, released political prisoners while simultaneously guaranteeing impunity for those who committed crimes, including crimes against humanity, during the Spanish Civil War and Franco’s rule. Today, the law serves as an impediment to prosecutions of those alleged to have committed serious crimes on behalf of Franco’s government in Spanish courts. The film focuses on the struggles the victims face in bringing attention to the crimes committed against them, as well as their efforts to bring those responsible to justice. Relying on the legal strategy of universal jurisdiction, the victims filed a petition in Argentina to try cases of crimes against humanity. To this day, Spain continues to block Judge María Servini’s efforts to extradite and question several of the alleged perpetrators. Following the screening, Visiting Instructor of Clinical Law, Faraz Sanei, discussed the film with Fernando Travesí, the Executive Director of the International Center for Transitional Justice. Mr. Travesí, who grew up in Spain, noted that this film is being released at a time when “there is a new momentum to come to

terms with history” in Spain. He noted that the road to transitional justice is often a long, painful, and unsatisfying journey. While criminal accountability is an important part of transitional justice, other efforts focusing on truth and reconciliation, reparations, and reform can be equally important in ensuring full restorative justice.

"LAW'S WARS AND TRIALS:" A BOOK TALK WITH PROFESSOR RICHARD ABEL



Professor Richard Abel speaking to the Cardozo Law community about his new books

On Wednesday, October 18, 2018, the Cardozo Law Institute in Holocaust and Human Rights welcomed Professor Richard L. Abel for a discussion about his two newly published books: *Law's Wars* and *Law's Trials*. Professor Abel's works provide an in-depth retrospective examining how the rule of law has fared during the 17-year long U.S.-led War on Terror. Professor Abel began his talk by first focusing on the United States' implementation of the War on Terror and its impact on the rule of law in several different contexts, including: torture and abuse by U.S. military personnel at Abu Ghraib prison in Iraq, indefinite detention and lack of due process for "enemy combatants" at Guantanamo Bay, civil liberties violations resulting from electronic surveillance, and "battlefield" casualties resulting from the secret drones program. His analysis integrated the perspectives and influences of a variety of stakeholders ranging from the Bush and Obama administrations to the role of Congress, civil society and victims in upholding or undermining the rule of law.

During the second half of his presentation, Professor Abel concentrated on the role of courts by examining prosecutions of terrorists and the extent to which civil and military courts provided justice, accountability, and redress for abuses of the rule of law. He compared the mixed performance of criminal courts in prosecuting terrorists with the chaos, gross lack of due process, and ineffectiveness of military commissions convening in Guantanamo Bay. Professor Abel also discussed the overall failure of civil and military courts to provide effective remedy to victims seriously impacted by rule of law violations, whether in the form habeas corpus relief, monetary damages, or accountability. On the courts' defense of civil liberties, Professor Abel lamented the fact that "Bush reacted to 9/11 just as

Osama bin Laden had hoped,” but encouragingly noted that the onslaught against certain groups (e.g., Muslim Americans) had fortunately not resulted in their systematic persecution or disenfranchisement. Professor Abel’s comprehensive retrospective on the War on Terror provides us with a troubling set of questions and conclusions about the resiliency of the rule of law when the “going gets tough,” as it were. He reminded us that no high-level prosecutions have taken place for gross human rights and civil liberties violations perpetrated by government officials in the name of national security. And that the rule of law has all too often been sacrificed on the altar of politics and power. Yet, despite it all, Professor Abel remains hopeful. “Meaningful responses [to such abuses] often take more than a generation,” he said. “But I cling to the belief that the victims’ time will come.”

INTERNATIONAL LAW: A CASUALTY IN THE WAR ON TERROR?



L to R: Gabor Rona and Marco Sassòli

On June 18, 2018, Visiting Professor Gabor Rona moderated a discussion entitled “International Law: A Casualty in the War on Terror?” with Professor of International Law at the University of Geneva Marco Sassòli. The discussion marked the end of the Third Annual Workshop, “Revisiting the Role of International Law in National Security: A Papers Workshop,” that Rona organized with the International Committee of the Red Cross. The Workshop brings together international law scholars from the U.S. and abroad to discuss emerging issues at the intersections of international law and national security.. The program was hosted by the Floersheimer Center for Constitutional Democracy, Cardozo Law Institute in Holocaust and Human Rights, the Burns Foundation and the International Committee of the Red Cross. Rona and Sassòli discussed the flawed notion of “war on terror,” and specifics such as targeting, including drones and autonomous weapons, grounds and procedures for detention, and military commission trials being conducted at Guantanamo. The talk addressed differences between U.S. and European interpretation and enforcement of international law, in international and non-international armed conflicts, as well as in the absence of armed conflict. Sassòli noted that European states take a more restrictive view of wartime authority to kill and detain than does the United States. Sassòli also argued that civilian courts are more legitimate and more efficient than the military commissions used at Guantanamo

To view video of the discussion, click [here](#).

PROFESSORS GETGEN KESTENBAUM AND RONA LEAD TEAM OF HUMAN RIGHTS CLINIC STUDENTS TO BRAZIL



L to R: Professor Getgen Kestenbaum, Clinic Student Greta Cristini, and Professor Gabor Rona

From May 16 to 24, 2018, Cardozo Law’s Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic accompanied Professor Jocelyn Getgen Kestenbaum and Visiting Professor Gabor Rona, Chair of the UN Working Group on Mercenaries, on an unofficial visit to Brazil. The visit’s purpose was to understand the human rights concerns related to operations of private militias, as well as private military and private security contractors. The team spoke with more than 100 civil society leaders—including human rights defenders, victims and survivors of human rights violations, indigenous community leaders, Afro-descendant community leaders, members of impoverished and excluded neighborhoods—and other concerned citizens from both urban and rural contexts in Rio de Janeiro (RJ), Dourados (MS), and Belém do Pará. From these discussions, the team has made observations for possible follow up and coordinated action of various UN human rights Special Procedure mandate holders.

The team was informed of numerous acts of violence committed by members of private militias and private security contractors in both rural and urban settings. Forced evictions/forced removals, intimidation and threats to human rights defenders, assassinations of community leaders, and mass killings are among the most common concerns about which individuals spoke. In both contexts, individuals cited control over territories and occupation or demarcation of lands as motives for violence. In rural settings, land conflicts stem mainly from increasing large-scale extractive industries and agribusiness interests; in the favelas, the turf wars result largely from fights to control illegal provisions of basic services to communities (that the state fails to provide) and/or to control the illegal drug trade and its routes. Victims of these land conflicts include indigenous peoples, Afro-descendants, the poor, women and LGBT activists, human rights defenders, and men, women and children caught in the crossfire.

The team's findings will be shared with UN human rights "special procedures" experts, including the UN Working Group on Mercenaries chaired by Rona, and civil society actors. The goal is to build a strategy for bringing international scrutiny about these issues to the attention of Brazilian authorities. A coordinated response and action would support a reduction of violence and promotion of human rights. "The work we did in Brazil was a great opportunity for our terrific clinic students to get some first hand experience in human rights investigation and advocacy," said Rona. "They're learning not just to make a point, but to make a difference."

CLINIC STUDENTS COLLABORATE WITH AUSCHWITZ INSTITUTE FOR PEACE AND RECONCILIATION TO CREATE NATIONAL MECHANISMS BOOKLET



Gabrielle Flaum (L) and Lori Waichmann (R) present their findings

May 15, 2018 – Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic students Gabrielle Flaum ('19) and Lori Waichman ('18) coauthored a section of the Auschwitz Institute for Peace and Reconciliation (AIPR) annual booklet on National Mechanisms for the Prevention of Genocide and Atrocity Crimes. Flaum and Waichmann undertook a comparative review of national-level draft legislation efforts, which helped to create the booklet's third section on institutionalization. At the launching event, Flaum and Waichmann presented their research findings following a comparative study on draft legislation for the establishment of institutionalized national mechanisms for atrocity prevention.

THE USES OF TRUTH: TRUTH COMMISSION ARCHIVES, JUSTICE AND THE SEARCH FOR THE DISAPPEARED IN EL SALVADOR



L to R: Professor Getgen Kestenbaum, Eduardo Gonzalez Gueva, Trudy Peterson, Kate Doyle, Leonor Arteaga, Benjamin Cuellar, Cath Collins (translator) and Cecilia Gebruers Hanya (Translator)

April 23, 2018 - CLIHHR and Observatorio de Justicia Transicional UDP, supported by Open Door Society, welcomed Eduardo Gonzalez Cueva, a Transitional Justice Consultant, Trudy Peterson, Certified Archivist, Leonor Arteaga, the Senior Program Officer at the Due Process of Law Foundation, Benjamin Cuellar, a Salvadoran Human Rights Activist, and Kate Doyle, the Senior Analyst of U.S. policy in Latin America at the National Security Archive, to Cardozo Law to discuss the truth commission archives as a source for justice and search for those disappeared in times of conflict. The Panel began with an overview of the Salvadorian Truth Commission, the importance of the Commission and the arguments made against releasing Truth Commission archives. The panelist discussed specifically the origins of the Salvadoran Truth Commission archives and its mission to address a human rights violations by reporting perpetrators responsible for Human Rights violations and calls for judicial and legal reform. El Salvador's Truth Commission is interestingly established not by national law, but through a presidential decree which can be unstable when political parties change. The panel concluded with how the United Nations could emphasize the support for Salvadoran Truth Commission archives. If you were unable to attend the event, you can find a video of the panel discussion below.

STRATEGIES FOR PROMOTING HUMAN RIGHTS THROUGH THE PRIVATE SECTOR: THE SHAREHOLDER, THE ADVOCATE, AND FINDING COMMON GROUND



L to R: Josh Zinner, Irit Tamir, Michael Littenberg, Jaren Dunning and Professor Yablon

April 11, 2018- CLIHHR and the Heyman Center co-hosted a panel discussion at Cardozo Law School on strategies for promoting human rights through the private sector.

Professor Charles Yablon of Cardozo Law School, moderated the discussion. The participants included Jaren Dunning of PepsiCo, Michael Littenberg of Ropes & Gray, Irit Tamir of Oxfam America, and Josh

Zinner from Interfaith Center on Corporate Responsibility.

The panelists took part in an engaging discussion, which focused on various strategies for motivating corporations to act in socially responsible ways. The panelists explained that, based on their varied experiences, some of the more successful strategies include shareholder engagement, public campaigns, education and embedding corporate social responsibility principles into corporate structure and culture. Panelists highlighted the importance of establishing trust and openness for constructive dialogue between civil society and corporations and that internally, corporations should strive to create a corporate culture where leadership and management focus on issues of human rights, sustainability and public policy. The discussion also touched on the need for shareholders to consider long-term growth and that ESG principles promote sustainability to achieve such growth.

FILM SCREENING OF "1945"



L to R: Profeso Harry Chotner, Professor Greenberg-Kobrin, and Professor Jocelyn Getgen Kestenbaum

March 28, 2018- Cardozo Law Institute in Holocaust and Human Rights (CLIHHR) and the Indie Film Clinic hosted a film screening of the movie "1945." 1945 tells the story of an Orthodox Jewish man and his adult son returning to a village in Hungary. The villagers are suspicious, remorseful, fearful, and cunning – expecting the worst and behaving accordingly against the father and son. The town clerk fears the men may be heirs to the village's deported Jews and expects them to demand the return of the towns' illegally acquired property. The film paints a complex picture of townspeople trying to come to terms with the recent horrors they have experienced, perpetrated, or just tolerated for personal gain.

After the film screening, CLIHHR Director, Jocelyn Getgen Kestenbaum, along with Director of Indie Film Clinic Director, Michelle Greenberg-Kobrin, and Adjunct Assistant Professor at NYU on film studies Harry Chotiner engaged in a discussion about the film and its impact.

Professor Getgen Kestenbaum discussed the aftermath of mass atrocities like the Holocaust and the ways in which society must rebuild and move forward. She also remarked that no society is immune to mass atrocities. Professor Greenberg-Kobrin spoke about her family's history and how her own experiences resembled that of the movie. She also found it interesting that this film, unlike other films, focused on the properties after the war rather than the people affected by the Holocaust. Professor Chotiner commented on how the film director's creative choices allowed the audience to think about the difficult themes and issues raised in the film. Lastly, audience members shared their own stories and discussed becoming reconciled to being children of Holocaust survivors.

BENJAMIN B. FERENCZ HUMAN RIGHTS AND ATROCITY PREVENTION CLINIC BEGINS STRATEGIC HUMAN RIGHTS ADVOCACY TO STOP ABUSES AGAINST GUARANI-KAIOWA PEOPLES



Strategy meeting with the Guaraní-Kaiowá leaders on atrocity prevention

February 1, 2018 - Last week, the Human Rights and Atrocity Prevention (HRAP) Clinic traveled to Mato Grosso do Sul, Brazil to consult with indigenous communities facing forced displacement, violence, and other human rights abuses at the hands of large-scale agro-business interests encroaching onto their ancestral lands. In Mato Grosso do Sul, the Guaraní-Kaiowá peoples have been pushed onto reservations to the brink of group extinction. Harsh refugee camp-like living conditions on the reservations have left community members without adequate food, water, education, access to medical care, and other basic services. Childhood malnutrition and suicide rates have soared, and clashes with local farmers over land rights have sparked a string of assassinations of their leaders. Communities are in serious crises, and the Guaraní-Kaiowá expressed fear that they will not survive as a people. Indeed, community leader Elisa Lopes remarked, "If this continues, we will no longer exist. We will be nothing but statues in a museum." In light of these complex challenges, the Clinic and its partner organizations met with community leaders to discuss ways forward. Clinic Director Professor Jocelyn Getgen-Kestenbaum spoke with leaders about recognizing the risks and warning signs of atrocity crimes, the legal definition of genocide, and the importance of engaging with the UN Special Adviser on the Prevention of Genocide (UNSAPG) to help raise the international profile of the plight of the Guaraní-Kaiowá.

As Getgen-Kestenbaum observed, "the Guaraní are facing a very real threat of genocide and crimes against humanity. It is imperative that they are equipped with all tools, legal and otherwise, to draw attention to their cause and find solutions to these complex human rights issues." Next, Clinic Fellow Diana Kearney explained the ways in which foreign corporate interests connect to local land grabs. The team detailed which multinational companies are tied to land conflicts in Mato Grosso do Sul, Brazil and

advised the Guaraní on advocacy strategies to press these companies to stop contributing to land grabs, violence, and other serious human rights abuses in Brazil. The Guaraní-Kaiowá embraced both advocacy strategies, inviting the UNSAPG to visit their reservation and the Cardozo team to proceed with their human rights advocacy strategy in corporate accountability and indigenous rights. The Clinic team plans continue to engage on both of these fronts to advocate with and on behalf of the Guaraní-Kaiowá in preventing further violence.

TAKING: THE INTERSECTION BETWEEN COLONIALISM AND GENDER- BASED VIOLENCE



Caroline LaPorte speaking to Cardozo Law

November 13, 2017 - CLIHHR welcomed Caroline LaPorte from the National Indigenous Women's Resource Center to discuss indigenous rights and the effects of colonialism on gender-based violence in the United States. LaPorte discussed the false public image of oversexualized Native American women and how the false image has impacted the perception of gender-based violence in Indian country. She also explained how tribal sovereignty and laws affect the number of support and intervention services for Native American women. Further, she discussed issues among state, tribal and federal jurisdiction with regard to issues of domestic violence.

Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic Students Assist UN Special Rapporteur on Freedom of Religion or Belief Dr. Ahmed Shaheed



L to R: Aashini Shrivastav, Jennifer Kleinman, Dr. Ahmed Shaheed, Professor Jocelyn Getgen Kestenbaum, and Visiting Fulbright Fernanda Frizzo-Bragato

On October 25, 2017 HRAP Clinic students Aashini Shrivastav ('19) and Jennifer Kleinman ('19) attended the United Nations Third Committee of the General Assembly's interactive dialogue with the UN Special Procedures mandate holders in support of the UN Special Rapporteur on Freedom of Religion or Belief, Dr. Ahmed Shaheed. The students assisted Dr. Shaheed in preparation for his country visit to Uzbekistan in October 2017 and contributed legal research and analysis for his annual report that he presented to the Human Rights Council in March 2018.

Book Discussion with Professor Amos Guiora



Professor Guiora discussing his book

On October 23, 2017, CLIHHR welcomed Professor Guiora of S.J. Quinney College of Law the University of Utah to Cardozo to discuss his book "The Crime of Complicity: The Bystander in the Holocaust." During the book discussion, Professor Guiora recounted his family's experiences in the Holocaust and how his family members had dodged death several times. After hearing his families' experiences, he decided to write a book addressing the obligations of bystanders and his experiences engaging with children of bystanders in the Holocaust.

Professor Guiora's definition of bystanders is that they are people "who see others in distress in their height of vulnerability and turn his or her back." Currently, there is no legal obligation for bystanders to act in these situations, but Professor Guiora argued that we should owe others a duty to act. He then continued by discussing the role of bystanders in the well-known campus sexual assault cases at Vanderbilt and Stanford Universities.

Professor Guiora ended by asking each one of us not to just say "oh my" when witnessing others in distress, but to act and dial 911. Even saving one person is better than none.

2017 Raphael Lemkin Book Award



L to R: Professor Jacoby and Professor Madley

On October 17, 2017, CLIHHR together with the Institute for the Study of Genocide (ISG) presented this year's Raphael Lemkin Book Award to Benjamin Madley for his book *An American Genocide: The United States and the California Indian Catastrophe*. The book award ceremony included a public presentation by Professor Madley, as well as a discussion led by Professor Karl Jacoby of Columbia University's Department of History and Center for the Study of Ethnicity and Race. The Raphael Lemkin Book Award is awarded to the best nonfiction work that focuses on explanations of genocide, crimes against

humanity, state mass killings and gross violations of human rights, and strategies to prevent such crimes and violation.

Professor Madley started off his presentation by explaining the severe drop in the California Indian population (from 150,000 to 30,000), that occurred between 1846 and 1870. This plunge was a result of disease, dislocation, starvation, abduction, unfree labor, mass death on reservations, and individual homicides, as well as battles and massacres, which took thousands of lives and hindered reproduction. Madley narrated the involvement of state and federal officials in supporting the violence, the indigenous resistance, and ultimately, the reasons the killings ended. Using the definition of genocide from the 1948 United Nations Genocide Convention as a rubric, he concluded that there is sufficient evidence to designate the California Indian catastrophe a genocide.

At the end of the presentation, Professor Madley focused on the bigger picture. He emphasized that examining cases using the definition set forth by the United Nations Genocide Convention will help move the discussion of genocide forward in the U.S. He remarked, "Such investigations may be painful, but they will help all Americans, both Indian and non-Indian, to make more accurate sense of our past and ourselves." In the discussion with Professor Jacoby, Madley explained how his book title came to be. He decided to call the book "An American Genocide" because the word "An" would open up reader's eyes to exploring additional genocides.

Hate Speech and the Cultural Wars



L to R: Professor Michel Rosenfeld, Professor Robert Post, Professor Stanley Fish, Professor Ulrich Baer, Professor Susan Benesch, Professor Ekow N. Yankah, Professor Kate Shaw, and Dean Melanie Leslie



September 18, 2017 - CLIHHR, together with the Floersheimer Center for Constitutional Democracy at Cardozo Law hosted a public panel discussion at Cardozo Law School on hate speech and its impact on democracy and on current events from Charlottesville to Facebook's policies and their impact. Professor Kate Shaw, who co-directs the Floersheimer Center, moderated the discussion. The participants included Ulrich Baer of New York University; Susan Benesch of Harvard University; Robert C. Post, former Dean of Yale Law School; and Cardozo's own faculty members, Professor Stanley Fish, Professor Michel Rosenfeld and Professor Ekow N. Yankah.

The panel covered issues such as how the rise of the Internet has impact free speech, who is responsible for creating free speech rules on the Internet and how private companies and academic institutions can deal with speech issues in classrooms and throughout the culture. Much of the discussion on how various constitutional democracies regulate speech and whether the American system, with its First Amendment guarantee of free speech, can deal differently with hate speech in the context of the current political climate and the magnifying effect of social media. Susan Benesch, who oversees the Danger Speech Project at Harvard, pointed out that the rules of free speech on the Internet are opaque and asked, "who makes the rules?"

Robert Post commented, "We are all struggling with how to understand the Internet." He and conference organizer University Professor Michel Rosenfeld sparred over definitions of hate speech and whether the United States with its First Amendment protections actually does or does not restrict speech. Cardozo Visiting Professor Stanley Fish argued that there is no such thing as hate speech, that it is merely definitional and determined by the speaker.

Professor Yankah's commentary at the end of the panel focused on the bigger picture: "Things that I know well are the ways in which the law can stop crises to democracies... where we all agree is that there are many things that the law can't fix. Much of this is just the work we have to do to keep our norms healthy. They are the work of civil society, not civic society. My worry is that I look at a country where the only thing that shocks is Charlottesville."

See the recording of the discussion [here](#).

CLIHHR hosts public panel event: "Justice for the Yazidi Genocide"



L to R: Sareta Ashraph, Patricia Sellers, Ambassador Stephen Rapp, Pari Ibrahim, and Scott Gilmore

On September 11, 2017, the Cardozo Law Institute in Holocaust and Human Rights (CLIHHR), together with the Human Rights Center at UC Berkeley School of Law and The Center for Justice and Accountability (CJA), hosted a public panel discussion at Cardozo Law School. The important and timely discussion followed on the heels of the third anniversary of the ISIS attack on the Yazidi population on Mount Sinjar in northern Iraq on August 3, 2014.

In the course of those three years, not one perpetrator has stood trial for the international crimes inflicted upon the Yazidi people. "This is the challenge for us today," began Scott Gilmore, Staff Attorney for CJA and moderator of the panel event. "How do we achieve justice and accountability for a mass atrocity where, despite the fact that the perpetrators have no allies and no safe harbor, the system of international justice has not been able to prevent or punish the occurrence of genocide?"

Panelists included Founder and Executive Director of the Free Yazidi Foundation Pari Ibrahim, Former Chief Analyst of the United Nations Commission of Inquiry on Syria Sareta Ashraph, Special Advisor on International Criminal Law Prosecution Strategies, International Criminal Court Office of the Prosecutor Patricia Viseur Sellers, and Former Ambassador-at-Large for War Crimes Issues in the Office of Global Criminal Justice Stephen J. Rapp.

The public event followed a two-day high level meeting bringing together many of the organizations collecting evidence and seeking justice and accountability for the Yazidi victims-survivors of war crimes, crimes against humanity and genocide.



CLIHHR's Professor Gabor Rona delivers the UN Working Group Annual Report to the Human Rights Council in Geneva

Visiting Professor Gabor Rona is Chair of the UN Working Group on Mercenaries, which is mandated by the UN Human Rights Council to study and report on, among other things, the effects of mercenarism, mercenary-related activities (such as 'foreign fighters') and private military and security contract operations on the enjoyment of human rights, in particular, the right of peoples to self-determination. On Wednesday, September 13, Rona delivered the Working Group's Annual Report to the Human Rights Council in Geneva and engaged in an interactive dialogue with interested States and civil society organizations. The Report focused on the Working Group's now completed four year-long global studies of national legislation regulating the private military and security industry. The study found significant legal gaps in accountability of private military and security operators for violations of human rights and in the availability of enforceable remedies for victims. The Report recommends measures to close these gaps under both domestic and international law. It also addresses the Working Group's recent mission to the Central African Republic.

See the recording of his initial presentation [here](#). Professor Rona then responds to questions and comments at [1:08:27](#), and makes his closing statements at [1:53:09](#).

Report Release: *Respecting Rights? Measuring the World's Blasphemy Laws*, co-authored by Professor Jocelyn Getgen Kestenbaum

August 10, 2017- Today, the United States Commission on International Religious Freedom (USCIRF) released a report co-authored by Assistant Clinical Professor Jocelyn Getgen Kestenbaum, Director of the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic and Faculty Director of the Cardozo Law Institute in Holocaust and Human Rights (CLIHHR), and Joelle Fiss entitled [Respecting Rights? Measuring the World's Blasphemy Laws](#). The groundbreaking Report analyzes 71 of the world's 195 countries with laws prohibiting blasphemy, examining and comparing the content of the laws. Blasphemy is defined as "the act of insulting or showing contempt or lack of reverence for God." Penalties for blasphemy in these countries can range from public censure and fines to imprisonment and death. Blasphemy laws are actively enforced in many countries throughout the world. Many governments deem repeal not feasible or desirable and justify the prohibition and criminalization of blasphemy as necessary to promote religious harmony.

This study evaluates the content of blasphemy laws to understand what aspects adhere to—or deviate from—international and human rights law principles. A better understanding of the laws' compliance with these principles may assist in developing clear, specifically tailored recommendations for areas for reform.

According to the study:

- Blasphemy laws are astonishingly widespread. Seventy-one countries, spread out across many regions, maintain such statutes.
- Every one of these blasphemy statutes deviates from at least one internationally recognized human rights principle. Most of these laws fail to respect fully the human right of freedom of expression.
- All five nations with blasphemy laws that deviate the most from international human rights principles maintain an official state religion.
- Most blasphemy laws studied are vaguely worded, as many fail to specify intent as part of the violation. The vast majority carries unduly harsh penalties for violators.

· Most blasphemy laws are embedded in criminal codes and 86 percent of countries with blasphemy laws prescribe imprisonment for convicted offenders. Some blasphemy statutes even impose the death penalty.

The authors are grateful to the students and staff of the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic, including Susan Braden, Sophie Duffy, Afrodite Fountas, Phyllis Kaufman, Ryan Lavigne, Sharon Montazeri, Amit Noor, Anna Shwedel, Séhzad Sooklall, and Angel Sutjipto, who contributed significantly to the research and analysis of findings of the Report.

CLIHHR's Professor Gabor Rona quoted in "James Mattis, A Warrior in Washington"

May 29, 2017 Posted from [The New Yorker](#)

The following is an excerpt from the complete article, found at the link included above.

(...) When the Marines moved in, they provoked what amounted to a popular uprising. As footage of the battle aired across the Arab world, Iraq's civilian leadership rebelled, threatening to withdraw its support of the occupation. President Bush abruptly ordered commanders to stop the operation. Mattis was furious; he thought that the order made his men look simultaneously brutal and ineffectual. In a meeting with General John Abizaid, his boss, he quoted Napoleon: "If you start to take Vienna, take Vienna!" But the Administration thought the operation too costly to continue.

In the aftermath of the fighting, the extent of the Marines' ferocity became clear. "About a thousand civilians were killed," Saad Manthor, a senior Iraqi police officer and an ally of the American forces told me; other estimates suggest at least seven hundred. The city's cemeteries were so full that the main football stadium was converted to a burial site. Warzer Jaff, a Times photographer who was there, told me, "I saw entire families inside the graves, the bodies of women and children, along with small pieces of paper that had their names. Everywhere in the city you smelled bodies."

When I asked Mattis about this, he didn't dispute the numbers, but suggested that they were relatively low compared with Falluja's population of three hundred thousand. In any case, he said, the Marines went to great lengths to spare innocents, allowing them to leave the city before and during the attack. "This enemy didn't give a damn about them," Mattis said. "We went out of our way to take care of the civilians."

Other eyewitness accounts suggested that ambulances had been fired on and passengers killed, that snipers shot Iraqis as they tried to pull the dead off the streets, and that marines blocked military-age males from leaving the city, often separating fleeing families in order to keep the men inside. All those actions are banned by international treaties, to which the United States is a signatory. There were also widespread reports that the Americans had attacked Falluja with white phosphorous, a chemical agent that burns through human skin.

Gabor Rona, a professor of law at Cardozo and a legal adviser to the International Committee of the Red Cross during the battle, told me that he regarded the claims of harsh tactics as credible. "There is plenty of evidence that either the U.S. was targeting civilians or that the U.S. was conducting indiscriminate attacks without knowing, or taking sufficient precautions to determine, whether individuals were combatants or civilians," he said.

International Law and National Security: A View from Abroad on Current Trends in Targeting, Detention, and Trials



L to R: Beth Van Schaack, Noam Lubell, Joanna Harrington, Marko Milanovic, and Kevin Jon Heller

May 25, 2017- CLIHHR, together with the International Committee of the Red Cross, the Floersheimer Center for Constitutional Democracy at Cardozo Law, and the Jacob Burns Institute for Advanced Legal Studies, hosted a public panel discussion at Cardozo Law School on May 18, 2017. The above titled discussion explored international experts' perspectives on the applicability of international law to national security issues in the United States. Panelists included Joanna Harrington, Professor of Law at The University of Alberta; Kevin Jon Heller, Professor of Criminal Law at SOAS, University of London and University of Amsterdam; Noam Lubell, Professor in the School of Law at University of Essex; and Marko Milanovic, Associate Professor at The University of Nottingham School of Law. The discussion was moderated by Beth Van Schaack, Leah Kaplan Visiting Professor in Human Rights at Stanford Law School. If you were unable to attend the event, you can find a video of the panel discussion below.

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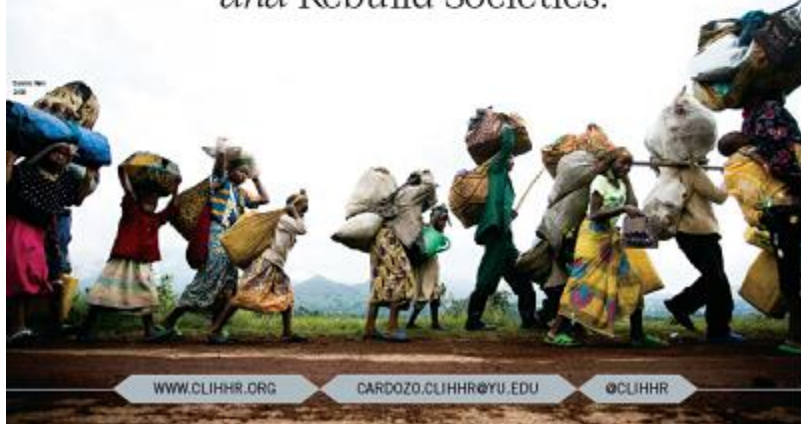
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