

# Clearinghouse REVIEW

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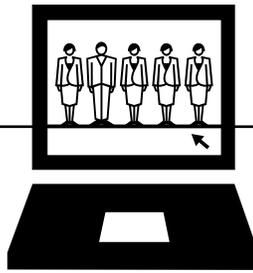
Advancing Human Rights

The Australian Experience



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## a webinar panel discussion

### CLAIMING OUR ROLE AS HUMAN RIGHTS LAWYERS

# How a Human Rights Framework Can Advance Our Advocacy

By Martha F. Davis, Chandra Bhatnagar, Monique Harden, Cheryl Hystad, and Sarah H. Paoletti

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**[Editor's Note:** This is an abridged transcript of a webinar panel discussion hosted by the Sargent Shriver National Center on Poverty Law on June 21, 2011. The moderator was Martha F. Davis. The panelists were Chandra Bhatnagar, Monique Harden, Cheryl Hystad, and Sarah Paoletti. For more information and a link to the full discussion, go to <http://bit.ly/mqXkzK>.]

**Martha:** What does it mean to use a human rights framework in legal aid practice or poverty law advocacy? What do you think it adds to that work, and can you give a brief example or two from your own work? Chandra, will you start?

**Chandra:** Thanks very much—this is a really appropriate and timely topic. On the initial question, I think the central point is that human rights is a complementary tool. No one is suggesting it's a magic bullet, or that you need to throw out everything you're already doing.

I wanted to begin with an example of using a treaty reporting opportunity. The U.S. has signed and ratified the Covenant on Civil and Political Rights. As part of that treaty, the U.S. has to report regularly on its compliance before the U.N. Human Rights Committee, which is comprised of former judges, law professors—a very credible group of folks. We had been working with the ACLU of Texas and with the Border Network on Human Rights on the epidemic of racial profiling in Texas and specifically in El Paso.

A renegade sheriff, who was an elected sheriff of long standing, initiated a program called Operation Linebacker. He enjoyed strong support from El Paso's mayor. Amidst a rising tide of antiimmigrant sentiment, deputies were going to set up roadblocks to stop people who were undocumented and detain them for the purpose of eventually deporting them. The target was supposedly violent criminals and drug traffickers, but the impact was that deputies were stopping people of color, and especially Latino people in poor neighborhoods, for minor traffic violations. The *El Paso Times* found that 4,756 undocumented people had been turned over to the border patrol in the first six months of 2006.

The Border Network had been pressuring the mayor to encourage the sheriff to suspend the program—to protect the rights of El Paso residents. But there was no progress being made. We documented some of the violations, had a day of action, a speak-out, met with community members. But still we were unable to move the ball forward.

So we used the opportunity of the U.S. having to report its human rights record before the Human Rights Committee—to bring information from El Paso to the U.N. The timing was such that it was within a month or so of when the documentation took

place. So we had fresh information. In Geneva we were able to get the attention of a Human Rights Committee member from Argentina, who was very interested in the problem of racial profiling. He raised a question to the U.S. delegation, which comprised senior-level members of the Bush administration in various agencies. The legal advisor to Condoleezza Rice, John Bellinger, was there. Wan Kim, the director of the Civil Rights Division [of the U.S. Department of Justice] was there.

The member from Argentina asked Wan Kim about racial profiling and specifically mentioned El Paso and the really egregious violations. And, of course, Wan Kim wasn't able to answer the question.

The impact was an above-the-fold headline on the front page of *El Diario Del Paso*, the biggest Spanish-language newspaper in El Paso, which mentioned that the sheriff was taken to the U.N. for human rights abuses. That really changed the political dynamic in El Paso around this issue. A lot of the black, Latino, and Asian legislators in the Texas legislature, who had not returned a lot of our phone calls, all of a sudden were really interested and began coming to El Paso. Eventually the mayor stepped away from the sheriff, and the sheriff "voluntarily" suspended the program. Subsequently he lost his reelection.

This was an example of a perfect storm of factors, of local activists doing documentation and using that as the pressure point with the treaty body: getting a question put before the U.S., and then when the U.S. wasn't able to answer, getting a concluding observation, which is a report card that the committee gives, about racial profiling and the attention given to the local violation. So you're able to really put it under a microscope.

The takeaway point is, if you can use the human rights strategy in confluence with other strategies, and especially if you're able to tie a media element into it and get sunlight onto a particular issue, that can enhance your local advocacy.

**Martha:** Thank you very much. Monique, I want to ask you the same question now, which is: what does it mean to use the hu-

man rights framework in your advocacy and what does it add to your work? And then maybe give us an example or two as well?

**Monique:** For us, the human rights framework offers the opportunity to find remedies for human rights violations in communities that are in the shadows of toxic industrial facilities that are destroying natural resources through depletion or contamination and are harming the health of residents who are living in the vicinity where toxic chemicals are emitted from these industrial facilities. Prior to the founding [of] Advocates for Environmental Rights, community activists in Louisiana had told us: "No one has to tell me when my daughter's human rights are violated. She feels it every time she struggles to breathe at night when the industrial facilities are at their worst belching toxic fumes into the air."

That really launched us in search of remedies for these human rights violations that are often referred to as environmental injustice and environmental racism. What we found was, as Chandra was alluding to, relevant ratified treaties that protect the rights of people in terms of the right to life, the right to health, the right to freedom from racial discrimination. So these human rights treaties serve as a ruler, for us anyway, in looking at how short the system of environmental protection falls with regard to these human rights standards.

In March of 2005 we filed the first-ever legal challenge against the U.S. government for establishing an environmental regulatory system that denies basic human rights. In this petition we represent residents of Mossville, Louisiana, located in the southwest portion of the state near the Texas border. It's a historic African American community that is not incorporated.

Mossville is surrounded by fourteen toxic industrial facilities, all permitted pursuant to environmental law with the right to damage the environment and harm the health of the residents who have been living there for hundreds of years. It's been transformed into a massive industrial operation where you not

only have the facilities but outside the facilities and throughout the community you have aboveground pipelines carrying toxic chemicals from one facility to [another]. Those pipelines also exist underground. Train tracks crisscross the community, so that you can't enter or exit Mossville without crossing one of these train tracks. And on these trains are flammable and toxic chemicals and oils and fuels manufactured at these facilities going to market.

The petition we filed with [the] Inter-American Commission on Human Rights challenging the U.S. government's regulatory system was recently admitted for a review on the merits, which marked the first time that the Inter-American Commission has taken jurisdiction over a case of environmental racism in the United States, based on the finding that there's no legal remedy within the United States for people like the residents of Mossville—notwithstanding the human rights obligations of our government. So the case is moving toward a hearing on the merits before the Inter-American commission.

The Inter-American Commission serves as the judicial arm of the Organization of American States, which the United States is a member of. It's like the western hemisphere regional human rights system, with thirty-four other member countries. As a member the U.S. government is obligated to protect the rights enshrined in the Inter-American Convention on the Rights and Duties of Man.

Having this human rights perspective and advocacy has also really helped us deal with the consequence of internal displacement from hurricane Katrina: again, building more advocacy around human rights standards that should apply in the United States for ensuring recovery for people once they're displaced. In some ways, very similar to the environmental regulatory system, the domestic laws that we have in place actually make all decisions by government in the time of a natural disaster discretionary. And these laws explicitly deny an individual who is harmed in a national disaster the right to claim assistance for anything, in-

cluding the reduction of life-threatening risks, emergency medical care, food, housing, etc. So what people saw on their TV screens, what many of us suffered after hurricane Katrina, as horrendous and nightmarish as it was, was never illegal under U.S. laws.

The governmental response has been determined to be out of compliance with the human rights treaties that have been ratified, namely, the International Convention on Civil and Political Rights [and] the CERD Convention—the Convention on the Elimination of All Forms of Racial Discrimination. One of the other areas we are working on is getting U.S. adoption of the human rights standard for issues of displacement and major disasters, which is called the U.N. Guiding Principles on Internal Displacement. For us, human rights is extremely important in saving the people who are subjected to displacement, whether it's from an environmental hazard or governmental decision that ignores the right to recovery in the event of a national disaster.

**Martha:** Let me turn to Cheryl then and ask you to tell us about the interesting work that is going on at Maryland Legal Aid and what you've found it means to use a human rights framework in the advocacy that you do there.

**Cheryl:** Thank you. It's very interesting to hear what other folks have been doing. We're somewhat different. We're a statewide legal services program, and we're [Legal Services Corporation—]funded; we do everyday legal work, and we struggled with this question of what does it mean to have a human rights framework. It means different things to different people even within our organization, and so it is really important to define what it means. We've broken it into three different components that helped us figure out how we want to use a human rights framework.

The first, and I think the biggest piece that has been very helpful to us, is just thinking about human rights as values and that those values remind us to treat all humans with dignity and fairness and equality and all those things we've all worked for, for many years, but haven't

really talked about in the human rights context. That's something that's resonated with our staff, with our clients, with people that we talk to about human rights. People get the human rights values. It's very important, and it really resonates with people.

The second piece is human rights as laws and as the treaties and tools and like Chandra was mentioning. It's a whole other set of tools that we've realized we can use for our clients.

The third piece of it is really human rights as a broader movement that we didn't even realize existed. There are all these groups and people working out there on human rights issues. If we start talking about traditional legal services issues that we've worked [on] for many years as human right issues—because that's what they are—we can connect with a whole group of folks that we've never worked with before. So that's how we've articulated for ourselves what having a human rights framework means. And I just want to give you a couple [of] simple examples of how we've used it.

We recently filed a few complaints with our state Department of Education on behalf of foster children we represent who were denied various educational rights. As part of the complaint we talked about some of the rights that are guaranteed in the Convention on the Rights of the Child, even though this is not a treaty that the United States has ratified. But we used it to help flesh out our argument and to make the points we wanted to make. And, somewhat to our surprise, we found that state officials are very interested in and intrigued by our human rights arguments. We thought they would somewhat ignore [them] and just not pay attention to [them].

We've over and over again been surprised by the responses that we've gotten when we've raised human rights arguments, in forums where you wouldn't necessarily expect that people would be receptive to them. This is relatively new for us, so we're still working on ideas of how to keep raising these issues. Complaints we've filed with the state Department of Education are still winding their way

through, but so far we feel like it's had an impact on our advocacy in a positive way.

We're also working on some amicus briefs on housing issues, and we're using the standards in some of the international treaties to argue how the Maryland appellate court should rule on particular housing issues. We're finding [these standards] very helpful in how we look at cases, how we frame our arguments. Even if we decide not to cite [...] an international treaty, we've taken language from treaties because the language is very powerful, and we've used that to help our state-law arguments. So these are just a few examples of how we've been trying to incorporate the work into our "everyday legal aid" work.

**Martha:** Thanks, Cheryl; those are great examples. Now let me turn to Sarah Paoletti and ask, How have you used human rights frameworks in your work? And maybe give us a couple of examples.

**Sarah:** My perspective is informed by my experiences as an attorney for migrant farmworkers in Pennsylvania with the statewide non-LSC-funded program for many years. But I now come from the perspective of an international human rights clinical program where this *is* what we do. Some of what you're hearing is that the human rights framework really does provide us a more expansive paradigm for thinking about our clients' rights, in a way that speaks to their experiences and their desires and is grounded in notions of dignity and respect for individuals just because they are human beings.

I'll talk just a little bit in the context of discrimination. Often when I was doing farmworker representation, my frame of reference was, OK, if you're trying to make a discrimination claim (and it was *often* in their minds framed in the context of discrimination) under U.S. law or under state law, are there fifteen or more employees for twenty or more weeks for coverage under the EEOC [Equal Employment Opportunity Commission], which doesn't always happen in agriculture in Pennsylvania. And how can I make out a disparate impact claim when the *entire* workforce is Mexican or the *entire* workforce is Guatemalan. I found that

to be very difficult. And ensuring access to remedies in discrimination claims became all the more difficult after the [U.S.] Supreme Court *Hoffman Plastics* decision that denied back pay to a worker fired for engaging in concerted protected activity. And so we've been trying to raise the issue of nondiscrimination toward migrant workers at the international level more holistically, raising specific issues around statutory exclusions for agricultural and domestic workers and talking about LSC restrictions and barriers to the judicial system as denial of remedies in the post-*Hoffman* era. The International Convention on the Elimination of Racial Discrimination, the International Covenant on Civil and Political Rights, the Universal Declaration on Human Rights, the Inter-American declaration, *all* these have a much broader definition of discrimination than U.S. law. And these treaties create an affirmative obligation on the government to remedy discrimination. So even though most of the actions that we see in the context of employment are at the hands of individual employers, what affirmative obligation does the government have?

And so with Chandra and his colleagues at the ACLU and the National Employment Law Project we filed a complaint at the Inter-American Commission on Human Rights raising the issue of the rights of undocumented workers in the United States post-*Hoffman*. There's a very strong decision out of the Inter-American Court on Human Rights recognizing the right to nondiscrimination in all aspects of employment. We've also raised these issues before the Committee on the Elimination of Racial Discrimination as well in looking at the right to freedom of association, access to the judiciary and the justice system under the International Covenant on Civil and Political Rights. And we've gotten very strong language out of the Committee on the Elimination of Racial Discrimination calling for a legislative fix to *Hoffman*.

When you start engaging in the human rights framework, I think you start finding different allies in recognition of the multiplicities of discrimination, link-

ing one person's struggle to another's and finding ways to bring those together. There was synergy that resulted in the [U.S.] Department of Labor recently re-issuing a memorandum of understanding with the [U.S.] Department of Homeland Security, with ICE [U.S. Immigration and Customs Enforcement], that establishes a firewall between labor law enforcement and immigration law enforcement, which we've been asking for before the international bodies for a long time. So using the human rights framework is trying to think strategically about how we can go back to thinking about concepts of human dignity under this broader paradigm.

**Martha:** That's great, Sarah. Thanks. So we've heard about four pretty different practices and how folks have used human rights in their advocacy. I want to just say a word about the national context. I'm sure many of you know or may have read about the attacks on judicial consideration of foreign and international law, which began a few years ago in the federal arena and now have shifted to state courts. In the past few months more than twenty states have considered statutes or constitutional amendments that would bar consideration of international law, including human rights law, by state court judges. I wanted to just make a few points about this context. First, as we've heard particularly from Chandra, but also from Sarah, Monique, and Cheryl, the human rights advocacy they're involved in does not only involve litigation. So of course the campaign to bar international law in state court only would affect litigation, and there are other strategies. But, second, I'm also finding that these proposals have started to open up a dialogue about the extent to which international law and foreign law already permeate our legal system, so there's kind of a silver lining. Many states that are looking at this are finding that it is impossible to bar international foreign law from the courts without damaging the legal system. So while there's a lot of concern in the short term about this wave of activity, I predict in the long term that it is not going to stick. While I don't want to minimize the chilling effect in the short

term and the impact it can have on advocates, I would be surprised if it went very far at all.

Having said that, I wanted to turn back to the panelists and ask about the human rights framework. One thing that strikes me is that we've been using the term "framework" as we've been talking about it. How do you respond to skeptics about this approach? One of the things that I've heard is the question, Is this really law? Or is this just a framing device? And if it is law, is there something different about how you use human rights law [from] how you would use some other legal tool? Is there something different, or a different kind of mind-set, that advocates need to have when using human rights law? And how do you translate these arguments into making a difference on the ground, particularly in terms of enforcement? Anybody want to volunteer?

**Chandra:** It is law. There are three primary sources of international law: treaties, customary international law, and then what's called "standards, principles, and U.N. resolutions," which are otherwise referred to as "soft law." Customary international law essentially is the evolving jurisprudence of nations around the world. The U.S. [Supreme Court], most recently, in a case called *Sosa v. Alvarez-Machain*, held that a narrow class of specific international norms remains enforceable in domestic courts. I'll just read a short excerpt: "For two centuries we have affirmed that the domestic law of the United States recognizes the law of nations.... It would take some explaining to say now that federal courts must avert their gaze entirely from any international norm intended to protect individuals." So customary international law is truly our law. Treaties, via the supremacy clause of the U.S. Constitution, are the supreme law of the land. Now you don't have a private right of action, you cannot sue based upon a violation of the Covenant on Civil and Political Rights or the Convention on the Elimination of Racial Discrimination. However, you can in a persuasive context cite ... these international instruments. And, often in the form of amicus briefs, the [U.S.] Supreme Court has considered the relevant

international standard of instruments that the U.S. has signed and ratified as well as some instruments that the U.S. has not signed and ratified.

There are two primary ways to incorporate human rights in litigation: directly and indirectly. The direct application can come in the form of statutes: the Alien Tort Statute, the Torture Victims Protection Act, the Trafficking Victims Protection Act, and the Foreign Affairs and Foreign Restructuring Act. And there's also 1983. The "and laws" provision of 1983 can be used creatively in some circumstances to invoke international law. Then there's indirect application; there's a principle of statutory interpretation from a case called *Charming Betsy* from 1804, where you can use international law to inform the interpretation of state and federal constitutions and other law. The opinion by Justice Marshall was that when it's unclear what the framers of a congressional statute intended, that statute should be construed consistent with the "law of nations." The irony of all this is that the folks who are advocating that judges should not be allowed to consider international or foreign law, and consider themselves defenders of the Constitution, their position could not be further from the origins of American constitutionalism because, in the wake of the creation of a new country, judges routinely considered international and foreign law. So it's ahistorical to be making these arguments, and it would cause chaos in the courts if judges were not able to consider foreign law as well as international law and ratified treaties.

**Martha:** Cheryl, you said that legal aid societies are actually using human rights law in their litigation. How do you decide when to use it?

**Cheryl:** I want to say something before I go into that, in relation to your question about how do you raise these things in state court. I think everything Chandra said is really helpful and valuable, but the push-back we got in our program, and other folks doing this might get, is that we go into court and can't even get judges to listen to what state law says, so how are we going to get them to pay attention to

this international law that is totally foreign to them? Sometimes in our state courts the judges have been known to say that they don't even want to look at federal law because they don't think that it applies to them. So it is a challenge in the practical reality of trying to raise these issues in individual cases. We haven't been raising human rights law in litigation on a day-to-day basis yet partly because this is a relatively new thing for us. We're still trying to figure out what makes sense in terms of when to raise it and given what I just said about the reality on the ground of walking into rent court and trying to make an argument to the judge who doesn't even want to hear any legal argument much less an international law argument. We've raised the issue more often in policy work where human rights treaties and human rights law has been very valuable to us, when we have been doing legislative work, when we've been commenting on policy decisions that are being made by state government. It fits really easily in the policy context. We've included the arguments in complaints that we've filed with the state Department of Education, but that's an administrative proceeding and not court litigation. We're really treading carefully on how we're going to raise it in state court. We are doing an amicus brief, which is a great way, I think Chandra mentioned, of raising these issues [...] because you can say a lot of things in amicus briefs that you may not want to say if you are representing a party in a case.

**Martha:** So you can start to educate the court about this as well.

**Cheryl:** Yes, starting to educate the court, starting to have people think about these ideas. But we are looking carefully at our practice areas and trying to develop strategies where we think raising human rights law or referencing human rights law would add value. It's one of the things that several folks suggested when we first started this: "Think about the human rights aspect, think about human rights law, help that frame your argument." But you really need to think about what value it's adding to this particular case, and does it make sense to articulate the human rights statute to the court if you think

it's going to turn them off to your argument. So you have to consider your audience. We don't want to raise it in a context where it actually gets us a lot of negative feedback; we're treading a little lightly, I would say, particularly in the state court trial context. We're not as convinced that judges will be open to it. It's quite interesting, we're getting great responses from clients that we talk to, our other legal services partners, funders—everyone else in the world seems to be really open to human rights arguments. From the judges, the feedback is not quite as positive. We're hoping; we're pushing in that direction.

**Martha:** One thing that has happened is that there is more attention to this in law schools, which will make a difference in the long run in terms of judges and their clerks.

**Cheryl:** That's a wonderful point that I wanted to make as well. One of the things that none of us realized that this would add to our program: so many people are learning about human rights law in law school that it's amazing all the great folks who've applied to work with us because they know we're focusing on human rights. We're getting wonderful applicants with great ideas and I do think that it shows a progressive recognition of human rights in the United States. A lot of judges that have been on the bench for thirty years learned nothing about human rights when they were in law school, and it's a very foreign concept to them.

**Martha:** Monique, I mentioned enforcement earlier, and I was particularly thinking of you because you're using human rights law before the Inter-American Commission to address a gap in U.S. law. What's your plan for enforcement when you get a good decision from the Inter-American Commission?

**Monique:** We have an enforcement strategy. I don't want to give all of it away. As anyone can imagine, *Brown v. Board* from the Supreme Court of the United States needed a massive enforcement strategy, and, I think, [on] the nascent work around achieving human rights remedies through litigation and other forms of advocacy such as going before United

Nations treaty monitoring bodies, each effort—you can't just end the work with preparing and filing a great complaint. It's got to also include an enforcement strategy. So we've developed and continued to revise and sharpen the enforcement strategies we're planning for both the Mosswood human rights case and the work toward getting the U.S. government to comply with the concluding observations of not one but two treaty monitoring bodies calling on our government to apply domestically the U.N. guiding principles on internal displacement in the event of national disasters. Part of the enforcement strategy has got to overcome the challenge that we all have as residents of the United States, which is that it's not part of our formal or informal education. Connecting people who understand, live with, have some experience with the issues at the center of the human rights complaint is extremely important. Being able to get as many advocacy organizations, research groups, organizations that focus on public awareness campaigns and education programs to file amicus briefs or supporting documents [is] a way they can get more experience with applying human rights standards to the work that they're doing, but also in connection with a particular case or issue. I think also that an understanding of the history of the U.S. government's reliance or dependence on human rights decisions is extremely important to have and to educate people about. A lot of people may not be aware of the number of times under both Democratic-controlled and Republican-controlled congressional sessions, [from] both the Senate and the House, the number of resolutions that have reenforced the decisions made by the Inter-American Commission on Human Rights, as well as federal laws that actually have provisions that defer to decisions by the Inter-American Commission. So there needs to be a strategy for enforcement, and it needs to ensure that you are able to reach a critical mass of support within the affected communities and people who have some experience with the justice issues as the center of the human rights work that you are leading.

**Martha:** You don't really see it as qualitatively different from the kind of enforcement that you do for other kinds of litigation?

**Monique:** I think, with any kind of litigation brought in support of the dignity of people or a person who has historically suffered marginalization in this country, it's always going to be different. Case in point would be the people who have been on death row with no evidence showing they are at all guilty, and they are caught in this dilemma where they have a judgment saying they should be compensated, but the work by the criminal justice system or the state attorneys general or prosecutors has been to stymie, block, create barriers to receiving that compensation; so how do you get just enforcement in situations like that? So, for folks who have dedicated themselves to public interest law, enforcement is always going to be an issue, and I don't really see it any different in the context of domestic law versus human rights law. It has to be part of any dedication of resources toward a legal case or advocacy campaign.

**Martha:** We've also been getting a lot of questions from folks who are online here. I'm just looking at one that maybe Sarah can speak to. The question is, Are any of the folks on the panel, or their organizations, taking steps to push the presidential administration and Congress to not only ratify human rights treaties that are outstanding but also implement human rights domestically?

**Sarah:** So much, yes. I think that my pitch to the legal services community has been that legal services attorneys are in a unique position and can play a critical role in translating their clients' stories into international human rights advocacy and vice versa. Many people are happy to help in that translation process, but I think it's the frontline legal services attorneys who really see where the domestic law falls short. I hope that we'll be able to continue this dialogue and advance some of those discussions so you don't have to be doing a case at the Inter-American Commission or filing a complaint or a report with the U.N. to think about how to use the framework

or try to come up with a way to convince a judge to rule on a human rights argument in a piece of litigation. There are many ways to think about how to use mechanisms and the framework and the different roles that people can play—which brings me to the question about domestic implementation and treaty ratification.

The United States went through its review on November 5th before the U.N. Human Rights Council, the Universal Periodic Review, that all 192 member countries of the United Nations go through. This was the United States' first ever review process. This administration, led by the State Department and the Justice Department, saw their participation in the Universal Periodic Review as an opportunity to reengage with the Human Rights Council in ways that the Bush administration had affirmatively not, and to demonstrate the value of civil society engagement to a free and open democracy as their foreign policy agenda. They conducted eleven consultations in cities across the country, that were held, I think, as listening sessions more than as consultations with the give-and-take that advocates hoped for. People came and brought together representatives from almost all of the federal agencies, representatives from state and local government, although we'd like to see more of that, with the advocacy community from those cities or with expertise in the particular subject. Monique was involved in one in New Orleans, which was the first one. Through that process I think we gained a different level of access with federal agencies and we really pushed for an interagency working group and so had representatives from the Department of Justice at all the consultations in D.C. and nationally as well as participating in the review in Geneva. We had representatives from HUD, from Department of Labor, from Department of Education, Department of the Interior, Department of Homeland Security. The goals were to coordinate civil society participation and push for transparency and accountability throughout this process. I think we gained a certain level of transparency, and we continue to push for accountability. Part of that push involves an executive order from the Obama ad-

ministration that will formally establish an interagency working group to address international human rights issues, to look at our treaty obligations throughout the federal agencies, and then see what role the agencies should play in coordinating with state and local agencies in implementing our human rights treaty obligations. Probably the biggest recommendation made to the United States was the establishment of a national independent human rights institution. What form that takes is up for discussion, and that may be something that would require congressional action, as opposed to the executive order. But there is a push with this administration and a hope that there are people who are sympathetic and friendly, although that has not borne fruit in the ways that we had hoped, that we could see some real movement. I do think that involvement around the Universal Periodic Review has changed the dialogue within the agencies, changed the way some of the agencies talk about human rights. Now more people within the agencies know that there is a human rights framework, know what the Universal Declaration on Human Rights is, know that housing is included in that, and the right to access to health care, and the right to dignity through work, and the whole host of rights is part of our international human rights obligations.

**Martha:** Sarah, I'm going to jump in here and see if we can get one more question. A couple of questions have come in about housing and human rights, asking for some concrete examples of using human rights in housing litigation and housing advocacy. Another question is on health [care] access and human rights. And one thing I think that those questions together raise is, If you think about those areas, do you have suggestions about how someone might approach them? I'll open it up to anybody.

**Chandra:** I have a quick story that might be helpful. We worked with the ACLU of Puerto Rico and local activists on behalf of a community of Dominican migrants who were "squatting" on land owned by the Commonwealth of Puerto Rico after they were displaced by Hurricane George in the late '90s. They built the commu-

nity from scratch in the suburbs of San Juan. It was primarily single women-headed households, about 200 families and 300 children, really a thriving working-class community. The government showed up one day with police and tanks and tried to forcibly evict the community, telling them they were located on a floodplain and they had to get out of there. The community nonviolently resisted; the police were really brutal, using teargas and bulldozers. Because the residents didn't have title to the land, they were unable to prevail in the commonwealth courts. And the government cut off the water and electricity at a time when swine flu and dengue fever were running rampant. If you don't have running water, you have to collect rainwater in vats, and mosquitoes hatch eggs on top of that rainwater and you can get dengue fever, which can be fatal. If you can't wash your hands, you are more likely to get swine flu. And unsurprisingly an infant got swine flu within weeks and almost died. A woman got dengue fever twice, almost died. We worked with the Washington College of Law human rights clinic and the ACLU of Puerto Rico and the local community to submit a request for precautionary measures, essentially asking for a temporary injunction at the Inter-American Commission on Human Rights. But we also gave an advance copy of the brief to the Associated Press. They interviewed people in the community, they documented the horrible conditions, the fact that people were bathing in an industrial canal, were drinking water from that canal that they purified with bleach because they didn't have any other water. April 28th last year we filed the complaint at 1:00 in the afternoon.

Two hours later the AP ran a story on 100 outlets worldwide. The governor of Puerto Rico happened to be in D.C., lobbying for international investment and Puerto Rico's status, etc. Because of the bad publicity that night the water in the community was resumed. That was an example of combining the human rights litigation with realizing that the public attention and the media component to that [are] going to be crucial.

**Martha:** Any last comments on housing or access to health? I think we only have about a minute here.

**Cheryl:** We've been working closely with the National Law Center on Homelessness and Poverty, and they focus on housing and human rights issues. They've been a great help to us with identifying issues and trying to figure out how to frame our human rights arguments. We've been working on source-of-income discrimination, which we see as a human rights issue—landlords that refuse to rent to people with Section 8 vouchers. There's been a lot of movement and coalition building in Maryland to try to change the law to prohibit that. And we came close to getting it through the state legislature during the last session; we're hoping that maybe it will make it through in the coming year.

**Martha:** Thanks to all the panelists.

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