

Justice Initiative Fellows Newsletter 2004

Almost a year has passed since the first Fellows Newsletter was launched by the Justice Initiative. Herewith we wish to continue a good tradition—informing each other about significant developments and welcoming a new generation of Fellows to the network. In this issue you will find information about new Fellows, updates on the projects carried out by the Fellows and their organizations, and an account of the network event—the Fellows Retreat 2004. We hope it will serve to keep the spirit of the network burning.

Our thanks go out to all Fellows, program partners and staff who contributed to this issue. Any ideas, suggestions or information regarding this and future newsletters will be gratefully received and considered—to make the next issue even better.

Please send comments to Rita Bakradze at rbakradze@osi.hu.

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Justice Initiative Fellows Program 2004-2005

Fellows will spend a year at the Central European University (CEU), with Justice Initiative backing, followed by a year in their home countries with a sponsor NGO.

Achieng Maureen Akena, Botswana

Ms. Akena is Activism Program Officer at DITSHWANELO—The Botswana Center for Human Rights. DITSHWANELO is an advocacy organization working to promote and protect human rights in Botswana, specifically for marginalized and powerless communities. Its main focus areas are access to justice, indigenous peoples' rights, the death penalty, gay rights, and strategic human rights litigation. DITSHWANELO works primarily on local issues, but its activities also extend to the regional and international levels. It engages with human rights mechanisms, such as the African Commission on Human and Peoples' Rights and the UN Committee on the Elimination of Racial Discrimination. DITSHWANELO is also a member of the Coalition for an Effective African Court on Human and Peoples' Rights. This will be Ms. Akena's area of activity when she returns to the organization in 2005.

Katarzyna Czepelak, Poland

Ms. Czepelak graduated in 2003 with a law degree from the Jagiellonian University in Krakow, Poland, having completed a Master's thesis entitled "The creation of the International Criminal Tribunal for the Former Yugoslavia and its impact on the development of international criminal procedure." Human rights have been Ms. Czepelak's main interest since her second year at the university, when she was a member of the Jagiellonian University Human Rights Legal Clinic Program. Her work in the clinic included representing asylum seekers in the refugee application procedure and counseling in the Legal Clinic Office. She also drafted appeals of administrative decisions, claims to the Supreme Administrative Court, and individual complaints to the European Court of Human Rights. Currently, Ms. Czepelak is a member of the Halina Niec Human Rights Association and Head of the Dean's Office at Andrzej Frycz Modrzewski Cracow College, a private university where she has been since 2003.

Valnora Edwin, Sierra Leone

Ms. Edwin is Program Manager for Human Rights Department at the Campaign for Good Governance, a Sierra Leonean nongovernmental organization devoted to governance issues, with a special emphasis on human rights, decentralization, corruption and elections. She is also vice-chair of the National Forum of Human Rights, a coalition of nongovernmental human rights organizations with national coverage. Upon her return to Sierra Leone, she intends to work on women's rights and to combat discrimination against female children. She will also continue to manage the human rights division of the Campaign for Good Governance.

Patricia Hernandez Ruiz, Mexico

Ms. Hernandez has collaborated for the past two years with the National Center for State Courts (NCSC) in Mexico. The NCSC is an international, nongovernmental organization dedicated to judicial training and the optimization of court resources, with an emphasis on human rights and access to justice. While working with the NCSC, Ms. Hernandez conducted case-flow diagnostics and court management studies in two Mexican judiciaries. She is also a professor at the Centro de Investigación y Docencia Económica, where she will develop a Human Rights Clinic after leaving the CEU.

Didace Kanyugu, Burundi

Mr. Kanyugu obtained a law degree from the University of Burundi in 2001. He also holds a Diploma in Transitional Justice, following a six-month Fellowship Program jointly organized by the Institute for Justice and Reconciliation in Cape Town, the International Center for Transitional Justice in New York and the University of Cape Town. The program concentrated on justice and reconciliation, good governance, democracy and the constitution-making process in countries emerging from periods of conflict or dictatorship characterized by gross human rights violations. From 2000, Mr. Kanyugu worked as a magistrate in the Bujumbura Court. Since August 2003, he has also worked on a volunteer basis as a project designer for Action by Christians for the Abolition of Torture (ACAT-Burundi), a non-profit organization. He has focused particularly on projects in justice and reconciliation, peace education, prison monitoring, human rights education and legislative advocacy.

Zahra Maranlou, Iran

After graduating in law, Ms. Maranlou started working as a journalist, writing legal columns in an Iranian reformist newspaper. In 1999, she was a candidate for Best Iranian Journalist in Society and Critics. As a legal advisor and researcher with the Iran NGOs Initiative, she worked on law reform relating to NGOs, women's rights, and helped create a databank of Iranian human rights NGOs, an endowment organization, and guidelines for NGO registration. She has published more than 100 articles in books, journals, and newspapers. Ms. Maranlou was made responsible for Iranian civil society organizations as part of the UN's Millennium Development Goals, and she established Hope Millennium Development, an organization working for development through civil society and the private sector. She also serves as Board Director of Citizen House. She is interested in development and citizenship rights, as a means to increase participation.

Nzovu Job Ruzage, Rwanda

Mr. Ruzage graduated from the Rwanda National University in 1999 with an LL.B. He has published articles on the sexual harassment of Rwandan women at the workplace, and on reproductive health as a human rights concern. Having witnessed the 1994 genocide, Mr. Ruzage decided to fight for the rights of the vulnerable, particularly women and children. His first steps were to highlight their plight by writing articles in newspapers and later helping some start nongovernmental organizations, such as the leading women's umbrella group, "HAGURUKA" (which means "standing up for your rights"). Mr. Nzovu Job Ruzage monitored Rwanda's compliance with the International Convention on Civil and Political Rights during the genocide trials. He is an activist with a commitment to fighting for progressive causes through legislation, policy and

grassroots organization. Mr. Ruzage's long-term goal is to make a contribution of original ideas in the field of human rights, and to translate those ideas into action with a view to ending injustice.

Mohamed L. Suma, Sierra Leone

Mr. Suma holds a BA in History and Sociology (2002) from the University of Sierra Leone. His experiences of constant egregious abuses of human rights in the decade-long civil conflict in his country spawned his desire to join the campaign against injustice. After some initial training, he joined the Special Court for Sierra Leone in October 2002, and was one of the founders of its Outreach Section. He worked with several civil society groups and assisted in the launch of several outreach programs, including the Accountability Now Clubs (ANCs). The ANCs are student-based programs established at colleges in Sierra Leone that train students to understand issues related to justice, the rule of law, human rights, good governance, and accountability, and to become volunteers integral to the Court's outreach efforts. Mr. Suma has also been a volunteer at the Post-conflict Reintegration Initiative for Development and Empowerment (PRIDE) since its establishment. Mr. Suma will return to PRIDE to work with young people in Sierra Leonean communities upon his graduation.

Michael Utsaha, Nigeria

Mr. Utsaha graduated from the Government College Makurdi in Benue State, Nigeria, in 1987. He obtained an LL.B at the University of Jos in Nigeria's Plateau State in 1994, and was called to the Nigerian Bar and enrolled as a solicitor and advocate of the Supreme Court of Nigeria in 1995. Further studies included at the European University Center for Peace Studies in Austria, and the International Law Summer School at the University of Pretoria, South Africa. Mr. Utsaha was a solicitor and advocate at M.A. Abubakar & Co. Bauchi from 1996 to 2002. He was also a member of the legal team representing the Benue State Government at the Commission of Inquiry into Inter-communal Conflicts in Benue, Nassarawa, Taraba and the Plateau State from April to November 2002, and has been a program officer at the Center for Democracy and Development since 2003. Mr. Michael Utsaha has also had responsibilities in several organizations, such as the Human Rights Committee and Editorial Board Committee of the Nigeria Bar Association, the Justice Development and Peace Commission, the Legal Defence and Assistance Project, Women in Nigeria, and the International Society for the Reform of Criminal Law.

Marta Villarreal, Mexico

Ms. Villarreal is a human rights advocate at Sin Fronteras, I.A.P., a nongovernmental organization devoted to promoting and protecting the rights of migrants and refugees. She is responsible for legal representation in individual cases and participates in case documentation. She is also very involved in the pilot Public Interest Law Clinic, conducted by the Department of Law at the Instituto Tecnológico Autónomo de México (ITAM), in coordination with Sin Fronteras. On her return to Mexico, she will continue to disseminate educational and litigation tools, in order to make migrants' rights effective. She is especially interested in due process and personal freedom.

PILI/Justice Initiative Public Interest Law Fellows at Columbia University School of Law

These Fellows will study at Colombia University, sponsored by the Public Interest Law Initiative in partnership with the Justice Initiative, for one year before returning to take up work with an NGO in their home countries.

Dezideriu Gergely, Romania

Mr. Gergely was born into a mixed family (to a Hungarian-Roma father and Romanian mother), and has a law degree from the Babes Bolyai University in Cluj Napoca, Romania. At present, he is a private lawyer, a member of the Bucharest Bar Association, and Head of the Human Rights Department of the nongovernmental Romani CRISS, the Roma Center for Social Intervention and Studies in Bucharest. He is a former local monitor in Romania for the European Roma Rights Center. Presently, at Romani CRISS, he is involved in a number of projects focusing on Roma rights in Romania and other European countries. He trains Romanian police officers and NGO activists on human rights issues. Additionally, he has authored two publications: “Good Practices: Compilation of Court Cases of Discrimination against Roma in Access to Public Places, Roma and the Council of Europe’s Framework Convention for the Protection of National Minorities,” and “Good Practices: Specialized Mechanisms for Combating Discrimination: United Kingdom and Romania.” At Columbia, Mr. Gergely will work on a project entitled “Combating discrimination against Roma through strategic advocacy—The case of Roma from Romania.” For the second year of his fellowship, Mr. Gergely will return to Romania and continue his work at Romani CRISS.

Liana Haroyan, Armenia

Ms. Haroyan graduated from law school in 1998. In 1999, she started to work at the Free Legal Aid Center of the Bar Association of the Republic of Armenia (BARA) as a Legal Assistant and, from 2000 to 2003, as a Legal Adviser. In 2003, she began working with the American Bar Association’s Central European and Eurasian Law Initiative (ABA/CEELI), assisting the Human Rights Commission attached to President of Armenia. Since January 2004, she has been working for the Media Law Institute (MLI) as senior legal counselor. She also manages MLI’s strategic litigation project and provides legal expertise to the media. At the same time, Ms. Haroyan protects the legitimate interests of individuals from false and libelous publications, and from intrusions into their private life. While at the Colombia University School of Law, Ms. Haroyan will be researching “International Experience for Assisting the Media through Strategic Litigation and Comparative Analysis of Existing Regulations.” For the second year of the fellowship program, Ms. Haroyan will return to Armenia and the Media Law Institute.

Sukhrob Ismoilov, Uzbekistan

Mr. Ismoilov received his Bachelor’s degree in International Public Law at the Tashkent University of World Economy and Diplomacy in 2001, where his studies focused on national, international and human rights law. Mr. Ismoilov is currently employed as

Human Rights Officer at the Freedom House Uzbekistan Program. In this capacity, he has experience in providing consultations for human rights defenders and Uzbek citizens on legal and other issues, and assisting them in developing communications and complaints to bring before national and international bodies. Mr. Ismoilov has also designed and implemented human rights training events, and has experience in grants program management and coordination. His background includes coordinating the Emergency Response Program for human rights activists, assessing the needs of human rights defenders in Uzbekistan and designing capacity building programs for them. The topic of Mr. Ismoilov's proposed project while at Columbia is "Freedom of religion and conscience in Uzbekistan." For the second year of his fellowship program, Mr. Ismoilov will be returning to Uzbekistan to work with the 'E'ZGULIK, Human Rights Society of Uzbekistan.

Diana Miladinovic, Serbia

Ms. Miladinovic completed law school in Belgrade in 1998. She is currently pursuing post-graduate studies in International Public Law. She also holds a degree in Gender Studies from the Center for Gender Studies in Belgrade. Since 2000, Ms. Miladinovic has been working with the Autonomous Women's Center (AWC) in Belgrade, where she is one of the co-founders and coordinators of the AWC's legal group, Justicia. This group provides pro bono legal aid for women victims of gender violence, including legal advice and counseling, representation of victims in court, and maintenance of a database of cases. While at Columbia, Ms. Miladinovic will work on a project to develop collaboration between NGOs and state institutions dealing with violence against women, including the courts, the prosecutor's office, the police, social workers, and medical institutions. By basing her project on the situation in Serbia and working to establish intensive and permanent collaboration between institutions, her research will contribute to an action plan to help women who have survived violence and urgently need institutional protection. Ms. Miladinovic will continue her work at the AWC and Justicia upon her return to Serbia for the second year of her fellowship.

Alesya Vidruk, Belarus

Ms. Alesya Vidruk graduated from the Belarusian State University Law Faculty in 1999. Since 1998, she has worked as a lawyer at the Independent Society for Legal Research, presently known as the Foundation for Legal Technologies. Ms. Vidruk's main duties at the organization included consulting on the creation of public associations, representing individuals in courts, and organizing and holding educational seminars on human rights matters. Since 2000, Ms. Vidruk has assumed the role of a trustee at the organization. She was selected to head of the Access to Justice Department in 2003. At Columbia, Ms. Vidruk will be working on a project devoted to access to justice. Ms. Vidruk will continue her work at the Foundation for Legal Technologies upon her return to Belarus in 2005.

Human Rights Fellows Program for Angola and Mozambique 2004-2005

Fellows from Angola and Mozambique will study in the University of Sao Paulo, Brazil, for eight months, followed by a year with their nominating NGO at home.

Manuel Bartolomeu da Costa, Angola

Mr. Da Costa spent the last four years working for the Angolan government, writing reports on human rights violations. He also worked two years as the editorial coordinator of a radio station and four years as a freelance journalist for *Voz de America, Jornal Notícias*, and *Semanário Angolense*. His research experience includes studying the human rights situation in Cabinda, and he has published two reports on the situation: "Terror in Cabinda" (2002) and "Cabinda, A Year of Mourning and Pain." Mr. Da Costa's host organization is Mpalabanda, which seeks, as he does, to involve the media in the struggle for human rights.

André Dambi, Angola

Mr. Dambi worked at the Instituto Politécnico N'Galula Tonet as Director of the Legal Department from 1999 to 2000. In 1999, he attended courses on computer science and on international contract law in Cuba. Currently, Mr. Dambi works at an NGO, Mãos Livres—Associação de Juristas e Jornalistas na Defesa e Difusão dos Direitos Humanos e da Cidadania, where he coordinates a project on criminal law and prison reform.

José Patrocínio, Angola

Mr. Patrocínio's involvement in human rights began in 1995, when he worked for a media group on behalf of displaced persons. Since 1998, he has worked for an NGO, Okutiuka—Acção para a Vida, focusing on the rights of street children. Through this project he promoted the drafting of a Constitution for a network of street children in Lobito. In 2001, Mr. Patrocínio co-promoted a campaign for free education, and developed activities for the American NGO, World Learning. Besides developing human rights training programs in Angola, he has also been involved in projects for the rights of displaced people in Caimbambo and Chongoroi, helping to solicit stronger intervention from the World Food Program and UNICEF. During the first year of his fellowship, Mr. Patrocínio will research the formal and informal mechanisms of protection for children and adolescents in street life situations, focusing specifically on those mechanisms developed by children themselves.

Unaiy da Costa Fortuna Jaime, Mozambique

Ms. Da Costa Fortuna Jaime is a human rights advocate at Muleide, the Women's Association of Law and Development, a nongovernmental Mozambican organization promoting a vision of a society respectful of gender equality. The association aims to promote a culture of human rights, especially women's rights, by explaining the rights of Mozambican women. To further their efforts, Muleide helps women advocate for the repeal of laws that discriminate against them or hinder their participation in society. Ms. Da Costa Fortuna Jaime intends to work on a campaign for the education of teenagers on human rights issues.

The Sutyajnik Update

By Anton Burkov, PILI/Justice Initiative Fellow (2001-2003)

1. Happy Birthday, Sutyajnik!

Sutyajnik, a nongovernmental human rights organization founded in Yekaterinburg, Russia, in 1994, has released its 2003 Annual Report, “WE ARE TEN,” a comprehensive overview of work completed in its tenth year of operations. As a resource center for many nongovernmental public interest groups from the Urals region, Sutyajnik provides free legal defense of the rights and interests of citizens and their associations. The report features an introduction by Tatyana Merzlyakova, the ombudsman of Sverdlovsk oblast, and provides information on the three main areas of Sutyajnik engagement: legal services, including legal counseling and human rights defense in both domestic and international forums; public education through sponsoring panels, seminars, media interviews, and publications; and other general projects.

For the complete report, please visit www.sutyajnik.ru/rus/reports/report_2003_eng.html.

2. A Russian represents France in the Model UN Conference

“Anton Burkov writes a fascinating account of his attendance at the Model UN Conference. As one of the Chevening scholar team, Anton was chosen to represent France at the Commission on Human Rights, although he is actually a native of Russia. This entailed some hard work to get up to speed with French foreign policy, and the whole experience provides a glimpse into the inner workings of international diplomacy.”

—Stephen Farnsworth, British Chevening Scholarships website.

For the essay, please visit http://www.sutyajnik.ru/rus/library/publizistica/model_UN_eng.html.

3. The European Court of Human Rights examines Russian rights to a fair trial and to association in *Sutyajnik v. Russia*

The European Court of Human Rights has accepted an application by Sutyajnik against the Russian state. Sutyajnik has charged the Russian Federation with violation of the right to a fair trial, laid down in Article 6 of the European Convention on Human Rights. The *Sutyajnik v. Russia* case is significant for Russian NGOs, because a 1995 law forced all NGOs in Russia to undergo a re-registration process.

For more details, please visit http://www.sutyajnik.ru/eng/news/2004/sutyajnik_v_russia.html.

4. Sutyajnik’s website is up and running

In March 2004, Sutyajnik launched a new website, www.sutyajnik.ru, which features human rights news from the News Agency Sutyajnik-Press, publications by Sutyajnik attorneys and interns, information on the cases, projects, and conferences, reports on human rights in the Urals, and legal advice. The 2002 and 2003 *Annual Reports* are

also posted on the website. Visitors can view photos, register complaints against Sutyajnik, read interviews, and find out what staff, the press, the Ombudsman of Sverdlovsk oblast, and the well-known Russian lexicographer, Vladimir Dal, think about Sutyajnik.

5. New publication: *The Right to a Fair Trial: European Standards and Russian Practice*

In June 2004, Sutyajnik published a book entitled *The Right to a Fair Trial: European Standards and Russian Practice*. This is the second volume in a series entitled “International Human Rights Protection.” The authors are Jeremy McBride, senior lecturer of Birmingham University and vice-president of the International Center for the Legal Protection of Human Rights, Anna Demeneva and Elena Goncharova, lawyers with Sutyajnik’s Urals Center for Constitutional and International Human Rights Protection, and Svetlana Muchambetova, a lawyer with Social Fund *Pravoborets*. The book contains legal analysis of Article 6 of the European Convention on Human Rights and Fundamental Freedoms and related judgments from the European Court of Human Rights. Also, several Russian authors explore Russian judicial practices and existing problems in the implementation of the right to a fair trial. The book is published in Russian.

For more details, in Russian only, please visit
<http://www.sutyajnik.ru/rus/library/sborniki/echr2/index.html>.

6. New publication: *The Russian Constitution—10 Years of Implementation*

This new book, published in August 2004, is dedicated to the ten year anniversary of Sutyajnik. Featuring an introduction by the well-known professor of Russian administrative law and member of the Sutyajnik’s board of directors, Demyan Bakhrakh, the book features the rulings of Russian courts, at a variety of levels and jurisdictions, on human rights cases brought or represented by Sutyajnik. The judgments all serve as examples of direct and effective implementation of the Russian Constitution, which is also ten years old. The book is edited by Anna Demeneva, attorney with Sutyajnik and post-graduate law student at the Urals State Law Academy, Russia, and Anton Burkov, attorney with Sutyajnik, lecturer in the Department of Administrative Law at the Urals State Law Academy, and postgraduate law student at the University of Essex, Colchester, UK. This book is published in Russian.

For more details, in Russian only, please refer to
http://www.sutyajnik.ru/rus/library/sborniki/konst_10_let_primen/index.html.

News from GONG—Croatia

By Ivna Bajsic, PILI/Justice Initiative Fellow (2002-2004)

1. Advocating for amendments to the electoral legal framework

After successfully implementing a campaign to ensure free and fair parliamentary elections last November, GONG dedicated more time to encouraging amendments to crucial election-related laws. Even though election conduct in Croatia has been brought to a high standard with respect to OSCE and EU recommendations, the legal framework still remains weak. GONG used the post-election period to advocate the amendment and initiation of five laws regulating the election process: the Laws On Voters' Lists, On State Election Commission as Permanent Body, and On Political Parties, the Election Law, and the Law On Political Party Financing. GONG is now strongly urging the Croatian government and parliament to carry out the necessary amendments before the forthcoming presidential and local government elections.

2. Sustainable Development in Return Areas—Civil Society Project/CARDS Program

During 2004 and 2005, GONG will repeat its partnership with CARE International and ZaMirNet to re-implement projects that were part of CARDS 2002 National Program for Croatia and funded by the European Commission. As a part of the Sustainable Development in Return Areas—Civil Society/SDRS-CS project, GONG will implement its activities over the course of eighteen months in various war-affected regions of Croatia. Those activities will mainly be Citizens' Hours, Open Parliament, I Vote for the First Time, public advocacy workshops and the organization of *Europe Day* celebrations. The project start date was May 15, 2004. It is expected to be finished by the end of October 2005.

3. Booklet about public administration

GONG received European Commission funds to create an easy-to-use guide to public administration in Croatia. The aim of the project is to help citizens of Croatia better understand the functioning of state institutions and public administration, empowering them to make full use of the mechanisms of human, social, political, economic, minority and civic rights protection. In order to inform and educate citizens about the governing system in Croatia and their role in relation to it, over a period of twelve months GONG will create and produce an easy to use informational booklet that will offer simple advice for citizens to use in their everyday communication with state institutions. The booklet will be created by means of extensive research and information collection. Besides being published, the booklet will also be posted on the GONG website and distributed to institutions, organizations, civic groups and public administration servants who are in everyday contact with citizens.

4. Croatian Constitutional Court abolishes election law provisions

Thanks to a GONG initiative, the Constitutional Court finally abolished certain articles of the election laws regulating the protection of rights in the election process. These articles were found unconstitutional by the court and were abolished after a year and a half-long review process. Until now Croatia's election laws have allowed only certain election participants—political parties, independent lists and candidates—to initiate a

process for protecting their election rights. Voters were excluded. GONG is now urging the Croatian Parliament to amend the articles in the election law to fall into line with the Court's decision.

5. Latest achievements in GONG's Parliament Program

"Citizens' Hours" are meetings between citizens and elected representatives of all levels, enabling citizens to communicate directly with politicians and learn more about the values of dialogue. Since 2001, GONG has organized over 500 Citizens' Hours with more than 10,000 citizens participating. Citizens can visit the Croatian Parliament for an educational tour or be present in the public gallery during parliamentary sessions. Since the beginning of the Open Parliament project, more than 10,000 citizens have visited the Croatian Parliament. Thanks to GONG's efforts, an internship program was initiated in Croatia for the first time. The program enables students and young professionals to volunteer in state institutions and get practical work experience. In the last three years, more than 100 young professionals have participated in the program.

6. Report on the Parliamentary "Golden Coat of Arms" award funds

At the end of 2003, GONG received Parliament's "The Golden Coat of Arms" Award for development of parliamentary values, democracy, promotion of tolerance and protection of human rights in Croatia. As promised, GONG used part of the award to finance travel costs for students and professors from 23 Croatian schools to GONG's Open Parliament program. Over 1,100 students visited Parliament from January to May 2004, and after a tour of the parliament, guided by GONG volunteers, they met their MPs.

KOLUMBUS: Protecting the Rights of People with Mental Illness

By Lucie Ripova, PILI/Justice Initiative Fellow (2002-2004)

The primary goals of KOLUMBUS, a mental healthcare NGO, are to protect the rights of psychiatric care users and to improve mental healthcare in the Czech Republic. KOLUMBUS' main activities are as follows:

- social and cultural activities for current and former mental healthcare users in the community;
- counseling and legal aid for current and former mental healthcare users;
- human rights and quality-of-care monitoring at hospitals and mental institutions;
- self-help activities and educational training in human and patients' rights;
- legal advocacy, i.e. lobbying for changes in health legislation;
- representation of health care users and their interests at state and local levels;
- writing articles and running media campaigns;
- exchange of information and experience.

My tasks as the KOLUMBUS lawyer are numerous: to provide legal aid, litigate, reach out to communities on human rights issues, prepare and comment on mental health policy and legislation, write reports and articles about mental health law, advocate on behalf of the mentally ill, work with the media, participate in campaigns, represent KOLUMBUS, and network with other NGOs and governmental institutions. Since I started working with KOLUMBUS in November 2003, I have lectured at law schools in Prague and Brno on the rights of people with mental illness. I have also written reports for the Czech Helsinki Committee about KOLUMBUS in 2003 (see www.helcom.cz) and published several articles about human rights abuse in institutions.

My two main project responsibilities with KOLUMBUS are:

1. To give legal aid to people with mental illness

To provide free legal aid to people with mental illness, KOLUMBUS cooperates with the Association of Citizens Advice Centers (CAC), which coordinates legal aid to all citizens. I began providing legal aid on December 1, 2003. Consultations take place on Wednesdays from 12:00 to 18:00 at the CAC in Prague. Clients may come in person, telephone or email me with their questions. Information about the Legal Aid Center is published monthly in the bulletin of the Czech Association for Mental Health, *Esprit*, and can also be found on the new KOLUMBUS website, <http://kolumbus.wz.cz>.

2. To provide advocacy for mental health care patients

In April, KOLUMBUS started a new project: patient advocacy. A main objective is to provide patients in six institutions with advice, information, and assistance. To accomplish this, the project is training six patients in peer advocacy—i.e., counseling

other patients on what to do, where to go and who to call in case they need help. These peer advocates attended a four-day training session in counseling, designed for and taught by the CAC, and are completing an internship of a minimum forty hours, during which they observe the work of counselors and discuss their experience with a lawyer. When they finish the internship, the six “peer advocates” will travel every second week to the nearest mental institution, where they will speak with patients and distribute leaflets about the CAC and the mental health lawyer. In this way, we hope the peer advocates will become a bridge between the outside world and patients in the institutions. KOLUMBUS thanks the Open Society Institute for financial support that has made possible a mental health lawyer on staff to run these two projects and other activities.

For more information, please contact Lucie Ripova, lawyer, at ripova.lucie@seznam.cz. KOLUMBUS' website is <http://kolumbus.wz.cz>.

Protection of the Rights of People with Disabilities in the Russian Federation

By Roman Javoronkov, PILI/Justice Initiative Fellow (2001-2003)

The UN is now working intensively on a “Comprehensive and Integral International Convention on Protection and Promotion of the Rights of Persons with Disabilities.” The Convention should establish an effective international mechanism for monitoring and protecting the rights of disabled people. This mechanism will be an important and much needed step in the evolution of human rights. The rights of disabled people are violated both in developing and developed countries. Countries with disability protection laws are not an exception. One of these countries is Russia.

The Russian Constitution guarantees the right of disabled people to rehabilitation. The mechanism for the realization of this right was established by the federal Law On the Social Protection of Disabled Persons in the Russian Federation, adopted in 1995. In accordance with this law, an individual program of rehabilitation (IPR) should be worked out for each disabled person. The IPR is a list of measures—treatment, teaching, social adaptation, getting a job, provision with a wheelchair—necessary for the rehabilitation of each disabled person. Institutions of Medical and Social Examination (IMSE), a state-run network, configures each person’s IPR. The state guarantees execution of the IPR and establishes the following rules:

- A disabled person has the right to receive rehabilitation services, and technical and other rehabilitation equipment included in the IPR through state organizations free of charge.
- If IPR specified services or equipment cannot be provided by the state free of charge, the state should pay private organizations or private specialists for providing the rehabilitation services, technical or other rehabilitation equipment to a disabled person.
- If a disabled person has paid with his/her own money for IPR-included rehabilitation services, technical or other rehabilitation equipment, the state should compensate any expenses incurred.

Thus, a universal legal mechanism was created to give all disabled people in Russia the opportunity to receive good quality rehabilitation. It is especially important to receive money for rehabilitation expenses, because the state’s free-of-charge rehabilitation system is poorly developed, meaning the disabled often have to pay private providers for rehabilitation services.

However, IPR legislation is not executed in fact. Authorities tend to “forget” about it and ignore the guarantees. Frequently, the IMSEs do not configure disabled persons’ IPRs, or they make only one record in their files stating that the person was “informed and advised about rehabilitation.” Many IMSEs do not have the necessary experts—psychologists, social workers, or rehabilitation specialists—to put together an IPR. Or the state bodies refuse to compensate the disabled person’s IPR-related expenses.

The lack of legal regulation concerning IPRs raises many problems. For example, in accordance with the federal Law On the Social Protection of Disabled Persons in the Russian Federation, a basic federal program of rehabilitation of disabled people (BFPRDP) was to be adopted by the Russian government. The BFPRDP is a list of rehabilitation measures disabled people can receive free of charge. It is to be financed from the federal budget. However, the BFPRDP has not yet been adopted. This is the reason given by state bodies for refusing to cover IPR-related expenses.

Only a court decision can force state officials to apply the laws on IPRs correctly. There have been twelve court rulings on this issue in Moscow and the Moscow region in the past several years. Nine of these cases have been won by disabled people. The largest compensation paid as a result was 83,000 Rubles (approximately \$2,760). In the process, it has been proven in court that the absence of the BFPRDP is not an obstacle to paying compensation.

Although the government has not adopted the BFPRDP, neither has it limited its responsibility to pay compensation. It remains the law that compensation should be paid for all measures included in the IPR. This conclusion has now been put forward by Russian lawyers and confirmed in court. These rulings are an important development in the fight for the rights of disabled people.

Despite this achievement, the problem has not been solved. Litigation is the only effective tool for protecting disabled individuals' right to rehabilitation, but a few court decisions have not changed the practice of violating IPR legislation. Moreover, the Russian court system cannot be considered totally independent. The likelihood of interference from federal and regional authorities in court decisions is high. Therefore, an independent, international mechanism capable of monitoring and protecting the rights of disabled people needs to be implemented.

The Legal Forum Association: Freedom of Peaceful Assembly Protection in Kyrgyzstan

By Yuri Shentsov, PILI/Justice Initiative Fellow (2000-2002)

Freedom of speech and the right to peaceful assembly are fundamental human rights, according to the Universal Declaration of Human Rights. However, in practice, the realization of these rights in post-totalitarian countries is not easily accomplished. Most countries of the Commonwealth of Independent States (CIS) have declared support for these fundamental freedoms for their citizens by agreeing to international treaties. But a gap between international and national law is highlighted when people exercising these freedoms face administrative or even criminal prosecution.

Unfortunately, Kyrgyzstan is no exception. According to Article 16 of the Constitution of the Kyrgyz Republic, the freedom to hold peaceful meetings and demonstrations, after notifying local authorities, is guaranteed to all citizens. However, the Kyrgyz parliamentarians' recent adoption of the Law On the Right for Peaceful, Arms-Free Meetings and Demonstrations flies in the face of the Constitution. By this law, special permission—not simply government notification—for peaceable meetings is required.

Unlike Russia, where a similar unconstitutional measure was recently corrected by the Russian Duma, the Parliament of Kyrgyzstan is showing stubborn inflexibility. On April 15, 2004, several human rights activists were arrested by police for participating in a peaceful meeting in support of the political prisoner, Felix Kulov.¹ In accordance with their constitutional rights, the protesters met only after notifying officials of the upcoming event. Despite this they were arrested. After a day in jail, most of them were convicted of an administrative violation. The conviction was based on the new provisions requiring special permission from the local administration and militia department for the demonstration.

The Legal Forum Association subsequently filed a case before the Constitutional Court of the Kyrgyz Republic. On April 29, 2004, they asked the court to rule the Law On the Right of Peaceful, Arms-Free Meetings and Demonstrations unconstitutional. A positive decision by the Constitutional Court on this will be a significant step toward democracy in Kyrgyzstan.

¹ Felix Kulov, leader of an opposition party, “Arnamyz” and a credible presidential candidate, has been officially recognized as a political prisoner by the OSCE.

News from the Liberty Institute

By Giorgi Meladze, PILI/Justice Initiative Fellow (2002-2004)

The Liberty Institute has initiated a litigation campaign to change the existing legislative deadlock that prevents religious minorities from establishing their churches as legal entities in Georgia. The campaign was prepared in cooperation with the Public Interest Law Initiative (PILI). It is briefly described below.

Georgia currently has a population of about five million people. Of these, approximately 83 percent are Orthodox Christian, including 65 percent Georgian Orthodox, 10 percent Russian Orthodox, and eight percent Armenian Orthodox. Muslims make up about 11 percent of the total population, while other affiliations, including Atheists and Protestant Christians, make up around six percent. Multi-confessional but predominantly Orthodox, Georgia has always been seen as the literal and symbolic border of Europe and Asia, Christianity and Islam. It is an area of great ethnic, cultural and religious diversity, where representatives of various religious communities have traditionally coexisted peacefully. However, religious tensions dramatically increased following the collapse of the Soviet Union. For example, from 1998-2001, there were nearly 700 physical attacks against religious minorities in Georgia. Moreover, government authorities have begun a policy of both active and passive discrimination against non-Orthodox faiths. This highlights the need for new types of legal guarantees, as opposed to the traditional, yet informal, tolerant relationship.

Article 9 of the Constitution of Georgia mandates the separation of church and state, and free expression of religion, but also recognizes the special importance of the Orthodox Church in Georgian history. For several years, the vagueness of this article was problematic for experts. In 2002, the government officially declared its position towards church-state relations, signing a constitutional agreement (the “Concordat”), giving special status to the Orthodox Church.

The existence of the Concordat itself is relatively unproblematic, as other countries, such as Greece, have successfully integrated state-religions with respect for diversity of worship. Moreover, the European Court of Human Rights, whose case law is binding for Georgia as a member state, has upheld state support for an official religion. Nonetheless, Georgia has been less successful in defining and protecting the status of minority religious communities. For example, there is no provision in Georgia’s legislation in force to define how minority religions might gain legal personality. This lack bars non-Orthodox faiths from exercising their religious freedoms, because they are not able to take advantage of registration benefits, such as full property and customs rights. Secondly, the absence of provision gives a sense of legitimacy to illegal discriminatory policy on the part of public officials.

A nexus of the Civil Code and the Law On Public Entities creates these problems. Article 1509 of the Civil Code provides that “the following entities are deemed to be legal persons of public law as prescribed by public law...Nongovernmental organizations

created on the grounds of legislation for accomplishment of public objectives (political parties, religious associations, etc).” The Law on Public Entities states that only “a law or presidential decree” can create these public entities. This need of state support for the creation of a religious entity seems to violate the separation of church and state guaranteed by the Georgian constitution.

Moreover, given their lack of representation within the political process, existing religious minorities have been unable to take advantage of the public registration process, being effectively barred from registering. As such, minority religious groups are left in a vacuum, technically bestowed with freedom of religion, but unable to take advantage of the concrete benefits that registration provides.

The Liberty Institute’s campaign targets the Civil Code, with a view to having it declared unconstitutional on grounds that the code is a barrier to religious communities seeking to exercise their freedom guaranteed by the constitution and international instruments.

To read more, please go to http://www.liberty.ge/index.php?lang_id=ENG&sec_id=107&info_id=471.

The Center for Citizenship, Civil and Human Rights Update— Progress in Anti-discrimination Jurisprudence

By Barbora Bukovska, PILI/Justice Initiative Fellow (1998-2000)

Recent legal victories in the Czech Republic in combating discrimination against Roma include the first discrimination cases to be decided by courts (previous cases were always settled out of court) in the areas of employment and housing.

The first employment discrimination case, *Kotlárová v. Rossman International*, was decided on April 30 of this year. In June 2003, a Romani woman, Renata Kotlárová, applied for a job in a Rossman store (Rossman is a large multinational pharmacy company) in Cheb, Western Bohemia, which had advertised for a shopkeeper. After inquiring about the advertised position, Ms. Kotlárová was told it had already been taken and there were no other jobs available.

A few minutes later, a non-Romani tester entered the same shop and asked for the job. A detailed interview was made with her, and she was told details about working conditions and salary. Although she claimed that she had only elementary education, no experience in this kind of work, was a single mother, and did not have anyone to look after her small children, the non-Romani woman was asked to come back later to talk to a shop director about the contract and was told she had a fair chance of getting the job, as they had had no serious candidates so far.

Represented by the Center for Citizenship, Ms. Kotlárová sued the firm for an apology and financial compensation of 250,000 CZK (\$9,750) as her right to protection of personal dignity had been violated. Rossman argued that the issue should not have been regarded as discrimination, as there was no mention during her "interview" that Ms. Kotlárová was refused the job because of her ethnic origin. However, the City Court of Prague decided in favor of the plaintiff and ordered the defendant to send a written apology and pay her moral damages of 50,000 CZK (\$1,950). The court ruled that differential treatment had clearly been proven and that Ms. Kotlárová had suffered from it. Rossman appealed the decision, and the case is pending before the Upper Court of Prague.

A similar employment discrimination case was decided by the Prague City Court on June 25, 2004. In this case, a Romani woman, Vera Dunkova, sought an advertised position as a shopkeeper at the Scorpio Club, a fashion boutique chain, in the center of Prague. Without being given any opportunity to say what qualifications or experience for the job she had, Ms. Dunkova was told that four other applicants had already been accepted, and several more were scheduled for interviews. It was therefore not possible to consider her for the job. Immediately afterwards, a non-Romani tester inquired about the job and was told that several positions were still available, because the shop was part of a broader network. Only afterwards did the non-Romani tester present her qualifications, which corresponded to those required: shopkeeping experience and speaking foreign languages. Both women taped the conversations on hidden recorders.

Ms. Dunkova filed suit with the court for violation of her personal dignity and sought a written apology plus compensation. The defendant argued that Ms. Dunkova's claim was unsubstantiated since she had only "tested" for discrimination and her interest in the job was pretended. More importantly, the defendant claimed that Ms. Dunkova did not have a right to compensation, because she would not have got the job in any case, given that she did not have the required qualifications, in contrast with the non-Romani tester. However, the City Court ruled in favor of Ms. Dunkova and held that even though she would not have been able to get the job, she should have been given an equal opportunity to seek it, i.e. an interview. When competing against a similarly situated individual of different ethnicity, Ms. Dunkova had not been granted this chance. Scorpio was ordered to send the plaintiff an apology and to pay compensation of 25,000 CZK (\$975).

Another major breakthrough occurred on June 2, 2004, when the Regional Court in Ostrava delivered a decision in the first housing discrimination case in the Czech Republic. In July 2003, a Romani woman, I.L., accompanied by her Romani friend, attempted to rent a flat at a housing complex in Ostrava. The R. Company manages the complex. I.L. came to the company's office, asked for an available flat in the complex and offered to pay for it immediately. She was told that there were no vacancies and that it would not be possible to rent a flat there for a while since there was a lengthy waiting list of applicants—she could be waiting for a flat for twenty years.

Subsequently, a non-Romani couple from the Center for Citizenship, Civil and Human Rights entered the complex and offered to rent a flat under the same conditions as the Romani applicant. They claimed they needed a flat for themselves and their two children and had enough money for rent. This couple was shown and offered an available flat and told that if they paid a down payment and the monthly rent, they could move in the same day. Both groups recorded the conversations on hidden recording devices.

I.L. filed a complaint with the Regional Court in Ostrava in which she sought an apology and non-pecuniary damages for discrimination suffered. The defendant was not able to justify the differentiation in treatment and so the Regional Court ruled in favor of the plaintiff, ordering the defendant to send her a written apology and to pay damages of 50,000 CK (\$1,950) plus court expenses. The decision has not yet become effective.

Along with these victories, the Center for Citizenship/Civil and Human Rights is also involved in work outside of the Czech Republic. For example, in Slovakia, on April 28, 2004, an introductory letter was sent to the European Court on Human Rights on behalf of three Romani women who were forcibly sterilized in Slovak public hospitals. This was followed with a full application on August 23, 2004. Applicants complain that their rights under Articles 3, 6, 8, 12, 13 and 14 in connection with Articles 3, 8, and 12 of the European Convention were violated. On August 23, 2004, an introductory letter was sent to the European Court concerning nine Romani women who are being denied access to their medical records and thus prevented from seeking vindication for their illegal sterilization.

For more information, contact the Center for Citizenship, Civil and Human Rights (for cases in the Czech Republic) or the Center for Civil and Human Rights (for cases in Slovakia):

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Center for Citizenship/Civil and Human Rights
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116 47 Praha 1
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Tel./Fax: (42-0) 234-621-470
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Email: poradna@poradna-prava.cz

Poradna pre obcianske a ludске prava
Center for Civil and Human Rights
Kovacska 28
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Webpage: www.poradna-prava.sk
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Down Broadway Toward ...

or

Tragic Events Through the Eyes of a Russian Volunteer *by Anton Burkov*²

Where do people go when they visit New York? To watch the city from the top of the 110-story twin towers of the World Trade Center (WTC). So, on August 25, I too went and took pictures of New York, as well as some gorgeous shots of the “twins,” from the incredible height. I finished the same roll of film on September 11, with photographs of the terrifying ruins.

I didn't see that movie...

September 11th. Morning. My “temporary home” is located in Manhattan close to the Columbia University Morningside campus—a two-hour walk from the WTC, as I was to learn. As usual, at 9:30 a.m. my class started at the university. After the lecture, my German classmate Andrea came over and in an emotional tone described the scene in which planes attacked the WTC. I answered that I had not been watching TV the previous evening, and couldn't share my impressions of the movie.

Ten minutes later, I understood that she was not speaking about a film, but about actual events taking place in New York this morning. I began receiving emails from Russia that the WTC had collapsed.

What's happening?

Noon. Classes at Columbia University are canceled. All students are asked to call home and say that they are okay.

1:00 p.m. I could not just sit around watching the news. And it was hard to get any information from the internet: the web servers were constantly overloaded and kept giving me the message “web page unavailable.” I put on my shorts and sandals, grabbed my backpack, my camera, and my tape recorder—which I usually use to make sense of my lectures—and went down Broadway toward the WTC. The only thing that shows that something unusual has happened are the faces of confused New Yorkers and the traffic jam on Broadway in the uptown direction. The lane in the opposite direction is absolutely empty. I could take the subway or the bus downtown, but I choose to walk in order to be able to see what is going on.

Occasionally I see a line in front of a payphone.

² Anton Burkov is a post-graduate student (LLM in International Human Rights Law) at the University of Essex (Colchester, the UK). At the time he was a visiting scholar at the Columbia University School of Law and a fellow of the Public Interest Law Initiatives (New York, USA). The author is grateful to William Anspach who assisted in editing the final version of the text.

On the way, I am listening to my pocket radio. One unusual expression keeps confusing me: "... where the World Trade Center was... was... was...." What does that mean—"was"?

88th Street. All is peaceful. Only a single fire engine makes a turn in the downtown direction.

A military plane flies overhead with a roar. The expression of fear on the face of a woman near me tells that she thinks there will be another attack. A terrifying thought.

73rd Street. The same silence as before.

Later on: two more military planes.

61st Street. I am approaching the first skyscrapers. Silence.

I'm listening to my pocket radio again—they are asking doctors and nurses to come to "ground zero." Another military plane flies by above the top of a skyscraper. The loud sound echoing from one building to the other evokes the feeling of the possibility of a new attack. This explains the attentive glances of people walking by. But I think nobody really believes yet what has happened. No, this is not real; it is just the nation-wide advertisement of the latest "Independence Day" thriller!? It is impossible to perceive the events as reality, because as far as 70 blocks from the site, life still remains the same.

50th Street. In the distance, between the tops of the skyscrapers, only a small cloud, looking like a rain cloud, disturbs the image of an otherwise clear blue sky. But everyone understands that this is not just another rain cloud.

Military planes fly overhead.

44th Street. There are traffic jams in all directions.

43rd Street. The first police unit. People ask questions. A policeman is directing traffic—the traffic lights cannot handle such large number of cars.

2:55 p.m. The streets are not closed off, but nobody is going in the direction of downtown. Again, all is quiet.

28th Street. Nothing, except the "cloud," reminds me of the ongoing events.

27th Street. All the shops are closed, with their blinds drawn.

20th Street. The "cloud" has turned into a dark blue mass of smoke. And so weird: something is glittering all over it, like camera flashes. What is it?

13th Street. The first doctor arrives.

8th Street. I am at the park. Again all is peaceful. But the calm puzzles me. People are just sitting around, talking, drinking soda in the sun, watching the fountain, and occasionally turning their heads... toward the mass of smoke—as if watching a new thriller being advertised nation-wide at this moment. How diverse this city is! Or maybe they actually do not realize what is happening and think they are watching a drive-in movie. Less than a mile away, thousands of people have died, but here everything and everyone are unaffected. It seems as if this happened not in Manhattan, but somewhere else, in another country, far away.

I keep walking. I'm facing a police car that has just come from "ground zero." It is covered by inches of dust and concrete debris. No, it is not a movie. It is reality. But what is happening there?

In front of the International Trade Court building, people are making stretchers. People are crowding the plaza—they are looking for volunteer work. All the policemen

are wearing masks, and after five minutes I understand why. I'm looking down at the ground. It is covered by dust and concrete debris. It is impossible to breathe without a special mask. I'm feeling the taste of concrete. It is crunching in my teeth. I take off my shirt to use it as a makeshift mask. I can breathe now. In the dust and concrete debris there are a lot of papers, documents and pictures. Is it the last day of Pompeii? What is going on here? Is it nuclear winter?!

"Winter" in Downtown

Gray dust and concrete debris are everywhere. Roads, cars, everything is covered by heavy gray August "snow."

At the Brooklyn Bridge, there is a police barricade.

"Snow" is everywhere: in my hair, eyes, nose, and ears. Now I understand what was flashing in the dark blue mass of smoke – it was "concrete snow." Everything is gray. The air is heavy with debris, which is dangerous for the lungs. It does not settle because of the strong wind.

Close to the Brooklyn Bridge, there are a lot of policemen and fire brigade. I'm going with a volunteer group. Signs requesting blood donations are everywhere.

Everyone is given a special mask. On one street, the concrete debris is mixed with water. It is becoming difficult to breathe even through the mask.

This is winter, 100 degrees Fahrenheit, with "concrete snow." And smoke. "Snow" scrapes my camera's lens.

On the famous Wall Street, there is no movement. I'm in sandals and shorts. I'm gray-haired because of the ash and dust.

So weird! In the shop's doors there is a homeless man sleeping peacefully as usual. People are asking him "Are you alright?" Yes, he is fine.

I am two blocks from ground zero. I can see only a wall of dust and ash. What is there behind the "wall"? I am entering the darkness. Winter and darkness. Suddenly, an abandoned coca-cola truck appears. I am at the epicenter—mountains of debris, glass fragments and crushed cars.

"One Liberty Plaza"

The time is 4 p.m. Our volunteer team is on the ground floor of the "One Liberty Plaza" building where the emergency hospital is located. I remember that two weeks ago, very close to "One Liberty Plaza," I was trying to photograph the "twins." It was incredibly difficult because of the unbelievable height. Two weeks back I did it.

There are so many rescue workers harmed because of dust and exhaustion. Dust blinds them—there are not enough protective glasses. We are put to work making eyewash. The rescue workers are coming by themselves; others are helping some of them. They are placed in the office chairs. We use droppers with water. Water, napkin and medicine drops—it takes only one minute. Then they go back to fight. Doctors are taking the pulse of those who have suffered badly from smoke, and giving them oxygen. During these medical procedures, cell phones are ringing—relatives are worrying. They hear only very short answers— "I'm okay, don't worry, I gotta go."

Suddenly we hear a scream, “Leave the building”—a fire alarm has rung. Evacuation begins. Five minutes later we get the command, “Stop evacuation”—the fire has stopped.

It is getting absolutely dark. Emergency lights work from gas generators. Powered floodlight projectors light the site. The rescue work doesn’t stop even for a minute.

Against whom was This Crime Committed?

I have become acquainted with our volunteer team. They are the guests of the city. We have called our team an “International Team.” I remember only some of the names and eyes, which were lit with willingness to help—the faces were covered by masks: Nelly and Din from England, Kelly from Scotland, Boris from Germany... Someone came to New York for a vacation, someone to study. Here is the question then: Against which country and its citizens was this crime committed? New York is a multinational city where people from all over the world live. The WTC is an “Open for public” building. This is a crime committed not only against American citizens but also against the people of the world. This is a crime against all of us. This is a crime against Nelly and Din from England, Kelly from Scotland, Boris from Germany... which could have been “here” at the time of the attack (as the city’s guest), but came “here” seven hours after the WTC collapse (as volunteers).

No water. On the way to get water we saw rats leaving “One Liberty Plaza.” There are tons of them. Thoughts—“A sinking ship? Will one more building collapse?”

The concrete debris mixed with the water from fire hoses becomes a heavy mass. I had realized even earlier that I had made a mistake wearing sandals.

5:00 in the morning—I’m dead tired. Legs are hurting. Newcomers are replacing us—we call them “fresh.” The ground floor is crowded with firefighters. We are trying to find a place to sleep on the higher floors. On the next floor, there is an expensive clothing boutique. But it doesn’t matter now. We just want to sleep. Everything in the shop is dusty because all the windows are broken. Without caring about the prices of the items, which are \$400 each, I take three topcoats and drop them into the dust. It will be my bed for tonight. Falling asleep in a moment. I’ve never slept on such an expensive bed before. I finally had a chance to remove my mask.

September 12th, 8:00 in the morning. Dawn. The fire at “ground zero” is still raging. I’m watching the site through the broken window and... Where are the awe-inspiring “twins”? Nothing is there...only debris, broken columns, and the armature, which used to serve as a decoration for the building. The first “twin” is ruined completely. Some burned floors are all that remain of the second “twin.”

Anton Burkov

Visiting Scholar of Columbia University School of Law

Public Interest Law Fellow

Manhattan, New York, USA

Written on September 12, 2001, 9:15 p.m. (Eastern time US & Canada)

E-mail: anton_burkov@hotmail.com

Human Rights and Public Interest Law Fellows Retreat Hungary, Eger July 5-6, 2004

Following a welcome recent tradition, the fourth Human Rights and Public Interest Law Fellows Retreat was organized this summer. This year's retreat brought together all those awarded Justice Initiative Fellowships for the years 2003-2005, in order to facilitate cooperation, communication and the exchange of experiences among them.

The participants presented theses, concept papers and projects they will pursue during the second year of their Fellowship. As in previous years, the retreat also included skill-development training for the Fellows in areas necessary for their future work with home country NGOs. Skills training focused on three subjects: Project Development and Management, Fundraising Strategies and Techniques, and Leadership and Decision-making. The summaries of the panels were prepared by the respective moderators and discussants.

Panel Discussion I: Development of International Standards and Their Implementation in National Systems

Moderator: **Martin Schönteich** (Justice Initiative, Senior Legal Officer, National Criminal Justice Reform Program)

Discussant: **David Caughlin** (Public Interest Law Initiative, Public Interest Law Fellows Program Manager)

The first panel of the Human Rights and Public Interest Law Fellows Retreat for 2004 examined the relationship between international and national law, and considered limitations to the implementation of international norms in selected countries' legal systems.

The first presentation, given by **Eszter Polgari**, explored the extent to which the European Court of Human Rights considers international and national human rights norms in its judgments. Focus was placed on interstate comparisons, of which several examples were offered. Ms. Polgari made clear that interstate comparison is more common in cases involving non-derogable rights, such as the right to life and freedom from torture, as opposed to "rights of convention," over which states are allowed more flexibility through the margin of appreciation doctrine.

The second presentation, by **Kalpalata Dutta**, concerned the enforceability of the right to healthcare in national and international law. Ms. Dutta began by addressing some common arguments against the justiciability of social and economic rights: that they are vague in content and that the obligations on states are not clear. Ms. Dutta countered these arguments by breaking down the international norms on economic and social

rights into four interrelated sections: Availability, Accessibility, Acceptability and Quality. She also set out three obligations placed on states by international human rights documents: to respect, protect and fulfill rights. Finally, Ms. Dutta addressed the enforceability of the right to health in national systems, even when there is no textual basis *per se* for the right. She also examined to what extent the courts grant protection under the right, i.e. whether courts limit protection only to negative aspects of the right, or whether they have also recognized positive obligations connected to the right.

The third panelist, **Mahir Musteid-zada**, examined the rights of detainees under international law. Mr. Musteid-zada introduced the issue by highlighting two serious problems: detainees being held incommunicado and the high population of detainees. Mr. Musteid-zada pointed out a number of reasons for the slow progress in solving these problems, the most important being the lack of clear international standards to be enforced in national legal systems. Mr. Musteid-zada pointed to Protocol 14 of the European Convention on Human Rights and the recent EU Green Paper on Procedural Safeguards for Suspects and Defendants in Criminal Proceedings throughout the European Union as examples of new European initiatives that seek to answer these problems.

Panel Discussion II: Human Rights Advocacy Strategies

Moderator: **Edwin Rekosh** (Public Interest Law Initiative, Executive Director)

Discussant: **Lusine Hovhannisian** (Public Interest Law Initiative, Program Director for Training and Education)

This panel was devoted to discussing projects and a research paper in which different advocacy strategies were used to promote human rights in the areas of harm reduction, the rights of the mentally disabled and the right to civil disobedience as a means of protection. The panel focused on practical aspects of promoting human rights—including advocacy strategies—and was consequently process-oriented. Interesting discussions were generated on different approaches to advocacy in general, the tools available, and the ways to promote human rights.

Balazs Denes of the Hungarian Civil Liberties Union presented a paper on the advocacy campaign project to be undertaken in Hungary. The project aims at raising awareness among law enforcement bodies and healthcare professionals of the benefits of existing harm reduction programs, through educational programs and a large media campaign to promote respect for the rights of drug users.

The discussion that followed the presentation focused on specific advocacy tools and strategies to be used for reaching the project objectives. For example, one way to address the inefficiency of law enforcement bodies in implementing the law is to use test cases at the European Court of Human Rights to raise compliance with the law. Another suggestion was to use EU Directives where applicable, as these have direct effect in

member states. In the end, questions were raised about the cost-effectiveness of such programs, which inevitably require additional spending.

Grigol Giorgadze, from the Center for Protection of Constitutional Rights, presented a project aimed at reducing guardianship abuse in the region of Tbilisi (Georgia). Guardianship in Georgia is voluntary and, in almost all cases, taken on by family members who had extensive powers over their wards. This inevitably raises questions, conflicts of interests, and even human rights violations, which remain without investigation and oversight. A threefold strategy was suggested: to provide legal aid to the wards, to strengthen legislation and policy through advocacy, and to create political support for mental health system reform. The discussion after the presentation focused primarily on effective advocacy campaigns leading to legislative changes, and media campaigns that would help the non-profit sector be involved in the elaboration of a government reform program.

Akaki Minashvili from the Liberty Institute presented a research paper discussing civil disobedience as a justified remedy for the protection of human rights, even if it involves violations of the law that jeopardize the constitutional order. The example used for the research was the recent Georgian “velvet revolution,” which was compared with similar experiences in India, the U.S., and Serbia, as well as the legislative trends (case-law) of the U.S. in the areas of religious freedom, freedom of expression and information, and the right to association. Based on these examples, the presenter came to the conclusion that disobedience is the only way to bring down dictatorship using non-violent tools, and so violation of the law could be a proper mechanism for the protection of human rights and democracy.

Panel Discussion III: Promoting Equality and Combating Discrimination

Moderator: **Mariana Berbec** (Justice Initiative, Junior Legal Officer, Equality and Citizenship/Legal Capacity Development)

Discussant: **Indira Goris** (Justice Initiative, Program Coordinator, Equality and Citizenship)

Souleymane Sagna of WARIPNET presented a research paper on the situation of non-citizens in West Africa. International human rights laws and norms, particularly those included in the UN Covenants on human rights, guarantee non-citizens the rights to freedom of religion, conscience, culture, opinion and expression, legal status, life, privacy, fair trial, lawful detention, security of person, protection against torture and ill-treatment, and protection against discrimination. Although refugees should be able to access both the “core” civil and political rights—the right to a fair trial, protection against torture and ill-treatment, and security of the person—as well as the “threshold” social and economic rights—health, education, food, and shelter—this has not been the reality in West Africa.

Although their asylum status protects refugees from immediate persecution, they are nonetheless relegated to the category of “foreigner,” with concordant limitations on their rights. This is only exacerbated by West Africa’s current political and economic crises. Mr. Sagna called for key stakeholders, such as the UNHCR, local NGOs, refugee associations, media, and state authorities to fight for the rights of refugee non-citizens by exchanging experiences, identifying solutions and joining in their efforts. They should concentrate on fair conditions of detention, legal assistance, registration of refugee children born in the asylum countries, education of refugee children, and equal access to shelter and food assistance.

Dilyana Giteva of the Sofia-based Human Rights Project proposed a litigation strategy to address the issue of discrimination against the Roma minority in Bulgaria, a population that faces discrimination in all spheres of social life—employment, health care, social welfare, criminal justice system, participation in the political life of the country, and access to public education. Discrimination of this kind is not only prohibited by international and regional conventions, but also by the Bulgarian constitution. Ms. Giteva proposes that anti-discrimination litigation scrutinize discriminatory patterns in Bulgaria under an international lens so that the guarantees and protections of treaties and other international accords signed by Bulgaria become a reality for Roma. To be successful, public interest litigation efforts have to use a comprehensive approach and be part of a larger, coordinated campaign for social change, as evidenced by other campaigns carried out in Bulgaria and other European countries. Legal techniques addressed by Ms. Giteva included using “testing” to collect evidence, using the conception of human dignity in cases of racial discrimination, asking for non-pecuniary damages, using the norms of international treaties to which Bulgaria is a signatory, using national and international jurisprudence in national courts, collecting statistical information, and coordinating the efforts of NGO lawyers and activists. She also addressed certain key obstacles that must be faced by Bulgarian anti-discrimination lawyers and proposed possible solutions to these obstacles.

Sinan Gokcen of the Helsinki Citizens’ Assembly presented on the role played by Kurdish linguistic rights in the creation of the Turkish nation. As Mr. Gokcen explained, Kurdish rights in many realms—linguistic, political, and cultural—were long denied by the Turkish state. The denial of Kurdish linguistic rights was one of the core elements of the nation-state building process in Turkey, as the new nation sought to avoid the creation of multiple identities within the country, choosing instead to denominate everyone as “Turkish” and ignoring the many ethnic and linguistic minorities living in Turkey. Unlike other minorities, whose linguistic rights are legally protected, Kurdish linguistic rights continue to be ignored by the Turkish state, despite recent international pressure. Mr. Gokcen argued that Turkey needs to address and enforce the protection of these rights in order to resolve the crisis of Kurdish rights.

Anna Krivtsun of the Belarusian Movement of Medical Workers focused her presentation on the repercussions of the post-9/11 “War on Terror” for refugees and asylum seekers. Recent months have seen an increasing tendency by governments to link refugees and asylum-seekers with acts of terrorism. International refugee law

explicitly excludes from protection those who have violated the human rights of others or committed other serious crimes, and although this “exclusion clause” does not explicitly include terrorism as a crime, recent UN resolutions are likely to lead to an expansion in this direction. Ms. Krivtsun explained how important it is that these exclusion clauses do not become another avenue by which states deny access to international protection by widening the grounds on which refugees’ procedural rights and rights to protection may be refused. The ambiguity of the “terrorism”/“terrorist” terminology leaves open the possibility that asylum seekers may find themselves labeled as terrorists on account of their political, ethnic or religious affiliations or ties. Furthermore, recent legislation, such as the USA-PATRIOT Act, places the burden on asylum-seekers to prove that their previous religious or cultural activities did not directly support terrorist acts. Ms. Krivtsun concluded her presentation by acknowledging that while states have a legitimate security interest in ensuring that terrorists and other criminals do not take advantage of the system of international protection, it is vital that any measures taken do not undermine that very system itself.

Panel Discussion IV: Country Solutions to Improve Access to Legal Aid

Moderator: **Nadejda Hriptievschi** (Junior Legal Officer, National Criminal Justice Reform)

Discussants: **Benjamin R. Naimark-Rowse** (Program Coordinator, National Criminal Justice Reform)
Atanas Politov (Public Interest Law Initiative Access to Justice Program Director)

The fourth panel discussion focused on a broad spectrum of issues related to access to justice, including ideas for improving access to criminal and civil legal aid in selected countries’ systems, and analysis of the effectiveness in ensuring human rights protection in international fora.

Uchenna Jackies presented the research project he intends to carry out in the second year of his Fellowship in Nigeria, aimed at identifying loopholes in Nigerian legal aid and the percentage of criminal trials without representation. The current Legal Aid Act does not provide for the right to legal aid at the police station or magistrate courts. Mr. Jackies seeks to gather evidence of the number of indigent people that go unrepresented through the Nigerian criminal justice system in a given period of time and question whether justice can be deemed done in such cases. The research will also examine the effectiveness of a system that mainly sends defendants to pretrial detention as opposed to one with adequate legal aid from the early stages of criminal proceedings. The results of the research will be shared later with the main stakeholders, with the goal of changing the Nigerian Legal Aid Act of 1977. The project will involve the Ministry of Justice, the Nigerian Prison Service, the Legal Aid Council and the Parliamentary Committee on Judiciary, Legal Aid and Human Rights. Although one focus of the research is cost-

effectiveness, it has been advised by the participants to use human rights protection as the main argument for the legislative amendments.

Lihong Lin continued the discussion with an overview of a courageous project she intends to carry out aimed at increasing access to civil legal aid for the indigent population of China. Chinese regulations provide for government-funded legal aid in civil cases for people who cannot afford a lawyer due to economic reasons and fall under one of six categories. However, the government cannot, on its own, cope with constantly increasing demand. Ms. Lin believes nongovernmental organizations are able to fill the gap not covered by the government justice bureaus, provided there is good coordination between them. Her extensive research helped her prepare a few proposals for the government on the division of cases eligible for legal aid between the government justice bureaus and nongovernmental organizations, while also streamlining the legal aid application process. These and other practical solutions should considerably expand the amount of people able to get legal aid. The Center for the Protection of the Rights of Disadvantaged Citizens, where Lihong will continue working to implement the respective project to provide legal aid in cases not covered by the government, is one of the first legal aid organizations in China.

Julia Hui Xu talked about class action suits in China and explained that her intended project aimed at expanding their scope and enforcement. A well-functioning class action mechanism would benefit masses of people in China and would effectively contribute to making the government and private organizations accountable to the people. The Chinese Civil Procedure Law, revised in 1991, provides for class action litigation. However, since then the class action mechanism has seldom been used. One reason for this, in Ms. Hui Xu's view, is the complicated Civil Procedure Law regulations. Her project will carry out sophisticated research that will examine the pros and cons of class actions in various contexts, the relevant Chinese law and practice, in order to present concrete proposals for changing the interpretation of class action law by expanding the definition of the plaintiff. The research will then be used for educating the government, associations and other relevant legal persons. Parallel to this, efforts will be taken to identify leaders in the field able both to lobby for proposed changes and use the new mechanism.

Paul James Allen examined the operational relationship between the Truth and Reconciliation Commission and the Special Court for Sierra Leone. He aimed to draw some preliminary conclusions on the impact that the simultaneous functioning of the two mechanisms had on the attainment of accountability, justice and reconciliation. Mr. Allen explained the context in which the two institutions were set up, as well as the details of their mandates, compositions and structures. He focused in detail on their contentious operational relationship and the debates that surrounded their establishment, ranging from the importance of clear terms of reference between the two, and of balancing funding with the need for international and domestic participation. Though it may still be too early to call, it seems that better coordination of the operational tools and explanation to the public of the roles of each body would have

worked more efficiently for both mechanisms and, more importantly, for the people whom these institutions are meant to serve.

Websites of the Justice Initiative and its Human Rights Fellowship Program partners

- Open Society Justice Initiative www.justiceinitiative.org
- Public Interest Law Initiative www.pili.org
- Central European University, Legal Studies Department <http://www.ceu.hu/legal>
- Conectas Human Rights <http://www.conectasur.org/in/index.php> (English) or <http://www.conectasur.org/pt/index.php> (Portuguese).